

# Van H. Wanggaard

## Wisconsin State Senator

May 26, 2021

### Testimony on Senate Bill 347

Thank you Chairwoman Felzkowski and members of the committee for hearing this bill today. Representative Dallman and I have brought Senate Bill 347 (SB 347) forward to create parity, and consistency in state law.

Right now, in order for both public and private zoos to buy, sell, possess, and exhibit animals, they must hold a valid license through the U.S. Department of Agriculture (USDA). In addition, the State of Wisconsin has their own licenses for buying, selling, possessing, and exhibiting animals. However, public zoos are not required to have this license.

Here's where it gets muddy, state statute defines a "public zoo or aquarium" as one that is operated by a city, village, or county, **or** that is an accredited member of the American Zoo and Aquarium Association. So, for example, the private International Crane Foundation is considered a public zoo under state law.

SB 347 is written to say that if you are licensed by the USDA, meaning you are in compliance with federal regulations and standards as demonstrated through random inspections, the State of Wisconsin cannot require you to obtain an additional license through the State.

I spent nearly 10 years on the Racine Zoological Society Board of Directors. When the Racine Zoo, which is a public zoo exempt from the state licenses, would renovate exhibits, or something else that required animals to be moved, we often would send our animals to private zoos in the area to be cared for. We trusted those private zoos to care for our animals as we would – and they did. It simply does not make sense to require those private zoos to require additional state licensing.

Wisconsin is home to many wonderful private zoos that offer awesome recreational and educational opportunities to children, and people of all ages. This is a common sense bill that will simplify our state licensing requirements, and reduce the burden of red tape on many private zoos throughout Wisconsin.

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# ALEX A. DALLMAN

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STATE REPRESENTATIVE • 41<sup>ST</sup> ASSEMBLY DISTRICT

## Testimony in favor of Senate Bill 347

*Senate Committee on Insurance, Licensing and Forestry*

May 26<sup>th</sup>, 2021

First of all, I would like to thank you, Chairman Felzkowski and committee members, for allowing me to testify before you concerning Senate Bill 347 relating to captive wildlife in facilities holding a U.S. Department of Agriculture exhibitor license. I would also like to thank Senator Wanggaard for his leadership in working with me on this important piece of legislation.

This bill would allow private zoos/ facilities to operate on the same level playing field as the public ones. There are currently 80 U.S. Department of Agriculture (USDA) Class C-Exhibitor Licensed facilities with the State of Wisconsin. 62 of those are private facilities and 18 are public. In addition to the USDA license, Wisconsin also requires private facilities, unlike public facilities, to be licensed with the Department of Natural Resources to be able to possess, sell, or purchase wild animals. In essence, the government collects fees from private wildlife parks while providing funding to their public competitor, even though each facility holds the same USDA credentials.

Private zoos continue to provide a fantastic opportunity for not only children, but people of all ages, to learn about many different types of animals from around the world. Timbavati Wildlife Park, a private zoo, is located in the 41<sup>st</sup> Assembly District, which I am lucky enough to represent and have had the opportunity to tour. I learned of the efforts that Matt and Alice Schoebel of Timbavati take each day to ensure that the animals under their care receive proper treatment and a suitable environment. One of the most memorable moments of the tour was learning about Matt and Alice's efforts to care for animals whom may be older or disabled, such as a white tiger who has begun to lose its eyesight.

It is only fair that private zoos are put on a level playing field with Wisconsin's publicly funded counterparts by removing an extra layer of licensing and paperwork. Members of the committee, thank you again for the opportunity to testify before you today and I would be happy to answer any questions you may have.



## Senate Committee on Insurance, Licensing and Forestry

### *2021 Senate Bill 347*

#### *Captive wildlife in facilities holding a USDA exhibitor license*

*May 26, 2021*

Good morning Chair Felzkowski and members of the Committee. My name is Lindsey Long and I am the Wildlife Veterinarian for the Wisconsin Department of Natural Resources. Joining me to assist with questions is Administrative Warden Pete Dunn. Thank you for the opportunity to testify, for informational purposes, on Senate Bill 347 (SB 347), related to captive wildlife in facilities holding a U.S. Department of Agriculture (USDA) exhibitor license.

Under current law, no person may possess, take, propagate, sell, purchase, transfer, exhibit, or rehabilitate live wild animals unless specifically authorized to do so by the DNR and with the appropriate approval. These statutes seek to ensure humane and appropriate possession of wildlife. Currently, there are limited exemptions to these requirements, including for the department and veterinarians who perform treatment on captive wild animals. Depending on the type of activity to be authorized, there may also be exemptions for circuses and public zoos and aquariums accredited by the American Zoological and Aquarium Association (AZA). Other than these limited exemptions, most entities that exhibit wild animals are subject to department regulation.

This bill would exempt facilities that hold a USDA Class C Exhibitor License from state licensing requirements to possess, propagate, sell, purchase, or exhibit live wild animals. Requirements for federal and state licenses are not always identical. By exempting USDA Class C Exhibitors from various department licensing requirements, this bill would remove department regulation and oversight over a significant class of persons and businesses which possess, propagate, sell, purchase or exhibit captive wild live animals. Reliance on federal approvals alone may result in the application of less restrictive regulations that may not sufficiently protect Wisconsin wildlife and natural resources.

Individuals and businesses who show or display warm-blooded animals to the public for compensation or anything of value, whether for profit or not, must obtain a USDA Class C Exhibitors License. A Class C Exhibitor may buy and sell animals as a minor part of the business to maintain or add to an animal collection. A wide variety of entities may meet the threshold for licensing, including agribusinesses, amusement parks, animal shelters, breeders, camps/resorts, educational institutions, nature/educational centers, rescues/rehabilitators, production companies, parks, petting zoos, retail and sanctuaries.

AZA accredited zoos and aquariums are exempt from certain licensing requirements under current captive wild animal laws. The requirements to meet AZA accreditation are more stringent than the requirements under state statute and department licensing. These include requirements related to methods of acquisition and disposition, humane animal care and housing, human safety, and more. AZA requirements include consultation with state wildlife agencies on acquisition or homing of any native wildlife for which the state has direct authority over, which ensures that the department remains actively involved in decision-making. Therefore, the exemption for AZA accredited facilities from certain

department licenses eliminates duplicative licensing while still ensuring that state standards and goals related to the protection, care and safety of captive wild animals and the public are met.

By contrast, federal standards for licensing and regulation of a Class C Exhibitors License regarding methods of acquisition and disposition, humane animal care and housing, human safety, and record-keeping do not always align with state laws and requirements, and in some cases may be more lenient. For these licensees, requiring both a federal and state license is not duplicative, but rather complementary, with state licensing enhancing the protection, care, and safety of captive wild animals and the public.

Creating a license exemption for Class C Exhibitors would prevent the department from applying state standards designed to ensure humane handling, care, treatment, and transportation of captive wild animals. The possession, propagation, commercialization, and display of captive wild animals, including harmful wild animals, would no longer be subject to state laws and regulations, including those in Ch. NR 16. This could result in unique, less stringent treatment of a class of captive wild animal possessors that has potential to be significant in reach.

Without consistent standards, there may be increased potential for disease transmission between captive wild animals and domestic and free-roaming wild populations due to escapes and inadequate separation. Certain species, if escaped, have high potential to cause damage, adopt feral behaviors, propagate, and present public safety concerns. Incidents related to animal health, humane care and housing, and human safety would no longer be referred to the department. Instead, these would be referred to USDA, which may not be able to respond and enforce in a timely manner. Department authority over animals-at-large would no longer apply. Instead, response to animals-at-large incidents would be left to the regulation and discretion of local units of government, which may not be equipped to handle such incidents.

Additionally, Class C Exhibitors would no longer be subject to record keeping requirements that apply to most other possessors of captive wild animals and they would not be required to submit any information to the department. The department's ability to "assume title on behalf of the state" of any captive wild animal possessed in violation of the captive wild animal laws may be prevented, if not entirely removed.

The department also has concerns with information sharing and record transference. Class C Exhibitors who lapse in license renewals or have their licenses revoked would technically become subject to state captive wildlife laws again until obtaining a new Class C Exhibitor license. In addition, it is plausible that the scope of entities eligible for Class C Exhibitor licenses may be expanded or limited through federal rulemaking, which would in turn change the scope of the exemptions contemplated by this bill. As a result of these relationships, the department's own ability to apply state captive laws correctly and appropriately will become dependent upon timely and effective information sharing and record transference by USDA. We are unsure whether USDA is aware of the new obligations that would stem from this bill's passage or the ability of USDA to meet the needs that would arise.

In summary, a reliance on less restrictive federal regulation at the exclusion of state regulation may not sufficiently protect Wisconsin's wildlife, the environment, and the public. On behalf of the Department of Natural Resources, we would like to thank you for your time today. We would be happy to answer any questions you may have.

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Judy & Duane Domaszek  
Park Directors/Owners



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Good Morning/Afternoon

Thank you, Senator Wanggaard and Senator Felzkowski for sponsoring and cosponsoring 2021 Parity Senate Bill 347 and allowing me to testify supporting this bill. My name is Judy Domaszek I am the Director and owner of Wildwood Wildlife Park Zoo and Safari in Minocqua, WI. As one of the largest zoos in Wisconsin, Wildwood Wildlife Park provides guests with one of a kind interactive exciting, enriching and welcoming experiences that make it a fun place to visit again and again. The zoo is a leader in animal management, conservation programs, and exhibits. The zoo embraces a unique history (over 65 years) and maintains excellence, innovation and community support.

Wildwood Wildlife Park earned accreditation with the Zoological Association of America (ZAA) for the first time in 2008 after a long rigorous process. Every five years our accreditation is up for review and inspection. In 2013 and in 2018 we went through reaccreditation and the process was more stringent each accreditation process, but we are very proud of all the hard work our dedicated staff did to prepare for the inspection. I am also very honored to <sup>have</sup> John Seyjagat Executive Director of The Zoological Association of America attend this hearing. He will explain and show the parity between AZA and ZAA consider adding ZAA as an exemption with the Class C exemption.

Wildwood Wildlife Park is also inspected on an unannounced unscheduled annual bases with the United States Department of Agriculture, Trade and Consumer Protection Division of Animal Health. The USDA Animal Care Inspector shows up and the

inspection begins. This inspection was conducted on February 24, 2021 with an exit interview conducted by the USDA Animal Care Inspector. No non-compliant items identified during this inspection date. After this process then the Class C exhibitors license is issued by mail. Without the Class C exhibitors license you cannot open or operate for business so having this exemption and parity is extremely important and vital for every zoo in the United States.

Wildwood Wildlife Park employs over 50 knowledgeable dedicated staff members including 15 career based full time Zookeepers, 2 full time maintenance and grounds, 1 full time construction manager, 1 Director of Animal Management, 1 Director of Operations, 1 Director of education also Tram Attendants, Restaurant Attendants, Snack Stand Attendants, Boat Attendants, Train Attendants and Tram Ticket Attendants.

Wildwood Wildlife Park offers college credit internship programs for students throughout the United States including UW Stevens Point, UW Green Bay, UW Stout, UW River Falls, University of Minnesota, University of Kansas, University of TX just to mention a few. This is a very valuable internship for students in the field of zoology, animal science, wildlife ecology, biology and pre-veterinary students. This opportunity allows students to apply classroom theory and occupational skills in a work environment.

In the past 10 years Wildwood Wildlife Park has had the pleasure of training 147 interns many of which we still remain in contact with. Of the 147 interns 83% are actively working at other zoological parks throughout the United States. The other 17 % either changed careers or are stay home parents. So, you can see the extreme value this internship has on career opportunities.

Wildwood Wildlife Park has partnered with over 40 businesses in Minocqua and throughout northern Wisconsin.

Living in a very small community our industry is 100 % tourism and as business owners we all work together to succeed. We impact many businesses including; landscaping, greenhouses, feed mills, construction, excavating, heavy equipment, Paint, well drilling, Veterinary services, farmers hay and straw crops, building supplies, heating and cooling, security system, American fencing, concrete, furniture and appliances, Propane, gasoline and the list goes on and on!

Wildwood Wildlife Park has a huge impact on tourism in the Northwoods of Wisconsin. The zoo regularly sees 200,000 people in a six-month window as well as hosts school programs that enrich children's lives. Without the zoo destination our Northwoods of Wisconsin would lack a huge tourism product and attraction. Tourism is the single most important economic drive in the north. Wildwood Wildlife Park impacts all businesses in the Northwoods including; gas stations, restaurants, grocery stores, hotels, specialty stores, attractions, even Walmart to mention a few.

We have gathered information on the economic impact that Wildwood Wildlife Park contributes to our area.

Travel Wisconsin averages that one person staying for two days will bring an area about \$90 of monetary spending. If we take the number of people that attend the zoo, we can roughly average that the zoo brings our region about 18 million dollars in economic impact in a single six-month season. The Northwoods relies on our business to support our area year after year.

With this parity bill we are simply asking for a level and fair playing field allowing private zoological facilities that hold a valid Class C exhibitors license issued by the United

States Department of Agriculture to be exempt and treated in the same manner as public zoological facilities operated by the state, city, village, or county. Thank you!

Submitted by

Judy Domaszek (Director/Owner)



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Good Morning/Afternoon,

My name is Kim Domaszek and I am honored to be the Director of Education at Wildwood Wildlife Park Zoo & Safari. Thank you, Senator Felzkowski & Senator Wanggaard, for allowing me to testify on supporting the Parity Bill 347. I graduated from University Wisconsin Stevens Point in education and I am Wisconsin Department of Public Instruction Certified. I would like to Thank you for allowing me to speak on behalf of the educational programs that Wildwood Wildlife Park offers.

Through Educational outreach and on-site programs, we serve over 20,000 students ranging from Pre-K through high school. We have over 249 schools attend annually from Wisconsin and Michigan.

Not only do we offer education programs, Wildwood Wildlife Park also provides annual memberships for locals, seasonal tourists, and guests from all over the United States. We have over 4000 members and it increases every year. A zoo member of 3+ years wrote a letter Ryan Schowalter stated, "My daughter Olivia is now 3 years old and her face lights up anytime I mention us going to the zoo to see all the animals they have to offer. Olivia loves learning the names of all the animals and the staff is always more than willing to answer any questions we may have. Olivia has many favorites, but she loves the face-to-face encounters; petting the rabbits, feeding the giraffes, and feeding the ducks in the pond."

Not only does Wildwood Wildlife Park offer memberships to guests, we have a volunteer program as well. Wildwood Wildlife Park has over 100 volunteers that support the zoo each year, whether they are local, seasonal or volunteering for a specific event.

We offer hands on Educational and Conservation based camps for children from age 4 through age 12. Zoo Camp is where campers enjoy special animal experiences and behind-the-scene opportunities while engaging campers in the scientific process of observation, scientific reasoning, and designing enrichment. Campers leave zoo camp with a greater awareness for the individual animals at the zoo and how to help animals in the wild, all while building their science skills and making new friends!

Both administrators from our local schools have submitted letters (Mr. James Ellis & Mrs. Jocelyn Hardy/Smith) of the positive impact we have on our educational system in Minocqua, WI and surrounding areas. Mrs. Jocelyn Smith states, "We believe that fieldwork allows for students to be active investigators, apply

research tools, work with professionals in the field, and have authentic experiences right here in the community. The Wildwood Wildlife Park Zoo provides our students with all of these fieldwork opportunities on site at the center. Not only do students learn at the center, their park experts educate our students on conservation practices, wildlife habitats, and the importance of keeping our environment safe for these animals.”

Wildwood Wildlife Park Zoo & Safari is partnered locally and globally with over 15 Conservation organizations. Wildwood is home to many threatened and endangered species which allows us to partner with many Conservation NGO's. (non-governmental organizations)

Please support the Parity Bill 347, we are not asking for anything more than any city/county zoo has under exemptions. So we can continue our valuable educational and conservation programs we offer at the zoo and outreach.

Submitted by

Kimberlyn Domaszek

Director of Education

May 26, 2021

Wisconsin State Legislature  
Committee on Insurance, Licensing and Forestry

RE: In opposition of Senate Bill 347

Thank you, Chairwoman Felzkowski and members of the Committee, for the opportunity to submit my comments today. My name is Pamela Saulnier and I am a resident of the Town of Vandebroek in Outagamie County. I am representing myself in opposition to Senate Bill 347.

In 2015, a bill was introduced to restrict private ownership of wild animals. I drove a four-hour round trip to Madison on more than one occasion to testify in support of that legislation because I have strong opinions about the exploitation of wild animals for profit. At that time, Wisconsin was one of only five states that did not have a law prohibiting the ownership of captive wild animals. Sadly, that legislation never became law.

As of today, Wisconsin is one of only four states without an exotic animal ownership law. Yet, this committee is considering a bill which in no way is designed to protect either the public or captive wild animals from injury or abuse. Rather, this law actually would remove state licensure oversight for those choosing to own, exhibit, buy, sell, or breed captive wild animals who can obtain a Class C exhibitors license from the USDA.

This bill assumes that any person or facility that has a USDA Class C exhibitors license is sufficiently scrutinized and monitored on the treatment of their animals so as to ensure compliance with the Animal Welfare Act. I think it is safe to say that such an assumption is unrealistic and uninformed.

I did a little research on USDA Class C oversight. An audit report was published just two months ago, in March 2021, from the Office of the Inspector General, titled, "Follow-Up to Animal and Plant Health Inspection Service's Controls Over Licensing of Animal Exhibitors" (Audit Report 33601-0001-23, March 2021). The audit investigated whether corrective actions and recommendations from their previous 2010 audit had been implemented. The findings were alarming.

The Animal and Plant Health Inspection Service (APHIS), the USDA agency responsible for inspecting Class C licensees and ensuring adherence to the Animal Welfare Act, is not adequately carrying out its mission. The same agency and inspectors are also tasked with inspecting Class A and Class B licensees which include animal dealers, brokers, breeders, research labs and puppy mills. Together this equates to approximately 10,000 facilities.

One specific 2010 recommendation identified in the report involved amending the "...regulation for defining public barriers and reporting all escapes and attacks involving dangerous animals... the plan did not ultimately result in regulatory change and the proposed regulatory change was canceled. APHIS could not explain why the proposed change was canceled, nor why

it did not create a new work plan, because the agency regulatory tracking database did not capture the necessary information.”

The report goes on to say, “...APHIS relied solely on the supervisory animal care specialists to monitor the completion of inspections without any other compensating controls to accomplish this monitoring. As a result, APHIS cannot fully ensure the safety of the animals exhibited or the safety of the public who view those animals.” I think this bears repeating—“APHIS cannot ensure the safety of the animals exhibited or the safety of the public who view those animals.”

Background information provided by the USDA with the posting of the audit report states, as of December 2019, there were 2,245 Class C exhibitor licensees nationwide. At that time there were “... 66 veterinary medical officers (VMO) and 43 animal care inspectors (ACI).” That’s 109 inspectors to oversee around 10,000 facilities.

How much time do you think each inspector spent at each facility? How many inspectors are knowledgeable about wild animals? How thoroughly were the animals examined? How well were the care procedures reviewed? How many regulatory infractions were actually caught and documented?

Yet the legislation at issue today would allow this insufficiently staffed and inadequately regulated agency to be the only oversight for anyone looking to profit from using animals as objects and ignoring their potential to harm the public.

Wisconsin is on the wrong side of this issue without a wild animal ownership law in place. And the passage of SB 347 will roll back a significant portion of the scant oversight that we currently have in place. I am asking the committee to reject SB 347. Thank you for your time.

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# Kristin M. Schrank

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May 26, 2021

Wisconsin State Legislature  
Committee on Insurance, Licensing, and Forestry  
Wisconsin State Capitol  
2 E. Main Street  
Madison, WI 53703

RE: SB 347

Dear Committee Members:

On its face, Senate Bill 347 will eliminate the need for Wisconsin State Departments to make certain authorizations, issue certain licenses, and undertake certain inspections. In essence, this Bill appears to relieve state departments from re-doing what the United States Department of Agriculture has already done. This seems to be fiscally and morally reasonable. However, a deeper look shows the risk associated with passing this Bill.

The USDA has a checkered history as it pertains to inspection and enforcement. This history has been well outlined by animal welfare organizations and other governmental agencies. Images of animals in USDA approved facilities have been distributed widely to show the inadequacy of inspection and enforcement. Shifts in Presidential administrations have led to the adoption of different philosophies on enforcement. Additionally, staffing issues and budgetary cuts have impacted the efficiency and effectiveness of the USDA. More succinctly, the USDA has failed to hold those who violate the Animal Welfare Act responsible. Whereas in 2014, the USDA brought 252 enforcement actions ranging from fines to license revocation, in 2019, the USDA brought 19. This is over a 92% decline in enforcement actions aimed at holding those responsible for violations responsible. Similarly, citations dropped from 6,052 to 1,716, a decline of over 70%. Given these shortcomings, bills that rely upon the USDA doing their job are a substantial risk. Shortcuts that could endanger Wisconsin's captive wild animals, Wisconsin's wild animals, and Wisconsin's human population should not occur. Thank you.

Sincerely,



Kristin M. Schrank

KMS:kms

May 26, 2021

Senator Mary Felzkowski, Chairwoman

Committee on Insurance, Licensing and Forestry

CC: Senator Stafsholt, Vice Chair  
Senator Jagler, Member  
Senator L. Taylor, Member  
Senator Ringhand, Member

Dear Senator Felzkowski,

My name is Charles Wikenhauser. I am Director Emeritus of the Milwaukee County Zoo, having retired on 4/1/21. I was also a 12 year veteran member of the Association of Zoos & Aquariums Accreditation Commission\*, serving 2 years as Vice Chair and 2 years as Chairman.

**Please accept this email in opposition of SB 347.**

This bill exempts a facility that holds a U.S. Department of Agriculture exhibitor license from state license requirements relating to captive wild animals.

Current law generally prohibits the possession, exhibition, propagation, sale, and purchase of wild animals without a relevant license issued by the Department of Natural Resources. Public zoos and aquariums, which are facilities operated by the state or by a city, village, or county or that are an accredited member of the American Zoo and Aquarium Association, are exempt from these license requirements.

The bill also exempts from the license requirements a private facility that holds a valid Class C exhibitor license issued by the USDA. This license is required under the federal Animal Welfare Act for any individual or business engaged in public exhibition of animals covered by the act.

*A USDA license is not evidence of exceptional – or even adequate – animal care.* Removing the state licensing requirement would leave captive wild animals to the minimal provisions of the federal Animal Welfare Act (AWA), which is outdated, vaguely worded and establishes only very *minimum* guidelines for animal husbandry. For example, the AWA does not have specific space requirements for most species and allows animals to be kept in small, barren cages that are a throwback to the 1950s. Moreover, the Office of Inspector General has criticized the USDA for its poor enforcement of the AWA, including for failure to recognize safety-related violations.<sup>1</sup>

Wisconsin's current licensing regulations through the Wisconsin Department of Natural Resources ensures that USDA Class C licensees are held to a standard of care which, for numerous species, significantly exceeds that of the AWA. Removing this licensure and oversight would be detrimental to public safety as well as the welfare of captive wildlife in Wisconsin.

**In closing, I along with other Wisconsin AZA Accredited Zoos strongly oppose the adoption of SB 347.** Thank you for your consideration of my remarks.

Charles Wikenhauser

Director Emeritus

Milwaukee County Zoo

\*Accreditation is a process by which a program, organization, or institution is evaluated by recognized experts in the profession and is measured against the established standards and best practices of that profession. Overseeing this process in AZA is the Accreditation Commission- a group of sixteen experienced and trained experts in operations, animal welfare and husbandry, and veterinary medicine. These experts are sworn to maintain complete impartiality in their judgements and to thoroughly examine each zoo or aquarium that applies for AZA accreditation to determine if AZA standards are being met. Only those zoos and aquariums that earn AZA accreditation can become members of AZA.

AZA has been the primary accrediting body for zoos and aquariums for over 40 years. **U.S. agencies such as OSHA and the USDA consider AZA standards as the "national" standard, and they refer to AZA standards when evaluating institutions.** AZA's rigorous, scientifically based and publicly available standards examine the zoo or aquarium's entire operation, including animal welfare, veterinary care, conservation, education, guest services, physical facilities, safety, staffing, finance, and governing body. AZA standards are performance-based to allow them to be applied to a variety of different situations and cases. AZA is continuously raising its standards as science continues to learn more and more about the species in our care. Accreditation is rescinded if AZA standards are not maintained.

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Good Morning/Afternoon. Thank you for allowing me time to speak with you today.

My name is John Kunkel and I live in Lac du Flambeau, WI. For full disclosure, I serve as a volunteer at Wildwood Wildlife Park in Minocqua. While I would love to spend time talking about the animal care and quality of resources and programs at Wildwood, that's not why I am here. Rather I am here to address inspectional concepts and techniques. Prior to my retirement, I held a director position within the United States Food and Drug Administration and served as an investigator for the Agency for more than thirty years. It is on this experience that I approach you today.

The issue before this committee is relatively straight forward ... should facilities holding United States Department of Agriculture Class C Captive Wildlife Exhibitor Licenses be exempt from further licensing requirements of the Wisconsin Department of Natural Resources. Some facilities already are – publicly owned zoos and aquariums and those facilities holding American Zoo and Aquarium Association accreditation. But at this time those holding the USDA Class C license are not exempt. (From here on out I will be referring to the American Zoo and Aquarium Association as AZA.)

Let me begin by stating the obvious, the USDA is Federal regulatory agency. In contrast, the AZA and the Zoological Association of America (ZAA) which is another accrediting body within the United States are fraternal organization. The difference here is significant.

There is nothing wrong with peer style inspections such as those performed by AZA and ZAA style organizations. They do form a purpose in that they add yet another layer of review to the process and provide opportunities for suggestions for improvement. And when we are dealing with the welfare of exotic animals that's a good thing. However, while there is a benefit to this type of an inspection, you have to remember that it is not regulatory in nature. Failing the inspection can perhaps result in removal of the facility from the organization and/or the removal of the accreditation, but that's where the penalty ends. On finding a facility placing animals at risk, the fraternal group will hopefully file a complaint with the USDA, but until the USDA acts on that complaint the facility remains open, continues to operate and the welfare of the animals remains at risk. The USDA not the fraternal organization is the policing entity.



Back in the day when I was working with the FDA, both the FDA and the USDA used what is referred to as a "Risk Based Inspectional Process". To my knowledge this approach is still being used today. The basis of this inspectional method is that those facilities found to be out of compliance are subjected to inspections more often than those routinely found to be in compliance. Compliant facilities may be inspected as seldom as once every two or three years, while those requiring high-frequency inspections may be visited as often as every 3 months. The point is that every licensed facility is periodically subjected to a USDA compliance inspection.

Now the difference between the inspection by a fraternal organization and the USDA is the outcome. The USDA has the weight of the law and Federal Regulations behind its inspectional authority. Those facilities found placing animals at risk are provided with a deadline for correcting the problem and if the problem isn't resolved the facility may be subjected to loss of license and federal penalty and/or prosecution. And while the corrective action is being undertaken, the facility may be inspected by USDA investigators as often as every 45 days.

In these different styles of inspection peer vs. USDA, the Federal Regulations and the threat of fine and/or prosecution are the big stick. Between 2010 & 2015 the USDA either confiscated or facilitated the voluntary surrender of over 11,000 animals from non-compliant facilities. This is significant.

There are other differences as well. Peer inspections performed by fraternal organizations are normally pre-arranged with the inspected facility being well aware of when the inspectors will be arriving. On the other hand, inspections conducted by the USDA are unannounced. No one knows ahead of time who will be conducting the inspection or when they will be arriving.

I can't speak for the AZA or the ZAA, but the outcome of a fraternal peer style inspection is normally shared within the organization and with the facility being inspected. There is no requirement that the inspectional information be made public. In contrast, USDA inspectional outcomes are a matter of public record, are readily available and are even posted for review on the internet.

And one last item, in a USDA inspection there is no financial interest between the USDA and the inspected facility. However, when a fraternal inspection is conducted, the facility being inspected is

often times required to pay the inspectional costs incurred. This financial conflict would strike me as an item of concern.

Now during the hearing today an argument may be made that a fraternal or peer inspectional effort is more stringent than that of the USDA. That the peer is more qualified to conduct these inspections and as a result their accreditation should be view in a higher standard than a USDA inspection and Class C License. But that not necessarily correct.

At least the AZA, which is already listed in the State statue as being an exempting organization, readily acknowledges that the inspections conducted by the USDA are equivalent to their own. And from my perspective, the USDA inspection may actually be more thorough than that conducted by the AZA.

On their website, under the heading of "Why AZA?" the AZA acknowledges that ... and I quote ... "U.S. agencies such as OSHA and the USDA consider AZA standards as the "national" standard, and they refer to AZA standards when evaluating institutions".

If indeed USDA is using the AZA standards during their inspections, plus they are using the Federal standards established in the Code of Federal Regulations and the Animal Welfare Act, plus they are assuring compliance with the Endangered Species Act, the Public Health Service Act, and the Lacey Act. The inspectional approach of the USDA has got to be thorough.

This being the case, holders of a Class C Exhibitor License issued by the U.S. Department of Agriculture are no less than equally complainant to those holding an American Zoo and Aquarium Association or Zoological Association of America accreditation. It is my hope that you will pass this bill today and exempt Class C Exhibitor license holders from further licensing by the Wisconsin DNR.

Thank you for your time.



**THE HUMANE SOCIETY  
OF THE UNITED STATES**

Testimony in Opposition of Senate Bill 347  
Presented to the Committee on Insurance, Licensing and Forestry  
Megan Nicholson  
Wisconsin State Director, The Humane Society of the United States  
May 26, 2021

Chairwoman Felzkowski and fellow Committee Members:

On behalf of The Humane Society of the United States (HSUS), the nation's largest animal protection organization, and our Wisconsin supporters and members, I thank you for hearing SB 347 today and for the opportunity to provide our comments in opposition to the bill.

Wisconsin is currently one of five states with exceedingly lax regulations on the possession of many wild animal species such as tigers, lions, hyenas and primates. Although people who breed or exhibit such species are required by federal law to be licensed by the U.S. Department of Agriculture (USDA), which enforces the federal Animal Welfare Act (AWA), there are a few species – including bears, cougars, bobcats, lynx and fox – that require an additional license from the Wisconsin Department of Natural Resources. The state license establishes a standard of care that significantly exceeds that of the AWA. Removing state licensure and oversight for these species would be detrimental to animal welfare as well as public safety.

A USDA license is not evidence of exceptional – or even adequate – animal care. The AWA is outdated, vaguely worded and establishes only very minimum guidelines for animal husbandry.

For example, a USDA licensee must provide a bear with little more than daily food and only enough space to stand up, turn around and lie down. Unfortunately, there are countless roadside zoos across the country that provide these complex and wide-ranging animals little more than that.

By contrast, DNR requires licensees to provide a bear with at least 400 square feet of space, a tank or pool with a minimum of 150 gallons of water, and enrichment to combat boredom and allow the animal to engage in natural behaviors.

In 2010, the Office of Inspector General criticized the USDA for its poor enforcement of the AWA, including for failure to recognize safety-related violations.<sup>i</sup> A subsequent audit that was just released revealed that – ten years later – the agency had not taken proper action regarding public barriers at facilities with potentially dangerous animals or the reporting of animal escapes/attacks, and needs to take better steps to ensure timely inspections.

Removing state oversight would be detrimental to many captive wild animal species in Wisconsin and threaten public safety.

We urge you to oppose SB 347. Thank you for your consideration.

Megan Nicholson  
Wisconsin State Director  
The Humane Society of the United States  
[mnicholson@humanesociety.org](mailto:mnicholson@humanesociety.org)

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<sup>i</sup> Office of Inspector General, "Controls Over APHIS Licensing of Animal Exhibitors," Audit Report 33601-10-Ch June 2010, page 2.



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Wisconsin Federated Humane Societies, Inc 5132 Voges Road Madison, WI 53718

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May 26, 2021

Reference: Senate Bill 347 / Assembly Bill 341

**PLEASE REJECT the Captive Wildlife / USDA Exhibitor License Proposal**

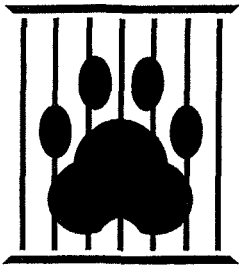
***Wisconsin Federated Humane Societies Board of Directors, and the Humane Societies, Animal Shelters and Rescue Groups we represent ask you to REJECT SB 347 / AB 341.***

- Wild animals have very specific needs for food, housing, exercise and veterinary care that few owners will adequately provide. This lack of proper care inflicts suffering on the animals. USDA minimum standards and infrequent inspections will result in animal trauma and unsafe conditions.
- Wild animals can be dangerous no matter how they are categorized. They are not pets.
- Exhibitors may promote photo opportunities with young animals. This requires continuous breeding to keep a supply of young animals. What happens to the animals when they are too old for safe handling?
- While adorable and appealing when young, wild species grow to be unmanageable for most people and often end up abandoned, released, culled for convenience, or “warehoused” in substandard facilities.
- Keeping these animals in our Wisconsin communities poses a significant threat to public health and safety. WHO will respond to calls of bites and other injuries caused by wild animals being displayed? The USDA is not nibble enough to answer these calls. Your local humane societies and animal shelters should not have to, as they have neither the funding or training to respond to wildlife problems.
- The release or escape of wild animals is a danger to the general public and a burden on law enforcement officers, fire fighters and first responders.
- Communicable disease eruption and transmission is not uncommon when wild animals are kept in close quarters in captivity. CWD exploded in deer farms, for example. Wisconsin should not put its livestock, farm animals, and family pets at risk.
- The failing performance of the USDA / APHIS has been under scrutiny for over ten years. The WI DNR and DATCP have the experience to establish rules and to oversee wild animals, disease transmission and public health and safety. They are directly responsible to the people of Wisconsin. While other states move to improve requirements and provided for better health and safety for both animals and people, SB 347 / AB 341 takes Wisconsin in the wrong direction.

***But perhaps the most important question of all...***

**Why would Wisconsin cede “State’s Rights” and give authority to the federal government to set standards of care and control over dangerous and wild animals living in Wisconsin? WI DNR / DATCP authority should not be ceded to USDA / APHIS. Who does this proposal truly benefit and is it worth the many risks?**

Sincerely,  
Eilene K. Ribbens—Legislative Liaison Egress@charter.net (920) 783-6427



## WISCONSIN PUPPY MILL PROJECT, INC

424 North Avenue Sheboygan, WI 53083

May 26, 2021

### Vote NO on SB347 / AB341

We have years of experience working with the United States Department of Agriculture (USDA) and with federally licensed facilities through Animal and Plant Health Inspection Service (APHIS) in enforcement of the Animal Welfare Act (AWA). In brief, we provide several examples of our experience and our concerns with federal oversight through the USDA / APHIS:

- USDA standards are **MINIMUM**. Minimum standards under the USDA / APHIS / AWA are just that, minimum—meaning enough for an animal to be kept alive. Minimum standards are **inadequate** for animals to have quality of life.
- USDA's performance in enforcing the Federal Animal Welfare Act is so dismal that the Office of Inspector General has recently concluded an audit on the agency. The OIG submitted recommendations to USDA / APHIS to better enforce the AWA, but APHIS has returned responses that are weak and inadequate to address the OIG findings and to meet its recommendations.
- The USDA has established a new **THREE YEAR** licensing program, meaning that Class C license holders only need to renew licenses once every three years and inspections in support of holding those licenses are sporadic, in fact...
- The USDA suspended all on-site inspections over the past fifteen months. Inspections during the pandemic, if done at all, were held via video chat, allowing the license holder to "show" what they wanted. USDA / APHIS requires inspections on a "periodic" basis and, according to the OIG report, even then were unacceptably late 27.9% of the time.
- USDA caging standards are inadequate compared to those currently required under WI DNR and WI DATCP. Animal escape is inevitable. Wild animals that come from captive environments are not capable of sustaining themselves once dependent on human care. Animals will suffer, the public may be put at risk, and species could become invasive.

The USDA has had years to correct deficiencies in regulation and inspection identified in an Inspector General report of 2010—and yet, those deficiencies are still "under discussion" and have not been fully resolved. By its own reports, the federal government is not capable of inspecting and enforcing regulations on captive wildlife exhibitors to a standard of care and safety Wisconsinites deserve. We encourage you to review the attached document from the US Office of the Inspector General. Please take note of the highlighted text. Removing current DNR and DATCP authority over captive wildlife and replacing it with USDA Class C licensing and inspection authority would be a giant leap in the wrong direction for Wisconsin. We ask that you reject SB347 / AB341.

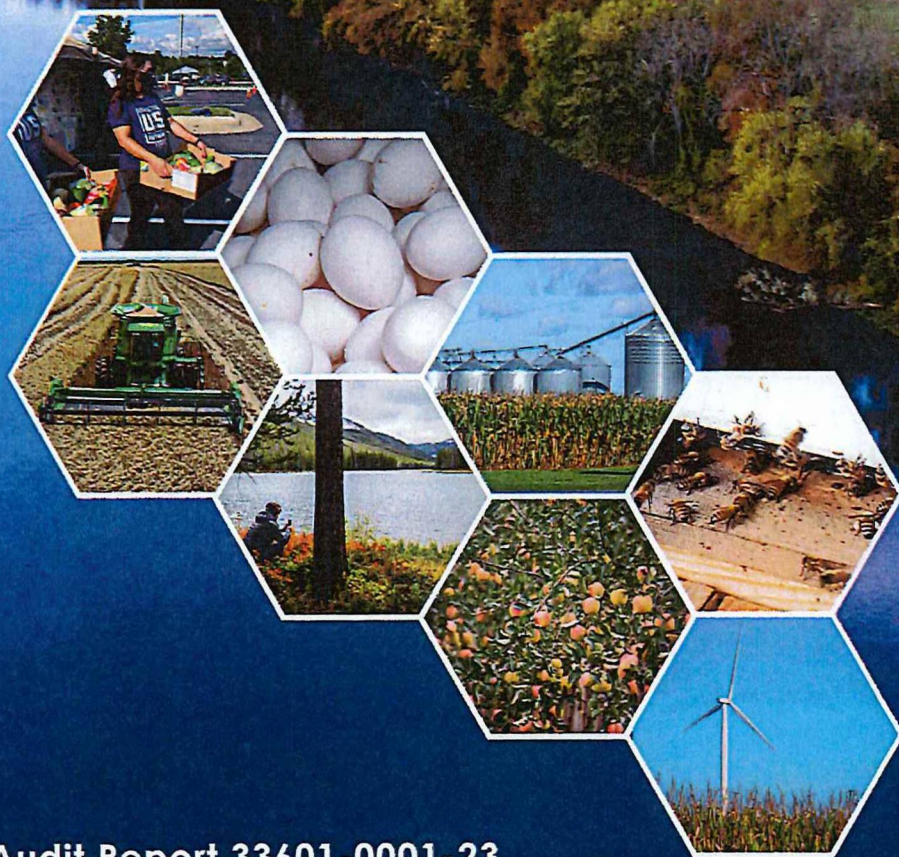
Respectfully Submitted,

Louise Hansen  
Education and Outreach Coordinator  
The Wisconsin Puppy Mill Project, Inc



United States Department of Agriculture

# Follow-Up to Animal and Plant Health Inspection Service's Controls Over Licensing of Animal Exhibitors



**Audit Report 33601-0001-23**

**March 2021**

**OFFICE OF INSPECTOR GENERAL**

# Follow-Up to Animal and Plant Health Inspection Service's Controls Over Licensing of Animal Exhibitors

## Audit Report 33601-0003-23

OIG evaluated APHIS' controls over the licensing of exhibitors of dangerous animals and the agency's efforts to safeguard both the animals and members of the public who visit exhibitor facilities.

### OBJECTIVE

To evaluate APHIS' controls over the licensing of exhibitors of dangerous animals, and the agency's efforts to safeguard both the animals and members of the public who visit exhibitor facilities. As part of this audit, we followed up on the recommendations from our previous audit issued June 2010 with emphasis on the recommendations relating to public safety.

### REVIEWED

OIG interviewed APHIS officials and analyzed pertinent documents, complaint procedures, the Risk Based Inspection System, and inspection reports.

### RECOMMENDS

APHIS should conduct a study to determine if there continues to be an issue with public barriers at licensed exhibitors with potentially dangerous animals and determine if APHIS has the authority under the AWA to require exhibitors to report animal escapes and/or attacks to APHIS. APHIS also should document reasons for canceling regulatory proposals and implement controls to ensure inspections are timely completed.

### WHAT OIG FOUND

Under the Animal Welfare Act (AWA), the Animal and Plant Health Inspection Service (APHIS) regulates the use of certain warm-blooded animals in research, exhibition, and commerce in order to ensure their humane treatment. All facilities that exhibit animals regulated under the AWA must be licensed with APHIS and be inspected on a periodic basis.

We reviewed the corrective actions APHIS implemented following a June 2010 Office of Inspector General (OIG) audit. While we found that APHIS implemented corrective actions for six of the seven recommendations, APHIS did not fully implement one recommendation. Specifically, APHIS developed a work plan to amend the regulation for defining public barriers and reporting all escapes and attacks involving dangerous animals; however, the plan did not ultimately result in regulatory change and the proposed regulatory change was canceled. APHIS could not explain why the proposed change was canceled, nor why it did not create a new work plan, because the agency regulatory tracking database did not capture the necessary information.

We also found that 24 out of 86 (more than 27.9 percent) inspections conducted at the 19 exhibitors in our sample were deemed late. This occurred because APHIS relied solely on the supervisory animal care specialists to monitor the completion of inspections without any other compensating controls to accomplish this monitoring. As a result, APHIS cannot fully ensure the safety of the animals exhibited or the safety of the public who view those animals. APHIS agreed with our findings and recommendations, and we accepted management decision on the four recommendations.

**OFFICE OF INSPECTOR GENERAL**

United States Department of Agriculture

**DATE:** March 12, 2021**AUDIT  
NUMBER:** 33601-0003-23**TO:** Kevin Shea  
Administrator  
Animal and Plant Health Inspection Service**ATTN:** Robert Huttenlocker  
Deputy Administrator  
Marketing and Regulatory Programs—Business Services**FROM:** Gil H. Harden  
Assistant Inspector General for Audit**SUBJECT:** Follow-Up to Animal and Plant Health Inspection Service's Controls Over  
Licensing of Animal Exhibitors.

This report presents the results of the subject review. Your written response to the official draft is included in its entirety at the end of the report. We have incorporated excerpts from your response, and the Office of Inspector General's (OIG) position, into the relevant sections of the report. Based on your written response, we are accepting management decision for all four audit recommendations in the report, and no further response to this office is necessary. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer (OCFO).

In accordance with Departmental Regulation 1720-1, final action needs to be taken within 1 year of each management decision to prevent being listed in the Department's annual Agency Financial Report. For agencies other than OCFO, please follow your internal agency procedures in forwarding final action correspondence to OCFO.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions. This report contains publicly available information and will be posted in its entirety to our website (<http://www.usda.gov/oig>) in the near future.



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## Background and Objectives

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### Background

Under the Animal Welfare Act (AWA), the Animal and Plant Health Inspection Service (APHIS) regulates the use of certain warm-blooded animals in research, exhibition, and commerce in order to ensure their humane treatment.<sup>1</sup> As part of its mission, APHIS Animal Care is charged with providing leadership in: (1) determining standards of humane care and treatment of animals; (2) implementing those standards; and (3) ensuring compliance with those standards through inspection, education, and cooperative efforts.<sup>2</sup> All facilities that exhibit animals regulated under the AWA must be licensed with APHIS and be inspected on a periodic basis. As of December 2019, there were 2,245 Class “C” (Exhibitor) licensees nationwide.<sup>3</sup>

APHIS Animal Care is headquartered in Riverdale, Maryland, with an operational office located in Fort Collins, Colorado. To ensure compliance with the AWA, APHIS inspectors must inspect all licensed facilities. The inspectors are located throughout the United States and conduct both announced pre-license inspections and unannounced routine and/or focused inspections on a periodic basis. As of December 11, 2019, there were 3 assistant directors that oversee the 14 supervisory animal care specialists (SACS); the SACS supervise 66 veterinary medical officers (VMO) and 43 animal care inspectors (ACI). During fiscal year (FY) 2019, APHIS inspectors performed over 2,800 inspections of exhibitors in their assigned geographic areas.<sup>4</sup>

Animal exhibitors are public or private entities that exhibit animals to the public.<sup>5</sup> Examples of exhibitors include individuals, public zoos, roadside zoos, circus/traveling exhibitors, and State parks. APHIS requires licensed exhibitors to provide their animals with adequate care and treatment in the areas of housing, handling, transportation, sanitation, nutrition, veterinary care, and protection from extreme weather and temperatures.<sup>6</sup> Exhibitors must maintain, on their premises, accurate records of the animals that come into their possession and of the veterinary care the animals receive.<sup>7</sup> Exhibitors must minimize possible harmful risks to animals and the public during public exhibition.<sup>8</sup> Specifically, any animal must be handled to minimize the risk of harm to the animal and to the public, with sufficient distance and/or barriers between the animal and the general viewing public to assure the safety of animals and the public.<sup>9</sup>

When APHIS inspectors identify items that are not in compliance with Federal standards, APHIS holds those facilities responsible for properly addressing and correcting those items within a specified timeframe. APHIS inspectors record the results of their inspections in the online

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<sup>1</sup> The AWA is codified at 7 U.S.C. § 2131 *et seq.*

<sup>2</sup> APHIS Animal Welfare Assessment (2007).

<sup>3</sup> Class “A” and “B” licenses are issued to breeders, brokers, and dealers.

<sup>4</sup> Both VMOs and ACIs conduct inspections of exhibitors. For the purpose of this audit, both will be referred to as APHIS inspectors.

<sup>5</sup> 7 U.S.C. § 2132(h).

<sup>6</sup> 9 C.F.R. § 2.100(a); *see also* 7 U.S.C. § 2143(a).

<sup>7</sup> 9 C.F.R. § 2.75 (a)–(b).

<sup>8</sup> 9 C.F.R. § 2.131 (a)–(e).

<sup>9</sup> 9 C.F.R. § 2.131(c)(1).

Animal Care Information System (ACIS). To determine the timing of inspections, APHIS developed a Risk Based Inspection System (RBIS) to ensure that resources are effectively targeted and that entities with a “high risk” for noncompliant items (NCI) are inspected more frequently.<sup>10</sup> APHIS uses factors, such as the number and severity of NCIs recorded in ACIS and potential for human injury through direct contact with dangerous animals, to determine inspection frequency for each exhibitor.<sup>11</sup> The AWA authorizes the Secretary of Agriculture to suspend or revoke an exhibitor’s license for any violations of the AWA or the agency’s regulations and standards.<sup>12</sup>

## Prior Audit

In 2010, we evaluated APHIS’ controls over the licensing of exhibitors of exotic animals and the agency’s efforts to safeguard both the animals and members of the public who visit exhibitor facilities.<sup>13</sup> The audit found that APHIS inspectors did not report safety conditions because the inspectors were challenged by APHIS’ broadly worded guidance while evaluating compliance at the facilities. We noted several instances in which APHIS inspectors either did not identify safety-related deficiencies during inspections, or did not document the conditions and require corrective actions due to the lack of periodic onsite supervision. We recommended that APHIS issue clear regulations and guidance that define what constitutes a sufficient public barrier and require exhibitors to report all escapes and attacks involving dangerous animals to APHIS’ ACIs. APHIS agreed to develop a work plan for a change in regulation and issue revised guidance.<sup>14</sup> The audit also found that APHIS renewed United States Department of Agriculture (USDA) exhibitor licenses to individuals who could not provide evidence that they actually exhibited their animals. Additionally, APHIS inspectors were unable to timely locate traveling exhibitors (for example, circuses) to conduct inspections. APHIS agreed with the findings and achieved final action on all recommendations. Since the previous report was issued, APHIS has increased the use of its subject matter experts and SACS’ oversight of the APHIS inspectors through use of onsite supervision during inspections. Additionally, APHIS issued a new regulation that removed the license renewal process for exhibitors; specifically, licensees must reapply for their license every 3 years, instead of automatically being renewed upon payment of fees.<sup>15</sup>

## Objectives

To evaluate APHIS’ controls over the licensing of exhibitors of dangerous animals, and to evaluate the agency’s efforts to safeguard both the animals and members of the public who visit

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<sup>10</sup> High-risk exhibitors include but are not limited to: facilities with any critical NCI, any repeat NCI, or four or more non-repeat, non-critical NCIs cited on an inspection report (such as “unsatisfactory” inspection results).

<sup>11</sup> Dangerous animals include: lions and tigers (and other “big cats”), wolves (and other “large wild/exotic canids”), bears, elephants (and other “mega herbivores”), and great apes.

<sup>12</sup> 7 U.S.C. § 2149(a).

<sup>13</sup> Audit Report 33601-10-Ch, *Controls Over APHIS Licensing of Animal Exhibitors*, June 2010.

<sup>14</sup> A regulatory work plan is a document prepared by APHIS officials that describes the change in regulation that APHIS plans to develop. The work plan assesses the risk, significance, and effects of the proposed regulatory change. The Office of Management and Budget uses the work plan to designate the proposed regulatory action as “significant” or “not significant”.

<sup>15</sup> Animal Welfare; Amendments to Licensing Provisions and to Requirements for Dogs, 85 Fed. Reg. 28,772 (May 13, 2020).

exhibitor facilities. As part of this audit, we followed up on the recommendations from our previous audit, issued June 2010, with emphasis on the recommendations relating to public safety.

Our audit did not identify any deficiencies in the licensing of animal exhibitors. We evaluated APHIS' final actions for all seven recommendations from the previous audit. (See Exhibit A). For Recommendations 2, 3, 4, and 7, the final actions taken by APHIS corrected the issue previously identified. For Recommendations 5 and 6, APHIS initially did not take action beyond obtaining an Office of the General Counsel (OGC) opinion. However, in May 2020, APHIS issued new regulations that addressed the Office of Inspector General's (OIG) previously noted concerns related to Recommendations 5 and 6.<sup>16</sup> Recommendation 1 is addressed in Finding 1 of this audit.

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<sup>16</sup> Animal Welfare; Amendments to Licensing Provisions and to Requirements for Dogs, 85 Fed. Reg. 28,772 (May 13, 2020).

## **Finding 1: Additional Action Needed for Deficiencies Noted During the Prior Audit**

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We reviewed the corrective actions APHIS implemented following the June 2010 OIG audit.<sup>17</sup> While we found that APHIS implemented corrective actions for six of the seven prior recommendations, APHIS did not fully implement one recommendation beyond the work plan and the issuance of guidance.<sup>18</sup> Specifically, APHIS developed a work plan to amend the regulation for defining public barriers and reporting all escapes and attacks involving dangerous animals; however, the plan did not ultimately result in regulatory change. The proposed regulatory change was canceled; therefore, known deficiencies from the prior audit may not have been corrected. Additionally, APHIS officials stated that guidance could not be issued without the regulatory change and, therefore, had to rescind the previously issued guidance. Since the agency regulatory tracking database did not capture a reason why the change was not implemented, APHIS could not explain why the proposed change was canceled, nor why it did not create a new work plan. Without this regulatory change, as noted in the previous audit, APHIS cannot adequately ensure the safety of the animals exhibited or the safety of the public that views those animals.

According to Departmental regulation, USDA agencies and staff offices are required to establish, maintain, evaluate, improve, and report on systems of controls. When control deficiencies are detected, they must be promptly corrected by the agency.<sup>19</sup> In addition, Federal regulations require APHIS inspectors to ensure that exhibitors provide a sufficient distance and/or barrier to keep the animals and public safe.<sup>20</sup>

We reviewed the prior audit's corrective actions and interviewed APHIS officials to determine if APHIS fully implemented the audit's recommendations. In this audit, we found that APHIS better utilized its subject matter experts, provided direct supervision to its inspectors, and improved its ability to track the location of traveling exhibitors. Additionally, APHIS issued new regulations that removed the license renewal process for exhibitors.

We found that APHIS had implemented corrective actions for all seven recommendations from the prior audit. However, APHIS did not fully implement one of the recommendations beyond the work plan and issuing guidance.<sup>21</sup> During the previous OIG audit, we found potential safety hazards at licensed exhibitors due to APHIS' broadly-worded guidance.<sup>22</sup> For example, we previously reported that, at one facility, the public barrier was so close to a cougar enclosure that a visitor could reach across the barrier and insert a hand into the enclosure. At another facility, the "public barrier" consisted of a plastic chain as low as 12 inches above the ground. This facility provided tours to groups of school children who could easily cross the barrier to access

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<sup>17</sup> Audit Report 33601-10-Ch, *Controls Over APHIS Licensing of Animal Exhibitors*, June 2010.

<sup>18</sup> Audit Report 33601-10-Ch, *Controls Over APHIS Licensing of Animal Exhibitors*, June 2010.

<sup>19</sup> USDA Departmental Regulation (DR) 1110-002, *Management's Responsibility for Internal Control* (June 17, 2013).

<sup>20</sup> 9 C.F.R. § 2.131(c)(1).

<sup>21</sup> Audit Report 33601-10-Ch, *Controls Over APHIS Licensing of Animal Exhibitors*, June 2010.

<sup>22</sup> Audit Report 33601-10-Ch, *Controls Over APHIS Licensing of Animal Exhibitors*, June 2010.

the cages with dangerous animals. APHIS inspectors for both facilities did not take action on these hazards. APHIS officials stated that, due to the vague language of the regulations, it is difficult for ACIs to determine whether a public barrier is or is not sufficient. The previous audit also noted there were escapes of animals at licensed exhibitors that APHIS was unaware of because APHIS did not require exhibitors to report escapes and/or attacks to the agency.

APHIS agreed with OIG's recommendation to issue clear regulations and guidance that define what constitutes a sufficient public barrier and to require exhibitors to report all escapes and/or attacks involving dangerous animals to APHIS' ACIs.<sup>23</sup> APHIS agreed to develop a work plan for a change in regulation and to issue guidance. APHIS officials stated that the completed work plan was designated as significant by the Office of Management and Budget and an economic analysis was required.<sup>24</sup> Therefore, APHIS officials performed an economic analysis, which was completed in January 2014.

For the next 5 years, APHIS took no further action. Then, in March 2019, APHIS senior officials determined the regulatory change would need a new work plan if the agency still thought a change was necessary. When asked for the reason that APHIS had not taken action prior to March 2019, APHIS officials were unable to provide an explanation, as it was not documented in their regulatory document tracking database.<sup>25</sup> The March 2019 decision was documented solely in an email without any support or analysis regarding the continued need of the regulatory change. APHIS officials stated that, without the regulatory change, they had no authority to specify standards and therefore had to rescind the previously issued guidance. While we are unaware of any issues caused by APHIS' inaction, the agency is still required to correct known deficiencies. Additionally, due to the significance of the regulatory process, we recommend the agency ensures that the justifications behind removing any proposed regulations are documented.

We discussed our continued concerns about the broadly-worded public barrier guidance and the lack of a reporting requirement with APHIS officials. Due to the time span since the last audit, the officials suggested a study be conducted to determine if public barriers were still an issue.<sup>26</sup> Although APHIS officials had agreed with this recommendation in the previous audit, the current APHIS officials stated they would need to determine whether a requirement for exhibitors to report on animal escapes and/or attacks could be enacted under the AWA.<sup>27</sup>

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<sup>23</sup> Audit Report 33601-10-Ch, *Controls Over APHIS Licensing of Animal Exhibitors*, June 2010.

<sup>24</sup> When an agency determines that a regulation is the best available method of achieving the regulatory objective, it shall design its regulations in the most cost-effective manner to achieve the regulatory objective. An economic analysis evaluates the costs and benefits of enforcement and compliance to the Government, regulated entities, and the public. (E.O. 12866, "Regulatory Planning and Review," 58 Fed. Reg. 51735, Oct. 4, 1993).

<sup>25</sup> APHIS used a database to track the progress of regulatory changes sought by the agency.

<sup>26</sup> Our fieldwork phase coincided with the Coronavirus Disease 2019 (COVID-19) pandemic. APHIS inspectors were not performing inspections at this time. Therefore, we also were unable to perform site visits to licensed exhibitors during this audit. This did not affect our ability to achieve our audit objectives.

<sup>27</sup> During the previous audit (Audit Report 33601-10-Ch, *Controls Over APHIS Licensing of Animal Exhibitors*, June 2010), APHIS officials did not raise concerns about their authority to require exhibitors to report on animal escapes and/or attacks.

Since APHIS regulations concerning public barriers and reporting of escapes and/or attacks have not changed, the public safety issues noted during the previous audit may still persist. APHIS' broadly worded definition of "public barriers" potentially increases the risk of injury to the exhibited animals and the public who view those animals. Therefore, we recommend APHIS conduct a study to determine if there continues to be an issue with public barriers and implement any necessary corrective actions. Additionally, guidance that requires licensed exhibitors to report escapes and/or attacks may decrease the potential reoccurrence of these incidents at the location of the occurrence and other facilities. If APHIS inspectors know how an animal escaped, inspectors can identify similar flaws in exhibits they inspect to prevent similar escapes or attacks. Furthermore, a requirement for reporting incidents may allow APHIS to better evaluate the risk posed by each licensee. Therefore, we also recommend that APHIS determine if it has the authority under the AWA to require exhibitors to report animal escapes and/or attacks, and, if authorized, take action to ensure exhibitors report animal escapes and/or attacks to APHIS. In addition, we recommend APHIS document the procedures for removing any proposed regulations in order to better track the justification for the removal.

## **Recommendation 1**

Conduct a study to determine if there continues to be an issue with public barriers at licensed exhibitors with potentially dangerous animals. If the results indicate an issue, determine and implement the necessary corrective actions (i.e., new regulations, training, and/or guidance).

### **Agency Response**

In its February 19, 2021, response, APHIS agreed with the recommendation and stated:

APHIS will conduct a barrier study at licensed exhibitors including the 19 facilities that OIG selected as part of the 2020 audit. The study will include a review of any incidents involving barriers that have occurred at these facilities. As part of this review, barriers will be measured for height and distance from primary enclosures and photographed; then submitted to the Animal Care species specialist team for assessment and evaluation.

The estimated completion date is December 31, 2021.

### **OIG Position**

We accept management decision on this recommendation.

## **Recommendation 2**

Consult with OGC to determine if APHIS has the authority under the AWA to require exhibitors to report animal escapes and/or attacks to APHIS. If APHIS does have the necessary authority, take action to ensure exhibitors report animal escapes and/or attacks to APHIS.

### **Agency Response**

In its February 19, 2021, response, APHIS agreed with the recommendation and stated:

APHIS will contact the USDA OGC to determine if APHIS has the authority under the AWA to require reporting of escapes and/or attacks. If OGC determines that APHIS does have the authority to require reporting, then APHIS will develop an action plan to require reporting. This action plan will be based on OGC recommendations and may include promulgating regulations and/or stakeholder announcements, letters to licensees, tracking escapes/attacks, and working with facilities to prevent further incidents.

The estimated completion date is March 31, 2022.

### **OIG Position**

We accept management decision on this recommendation.

### **Recommendation 3**

Document the procedures for canceling a regulatory proposal, including the reason for any removal.

### **Agency Response**

In its February 19, 2021, response, APHIS agreed with the recommendation and stated:

Animal Care's National Policy Staff office will track regulatory proposals, including the reasons for removal. Animal Care will modify the Regulatory Work Plans Standard Operating Procedures (SOP) to include documenting a regulatory proposal that has been cancelled and the reason for any removal.

The estimated completion date is March 31, 2021.

### **OIG Position**

We accept management decision on this recommendation.



## **Finding 2: APHIS Needs to Improve the Timeliness of Inspections Conducted of Licensed Exhibitors**

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We found that 24 out of 86 (more than 27.9 percent) inspections conducted at the 19 exhibitors in our sample were not conducted at the RBIS frequency and were deemed late. This occurred because APHIS did not establish or maintain sufficient controls to ensure its supervisors adequately monitored the timely completion of inspections. Specifically, APHIS relied solely on the SACS to monitor the completion of inspections without other compensating controls to accomplish this monitoring. As a result, APHIS is potentially not identifying welfare issues for exhibited animals and safety risks for the public that views those animals.

Departmental regulations require USDA agencies and staff offices to establish, maintain, evaluate, improve, and report on systems of controls.<sup>28</sup> According to the RBIS Standard Operating Procedures, APHIS' risk categorization utilizes a standard risk formula, incorporating the probability of occurrence of NCIs and the potential for negative consequences, to determine the level of risk at a facility.<sup>29</sup> Inspection frequencies at licensed exhibitor's facilities can range from 3 months to 3 years.<sup>30</sup> APHIS guidance requires APHIS inspectors to conduct inspections at high-risk facilities on or before the RBIS-generated deadline date. If the inspectors are unable to conduct timely inspections, the inspectors are required to contact their assigned SACS prior to the deadline so that another inspector can be assigned to conduct the inspection.<sup>31</sup>

During the previous audit, we did not note any issues with APHIS adhering to RBIS inspection frequencies.<sup>32</sup> As part of the current audit, we compared RBIS inspection frequencies to inspection documentation from October 2017 to December 2019 for the 19 exhibitors in our sample to determine if APHIS inspectors conducted their inspections within the RBIS deadlines. Specifically, we assessed APHIS' adherence to the RBIS inspection frequencies for exhibitors of dangerous animals to ensure the agency safeguarded the animals and the public who visited licensed exhibitor facilities. We found that 24 out of 86 (more than 27.9 percent) of the inspections were not timely conducted. These inspections were between 2 and 412 days late. Additionally, we found that one traveling exhibitor in our sample was not inspected for multiple years, despite the exhibitor having submitted the required travel itineraries.<sup>33</sup>

When we inquired about the late inspections, APHIS officials stated that inspectors are required to review their ACIS-generated RBIS report to determine the individual inspection deadlines for each facility. APHIS agreed that 14 of the 19 exhibitors in our sample had late inspections. However, the officials were unable to comment on 9 of the 24 late inspections because the staff members responsible for those inspections were no longer with the agency; furthermore, there is no requirement for APHIS inspectors to document the justification for missing an inspection

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<sup>28</sup> USDA DR 1110-002, *Management's Responsibility for Internal Control* (June 17, 2013).

<sup>29</sup> USDA APHIS, *Risk Based Inspection System (RBIS) Standard Operating Procedures* (July 2018).

<sup>30</sup> USDA APHIS, *Risk Based Inspection System* (Dec. 3, 2020),

[https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/SA\\_AWA/CT\\_AWA\\_Risk\\_Based\\_Inspection\\_System](https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/SA_AWA/CT_AWA_Risk_Based_Inspection_System).

<sup>31</sup> USDA APHIS, *APHIS Animal Welfare Inspection Guide* (Aug. 2019).

<sup>32</sup> Audit Report 33601-10-Ch, *Controls Over APHIS Licensing of Animal Exhibitors*, June 2010.

<sup>33</sup> Traveling exhibitors are required to submit their itineraries at least 2 days prior to exhibition so that APHIS inspectors can inspect the licensee while the animals are away overnight from their approved site.

deadline. APHIS officials stated that inspection deadlines may have been missed because there were no inspectors assigned to those facilities for a period of time. Additionally, we were informed that APHIS assistant directors did not monitor adherence to RBIS inspection frequencies and that the SACS were responsible to ensure inspections were completed. However, the officials stated that the lack of staff and high turnover made it difficult to monitor the completion of inspections even though every inspector was assigned to a SACS at all times.

During our discussions with APHIS officials, we were notified of instances where the RBIS frequency was incorrect due to system updates in ACIS. These updates disrupted the calculations for the inspection frequency and resulted in what appeared to be infrequent and late inspections. We did not take exception to late inspections attributed to ACIS data integrity errors in this report, as the data integrity issue will be reported in a forthcoming OIG audit.<sup>34</sup>

Without controls to monitor APHIS inspectors' adherence to RBIS frequencies, APHIS is potentially not identifying welfare issues for exhibited animals and safety risks for the public that views those animals. Therefore, we recommend that APHIS implement controls for assistant directors to monitor RBIS adherence by field staff. APHIS officials stated that the agency plans to deploy a new information system that would allow RBIS frequency information to be monitored by any level of APHIS staff. APHIS officials also agreed to develop procedures to require that the assistant directors monitor staff's adherence to RBIS frequencies.

## **Recommendation 4**

Develop and implement controls for Animal Care assistant directors to monitor adherence to RBIS frequency to ensure that inspections are conducted in a timely manner.

### **Agency Response**

In its February 19, 2021, response, APHIS agreed with the recommendation and stated:

Animal Care's section of APHIS' eFile database and tracking system will be modified to allow Animal Care's Assistant Directors to monitor RBIS frequencies to ensure that inspections are conducted in a timely manner.

The estimated completion date is April 30, 2021.

### **OIG Position**

We accept management decision on this recommendation.

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<sup>34</sup> Audit Report 33601-0002-31, *Animal Care Program Oversight of Dog Breeders (in process)*. As of the issuance of this report, our ongoing audit did not have an estimated issue date.

## Scope and Methodology

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We performed our audit at APHIS Headquarters in Riverdale, Maryland. Due to the COVID-19 pandemic, we were unable to complete onsite visits to the exhibitors as originally planned. This affected our approach to evaluate the efforts of APHIS to safeguard both the animals and members of the public who visit exhibitor facilities. Our approach was modified to a review of APHIS' inspection documentation and interviews with APHIS personnel. We conducted our fieldwork from December 2019 through September 2020.

Our universe consisted of the 2,245 exhibitors with active APHIS licenses as of December 2019.<sup>35</sup> We reviewed documentation for 790 exhibitors that had infractions between October 2017 and December 2019 to identify exhibitors that had multiple infractions.<sup>36</sup> We found there were 25 exhibitors with 10 or more infractions.<sup>37</sup> We reviewed the previous inspection reports of the 25 exhibitors to identify those that had exhibited dangerous animals. We non-statistically selected all nine licensees that exhibited dangerous animals to the public. We then looked at exhibitors in the same States as those 9 exhibitors, and selected an additional 12 exhibitors that had 4 or more infractions and dangerous animals in their inventory.<sup>38</sup>

To accomplish our objectives, we performed the following procedures:

- interviewed APHIS officials and analyzed pertinent documents, which included public laws, procedures, and policies related to the issuance of USDA exhibitor licenses;
- reviewed APHIS' procedures to ensure that complaints were investigated and handled in a timely manner;
- analyzed APHIS' RBIS to determine if APHIS was performing compliance inspections in a timely manner;
- reviewed the 86 inspection reports for 19 USDA licensed exhibitors between October 2017 and December 2019 for timeliness and adherence to APHIS guidance; and
- interviewed SACS, ACIs, and VMOs to determine the scope of their duties and the procedures they follow.

During the course of our audit, we gained an understanding of the existence, usage, and impact of the information system, ACIS. We interviewed agency officials regarding ACIS data collection, validation, and reliability. We assessed the reliability of ACIS data by comparing the non-statistical sample of FYs 2018 and 2019 inspection reports to data in ACIS to ensure the ACIS data we relied on were complete and accurate. In addition, we consulted APHIS officials and reviewed documentation for each inspection we took exception to in order to confirm the accuracy of our data.

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<sup>35</sup> On December 9, 2019, APHIS provided OIG with a listing of all active exhibitors as of that date. In addition, APHIS provided OIG with read-only access to ACIS to obtain inspection and animal inventory data.

<sup>36</sup> After our review of records within the primary scope of our audit, we also reviewed FYs 2013–2017 documentation for one exhibitor. APHIS did not inspect this exhibitor's travel site between FY 2013 and FY 2019 despite APHIS having the exhibitor's itineraries. (See Finding 2).

<sup>37</sup> For the purpose of this audit, infractions included all NCIs, attempted inspections, and teachable moments.

<sup>38</sup> Of the 21 exhibitors, 2 were later removed from the sample. One exhibitor left the program and another exhibitor's inventory no longer included dangerous animals.

We assessed internal controls significant to the audit objectives. In particular, we assessed:

<b>Component</b>	<b>Principle</b>
Control Environment	The oversight body and management should demonstrate a commitment to integrity and ethical values
Control Environment	Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives
Control Environment	Management should demonstrate a commitment to recruit, develop, and retain competent individuals
Control Environment	Management should evaluate performance and hold individuals accountable to their internal control responsibilities
Risk Assessment	Management should define objectives clearly to enable the identification of risks and define risk tolerances
Control Activities	Management should design control activities to achieve objectives and respond to risks
Control Activities	Management should implement control activities through policies
Information and Communication	Management should use quality information to achieve the entity's objectives
Information and Communication	Management should internally communicate the necessary quality information to achieve the entity's objectives
Information and Communication	Management should externally communicate the necessary quality information to achieve the entity's objectives

Because our review was limited to these internal control components and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

We conducted this audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Abbreviations

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ACI.....	animal care inspector
ACIS .....	Animal Care Information System
APHIS.....	Animal and Plant Health Inspection Service
AWA .....	Animal Welfare Act
C.F.R. ....	Code of Federal Regulations
COVID-19.....	Coronavirus Disease 2019
DR.....	Departmental regulation
FY .....	fiscal year
NCI.....	noncompliant item
OGC .....	Office of the General Counsel
OIG .....	Office of Inspector General
RBIS.....	Risk-Based Inspection System
SACS.....	supervisory animal care specialist
U.S.C.....	United States Code
USDA.....	United States Department of Agriculture
VMO .....	veterinary medical officer

## **Exhibit A: Results of Prior Audit Recommendations**

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The table below lists the results of APHIS' implementation of prior audit recommendations from Audit Report 33601-10-Ch, issued June 2010.

<b>Recommendation Number</b>	<b>Recommendation Detail</b>	<b>Recommendation Fully Implemented?</b>
1	Issue clear regulations and guidance that define what constitutes a sufficient public barrier and require exhibitors to report all escapes and attacks involving dangerous animals to APHIS ACI.	No
2	Implement a process to better utilize resident animal experts that would require ACIs to submit technical questions in order to evaluate the safety of any newly-designed enclosure areas for dangerous animals, and establish a time-phased plan to review all existing facilities.	Yes
3	Implement a process to ensure that APHIS personnel determine the cause of dangerous animal escapes or attacks, document the corrective actions taken, and ensure that this information is readily available to all ACIs when evaluating similar facilities in their respective jurisdictions.	Yes
4	Implement procedures requiring periodic onsite supervisory visits to ensure that inspections of exhibitor facilities meet APHIS standards in a consistent manner.	Yes
5	Obtain and document advice from the Office of the General Counsel (OGC) to determine whether APHIS can deny an individual's request for a USDA exhibitor's license renewal if that individual cannot prove he or she had exhibited animals to the public. If so, implement procedures for ACIs to verify licensees' exhibiting activities in cases where this is considered questionable at the time of license renewal.	Yes <sup>39</sup>

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<sup>39</sup> APHIS initially chose to take no action to prevent licensees who do not exhibit their animals from renewing their licenses. However, in May 2020, APHIS issued regulations to make all exhibitors' licenses non-renewable. Animal Welfare; Amendments to Licensing Provisions and to Requirements for Dogs, 85 Fed. Reg. 28,772 (May 13, 2020). Because the regulation was issued outside the scope of our audit, we did not evaluate the effectiveness of the action.

6	If OGC issues an opinion that regulatory changes would be required, implement regulations to require that licensees provide verifiable documentation of exhibiting activities, if requested, before renewing an existing license.	Yes <sup>40</sup>
7	Establish a timeframe for implementing the proposed regulations that would specifically require traveling exhibitors to submit and maintain current travel itineraries.	Yes

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<sup>40</sup> APHIS initially chose to take no action to prevent licensees who do not exhibit their animals from renewing their licenses. However, in May 2020, APHIS issued regulations to make all exhibitors' licenses non-renewable. *Animal Welfare; Amendments to Licensing Provisions and to Requirements for Dogs*, 85 Fed. Reg. 28,772 (May 13, 2020). Because the regulation was issued outside the scope of our audit, we did not evaluate the effectiveness of the action.

**Agency's Response**

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**APHIS'  
Response to Audit Report**





United States  
Department of  
Agriculture  
  
Marketing and  
Regulatory  
Programs  
  
Washington, DC  
20250

**TO:** Gil H. Harden  
Assistant Inspector General  
for Audit  
  
**FROM:** Dr. Mike Watson  
Acting Administrator /S/

**SUBJECT:** Animal and Plant Health Inspection Service (APHIS) Response and Request for Management Decision on the Office of Inspector General Report, "Follow-up to Animal and Plant Health Inspection Service's Controls Over Licensing of Animal Exhibitors" (33601-03-23)

Thank you for the opportunity for APHIS to comment on this report. APHIS agrees with all four OIG Recommendations and will take steps discussed below to implement these Recommendations.

**Recommendation 1: Conduct a study to determine if there continues to be an issue with public barriers at licensed exhibitors with potentially dangerous animals. If the results indicate an issue, determine and implement the necessary corrective actions (i.e., new regulations, training, and/or guidance).**

**APHIS Response:** APHIS agrees with this Recommendation. APHIS will conduct a barrier study at licensed exhibitors including the 19 facilities that OIG selected as part of the 2020 audit. The study will include a review of any incidents involving barriers that have occurred at these facilities. As part of this review, barriers will be measured for height and distance from primary enclosures and photographed; then submitted to the Animal Care species specialist team for assessment and evaluation. Animal Care will complete the barrier study by December 31, 2021.

**Recommendation 2: Consult with OGC to determine if APHIS has the authority under the AWA to require exhibitors to report animal escapes and/or attacks to APHIS. If APHIS does have the necessary authority, take action to ensure exhibitors report animal escapes and/or attacks to APHIS.**

**APHIS Response:** APHIS agrees with this Recommendation. By March 31, 2021, APHIS will contact the USDA Office of General Counsel (OGC) to determine if APHIS has the authority under the AWA to require reporting of escapes and/or attacks. If OGC determines that APHIS does have the authority to require reporting, then, by March 31, 2022, APHIS will develop an action plan to require reporting. This action plan will be based on OGC recommendations and may include

promulgating regulations and/or stakeholder announcements, letters to licensees, tracking escapes/attacks, and working with facilities to prevent further incidents.

**Recommendation 3: Document the procedures for canceling a regulatory proposal, including the reason for any removal.**

**APHIS Response:** APHIS agrees with this Recommendation. Animal Care's National Policy Staff office will track regulatory proposals, including the reasons for removal. Animal Care will modify the Regulatory Work Plans Standard Operating Procedures (SOP) to include documenting a regulatory proposal that has been cancelled and the reason for any removal. Animal Care will modify the SOP by March 31, 2021.

**Recommendation 4: Develop and implement controls for Animal Care Assistant Directors to monitor adherence to [Risk-Based Inspection System] RBIS frequency to ensure that inspections are conducted in a timely manner.**

**APHIS Response:** APHIS agrees with this Recommendation. Animal Care's section of APHIS' eFile database and tracking system will be modified, by April 30, 2021, to allow Animal Care's Assistant Directors to monitor RBIS frequencies to ensure that inspections are conducted in a timely manner.

Table 1. Current DATCP Rule Exemptions for AZA Accredited Facilities

Exemption	Additional Information
Wis. Admin. Code ss. ATCP 10.01 (37) and 10.87: excludes AZA accredited facilities from the definition of “exhibition” and the associated requirements.	“Exhibition” means an organized fair, swap meet, rodeo, trail ride, show, or other organized event at which animals owned by different persons are brought together from different premises and exhibited on the same premises. “Exhibition” does not include any of the following: (a) An animal market. (b) An exhibition operated by an institution accredited by the association of zoos and aquariums. (c) A wild animal exhibition operated pursuant to a permit from the Wisconsin department of natural resources. A premises with animals owned by a single person would not be an exhibition.
Wis. Admin. Code s. ATCP 10.01 (42) excludes AZA accredited facilities from the definition of “farm-raised deer” and the associated requirements.	Farm-raised deer, and other cervids, are susceptible to tuberculosis and brucellosis, both of which are zoonotic diseases that can pass from animals to humans. Farm-raised deer, and other cervids, are also susceptible to chronic wasting disease (CWD). Wis. Stat. s. 95.55 and Wis. Admin. Code Ch. 10 Subchapter VII establish requirements relating to farm-raised deer. These requirements include, but are not limited to, registration, fencing requirements, CWD testing requirements, and requirements for movement.
Wis. Admin. Code s. ATCP 10.56 (1) (b) exempts AZA accredited facilities from certificate of veterinary inspection requirements for in-state movement of farm-raised deer.	Farm-raised deer, and other cervids, are susceptible to tuberculosis and brucellosis, both of which are zoonotic diseases that can pass from animals to humans. Farm-raised deer, and other cervids, are also susceptible to chronic wasting disease (CWD).
Wis. Admin. Code s. ATCP 10.82 (3) (b) exempts AZA accredited facilities from tuberculosis import testing requirements for exotic ruminants.	Tuberculosis is a zoonotic disease, which means it can pass from animals to humans and vice versa.
Wis. Admin. Code s. ATCP 10.82 (4) (b) exempts AZA accredited facilities from brucellosis import testing requirements for exotic ruminants.	Brucellosis is a zoonotic disease, which means it can pass from animals to humans and vice versa.
Wis. Admin. Code s. ATCP 10.84 (4) (b) exempts AZA accredited facilities from wild animal import prohibitions if the department issues a permit. (prairie dogs and the following rodents from Africa: tree squirrels, rope squirrels, dormice, Gambian giant pouched rat, brush-tailed porcupine, and striped mice)	In 2003, a shipment of tree squirrels, dormice, Gambian giant pouched rat, brush-tailed porcupine, and striped mice were imported to the US from Africa. Some of the animals were infected with monkeypox and passed the virus to prairie dogs while at an animal vendor. The prairie dogs were sold as pets prior to developing signs of infection. Monkeypox is a zoonotic disease, which means it can pass from animals to humans. There were 37 confirmed cases of monkeypox in humans after contact with the infected prairie dogs. The CDC advised potentially exposed individuals to get the smallpox vaccine. ( <a href="https://www.cdc.gov/poxvirus/monkeypox/outbreak.html">https://www.cdc.gov/poxvirus/monkeypox/outbreak.html</a> )
Wis. Admin. Code s. ATCP 10.86 (3) exempts AZA accredited facilities from tuberculosis import testing requirements for elephants.	Tuberculosis is a zoonotic disease, which means it can pass from animals to humans and vice versa.

Table 2. General Information Regarding the Accreditation Process

Accreditation Process	<p style="text-align: center;"><b>AZA</b></p> <p style="text-align: center;">Quotations below are from:  <a href="https://www.aza.org/becoming-accredited">https://www.aza.org/becoming-accredited</a></p>	<p style="text-align: center;"><b>ZAA</b></p> <p style="text-align: center;">Quotations below are from:  <a href="http://zaa.org/accreditation">http://zaa.org/accreditation</a></p>
Initiating the accreditation process	“Every candidate for accreditation fills out a detailed questionnaire which includes copies of their policies, procedures, records, lists, and reports.”	“Submit the completed ZAA Accreditation Application with required attachments and photographs.”
Accrediting body	“AZA carefully selects the expert Accreditation Commission members who evaluate each zoo and aquarium. These experts are leaders in their fields and have many years of experience and education in zoo and aquarium operations, animal management, and veterinary medicine. There are twelve experts on the Accreditation Commission.”	ZAA has an accrediting committee to evaluate applications. The ZAA website does not indicate the number or types of members on the accrediting committee.
Accreditation inspection	“After the Accreditation Commission studies the application, a team of inspectors visit the zoo or aquarium in person. Each team includes at least one veterinarian along with animal and operations experts. The inspectors spend several long days at the zoo or aquarium visiting every area, interviewing staff, checking records, and examining the physical facilities and the animal collection. The inspectors then write a detailed report about everything they saw and evaluated and submit it to the Accreditation Commission.”	“Inspections are performed by the accreditation inspection team of two or more individuals. Re-accreditation of members in good standing requires one or more inspectors. The site inspections will be conducted at the expense of the applicant. The inspectors are chosen by the accreditation committee chair. The applicant has the right of refusal for any inspector.”
Accreditation approval	“The Accreditation Commission meets twice a year to consider all candidates for accreditation. They examine the application, the supporting documents submitted by the zoo or aquarium, the inspection team's report, and any information and comments received from outside organizations and individuals. The zoo or aquarium's senior officials must go to the Accreditation Commission's meeting to answer questions. Finally, the Accreditation Commission decides whether or not to grant accreditation. It doesn't matter if an institution is new or was previously accredited, standards are high and not every candidate receives accreditation.”	“The accreditation committee will review the application and site inspection. The applicant may be a). tabled and given a timeframe to correct deficiencies, b). denied, or c). approved as an accredited facility member. Once approved, the applicant will be submitted to the board of directors for approval with a pro simple majority vote.”
Maintaining accreditation	“AZA-accredited zoos and aquariums are constantly evolving and standards are continuously being raised. Each zoo or aquarium must keep up with these changes to remain AZA-accredited. And to prove it, they must go through the entire accreditation process every five years.”	“The accreditation status is valid for five years. The facility must re-apply for accreditation and have a site inspection before their accreditation expires.”

Table 3. Accreditation Standards Regarding Animal Disease Management

<b>Accreditation Standard</b>	<b>AZA</b> Quotations below are from: <a href="https://www.speakcdn.com/assets/2332/aza-accreditation-standards.pdf">https://www.speakcdn.com/assets/2332/aza-accreditation-standards.pdf</a>	<b>ZAA</b> Quotations below are from: <a href="http://www.zaa.org/images/pages/misc/ZAA_Accreditation_Standards.pdf">http://www.zaa.org/images/pages/misc/ZAA_Accreditation_Standards.pdf</a>
Veterinary coverage and inspections	"A full-time staff veterinarian is recommended. In cases where such is not necessary because of the number and/or nature of the animals residing there, a consulting/part-time veterinarian must be under written contract to make at least twice monthly inspections of the animals and to respond as soon as possible to any emergencies." (Section 2.1.1.) "So that indications of disease, injury, or stress may be dealt with promptly, veterinary coverage must be available to the animals 24 hours a day, 7 days a week." (Section 2.1.2)	The documented ZAA accreditation standards do not contain requirements for veterinary coverage or veterinary inspections.
Disease prevention	"The veterinary care program must emphasize disease prevention... Preventative medicine programs (vaccinations, TB testing, parasite exams, etc.) must be in force for all of the institution's animals and must be under the direction of a qualified veterinarian." (Section 2.0.2.)	The documented ZAA accreditation standards do not contain requirements for disease testing, zoonotic disease training, or tuberculosis prevention.
Disease outbreak response	"Institutions should be aware of, and prepared for periodic disease outbreaks in wild or other domestic or exotic animal populations that might affect the institution's animals (ex – Avian Influenza, Eastern Equine Encephalitis Virus, etc.). Plans should be developed that outline steps to be taken to protect the institution's animals in these situations." (Section 2.0.3.)	The documented ZAA accreditation standards do not contain requirements for disease outbreak response or preparation.
Quarantines	"The institution must have holding facilities or procedures for the quarantine of newly arrived animals and isolation facilities or procedures for the treatment of sick/injured animals." (Section 2.7.1.) "Written, formal procedures for quarantine must be available and familiar to all paid and unpaid staff working with quarantined animals." (Section 2.7.2)	In regards to fish, "the institution must have holding facilities or procedures for the quarantine of newly arrived animals and isolation facilities or procedures for the treatment of sick/injured animals. Written, formal procedures for quarantine must be available and familiar to all staff working with quarantined animals." (Section IX. 7. a. i.) The documented ZAA accreditation standards do not contain requirements for the quarantine of other (non-fish) animals.
Animals used offsite and in programs	"For animals used in offsite programs and for educational purposes, the institution must have adequate written protocols in place to protect the rest of the animals at the institution from exposure to infectious agents... To protect the health of the animals at the institution, written protocols required above, and their implementation, must include a veterinary risk assessment and veterinary approval." (Section 1.5.5.) "The	"All wildlife that will be used for contact with the public shall have been evaluated by the exhibitor to insure compatibility with the uses intended. All wildlife shall be exhibited in a manner that prevents injuries to the public and the wildlife. The exhibitor shall take reasonable sanitary precautions to minimize the possibility of disease or parasite transmission which could adversely affect the health or welfare of citizens or wildlife."

	<p>institution should design facilities, develop animal care protocols and present animals for public contact in ways that minimize this risk (e.g., hand-washing or hand sanitizing stations and signage, where applicable, etc.).” (Section 11.1.2.)</p>	<p>(Section III. 3. a.) The documented ZAA accreditation standards do not contain requirements for the veterinary oversight of animals at the facility or of animals moving from the facility for exhibition.</p>
<p>Staff and public zoonotic disease prevention</p>	<p>“Training and procedures must be in place regarding zoonotic diseases... Diseases that can be transmitted between animals and humans (Zoonotic disease, zoonoses) present a potential risk for paid and unpaid staff and the visiting public. The institution should design facilities, develop animal care protocols and present animals for public contact in ways that minimize this risk (e.g., hand-washing or hand sanitizing stations and signage, where applicable, etc.). Institutions must train appropriate paid and unpaid staff in methods to prevent zoonotic disease.” (Section 11.1.2.). “The institution must have an occupational health and safety program... An effective occupational health and safety program is based on hazard identification and risk assessment. The nature of the program will depend upon animal species, potential hazards, facility design, and workplace activities. The extent and level of participation (e.g. vaccinations, TB testing, parasite exams, immunizations, personal protective equipment, etc.) will vary depending upon potential hazard exposure and risk management.” (Section 11.1.2.1.) “A tuberculin (TB) testing/surveillance program must be established for appropriate paid and unpaid staff in order to assure the health of both the paid and unpaid staff and the animals.” (Section 11.1.3.)</p>	<p>In regards to fish quarantines, “Precautions must be taken to minimize the risk of zoonotic disease to personnel.” (Section IX. 7. b. iii.) The documented ZAA accreditation standards do not contain requirements for disease testing, zoonotic disease training, or tuberculosis prevention.</p>
<p>Secondary animal containment</p>	<p>“Perimeter fencing must be separate from all exhibit fencing or other enclosures, and be of good quality and construction. All facilities must be enclosed by a perimeter fence which is at least 8' in height or by a viable barrier. The fence must be constructed so that it protects the animals in the facility by restricting animals outside the facility and unauthorized persons from going through it or under it and having contact with the animals in the facility, and so that it can function as a secondary containment system for the animals in the facility... There are rare instances where the terrain surrounding the facility provides a viable barrier. The Accreditation Commission will determine what constitutes a “viable barrier” and must approve a waiver. However, most facilities must be enclosed by a perimeter fence.</p>	<p>“1. Facility requirements for Class I animals... b. The facility shall have a perimeter boundary, including access points, to be designed, constructed, and maintained to discourage unauthorized entry and so far as reasonably practical, as an aid to the confinement of all animals within the perimeter of the institution. The perimeter boundary cannot also act as animal exhibit barrier and must be located at least 3 feet from the primary enclosure. c. The facility shall be bounded by a fence of not less than eight (8) feet in height, constructed of not less than 1 1/2 gauge chain link, or equivalent, to prevent escape from the property of any wildlife that may escape the primary caging. 2. Facility requirements for Class II animals... b. The facility shall have a perimeter boundary, including access points,</p>

	<p>Facilities located in rural areas and which are PPEQ-approved must meet special USDA standards for fencing. Institutions which are entirely enclosed within a building may be exempt from this requirement.” (Section 11.8.1.).</p>	<p>to be designed, constructed, and maintained to discourage unauthorized entry and so far as reasonably practical, as an aid to the confinement of all animals within the perimeter of the institution. The perimeter boundary cannot also act as animal exhibit barrier and must be located at least 3 feet from the primary enclosure. c. The facility shall be bounded by a fence of not less than eight (8) feet in height, constructed of not less than 1 1/2 gauge chain link, or equivalent, or, as an alternative, a fence of not less than six (6) feet in height, with a 2-foot, 45 degree, inward angle overhang. The inward angle fencing and vertical fencing shall be constructed of 1 1/2 gauge chain link or equivalent. This fencing is to prevent escape from the property of any wildlife that may escape from primary caging. 3. Facilities maintaining Class III wildlife only: a. Facility shall meet same requirements as Class II facilities except that the perimeter fence may be 6 foot high with no overhang.” (Section II.). The ZAA accreditation standards categorize farm-raised deer as class III animals (Section I.).</p>
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The AZA accreditation standards include specific requirements for veterinary oversight and disease prevention and response. The department determined that the AZA accreditation standards provide sufficient requirements to prevent disease transmission and that maintaining the current exemptions for AZA accredited facilities would not pose a risk to public health or livestock commerce.

At this time, the documented ZAA accreditation standards do not contain requirements for the veterinary oversight of animals at the facility or of animals moving from the facility for exhibition. The ZAA accreditation standards do no reference disease testing, zoonotic disease training, or tuberculosis prevention. Facilities with farm-raised deer are required to have secondary containment fencing of only six feet in height. The department determined that current documented ZAA accreditation standards do not include sufficient requirements for veterinary oversight and disease prevention to warrant exempting ZAA accredited facilities from requirements under Wis. Admin. Code ch. ATCP 10.

Due to these findings, the department determined not to change current rule language regarding exemptions for AZA accredited facilities. This determination is consistent with Wis. Stat. § 169.01 (28), which defines a “public zoo or aquarium” as a zoo or aquarium that is operated by the state or by a city, village, or county, or that is an accredited member of the American Zoo and Aquarium Association.

*Comments Related to Farm-Raised Deer Enhanced Fencing and Movement Restriction*

## AZA standards versus ZAA standards

Accreditation by the Association of Zoos & Aquariums (AZA) ensures that highly qualified, knowledgeable, and experienced professionals provide care for animals in a safe and secure environment at modern facilities. In contrast, the deceptively named Zoological Association of America (ZAA) has weak standards, accredits poorly run roadside zoos and private menageries, and promotes the private ownership of exotic pets and the commercialization of wildlife. The comparison chart below illustrates a few of many important differences between the two organizations.

Category		ZAA	AZA
FINANCE	Financial stability	X	✓
	Succession plan for privately-owned facilities	X	✓
SAFETY	Supports a federal bill to ban unlicensed individuals from keeping big cats	X	✓
	24-hour security system	X	✓
	Safety Committee	X	✓
	Tuberculin (TB) testing/surveillance program for staff	X	✓
POLICY	Policy against selling wild animals at auctions	X	✓
	Policy recognizing that wild animals do not make good pets	X	✓
	Policy against sending animals from the zoo to facilities that allow the animals to be hunted	X	✓
	Grievance procedures	X	✓
WELFARE	Minimum square feet/vertical height for chimpanzees	240/8	2,000/20
	Minimum square feet for lions	360	10,000
	Minimum square feet for sun bears	200	5,000
	Prohibits the use of bullhooks to train elephants	X	✓
	Tigers must be provided with a pool	X	✓
	Female elephants must be in kept in social groupings of at least three elephants	X	✓
	Must follow formal written enrichment program that promotes species-appropriate behavior	X	✓
	Animal Health and Welfare Committees	X	✓