

correspondence. The Commission will also accept your comments via the Internet if you send them to [PRA@fcc.gov](mailto:PRA@fcc.gov).

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### Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on June 25, 2007, for the revised information collection requirements contained in the Commission's rules at 47 CFR 64.4002. The OMB Control Number is 3060-1084. The total annual reporting burden for respondents for these collections of information, including the time for gathering and maintaining the collection of information, is estimated to be: 1,778 respondents, a total annual hourly burden of 39,840 hours, and \$0 in total annual costs.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid OMB Control Number.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, and 44 U.S.C. 3507.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 14

RIN 1018-AT69

#### Regulations To Implement the Captive Wildlife Safety Act

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, are implementing the Captive Wildlife Safety Act (CWSA) in a new subpart K of part 14, Importation,

Exportation, and Transportation of Wildlife, in Title 50 of the Code of Federal Regulations. The CWSA amends the Lacey Act by making it illegal to import, export, transport, sell, receive, acquire, or purchase, in interstate or foreign commerce, live lions, tigers, leopards, snow leopards, clouded leopards, cheetahs, jaguars, or cougars, or any hybrid combination of any of these species, unless certain exceptions are met.

**DATES:** This final rule is effective September 17, 2007.

**FOR FURTHER INFORMATION CONTACT:** Kevin Garlick, Special Agent in Charge, Branch of Investigations, U.S. Fish and Wildlife Service, (703) 358-1949.

#### SUPPLEMENTARY INFORMATION:

##### Background

The CWSA was signed into law on December 19, 2003 (Pub. L. 108-191). The purpose of the CWSA is to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species and to protect the public from dangerous animals.

In the early 1900s, Congress recognized the need to support States in protecting their game animals and birds by prohibiting the interstate shipment of wildlife killed in violation of State or territorial laws. Today this legislation is known as the Lacey Act, named for its principal sponsor, U.S. Representative John Fletcher Lacey. Most significantly amended in 1981, the Lacey Act makes it unlawful to import, export, transport, sell, receive, acquire, or purchase fish, wildlife, or plants taken, possessed, transported, or sold in violation of any Federal, State, foreign, or Native American tribal law, treaty, or regulation. The Lacey Act applies to all fish and wildlife (including their parts or products), and to wild plants (including plant parts) that are indigenous to the United States and are included in the appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) or are listed under a State conservation law.

According to the U.S. Senate report, the Lacey Act did not explicitly address the problem of the increasing trade in certain big cat species. The big cat species addressed in this rule are the lion, tiger, leopard, snow leopard, clouded leopard, cheetah, jaguar, cougar, and any hybrid combination of any of these species. They are extremely effective predators, capable in the wild of taking down prey twice their own size. Severe damage to the prey's nervous system caused by damage to the vertebral column, along with massive

blood loss and nearly instant suffocation, all contribute to the prey's certain and nearly immediate death. Regardless of whether they were raised in captivity, big cats are hunters by nature: it is impossible to predict when they will revert to instinct. Contemporary experts on big cat behavior and physiology note that humans are not part of the big cats' natural diet, largely because big cats have learned to treat humans as another predator and to be wary of the dangers of human activity (for example, hunting and habitat encroachment). When big cats and humans do share territory or interact, usually because of human activity, any number of reasons, including hunger, can cause big cats to attack and inflict serious injuries. They are wild creatures that are never completely tamed, nor are they totally predictable, even if they have lived their entire lives with humans.

According to the U.S. Senate report, the ownership of big cats has dramatically increased in popularity. It is estimated that thousands of individual big cats are kept as pets in the United States. This increase is due, in part, to internet sales and auctions. This increase in popularity has raised concerns for public safety as well as for the welfare of the big cats. As big cats are often purchased when young, many owners are unable to cope with the high maintenance needs of mature big cats. Too often, the owners lack the resources and veterinary knowledge these grown cats require. In the hands of untrained exotic-pet fanciers, big cats are not only a potential danger to people, but are often victims themselves. Additionally, the burden of care often lands on already financially strained sanctuaries or humane societies after the big cats are abandoned because they are too dangerous to keep or too expensive to care for properly.

According to the U.S. Senate report, over the past 10 years, there have been thousands of incidents of human injury and death documented, involving many different species of wild animals, many of which were big cats. According to the Captive Wild Animal Protection Coalition, in the past 5 years there have been 123 incidents involving big cats, including 87 injuries or deaths to adults and children and 38 animal escapes. Nineteen States (Alabama, Alaska, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Illinois, Maryland, Massachusetts, Michigan, Nebraska, New Hampshire, New Mexico, Tennessee, Utah, Vermont, and Wyoming) prohibit the private possession of big cats. Sixteen States (Arizona, Delaware, Indiana, Maine,

Mississippi, Montana, New Jersey, New York, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, and Virginia) have a partial ban on possession of big cats or require permits for their possession. Fifteen States (Arkansas, Idaho, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Missouri, Nevada, North Carolina, Ohio, South Carolina, Washington, West Virginia, and Wisconsin) do not address the issue of private ownership of big cats.

In consideration of the above information, Congress has recognized the need to address the issue of ownership of big cats on a nationwide basis. Therefore, with the passage of the CWSA, Congress amended the Lacey Act to address this issue. The CWSA amends the Lacey Act by adding prohibitions that make it illegal to import, export, transport, sell, receive, acquire, or purchase, in interstate or foreign commerce, live lions, tigers, leopards, snow leopards, clouded leopards, cheetahs, jaguars, or cougars, or any hybrid combination of any of these species, unless certain listed exceptions apply.

In this final rule, we are implementing the CWSA in a new subpart K of part 14, Importation, Exportation, and Transportation of Wildlife, in title 50 of the Code of Federal Regulations.

#### *Previous Federal Action*

On January 31, 2006, we published a proposed rule to establish the new subpart K, including the definitions, for the CWSA (71 FR 5041). The public comment period remained open until March 2, 2006.

#### *Summary of Comments Received From the Proposed Rule*

We received 1,485 comments, including 1,466 form letters, in support of the proposed rule. We received 14 comments opposed to the proposed rule.

#### Issues Raised in the Public Comments

##### **Issue #1: Private Ownership of Big Cats**

We received 11 comments addressing the ownership of big cats including 7 stating that the regulations to implement the CWSA should not ban private ownership, 1 stating that the regulations to implement the CWSA should ban private ownership, 2 stating that private ownership was not impacting public safety, and 1 stating that denying private ownership will have an adverse effect on productivity and innovation.

Our Response: Regulations must be consistent with Congress' intent for the statute. The CWSA prohibits the

importation, exportation, transportation, sale, receipt, acquisition, or purchase, in interstate or foreign commerce, of the prohibited wildlife species. However, the CWSA does not prohibit the ownership or possession of the prohibited wildlife species. The CWSA does not address all safety issues with privately owned big cats, although the statute does provide improved safety for the public by limiting the exception for accredited wildlife sanctuaries to those that prohibit direct contact with the prohibited wildlife species. The CWSA should not have a major impact on productivity or innovation, since it does not prohibit the acquisition or possession of the prohibited wildlife species within a given State.

#### Issue #2: Transportation of Pets Across State Lines

We received 25 comments stating that the CWSA should not regulate the transportation of personal property across State lines. Comments specified that: (1) The CWSA should allow interstate household moves; (2) Animals will be placed at risk when they are in need of veterinary care for those owners that have providers across State lines; (3) The feline community will be prevented from moving displaced big cats; (4) Interstate transport is vital to propagation; and (5) Private owners should be able to transport big cats across State lines for donation to U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) facilities or accredited sanctuaries.

Our Response: Congress set the prohibitions under the CWSA, which include the import, export, transport, sale, receipt, acquisition, or purchase, in interstate or foreign commerce, of any of the prohibited wildlife species. The prohibitions and exemptions contained in the CWSA are clearly stated, and we cannot develop regulations that alter these prohibitions or create exemptions for additional activities such as household moves, without the authority from Congress. It is important to note that the transport prohibition contained in the CWSA applies to any transportation of the prohibited wildlife species in interstate or foreign commerce, not only to transportation that involves commercial activity. This prohibition is based upon the accepted legal definition of interstate commerce, which includes the transportation of property between any U.S. State, territory or jurisdiction. That means that any person who owns a live specimen of a prohibited wildlife species and who wants to transport the animal in interstate commerce as a pet, for veterinary care or even as part of a

household move, is not allowed to do so under the prohibitions contained in the CWSA unless they qualify under one of the exemptions. If need be, APHIS-licensed organizations, accredited wildlife sanctuaries, or other entities exempted under the CWSA could make arrangements for the transportation across State lines of displaced big cats or for the transportation of big cats that are being donated to exempted entities by private individuals. Though we recognize that there may be reasons to transport the prohibited wildlife species across State lines for the purposes of propagation, the large number of big cats within the United States suggests that there are likely to be opportunities for propagation within a given State, which would not be prohibited under the CWSA.

#### Issue #3: Public Safety

We received eight comments regarding public safety and big cats, including five comments stating that the CWSA is falsely based on the need for public safety and three comments stating that the CWSA does not provide increased public safety.

Our Response: Statistics show a considerable number of injuries or deaths attributable to big cats. This number is likely to increase as the ownership of big cats increases in popularity, with many of the specimens ultimately being placed in sanctuaries that are accessible to the general public. The CWSA does not address all safety issues with privately owned big cats, although the statute does provide improved safety for the public by limiting the exception for accredited wildlife sanctuaries to those that prohibit direct contact with the prohibited wildlife species.

#### Issue #4: Influence of the Animal-Rights Movement or Animal Sanctuaries

We received 11 comments questioning the influence of the animal-rights movement or animal sanctuary operators on the development of the regulations to implement the CWSA, including the prominent role of the Captive Wild Animal Protection Coalition. These comments stated that these organizations might attempt to influence us in the development of these regulations.

Our Response: Neither the animal-rights movement nor any animal sanctuary operators improperly influenced us in the development of the regulations to implement the CWSA. One particular organization, the Captive Wild Animal Protection Coalition, did provide data for a U.S. Senate Report that was drafted during the

development of the CWSA, and we referenced that data in the proposed rule (71 FR 5041). We impartially considered all relevant information, including information received from the public, during the development of the final rule.

#### **Issue # 5: Validity of Statistics on Incidents of Human Injury or Death Attributed to Big Cats**

We received five comments questioning the validity of statistics on incidents of human injury or death attributed to big cats.

Our Response: As we have clarified in the preamble of this final rule, **the statistics on incidents of human injury or death attributed to big cats were included in a U.S. Senate Report that was drafted during the development of the CWSA.** These statistics thus served as part of Congress' basis for enacting the CWSA and were referenced for informational purposes in the proposed rule (71 FR 5041) and this final rule, but were not used in the development of our regulations to implement the CWSA.

#### **Issue # 6: Accuracy of Big Cat Ownership Statistics**

We received two comments questioning the accuracy of big cat ownership statistics in the preamble of the proposed rule.

Our Response: As we have clarified in the preamble of this final rule, the discussion on ownership statistics in the preamble of the proposed rule was included in a **U.S. Senate Report that was drafted during the development of the CWSA. The report was referenced for informational purposes in the proposed rule and this final rule to illustrate the Congressional intent behind the CWSA, but the statistics were not used in the development of the regulations to implement the CWSA.**

#### **Issue # 7: Accuracy of the Nature of Big Cats**

We received four comments questioning the nature of big cats and the inability of owners to cope with big cats detailed in the preamble of the proposed rule.

Our Response: As we have clarified in the preamble of this final rule, the supporting information on the nature of big cats and the inability of owners to cope with big cats in the preamble of the proposed rule was included in a U.S. Senate Report that was drafted during the development of the CWSA. This information served as part of Congress' basis for enacting the CWSA and was referenced for informational purposes in the proposed rule and this final rule, but

was not used in the development of the regulations to implement the CWSA.

#### **Issue # 8: Protection of Wild Populations**

We received eight comments that the CWSA does not promote the conservation of wild populations of the prohibited wildlife species.

Our Response: The CWSA primarily addresses public safety. Most captive big cats now in the United States were bred here, and the demand for these animals continues to be met without any impact on wild populations. In fact, even the endangered big cats moving in the domestic exotic pet trade are considered of little value to the ultimate survival of the species. We have no evidence to suggest that the popularity of these prohibited wildlife species in the U.S. pet trade has prompted removal of these animals from the wild, or that this trend represents a threat in any way to the conservation of the big cats.

#### **Issue # 9: Species Covered in the Proposed Rule**

We received five comments suggesting that the list of prohibited species includes species not authorized by Congress and suggesting changes to the list of prohibited wildlife species. These suggested changes include expanding the definition to include all wild and exotic cat species or reducing the definition to include only the lion, tiger, and jaguar, and not including the cougar as a prohibited species and not making hybrids subject to the CWSA.

Our Response: We have reviewed the intent of Congress with regard to the actual species to be included in the definition of "prohibited wildlife species" under the CWSA, since scientific names were not included in the CWSA. However, scientific names for "prohibited wildlife species," and any hybrids resulting from breeding of any combination of any of the prohibited wildlife species, were included in the report accompanying S. 269, the Senate version of the CWSA. Based upon this report, we conclude that Congress intended to include the lion (*Panthera leo*), tiger (*Panthera tigris*), leopard (*Panthera pardus*), snow leopard (*Uncia uncia*), clouded leopard (*Neofelis nebulosa*), jaguar (*Panthera onca*), cheetah (*Acinonyx jubatus*), and cougar (*Puma concolor*), including all subspecies of each of these species, or any hybrid combination of any of these species. Therefore, we are making no changes to the list of prohibited species under the CWSA.

#### **Issue # 10: Accreditation of Wildlife Sanctuaries**

We received 20 comments suggesting changes to the accreditation of wildlife sanctuaries in the proposed rule. Comments recommended that:

- We clarify the breeding prohibitions in these sanctuaries;
- We better explain how we will monitor these sanctuaries;
- Sanctuaries should not be self-accredited, but rather accredited by an outside accrediting organization;
- One organization's resource might be of assistance in helping us develop the criteria for accredited sanctuaries;
- Proof of sterilization should remove the restriction of having male and female specimens in the same cage;
- Legitimate sanctuaries should not be denied the right to possess the prohibited wildlife species;
- Breeding should be allowed in wildlife sanctuaries;
- The determination of whether an accredited wildlife sanctuary can breed should be made by an accrediting organization;
- The requirement to keep opposite sexes housed separately may be costly or impractical;
- Wildlife sanctuaries should not have to be tax-exempt;
- Commercial trade should not be considered when evaluating wildlife sanctuaries;
- Recordkeeping requirements on wildlife sanctuaries will create serious financial and resource burdens on those sanctuaries;
- The \$15,000 annual burden estimate for recordkeeping may cripple a small sanctuary; and
- We specify what happens if a sanctuary does not meet the criteria to be accredited.

Our Response: The CWSA specifically states that an accredited sanctuary must be tax-exempt, it must not commercially trade in the prohibited wildlife species, and it must not breed the prohibited wildlife species. Our definition of "propagate" clearly addresses that restriction. Our monitoring of these sanctuaries is accomplished through the requirement that accredited wildlife sanctuaries must maintain complete and accurate records of any possession, transportation, acquisition, disposition, importation, or exportation of the prohibited wildlife species and that these records must be accessible to Service officials for inspection upon request, at reasonable hours. We considered options for developing some type of formal accreditation mechanism for wildlife sanctuaries, but concluded for a number of reasons that such a step

was not practical. The CWSA itself sets specific criteria that must be met for a sanctuary to qualify as “accredited.” We have decided that if a sanctuary meets these four criteria, it will qualify as accredited and be exempt from CWSA prohibitions. Other sanctuaries that do not meet these criteria will continue to be able to possess big cats but will not be able to import, export or transport them in interstate or foreign commerce. In the proposed rule (71 FR 5041), January 31, 2006, we stated that placing male and female big cats in the same cage for any period of time may result in breeding and is considered propagation; however, we recognize that sterilization will prevent propagation and that proof of that sterilization should assist a sanctuary in qualifying as “accredited.” We will only consider a wildlife sanctuary to be exempt from the prohibitions of the CWSA if it meets the four criteria for accredited wildlife sanctuaries provided in the CWSA.

We are requiring accredited wildlife sanctuaries to maintain complete and accurate records of any possession, transportation, sale, acquisition, purchase, barter, disposition, importation, or exportation of the prohibited wildlife species. However, we do not anticipate that this recordkeeping requirement will impose any significant burden, because the maintenance of these records is typically a normal business practice. Most wildlife sanctuaries will likely only have custody of a limited number of specimens of the prohibited wildlife species. Therefore, complying with the requirement to make records available can likely be met by making available and copying, if needed, a small number of documents pertaining to the possession, transportation, acquisition, disposition, importation, or exportation of the prohibited wildlife species, which we estimate can be completed in an hour or less.

We estimate that there are no more than 750 wildlife sanctuaries that could qualify for the “accredited wildlife sanctuary” exemption. The total estimated annual burden for complying with this recordkeeping requirement for all of these wildlife sanctuaries combined should be 750 hours or less. We estimate that the average wage of individuals likely to be providing these documents is \$20.00 per hour. Therefore, the total estimated cost of this recordkeeping requirement for all of these wildlife sanctuaries would be \$15,000.00, if we requested that all wildlife sanctuaries copy their records. The estimated annual cost of this recordkeeping requirement for each wildlife sanctuary is \$20.00.

#### Issue #11: Other Exemptions Under the CWSA

We received 15 comments on certain other exemptions under the CWSA. These comments included the following:

- The definition of a “licensed” person is too broad;
- Only wildlife sanctuaries should be allowed to possess the prohibited species;
- The exemption for State-licensed veterinarians or registered persons is invalid;
- The registered person exemption needs to be clarified;
- The proposed criteria and recordkeeping requirements for accredited wildlife sanctuaries should be extended to all of the exempted entities;
- All exempted entities should prohibit direct contact, breeding, and selling;
- Specific facility and caging requirements should be established;
- Legitimate organizations should not have to justify their existence;
- Nonlicensed entities should be allowed to transport live big cats through the use of registered persons;
- A hobbyist or fancier’s exemption should be created in the regulations to implement the CWSA;
- A blanket exemption should be created for public charities that are not regulated by any government agency other than the Internal Revenue Service; and
- Careless or incompetent owners should be prevented from obtaining APHIS permits.

Our Response: The exemptions provided in the CWSA are clearly stated, and we cannot develop regulations that are contrary to Congress’ intent for those exemptions, remove any of those exemptions, or create additional exemptions. The CWSA and these regulations do not address who can possess big cats. The CWSA does provide an exemption for registered persons transporting these prohibited wildlife species. Specific facility and caging requirements for APHIS-licensed organizations are not addressed in the CWSA and are not included in our regulations to implement the CWSA. Specific facility and caging requirements are governed by the Animal Welfare Act (AWA), so any person licensed or registered under the AWA will be subject to those requirements. Also, States may have requirements for contact between people and animals, breeding, selling, and care, and State-licensed universities, wildlife rehabilitators, and

veterinarians would be subject to those requirements. The CWSA itself sets specific conditions that must be met for an “accredited sanctuary” to be exempted. If a sanctuary meets these four criteria, even without meeting specific facility and caging requirements, we will recognize it as accredited and exempt it from CWSA prohibitions. We will consider an organization to be covered by an exemption only if it’s qualified for one of the exemptions provided in the CWSA. The CWSA does not require legitimate organizations to justify their existence. If an organization does not qualify, it does not necessarily mean that it is not legitimate. It simply means that it cannot move big cats under the exemptions provided in the CWSA. In order for a hobbyist, fancier, or a public charity to be exempted from the prohibitions of the CWSA, it would have to qualify for one of the existing exemptions provided in the CWSA. APHIS standards are not addressed in the CWSA and are not included in the regulations to implement the CWSA. Persons licensed or registered by APHIS under the AWA must comply with AWA requirements and will be held accountable under those standards by APHIS.

#### Issue # 12: Licensing of Entities by APHIS

We received six comments suggesting that APHIS should not license any of the entities exempted under the CWSA, or that APHIS should license exempted wildlife sanctuaries, or that the standards APHIS uses in licensing entities should be strengthened because they currently don’t ensure public safety or animal welfare.

Our Response: The role that APHIS plays in the implementation of the CWSA is clearly defined in the CWSA itself, and includes the licensing or registration of certain entities that meet APHIS standards. APHIS standards are not addressed in the CWSA and are not included in our regulations to implement the CWSA. Persons licensed or registered by APHIS under the AWA must comply with AWA requirements and will be held accountable under those standards by APHIS.

#### Issue # 13: State or Local Regulation

We received seven comments addressing the State or local regulation of these prohibited wildlife species and public safety. These commenters asserted that: (1) This issue was most effectively addressed at the State or local level; (2) If needed, these regulations should clearly indicate that they take precedence over State law; (3)

Enforcement of the CWSA should be proactive and coordinated at all levels of government; (4) The information on State prohibitions in the preamble of the proposed rule was inaccurate; (5) The CWSA should not support State restrictions; and (6) The compartmentalization of these prohibited wildlife species within States will lead to additional State restrictions.

Our Response: Regulating the prohibited wildlife species and public safety at the State or local level is not the purpose of the CWSA. In fact, Congress specifically provided that nothing in the CWSA preempts or supercedes the authority of a State to regulate those species within the State. Rather, the CWSA makes it illegal to import, export, transport, sell, receive, acquire, or purchase, in interstate or foreign commerce, any prohibited wildlife species. We will welcome the coordination of the enforcement of the CWSA at all levels of government when there are opportunities for State or local government involvement. Information on the State prohibitions in the preamble of the proposed rule was included in a U.S. Senate Report that was drafted during the development of the CWSA. This information was included for informational purposes in the proposed rule and this final rule, but was not used in the development of our regulations to implement the CWSA.

#### **Issue # 14: Direct Contact With the Prohibited Wildlife Species**

We received three comments suggesting that the direct contact prohibition for accredited wildlife sanctuaries should be extended to keepers and caregivers and that these keepers and caregivers should be properly trained professionals and that the direct contact prohibition in the CWSA is already prohibited or heavily regulated by APHIS under the AWA.

Our Response: It was Congress' intent that the direct contact restriction in the CWSA apply only to accredited wildlife sanctuaries. The extent to which direct contact is already regulated under the AWA must be determined by APHIS. If an entity becomes licensed or registered by APHIS, it would be entitled to the APHIS exemption contained in the CWSA, regardless of whether it qualifies for the accredited wildlife sanctuary exemption.

#### **Issue # 15: Captive-Bred Wildlife (CBW) Regulations**

We received one comment stating that there needs to be clarification of the method to obtain a CBW registration in order to prevent a CBW registration from becoming a loophole to obtain the

prohibited wildlife species under the CWSA.

Our Response: Under our CBW regulations (50 CFR 17.21), individuals may export; re-import; deliver, receive, carry, transport or ship in interstate or foreign commerce in the course of a commercial activity; or sell or offer for sale in interstate or foreign commerce certain endangered wildlife species as long as specific requirements are met. Prohibited wildlife species under the CWSA that are eligible for CBW regulation are the tiger, leopard, snow leopard, clouded leopard, jaguar, and cheetah. The new CWSA restrictions are in addition to the CBW regulations. Any person who wishes to engage in the specified activities authorized by the CWSA who is also regulated under the CBW regulations must comply with both, unless they qualify under one of the CWSA exemptions.

#### **Issue # 16: Freedom of Religion and the Human Environment**

We received two comments stating that the CWSA violates the Constitutional right to freedom of religion and will have a negative impact on the human environment regarding, for example, the spiritual bond between an owner and a big cat.

Our Response: Everyone has the right to freedom of thought, conscience, and religion. The law is clear, however, that religious beliefs do not allow people to engage in unlawful activities that could potentially endanger public safety. This regulation is based on the CWSA, the purpose of which is to amend the Lacey Act amendments of 1981 to further the conservation of certain wildlife species and to protect the public from dangerous animals. The Government has a clear and compelling interest in regulating activities that have been shown to be harmful to public health or safety. These regulations and the CWSA are neutral. Any person may seek to qualify for one of the exemptions under the CWSA; they need only meet the requirements for the exemption. In addition, nothing in the CWSA or these regulations prohibits possession of these species or limits use or movement of these species within a State. The CWSA limits only the ability to import, export, transport, sell, receive, acquire, or purchase, in interstate or foreign commerce, the prohibited wildlife species.

#### **Issue # 17: Native American Use of the Cougar**

We received one comment stating that Native Americans should be exempt from the prohibitions for cougars.

Our Response: Congress did not provide an exemption for Native American use of cougars. Therefore, Native Americans must meet the same regulatory requirements as other individuals who import, export, transport, sell, receive, acquire, or purchase, in interstate or foreign commerce, the prohibited wildlife species.

#### **Issue # 18: Providing Financial Assistance To Help Carry Out the CWSA**

We received two comments stating that financial assistance should be provided to assist organizations that are developing new techniques for the care and maintenance of the prohibited wildlife species and to establish sanctuaries that will be needed for the placement of these prohibited wildlife species resulting from CWSA prohibitions.

Our Response: This rulemaking establishes regulations that will enable us to enforce the CWSA. Providing financial assistance from funds allocated under the CWSA or funds from other sources is beyond the scope of this rulemaking.

#### **Issue # 19: The CWSA Subverts the Original Intent of the Lacey Act**

We received one comment stating that the CWSA subverts the original intent of the Lacey Act.

Our Response: Congress chose to regulate certain activities with wildlife under the Lacey Act. Congress has now determined that it is appropriate to regulate similar activities with the listed species, and chose to adopt these measures through amendment of the Lacey Act.

#### **Issue # 20: The CWSA Is Raising a Novel Issue**

We received one comment stating that the CWSA is raising a novel issue, under Executive Order 12866, by making illegal an activity that is currently legal.

Our Response: Laws often make formerly legal activities illegal. These regulations, as required under the CWSA, implement that law.

#### **Issue # 21: Takings**

We received one comment stating that the CWSA may result in takings, under Executive Order 12630, when an individual is moving a big cat across State lines.

Our Response: We have analyzed this regulation under Executive Order 12630 and have determined that it does not result in takings. This rule only prohibits importing, exporting,

transporting, selling, receiving, acquiring, or purchasing, in interstate or foreign commerce, of the prohibited wildlife species. This rule does not directly result in physical occupancy or acquisition of property or physical invasion of property by the Government without compensation.

Furthermore, this rule also does not result in a regulatory taking. The CWSA serves a legitimate public interest by promoting public safety and preventing interstate exploitation of the prohibited wildlife species. The rule does not so severely restrict the owner's use of his or her property as to deprive the owner of all economically beneficial use of the property. The owner may still possess big cat species or buy or sell them within the owner's State. Also, an owner who is relocating to another State may move his or her big cat if exempted under 50 CFR 14.255.

### Conclusion

In 2003, Congress enacted the CWSA to prohibit the import, export, sale, receipt, acquisition or purchase, in interstate or foreign commerce, of certain live wildlife species except by persons who meet the criteria of specific, listed exemptions. The new prohibitions become applicable on the effective date of final regulations that implement the statutory provisions. Thus, with this final rule, it will be unlawful for any person to engage in the prohibited activities unless they qualify under one of the exemptions.

### Required Determinations

#### *Executive Order 12866 (Regulatory Planning and Review)*

This rule has been reviewed by OMB under Executive Order 12866. Under the criteria in Executive Order 12866, this rule is not a significant regulatory action.

a. This rule will not have an annual economic effect of \$100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required.

The purpose of this rule is to regulate the movement of the prohibited wildlife species and to provide improved safety for the public by limiting the exception for accredited wildlife sanctuaries to those that prohibit direct contact with the prohibited wildlife species. The ESA already regulates the interstate sale or movement of tigers, leopards, snow leopards, clouded leopards, jaguars, and cheetahs. The CWSA would, therefore, have no substantial additional impact on commerce. Our records indicate that

in the period from 2001 through 2003: 164 tigers were imported, and 123 were exported; 53 leopards were imported, and 39 were exported; 2 snow leopards were imported, and 4 were exported; 9 jaguars were imported, and 5 were exported; and 43 cheetahs were imported. These specimens were imported or exported by organizations who qualified for authorizations under the ESA and who would likely qualify for one of the exemptions contained in the CWSA. Therefore, the CWSA would not have any substantial economic effect by restricting importations or exportations of these species.

Under our CBW regulations (50 CFR 17.21), individuals may export; re-import; deliver, receive, carry, transport or ship in interstate or foreign commerce in the course of a commercial activity; or sell or offer for sale in interstate or foreign commerce certain endangered wildlife species as long as specific requirements are met.

Prohibited wildlife species under the CWSA that are eligible for CBW regulation include tigers, leopards, snow leopards, clouded leopards, jaguars, and cheetahs. There are approximately 350 approved CBW registrations, of which approximately 100 authorize activities with the prohibited wildlife species in the CWSA. However, it must be noted that most, if not all, CBW registration holders are APHIS licensed and are therefore exempted from the provisions of the CWSA. Therefore, the CWSA would not have any substantial economic effect on this segment of the live animal industry by restricting activities currently authorized under CBW regulation.

CITES prohibits most trade in tigers, leopards, snow leopards, clouded leopards, jaguars, and cheetahs. However, CITES regulates, though does not necessarily prohibit, the international trade of African lions and cougars. The CWSA could, therefore, have some impact on limiting imports or exports of African lions and cougars. Our records indicate that, in the period from 2001 through 2003, 22 African lions were imported and 15 were exported, and 14 cougars were imported and 19 were exported. Some of these importations or exportations may have been for commercial purposes; however, most, if not all, of the individuals who would be importing or exporting live African lions and cougars would probably qualify for one of the exemptions contained in the CWSA. Therefore, the CWSA would not have any substantial economic effect by restricting importations or exportations of these species.

The CWSA will prohibit the import, export, transport, sale, receipt, acquisition or purchase in interstate or foreign commerce, of African lions and cougars by individuals or businesses that would not qualify for one of the exemptions contained in the CWSA, even if those by individuals or businesses would qualify under CITES. Because we believe that there are very few people in this category, these restrictions are not expected to have a substantial economic effect on this segment of the live animal industry.

The CWSA will have its greatest potential impact on the import, export, transport, sale, receipt, acquisition, or purchase, in interstate or foreign commerce, of hybrids produced from the breeding of any combination of any of the prohibited wildlife species, by individuals who would not qualify for one of the exemptions contained in the CWSA. Hybrids produced from the breeding of any combination of tigers, leopards, snow leopards, clouded leopards, jaguars, or cheetahs would be exempt from the provisions of the ESA but not from the provisions of the CWSA. Generally speaking, the most common hybrids resulting from the breeding of any combination of any of the prohibited wildlife species would be the liger (a male lion and a female tiger) or the tiglon (a male tiger and a female lion). Numerous Web sites promote the existence of these hybrids, suggesting that there may be some demand for these animals for use as pets or for display purposes. We do not maintain domestic trade data on these hybrids; therefore, it is difficult to estimate the impact the CWSA will have on this segment of the live animal industry.

In addition to amending the Lacey Act by adding prohibitions that make it illegal to import, export, transport, sell, receive, acquire, or purchase, in interstate or foreign commerce, the prohibited wildlife species, the CWSA provides exemptions to these prohibitions for certain persons. Becoming eligible for these exemptions should not have any substantial economic effect on this segment of the live animal industry.

The only direct costs to be assumed by individuals who seek an exemption to the prohibitions of the CWSA would be the costs associated with the application process and with meeting APHIS compliance requirements to become licensed or registered under the AWA and the costs associated with meeting compliance requirements in order to become a State-licensed wildlife rehabilitator.

The costs for meeting APHIS compliance requirements under the

AWA are difficult to quantify because these costs are extremely variable, depending on the nature of the business of the individual who seeks to become licensed or registered. Application costs will vary, depending on the nature of the business of the individual. Licenses issued by APHIS under the AWA must be renewed every year with a standard application fee of \$10.00. Additional application costs are based upon the nature of the business of the individual and the size of that business. Additional application costs for animal exhibitors can range from \$30.00 to \$300.00 per year, depending on the number of animals on exhibit. Additional application costs for animal dealers can range from \$30.00 to \$500.00 per year, depending on the anticipated annual income of the business.

In addition to application fees, the costs for meeting APHIS compliance requirements can vary, depending on the current facilities maintained by the individual and to what degree those facilities meet those requirements. Construction costs for new facilities may also need to be increased in order to achieve compliance.

The costs for meeting compliance requirements in order to become a State-licensed wildlife rehabilitator are difficult to quantify because these costs are extremely variable, depending on the State where the applicant resides and the current facilities maintained by the individual and to what degree those facilities meet those requirements.

Each wildlife sanctuary that intends to qualify under the exemption to the prohibitions of the CWSA is prohibited from commercially trading in the prohibited wildlife species or the species' offspring, parts, or byproducts, and from propagating any of the prohibited wildlife species. Though this requirement may result in lost revenue for the sanctuary, it is not expected to result in a substantial negative economic effect for sanctuaries as a whole. In addition, if the owner of a sanctuary chooses to commercially trade in the prohibited wildlife species, he or she should become licensed or registered with APHIS under the AWA, and would thus qualify for that exemption in the CWSA.

The CWSA provides an exemption for individuals transporting live specimens of the prohibited wildlife species between individuals who qualify for one of the other exemptions provided in the CWSA. This rule requires that the transporting individuals produce evidence to prove that they are transporting specimens between other exempted individuals. However, these requirements would not increase costs

for the transporting individuals because APHIS already requires these individuals to be registered by meeting similar requirements.

In addition to amending the Lacey Act by adding prohibitions that make it illegal to import, export, transport, sell, receive, acquire, or purchase, in interstate or foreign commerce, the prohibited wildlife species, the CWSA provides improved safety for the public by limiting the exception for accredited wildlife sanctuaries to those that prohibit direct contact with the prohibited wildlife species. Activities that might result in direct contact between the prohibited wildlife species and any member of the public, such as photography, play sessions, or offsite programs, would prevent an otherwise accredited wildlife sanctuary from qualifying for the exemption. Though this requirement may result in lost revenue for sanctuaries, it is not expected to result in a substantial negative economic effect for wildlife sanctuaries as a whole.

b. This rule will not create inconsistencies with other agencies' actions.

We are the lead Federal agency regulating international wildlife trade, the issuance of permits to conduct activities affecting federally protected wildlife and their habitats, and carrying out the United States' obligations under CITES. Therefore, this rule has no effect on other agencies' responsibilities and will not create inconsistencies with other agencies' actions.

In addition, 19 States prohibit the private possession of big cats, and 16 States have a partial ban on possession of big cats or require permits for their possession. Therefore, the CWSA does not create inconsistencies with these States' restrictions, but rather supports them.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

This rule will not change the fee schedule for any permits issued by us or any licenses or registrations issued by APHIS.

d. This rule will not raise novel legal or policy issues.

This rule will not raise novel legal or policy issues because it is based upon Congress's passage of the CWSA, which reflects a heightened concern for public safety resulting from the increased trade in the prohibited wildlife species for use as pets and the increased risk of danger to members of the public when given opportunities for direct contact with the prohibited wildlife species.

*Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). An initial regulatory flexibility analysis is not required. In addition, a Small Entity Compliance Guide is not required.

This rule regulates businesses that commercially trade in the prohibited wildlife species in interstate or foreign commerce. The purpose of this rule is to regulate the movement of these prohibited wildlife species and to provide improved safety for the public by limiting the exception for accredited wildlife sanctuaries to those that prohibit direct contact with the prohibited wildlife species.

Most of the businesses that commercially trade in the prohibited wildlife species in interstate or foreign commerce, would be considered small businesses as defined under the Regulatory Flexibility Act. These businesses are most logically placed in three primary industries: Zoos and Botanical Gardens; Nature Parks and Other Similar Institutions; and All Other Animal Production. The SBA size standard for the first two industries is \$6 million in average annual receipts, and the SBA size standard for the third industry is \$750,000 in average annual receipts. However, it should be noted that the nature of these businesses would require that most, if not all, of them must be licensed or registered under the AWA by APHIS, making them eligible for one of the exemptions provided in the CWSA. However, we recognize that there may be a small number of small businesses that do not fit into any of the above categories and are not eligible for one of the exemptions provided in the CWSA.

*Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act.

a. This rule does not have an annual effect on the economy of \$100 million or more.

For the reasons described above, we have determined that this rule will not have an annual effect on the economy of \$100 million or more. It is not anticipated that the restrictions imposed by the CWSA and the costs to become eligible for the exemptions contained in the CWSA will amount to an annual effect on the economy of \$100 million or more.

b. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

The CWSA provides exemptions to its prohibitions for certain persons. Becoming eligible for these exemptions will increase costs for the live animal industry; however, as described above, we do not expect these increased costs to be major. The only direct costs to be assumed by individuals who seek an exemption to the prohibitions of the CWSA would be the costs associated with the application process and meeting compliance requirements in order to become licensed or registered under the AWA with APHIS, and the costs associated with meeting compliance requirements in order to become a State-licensed wildlife rehabilitator.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

The CWSA will not have significant adverse effects on the ability of U.S.-based enterprises to compete with foreign-based enterprises because foreign-based enterprises that are subject to U.S. jurisdiction must comply with the same regulatory requirements as U.S.-based enterprises who buy or sell the prohibited wildlife species in interstate or foreign commerce.

#### *Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

Under the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.), this rule will have no effects.

a. This rule will not significantly or uniquely affect small governments. A Small Government Agency Plan is not required.

We are the lead Federal agency regulating international wildlife trade, the issuance of permits to conduct activities affecting federally protected wildlife and their habitats, and carrying out the United States' obligations under CITES. No small government assistance or impact is expected as a result of this rule.

b. This rule will not produce a Federal requirement that may result in the combined expenditure by State, local, or tribal governments of \$100 million or greater in any year, so it is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

This rule will not result in any combined expenditure by State, local, or tribal governments.

#### *Executive Order 12630 (Takings)*

Under Executive Order 12630, this rule does not have significant takings implications. Under Executive Order 12630, this rule does not affect any constitutionally protected property rights. We have analyzed this regulation under Executive Order 12630 and have determined that it does not result in takings. This rule only prohibits importing, exporting, transporting, selling, receiving, acquiring, or purchasing, in interstate or foreign commerce, of the prohibited wildlife species. This rule does not result in physical occupancy of property or physical invasion of property by the Government.

Furthermore, this rule also does not result in a regulatory taking. The CWSA serves a legitimate public interest by promoting public safety and preventing interstate exploitation of the prohibited wildlife species. The rule does not so severely restrict the owner's use of his or her property as to deprive the owner of all economically beneficial use of the property. The owner may still possess big cat species or buy or sell them within the owner's State. Also, an owner who is relocating to another State may move his or her big cat if exempted under 50 CFR 14.255.

#### *Executive Order 13132 (Federalism)*

Under Executive Order 13132, this rule does not have significant Federalism effects. A Federalism assessment is not required. This rule will not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Addressing the prohibited wildlife species and public safety at the State or local level is not the purpose of the CWSA. The CWSA does not take precedence over State law. The CWSA makes it illegal to import, export, transport, sell, receive, acquire, or purchase, in interstate or foreign commerce, the prohibited wildlife species.

#### *Executive Order 12988 (Civil Justice Reform)*

Under Executive Order 12988, the Office of the Solicitor has determined that this rule does not overly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. Specifically, this rule has been reviewed to eliminate errors and ensure clarity, has been written to minimize lawsuits, provides a clear legal standard for affected actions, and

specifies in clear language the effect on existing Federal law or regulation.

#### *Paperwork Reduction Act*

This rule contains new information collection requirements for which OMB approval is required under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq. We may not conduct or sponsor and you are not required to respond to an information collection unless it displays a currently valid OMB control number.

The information collection associated with this rule has been approved under OMB control number 1018-0129, which expires on June 30, 2010.

We are requiring wildlife sanctuaries that seek to qualify as an "accredited wildlife sanctuary" under the CWSA to maintain complete and accurate records of any possession, transportation, acquisition, disposition, importation, or exportation of the prohibited wildlife species. These records must be up to date, and include: (1) The names and addresses of persons to or from whom any prohibited wildlife species has been acquired, imported, exported, purchased, sold, or otherwise transferred; and (2) the dates of these transactions. Accredited wildlife sanctuaries must maintain these records for 5 years, must make these records accessible to Service officials for inspection at reasonable hours, and must copy these records for Service officials, if requested. This rule does not contain any requirement that wildlife sanctuaries must submit an application to qualify as an "accredited wildlife sanctuary."

The requirement to make records available will be initiated on an as-needed basis. We estimate that there are no more than 750 wildlife sanctuaries that could qualify for the "accredited wildlife sanctuary" exemption.

We do not anticipate that this recordkeeping requirement will impose any significant burden, because the maintenance of these records is typically a normal business practice. Most wildlife sanctuaries will likely only have custody of a limited number of specimens of the prohibited wildlife species. Therefore, complying with the requirement to make records available can likely be met by making available and copying, if needed, a small number of documents pertaining to the possession, transportation, acquisition, disposition, importation, or exportation of the prohibited wildlife species, which we estimate can be completed in an hour or less. The total estimated annual burden for complying with this recordkeeping requirement for all of these wildlife sanctuaries combined

should be 750 hours or less. We estimate that the average wage of individuals likely to be providing these documents is \$20.00 per hour. Therefore, the total estimated cost of this recordkeeping requirement for all of these wildlife sanctuaries would be \$15,000.00, if we requested that all wildlife sanctuaries copy their records. The estimated annual cost of this recordkeeping requirement for each wildlife sanctuary is \$20.00.

#### *National Environmental Policy Act*

This rule has been analyzed under the criteria of the National Environmental Policy Act and 318 DM 2.2 (g) and 6.3 (D). This rule does not amount to a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/evaluation is not required. This rule is categorically excluded from further National Environmental Policy Act requirements, under part 516 of the Departmental Manual, Chapter 2, Appendix 1.10. This rule is a regulation that is of an administrative, legal, technical, or procedural nature and its environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis under NEPA.

#### *Executive Order 13175 (Tribal Consultation) and 512 DM 2 (Government-to-Government Relationship With Tribes)*

Under the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no adverse effects. Individual tribal members must meet the same regulatory requirements as other individuals who import, export, transport, sell, receive, acquire, or purchase, in interstate or foreign commerce, the prohibited wildlife species.

#### *Executive Order 13211 (Energy Supply, Distribution, or Use)*

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. The purpose of this rule is to regulate the movement of the prohibited wildlife species and to provide improved safety for the public by limiting the exception for accredited wildlife sanctuaries to those that prohibit direct contact with

the prohibited wildlife species. This rule is not a significant regulatory action under Executive Order 12866 and it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

#### **Author**

The originator of this final rule is Mark Phillips, OLE, U.S. Fish and Wildlife Service, Washington, DC.

#### **List of Subjects in 50 CFR Part 14**

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

#### **Regulation Promulgation**

■ For the reasons described above, we amend part 14, subchapter B of Chapter I, title 50 of the Code of Federal Regulations as set forth below.

#### **PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE**

■ 1. The authority citation for part 14 continues to read as follows:

**Authority:** 16 U.S.C. 668, 704, 712, 1382, 1538(d)–(f), 1540(f), 3371–3378, 4223–4244, and 4901–4916; 18 U.S.C. 42; 31 U.S.C. 9701.

■ 2. Revise § 14.3 to read as follows:

#### **§ 14.3 Information collection requirements.**

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this part 14 under 44 U.S.C. 3507 and assigned OMB Control Numbers 1018–0012, 1018–0092, and 1018–0129. The Service may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. You can direct comments regarding these information collection requirements to the Service's Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail) or (703) 358–2269 (fax).

■ 3. Add a new subpart K to read as follows:

#### **Subpart K—Captive Wildlife Safety Act Sec.**

- 14.250 What is the purpose of these regulations?  
 14.251 What other regulations may apply?  
 14.252 What definitions do I need to know?  
 14.253 What are the restrictions contained in these regulations?  
 14.254 What are the requirements contained in these regulations?

14.255 Are there any exemptions to the restrictions contained in these regulations?

#### **Subpart K—Captive Wildlife Safety Act**

##### **§ 14.250 What is the purpose of these regulations?**

The regulations in this subpart implement the Captive Wildlife Safety Act (CWSA), 117 Stat. 2871, which amended the Lacey Act Amendments of 1981, 16 U.S.C. 3371–3378, by adding paragraphs 2(g), 3(a)(2)(C), and 3(e) (16 U.S.C. 3371, 3372).

##### **§ 14.251 What other regulations may apply?**

The provisions of this subpart are in addition to, and are not in place of, other regulations of this subchapter B that may require a permit or describe additional restrictions or conditions for the importation, exportation, transportation, sale, receipt, acquisition, or purchase of wildlife in interstate or foreign commerce.

##### **§ 14.252 What definitions do I need to know?**

In addition to the definitions contained in part 10 of this subchapter, and unless the context otherwise requires, in this subpart:

*Accredited wildlife sanctuary* means a facility that cares for live specimens of one or more of the prohibited wildlife species and:

(1) Is approved by the United States Internal Revenue Service as a corporation that is exempt from taxation under § 501(a) of the Internal Revenue Code of 1986, which is described in §§ 501(c)(3) and 170(b)(1)(A)(vi) of that code;

(2) Does not commercially trade in prohibited wildlife species, including offspring, parts, and products;

(3) Does not propagate any of the prohibited wildlife species; and

(4) Does not allow any direct contact between the public and the prohibited wildlife species.

*Direct contact* means any situation in which any individual other than an authorized keeper or caregiver may potentially touch or otherwise come into physical contact with any live specimen of the prohibited wildlife species.

*Licensed person* means any individual, facility, agency, or other entity that holds a valid license from and is inspected by the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) under the Animal Welfare Act (AWA) (7 U.S.C. 2131 *et seq.*) (See definition of "licensee" in 9 CFR 1.1.).

*Prohibited wildlife species* means a specimen of any of the following eight

species: Lion (*Panthera leo*), tiger (*Panthera tigris*), leopard (*Panthera pardus*), snow leopard (*Uncia uncia*), clouded leopard (*Neofelis nebulosa*), jaguar (*Panthera onca*), cheetah (*Acinonyx jubatus*), and cougar (*Puma concolor*) or any hybrids resulting from the breeding of any combination of any of these species, for example, a liger (a male lion and a female tiger) or a tiglon (a male tiger and a female lion), whether naturally or artificially produced.

*Propagate* means to allow or facilitate the production of offspring of any of the prohibited wildlife species, by any means.

*Registered person* means any individual, facility, agency, or other entity that is registered with and inspected by APHIS under the AWA (See definition of "registrant" in 9 CFR 1.1.).

**§ 14.253 What are the restrictions contained in these regulations?**

Except as provided in § 14.255, it is unlawful for any person to import, export, transport, sell, receive, acquire, or purchase, in interstate or foreign commerce, any live prohibited wildlife species.

**§ 14.254 What are the requirements contained in these regulations?**

In order to qualify for the exemption in § 14.255, an accredited wildlife sanctuary must maintain complete and accurate records of any possession, transportation, acquisition, disposition, importation, or exportation of the prohibited wildlife species covered by the CWSA. These records must be up to date, and must include the names and addresses of persons to or from whom any prohibited wildlife species has been acquired, imported, exported, purchased, sold, or otherwise transferred; and the dates of these transactions. The accredited wildlife sanctuary must maintain these records for 5 years, must make these records available to Service officials for inspection at reasonable hours, and must copy these records for Service officials, if requested. In addition, by declaring itself to be accredited under this subpart, a wildlife sanctuary agrees to allow access to its facilities and its prohibited wildlife specimens by Service officials at reasonable hours.

**§ 14.255 Are there any exemptions to the restrictions contained in these regulations?**

The prohibitions of § 14.253 do not apply to:

- (a) A licensed person or registered person;
- (b) A State college, university, or agency;
- (c) A State-licensed wildlife rehabilitator;
- (d) A State-licensed veterinarian;
- (e) An accredited wildlife sanctuary;

or

- (f) A person who:
  - (1) Can produce documentation showing that he or she is transporting live prohibited wildlife species between persons who are exempt from the prohibitions in § 14.253; and
  - (2) Has no financial interest in the prohibited wildlife species other than payment received for transporting them.

Dated: April 26, 2007.

**Todd Willens,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

**Editorial Note:** This document was received at the Office of the Federal Register on August 10, 2007.

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