DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 1

[Docket No. 98–043–1]

Field Study; Definition

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Animal Welfare regulations by clarifying the definition of the term field study. We want to clarify that a field study cannot involve an invasive procedure, harm the animals under study, or materially alter the behavior of the animals under study. As currently worded, the definition of field study could be interpreted to mean that a field study may include one of these situations. This action would help ensure the proper use and care of animals used in field studies.

DATES: Consideration will be given only to comments received on or before September 29, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98–043–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

FOR FURTHER INFORMATION CONTACT: Dr. Jerry DePoyster, Senior Veterinary Medical Officer, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1228, (301) 734–7586.

SUPPLEMENTARY INFORMATION: The Animal Welfare Act (the Act) (7 U.S.C. 2131 et seq.) authorizes the Secretary of Agriculture to promulgate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, carriers, and intermediate handlers.

The regulations established under the Act are contained in title 9 of the Code of Federal Regulations (9 CFR), chapter I, subchapter A, parts 1, 2, and 3. Part 1 defines various terms used in parts 2 and 3.

We are proposing to amend the definition of field study. Currently, a field study, as defined in § 1.1 of the regulations, is any study that is “conducted on free-living wild animals in their natural habitat, which does not involve an invasive procedure, and which does not harm or materially alter the behavior of the animals under study.”

We have always intended that field studies not include any invasive procedures, harm the animals under study, or materially alter the behavior of the animals under study. However, we are concerned that, as currently worded, the definition could be interpreted to mean that a field study may include any one of these situations. Determining whether a study should be classified as a field study is essential because a field study is not subject to the regulations in 9 CFR parts 2 and 3.

However, if the definition of a field study is not clear, a study that involves an invasive procedure or harms or materially alters the behavior of the animals under study may be misclassified as a field study and, accordingly, would not be reviewed by the IACUC.

We are, therefore, proposing to amend the definition of field study in § 1.1. We would define field study as any study conducted on free-living wild animals in their natural habitat. We would also add the provision that the term field study excludes any study that involves an invasive procedure or has the potential to harm or materially alter the behavior of the animals under study.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule would clarify the definition of field study. Currently, a field study, as defined in § 1.1 of the regulations, is any study that is “conducted on free-living wild animals in their natural habitat, which does not involve an invasive procedure, and which does not harm or materially alter the behavior of the animals under study.”

We have always intended that field studies not include any invasive procedures, harm the animals under study, or materially alter the behavior of the animals under study. However, we are concerned that, as currently worded, the definition could be interpreted to mean that a field study may include any one of these situations. By clarifying the definition of field study, this proposed rule would help ensure that studies that should be subject to the Animal Welfare regulations are subject to the Animal Welfare regulations.

The only entities that would be affected by this proposed rule would be entities that perform studies conducted on free-living wild animals in their natural habitat. We estimate that at least 50 entities may be impacted by this proposed rule; however, we do not have an exact number. These entities may be considered small and large entities by Small Business Administration standards, but this proposed rule would only affect a small portion of the entities’ activities. As we are not proposing a substantive change in the definition, the impact on these entities should not be significant.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (see 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State and local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects in 9 CFR Part 1

Animal welfare, Pets, Reporting and recordkeeping requirements, Research.
Accordingly, we propose to amend 9 CFR part 1 as follows:

PART 1—DEFINITION OF TERMS

1. The authority citation for part 1 would continue to read as follows:

   Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.2(g).

2. In § 1.1, the definition of field study would be revised to read as follows:

§ 1.1 Definitions.
   * * * * *

   Field study means any study conducted on free-living wild animals in their natural habitat. This term excludes any study that involves an invasive procedure or has the potential to harm or materially alter the behavior of an animal under study.
   * * * * *

   Done in Washington, DC, this 27th day of July 1998.

   Alfred S. Elder,
   Acting Administrator, Animal and Plant Health Inspection Service.

   [FR Doc. 98–20499 Filed 7–30–98; 8:45 am]