

**DEPARTMENT OF AGRICULTURE**  
**DIVISION OF ANIMAL HEALTH AND FOOD PRODUCTS INSPECTION**  
Statutory Authority: 3 Delaware Code, Section 7202 (3 **Del.C.** §7202)  
3 **DE Admin. Code** 304

**PROPOSED**

**PUBLIC NOTICE**

The Delaware Department of Agriculture repropose these regulations in accordance with the General Assembly's mandate to enforce Chapter 72 of Title 3 of the **Delaware Code** and to specify the means by which citizens of the State of Delaware may obtain a permit from the Delaware Department of Agriculture to possess, sell, or exhibit, exotic animals within the state.

These proposed regulations will be considered at a public hearing scheduled for February 20, 2009 at 10:00 a.m. at the Department of Agriculture Building, Conference Room 1.

The Delaware Department of Agriculture solicits written comments from the public concerning these proposed regulations. Any such comments should be submitted to the Assistant State Veterinarian, Caroline Hughes, VMD, at Delaware Department of Agriculture, 2320 S. DuPont Highway, Dover, DE 19901 on or before March 2, 2009. Copies of the proposed regulations are available on request.

**304 Exotic Animal Regulations**

**1.0 Authority**

These regulations are promulgated pursuant to the authority of Section 7202 of Title 3 of the **Delaware Code**.

**2.0 Purpose**

These regulations govern the permitting process, possession, sale, rehabilitation and exhibition of exotic animals, i.e., live wild mammals or hybrids of wild mammals or live reptiles not native to or generally found in the State of Delaware. The State Veterinarian or her or his designee shall have the authority to administer these regulations and shall be solely responsible for making the determinations required herein.

**3.0 Definitions**

"**Accurate Description of the Exotic**" means the name, residence, age, gender, markings/color, tattoo, identification tag, microchip and/ or other distinguishing characteristics of the exotic together with the name and residence of the owner or custodian.

"**Adopter**" means a person who becomes an owner or custodian of an exotic animal.

"**Animal Attack Protocol**" means a written document that outlines an owner's or custodian's plan should the exotic animal bite, injure or attack a human or animal.

"**Carnivore**" means a flesh-eating mammal, which possesses teeth and claws adapted for attacking and devouring prey.

"**Class of Exotic**" means each of the following groups constitute a separate and distinct class: Carnivore, Herbivore, Hybrid of a wild animal, Omnivore, Primate and Reptile.

"**Custodian**" means a person who possesses or cares for an exotic animal. A custodian has immediate charge and control of the exotic.

"**Department**" means the Delaware Department of Agriculture.

**"Emergency Evacuation Plan"** means a written document that outlines the actions the owner or custodian plans to implement in an emergency or ordered departure in order to provide for the exotic's welfare and the public's health and safety.

**"Exhibitor"** means a person who displays exotic animals to the public.

**"Exotic"** means a live wild mammal or hybrid of a wild mammal or a live reptile not native to or generally found in Delaware as determined by the Delaware Department of Natural Resources and Environmental Control (DNREC) and the Division of Fish and Wildlife.

**"Herbivore"** means a mammal that feeds exclusively on vegetable matter.

**"Hybrid of a wild mammal"** means a mammal whose parents are different varieties of the same species or belong to different but closely allied species, one parent being a wild mammal not native to or generally found in Delaware and the other parent being a domestic mammal native to or generally found in Delaware.

**"Nuisance"** means an act or the threat of an action that unreasonably interferes with the health, safety or property rights of the community at large.

**"Omnivore"** means an animal which eats any sort of food, both animal and vegetable in origin.

**"Owner"** means a person who owns an exotic animal. An owner has or holds the exotic animal as property.

**"Permit Holder"** means an owner or custodian of an exotic animal who holds an applicable exotic animal permit.

**"Person"** means any individual, partnership, corporation, trade or professional association, firm, limited liability company, joint venture, association, trust, estate or any other legal entity, and any officer, member, shareholder, director, employee, agent or representative thereof.

**"Pet"** means an exotic animal that is kept for interest, companionship and amusement and is associated with a household.

**"Primate"** means a mammal that belongs to the highest order of mammals including monkeys and lemurs.

**"Purchaser"** means a person who becomes an owner of an exotic animal by exchange of cash, goods or animals.

**"Rehabilitator"** means a person who restores an exotic animal to good condition by providing short term care.

**"Reptile"** means any cold-blooded vertebrate of the class Reptilia including turtles, lizards, snakes, crocodilians and tuatara.

**"Seller"** means a person who holds a Sales permit and is engaged in the sale or trade of exotic animals for cash, goods, or animals.

**"Secretary"** means the Secretary of the Delaware Department of Agriculture or his or her designee.

**"State Veterinarian"** means the State Veterinarian of the Delaware Department of Agriculture, or his or her designee.

**"USDA"** means the United States Department of Agriculture.

**"Valid Identification"** (Valid ID) means a photo identification such as Delaware driver's license, State of Delaware Identification card, or a Passport that includes the name and address of the purchaser/adopter of the exotic animal.

**"Welfare"** means that the owner or custodian provides for the health and well-being and safeguards the physiological requirements of the exotic animal.

**"Zoo"** means a park or institution accredited by the Association of Zoos and Aquariums (AZA) (or its designated successor organization) where: exotics are primarily kept in cages or enclosures for people to come and see; exotics are exhibited outside of the park to the public for educational purposes; and exotics are bred and studied by scientists.

#### **4.0 The State Veterinarian Powers; Duties**

- 4.1 The State Veterinarian is responsible for administering and enforcing these regulations. The State Veterinarian has the power to grant, deny, or revoke permits to own or have custody of exotics in this state.
- 4.2 The State Veterinarian is vested with the power to designate agencies to seize and when warranted to humanely destroy an exotic if necessary to protect the public health, safety, or welfare and to protect the health of other animals. The State Veterinarian or his/her agent can humanely destroy an exotic without first notifying the exotic animal's owner or custodian.
- 4.3 The State Veterinarian will maintain a list of exotic animals that are exempt from the permitting requirement. This list will be available to the public and is subject to change in keeping with current animal and human health and safety concerns.
- 4.4 The State Veterinarian will maintain a list of exotic animals in the Herbivore and Reptile Classes that are prohibited from being bred by Sales Permit Holders. This list will be available to the public and is subject to change in keeping with current animal and human health and safety concerns.
- 4.5 The State Veterinarian is charged with preventing the introduction and spread of contagious and infectious diseases into and within the domestic animal population of the state, therefore:
  - 4.5.1 The State Veterinarian can prohibit activities by any Permit class if there is a threat to domestic animals in the state.
  - 4.5.2 The State Veterinarian can prohibit Accredited Zoo Permit holders from breeding exotics if there is a threat to domestic animals in the state.
  - 4.5.3 The State Veterinarian expects any exotic animal health concern to be communicated immediately to the Department by all other governmental agencies as well as by the owners or custodians of exotics.

## **5.0 Permit Requirement; Permit Prerequisites; Renewals; Waivers**

- 5.1 Unless specifically exempted by the Department from the permitting requirement (see Regulation 4.3), all persons who would own or have custody of an exotic animal must first obtain a permit issued by the Department.
- 5.2 To obtain the required permit from the Department, the prospective owner or custodian of an exotic animal must:
  - 5.2.1 Provide the Department with satisfactory proof that the exotic animal will be confined within two enclosures, designated herein as primary and secondary.
    - 5.2.1.1 The primary enclosure shall be a pen, cage or other structure where the exotic will be kept and which must be of sturdy and escape-proof construction. The primary enclosure must be consistent in size, structure, lighting, temperature control, and ventilation according to the welfare standards prescribed in the scientific literature or in the USDA regulations for the species being enclosed. The permit applicant is required to demonstrate knowledge of enclosure and welfare standards for the species under consideration with the application.
    - 5.2.1.2 The secondary enclosure must be sufficient to prevent the exotic animal from escaping from the property of the owner or custodian should it be set free or escape from its primary enclosure. The secondary enclosure must ensure there will be no physical contact between members of the public and the exotic. The secondary enclosure must prevent the exotic from escaping the premises if it is out of its primary enclosure.
    - 5.2.1.3 The holder of an Exhibitor or Accredited Zoo permit issued in accordance with Regulations 6.2 and 6.3 may request in writing that the State Veterinarian consider waiving the enclosure requirements set forth at 5.2.1.1 and/ or 5.2.1.2 because the exotic animal has unique enclosure requirements.
    - 5.2.1.4 Shared enclosures:
      - 5.2.1.4.1 The holders of Sales permits are permitted to breed exotic animals in the Herbivore and Reptile class in the State of Delaware in accordance with Regulations 4.4 and 10.4.2.; therefore exotics in these classes may share enclosures.

- 5.2.1.4.2 The holders of Accredited Zoo permits are permitted to breed exotic animals in the State of Delaware in accordance with Regulations 4.5.2 and 10.4.3; therefore exotics permitted by the Accredited Zoo Permit may share enclosures.
        - 5.2.1.4.3 All other Permit class holders are not permitted to breed exotic animals; hence any shared enclosures are only for sterile animals or animals unable to reproduce.
  - 5.2.2 Provide the Department with a copy of an emergency evacuation plan upon request.
  - 5.2.3 Provide the Department with a copy of an animal attack protocol upon request.
- 5.3 To obtain the renewal of an exotic animal permit, exotic animal owners or custodians must confirm the ongoing existence of all the requirements set forth at 5.2 and must, in addition, allow Department employees access to inspect the premises where exotics are located to confirm the health and humane treatment of the exotic.
- 5.4 Any existing permits issued by the Delaware Department of Agriculture will become void sixty (60) days after the effective date of these proposed regulations and must be renewed in accordance with Regulations 5.3 and 8.0 at no additional cost to the owner or custodian.

## **6.0 Permit Classes**

### **6.1 Individual Permit**

- 6.1.1 When exotics are kept as pets, the owner or custodian of the exotic must apply to the Department for an Individual Permit on a form supplied by the Department. Individual Permits granted by the Department shall become null and void when the owner or custodian transfers ownership or possession of the exotic to another. The owner or custodian must obtain a separate Individual Permit for each exotic animal kept as a pet. A background check of an owner or custodian applying for an Individual Permit may be completed by the Department.

### **6.2 Accredited Zoo Permit**

- 6.2.1 All zoos in Delaware must obtain an Accredited Zoo Permit every five (5) years or other time period that is in keeping with the AZA accreditation process.

### **6.3 Exhibitor Permit**

- 6.3.1 All owners or custodians (with the exception of permitted Accredited Zoos located in Delaware) that wish to present exotic animals for public viewing must obtain an Exhibitor Permit from the Department annually.
- 6.3.2 A background check of an owner or custodian applying for an Exhibitor Permit may be completed by the Department.
- 6.3.3 Exotic Animal Exhibitors Duties:
  - 6.3.3.1 Notify the Department within the 60 day period prior to exhibiting exotic animals in Delaware;
  - 6.3.3.2 Provide the Department with an annual inventory which includes an Accurate Description of each exotic animal to be exhibited.
  - 6.3.3.3 Provide the Department with the dates of exhibition;
  - 6.3.3.4 Provide the Department with a list of exhibition activities;
  - 6.3.3.5 Provide the Department with a public health and safety plan, an animal attack protocol, and an animal health plan upon request.
  - 6.3.3.6 Show proof of exotic animal permits or licenses from their states of origin upon request;
  - 6.3.3.7 Provide valid health certificates upon request;
  - 6.3.3.8 Have a valid business license; and
  - 6.3.3.9 Provide proof of knowledge of exotics' health, safety and proper care upon request.

### **6.4 Rehabilitator Permit**

- 6.4.1 The Rehabilitator Permit must be obtained from the Department by an owner or a custodian who provides short term care and rehabilitation of exotic animals.

6.4.2 The applicant for the Rehabilitator Permit must provide documentation that he/she holds a Wildlife Rehabilitator Permit from DNREC.

6.4.3 A background check of an owner or custodian applying for a Rehabilitator Permit may be completed by the Department.

6.4.4 Rehabilitator Permit Holder's Duties:

6.4.4.1 Notify the Department of acquiring an exotic animal to rehabilitate by the first of every month.

6.4.4.2 By December 31st of each calendar year the Exotic Animal Rehabilitator must:

6.4.4.2.1 Provide the Department with a yearly inventory of every exotic currently being rehabilitated. The inventory must include an Accurate Description of each exotic.

6.4.4.2.2 Request in writing permission from the State Veterinarian or his/her designee for an extension of the exotic's rehabilitation time when the exotic is carried over from the prior year's inventory.

6.4.4.3 Provide the Department with a public health and safety plan, an animal attack protocol, an emergency evacuation plan and an animal health, proper care and rehabilitation plan upon request.

6.4.4.4 Be limited to a maximum of ten (10) exotic animals per Class of Exotic.

6.4.4.5 Send a list of relocated exotics to the Department by the first of every month.

6.4.4.6 The rehabilitator must require at the time of the exotic's relocation that the adopter has obtained the appropriate class of Exotic Animal Permit from the Department.

6.4.4.7 The rehabilitator must verify at the time of the exotic's relocation that the adopter's name and address on a Valid Identification card is the same as noted on the appropriate class of Exotic Animal Permit presented.

6.4.4.8 Provide the adopter with written information regarding the exotic's enclosure, proper care and welfare requirements.

6.4.4.9 The rehabilitator must inform the adopter that there may be county, city, local laws, rules and regulations that may govern or proscribe the possession of exotics in their area.

6.4.4.10 If the adopter resides outside the State of Delaware, the rehabilitator must maintain a record of the interstate transfer of ownership, including adopter's address; and must notify the appropriate state veterinarian's office or applicable state agency.

6.4.4.11 Keep a record of the adopter's name, address and when available, telephone and e-mail, for three years.

6.4.5 Adopters of Rehabilitated Exotics; Duties: When an adopter proposes to become an owner or custodian of an exotic that requires permitting by the Department the following conditions prior to becoming an owner/custodian must be met:

6.4.5.1 The adopter must obtain the appropriate class of Exotic Animal Permit from the Department prior to the time of the exotic's relocation.

6.4.5.2 The adopter must present to the rehabilitator at the time of the exotic's relocation a Valid ID with the same name and address that are on the Exotic Animal Permit.

6.5 Sales Permit

6.5.1 Owners or custodians that sell exotics in Delaware must have a valid Delaware business license and must obtain a Sales Permit from the Department. Sales Permits granted by the Department must be renewed annually and are not transferable.

6.5.1.1 Accredited Zoo Permit holders are not required to hold a Sales Permit.

6.5.1.2 Individual Permit holders, Exhibitor Permit holders, and Rehabilitator Permit holders engaged in the sale of exotics are required to hold a Sales Permit in accordance with sections 6.5, 7.5 and 8.2 of these regulations. All of the aforementioned Permit holders who apply for a Sales Permit must have a valid Delaware business license.

6.5.1.3 A background check of an owner or custodian applying for a Sales Permit may be completed by the Department.

- 6.5.2 Seller's Duties- When an owner or custodian proposes to sell an exotic that requires permitting by the Department the following conditions of sale must be met:
- 6.5.2.1 The seller must require at the time of the sale that the purchaser has obtained the appropriate class of Exotic Animal Permit from the Department.
  - 6.5.2.2 The seller must verify at the time of the sale that the purchaser's name and address on a Valid Identification card is the same as noted on the appropriate class of Exotic Animal Permit presented.
  - 6.5.2.3 The seller must provide the purchaser with written information regarding the exotic's enclosure and welfare requirements.
  - 6.5.2.4 The seller must notify the purchaser that there may be county, city, and local laws, rules and regulations within the State of Delaware that may proscribe or govern the possession of exotics in their area.
  - 6.5.2.5 The seller must notify the Department of the purchaser's name and address, and when available, e-mail address or telephone number and an Accurate Description of the Exotic after the sale of an Exotic by the first of every month.
  - 6.5.2.6 If the purchaser resides outside the State of Delaware, the seller must maintain a record of the interstate sale, including purchaser's address, and must notify the appropriate state veterinarian's office or applicable state agency.
  - 6.5.2.7 A legible copy of the purchaser's sale record must be maintained by the seller for 3 years after the sale of the exotic animal.
  - 6.5.2.8 The seller must guarantee that all exotic animals put up for sale are in good health at the time of sale.
- 6.5.3 Purchaser's Duties- When a purchaser proposes to become an owner or custodian of an exotic that requires permitting by the Department the following conditions prior to purchase must be met:
- 6.5.3.1 The purchaser must obtain the appropriate class of Exotic Animal Permit from the Department prior to the time of purchase.
  - 6.5.3.2 The purchaser must present to the seller at the time of the sale a Valid ID with the same name and address that are on the Exotic Animal Permit.

## **7.0 Initial Permit Applications**

- 7.1 Individual Permit. Initial applications must be filed with the Department prior to acquiring the exotic and prior to relocating the exotic into the State of Delaware. The State Veterinarian, for good causes shown, and upon written request of the owner/custodian may grant an extension of time to apply for an initial permit. The pre-purchase or pre-adoption fees required to obtain an Individual Permit for an exotic are non refundable.
- 7.2 Rehabilitator Permit. Initial applications must be filed with the Department prior to rehabilitating an exotic animal. A single Rehabilitator Permit covers every exotic animal housed or kept by the rehabilitator.
- 7.3 Accredited Zoo Permit. Initial applications must be filed with the Department upon accreditation by the Association of Zoos and Aquariums, or its successor association. The Accredited Zoo Permit covers every exotic animal housed or kept at the Zoo. The Accredited Zoo Permit application must include a current copy of the Zoo's on-going accreditation document and identify an inventory of every exotic animal by Accurate Description kept at the Zoo at the time of application.
- 7.4 Exhibitor Permit. Initial applications must be filed with the Delaware Department of Agriculture prior to exhibiting exotic animals in the State of Delaware. A single Exhibitor Permit covers every exotic animal housed or kept by the exhibitor.
- 7.5 Sales Permit. Initial applications must be filed with the Department prior to the sale of any exotic animal by a business. Sales Permits must be obtained for each Class of exotic sold. If an exotic animal can be placed in more than one Class, the applicant need only apply for one class per exotic animal. The yearly Sales Permit request must include an inventory of each exotic animal per Class of Exotic animal identified on the Permit Application. The inventory must identify every exotic animal by

Accurate Description of the Exotic stocked at the business at the time of application for the yearly Permit.

## **8.0 Permit Renewal**

- 8.1 Individual Permits are valid for 3 years and must be renewed by March 31st of the fourth year.
- 8.2 Sales Permits are required to be renewed on an annual basis and renewal must occur by December 31st of each year. An updated inventory must be submitted with each permit renewal application.
- 8.3 Accredited Zoo permits are required to be renewed every fifth year by March 31st in keeping with the AZA accreditation schedule. An updated inventory must be submitted with each permit renewal application.
- 8.4 Exhibitor Permits are required to be renewed stipulated in 8.4.1 and 8.4.2. An updated inventory must be submitted with each permit renewal application.
  - 8.4.1 Holders of Exhibitor permits who exhibit in Delaware more than 180 days per calendar year must renew by December 31st of each year or by the first of the month after exhibition activities in Delaware have exceeded 180 days.
  - 8.4.2 Holders of Exhibitor permits who exhibit in Delaware less than or equal to 180 days per calendar year must renew annually on an "as needed" basis.
- 8.5 Rehabilitator Permits are valid for three years and renewal must occur by March 31st of the fourth year. The renewal application must include proof of an active Wildlife Rehabilitator Permit issued by DNREC and an updated inventory.

## **9.0 Possessing or Owning an Exotic Animal Without a Permit**

When the Department has reason to believe that an owner or custodian of an exotic animal has not obtained the required permit, or has failed to timely renew a permit, the Department shall inform the owner or custodian by mailing a letter to the owner or custodian's last known address of the legal requirements to obtain a permit. The owner or custodian will then have ten (10) business days from the date the Department's letter was mailed to obtain the required permit. No permit will be issued if possession of an exotic animal is prohibited by other applicable statutes. The State Veterinarian may grant additional time to obtain a permit for good cause.

## **10.0 Transporting; Relocation of Exotic Animals; Transfer of Ownership; Births and Deaths**

- 10.1 If an exotic is to be moved from one location to another for any reason, the exotic shall be transported in a cage or other container that will be strong enough to prevent its escape while in transport, that will protect the public from physical contact with the exotic and that meets the exotic's welfare requirements. If an owner or custodian is transporting an exotic because of zoonotic or animal disease concerns, the State Veterinarian is to be notified immediately. Violation of this regulation is grounds for evoking an otherwise valid permit.
- 10.2 All permit holders are required to notify the Department in writing within thirty (30) business days if they change their name, permanent address or other contact information.
- 10.3 All permit holders are required to immediately notify the Department of any change of ownership or custodianship of an exotic animal.
- 10.4 Births and Deaths
  - 10.4.1 All permit holders must notify the Department of the birth or death of each Exotic by the first of every month.
  - 10.4.2 Sales permit holders are limited to breeding the following classes: Reptile and Herbivore and must stay current with State Veterinarian's list of exotic animals that are prohibited from being bred by Sales Permit holders as referenced in 4.4 of these regulations.
  - 10.4.3 Accredited Zoo Permit holders may breed exotics in keeping with 4.5.2 of these regulations.
  - 10.4.4 Exotics on the State Veterinarian's current list of exotic animals exempt from these regulations (see regulation 4.3) may be bred.

## **11.0 Nuisances Prohibited**

The exotic must not become a nuisance. Any exotic animal that is an immediate threat and/or poses a risk of danger to the public may be subject to seizure and destruction in accordance with regulation 4.2 and without the administrative hearing contemplated by regulation 13.2.

## **12.0 Escape**

The owner or custodian of an exotic who learns of its escape from its enclosures must immediately notify the Department and the appropriate animal control agency of the escape. The owner or custodian of an escaped exotic has a duty to offer assistance to recapture the exotic and must reimburse the Department for any expenses it incurs associated with recapturing the exotic including damage to persons, animals or property.

## **13.0 Permit Denials and Revocations: Administrative Hearings: Appeals**

- 13.1 The State Veterinarian or his/her designee may deny or revoke an initial application, renewal application, or a permit for good cause. Reasons for denials may include, but are not limited to the following: a zoo losing its accreditation; an exotic animal biting, maiming, or injuring a human; an exotic animal escaping from its enclosures; failure to require and verify that a purchaser/adopter has obtained the appropriate class of Exotic Animal Permit from the Department prior to the time of purchase/relocation of the Exotic; failure to notify the Department of the transfer or sale of any exotic animal; exotic animals being bred or reproducing by Permit class holders not permitted to breed exotics; failure to notify the Department of the birth or death of an exotic; failure to keep copies of sales records for three years; failure to perform the duties stated in these regulations; any zoonotic or animal disease concerns; prior animal cruelty violations; and the applicant/permit holder fails to maintain welfare standards.
- 13.2 Administrative Hearing: The owner or custodian of an exotic animal may appeal from the State Veterinarian's determinations pursuant to regulation 13.1 by requesting an Administrative Hearing before the Secretary or his or her designee.
- 13.2.1 Whenever the State Veterinarian proposes to revoke a permit or deny an application for any reason other than that the exotic poses an immediate and unreasonable risk of harm to the public, the Department shall first give written notice to the permit holder or applicant of the State Veterinarian's determination. The written notice shall inform the permit holder or applicant that he or she has the right to challenge the determination and to request a hearing before the Secretary of the Department or his or her designee. A request for an administrative hearing must be made in writing and must be received by the Department within ten (10) business days of the date of the written notice to such permit holder or applicant; otherwise, the State Veterinarian's determination becomes final. The hearing shall be informal, and the technical rules of evidence shall not apply. The administrative hearing shall be scheduled by the Department as soon as practical, but in no event more than thirty (30) business days after receiving the written request for an administrative hearing.
- 13.2.2 Whenever the State Veterinarian determines that an exotic animal poses an immediate and unreasonable risk of harm to public health and safety or domestic animal health, the exotic animal is subject to immediate seizure and possible destruction. In such circumstances no administrative hearing is available to the applicant/permit holder to challenge the State Veterinarian's determination.
- 13.2.3 Administrative hearings shall be recorded. The Secretary or his or her designee shall render his or her decision in writing to all interested parties within sixty (60) days of the date of the administrative hearing.
- 13.3 Appeals shall be on the record to the Superior Court of the State of Delaware.

**12 DE Reg. 1017 (02/01/09) (Prop.)**