## PART 1—[AMENDED]

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

**Authority:** 7 U.S.C. 2131–2159; 7 CFR 2.17, 2.51, and 371.2(g).

2. In § 1.1, definitions of buffer area, interactive area, interactive session, sanctuary area, and swim-with-the-dolphins (SWTD) program would be added in alphabetical order, to read as follows:

## §1.1 Definitions.

\* \* \* \* \*

Buffer area means that area in a primary enclosure for a swim-with-the-dolphins program that is off-limits to members of the public and that directly abuts the interactive area.

\* \* \* \* \*

Interactive area means that area in a primary enclosure for a swim-with-the-dolphins program where an interactive session takes place.

*Interactive session* means a swimwith-the-dolphins program session where members of the public enter a

primary enclosure to swim with dolphins.

\* \* \* \* \*

Sanctuary area means that area in a primary enclosure for a swim-with-the-dolphins program that is off-limits to the public and that directly abuts the buffer area.

\* \* \* \* \*

Swim-with-the-dolphins SWTD program means any human-dolphin interactive program in which a member of the public enters the primary enclosure in which a dolphin is housed to interact with the animal. This excludes feeding and petting pools and the participation of any member(s) of the public audience as a minor segment of an educational show.

\* \* \* \* \*

## PART 3—[AMENDED]

3. The authority citation for part 3 would be revised to read as follows:

**Authority:** 7 U.S.C. 2131–2159; 7 CFR 2.17, 2.51, and 371.2(g).

4. In subpart E, footnote 2 would be redesignated as footnote 3, footnote 5 would be redesignated as footnote 2,

footnote 8 would be redesignated as footnote 4, and footnote 9 would be redesignated as footnote 5.

5. A new section § 3.111 would be added to read as follows:

## § 3.111 Swim-with-the-dolphins programs.

Swim-with-the-dolphins programs must comply with the requirements in this section, as well as with all other requirements of this subpart pertaining to dolphins.

- (a) Space requirements. The primary enclosure for SWTD dolphins must contain an interactive area, a buffer area, and a sanctuary area. Movement of dolphins into the buffer or sanctuary area must not be restricted. Notwithstanding the space requirements set forth in § 3.104, each of the three areas required for SWTD programs must meet the following space requirements:
- (1) The horizontal dimension for each area must be at least three times the average adult body length of the species of dolphin used in the program.
- (2) The minimum surface area required for each area is calculated as follows:
  - (i) Up to two dolphins:

Surface Area (SA) = 
$$\left(\frac{3 \times \text{average adult body length (L)}}{2}\right)^2 \times 3.14$$

(ii) Three dolphins:

$$SA = \left(\frac{3 \times L}{2}\right)^2 \times 3.14 \times 2$$

(iii) Additional SA for each animal in excess of three:

 $SA = \left(\frac{2 \times L}{2}\right)^2 \times 3.14$ 

(3) The average depth for each area must be at least 9 feet.

(4) The minimum volume required for each animal is calculated as follows:

Volume=SA×9

(5) Minimum space requirements for each area are summarized in Table VI.

TABLE VI.—MINIMUM SPACE REQUIREMENTS FOR EACH AREA AND PRIMARY ENCLOSURE—SWTD

Number of animals	Minimum horizontal dimension		Surface area		Depth		Volume	
	Each area (ft)	Enclosure (ft)	Each area (ft ²)	Enclosure (ft ²)	Each area (ft)	Enclosure (ft)	Each area (ft 3)	Enclosure (ft <sup>3</sup> )
1–2	27 27 (¹)	81 81 (¹)	572 1,144 254	1,716 3,432 763	9 9 (¹)	9 9 (¹)	5,148 10,296 2,289	15,444 30,888 6,867

<sup>&</sup>lt;sup>1</sup> No change.

- (b) Water quality. Sufficient water clarity must be maintained so that attendants are able to observe dolphins and humans at all times while within the interactive area. If water clarity does not allow these observations, the interactive sessions must be canceled until the required clarity is provided.
- (c) *Employees and attendants.* Each SWTD program must have, at the

minimum, the following personnel, with the following minimum backgrounds (each position must be held by a separate individual):

(1) Licensee or manager—at least one full-time staff member with at least 6 years in a professional or managerial position dealing with captive cetaceans;

(2) Primary behaviorist—at least one full-time staff member with at least 6 years experience in training cetaceans

for SWTD behaviors, or an equivalent amount of experience involving inwater training of cetaceans, who serves as the head trainer for the SWTD program:

(3) Supervising attendant—at least one full-time staff member with at least 3 years experience involving human/ dolphin interactions; and

(4) Attending veterinarian—at least one staff or consultant veterinarian who