has at least the equivalent of 2 years full-time experience with cetacean medicine within the past 10 years.

(d) Program animals Only Tursiops truncatus may be used in SWTD

programs.

(e) Handling. (1) Interaction time for each dolphin shall not exceed 2 hours per day. Each participating dolphin shall have at least one period in each 24 hours of at least 10 continuous hours without public interaction.

(2) All dolphins used in an interactive session must be adequately trained and conditioned in human interaction so that they respond in the session to the attendants with appropriate behavior for safe interaction.

(3) The ratio of human participants to dolphins shall not exceed 3:1. The ratio of human participants to attendants

shall not exceed 3:1.

- (4) Prior to participating in a SWTD interaction session, members of the public must be provided with written rules and instructions for the session. Members of the public must agree, in writing, the abide by the rules and instructions before being allowed to participate in the session. Any participant who fails to follow the rules or instructions must be removed from the session.
- (5) All interactive sessions must have at least two attendants. At least one attendant must be positioned in the water, except in cases where at least one attendant is positioned so as to be able to intervene during the session as quickly as if positioned in the water. However, if the program has had more than two incidents during interactive sessions that have been dangerous or harmful to either a dolphin or a human, at least one attendant must be positioned in the water.

(6) The SWTD program must limit interaction between dolphins and humans so that the interaction does not harm the dolphins, does not remove the element of choice from the dolphins, such as by recalling the animal from the sanctuary area, and does not elicit undesirable responses from the dolphins. The program must prohibit grasping or holding of the dolphin's body, unless under the direct and explicit instruction of an attendant eliciting a specific dolphin behavior, and must prevent the chasing or other harassment of the dolphins.

(7) In cases where dolphins used in an interactive session exhibit unsatisfactory behaviors, such as charging, biting, mouthing, or sexual contact with humans, these dolphins must either be removed from the interactive area or the session must be terminated. Written criteria must be

developed and submitted to APHIS ⁶ regarding conditions and procedures for the termination of a session when removal of a dolphin is not possible and potentially unsafe behaviors are exhibited by one or more dolphins. The primary behaviorist shall determine when operations will be terminated, and when they may resume. In the absence of the primary behaviorist, these determinations shall be made by the supervising attendant.

(f) Recordkeeping. (1) In order for APHIS to properly evaluate a proposed or an ongoing SWTD program, each facility must provide APHIS ⁷ with a description of its program at least 30 days prior to initiation of the program, or in the case of any program already in place, the description must be provided within 30 days from the effective date of this final rule. The description must include at least the following:

(i) Identification of each dolphin in the program, by means of name and/or number, sex, age, and any other means the Administrator determines to be necessary to adequately identify the dolphin:

(ii) A description of the educational content and agenda of planned interactive sessions, and the anticipated average and maximum frequency and duration of encounters per dolphin per day;

(iii) The content and method of preencounter orientation, rules, and instructions, including restrictions on types of physical contact with the dolphins;

(iv) A description of the SWTD facility, including the primary enclosure and other housing at the facility;

(v) A description of the training the dolphin has undergone or will undergo prior to participation in the program;

(vi) The *curriculum vitae* of all staff involved in the handling, care, and maintenance of the dolphins;

(vii) The current behavior patterns and health of each dolphin, to be assessed and submitted by the attending veterinarian;

(viii) A written program of veterinary care (APHIS form 7002), including protocols and schedules of professional visits; and

(ix) A detailed description of the monitoring program to be used to detect and identify changes in the behavior and health of the dolphins. (2) In the case of a new SWTD program which APHIS finds deficient in any respect, the facility will be notified so that it may correct any deficiencies prior to the initiation of its program. In the case of an existing SWTD program which APHIS finds deficient in any respect, the facility will be notified of any deficiencies and provided the opportunity to make corrections.

(3) Individual animal veterinary records, including all examinations, laboratory reports, treatments, and necropsy reports must be kept at the SWTD site for at least 5 years and be made available to an APHIS official upon request during inspection:

(4) The following records must be kept at the SWTD site for at least 3 years and be made available to an APHIS official upon request during inspection:

(i) Individual dolphin feeding records; and

(ii) Individual dolphin behavioral records.

(5) The following reports must be kept at the SWTD site for at least 3 years and a copy must be submitted to APHIS 8 on a semi-annual basis:

(i) Statistical summaries of the number of minutes per day and the number of hours per week that each animal participated in an interactive session:

(ii) A statistical summary of the number of human participants per month in the SWTD program; and

(iii) A description of any changes made in the SWTD program since the previous report was submitted.

(6) All incidents resulting in injury to either dolphins or humans participating in an interactive session must be reported to APHIS within 24 hours of the incident. Within 7 days of any such incident, a written report must be submitted to the Administrator. The report must provide a detailed description of the incident and must establish a plan of action for the prevention of further occurrences.

(g) Veterinary care. (1) The attending veterinarian must conduct on-site evaluations of each dolphin at least once a month. The evaluation must include a visual inspection of the animal; examination of the behavioral, feeding, and medical records of the animal; and a discussion of each animal with an animal care staff member familiar with the animal.

(2) The attending veterinarian must observe an interactive swim session at the SWTD site at least once each month.

⁶Send to Administrator, c/o Animal and Plant Health Inspection Service, Regulatory Enforcement and Animal Care, Animal Care, 4700 River Road Unit 84, Riverdale, Maryland 20737–1234.

⁷Send to Administrator, c/o Animal and Plant Health Inspection Service, Regulatory Enforcement and Animal Care, Animal Care, 4700 River Road Unit 84, Riverdale, Maryland 20737–1234.

⁸ See footnote 6.

⁹ Telephone numbers for Regulatory Enforcement and Animal Care, APHIS, sector offices can be found in local telephone books.

¹⁰ See footnote 6.