




Consultation on proposed standard for zoo containment facilities

Please submit your comments to submissions@epa.govt.nz on this form in Word document format or mail to Private Bag 63002, Wellington 6140.

Feedback on	Proposed standard for zoo containment facilities
Name (optional)	Vicki Melville
Organisation name (optional)	Ministry for Primary Industries
Postal address (optional)	
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Email (optional)	

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	Comment	Change
2.2.2	<ul style="list-style-type: none"> ▪ Noting that the QMS for many zoos is likely to contain measures that do not relate to the requirements of the zoo standard, MPI is unable to ensure the requirements of 2.2.2 will be met unless the clause is qualified to relate only to the QMS requirements of the standard. 	<ul style="list-style-type: none"> ▪ Amend 2.2.2 as follows: “The zoo containment facility must be operated in compliance with the requirements of the QMS described in section 2.8 of this standard”.
2.3.4/2.3.5 & 2.3.4-2.3.6/2.4.2-2.4.4	<ul style="list-style-type: none"> ▪ Clauses can be combined. ▪ While notification is important, the requirement should also be that the modification is approved by MPI. The requirement for approval incorporates notification by default. ▪ Clauses should also refer to the containment areas as well, since some containment areas will not have a “construction” component, 	<ul style="list-style-type: none"> ▪ Combine clauses, and headings, and amend operator reference, as follows: Significant modifications to the construction and/or operation of the facility subsequent to the facility approval The operator must obtain approval from MPI for any significant modification to the

	<p>and, therefore, “operational modification” should also be included.</p>	<p>construction and/or operation of the zoo containment facility, including containment areas, prior to the significant modification occurring. If approval cannot reasonably be obtained prior to the modification, approval must subsequently be obtained as soon as reasonably practicable.”</p>
<p>2.4.13 & 2.4.14</p>	<ul style="list-style-type: none"> ▪ While “contingency” and “contingency plan” is defined in the Terms and Definitions, it’s a little odd that the operations section only highlights closure as a contingency which must be included. For most facilities, closure is an unlikely contingency - the more likely contingencies, which should be in the plan, are fire, unauthorised access, animal escape and natural weather events. ▪ Clauses should also be reversed so that the first requirement is a requirement for a contingency plan. ▪ While 2.4.13 addresses the need to initiate the contingency plan immediately in the event of escape, the standard should also require that all contingency plans must be able to be implemented, as required. Too often, contingency plans are developed and included in the QMS but when it comes to activate them, there are problems because they’ve often never been tested out. 	<ul style="list-style-type: none"> ▪ Reverse current clauses 2.4.13 and 2.4.14 and reword current clause 2.4.14, as follows: “The zoo containment facility must have a contingency plan which, at a minimum, must include plans for the following contingencies: <ul style="list-style-type: none"> – Fire; – Unauthorised access; – Breach of containment; – Natural weather events including earthquake, flood, and extreme wind; and – Facility closure Timeline(s) for disposal and/or relocation of new organisms to other transitional or containment facilities and maintenance of staffing levels and competencies during the closure period.” ▪ Add new clause before 2.4.13, as follows: “Contingency plans must be able to be implemented immediately if a contingency occurs.”
<p>2.7.6</p>	<ul style="list-style-type: none"> ▪ Suggest some additional matters that should be included in the internal audit report. 	<ul style="list-style-type: none"> ▪ Add the following to the minimal requirements of the internal audit report: <ul style="list-style-type: none"> – the name of the person who undertook the audit; – the areas of the zoo containment facility that were physically inspected.



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Feedback on	Proposed standard for zoo containment facilities
Name (optional)	Eden Gray and Samantha Botting
Organisation name (optional)	Otago Museum (Tropical Forest)
Postal address (optional)	419 Great King Street, North Dunedin, 9010
Telephone Number (optional)	██████████
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Question	Question/comments	Page/ paragraph
Question 1	Is the level of detail appropriate?	
	More detailed required when specifying things like cleaning (to what level of cleanliness etc.), and measuring efficacy (how will efficacy be quantified?) Some of the request seem quite general e.g. waste disposal ...”evidence of its effectiveness”	
Question 2	Are the technical aspects correct?	
	N/A	
Question 3	Are the requirements practical and achievable?	
	All appear manageable within the proposed timeframe	

	Are there any areas that need more guidance?	
Question 4	<p>More details regarding determination of appropriate sizes (of the Transitional Facility Premises). Specify about whether some invertebrate species should be exempt or included for movement to a transitional facility. For example, as a butterfly house, the butterflies we import are received directly to our quarantine facility as their uninterrupted arrival is essential to the survival of the butterflies. How will animal welfare be assured during an animals' time in the transitional facility? Will there be measures in place to ensure their health and behavioural requirements are being met?</p>	
Question 5	<p>Is the proposed one-year transitional period between the date of commencement of the proposed standard (1 July 2018) and 30 June 2019 appropriate?</p> <p>N/A to our facility, but this seems adequate</p>	
Question 6	<p>Are the requirements regarding significant modifications to the construction of the zoo containment facility and the operation of the facility sufficient?</p> <p>N/A</p>	
Question 7	<p>Are the requirements for monitoring and inspection sufficient? Is a six-monthly internal audit appropriate?</p> <p>Yes, these seem appropriate</p>	
Question 8	<p>Are the Quality Management System (QMS) and the policies and procedures that need to be referred to in the QMS as described in clause 2.8 sufficient to support an outcome-based standard? Is a 12-monthly review of the QMS appropriate?</p> <p>Specify who will carry out the QMS review, and how any changes identified will be implemented</p>	
Question 9	<p>Is the requirement to keep records under clause 2.9 sufficient? Is the minimum period of 7 years to keep records appropriate?</p> <p>This seems like good practice for all record keeping</p>	
Question 10	<p>Do you consider that there are any other matters that should be addressed as part of this standard?</p> <p>Animal welfare specifications i.e. how stress to animals will be minimised whilst in the transitional facility What is the cost for applying to become approved as an operating facility, and how often is this fee required? How will containment breaches be responded to?</p>	



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Question	Question/comments	Page/ paragraph
Question 1	Is the level of detail appropriate?	
	No. Please refer to our detailed submission below (Question 10).	
Question 2	Are the technical aspects correct?	
	Please refer to our detailed submission below (Question 10).	
Question 3	Are the requirements practical and achievable?	
	Again, please refer to our detailed submission below (Question 10). Our key concern is that the lack of any clear description of the “resources” MPI may use to audit compliance against cannot possibly lead to uniform interpretation by both MPI Inspectors or Registered Operators throughout the country.	
Question 4	Are there any areas that need more guidance?	

	It is our recommendation that EPA and MPI call a meeting of all NZ Zoos to further discuss this draft, given the concerns we have. We consider it crucial that the new Standard is effective in achieving the desired outcomes.	
Question 5	Is the proposed one-year transitional period between the date of commencement of the proposed standard (1 July 2018) and 30 June 2019 appropriate?	
	A transition period of one year is acceptable, however, this should be extended if the new standard is not in place by 1 July 2018.	
Question 6	Are the requirements regarding significant modifications to the construction of the zoo containment facility and the operation of the facility sufficient?	
	See our full submission below (Question 10).	
Question 7	Are the requirements for monitoring and inspection sufficient? Is a six-monthly internal audit appropriate?	
	Yes.	
Question 8	Are the Quality Management System (QMS) and the policies and procedures that need to be referred to in the QMS as described in clause 2.8 sufficient to support an outcome-based standard? Is a 12-monthly review of the QMS appropriate?	
	A 12-monthly review of the QMS is appropriate. The policies and procedures referred to are not adequate to support an outcome-based standard. Please see our detailed submission below (Question 10).	
Question 9	Is the requirement to keep records under clause 2.9 sufficient? Is the minimum period of 7 years to keep records appropriate?	
	Yes.	
Question 10	Do you consider that there are any other matters that should be addressed as part of this standard?	
	<p>██████████ welcomes the opportunity to make a formal submission on the draft Standard for Zoo Containment Facilities.</p> <p><u>GENERAL COMMENTS AND PRINCIPLES</u></p> <p>In order to facilitate the development of a workable and effective new Standard we provide the following general comments:</p> <ul style="list-style-type: none"> • The Standard must be written in such a way that it can be consistently applied across the country in the various zoos. • It is essential that the Standard be written in such a way that it is readily auditable, both by MPI Inspectors and internally by Zoo Operators. The current draft does not allow for a readily auditable Standard. 	

- The Standard should be reality and risk based, i.e. with distinction between dangerous and non-dangerous animals and animals of risk to the environment and those that pose no such risk.
- Consequences and penalties for non-compliance with the Standard should be clearly set out and commensurate with the level of risk.
- The “Best Practice Guidelines”, which MPI will use to assess compliance with the Standards, must be clearly stated. In the absence of any clear statement in the Standard in relation to what registered facilities will be assessed against, then there is, in effect, no Standard. While we accept that an “outcomes based” Standard is desired, it remains essential that a clear description of what evidence MPI will accept that individual zoos are operating in a manner with containment systems designed to achieve the outcomes required is fully described within the Standard.
- The Standard must be legally enforceable. This will require EPA to re-assess the current draft against other Standards that are currently proven effective in the New Zealand environment, i.e. all requirements stated in the Standard must be drafted to a level of quality that the requirements would most likely be upheld in the case of a judicial review.
- We consider it is essential that EPA/MPI convene a meeting with all key NZ stakeholders to discuss concerns with the current draft. Getting this new Standard right is incredibly important not just for NZ zoos, but also for our regulators. The current flawed Standard has been in place for 15 years. It is considered essential that the new Standard provides for improvement. Therefore, we urge EPA/MPI to set up a consultation meeting given the high importance of the new Standard to the future of zoos in New Zealand.

SPECIFIC COMMENTS ON DRAFT ZOO CONTAINMENT FACILITIES STANDARD

Section 1 – Introduction and Information for Users

- Purpose and Scope: This section should include the purposes of the Standard in broad terms, which is stated in Section 4 of the HSNO Act 1996 as follows: *“The purpose of this Act is to protect the environment and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances and new organisms.”* It is against this purpose that the Standard must be judged.
 - Information about Non-Compliance Paragraphs 2 and 3: The statement that “the compliance action taken by MPI will reflect the nature and severity of the non-compliance, and the action taken by the Operator in response”, is poorly defined. We strongly recommend the development and inclusion of a risk assessment matrix that outlines consequences for specific non-compliances. Operators must have clarity surrounding the consequences, e.g. we are all clear what will happen if we drive on NZ roads over the alcohol limit. It is important that the consequences fit well with the particular non-compliance, i.e. a QMS that omits a small requirement is very minor when compared to a dangerous animal breach that has resulted in injury to people.
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- The various non-compliance actions should also be better defined within the Standard, with examples included. Further, we consider it crucial that the actions taken by MPI in response to non-compliance events are precisely in line with the statutory authority of MPI under the Acts (e.g. the powers described in Section 126 of the Biosecurity Act). We believe that the Standard must be able to withstand legal challenge, should that ever eventuate, in the interests of MPI enforcing compliance Standards effectively across all New Zealand zoos, particularly so with zoos that have a history of non-compliance. To re-iterate, we consider the statement that action taken will “reflect the nature and severity of the non-compliance, and the action taken by the Operator in response”, is far too loose and open to wide interpretation by individual MPI Inspectors across the country. Zoo Operators must be aware of the likely responses to various incidents and the actions taken should be appropriate and reasonable given the circumstances of the particular non-compliance.
 - Verification of Compliance with this Standard, page 7: We understand that EPA wishes to achieve an “outcomes based Standard”; however, there is no mention of the resources MPI Inspectors will use to measure compliance, i.e. that the containment methods adopted by the various zoos are in-line with nationally and internationally recognised best practice. There are a range of resources that EPA and MPI could use to assess suitability of containment methods. Some examples are: The ZAA Best Practice Guidelines, General Standards for Exhibiting Animals in New South Wales, Enclosure Requirements contained in various International Husbandry Best Practice Manuals/Guidelines, DEFRA Standards of Modern Zoo Practice (UK), etc. We urge strongly that resources to be used must be clearly stated in the Standard. Otherwise, there is no Standard! Neither MPI Inspectors nor Operators could effectively perform audits against what is accepted and recognised best practice containment methods. The Standard would be entirely open to interpretation by individual MPI Inspectors across the country and this could present an untenable situation for registered Operators.
 - Therefore, we strongly recommend that EPA and MPI state within the Standard clearly what guidelines and resources they will adopt/endorse in order to measure compliance. Lack of this information in the Standard also presents risk for MPI. For example, in the case where a dangerous animal escaped from a containment enclosure causing injury, then MPI would be at risk of criticism through having no clear tools in place in order to audit facilities against recognised best practice. It remains a concern to us that some NZ zoos have (or have had) containment enclosures that do not meet best practice. If serious incidents occur at such zoos, then it can and does tarnish the reputations of all the good zoos in New Zealand.
 - Approval of a Place as a Zoo Containment Facility, page 7: We note that an approval may include species approved to be held, including the maximum number, the sex, the age, etc. Clarity is required as to when this requirement would be imposed on zoos. This could present a major barrier to efficient operation of good zoos and we do not support inclusion of this requirement for this reason. For example, if a zoo would need to seek a change to an approval every time a breeding recommendation is received then this would be an unreasonable imposition.
 - We appreciate that the reasoning behind the Standard quoting that MPI may issue a very detailed approval, i.e. right down to number, sex, age,
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etc, is no doubt to enable action to be taken in response to poor zoos breeding irresponsibly. However, we are uncertain that MPI actually have statutory authority to issue an approval to such level of detail under Section 39(6) of the Biosecurity Act. Therefore, we see little value in including anything in the Standard that would not stand up to legal challenge. Should EPA choose to leave this in the Standard, then we would expect to see clarity around when or if such detailed “approvals” will be utilised. It would be helpful for EPA to provide a draft of what “approvals” will look like under the new Standard for stakeholder comment.

- An “appeal process” should be clearly described within the Standard. As an example, the imposition of a very detailed approval (i.e. number of animals, sex, etc) could severely hamper the operation of good zoos if imposed without good reason. It would only be reasonable to impose this requirement on new facilities without a good track record or existing facilities with a history of non-compliance with the Standard.

Section 2 – Requirements for Zoo Containment Facilities

- Clause 2.2.3: The Standard requires new organisms to be contained at all times. It does not say whether this is within that new organism’s containment area (which is defined) or the facility. Throughout the entire Standard there are three clear distinctions that should be made:
 - (a) Zoo containment facility versus containment facility.
 - (b) A specific new organism’s containment area versus the facility’s containment area.
 - (c) New organisms likely to have an adverse effect on the health and safety of people or the environment versus new organisms, which would be unlikely to have such an effect (being those defined in the Acts as those for which containment is required).

New organisms that meet the definition of (c) need a separate definition and this should replace existing phrases in the relevant parts of the draft Standard. Just as the distinction between organisms and new organisms is important, so too is the distinction between new organisms likely to have an adverse effect on the health and safety of people or the environment, and other new organisms.

Clarity around these distinctions/definitions is essential for two reasons. Firstly, as already outlined, we believe the Standard must stand up to legal challenge in all respects. Secondly, and importantly, it is essential that good New Zealand zoos have the ability to innovate in terms of caring for and displaying species that do not meet the definition of (c) above. For example, Cotton Top Tamarins are a suitable species to free range within the zoo containment facility during the day. This is an accepted practice worldwide. Another pertinent example is tropical butterflies, where any breach of containment (considering containment is a special climate controlled environment that provides essential life support) means certain death for an animal that does not have the capability to harm either people or the environment.

- Clause 2.3: There is no clear definition of how compliance with the design and construction requirements will be measured (refer to comments above). We are of the view that it is essential that how the Standard will be measured is clearly stated.

- Clause 2.3.1: We consider this Clause to be the key to the entire document. It is an absolute necessity for realistic physical standards to be set, particularly so for new organisms identified as likely to have an adverse effect on the health and safety of people or the environment. Zoos in New Zealand invest significant capital funds in new containment facilities every year. Further, the use of the wording “reasonably foreseeable circumstances”, that is not defined, is concerning. Without clear definition, the term remains open to extremely wide interpretation by individual MPI Inspectors. We note that new exhibits must also meet the NZ Building Code. Operators can be certain that if all requirements are met, then a Code Compliance Certificate will be issued on successful completion of the construction project. The current draft Containment Standard provides for no such certainty. Without a clear definition of the guidelines and/or physical standards MPI will measure against (refer comments above), and also a clear definition of “reasonably foreseeable circumstances” then zoos are faced with an entirely unreasonable level of risk, i.e. investing significant capital sums without guarantee that the finished containment facility will be approved under the Standard.
 - Clauses 2.3.6 and 2.4.4: The wording requires that the Operator supplies sufficient evidence that modifications to the containment facility will meet the Standard. Again, unless EPA and MPI clearly adopt the “measures” they will use to assess against, then there is no clarity around how an Operator could actually comply with a non-specific Standard. Significant capital investment is usually also involved in major modifications to zoo containment facilities. Operators must have clarity around what will be accepted as “sufficient evidence” and what will not. It is unreasonable to leave it to the interpretation of individual MPI Inspectors, especially since the aim of a new Standard is to provide for consistent application across the country.
 - Clause 2.4.6: No boundary fence or containment area barriers could physically “prevent” a determined unauthorised person from entering. We urge that the wording be changed to “reasonably deter”.
 - Clause 2.4.10: Some zoos deep bury their waste within the containment facility. The wording should make clear that this is only a requirement if the waste is to leave the containment facility.
 - Clause 2.6.3: The draft states there must be a manager on duty at all times. We interpreted this could mean 24 hours a day. We consider this an unreasonable requirement. We request a change to this requirement. We recommend that having a duty manager “on call” at all times is reasonable.
 - Clauses 2.7.2 and 2.7.3: The activities listed must be monitored and reviewed at regular intervals. A regular interval is open to wide interpretation. We recommend the requirements should be clearly stipulated.
-