

## USDA/APHIS Pet Breeders Proposed Rule Changes

The USDA is charged with administering the Animal Welfare Act (AWA) and as such, has the responsibility of fulfilling the original intent of the law. On May 10, 2012, the Animal and Plant Health Inspection Service (APHIS) released proposed rule changes that have been expected for several months. These changes will be published in the Federal Register for a 60-day public comment period.

### **The most basic proposed changes are two-fold.**

- 1) A Retail Pet Store is defined as a place of business or residence that a buyer has visited where he/she has seen the pet offered for sale or purchase; and
- 2) The number of breeding females at a Retail Pet Store has been increased from 3 to 4.

USDA explained that these changes to the current rules were made “to restore the definition (of retail pet store\*) to its original intent so that it limits the retail pet store exemption to only business and residences:

- where buyers physically enter to observe the animals available for sale prior to purchasing them, and
- where only the following animals are sold or offered for sale at retail for use as pets: Dogs, cats, rabbits, guinea pigs, hamsters, gerbils, rats, mice, gophers, chinchilla, domestic ferrets, domestic farm animals, birds, and coldblooded species.”

### **A few facts are:**

Since the enactment of the AWA in 1966, retail pet stores have been exempted from USDA licensing. Those who bred at home fell under that definition by USDA and were therefore also exempt.

There has been NO change from the original definition of a home breeder or hobby breeder in this proposed ruling. The changes are as noted above: the requirement that an animal buyer **view** the proposed animal in the residence of the seller before purchase.

Under this proposed rule change, as long as the breeder maintaining 4 or less breeding females does not sell one animal ‘remotely,’ they would not be considered a dealer. To be defined as a dealer would require maintaining OVER 4 breeding females AND selling at least one pet remotely. To repeat, one could sell pets remotely as long as a breeder did not have more than 4 breeding females.

These changes came about because of the increase in direct sales to buyers over the Internet. In direct sales to the consumer, the sellers fell under the AWA definition of retailer and there were increased purchases of pets without the buyer viewing the pet before purchase. APHIS is seeking to close this perceived “loophole.”

APHIS will consider the comments made during the 60-day Comment Period. After the comment period is over, they will re-evaluate the changes, taking the comments into consideration.

## **What can you do?**

Go to the following links and educate yourself on the history of the AWA, and the documents that were published announcing this rule change.

[http://www.aphis.usda.gov/newsroom/2012/05/retail\\_pets\\_051012.shtml](http://www.aphis.usda.gov/newsroom/2012/05/retail_pets_051012.shtml)

[http://www.aphis.usda.gov/publications/animal\\_welfare/2012/retail\\_pets\\_faq.pdf](http://www.aphis.usda.gov/publications/animal_welfare/2012/retail_pets_faq.pdf)

Read: the DDAL v Veneman court case

<http://www.animallaw.info/cases/causfd315f3d297.htm>

that established that the USDA was charged with administering and promulgating the rules of the AWA.

Go to this link and read the proposed rule changes:

[www.aphis.usda.gov/brs/aphisdocs/04\\_12101r\\_ea.pdf](http://www.aphis.usda.gov/brs/aphisdocs/04_12101r_ea.pdf)

Follow the discussions appearing on animal legislation lists and Facebook pages regarding these proposed changes. Disregard the more hysterical points and conspiracy theories and keep notes on factual points. Read the upcoming position statements by organizations and make notes of agreement or opposition to points in those statements.

Don't Panic. There are 60 days in the comment period and we are all encouraged to submit comments regarding these changes. In order to make intelligent comments that will be considered by the APHIS, it's important to be factual, reasonable, polite and respectful.

The Federal eRulemaking Portal:

[www.regulations.gov/#!documentDetail;D=APHIS-2011-0003](http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0003)

Or

Mail your comments to:

Docket No. APHIS-2011-0003

Regulatory Analysis and Development PPD APHIS

Station 3A-03.8, 4700 River Road Unit 11

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Various documents, organizations position statements, analyses and other material regarding this, will be put on the website for your review.

\*My insertion