

[Thursday, May 17, 2012]

Yesterday, a proposed change to how the United States Department of Agriculture (USDA)/Animal and Plant Health Inspection Service (APHIS) may administer federal Animal Welfare Act (AWA) regulations affecting “Retail Pet Stores and Licensing Exemptions” was published to the Federal Register. Comments on the proposal are now being accepted by APHIS.

The American Kennel Club continues to believe that the proposed changes have the potential to significantly impact AKC breeders, and encourages all interested parties to review the proposed rule and offer comment.

[Click here to view the proposed rule.](#)

[Click here to view a USDA Fact Sheet about the proposed rule.](#)

Background: The AWA exempts from federal licensing and regulations “retail pet stores”, which are defined as anyone selling puppies directly to a final customer for use as pets. It is this exemption that enables most small or hobby breeders to currently avoid being licensed and regulated by the USDA.

The new proposed rule rescinds the exempt “retail pet store” status of anyone selling pets at retail to buyers who do not physically enter the breeder’s facilities in order to personally observe the animals available for sale prior to purchase and/or to take custody of the animals after purchase. The primary purpose of this rule is to regulate breeders who sell puppies online. The changes in the rule mean that breeders or others who sell puppies sight unseen, by any means, would now be regulated under USDA regulations.

The proposed rule also increases from three to four the number of a breeding females that a person may maintain on his or her premises and be exempt from the licensing and inspection requirements in the AWA, regardless of how the offspring are sold.

The AKC has a number of concerns, including:

In many cases, geographic distance makes it difficult for a purchaser to personally visit or pick up the puppy at the breeder’s kennel. Such scenarios are particularly common for breeders and fanciers of rare breeds and others who may be purchasing a second pet from the same breeder or already have an established relationship with a breeder. Requiring such individuals to comply with regulations designed for large commercial may not be appropriate.

The term “breeding female” is not defined. It is unclear at what age a female dog might be considered a “breeding female”.

The AKC believes, based on its own experience in kennel inspections and breeding operations that the Regulatory Impact Analysis provided in the proposed rule vastly underestimates both the number of individuals who will be impacted and the expense to occasional breeders to establish commercial-level facilities.

Changes to regulations differ significantly from legislation. Unlike legislation, where entire new laws can easily be developed, the proposed rule (regulations) may only address a narrow scope of how an existing law—the AWA—may be administered by the government. This means that the options for impacting regulatory outcomes are very limited compared to options for impacting legislation.

The primary recourse for impacted parties for regulatory change is to provide specific expertise and comment on the proposed rule – which may or may not be accepted by the executive authority interpreting the law.

WHAT YOU CAN DO: The USDA is seeking constructive comment on the proposed rule or alternatives to the recommendations. Individuals concerned about the proposed rule change for retail pet stores have until Monday, July 16, 2012, to comment on the rule. Comments may be made:

Online at <http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0003-0001>.

Via postal mail to:

Docket No. APHIS–2011–0003 Regulatory Analysis and Development PPD, APHIS, Station 3A–03.8 4700 River Road, Unit 118 Riverdale, MD 20737–1238

AKC encourages you to respectfully share your thoughtful comments through the official public comment site. The AKC will also pursue a multi-pronged approach:

1) In addition to encouraging you to share your concerns directly with APHIS, AKC GR is also interested in your concerns and questions. You may send these to doglaw@akc.org. We will share the most common concerns directly with APHIS (leaving off your contact information). These will also help to inform AKC's response to these regulations.

2) We will provide formal comments regarding AKC's position on the regulation. Please note, federal regulations do not supersede state licensing laws: If you meet the requirements for licensing at both state and federal levels, you would be responsible for obtaining both licenses. Some states do not require breeders to be licensed by the state if they are already federally licensed. This is an issue that varies from jurisdiction to jurisdiction. Individuals should check with their state/local authorities to determine how they would be impacted.

For more information, contact AKC's Government Relations Department at (919) 816-3720, or email doglaw@akc.org.