

You should all know that this is probably the hardest thing those of us that work legislation have ever encountered. We've been blindsided by H\$U\$. It's been an all out effort just researching laws that we could use to counter this attack. It hasn't been easy and for all the knowledge we do have, we're still working on it. I did start a draft that I intend to use for the MPCA, and I'm waiting for an attorney friend of mine to let me know if I have chosen the correct laws to use. I believe I did, but we'll see. I just wanted everybody to know how difficult this issue is. I'm not going to sit here and say anything different.

So, without further ado, I'm posting the current rules as they are (not all at once) ...and you need to know that the only thing that has protected us all these years IS an exemption in the current APHIS/USDA rules that covered pet shops. WE, breeders, were classified as pet shops and have therefore been exempt from APHIS/USDA/AWA. What they are doing now is attempting to CHANGE that exemption and that would make all of us subject to the new provisions. However, they have given OTHER exemptions that you could fall under, but that would mean you can only have 3 breeding females. And that would include a combination of breeding females. Maybe you have a cat and 2 bitches. Or several senior bitches that you never spayed and now are too old to spay, because of health reasons...if you have over 3, you're done. There is more to that, but I have no intention of confusing anybody. It took me a week of reading over and over and discussing these proposals with other stakeholders before all of our interpretations at least, were close ! So, I don't expect you all to understand it all, and I'll do the best I can to put it into plain language. I'll space between the rule and my comment so those who don't see color on here, will know I'm putting something in there to explain it. And I'll put parenthesis around what I said. The first section is about applying for a USDA license, so I'll skip that and just go to section 3 that covers exemptions.

Here we go....

(3) The following persons are exempt from the licensing requirements under section 2 or section 3 of the Act:

(section 2 and 3 only explained who could apply for a license, age, etc. - irrelevant for this discussion!)

(i) Retail pet stores which sell nondangerous, pet-type animals, such as dogs, cats, birds, rabbits, hamsters, guinea pigs, gophers, domestic ferrets, chinchilla, rats, and mice, for pets, at retail only: Provided, That, Anyone wholesaling any animals, selling any animals for research or exhibition, or selling any wild, exotic, or nonpet animals retail, must have a license;

(We, breeders, have been under retail pet stores since the inception of the rules and therefore have been exempt from licensing)

(ii) Any person who sells or negotiates the sale or purchase of any animal **except wild or exotic animals, dogs, or cats, and who derives no more than \$500 gross income** from the sale of such animals to a research facility, an exhibitor, a dealer, or a pet store during any calendar year and is not otherwise required to obtain a license;

(This says that anyone who sells animals not listed above: (such as birds, farm animals, herps etc).. that makes no more than \$500 gross is exempt but those that sell more than \$500 gross should be licensed. We, dog breeders, are still considered exempt whether we gross \$500 a year or not)

(iii) Any person who maintains a total of **three (3) or fewer breeding female dogs, cats, and/or small exotic or wild mammals, such as hedgehogs, degus, spiny mice, prairie dogs, flying squirrels, and jerboas, and who sells only the offspring of these dogs, cats, or small exotic or wild mammals,** which were born and raised on his or her premises, for pets or exhibition, and is not otherwise required to obtain a license. This exemption does not extend to any person residing in a household that collectively maintains a total of more than three breeding female dogs, cats, and/or small exotic or wild mammals, regardless of ownership, nor to any person maintaining breeding female dogs, cats, and/or small exotic or wild mammals on premises on which more than three breeding female dogs, cats, and/or small exotic or wild mammals are maintained, nor to any person acting in concert with others where they collectively maintain a total of more than three breeding female dogs, cats,

and/or small exotic or wild mammals regardless of ownership; (including roommates, children, spouses etc. If there are more animals, the exemption did not apply)

(As you can see, we've (dog breeders), have been living on a wing and a prayer for a long time. Many of us have more than 3 breeding females, irregardless of age. Senior bitches that were never spayed, rescues that come in and not spayed until they find a home and in addition, if you have any of the other animals listed and they are females, they count in the number of 3. Cummulative. So, if you've been breeding, lets say, hedgehogs and selling them, and you have 8 bitches that you breed and sell pups from, you've already been violating the current rules. Take into consideration, too, that maybe you got a puppy back from a breeding and sold it. That, too, is a violation of the current rules since it was not born and raised on YOUR property. And, we have to include any co owned bitches you might have. They don't live with you and you didn't breed or raise and sell the pups, but those still count toward your three allowed females.)

(iv) Any person who sells fewer than 25 dogs and/or cats per year, which were born and raised on his or her premises, for research, teaching, or testing purposes or to any research facility and is not otherwise required to obtain a license. This exemption does not extend to any person residing in a household that collectively sells 25 or more dogs and/or cats, regardless of ownership, nor to any person acting in concert with others where they collectively sell 25 or more dogs and/or cats, regardless of ownership. The sale of any dog or cat not born and raised on the premises for research purposes requires a license;

(This is pretty self explanatory. It doesn't really affect us, breeders, since most of us don't sell to research facilities.)

(v) Any person who arranges for transportation or transports animals solely for the purpose of breeding, exhibiting in purebred shows, boarding (not in association with commercial transportation), grooming, or medical treatment, and is not otherwise required to obtain a license;

(Also self explanatory. All exemptions for which we, dog breeders, qualify.)

(vi) Any person who buys, sells, transports, or negotiates the sale, purchase, or transportation of any animals used only for the purposes of food or fiber (including fur);

(irrelevant to dog breeders)

(vii) Any person who breeds and raises domestic pet animals for direct retail sales to another person for the buyer's own use and who buys no animals for resale and who sells no animals to a research facility, an exhibitor, a dealer, or a pet store (e.g., a purebred dog or cat fancier) and is not otherwise required to obtain a license;

(Notice that the pet store includes the e.g. purebred dog or cat fancier, indicating that we, dog breeders, are considered as pet stores so that we could remain exempt from USDA licensing. This is a slippery slope because in the other language in vii - consider the bitch you sold to somebody that you co own with and therefore, that bitch is no longer only sold for the buyer's sole use. Also consider the number of times we, dog breeder/rescue people, have paid to get a dog out of a bad situation just to save it and then when you find a home for it, you charge a fee. And, how many times have any of us, dog breeders, sold a dog to another exhibitor, which would actually mean that you sold a dog to a pet shop since we, dog breeders, are considered pet shops). Because there are no definitions listed, as there are in actual laws, the interpretation of this could go whatever way the reader thinks !!

(viii) Any person who buys animals solely for his or her own use or enjoyment and does not sell or exhibit animals, or is not otherwise required to obtain a license;

(After deliberating over the "exhibit" portion of viii, we all concluded that "exhibit" meant things such as petting zoos and the like, however, here again, it all depends on who is reading it and how they are interpreting it.)

(Okay. Those are the exemptions of the current rules and regulations. I hope everybody is still with me here. Let's move on to the proposed rules and regulations and then, I'll post a summary of the entire thing in simple language for all of you to deliberate and ponder on. And, I'm, only going to go so far with this so we can discuss it or answer questions, if need be. Too much in a short time and I'll have all of you running for the woods and that's not what I want to do here. So, moving on to the proposed rules and regulations...)

EXECUTIVE SUMMARY

I. Purpose of Regulatory Action

(Here, they're going to tell you why they are proposing different rules and regulations.)

The U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) is taking this action pursuant to its authority under the Animal Welfare Act (AWA or the Act, 7 U.S.C. 2131 et seq.). The Secretary of Agriculture is authorized to promulgate standards and other requirements governing the humane handling, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, operators of auction sales, and carriers and intermediate handlers. The Secretary has delegated responsibility for administering the AWA to the Administrator of APHIS. Regulations and standards established under the AWA are contained in the Code of Federal Regulations (CFR) in 9 CFR parts 1, 2, and 3. APHIS is undertaking this action to ensure that animals sold at retail are monitored for their health and humane treatment .

II. Summary of Major Provisions

"Retail pet stores" are not required to obtain a license under the AWA or comply with the AWA regulations and standards.

(Currently, anyone selling, at retail, the following animals for use as pets are considered retail pet stores: Dogs, cats, rabbits, guinea pigs, hamsters, gerbils, rats, mice, gophers, chinchilla, domestic ferrets, domestic farm animals, birds, and cold-blooded species.)

(Rather than post all of the new proposed rules and regulations, here is the summary from USDA/APHIS:)

[Docket No. APHIS-2011-0003]

RIN 0579-AD57

Animal Welfare; Retail Pet Stores and Licensing Exemptions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to revise the definition of retail pet store and related regulations to bring more pet animals sold at retail under the protection of the Animal Welfare Act (AWA). Specifically, we

would narrow the definition of retail pet store so that it means a place of business or residence that each buyer physically enters in order to personally observe the animals available for sale prior to purchase and/or to take custody of the animals after purchase, and where only certain animals are sold or offered for sale, at retail, for use as pets. Retail pet stores are not required to be licensed and inspected under the AWA. We are also proposing to increase from three to four the number of breeding female dogs, cats, and/or small exotic or wild mammals that a person may maintain on his or her premises and be exempt from the licensing and inspection requirements if he or she sells only the offspring of those animals born and raised on his or her premises, for pets or exhibition. This exemption would apply regardless of whether those animals are sold at retail or wholesale. This proposed rule is necessary to ensure that animals sold at retail are monitored for their health and humane treatment and to concentrate our regulatory efforts on those facilities that present the greatest risk of noncompliance with the regulations.

(The USDA is telling us, the dog breeders, that the proposed rule will **rescind the "retail pet store" status of anyone selling, at retail for use as pets, the animals listed above to buyers who do not physically enter his or her place of business or residence in order to personally observe the animals available for sale prior to purchase and/or to take custody of the animals after purchase.**

(BUT IF the buyers do enter your residence, then you would still be exempt, but there is a catch to that exemption, too.)

OK, so far, so good?

Unless otherwise exempt under the regulations, **these entities**

(not defined at all but we assume it to mean those who do not permit entry to their residence or that do strictly internet selling)

would be required to obtain a license from APHIS and would become subject to the requirements of the AWA, which include identification of animals and recordkeeping requirements, as well as the following standards. - Facilities and operations (including space, structure and construction, waste disposal, heating, ventilation, lighting, and interior surface requirements for indoor and outdoor primary enclosures and housing facilities); animal health and husbandry (including requirements for veterinary care, sanitation and feeding, watering, and separation of animals); and transportation (including specifications for primary enclosures, primary conveyances, terminal facilities, and feeding, watering, care, and handling of animals in transit).

(Self explanatory - they are telling us, dog breeders, that we need a license now and that we have to follow the other AWA requirements.)

In addition to retail pet stores, the proposed rule would exempt from regulation anyone who sells or negotiates the sale or purchase of any animal, except wild or exotic animals, dogs, or cats and who derives no more than \$500 gross income from the sale of such animals. In addition, the proposed rule would increase from three to four the number of breeding female dogs, cats, and/or small exotic or wild mammals that a person may maintain on his or her premises and be exempt from licensing and inspection if he or she sells only the offspring of those animals born and raised on his or her premises for use as pets or exhibition, regardless of whether those animals are sold at retail or wholesale.

(Here they hit you full blast. Here they are telling you that if you sell anything other than wild or exotic animals, dogs or cats and get no more than a \$500 per year gross income from the sale of those animals, you are exempt but if you do sell wild or exotic animals, dogs or cats and gross over \$500 per year, you now need to be licensed .)

So, let's just summarize all of this

First, let's note the current AWA regulations: "you" (dog breeder) are already exempt under the "Retail Pet Store" exemption as long as you sell to the end purchaser always, regardless if the sale is "sight unseen" or not. If not every sale is to an end purchaser, you are still exempt if you have 3 or less "breeding females" and sell only their offspring.

Under the proposed Rule, to keep the "Retail Pet Store" exemption, "you" (dog breeder) will be allowed as many breeding bitches (up to 4) as you wish as long as EVERY purchaser comes to your house to view the puppies before the sale and/or pick up their puppy after the sale. No exceptions for any reason. If you comply with this, "you" will still meet the more limited definition of Retail Pet Store under the proposed Rule, and be exempted from APHIS licensing.

Note in both cases (current Regs and proposed Rule) the "Retail Pet Store" is an exemption from APHIS licensing, not a requirement for APHIS license (there appears to be a great deal of misunderstanding about this, make sure this sinks in.) If, under the proposed Rule, you still meet the "Retail Pet Store" exemption, you will not be licensed as a "Retail Pet Store" under APHIS. APHIS does not license entities they define as "Retail Pet Stores", be they breeders or actual pet stores.

However, under the proposed Rule, if even just one very infrequent sale is made by delivery or shipment to the buyer's home, or by meeting the buyer at a convenient place for both the breeder ("you") and the buyer, you will need to be licensed under APHIS (most likely a Class A Dealer) unless the buyer has already visited your premises beforehand and viewed the puppy (or puppies.) This includes even purchasers who have visited your premises on previous occasions not related to this sale, or already have a previous puppy from you and feel there is no need to visit again, or even purchasers who cannot travel to your home but want one of your puppies. They must come to your residence, physically, to see the pups and they must physically pick up the pup.

If you can't meet the new Retail Pet Store exemption definition under the proposed Rule, the exempted number of "breeding females" will be raised to four (from the current three), meaning that if you have four or less "breeding females", you will still be exempt from licensing, even if you do not have every buyer come to your premises in connection with the sale. Important to note that "breeding female" is not clearly defined under APHIS regulations; generally, any intact bitch old enough to breed (most likely 6 months of age or older), of any age thereafter (including most likely bitches many of us would consider "too old"), and in a physical condition to breed (according to the APHIS inspector, not necessarily your definition), will be counted. Whether or not you intend to breed that bitch that year, or even ever, is not material. Also to be counted in the "four breeding females" are intact females of other pet-related species such as cats, in your premises. Also to be counted in the "four breeding females" are intact bitches owned by any other member of your household and kept on your premises, as well as intact bitches there just temporarily (e.g., you're taking care of your sister's intact bitch when she's away on vacation or in the hospital) or any bitches you may co own with somebody.

Finally, under the proposed "four or less" exemption, any puppies you sell must be offspring of your own bitches on your property. For example, if your use the "four or less" exemption, you cannot

rehome/sell a puppy obtained as a stud fee, nor "rescue"/rehome dogs from a kennel whose owner passed away. Under the proposed Rule, you could do these two examples, however, if you sell only to the end purchaser, and every purchaser came to your home to view beforehand or pick up their puppy/dog that they purchased.

Aside from all of that, they now will have the eyes and ears of the public who are required to visit your residence to physically see where the pups were born and raised. We all know what that could lead to, so I don't think I need to expound on that subject.

And there you have it. If I didn't explain something clear enough, ask. Hopefully, this will help you all to understand what is going on and what this will do to all of us, breeders and rescuers and just plain lovers of our breed.

I hope I did a fair job of trying to sort all of this out for you. If I didn't, I'm sure you'll all let me know.

Best,

Linda

NOTE: MANY, MANY THANKS TO ALL THE PEOPLE WORKING LEGISLATION FOR HELPING DECIPHER THE PROPOSED RULES AND REGULATIONS ! Margo, Sioux, Sue, Shirley, Julian - just to name a very few !!!