



AKC Government Relations

Frequently Asked Questions on USDA/APHIS Regulations

On Sept. 18, the USDA published new regulations designed to regulate Internet-based pet breeders and sellers. The AKC shares APHIS's concerns about substandard/unscrupulous sales of pets. Regulations set to go into effect on Nov. 18 will require USDA licensing for breeders who own at least 5 breeding females and sell animals as pets sight unseen. A number of exemptions/exceptions apply. Licensing is not required for breeders who sell animals in face-to-face transactions. Review the following for more details, and check AKC's online Regulations Resource Page often for regularly updated information.

Background

What is a rule change and how does it work?

A rule or regulation is different from legislation. The law is already on the books so we have to work within the confines of an administrative—rather than legislative—process. The administrative process involves a public comment period in which stakeholders and concerned individuals have the opportunity to comment on a proposed rule, before the rule is finalized. AKC has been very involved in this process since the announcement of the proposed rule in May 2012.

When did AKC first learn about this? Has the AKC done any outreach?

Since the rule was first proposed in May 2012, the AKC has made significant efforts to educate APHIS on the concerns. This includes a petition with over 70,000 signatures, providing alerts to breeders and dog owners encouraging them to participate in the public comment period, and submitting extensive comments to APHIS. This is in addition to reaching out to key members of Congress, the US Department of Agriculture, and the White House.

The AKC continues to work with APHIS to communicate questions and obtain clarifications. We appreciate that APHIS has continued to communicate with us and help us answer questions on this regulation. Keep checking this page for the latest information and updates.

What is the AKC doing now that the rule has been finalized?

AKC continues to work to communicate questions and obtain clarifications from APHIS and will look at a variety of options if necessary to protect responsible dog owners and breeders. Keep checking our Regulatory Resource Page for the most up-to-date news and information

What is the background of this rule and is the AKC opposed?

The United States Department of Agriculture Animal and Plant Health Inspection Service (USDA/APHIS)'s finalized version of new federal regulations that narrow the definition of a "retail pet store" is designed to license and regulate internet-based pet breeders and sellers as "dealers" under the federal Animal Welfare Act (AWA). The rule expands USDA oversight of pet breeders to include people who maintain more than four "breeding females" of any species and sell even one pet "sight unseen" by *any* means. The rule was initially proposed in May 2012 and has since that time been the subject of extensive objections by the AKC and other groups and individuals concerned about the future of responsibly bred dogs and small/hobby breeders.

The final version of this rule remains largely unchanged in content. The AKC's concerns stand regarding the lack of definition of the term "breeding female", the overly broad nature of this regulation, imposition of commercial standards on some small hobby/ breeders, and other issues. However, the AKC also recognizes and appreciates APHIS's clarifications regarding exemptions for certain small/hobby breeders, breeders working to preserve bloodlines and breeders who are selling breeding stock.

What changes did this rule make to the Animal Welfare Act?

It redefines the term "retail pet store" and removes certain exemptions allowing breeders who sell pets at retail (as opposed to wholesale) to avoid USDA commercial breeder/dealer regulation.

It increases the hobby breeder exemption from 3 to 4 the number of "breeding females" that a person may maintain on their premises and from which they may sell offspring as pets, either at retail or wholesale, without being subject to USDA regulation.

Details on New Rule

Is this rule retroactive? When does the new rule go into effect?

The rule is not retroactive and will go into effect on November 18, 2013. APHIS has committed to working with breeders to help them understand the new rule and whether they need to come into compliance. There is no need to make immediate and drastic changes. Please review these FAQs and other resources on our resource page to understand if the rule will apply to you. For specific questions, we encourage you to contact Dr. Gerald Rushin with APHIS at (301) 851-3751.

Updates current as of September 26, 2013

For more information and the latest developments, visit www.akc.org/governmentrelations/usda_aphis.cfm



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How do I know if this rule applies to me?

This rule applies to those who ***maintain more than four “breeding females” AND sell a puppy as a pet “sight unseen” or sell to a third party (wholesale)***. This means that the buyer must actually see the puppy in person prior to the purchase. If you are concerned about buyers coming to your home, you may arrange a location to meet the buyer and allow them to see the puppy.

If you have fewer than five breeding females, and/or allow buyers to see the puppy in person prior to purchase, then this rule does not apply to you.

If you wish to own more than 4 “breeding females” and sell the offspring as pets and do not wish to be regulated, you may avoid regulation by selling all your dogs in a face-to-face transaction. A face-to-face transaction includes one where the seller and buyer are physically present and the buyer has the opportunity to observe the animal before taking custody of it.

Are there any exemptions to this rule?

The new definition of dealer subject to USDA licensing and regulation includes “*any dog ... for research, testing, experimentation, exhibition*, or for use as a pet, or any dog sold at the wholesale level for hunting, security or breeding purposes*”. (**exhibition* as defined in the AWA excludes purebred cat and dog shows).

The rule seems to indicate that if you are selling a dog as a breeding prospect, to maintain bloodlines, or for hunting, working, or security, you would be exempt. If you are selling the dog as a pet, you would not be exempt. It is important that the seller be able to clearly demonstrate their purpose in selling the dog at the time of sale. ***However, additional clarification from USDA is needed on this point.*** You are also exempt if you sell the dog in a face-to-face transaction.

Will this rule limit the number of dogs I can own/co-own?

No. The rule does not limit the number of dogs a person may keep, breed or sell. It is designed to regulate under the federal Animal Welfare Act (AWA) those who sell dogs as pets over the internet or “sight-unseen”. Also, it is important to note that this only applies to dogs on your premises.

Enforcement

What if USDA identifies a breeder as being subject to licensure and out of compliance?

After the rule goes into effect, USDA has told the AKC that they understand there will be a significant amount of time needed for them to prepare to enforce the rule and is not providing a time certain by which breeders must come into compliance.

The USDA has indicated that when they locate a person they believe to be out of compliance their first step will be to send a letter asking for information and to help determine whether they need to be licensed. They will then work with that person to come into compliance. You will not be immediately fined or punished. For more information on pre-licensing visit the USDA/APHIS Animal Care website: http://www.aphis.usda.gov/animal_welfare/

How will APHIS find out if I fall under this new rule? Will AKC be providing registrant contact information?

All of AKC's records are confidential and AKC will not share your information. The AKC urges all responsible dog owners to comply with all applicable federal, state, and local laws and regulations.

My state regulates breeders. Will this supersede state law?

This will depend on your individual state laws. Contact the appropriate state agency for specific questions. AKC encourages breeders and dog owners to be in compliance with all applicable federal, state, and local regulations and laws.

What should I be doing right now if I think this rule will apply to me?

USDA/APHIS is asking individuals who believe they may fall under the new rules to self-identify and have indicated a commitment to work directly with individuals to determine whether their particular case would make them subject to new regulation. You will not be punished or targeted if you contact them. They are committed to answering questions and helping breeders understand the rule, not targeting specific dog owners who are genuinely trying to understand and be in compliance.

For specific questions, contact Dr. Gerald Rushin with APHIS at (301) 851-3751.