

Legislation – What’s Hot

By Joan Miller, CFA Legislative Information Liaison

USDA/APHIS proposal UPDATE – Do you want federal inspectors in your bedrooms?

The United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) announced in May a proposed change to the federal licensing exemption for retail sellers of pets. The Animal Welfare Act (AWA) exempts “retail pet stores” from licensing. This exemption, as defined in the Regulations, includes breeders who sell pets directly to pet buyers. The intent of the AWA is to regulate commercial “wholesale” sellers and this has, for over 40 years, been maintained despite numerous attempts to narrow the definition and expand federal regulation. For background information read: **Federal licensing of cat breeders – a heads up !!** on the [CFA Legislative Alert](#) page.

APHIS now asserts in their **Regulatory Impact Analysis** the need for a redefinition of “retail pet store” is based on public concern for the welfare of animals sold at retail, and specifically the 2010 USDA’s Office of Inspector General audit report that notes complaints from people who purchased **dogs** over the Internet with health problems, The APHIS response to these pressures is to propose regulation of anyone selling dogs, cats and numerous other animal species without having every buyer enter your home for each and every sale.

The new rule proposes to redefine the exempted “retail pet store” as **“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.”**

Also exempted is a person who **“maintains” a total of four or fewer “breeding” females and “who sells only the offspring of these dogs, cats”** (and other animals) **“which were born and raised on his or her premises” for pets**

If you have 5 intact females, of *any* age, and you sell one kitten or cat without the buyer actually entering your home you would need a federal license. Even a buyer who has purchased a kitten from you in the recent past must enter your home to acquire a second kitten in order to be exempted. “Born and raised on the premises” means - if you have 5 intact females and buy a breeding cat but years later place her as a spayed pet you must be licensed. If you have 5 intact females and, as a cat rescuer, take in a single stray cat and re-home her you would need a federal license. You cannot accept a kitten in lieu of a stud fee and then decide to place her as a pet without federal regulation of your cattery.

The CFA Legislative Group believes these changes would have a profoundly negative impact on home breeders of pedigreed cats. Many will cut back or retire. You can readily project the unintended consequences not in the best interests of the public or cats and other animals. We suggest you ask the USDA/APHIS to withdraw this proposed rule change and tell them why. Public comments are due by the deadline of July 16, 2012. [more](#)

Guidance on sending suggested comments, points to make and other information for Docket No. APHIS–2011–0003 will be posted on the CFA [Legislative Alert Page](#)

The APHIS Regulatory Impact Analysis reveals much of the thinking behind this proposal. APHIS may be experienced in commercial breeder regulation. However, it is obvious there is little consideration or comprehension of pedigreed cat breeding and husbandry. Cat fancier comments will be helpful to provide realistic information about cat breeding to APHIS .

As an example, the agency explains that the proposed threshold of 4 or fewer breeding females for exemption was motivated primarily by dog-specific considerations. While acknowledging that females in some dog breeds produce an average of 3.3 puppies per litter, they state (on page 21) that 3 Labrador Retrievers “might produce as many as 45 puppies” in one year and “adding a fourth breeding female as proposed would bring that average to 30 to 60 puppies in a year, which is a figure that brings our exemption into closer alignment with the standard of 50 dogs sold per year provided in the PUPS Act”.

Cats simply are not small dogs and do not produce litters of 10. With 4 breeding females, and an average of 3.5 kittens per litter, the number of kittens born in a year may be 14 to 21 depending on the breed and litter spacing. This proposal will mean APHIS would inspect and regulate home breeders of cats who own 5 breeding females and may sell 25 kittens or fewer in a year. It was never the intent of the Animal Welfare Act to regulate small hobby breeders, who are not commercial. CFA’s records show that there are only about 50 breeders worldwide who register litters that represent 75 kittens or more per year, which triggers a CFA Cattery Environment Inspection by a veterinarian. Commercial breeding of cats is neither profitable nor prevalent.

Various alternatives are outlined in the Impact Analysis. APHIS considered establishing a regulatory threshold if breeders sold some animals remotely but had some sales to “walk-in customers”. They ruled this out because they don’t have authority to require sales records from retail breeders. APHIS needs to realize that, because most cat breeds are rare, the market for pets is not always close to home. Pet buyers can establish a relationship with a breeder living anywhere in the United States as they have historically with magazine ads and other media referrals. Almost all buyers do their research through the Internet today for anything they purchase. The greatest users of Internet sales for animals are shelters and rescue groups. There is nothing inherently bad about websites or “sight-unseen” buying.

Home Cattery inspections would be impossible for APHIS. Cats are often loose in the house and not caged in a “facility” setting for easy identification. People are at work, which requires expensive call backs for inspectors. Breeders will not want inspectors in rooms with young kittens because of infectious disease concerns.

The AWA facility-type standards of care, record keeping, veterinary scheduled facility visits and unannounced federal inspections are all developed for commercial facilities and are not appropriate for breeders raising kittens in private homes and bedrooms. It would be expensive, intrusive of privacy and outright impossible for hobby/home breeders to comply with these commercial facility licensing requirements.

The inevitable result of this exemption change would be the loss of fine feline bloodlines and a diminished number of conscientious breeders who are a great source of pet cats. Animals would suffer when the USDA’s resources, which are already stressed, are further overextended to regulate hobby cat breeders.

The USDA has asked for YOUR input...Commenting online is easy. Ask them to withdraw Docket #APHIS-2011-0003. Contact the CFA Legislative Group at legislation@cfa.org