



THE CAT FANCIERS' ASSOCIATION, INC.

World's Largest Registry of Pedigreed Cats

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

**Re: Comments on Docket No: APHIS-2011-0003, Proposed Rule
Animal Welfare; Retail Pet Stores and Licensing Exemptions**

Ladies and Gentlemen;

The Cat Fanciers' Association, Inc. (CFA) hereby submits comments on the U.S. Department of Agriculture's (USDA) Proposed Rulemaking under the Animal Welfare Act in response to the request for public comment published in the *Federal Register* Vol. 77, No. 95/Wednesday, May 16, 2012. We **oppose** the proposed rule and urge it be withdrawn.

The Cat Fanciers' Association, a non-profit organization founded in 1906, is the largest registry of pedigreed cats in the world. The goals of CFA are to preserve and promote the pedigreed breeds of cats and to enhance the well being of ALL cats. In America 86 million cats are kept as pets. (American Pet Products Association (APPA) pet owners' survey 2011-2012). CFA estimates that 3% of the nation's cats are pedigreed, approximately 2.6 million.

CFA data and activities:

In 2011 CFA registered 25,503 individual pedigreed cats. CFA registered 17,439 litters *born* in 2010 representing approximately 2/3 of the litters born each year to those who register with CFA, since

some litters are not registered by breeders¹. In 2011 there were 4,785 breeders who registered litters with CFA. CFA has cumulative registrations in excess of 1.9 million individual cats. There are several other smaller cat associations that register pedigreed cats in the United States.

CFA's membership consists of affiliated clubs. There are currently 493 clubs in the United States and Canada, 81 clubs in Japan and 70 clubs in the Europe Region and International Division. Member clubs hosted 332 licensed cat shows during fiscal year 2011-2012 in the United States, Canada, Japan, Europe and other parts of the world. CFA participants include breeders and exhibitors who belong to local affiliated cat clubs. In 2011-2012 the total number of cats entered in CFA shows worldwide was 52,916. Pedigreed cat show competition is based on breed standard conformation in *Kitten* classes, *Championship* classes (for intact cats) and *Premiership* classes (for spayed/neutered cats). Non registered cats, including random bred kittens and cats, compete in the *Household Pet* classes. All cats are eligible to compete in *Agility* events held in many shows as well. All cat owners are welcome to exhibit cats at CFA shows. The shows are "benched" and provide a display of beautiful cats, education programs, vendor products and other activities of considerable interest to the general public.

CFA encourages breeders and the public to provide quality care and environments for their cats:

Pedigreed cat breeders, show exhibitors and CFA member clubs work to raise the status of all cats and to ensure pedigreed cat breeding programs of high quality in order to provide healthy, well-tempered and uniquely beautiful cats as pets for an appreciative public.

CFA has a position of leadership in promoting the well being of all cats and the quality of care provided to pedigreed breeding cats. Responsible and humane treatment of cats is promoted through CFA's public relations efforts, CFA's Community Outreach and Education programs; CFA's websites and publications, as well as member club magazines/newsletters. CFA has an Animal Welfare Committee, the CFA Legislative Committee, the Ambassador Program, which involves interaction with the public, the CFA Breeder Mentor and NewBee Programs, the CFA Youth Feline Education Program and other valuable activities. Cat fanciers as individuals participate in shelter adoption programs, cat rescue and managed feral cat colony Trap/Neuter/Return efforts.

CFA pioneered the "not for breeding" box on litter registration slips and cat breeders have used contracts requiring neuter/spay of pet cats for many years. CFA has financially supported and sponsored seminars, workshops and other activities that benefit feral/unowned cats in addition to pedigreed cats. CFA has also provided funds for epidemiology studies concerning cat and dog population dynamics. Grants awarded by the CFA established Winn Feline Foundation have significantly benefited the veterinary profession and the health of all cats over more than 30 years.

I. The "retail pet store" definition and interpretation and the "purebred dog or cat fancier" retail sales exemption should remain unchanged:

¹ 2010 represents the most recent year for which comprehensive data is available due to the lag time in breeders registering of litters.

The intent of the Animal Welfare Act is to regulate and promulgate standards for dealers and exhibitors who are engaged in commerce, those who transport animals or sell to research facilities, and to assure humane treatment of animals during transportation. Not all breeding and/or transfer of cats/dogs constitutes interstate commerce nor does this threaten the welfare of animals. The APHIS proposal to revise its definition of "retail pet store" does not close a loophole. The Animal Welfare Act's legislative history clearly demonstrates that the purpose of federal animal welfare legislation is to regulate wholesale commercial sale, transportation and handling of animals. The exemption of "retail pet stores" has for forty years been interpreted by Congress as excluding all direct retail sales to the end buyer.

There were complaints, noted in the May 2010 USDA Inspector General's report, from buyers of dogs sold at retail but no comprehensive data. There was no discussion of whether dogs purchased "over the Internet" have more health problems than those acquired through other sources. There have been no scientific studies cited to demonstrate any difference between the health of animals sold at retail "using the Internet" compared to those sold from traditional pet stores. If the purpose of the AWA is to protect the health of animals then some empirical evidence to support the change is needed.

Retail sales involve transfers in small quantity, usually one animal at a time, to the ultimate customer and are not a burden, or have a minuscule impact, on the interstate commerce activities covered by the Act. The exemption of retail pet stores, and the definition of a retail pet store as any outlet where animals are sold at retail as pets; therefore, is consistent with the intent of the Act. Narrowing this definition as proposed by restricting it to sales where the buyer physically enters the premises for every sale is inconsistent with both the Act and USDA's own prior interpretation, which is entitled to deference under statutory and case law.

Retail selling of pets is not only the activity most distant from interstate commerce but its regulation is the least imperative. These sales involve direct contact with the ultimate consumer who is capable of scrutinizing animal welfare in most cases. When animal abuses occur, investigation and prosecution are more effectively handled by state and local jurisdictions, which reflect circumstances unique to various parts of the country.

While the current definition of "retail pet store" predates the Internet, remote sales of pets was commonplace before the Animal Welfare Act. Magazines devoted to pets proliferated throughout the 20th century and breeders and pet buyers have been able to reach each other through ads in the magazine. Cat Fancy, a national magazine dedicated to cats, owners of cats, and breeders of cats was first published in 1965.

When the current "retail pet store" definitions were adopted, remote pet sales were truly "sight unseen." Pet buyers had to rely on magazine ads for basic information and mail service for pictures and documentation. With the rise of the Internet, communication between buyer and seller has become easier and pet buyers have become better informed. Buyers no longer have to rely on ads in magazines but can visit the breeders' web site. Instead, pet buyers have an opportunity to build a relationship with a breeder online before purchasing. Today's Internet-savvy consumers exchange emails, ask questions about their new pet, see electronic photos, videos or even Skype with their new pet. Today's pet buyers also use the Internet to do searches prior to adopting a pet to see if there are any complaints against a breeder. Many web sites are devoted to providing information on how to find a quality pet.

A "Google search" for "find reputable pet breeder" produces over *a million hits* (in 0.29 seconds) including many tips and suggestions for finding reputable breeders.

Retail sales of pets have also become more heavily regulated over the past 40 years. All states have laws against animal cruelty and neglect by breeders. Over the past four decades most states have increased animal cruelty violations from misdemeanors to felonies. Many states have pet warranty laws to protect consumers who feel they have been sold an unhealthy pet. Local nuisance laws, State cruelty and neglect laws and warranty laws are sufficient to deal with complaints about dog breeders. Air transportation is the most common means to ship pets long distances. Airlines and State health officials generally require health certificates issued by a licensed veterinarian who examined the animal within 10 days of transport. This provides an additional level of consumer protection when animals are being shipped.

The proposed definition of "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..." is unnecessary.

II. The proposed regulatory changes are unnecessary with respect to cats:

Less than 0.5% of cats are obtained through Internet/online contact according to the American Pet Products Association (APPA) 2010 National Pet Owner Survey. This insignificant number would also include rescue cats obtained through Internet websites like Petfinder.com. Only 2% of owned cats are obtained from breeders of pedigreed cats. Over 90% of owned cats are random-bred, mainly acquired from sources other than breeders or pet stores. Most pet cats are obtained as homeless strays or they come from friends and family. Many come from shelters and rescue groups. There is no need to expand APHIS regulation to include cat breeders selling at retail.

Commercial breeders have little interest in producing cats due to the relative difficulty in raising kittens and making any profit. Cats are extremely susceptible to infectious diseases and especially stressed under tight environmental conditions or when transported very young for resale in pet stores. Hobby breeders generally will not sell or transfer kittens until at least 12 to 16 weeks of age. It is therefore not financially profitable to commercially raise kittens. Some commercial dog breeders keep cats as an adjunct to their dog kennels, but they normally maintain only 2 or 3 breeds as a special service to pet store customers. There is no demonstrated need for federal regulation of small or moderate scale home-based hobby breeders of cats who have more than 4 "breeding females" regardless of how they communicate with buyers or whether the pet buyers come to their house or not.

Hobby breeders of cats are largely self regulated and need for federal regulation has not been substantiated. CFA offers a voluntary cattery environment inspection program for those who have registered cattery names with CFA. CFA has established criteria for "CFA Approved Cattery" and CFA Cattery of Excellence" recognition. The CFA Board of Directors approved the CFA "Minimum Cattery Standards" in 1989 in order to provide a basis for determination of inadequate cattery environment when evaluating complaints against CFA breeders. These Cattery Standards are based on the USDA Standards of Care, but modified to allow cats to be raised in a home setting. Yearly inspections are conducted by licensed veterinarians and encompass environmental conditions of the

cattery. The program's success is a result of breeder pride in their home cattery environments and peer pressure that encourages quality.

CFA has a mandatory cattery environment inspection procedure that is required when a breeder has registered litters constituting 75 kittens in a given year. In 2011 there were 49 breeders who registered litters indicating that 75 kittens were born. High volume breeding of cats for sale is exceedingly rare and does not need federal regulation. In addition to inspection based on kitten numbers, whenever inhumane conditions in any cattery are brought to the attention of CFA or discovered during inspection an investigation and disciplinary hearing process is promptly initiated. The lists of names of those with permanent and temporary disciplinary suspensions/probations are published regularly on the CFA Website. <http://www.cfa.org/documents/org/disciplinary-suspensions.pdf>

III. The proposed changes to the regulations require the licensing and inspection of home hobby breeders taxing the ability of APHIS to conduct inspections of commercial activities the act was intended to regulate.

The proposed rule would require regulation of "hobby" breeders and severely strain Federal resources available for carrying out inspection and other enforcement activities. Even if the "small breeder" exemption (iii) were to be increased and all those with 5 or more breeding females would be added as new Class A dealers thousands of additional dog breeders would inevitably fall under regulation. Even though not as numerous, CFA data indicates that *1436 cat breeders would be added*. This number of CFA breeders alone would increase by more than one third the current level of Class A Dealer regulation and does not account for other pedigreed Cat Registry numbers, nor the numerous rabbit breeders and others that would be added. When combined with the substantial number of dog breeders who would be newly regulated the personnel and financial resources of the USDA would be overwhelmed.

USDA experience in developing standards, policies and risk assessments has been almost entirely based on contact with large commercial breeders in business and selling to brokers or to pet stores. Widespread practices within the cat fancy segment who breed for direct retail sales have evolved for specific reasons stemming from the primary desire to enhance the cat breeds as opposed to commercial intent. These customs, while optimum for providing quality home-raised kittens/cats, are different from those common in facilities with which APHIS is familiar in its regulation and licensing of dealers who sell dogs and cats for resale and who are primarily motivated by commerce and profit interests. Some of these are:

Breeding is considered a personal enjoyment activity (hobby) involving more than the raising of cats for sale. Inherent with breeding is a social lifestyle that includes club membership, participation in events and workshops, competitive showing, volunteer services and other involvement understood as the "cat fancy". The selling of kittens/cats is incidental to the cat fancy activities as well as the breeders' main source of income or financial support.

The total numbers of cats on the premises of a cat fancier breeder will commonly include spayed/neutered pet/show cats and often random bred pet/show cats, as well as rescued or feral cats. There is no distinct housing separation of “breeding female cats” from the owner’s pet cats. Direct retail sale breeders keep their cats on their premises until sold rather than transfer to intermediaries or auction channels. It is usually impossible to control overhead expense and expect a profit regardless of anticipated market demand. Prices and demand vary for each breed. As opposed to wholesale licensees, direct sale breeders produce animals of sometimes rare breeds for which there may be limited demand. Motivation for breeding is love of the chosen breed’s characteristics rather than anticipation of profit.

The animals raised by hobby breeders are housed as family pets throughout a home and usually are not confined to a primary enclosure except for temporary circumstances (in heat, sleeping, feeding, and delivering kittens). Breeding cats are always kept indoors or confined if in outdoor areas but they freely mingle with non-breeding cats within a home setting. Bedrooms are commonly used for isolation of queens and kittens for delivery and lactation periods. The total numbers of cats on the premises of a cat fancier breeder will commonly include spayed/neutered pet/show cats and often random bred pet/show cats, as well as rescued or feral cats. There is no distinct housing separation of “breeding female cats” from the owner’s pet cats.

Collar identification is not used for various reasons, including irritation to most longhaired cats and visible indentation in the neck area of all show cats. The safe “breakaway” collars regularly come off of cats. Other means of visible identification are either disfiguring or not allowed for show cats. USDA inspectors could not be expected to be able to visually differentiate one cat from another or a spayed from an intact female. Microchips are the only way to identify the cats but present other problems. Because cats tend to run and hide from strangers, scanning by inspectors may not be easy. Even if uniform microchip identification were required, USDA inspection visits would never be routine and could take considerable time.

Veterinary care is provided on an as-needed basis according to the individual kitten, adult altered cat, adult intact cat, or older cat requirements. There is usually no health care advantage to a regular supervised veterinarian “program” such as what is common in commercial wholesale facilities. The USDA operating standards are the basis for CFA’s Minimum Cattery Standards; however, these have been modified to apply more directly to a home environment. Some standard requirements in the regulations, such as sterilization of surfaces, are not appropriate in a home and are therefore unreasonably difficult or impossible for cat fancier breeder compliance, yet this would in no way reflect substandard care.

A newly regulated breeder group would not be familiar with USDA regulation inspection procedures. Retraining of inspectors, new inspection forms, revised computer data base and information systems, revised policies, outreach programs and education of cat and dog fanciers would all be necessary for any expectation of compliance. Many cat fancier breeders’ situations that are beneficial to the cats would be in conflict with existing APHIS procedures. Differences between wholesale and direct breeding, particularly those involving economies of large scale production, would be expected to deviate in the ways in which activities are conducted so that APHIS experience may not be an accurate predictor of the impact on agency resources from the changes being considered.

APHIS inspection methods currently require announced pre-licensing inspection, unannounced compliance inspection, re-inspection for violations, and attempted inspections (representative not on site). Because cat fanciers raise their cats in their home as a recreational activity rather than as their main means to earn a living new methods and/or extensive education and outreach to the newly regulated group would be necessary. Licensing and inspection of cat fanciers would entail increased “attempted inspections” since breeders’ homes are not “open for business” on any regular basis. Sales of cats/kittens are by prearranged appointment only and a representative would not be reliably present. Since most breeders in this proposed regulated group would be away working elsewhere during the day this would necessitate evening/weekend visits.

CFA believes that any change considered for the purpose of adding small or other non-commercial “residential” breeders as licensees would present serious problems for APHIS enforcement capability and be an inefficient use of Agency resources.

IV. Numbers of “breeding females” as a quantitative criterion for regulation:

The proposed rule indicates that USDA is considering expansion of the current “small breeder” exemption under Section (iii) to exempt persons with four or fewer breeding females. An increase in the quantity of breeding females a person may maintain on his or her premises to continue to be exempt appears to actually subvert the statutory intent by diverting regulatory focus and resources from the commercial/profit motivated wholesale breeding sector to the non-commercial hobby breeders of cats. The APHIS “Factsheet”, July 2012 indicates that “a facility that maintains four breeding females, one more than the current limit of three, can be considered a low-risk facility and exempt from regulation even if they sell their animals sight-unseen”. Unfortunately the 4 or fewer breeding female exemption threshold would only apply to casual or novice hobby breeders just getting started. This change would subject almost all experienced and responsible cat breeders with a serious breeding program to regulation. At the same time an unknown number of commercial breeders, considered “low risk” would be exempted.

The proposed changes under consideration by the USDA are contrary to the long-standing regulatory approach regarding the Animal Welfare Act. What USDA fails to explicate in the proposal is that the issue of regulation based upon numbers of “breeding females” is not merely a minor modification of the “small breeder” exemption (iii) but instead a substantive change in the entire regulatory framework. The existing regulations are based on *qualitative* criteria of **wholesale** as opposed to **direct-to-owner** sales.

The various exemption factors contained in the existing regulations and derived from the underlying statute can be distinguished as *qualitative* or *quantitative*. The **qualitative factors** pertain to transactional descriptions, such as a wholesale system involving intermediaries between the producing breeder and the ultimate pet buyer, or the intended use of the animal in research. **Qualitative** transactions are directly related to the degree of commercial character of the breeder. These are the most useful means for both definition of exemption and determination of facts in enforcement.

Quantitative factors pertain to numerical terms, such as animals sold, numbers of breeding females or even dollar amounts of revenues. These factors indicate commercial character only *secondary* to a qualitative context of transactional structure. As a practical basis for regulation, quantitative factors

are less predictable. The variables of animal fertility, market demand and the person's motivation for breeding are ambiguous. Quantities are difficult to prove, particularly over time. Quantitative determinants as regulatory thresholds may be compromised through the political process and are subject to variables that are not related to commercial activity making them unreliable indicators of the requisite commercial character of the Animal Welfare Act.

The existing "retail store" exemption is a qualitative factor, easily described and ascertained as a direct sale to the ultimate buyer. The change in definition being considered and the suggested approach in the proposed rule would subject almost all breeders to licensing, and for exemption purposes substitute a quantitative determinant based on the number of "breeding females". Currently, in exemption (iii) the quantitative determinant of 3 breeding females constitutes the basis for a limited exemption (small breeder) to the existing qualitative standard of regulating only wholesale transactions.

USDA has not supplied a definition of "breeding female" for these purposes. Because of the reproductive physiology of the cat, females come in to heat regularly all year round and are usually bred at least yearly to avoid uterine infection/cystic ovaries and/or diminished general condition. Females retired from breeding are usually spayed to avoid undesirable behavioral and physical problems of intact cats held from reproduction. Therefore, unlike dogs, the numbers of "breeding females" on a breeder's premises, as applied to cats, would most likely be synonymous with the numbers of intact females of breeding age. (See Attachment – CFA breeding female data) Breeding females are those cats who have produced a litter. If the USDA defines a "breeding female" cat as one who is intact and capable of reproduction this presents significant problems for enforcement. Cats of many breeds are able to mate and become pregnant at 5 months of age. CFA considers cats to be kittens until 8 months of age. Breeders need to keep kittens until they are mature to access breeding/show quality and often to be sure the female will be able to easily reproduce. A single queen and her 4 female kittens could require a breeder to obtain a federal license, when the litter reaches 5 months of age.

The numbers of breeding females maintained by individual cat fanciers would not be expected to remain static. Because the primary purpose of a fancier's breeding program is to preserve and improve upon a chosen breed, methods to assure genetic diversity constantly affect the numbers of cats owned or kept by cat breeders. Cats are commonly co-owned by persons living in different parts of the country, leased for periods of time or until delivery of a litter, kept for delivery of one litter prior to sale, sent away for mating elsewhere (sometimes for unpredictable/extended periods of time) or held and exhibited in Championship shows until adult age when decisions are made concerning breeding or selling/spaying. It would be impossible for most cat fancier breeders to accurately predict or determine "the total breeding femalecats" that a person may maintain on his or her premises each year as solicited in the licensing exemption. Because of the constant change necessary for a responsible breeding program, cat breeders might fall under or over any established threshold numbers criterion in any given year.

Regulation of breeders on the quantitative basis using numbers of breeding females is an inefficient use of USDA resources. Breeders working with certain breeds that require genetic outcrossing to cats of other breeds for health or other reasons may house more intact females than others. This does not correlate with either increased commercial or "for profit" activity or necessarily signify greater risk of non-compliance with standards of care. USDA has previously noted, in the June 24, 1998 Federal Register, that the "risk of non-compliance with regulations significantly increases if facilities care for

more than 60 breeding female dogs and/or cats.” CFA data shows that only 35 breeders register litters from more than 20 breeding females. All of these catteries would fall under CFA’s required inspection for those who produce 75 kittens or more in a year. CFA is unaware of any large commercial catteries with as many as 60 breeding female cats.

CFA’s data (see attachment) represents the numbers of litters and/or “breeding females” and breeders that register litters with CFA. The numbers of breeders and “breeding females” listed is only a small part of the total numbers that may exist since CFA does not have data for the other smaller cat registering associations. Data from all dog registries, all cat registries and all breeders who do not register would have to be combined to give an indication of the bigger whole regarding purebred dog/pedigreed cat “breeding female” information. It is our belief that this number would be many tens of thousands of new dealers.

The USDA’s current exemption of “retail pet store” defined as “any retail outlet” is well founded and follows the concept of regulating only those who are engaged in animal dealing through wholesale commercial channels. If exemption (iii) were to be expanded from the current number of 3 to 4, in order to ease the Agency’s burden of increased regulation of direct retail breeders, some pet wholesalers who are currently required to be licensed would no longer have to be licensed. The concept of reducing regulation of *any* clearly commercial for profit wholesaler businesses in order to add “hobby” breeders who are not commercial would be incompatible with the interests of animal welfare and the purpose of the Act.

In addition, random bred cats are bred and pet owners sell direct to pet buyers. Those who breed pedigreed cats are not the only persons who breed cats for direct retail sale to pet buyers. Considering the 86 million owned cats in the United States, and the known fact (five population studies) that approximately 88% to 92% are spayed/neutered (some are too young to spay/neuter), it is likely that there are as many as 7% or 6 million intact random bred “breeding” females in the homes of citizens. Based on the most recent APPA Survey data, the average number of cats per household is 2.2. Conceivably, of the 39 million U.S. households that own at least one cat, 1 million American households could have 5 or more “breeding females”. Many households also take in pregnant strays or have accidental litters of kittens. These are commonly sold through local newspaper ads, postings on bulletin boards, Internet contact or through a rescue group with Petfinder.com. These would all be direct retail sales. It would be ludicrous for the USDA to consider federal inspection and licensing of all these households. Yet regulation of cat fanciers responsibly breeding and selling fine pedigreed cats without similar regulation of “breeders” who rescue cats/kittens or allow their random bred pet cats to produce litters would be discriminatory. Both are selling direct retail from a “residential” location and would fall into a new USDA category of “breeders” selling direct retail to pet buyers.

V. The changes to existing regulations would have a serious adverse impact on the cat fancy and all of the positive CFA activities that benefit cats and cat owners such as breed rescue:

The Cat Fanciers’ Association supports and encourages reasonable and enforceable laws to ensure humane conditions for cats and other animals. The core issue set forth in the Proposed Rule to Change Exemptions centers on the suggested redefinition of “retail pet store”. CFA believes that the premise on which the existing regulatory definition is based is in keeping with the intent of the Animal Welfare Act. **The purpose of the Act is to regulate commercial animal raising and transportation matters**

with a focus on dealer *wholesale* business operations as opposed to *retail outlets* that sell directly to the pet buyer.

It is important to CFA that the USDA continues to utilize its resources to effectuate the Statute's intent. USDA should concentrate on improvement of the agency's enforcement of the current regulatory scope rather than take on the unwarranted and impractical regulation and licensing of over 1400 cat breeders selling directly to pet buyers. (See the Attached CFA data estimating new Class A Dealers.)

CFA, furthermore, does not believe that there is compelling justification for USDA regulation of direct retail breeders of cats. If there are any substandard conditions in pedigreed cat breeding facilities selling direct to pet owners, local authorities adequately deal with these and contact CFA to enable appropriate disciplinary action. USDA should not duplicate or interfere with state and local jurisdictions that enforce animal welfare abuses with sensitivity to circumstances unique to various parts of the country.

Home-based hobby cat breeders cannot meet the criteria for exemption yet they do not fit the definition of a Class A Dealer either. These are not breeders "whose business involving animals consists only of animals that are bred and raised on the premises in a closed or stable colony....." In order to acquire genetic outcrosses hobby breeders must exchange cats with friends from far away. Their "breeding females" number fluctuates year to year. A breeder will buy or lease an intact female and often, after one or several litters, she will later be sold as a pet. The unintended consequence of this proposal would mean an end to responsible hobby breeding. This would diminish the finest source of healthy, home raised, well socialized pedigreed cats.

Pedigreed cat breeding is relatively small. CFA registers 42 breeds - some originating from various parts of the world with ancient history; others established because of desirable and distinctive genetic mutations, such as wavy or curly coats, folded ears or wirehaired texture. Several breeds originally resulted from crossing 2 or more existing breeds. All of these breeds are cherished.

Entire breeds of cats could well be forced into extinction by these regulation changes. Some rare and exotic breeds are kept alive by a devoted following of people who value them for their distinct personalities and beauty. A sampling of these, with registrations below 100 litters worldwide with CFA, include: the mysterious and ancient Korat (32 litters registered in 2010); the Turkish Angora (56 litters in 2010), saved from extinction once before by a breeding program in the Ankara Zoo; the naturally-occurring long-haired version of the Siamese, the Balinese (49 litters); the French working cat, the Chartreux (48 litters), the wavy coated La Perm (16 litters) and many other breeds. Most breeds in CFA, except the 6 most popular breeds, register less than 1000 cats a year in the U.S and elsewhere. A single breeder in these and other rare breeds who is forced to give up breeding can mean a devastating blow to the health and even the existence of the entire breed. The loss of genetic diversity may be irreplaceable.

The proposed rule would have a negative impact on hobby breeders performing breed rescue and other rescue groups with off site adoptions:

The July 2012 update to APHIS' "Questions and Answers: Proposed Rule - Retail Pet Sales" is inconsistent with the regulations as proposed. It suggests that face to face sales of pets conducted off premises: "... are subject to some degree of public oversight and therefore are not the focus of this

proposed rule ***and would not need to obtain a license.*** [emphasis added]" This statement is not supported by the actual language of the proposed rule. While regulating face to face sales may not have been the intention in drafting the new regulations, nothing in the new definition of retail sales exempts them from licensing. Without an express exemption hobby breeders and rescue groups would be told, in effect, to violate the law and hope to avoid prosecution.

The new regulations present breed rescuers and other rescue groups with few choices: sell animals only to buyers who physically enter your premises, reduce and maintain the number of breeding females to four and sell only the offspring of those females; or obtain a license under the Animal Welfare Act, have a federally compliant facility, and allow APHIS inspectors to inspect your home as if you were a commercial venture. Selling even one pet off premise via shipping, doing offsite adoptions, working cooperatively with retail pet shops that currently display rescue pets for adoption, will result in loss of an exemption from licensing.

Most rescued pets were not the offspring of females kept by the rescue groups and were not born and raised on the premises so placement of even one such pet, even on site, would also result in the loss of the exemption. The narrow limits of the exemption will devastate rescue and eliminate the ability of hobby breeders to take in and place rescue cats. While rescue organizations have always been exempt from licensing under the retail pet store exemption; all individuals who do rescues will no longer qualify under this new rule. Rescues sell homeless/abandoned/fostered animals who were not born and raised on the premises. Rescues often conduct special adoption events and sell animals off the premises at special adoption days at stores and other off site venues. Rescues often have mobile vans or mobile homes to conduct off site adoptions and bring the rescue cats into the communities they serve. Rescues have special arrangements with pet stores to allow their animals to be showcased and placed from the stores which are not the sold from remote locations. Rescue groups transport animals to buyers who did not physically visit their location.

Rescue activity for purebred dogs and pedigreed cats is handled primarily by individual breeders as a sideline. These are not entities associated with shelters but independent breeders working with national breed networks of volunteers who find homes for cats in need. The exemption changes would end breeders' ability to take in an animal (not bred or raised on site) and re-home (sell) the dog/cat. Even if a rescued pregnant cat delivered kittens they could not be placed unless the new owner enters the breeder's home. The concept of changing the retail seller exemptions will result in unforeseen consequences and a complete disruption of the rescue efforts of thousands of cat and dog breeders.

VI. Changing the "retail pet store" definition to require each buyer to physically enter a person's resident is an invasion of privacy, presents security issues and is not practical:

Expanding regulation from commercial, wholesale breeders to residential breeders would raise very substantial issues both from an enforcement standpoint, and from the privacy concerns of individuals.

Breeders would view unannounced inspection visits at any time, but especially in the evening or on weekends, as extremely intrusive and an invasion of their privacy. The entire house would be open to scrutiny. Bedrooms are commonly used for cat delivery since isolation is the preferred way to avoid infectious disease of young kittens, to minimize stress in queens and to allow close monitoring. USDA licensing would entail an incongruity of federal inspectors entering the most private areas of a person's

home. In all of the federal laws requiring licenses and permits routine inspection of a person's entire home is an extremely rare and unusual event. It should be entertained only where the demonstrated need is great. No such demonstration of need exists with respect to residential breeders.

Security is important, especially for home-based hobby breeders who are single women living in rural areas or suburban neighborhoods. It may not be safe to allow every person who says they would like to buy a kitten to have access to one's home. Homes don't have security systems or multiple employees like a store in a shopping mall.

Cats are extremely susceptible to infectious diseases. Breeders are reluctant to allow buyers or inspectors, who could transmit ringworm or upper respiratory germs, to have contact with cats running free in their homes.

Many cat breeds are rare and buyers come from many parts of the United States, Canada and from overseas. Breeders who exhibit cats at cat shows and/or advertise in magazines or online must be able to sell kittens to buyers who choose not to physically enter their home. Not all buyers can travel to pick up a cat/kitten.

Conclusion:

The Animal Welfare Act is not a statute to regulate *all* breeding activity or a federal humane law governing animal owners generally. **The Act focuses on regulation of dealers and activities involving animals relevant to commerce and profit, specifically wholesalers, intermediaries and those who provide animals for resale.**

At the heart of CFA's contribution toward bettering the lives of all cats is its breeder and exhibitor constituency. Cat fanciers/breeders are dedicated to the preservation and improvement of the various cat breeds and their achievements provide invaluable benefit to our society. Serious cat breeders committed to their chosen breed conduct their endeavors as a hobby without expectation of profit and without the usual methods used to control costs or to segregate business interests from personal activities. If the breeding of pedigreed cats were to become a federally regulated undertaking, including inspection of breeders' homes and bureaucratic procedures, it would greatly diminish the continued participation of cat fanciers/breeders.

The Cat Fanciers' Association, the cat shows and participants provide an important nucleus for education about cats that has substantially contributed to the progress being made in raising the status of all cats, pedigreed and random bred. USDA regulation and licensing of cat fanciers who sell cats directly at retail as an incidental activity would threaten the foundation of the cat fancy itself. The effect of the outlined changes in the proposal would be detrimental to the majority of pedigreed cat breeders who are represented by CFA. CFA's over 100 years of experience working with breeders of pedigreed cats allows the organization to provide insight and information concerning cats beyond that of any other group in the United States.

The Cat Fanciers' Association supports maintaining the long standing purpose of the Animal Welfare Act, which is to **regulate commercial activity**, including the distinction in the Act between wholesalers who are intended to be regulated and retailers who are not (except in very limited circumstances). CFA is convinced that the proper definition of "retail pet stores" as "any outlet"

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allows for exemption for all breeders of pedigreed cats, or others, who sell direct to the ultimate pet owner, buy no animals for resale and sell no animals to other dealers.

The USDA should continue to regulate commercial breeders who sell pets for resale as it has in the past. Eliminating some in this category in order to expand the scope of regulation to include hobby dog and cat fancy breeders raising animals in their homes is not in the best interests of animals nor is it the intent of the Act.

Federal inspection of cat breeders' homes would be extremely intrusive of individuals' privacy and highly unusual in federal regulation practice. The practical aspects of regulating and inspecting thousands of private homes would result in an overwhelming drain on federal resources that would lessen the USDA ability to enforce the Animal Welfare Act as it was intended.

CFA believes that expansion of the USDA scope of regulation by establishing an arbitrary number of undefined "breeding females" (to include thousands of hobby breeders' homes and random bred pet households) represents an inappropriate shift to a quantitative approach to determine the basis of regulation. The long-standing qualitative measure, i.e. commercial wholesale business regulation as opposed to direct-to owner sales, has been in effect for 40 years and has proven to be effective when consistently enforced and in conjunction with local laws and State laws.

The USDA must continue to concentrate and improve upon its efforts to regulate commercial breeders, animal distributors and research facilities. There is no rationale for doing otherwise. If there are large commercial cat breeders selling direct to pet buyers then these catteries would most likely also sell cats as wholesalers and therefore would already be required to be USDA regulated. Some may be regulated by local jurisdictions or by State agencies. The very few larger scale direct retail sale cat breeders that register kittens with CFA would be inspected according to CFA's self regulating policies. CFA deplors inhumane conditions in any cattery, and cooperates with local animal control agencies to eliminate abuses when they are brought to our attention.

The Cat Fanciers' Association appreciates the opportunity to express our views and offer information on this matter. We urge you to withdraw the proposed rule.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Jerold J. Hamza". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Jerold J. Hamza
CFA President

Attachment to Docket APHIS-2011-0003
 Animal Welfare Act: Proposed Rulemaking

The Cat Fanciers' Association (CFA) Data
Numbers of "breeding females" estimate based on breeder registrations of litters per year

(We are assuming for these purposes that each registered litter represents one breeding female.)

Litters/females	2009 breeders	2010 breeders	2011 breeders
1 – 4 females	4177 (74.76 %)	3873 (75.87 %)	3636 (77.05 %)
5 – 10	1143	979	899
11 – 20	231	219	215
21 or more	43	34	35
Total breeders with 5 or more breeding females (delivering one litter) per year			1149
Some female cats will produce more than one litter per year If 25% produce two litters per year - New Class A Dealers			1436
Licensed Dealers APHIS FY 2009 ²	Class A	3898	
	Class B	<u>1031</u>	
		4929	

Note:

Adding cat breeders who register litters from 5 or more pedigreed cats per year with CFA to the numbers of Class A dealers regulated with the USDA would increase **by more than one third** the licensed Class A Dealers regulated, according to APHIS 2009 data. In addition, there are other registries of pedigreed cats and rescue groups who sell direct to the public. These people may have 5 or more intact female cats at any given time. All of these breeders/rescuers would either sell cats to new owners who cannot come to their home and/or sell cats not born or raised on their premises.

Licensed Dealers, FY 2009

FY	Total Dealers	Class A Dealers	Class B Dealers
2009	4929	3898	1031

² http://www.aphis.usda.gov/animal_welfare/inspections_type.shtml