



THE CAT FANCIERS' ASSOCIATION, INC.

World's Largest Registry of Pedigreed Cats

George J. Eigenhauser, Jr. Director-at-Large, Legislative Coordinator

P. O. Box 6089 • Marysville • California 95901

530-742-6153 (Work) • 530-329-8658 (Home) • geigenhauser@allmail.net

June 21, 2013

OMB/OIRA

Boris Bershteyn, Acting Administrator

Office of Information and Regulatory Affairs

725 17th Street, NW

Washington, DC 20503

Re: US Department of Agriculture, Animal
and Plant Health Inspection Service
9 CFR parts 1 and 2; RIN 0579- AD57
Animal Welfare; Retail Pet Stores and
Licensing Exemptions

Dear Mr. Bershteyn;

The Cat Fanciers' Association, Inc. opposes the proposed rule restricting the exemption of retail sales under the Animal Welfare Act. The new rule proposed by the USDA/APHIS would have a significant and adverse regulatory impact which would be detrimental to proper enforcement of the Act as it was intended by congress. We have attached a copy of our comment letter in opposition to the proposed rule and ask the rule be withdrawn.

The Cat Fanciers' Association is the largest registry of pedigreed cats in the United States. The goals of CFA are to preserve and promote the pedigreed breeds of cats and to enhance the well-being of all cats. CFA licenses cat shows throughout the world, provides educational programs and encourages breeders and the public to provide quality care and environments for their cats. CFA member clubs, pedigreed cat breeders and show exhibitors 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 for an appreciative public. CFA fully supports the USDA enforcement of the Animal Welfare Act based on the current regulations.

The Cat Fanciers' Association, Inc., ~ 260 East Main Street ~ Alliance, OH 44601

Phone 330-680-4236 | Fax 330-680-4633 | www.cfa.org | Follow @CFACatlover on Twitter | [facebook.com/CFainc](https://www.facebook.com/CFainc) | legislation@cfa.org

Boris Bershteyn, Acting Administrator

June 21, 2013

Page 2

The USDA/APHIS significantly underestimated the number of home, hobby breeders who would be impacted by the new rule and the regulatory impact of adding so many new licensees. Their original assessment was that the new rule would, in theory, add about 1,500 new Class A licensees. However, in making that estimate they failed to consult with stakeholders and in doing so failed to properly evaluate the full regulatory impact of the new rule.

As noted in the CFA Comment letter dated July 16, 2012 (copy attached) at least 1,436¹ hobby breeders of cats, plus many tens of thousands of dog breeders and breeders of other species would be brought into USDA licensing and inspection. This 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.

USDA/APHIS inspection procedures, and the existing standards of care, assume kennel facilities are separate from the living areas of the breeder's residence. According to USDA/APHIS, 85% of the current Class A licensees are rural area dog breeders. These are often families who live in rural areas can breed dogs as a source of needed income. They can more easily build new structures or adapt existing ones to contain the required facilities in ways that no hobby breeder could do in suburbs or cities with planning processes and building standards. They sell to brokers or to pet stores and operate differently than the thousands of non-commercial home breeders of pedigreed cats, purebred dogs, rabbits and other animals who would be newly regulated. The home hobby breeders raise litters in their homes, not in separate commercial operations. APHIS would have to not only inspect private residences, license small non-commercial breeders, impose fines and suspend or revoke licenses but educate thousands of persons who are currently exempt.

In May 2010 the Office of the Inspector General issued their report "Animal and Plant Health Inspection Service Animal Care Program Inspections of Problematic Dealers." The report noted that in a previous audit of USDA/APHIS they had noted that "...the

¹ The 1,436 figure was derived from current CFA registration records. While CFA is the largest cat registry in the United States it is not the only registry. Other cat registries exist and some hobby breeders register exclusively in those. The total number of home hobby breeders of cats who would be added under the rule would be in excess of the number of CFA breeders alone.

agency was not aggressively pursuing enforcement actions against violators of AWA and that it assessed minimal monetary penalties against them." The May 2010 audit focused on APHIS' enforcement process and their actions against dealers with a history of violations. The May 2010 OIG report noted major deficiencies with APHIS' administration of AWA noting that they were ineffective against problematic dealers.

The OIG report found there was "... little or no enforcement action against most violators...", written instructions were not followed, there was delayed confiscation of animals found to be suffering, APHIS did not properly document violations properly to support enforcement actions, repeat violations were not reported correctly, and serious violations were improperly reduced. While the report noted complaints from buyers of DOGS sold at retail but there was no discussion of whether dogs purchased "over the Internet" have more health problems than those acquired through other sources. There were no statistics on the numbers involved or the applicability to other species of pets.

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, sell to research facilities, or are engaged in wholesale commerce 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. There has been a consistent pattern in the Act and regulations of defining and excluding activity not meeting the commercial regulatory threshold. Retail sales involve transfers in small quantity, usually one animal, to the ultimate customer and are not a burden, or have a minuscule impact, on the commerce activities covered by the Act. The exemption of retail pet stores and the existing definition of a retail pet store as any outlet where animals are sold at retail as pets is consistent with the intent of the Act. Narrowing this definition, as proposed by the USDA is inconsistent with the Act and increases the regulatory impact far beyond that contemplated by congress.

There has been insufficient research into the practical aspects of regulating thousands of breeders who raise and sell pets in their homes. APHIS inspectors, familiar with commercial breeders' facilities, have little knowledge of what it would be like to inspect the private homes of cat breeders, dog breeders, rabbit breeders and others selling pets at retail. Regulating small hobbyists would mean inspectors would incur many obstacles. Most breeders in this proposed regulated group would be away working elsewhere during the day. This would necessitate evening/weekend visits, which would be extremely

Boris Bershteyn, Acting Administrator

June 21, 2013

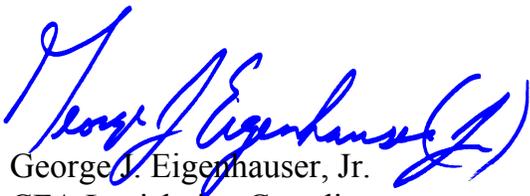
Page 4

intrusive of privacy. Licensing and unannounced inspection of cat fanciers would entail increased “attempted inspections” since breeders’ homes are not “open for business” on any regular basis. Federal regulations requiring routine inspection of a person’s entire home is an extremely rare and unusual event.

There is no compelling justification for extension of USDA inspection and regulation to expand government intrusion into private homes. Not only would this be an unwarranted invasion of privacy but an unnecessary area for the use of federal government resources. The raising of kittens in a home environment and selling to the ultimate buyer is the best possible way to provide healthy and well suited pets for the public. The Animal Welfare Act and regulations clearly intended licensing requirements which focus on the larger non-retail commercial realm and not on home sales to the ultimate customer.

It is clear that Congress intended proper enforcement of the Animal Welfare Act and regulations. The proposed rule would jeopardize this intent. It is in the best interests of the public, as well as those of dog and cat fanciers, that no such changes will be accepted.

Respectfully submitted,

A handwritten signature in blue ink, reading "George J. Eigenhauser, Jr.", with a stylized flourish at the end.

George J. Eigenhauser, Jr.
CFA Legislative Coordinator

Enclosure as stated