



Protecting &
Advancing
America's
Heritage
of Hunting,
Fishing &
Trapping

August 15, 2012

Submitted Electronically

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 of the U.S. Sportsmen's Alliance on the Proposed Rule narrowing the
"retail pet store" and retail sales exemptions in 9 CFR 2.1(a)(3).

Proposed Rule published at 77 Fed. Reg. 28799 (May 16, 2012) Docket No.
APHIS-2011-0003

To Whom It May Concern,

By this letter the U.S. Sportsmen's Alliance ("USSA") submits its comments on the Proposed Rule issued by the United States Department of Agriculture's Animal and Plant Health Inspection Service ("the Service") on May 16, 2012. 77 Fed. Reg. 28799 (May 16, 2012)("Proposed Rule").

USSA has a coalition of sportsmen who devote their lives to hunting with and training sporting dogs, called the Sporting Dog Defense Coalition (SDDC). Through this coalition, USSA has extensive experience working with legislation and regulations effecting sporting dog owners.

The Proposed Rule would drastically narrow the retail pet store exemption found in 9 CFR 2.1(a)(3)(i) and eliminate the retail sales exemption in 9 CFR 2.1(a)(3)(vii).

Sportsmen and women that raise and breed sporting dogs and sell only at retail are currently exempt under the Animal Welfare Act ("AWA"). Although the Proposed Rule does not alter this exemption, USSA has concerns that it is overbroad, misguided, and could be used by animal rights organizations as a spring board to unnecessarily broaden the AWA even further in the future.



A. Proposed Retail Pet Store Definition and Retail Sales Exemption

The Proposed Rule changes the current “retail pet store” exemption in 9 CFR 2.1(a)(3)(i) by narrowing the definition of a retail pet store to include only businesses or residences where “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.” Additionally, the Proposed Rule completely eliminates the retail sales exemption in 9 CFR 2.1(a)(3)(vii).

As written, USSA has serious concerns over the scope of the Proposed Rule as it is not narrowly written to recognize many practices of responsible hobby breeders and could result in many of these breeders being unnecessarily regulated. Many of the requirements included in the USDA/APHIS regulations are tailored for large commercial dog breeders and not hobby breeders. Regulating hobby breeders who do not otherwise need this type of regulation could create a large financial burden for them and put many out of existence.

Particularly, the Proposed Rule does not recognize situations where the buyer and seller may have a preexisting relationship where the buyer already knows, either through that relationship or recommendation, the quality of care the seller provides to its dogs. Preexisting relationships or breeders that come highly recommended by other buyers or breeders who have entered the seller’s place of business are common situations for hobby breeders and do not warrant additional regulations.

Additionally, the Proposed Rule’s requirement that all buyers must physically enter to personally observe a seller’s dogs is arbitrary and unnecessary to accomplish the stated intent of the Proposed Rule to regulate remote sellers because they “lack the public oversight provided by customers entering their place of business.” The Proposed Rule fails to recognize that there would be sufficient consumer oversight for sellers where 9 out of 10 buyers or even 50 out of 100 buyers actually physically enter the seller’s place of business. Simply because one, or a percentage of buyers, does not enter a seller’s place of business does not mean that the seller is not subject to sufficient consumer oversight to warrant regulation.

USSA applauds the Service’s proposal to increase the exemption threshold in 9 CFR 2.1(a)(3)(iii) from three to four breeding females. However, increasing this threshold does not make up for the problems created for hobby breeders by the changes proposed in subsections (i) and (vii) discussed above.



B. Caution Urged for Expansion of those Regulated by the AWA

USSA has observed a growing trend of efforts by radical animal rights organizations to make changes in federal and state laws in attempts to bury sporting dog and hobby breeders under a mountain of unnecessary and costly regulations. Ultimately, many of these efforts are not aimed at promoting animal welfare but instead are designed as a political ploy to push an animal rights agenda that includes the opposition to keeping and breeding purebred dogs, opposition to dog breeding in general, opposition to hunting with dogs, and opposition to all hunting.

USSA urges caution when considering broadening any regulations aimed at dog breeders and that the Service be mindful of this political agenda. New regulations should be enacted only when necessary, done in such a way as to minimize the impacts on the sporting and hobby breeder community, and be tailored to specifically target individuals who are treating animals inhumanely.

Viewed in this light, USSA recommends that the Service not adopt the Proposed Rule.

C. Conclusion

In summary, the Proposed Rule will unnecessarily regulate many responsible hobby breeders who provide exemplary care to their dogs and who do not need this type of federal oversight and regulation. USSA cannot support the Proposed Rule as written and asks that the Service reexamine the necessity and the scope of the Proposed Rule.

Sincerely,

Jeremy D. Rine, Esq.
In-House Counsel
Associate Director of State Services