

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 1

[Docket No. 99-087-3]

#### Licensing and Inspection Requirements for Dealers of Dogs Intended for Hunting, Breeding, or Security Purposes

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the animal welfare regulations to reflect our policy of regulating only wholesale dealers, and not retail dealers, of dogs intended for hunting, breeding, or security purposes. We currently regulate these wholesale dealers under the same regulations in place for wholesale dealers of other dogs. This action makes the regulations consistent with our policy and, therefore, clarifies licensing and inspection requirements for affected dealers of dogs intended for hunting, breeding, or security purposes.

**EFFECTIVE DATE:** April 14, 2003.

**FOR FURTHER INFORMATION CONTACT:** Dr. Jerry DePoyster, Senior Staff Veterinarian, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737-1234; (301) 734-7586.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Animal Welfare Act (AWA) (7 U.S.C. 2131 *et seq.*) authorizes the Secretary of Agriculture to promulgate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, carriers, and intermediate handlers. The Secretary of Agriculture has delegated

the responsibility of enforcing the AWA to the Administrator of the Animal and Plant Health Inspection Service (APHIS). The regulations established under the AWA are contained in title 9 of the Code of Federal Regulations (9 CFR), chapter I, subchapter A, parts 1, 2, and 3. Part 1 defines various terms used in parts 2 and 3. Part 2 contains general requirements for regulated parties, and part 3 contains specific requirements for the care and handling of certain animals. Subpart A of part 3 contains the requirements applicable to cats and dogs.

Under section 4 of the AWA (7 U.S.C. 2134), a dealer may not sell an animal as a pet or for exhibition unless he or she first obtains a license from the Secretary. Section 4 also requires a dealer to have a license to buy from or sell to another dealer (*i.e.*, at the wholesale level). Because dogs sold for hunting, breeding, or security purposes are not sold to research facilities, or for use as pets or for exhibition, dealers in these dogs do not need a license to buy or sell them unless they do so at the wholesale level.

Section 13 of the AWA (7 U.S.C. 2143) directs the Secretary to promulgate standards of care with which regulated dealers must comply. Because section 4 of the AWA requires the regulation only of wholesale dealers of hunting, breeding, and security dogs, retail dealers of such dogs are not subject to the standards promulgated under section 13 of the AWA.

In accordance with the AWA, on July 19, 1999, we published in the **Federal Register** (64 FR 38546-38548, Docket No. 97-018-4) a decision and a policy statement that notified the public that, among other things, we had established a policy to license and inspect wholesale dealers of dogs intended primarily for hunting, breeding, or security purposes. This means that we currently regulate these dealers under the same regulations in place for wholesale dealers of other dogs. We instituted this policy to help ensure the humane handling, care, and treatment of hunting, breeding, and security dogs.

Because the regulations at § 2.1 require that all dealers of dogs must be licensed and inspected, we published in the **Federal Register** on December 4, 2000 (65 FR 75635-75637, Docket No. 99-087-1), a proposal to amend the regulations to reflect the intent of the

AWA and our policy of regulating only wholesale dealers of dogs intended for hunting, breeding, or security purposes. Specifically, we proposed to amend the definition of *dealer* in § 1.1 to make it clear that, with respect to dealers of hunting, breeding, and security dogs, the term applies only to wholesale dealers of these dogs.

We solicited comments concerning our proposal for 60 days ending February 2, 2001. We extended the deadline for comments until April 3, 2001, in a document published in the **Federal Register** on January 22, 2001 (66 FR 6491-6492, Docket No. 99-087-2). We received 28,485 comments by April 3, 2001, the closing date of the extended comment period. The comments, which were primarily form letters or variations of form letters, were from dog breeders, animal welfare advocates (both individuals and organizations), dog owners and fanciers, representatives of State and local governments, and members and representatives of kennel clubs or specific dog breed associations. These comments are discussed below.

Several thousand commenters suggested that all breeders of dogs that can be considered hunting, breeding, or security dogs should be regulated at not only the wholesale level, but at the retail level as well. Many of these commenters also suggested that our policy and proposal were contrary to the intent of the AWA.

In response, it is important to note that we proposed this action in order to bring our regulations into accord with our policy of regulating only wholesale dealers of dogs intended for hunting, breeding, or security purposes. Our policy statement, discussed previously, clarified that we regulate only wholesale dealers of dogs intended for hunting, breeding, or security purposes. Again, this continuity-creating action helps ensure the humane handling, care, and treatment of hunting, breeding, and security dogs.

As described above, the regulations at § 2.1 require that all dealers of dogs must be licensed and inspected. Currently, then, because our definition of *dealer* in § 1.1 can be extended or interpreted to include both wholesale and retail dealers of hunting, breeding, and security dogs, our regulations have been inconsistent with our published policy. As stated previously and in the