

Questions and Answers: Proposed Rule – Retail Pet Sales

What is APHIS proposing?

APHIS is proposing to revise its definition of “retail pet store” to close a loophole that has in some cases threatened the health of pets sold sight unseen over the Internet and via phone- and mail-based businesses. Under the current definition of “retail pet store,” which was developed over 40 years ago and predates the Internet, some breeders selling pets are taking advantage of a loophole that improperly exempts them from meeting the basic requirements of the Animal Welfare Act. The proposed rule will close this loophole, ensuring that animals sold over the Internet and via phone- and mail-based businesses are better monitored for their overall health and humane treatment.

The proposal will restore the definition to its original intent so that it limits the retail pet store exemption to only business and residences:

- where buyers physically enter to observe the animals available for sale prior to purchasing them, and
- where only the following animals are sold or offered for sale at retail for use as pets: Dogs, cats, rabbits, guinea pigs, hamsters, gerbils, rats, mice, gophers, chinchilla, domestic ferrets, domestic farm animals, birds, and coldblooded species.

APHIS is also proposing to increase the number of breeding females from three to four that small hobby breeders can own and still be exempt from licensing requirements. To meet the exemption requirements, these breeders can only sell the offspring of the breeding females that were born and raised on their premises, and sold for only pets or exhibition.

Why does APHIS want to change this rule?

This proposed rule is intended to help ensure that consumers will be purchasing healthy animals for pets.

The current definition of “retail pet store” was written in the 1970s to exempt from federal regulation traditional pet stores and other facilities

whose animals are subject to a certain degree of oversight from customers who enter their shop.

Today, the Internet allows retailers to sell animals directly to the public sight-unseen. Because the current definition is broadly defined, those retailers continue to qualify for exemption, even though they don't meet the intent of the definition. As a result, some buyers have received animals with a contagious disease, general illness, genetic deformities or other medical and social issues. Some of these buyers also received animals that were too young to be weaned.

APHIS wants to restore the original intent of the Animal Welfare Act and modernize its regulations to reflect today's business practices.

The change to the small hobby breeder licensing exemption will increase the number of breeding females from three to four. This will allow us to focus more on the facilities that present the greatest risk of noncompliance with the regulations.

How will this affect retail pet stores?

This proposed rule would not affect traditional retail pet stores, breeders, and other dealers whose buyers physically enter the premises. They will continue to be exempt from licensing and inspection under the Animal Welfare Act. However, they will still be subject to any applicable individual state and county regulations.

How will this affect Internet, phone- and mail-order retailers?

The proposal will affect these retailers if they currently sell their pet animals to buyers sight-unseen.

Pet animal retailers will have a choice. They can either sell their animals to buyers who physically enter their store to visibly observe the animals available for sale, or they can obtain a license under the Animal Welfare Act and allow APHIS inspectors to inspect their facility.

What will this mean for consumers?

The changes will help protect consumers. Under the proposed rule, no dog or other pet animal will be sold at retail without either public or APHIS oversight.

What is the Animal Welfare Act?

The Animal Welfare Act sets standards for humane care and treatment that must be provided for certain animals that are bred for commercial sale; exhibited to the public; used in biomedical research; or transported commercially. The act does not apply to cold-blooded animals or agricultural animals used for food or fiber.

Individuals and entities licensed under the Animal Welfare Act must provide their animals with adequate housing, sanitation, nutrition, water and veterinary care. They must also protect the animals from extreme weather and temperatures.

What does a proposed rule mean?

APHIS has issued this proposed rule as part of its rulemaking process. It is just a proposal, issued for public review and comment. It has no immediate effect on potentially regulated facilities.

What is the next step in the rulemaking process?

The proposed rule is available for public review and comment for the next 60 days. Once the comment period closes, APHIS will consider all comments received.

How can I comment on this proposal?

To comment on this proposal, you can submit your comments one of two ways:

- Visit the Federal eRulemaking Portal at www.regulations.gov#!documentDetail;D=APHIS-2011-0003
- Mail your comments to: Docket No. APHIS-2011-0003, Regulatory Analysis and Development PPD APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD, 20737-1238.

USDA is an equal opportunity provider and employer.