

LAW HAVE MERCY on Ethical Dog Breeders

Federal Animal Welfare Act (AWA) United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS)

USDA adopted a new rule, effective November 18, 2013, removing the AWA exemption for residential pet breeders who sold pets directly to the public.

If you breed dogs, cats, or any pet species regulated under the AWA, you must become licensed according to the following criteria:

- If you have more than 4 females of any regulated species AND sell any pet to a buyer who has not seen it before purchase or accepting delivery, you must become licensed by USDA as a pet dealer.
- if you have four or fewer breeding females and sell as a pet any puppy that was not born and raised on your premises, you must become licensed.
- "breeding female" is not defined; USDA leaves it to an APHIS inspector's discretion what intact females will be counted as breeding females.
- it does not matter whether you HAVE bred an intact female, or whether you have not decided if you may eventually breed her; the inspector will count her if the inspector decides she is "capable of breeding".
- any female "maintained on your premises" will be counted if the inspector deems her "capable of breeding" - it does not matter whether you own her; "maintain" is not defined, the inspector will also decide if you are "maintaining" a female that is temporarily on your premises for breeding or training or visiting for any other purpose.
- "more than 4 breeding females" does not mean "4 dogs" OR "4 cats;" (or 4 rabbits, hamsters, etc); it means *more than 4 "breeding females" of ALL regulated pet species combined.*

There are restrictions on your method of selling animals.

If you have no more than four breeding females, you can sell pets "sight unseen" - that is, ship them to buyers who have not seen the puppy prior to purchase - if the pets were born and raised on your premises. This *does not include* stud fee puppies, puppies back on a breeding contract, or your share of a co-owned litter raised by your co-owner. If you sell as a pet any puppy you own by virtue of such an arrangement with another person who whelped and raised the litter, you lose your exemption as a "retail pet store" and you must be USDA licensed.

If you sell dogs directly to the purchaser for hunting, breeding, or security purposes, those dogs are exempt from regulation; you can sell those dogs "sight unseen" according to the rule regardless of how many breeding females you have. APHIS says you can sell "an occasional pet" from a litter you bred for one of the allowed purposes, but this is not in the rule and they have not said where the line is drawn on "occasional" - such as a percentage of dogs sold, or more than X out of each litter, or more than X in a year. If you sell these pets in a face-to-face transaction, you do not have to be licensed, but you cannot ship them unless you are licensed.

- the rule specifies that retail sales of animals for "hunting, security, or breeding purposes" are not regulated (do not require a license) even if sold sight unseen.
- since publication of the rule, APHIS has begun to use "working" and "hunting" interchangeably, and uses the term "for preservation of bloodlines" in reference to "breeding purposes" but neither "working" nor "preservation of bloodlines" are used in the rule and APHIS has not provided definitions of them. It is not known whether selling dogs for herding or guarding livestock would be exempt from licensing as "security purposes".
- APHIS has clearly said that the breed of dog does not establish that the "hunting" exemption applies; the purpose for which it is sold determines if it is an exempt sale.
- APHIS has clearly said that dogs bred with an aptitude for performance activities are "pets" and those sales are not exempt as "working dogs" (and remember, the rule does not refer to "working dogs" or "working purposes" - just "hunting, security, or breeding purposes").

*This information has been compiled by the Minnesota Council of Dog Clubs and is intended for educational purposes only. **This material is not legal advice.** It is not copyrighted and may be provided to others who need to be aware of the rule's effect on their activities as responsible pet owners and ethical breeders. Contact minncdc@gmail.com or MCDC, PO Box 23383, Richfield MN 55423*