



AMERICAN  
KENNEL CLUB<sup>SM</sup>

Docket No. APHIS-2017-0062  
Regulatory Analysis and Development  
PPD, APHIS, Station 3A-03.8  
4700 River Road Unit 118  
Riverdale, MD 20737-1238

**Animal Welfare; Amendments to Licensing Provisions and to Requirements for Dogs**

United States Department of Agriculture, Animal and Plant Health Inspection Service

The American Kennel Club (AKC) is America's only not-for-profit all-breed dog registry devoted to the study, breeding, exhibiting, and advancement of purebred dogs.

Founded in 1884, the AKC is a private, not-for-profit organization that demonstrates its commitment to responsible dog ownership and breeding through a variety of educational programs, humane programs, a multi-million-dollar commitment to canine health research through the AKC Canine Health Foundation, and by conducting thousands of kennel inspections each year. As the only national all-breed dog registry with a kennel inspections program, which includes a flexible, comprehensive, performance-based care and conditions policy for the welfare of all dogs, AKC has conducted more than 70,000 inspections of people who register their dogs with AKC since 2000.

The American Kennel Club thanks the United States Department of Agriculture's Animal and Plant Health Inspection Service (USDA APHIS) for proposing changes that reflect feedback received in response to the agency's August 2017 Advance Notice of Proposed Rulemaking. We believe that quality oversight for the purpose of ensuring the wellbeing of licensees' animals takes into account accurate data while honoring both scientific principles and effective real-world experience in animal husbandry.

As stated in our comments on the August 2017 Advance Notice of Proposed Rulemaking (<https://www.regulations.gov/document?D=APHIS-2017-0062-44345>), we applaud the agency's goal of promoting sustained compliance with the Animal Welfare Act, reducing licensing fees and burdens, and strengthening existing safeguards to prevent those who have a history of negligent animal care or cruelty to animals from obtaining a USDA license.

The American public relies on the Animal Welfare Act and the USDA to ensure a reputable and consistent source of quality purpose-bred pets for American pet owners. Likewise, professional breeders rely on public confidence in USDA-APHIS's implementation of AWA regulations and inspections to substantiate their kennels' operational standards. The American Kennel Club supports strong enforcement of the AWA. A strong USDA licensing and inspections program that fully enforces the AWA

and that has the confidence of the American public is good for the wellbeing of dogs and for dog lovers who rely on knowing that puppies from USDA licensed kennels come from quality kennels.

The American Kennel Club is pleased to express general support of these proposed changes and offers the following specific comments. In addition to insights garnered from our operational experience, the AKC has included feedback from AKC-affiliated dog clubs and individual registrants in the preparation of these comments.

### **Issuing Fixed-Term (Non-Renewable, Non-Negotiable) Licenses for Dealers and Exhibitors that Expire After Three Years; Requiring Licensees to Demonstrate Compliance Before Obtaining Another Fixed-Term License**

The American Kennel Club supports the proposed change to fixed-term licenses and requiring affirmative demonstrations of compliance (rather than license renewal) before licensee-applicants may obtain another fixed-term license.

AKC recognizes the value in requiring individuals to affirmatively demonstrate compliance with Animal Welfare Act requirements. Affirmative demonstrations of compliance, rather than simple self-certification, is likely to be more effective in ensuring sustained compliance with AWA requirements. We believe this will better ensure the wellbeing of licensees' animals and may also improve efficiencies for licensees.

### **Specifying Procedures to Avoid an Inadvertent Lapse in Licensure by Historically Compliant Licensees Due to a Possible USDA Inspections Backlog or Delay**

The American Kennel Club believes it is of utmost importance to provide procedures to ensure that licensees are not in jeopardy of an inadvertent lapse in licensure. We appreciate the flexibility demonstrated in the revised rules, specifically in proposed amended rule 9 CFR §2.5(a)(3)(i), which allows the Deputy Administrator to issue 120-day temporary licenses to licensees with histories of compliance should they be in jeopardy of an inadvertent lapse in licensure during the application process. AKC urges APHIS to develop expedited application and issuance processes for 120-day temporary licenses, including an extension of the temporary license term if USDA is unable to provide an inspection during the initial temporary license period.

### **Requiring Licensees to Affirmatively Demonstrate Compliance and Obtain a New License When Making Noteworthy Changes Subsequent to the Issuance of a New License**

As required in proposed amended rule 9 CFR §2.1(b), the American Kennel Club recognizes the value of requiring licensees to affirmatively demonstrate compliance due to intended changes that will substantially alter the nature of a licensee's business. Examples of noteworthy changes include an

increase, by increments of 50, in the number of animals kept or bred than previously licensed for; a change in the type or breed of animal that impacts facilities requirements; or a change in species.

### **Adjusting License Fees**

The American Kennel Club supports both the standardization of licensing fees and the proposed reduction in average annual license fees. We agree that a flat \$120 fee for a three-year license term as proposed in 9 CFR § 2.1(c)(2) represents a fee that is comparable to, or in many cases reduced from, current license fees. In our view, this fee structure is equitable among the population of licensees and will provide APHIS Animal Care with more efficient operational processes.

### **Requiring License Applicants to Disclose Pleas of *Nolo Contendere* or Any Other Findings of Violations of Federal, State, or Local Laws or Regulations Pertaining to Animal Cruelty or the Transportation, Ownership, Neglect, or Welfare of Animals, To Assess Their Fitness for Licensure**

The American Kennel Club recognizes the value of requiring disclosure of violations, or pleas of *nolo contendere* to animal cruelty charges, as to be required in 9 CFR §2.1(a)(1)(vii). However, we believe it is imperative that APHIS recognize that there is broad variation in the cruelty laws of state and local jurisdictions. A number of jurisdictions have arbitrarily defined certain recognized animal husbandry practices as “cruelty”, including those designed to improve the welfare of dogs and their owners. Examples include, but are not limited to, the veterinary practices of bark softening, tethering requirements, tail docking, ear cropping, dewclaw removal, and humane and breed/purpose-specific temperature acclimatization. Violations should be judged on a case-by-case basis with full information.

### **Expressly Prohibiting Individuals and Businesses Whose Licenses Have Been Suspended or Revoked from Working for Regulated Entities, and Preventing Individuals and Businesses with Histories of Noncompliance from Applying for New Licenses Through Different Individuals or Business Names**

Allowing individuals with suspended or revoked licenses to work for other regulated entities presents an increased chance of harm to animals. The American Kennel Club agrees that licensees found responsible for finally-adjudicated direct animal care violations must be prohibited from Animal Welfare Act-regulated activity as employees of other licensed entities during applicable suspension periods or after permanent license revocation. Individuals with substantiated histories of non-compliance with AWA animal care standards, as evidenced by animal cruelty convictions or license revocations based on direct violations, should be prohibited from applying for AWA licensure through different individuals or business names.

Because current USDA regulations do not explicitly prohibit those with suspended or revoked licenses from working for other regulated entities, we believe the proposed changes to 9 CFR § 2.11 are appropriate and necessary.

## **Specifying Provisions to Ensure Adequate Veterinary Care for Dogs and Access to Water**

Protecting the health and well-being of all dogs is an American Kennel Club core value.

Requiring dealers and exhibitors to establish and maintain a program of veterinary care for regulated animals—developed, documented in writing, and signed by an attending veterinarian—will better substantiate and direct appropriate care in regulated facilities. A complete physical examination of every dog at least once every 12 months and other health and care requirements will also better serve the agency’s goals of ensuring the overall health of adult dogs and puppies; early detection of health issues; providing timely and appropriate veterinary care; and preventing avoidable disease, illness, and injury.

Proposed section 9 CFR § 3.10 also mandates that dogs in regulated facilities have continual access to potable water unless restricted by an attending veterinarian. However, as stated by USDA, a lack of continual access to water is generally not a risk to healthy dogs. (84 FR 10728) Because regulated facilities vary by type, size, and the number of animals they maintain, standards that would allow licensees (particularly those who maintain a small number of dogs in their residences) some flexibility in operations while still providing appropriate care may allow for better overall outcomes.

## **AKC Reiterates Concerns with Vague and Arbitrary Definition of the Term “Breeding Female”**

In August 2012, the American Kennel Club expressed concerns about the lack of clear definition for the term “breeding female” as used in the AWA regulations and in the retail pet store rule, finalized later that year. In our comments on Docket No. APHIS-2011-0003, RIN 0579- AD57, we noted: “...the AKC is extremely concerned that it is unclear how “breeding female” would be defined for the purposes of determining which breeders would be deemed exempt from licensing requirements.”

Currently, the USDA appears to define “breeding female” as “capacity to breed” and bases this assessment on a case-by-case visual inspection on the ground of the animals involved, determining whether they are “of breeding age” and whether there are health or other factors that would limit that. The AKC believes that this is not a practical, efficient, or clear way to establish a threshold for licensing and regulation, as it does not allow either APHIS or a breeder to assess whether a breeder would be subject to licensing, regulation, and inspection without first being inspected by APHIS, which could only be undertaken after the license application process has been undertaken.

*Unless a breeder is certain which animals will “qualify” as non-breeding animals, a breeder has no way of knowing what their regulatory requirements are.* An individual with several intact females of various species who owns only one dog and whelps only one litter but sells one puppy sight unseen might still have to be licensed as a commercial breeder. Subjecting this individual to the same licensing requirements as an active 200-dog breeding kennel is counterproductive and inefficient.

Visual or arbitrary definitions of “breeding females” are also problematic because many breeders “grow out” promising females to at least 24 months of age before determining whether they will

have a show career or be worthy of breeding. Maintaining an intact female that physically could be bred does not demonstrate the intention to breed. Additionally:

- Dog show hobbyists may keep a number of females intact because this is a requisite to show in AKC breed conformation dog shows or compete in certain performance events. These events are intended to identify the best breeding stock to ensure that future animals are healthy and capable of performing the tasks for which the breed was intended.
- Breeders often must wait until an intact female is a minimum of 1-2 years old before determining whether she would qualify to be breeding stock. In many cases, key health tests for breeding stock cannot be accurately conducted until the animal is two years old.
- Recent studies demonstrate that intact females may have better health; likewise, premature spaying may cause a variety of health, longevity and/or house-training issues.<sup>1</sup>

Although a ‘breeding female’ is not specifically defined, it may be assumed that a breeding female would be broadly defined as an intact adult female. However, as argued above, the keeping of intact females is not in fact equivalent to breeding and should in no way be treated as proof of breeding or selling puppies. Likewise, when a hobbyist does breed an intact female, it may be the only breeding this dog will ever have despite being kept intact for the majority of her life.”

The manager’s letter accompanying the conference report to HR 2642/ PL113-79 (the Agricultural Act of 2014) also took up this issue, directing APHIS to clarify that only those female animals capable of reproduction and actively being used in a breeding program should qualify as breeding females.<sup>2</sup>

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<sup>1</sup> Kustritz, Margaret V. Root. *Determining the optimal age for gonadectomy of dogs and cats*. Journal of the American Veterinary Medical Association, Vol. 231, No. 11, Dec. 1, 2007. Belanger, Janelle M, Bellumori, TP, Bannasch, DL, Famula TR, Oberbauer, AM, (2017), *Correlation of Neuter Status and Expression of Heritable Disorders*, Canine Genetics and Epidemiology Journal. Zink, Christine M, Farhood, P. Elser, SA, Ruffini, LD, Gibbons, TA, Rieger, RH, (2014) *Evaluation of the risk and age of onset of cancer and behavioral disorders in gonadectomized Vizslas*, Journal of the American Veterinary Medical Association, Vol. 244, No. 3. Hart, B. L., Hart, L. A., Thigpen, A. P. and Willits, N. H. (2016), *Neutering of German Shepherd Dogs: associated joint disorders, cancers and urinary incontinence*. Vet Med Sci, 2: 191–199. doi:10.1002/vms3.34. Cooley, Dawn M., Beranek, BC, Schlittler, DL, Glickman, NW, Glickman, LT, and Waters, DJ (2002) *Endogenous Gonadal Hormone Exposure and Bone Sarcoma Risk*. Cancer Epidemiol Biomarkers Prev 2002; 11:1434-1440. Hart BL, Hart LA, Thigpen AP, Willits NH (2014) *Long-Term Health Effects of Neutering Dogs: Comparison of Labrador Retrievers with Golden Retrievers*. PLoS ONE 9(7): e102241. doi: 10.1371/journal.pone.0102241. Society for Theriogenology, Basis for Position on Mandatory Spay-Neuter in the Canine and Feline. [http://c.ymcdn.com/sites/www.therio.org/resource/resmgr/docs/spay-neuter\\_basis.pdf](http://c.ymcdn.com/sites/www.therio.org/resource/resmgr/docs/spay-neuter_basis.pdf). Sandborn, Laura J, M.S. (May 14, 2007), *Long-Term Health Risks and Benefits Associated with Spay/Neuter in Dogs*, <http://www.naiaonline.org/pdfs/LongTermHealthEffectsOfSpayNeuterInDogs.pdf>. Torres de la Riva G, Hart BL, Farver TB, Oberbauer AM, Messam LLM, et al. (2013) *Neutering Dogs: Effects on Joint Disorders and Cancers in Golden Retrievers*. PLoS ONE 8(2): e55937. doi: 10.1371/journal.pone.0055937. Waters, D. J., Kengeri, S. S., Clever, B., Booth, J. A., Maras, A. H., Schlittler, D. L. and Hayek, M. G. (2009), *Exploring mechanisms of sex differences in longevity: lifetime ovary exposure and exceptional longevity in dogs*. Aging Cell, 8: 752–755. doi: 10.1111/j.1474-9726.2009.00513.x. Zink, Chris, DVM, PhD, DACVP, DACVSMR (updated 2013), *Early Spay-Neuter Considerations for the Canine Athlete: One Veterinarian’s Opinion*. Canine Sports Productions, <http://www.caninesports.com/uploads/1/5/3/1/15319800/earllyspayconsiderations.pdf>.

<sup>2</sup> Joint Explanatory Statement of the Committee of Conference, H.R. 2642, Agricultural Act of 2014 -- <http://docs.house.gov/billsthisweek/20140127/CRPT-113hrpt-HR2642-SOM.pdf>.

AKC again urges USDA APHIS to clarify the definition of breeding female. Specifically, we propose that a breeding female is one that is in whelp or has delivered a live offspring in the last 3 years. We believe this change will promote regulatory efficiency and flexibility.

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The American Kennel Club thanks USDA APHIS for its consideration of these comments. Questions may be addressed to:

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