

KELLEY DRYE

COLLIER SHANNON

August, 11, 2006

Chester A. Gipson, DVM
Deputy Administrator
APHIS
Station 3C71
4700 River Road, Unit 118
Riverdale, MD 20737-1238

Re: Petition for Publication of a Federal Register Notice Soliciting Comments on the Need to Modify the Designations Utilized to Describe Categories of Licensees in 9 CFR § 1.1.

Dear Dr. Gipson:

Pursuant to the Administrative Procedures Act, 5 U.S.C. 553(e) and 7 CFR 1.28, The Hunte Corporation hereby petitions the Animal and Plant Health Inspection Service ("APHIS") of the United States Department of Agriculture ("USDA") to publish a notice in the Federal Register soliciting comments on proposed changes to the classifications used to regulate licensees under the Animal Welfare Act involved in the purchase, sale, or transport of animals in commerce. These categories are currently defined in 9 CFR § 1.1 of the APHIS regulations.

Petitioner's Statement of Interest

Founded in 1991, The Hunte Corporation is the world's leading licensed distributor of pure-bred puppies to retail pet stores. The puppies are supplied by licensed professional breeders. The Hunte Corporation is a USDA Class B licensee under the APHIS regulations. The Hunte Corporation makes every effort to comply with the humane care standards incorporated in the APHIS regulations and has maintained an excellent compliance record.

The puppies provided by The Hunte Corporation to the pet industry are sourced from Class A licensed breeders and prior to shipment, the company addresses any specific medical needs, including surgical care if necessary. Medical care takes place in veterinary facilities that are fully-staffed by experienced veterinary professionals. Upon sale, the puppies are transported in climate-controlled, air-cushioned vehicles with constant fresh air exchange and constantly-available spring water and food. Each puppy is microchipped for lifetime identification.

The Hunte Corporation provides only pure-bred and specialty bred puppies to the pet industry. It does not supply animals for other purposes, nor does it engage in the purchase and sale of random-source animals as defined in 9 CFR § 1.1.

Statement of the Problem

Under the Animal Welfare Act ("AWA") (7 U.S.C. 2131 et seq.), the Secretary of Agriculture is authorized to promulgate standards and other requirements governing the humane handling, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, operators of auction sales, carriers and intermediate handlers. The AWA is implemented through a regulatory regime administered by APHIS. The regime includes a comprehensive licensing system that currently includes certain categories of licensees. Class A licensees encompass breeders; Class B licensees encompass a wide variety of dealers, and Class C licensees include various categories of exhibitors.

These respective classifications, while defined by regulation, fail to effectively identify persons subject thereto, and the 'B' Class, in particular, is inappropriately broad, including dealers of animals supplied for purposes other than as pets and animals supplied for the pet trade, including pure-bred and specially-bred puppies supplied to pet stores. The breadth of this class compromises appropriate designation of its respective members, and limits APHIS in its ability to individually regulate dissimilar licensees within the class. Substantive distinctions in the types of activities conducted by varied members of this class demand separate characterizations.

This conclusion is supported by a recent report prepared by APHIS itself, responding to a Congressional request for information on enforcement efforts. The Conference Report Accompanying the Fiscal Year 2006 Agriculture, Rural Development and Related Agencies Appropriations Bill directed the Secretary of Agriculture to prepare a report on enforcement actions taken by APHIS in the regulation of Class B animal dealers under the Animal Welfare Act.

The report, while acknowledging the importance of scientific achievements made possible through the use of laboratory animals, emphasizes unique enforcement requirements for providers of such animals by Class B animal dealers. The Report focuses on aggressive enforcement efforts undertaken by APHIS in connection with the trace-back of dogs sold to laboratory facilities.

While the Report is intended to highlight APHIS enforcement efforts relative to animals sold to laboratory facilities, it demonstrates distinctions in enforcement needs for these licensees versus distributors of puppies for the commercial pet industry, about which it is silent. The report thereby underscores the differences in these separate industries. APHIS' ability effectively to regulate the separate industries can only be enhanced by recognizing these distinctions in its classification system.

Additionally, the "Class B" terminology suggests substandard or second tier regulatory status. Nothing in APHIS' rulemaking adopting this classification system suggests an intent to state or imply a subordinate status for members of this license class, nor does the actual conduct of Petitioners' members occupying this license class justify such a characterization. Indeed, commercial providers of pets licensed by APHIS as Class B Dealers expend substantial resources in an effort to comply with APHIS humane care standards. Nevertheless, the current classification system has the effect of connoting a second-tier characterization that casts aspersions on the commercial pet industry (as well as the activities of other Class B Dealers) and adversely affects its ability to do business.

Thus, because APHIS will be better positioned to effectively regulate licensees and because the existing classification system unfairly prejudices certain groups subject to it, this system should be revised to more appropriately reflect AWA licensees currently covered by the Class B designation.

Regulatory Proposal

The Hunte Corporation proposes, through this petition, that USDA and, more specifically, APHIS review and, following public comment, revise the regulatory designations applicable to Class B dealers licensed under the AWA to better reflect the nature of the various businesses encompassed by these classifications.

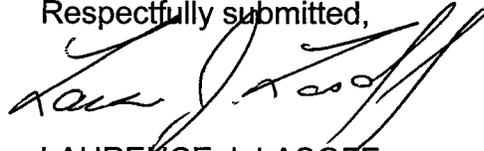
The terminology itself should be considered in the context of the overall AWA regulatory framework, with specific attention given to a scheme of classification that does not state or suggest different classes are inherently inferior or superior to one another. Terminology identifying such categories or classifications should also reflect the nature of the licensees subject thereto.

Specifically, The Hunte Corporation proposes amending 9 CFR § 1.1 of the APHIS regulations to establish the following new categories of licensees specific to dealers selling animals exclusively for the pet industry and for any such other categories as may be appropriate. First, The Hunte Corporation proposes to amend the APHIS regulations to establish a new category of licensee – "Pet distributor." The category would include distributors who only purchase animals from licensed breeders and those not legally required to be licensed, and who sell those animals exclusively to the retail pet industry. Second, specific categories should be established to cover "exhibitor animal distributors" and "laboratory animal distributors." Finally, categories covering "other distributors" and covering distributors who fall into multiple categories should be established. Revisions to the classifications applicable to Class B dealers, and any other revisions should encompass any attendant changes appropriate to specific categories of licensees.

Conclusion

For the reasons set forth herein, The Hunte Corporation urges APHIS to initiate a rulemaking establishing distinct classes of licensees for the discreet commercial activities which are currently encompassed under the single 'Class B' designation, and to identify these and all classifications of dealers under the AWA appropriately.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Laurence J. Lasoff", written over a horizontal line.

LAURENCE J. LASOFF
Counsel
The Hunte Corporation