

Proposed Rules

Federal Register

Vol. 63, No. 121

Wednesday, June 24, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 1 and 2

[Docket No. 97-018-2]

RIN 0579-AA95

Licensing Requirements for Dogs and Cats

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: We are considering several changes to the Animal Welfare regulations to ensure the humane handling, care, and treatment of dogs and cats, while concentrating our regulatory efforts on those facilities that present the greatest risk of noncompliance with the regulations. Specifically, we are considering revising the definition of "retail pet store" so that it includes only nonresidential, commercial retail stores, rather than any pet retailer. Retail pet stores are not required to be licensed and inspected under the Animal Welfare Act (AWA). If the definition were revised, many pet retailers now exempt from licensing and inspection requirements would have to be licensed and inspected. We are also considering regulating dealers of hunting, breeding, and security dogs in the same manner as other dealers of dogs. Because these changes could severely strain available Federal resources for carrying out inspections and other enforcement activities under the AWA, we are considering increasing the total number of breeding female dogs and/or cats that a person may maintain on his or her premises and be exempt from licensing and inspection requirements. If this number were increased, some dealers who would no longer qualify as retail pet stores under the revised definition of "retail pet store" would continue to be exempt from licensing and inspection

requirements, and some pet wholesalers who are currently required to be licensed would no longer have to be licensed. This advance notice solicits public comment on the maximum number of breeding female dogs and/or cats that a person should be able to maintain on his or her premises and be exempt from licensing and inspection requirements under the AWA.

We are also interested in obtaining information that would help us determine the impact of the regulatory changes that we are considering. Specifically, if we amend the definition of "retail pet store" as described earlier, how many dealers of dogs and cats would be covered by our regulations under different scenarios for increasing the number of breeding females that a person may maintain on his or her premises and be exempt from licensing. In addition, if we begin regulating dealers of hunting, breeding, and security dogs, how many dealers of hunting, breeding, and security dogs would be covered by our regulations under different scenarios for increasing the number of breeding females that a person may maintain on his or her premises and be exempt from licensing.

DATES: Consideration will be given only to comments received on or before August 24, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97-018-2, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 97-018-2. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room. Alternatively, comments may be submitted via the Internet on an electronic form located at <http://comments.aphis.usda.gov>. Comments submitted on the electronic form need only be submitted once.

FOR FURTHER INFORMATION CONTACT: Dr. Bettye Walters, Veterinary Medical Officer, AC, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737-1234, (301) 734-7833.

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 and other regulated businesses. The Secretary of Agriculture has delegated the responsibility for enforcing the AWA to the Administrator of the Animal and Plant Health Inspection Service (APHIS). Regulations established under the AWA are contained in 9 CFR parts 1, 2, and 3. Part 1 contains definitions for terms used in parts 2 and 3. Part 2 sets forth the general requirements, and part 3 sets forth the standards for the humane handling, care, treatment, and transportation of covered animals by regulated entities. Subpart A of part 3 contains the standards applicable to dogs and cats.

On March 25, 1997, we published in the **Federal Register** (62 FR 14044-14047, Docket No. 97-018-1) a petition for rulemaking, sponsored by the Doris Day Animal League, that requested two changes to the regulations in parts 1 and 3. The requested changes were: (1) To redefine the term "retail pet store" in part 1 as "a nonresidential business establishment used primarily for the sale of pets to the ultimate customer;" and (2) to regulate dealers of dogs intended for hunting, security, and breeding under the provisions applicable to dealers of other types of dogs in part 3.

We solicited comments on the petition for 60 days, ending May 27, 1997. By that date, we received 35,953 comments. They were from dealers of dogs and cats, representatives of industry, members of animal protectionist organizations, members of Congress, and other interested persons. Approximately 65 percent of the commenters supported the changes requested in the petition. The remaining 35 percent had concerns about the changes requested in the petition. Most of their concerns focused on the petition's suggested revision of the definition of retail pet store. The commenters stated that the proposed revision would require that many small, "hobby" breeders of dogs and cats be

licensed and inspected under the regulations. They expressed concern that this not only would be unnecessary, but would severely strain Federal resources available for carrying out inspection and other enforcement activities.

We share the concern about the potential strain on Federal resources, particularly because we do not know how many pet retailers not now subject to the AWA might be affected by the revised definition of "retail pet store." In addition, if we begin regulating dealers of dogs intended primarily for hunting, security, and breeding purposes under the AWA in the same manner as dealers of other types of dogs, many of these dealers would also be required to be licensed and inspected, and we do not know how many dealers of these types of dogs there are. Therefore, we are soliciting comments on an approach, discussed below, for amending the Animal Welfare regulations to ensure that only appropriate facilities are exempt from licensing as retail pet stores and to allow us to concentrate our regulatory efforts on those facilities that present the greatest risk of noncompliance with the regulations.

Definition of Retail Pet Store

In § 1.1, *retail pet store* is defined as "any outlet 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 cold-blooded species." The definition of "retail pet store" goes on to describe certain establishments that do not qualify as retail pet stores, even if they sell animals at retail. Those establishments that do not qualify as retail pet stores are: (1) Establishments or persons who deal in dogs used for hunting, security, or breeding purposes; (2) establishments or persons exhibiting, selling, or offering to exhibit or sell any wild or exotic or other nonpet species of warm-blooded animals (except birds), such as skunks, raccoons, nonhuman primates, squirrels, ocelots, foxes, coyotes, etc.; (3) establishments or persons selling warm-blooded animals (except birds, and laboratory rats and mice) for research or exhibition purposes; (4) establishments wholesaling any animals (except birds, rats, and mice); and (5) establishments exhibiting pet animals in a room that is separate from or adjacent to the retail pet store, or in an outside area, or anywhere off the retail pet store premises.

In accordance with the AWA, retail pet stores are exempt from the licensing and inspection requirements in part 2. Other retail and wholesale pet dealers must be licensed in accordance with the regulations. The definition of retail pet store was established to ensure that the appropriate retail facilities were exempt from licensing requirements. However, that definition has prompted a regulatory interpretation of "retail pet store" that includes all retail outlets, regardless of volume, size, or location of business. As such, under the current definition of retail pet store, a very large number of facilities that are not traditional retail pet stores are exempt from licensing requirements.

To ensure that dogs and cats at these outlets receive humane handling, care, and treatment, we are considering amending the definition of "retail pet store" to limit retail pet stores to only traditional "stores"—nonresidential, commercial, retail businesses that sell primarily pets and pet products. If this change were adopted, many retail pet dealers would no longer be considered retail pet stores, and, unless otherwise exempt under the regulations, would have to be licensed and inspected in accordance with part 2.

We are also considering regulating dealers of dogs intended primarily for hunting, security, and breeding purposes under the regulations applicable to dealers of other types of dogs. This change, if implemented, would require both retail and wholesale dealers of hunting, security, and breeding dogs to be licensed and inspected under the AWA, unless exempt from licensing requirements based on the total number of breeding females maintained on a dealer's premises, in accordance with § 2.1(a)(3)(iii) of the regulations (see "Number of Breeding Females," below).

Because these changes could severely strain available Federal resources for carrying out inspections and other enforcement activities under the AWA, we are considering increasing the total number of breeding female dogs and/or cats that a person may maintain on his or her premises and be exempt from licensing and inspection requirements. If this number were increased, some dealers who would no longer qualify as retail pet stores under the revised definition of "retail pet store" would continue to be exempt from licensing and inspection requirements, and some pet wholesalers who are currently required to be licensed would no longer have to be licensed. We are considering these changes to the regulations to ensure the humane handling, care, and treatment of dogs and cats, while

concentrating our regulatory efforts on those facilities that present the greatest risk of noncompliance with the regulations.

Number of Breeding Females

In § 2.1, paragraph (a)(3) lists those persons who are exempt from licensing requirements. In addition to retail pet stores, those who are exempt from licensing requirements include any person who maintains a total of three or fewer breeding female dogs and/or cats and who sells the offspring of these dogs or cats, which were born and raised on his or her premises, for pets or exhibition, and who is not otherwise required to obtain a license (see § 2.1(a)(3)(iii)).

The licensing exemption based on a total number of three or fewer breeding female dogs and/or cats maintained on a premises was established based on a determination that small facilities usually pose less risk to the welfare of animals than do large facilities. We still agree with that determination, but we believe that a facility does not necessarily have to maintain as few as three breeding females in order to be considered a low risk facility.

We also recognize that, if the revised definition of "retail pet store" discussed above were adopted, a significant number of retail pet dealers who are now exempt from the licensing requirements in part 2 would be required to be licensed and inspected. APHIS does not have unlimited resources for enforcing the Animal Welfare regulations. A reasonable increase in the number of breeding females that an exempt facility could maintain could help APHIS concentrate its regulatory resources on those facilities that present the greatest risk of noncompliance.

Therefore, we are soliciting public comment on amending § 2.1(a)(3)(iii) to increase the total number of breeding female dogs and/or cats that a person may maintain on his or her premises and continue to be exempt from licensing requirements. We believe that the total number should fall between 3 and 60 breeding females. The low end of this range of numbers is based on our current regulations. The high end of this range of numbers is based on our experience enforcing the AWA. Through that experience, we have determined that the risk of noncompliance with the regulations significantly increases if facilities care for more than 60 breeding female dogs and/or cats. At this time, however, we would like to gather more data to support the proposal of a specified number. Therefore, we are seeking information that will help us

determine the appropriate total number of breeding female dogs and/or cats that a person may maintain on his or her premises and continue to be exempt from licensing requirements. We are most interested in receiving information that is in the form of published industry standards, published reports in peer-reviewed journals, studies, and objective data. For those issues on which data or published information is not available, we ask that commenters supply detailed information on why the number they have chosen is appropriate.

We are also interested in obtaining the following information to enable APHIS to target its resources on those facilities that present the greatest risk of noncompliance:

1. If we amend the definition of "retail pet store" as described earlier, how many dealers of dogs and cats would be covered by our regulations under different scenarios for increasing the number of breeding females that a person may maintain on his or her premises and be exempt from licensing.

2. If we begin regulating dealers of hunting, breeding, and security dogs, how many dealers of hunting, breeding, and security dogs would be covered by our regulations under different scenarios for increasing the number of breeding females that a person may maintain on his or her premises and be exempt from licensing.

Written comments should be submitted within the 60-day comment period specified in this document (see **DATES** and **ADDRESSES**).

Authority: 7 U.S.C. 2131-2159; 7 CFR 2.22, 2.80, and 371.2(g).

Done in Washington, DC, this 19th day of June 1998.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98-16807 Filed 6-23-98; 8:45 am]

BILLING CODE 3410-34-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

[Docket No. PRM-71-12]

Petition From International Energy Consultants, Inc.; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Extension of comment period.

SUMMARY: On February 19, 1998 (63 FR 8362), the Nuclear Regulatory

Commission (NRC) published for public comment a petition for rulemaking filed by the International Energy Consultants, Inc. The petition requested that NRC amend its regulations that govern packaging and transportation of radioactive material to eliminate special requirements for plutonium. The comment period was to have expired on May 5, 1998. General Atomics submitted a comment on May 26, 1998, and requested that the comment period be extended so that their comment, and comments by other industry people, be considered. In view of this request, the NRC believes it is appropriate to extend the comment period, which now expires on July 31, 1998.

DATES: The comment period has been extended and now expires July 31, 1998. Comments received after this date will be considered if it is practical to do so but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Send comments by mail addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Attention: Rulemakings and Adjudications Staff.

Hand-deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking web site through the NRC home page (<http://www.nrc.gov>). From the NRC home page, select "Rulemaking" from the tool bar. The interactive rulemaking website can then be accessed by selecting "Rulemaking Forum." This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415-5905; e-mail CAG@nrc.gov.

Certain documents related to this rulemaking, including comments received and the environmental assessment and finding of no significant impact, may be examined at the NRC Public Document Room, 2120 L Street NW., (Lower Level), Washington, DC. These same documents also may be viewed and downloaded electronically via the interactive rulemaking website established by NRC for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Mark Haisfield [telephone (301) 415-6196, e-mail MFH@nrc.gov] of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Dated at Rockville, Maryland, this 17th day of June, 1998.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 98-16741 Filed 6-23-98; 8:45 am]

BILLING CODE 7590-01-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 34 and 35

Concept Release Concerning Over-the-Counter Derivatives

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period on Concept Release.

SUMMARY: The Commodity Futures Trading Commission issued a Concept Release concerning over-the-counter derivatives on May 12, 1998 (63 FR 26114) with comments due by July 13, 1998. In response to requests from the Chicago Mercantile Exchange, the Futures Industry Association, and the Managed Funds Association, the Commission has determined to extend the comment period for an additional 60 days. The extended deadline for comments on the Concept Release is September 11, 1998.

Any person interested in submitting comments on the Concept Release should submit them by the specified date to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418-5521, or by electronic mail to secretary@cftc.gov.

DATES: Comments must be received on or before September 11, 1998.

FOR FURTHER INFORMATION CONTACT:

John C. Lawton, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone: (202) 418-5490.

Issued in Washington, D.C., on this 18th day of June, 1998, by the Commodity Futures Trading Commission.

Catherine D. Dixon,

Assistant Secretary of the Commission.

[FR Doc. 98-16767 Filed 6-23-98; 8:45 am]

BILLING CODE 6351-01-M