



United States Department of Agriculture
Animal and Plant Health Inspection Service



Questions and Answers: Thresholds for De Minimis Activity and Exemptions From Licensing under the Animal Welfare Act

Q. Why is APHIS proposing this rule?

A. The 2014 Farm Bill amended the Animal Welfare Act (AWA) giving the Secretary of Agriculture the authority to exempt certain small-scale animal dealers and exhibitors from licensing requirements under the Act. APHIS is proposing this rule to define de minimis (small-scale) business activities and to bring the APHIS regulations in line with the amendments to the AWA.

Q. What does APHIS hope to achieve with this proposed rule?

A. The goal of the proposal is to more effectively use our resources and help ensure regulated animals receive the proper level of care as called for under the AWA.

Q. Why should small businesses be exempted from licensing and inspection requirements?

A. Our experience indicates that animal facilities operating at or below certain thresholds are generally capable of providing humane care to their animals and do not require Federal oversight. This would reduce the regulatory burden on small facilities, and would allow APHIS to better direct its inspection resources toward regulated entities that are not providing sufficient care for regulated animals as called for under the AWA.

Q. Which businesses or licensees would be considered de minimis?

A. Business activities considered to be de minimis are of a sufficiently small size to not warrant Federal licensing and inspection for animal welfare. The proposed rule measures business activities using additional criteria including number of breeding females maintained, number of animals exhibited, or the number of times per year that an animal is exhibited. This proposed rule would also amend the regulations to exempt owners of household pets that are exhibited occasionally, generate less than a substantial portion of income, and reside exclusively with the owner.

The current AWA regulations exempt any breeder who maintains four or fewer breeding female dogs, cats, and/or small exotic or wild mammals, and who sell only the offspring of those animals born and raised on his or her premises, for pets or exhibition from obtaining a license.

For exhibitors, the rule would add new regulations to exempt anyone who maintains four or fewer listed animals (dogs, cats, rabbits, hamsters, guinea pigs, chinchillas, cows, goats, pigs and sheep) if the animals reside at the site where they are exhibited. Additionally, the proposed rule includes exemptions

for exhibitors who use animals in seasonal exhibitions. This exemption would apply to any person who maintains eight or fewer listed animals as long as the animals are not exhibited more than 30 days per calendar year.

Businesses already exempted under current licensing exemptions would not be affected by this proposed exemption, and sales of farm animals would not be affected if they are sold for the purpose of improving animal nutrition, breeding, management, or production efficiency, or for food or fiber.

Q. Will facilities/businesses with dangerous animals be exempt from licensing?

A. No. Consistent with the Congressional amendments to the AWA, business activities involving animals that pose a danger to public safety or security, including elephants and big cats, would not be considered de minimis and would still be required to meet our licensing and inspection requirements.

Q. Will the current exemptions for breeders and dealers change?

A. No. The current AWA regulations exempt any breeder who maintains four or fewer breeding female dogs, cats, and/or small exotic or wild mammals, and who sells only the offspring of those animals born and raised on his or her premises, for pets or exhibition from obtaining a license. These exemptions will remain in place under the proposed rule.

Q. Will breeders that have multiple species involved in regulated activities be exempted?

A. Yes, as long as they do not exceed the total number of animals, of any listed species, for that exemption. As an example, if a breeder has two breeding female dogs and two breeding female guinea pigs, that breeder could claim an exemption. Conversely, if the breeder had three breeding female dogs and two breeding female guinea pigs, an exemption could not be claimed, because the total number of breeding females, regardless of species, has to be four or fewer for breeders.

Q. How many currently licensed facilities/businesses does APHIS estimate will be exempt from licensing and inspection?

A. We expect that most dealers who would be eligible for a de minimis exemption are already covered under the current exemptions. We estimate that approximately 212 currently licensed exhibitors and dealers, would no longer require licensing following implementation of this proposed rule.

Q. What are the next steps for this rule?

A. We are inviting public comments on this proposed rule and on the specific exemption thresholds that are proposed. Interested parties may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0059>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2014-0059, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

We will review and consider all comments received on or before November 2, 2016. After the comment period closes, we will thoroughly review all of the comments we receive, and will then determine our next steps toward final rulemaking.

Press Release

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