

Proposed Rules

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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 Part 2

[Docket No. 92-158-1]

Animal Welfare; Licensing and Records

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Animal Welfare regulations to require dealers, exhibitors, and operators of auction sales who apply for license renewal to certify that, to the best of their knowledge and belief, they are in compliance with the regulations before a renewal is issued. We are also proposing to require dealers and exhibitors to use certain forms to make, keep, and maintain the animal identification records required by the regulations. We believe these changes are necessary to help ensure that applicants for license renewal are in compliance with the regulations and that dealers and exhibitors keep accurate and complete records. These proposed amendments would promote compliance with the Animal Welfare Act.

DATES: Consideration will be given only to comments received on or before February 28, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 92-158-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independent Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are encouraged to call ahead on (202) 690-

2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Debra E. Beasley, Senior Staff Veterinarian, Animal Care, Regulatory Enforcement and Animal Care, APHIS, USDA, room 565, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7833.

SUPPLEMENTARY INFORMATION:

Background

The Animal Welfare regulations contained in 9 CFR part 2 (referred to below as "the regulations") pertain to the administrative and institutional responsibilities of regulated persons under the Animal Welfare Act (7 U.S.C. 2131, *et seq.*) (the Act). We are proposing to amend the regulations concerning licensing and recordkeeping to modify one aspect of the license renewal process and to require the use of two forms for the maintenance of certain prescribed records.

License Renewal

The regulations in § 2.1(a)(1) require any person who operates or desires to operate as a dealer, exhibitor, or operator of an auction sale, except certain persons exempted under § 2.1(a)(3), to have a valid license. A person seeking a license or license renewal must apply on an application form that is provided by the Animal and Plant Health Inspection Service (APHIS), Regulatory Enforcement and Animal Care (REAC) sector supervisor for the State in which the person operates or seeks to operate. Along with the application form, the sector supervisor will send a copy of the applicable regulations and standards contained in 9 CFR parts 1, 2, and 3 to a person seeking a license or license renewal. The person seeking a license or license renewal must acknowledge, on the application form, that he or she has received a copy of the regulations and standards and agrees to comply with the regulations and standards. If the applicant meets all the applicable requirements of the regulations, a license will be issued.

After examining the licensing process, we believe that a greater degree of compliance with the regulations could be attained if we required persons seeking to renew a license to certify that, to the best of their knowledge and

belief, they are in compliance with the regulations and standards.

Therefore, we are proposing to amend § 2.2 of the regulations to require that an applicant for license renewal certify that, to the best of the applicant's knowledge and belief, he or she is in compliance with the regulations and standards and agrees to continue to be in compliance upon issuance of a renewed license. We believe that this proposed change would promote compliance with the regulations and standards by encouraging licensees to make more frequent and thorough inspections of their facilities and operations.

Recordkeeping Requirements

The regulations in § 2.75(a)(1) require each dealer and exhibitor to make, keep, and maintain records concerning each dog or cat in his or her possession or under his or her control. The records must fully and correctly disclose information concerning the acquisition, disposition, transportation, identification, and previous ownership of each dog or cat. Although the regulations do not require dealers or exhibitors to use any particular method or form to make, keep, and maintain the prescribed records, § 2.75(a)(2) does state that Record of Dogs and Cats on Hand (VS Form 18-5) and Record of Disposition of Dogs and Cats (VS Form 18-6) may be used.

APHIS has found, however, that because there are no prescribed forms for recording the information required by § 2.75(a)(1), the degree to which individual dealers and exhibitors comply with the recordkeeping requirements varies. Records that contain incorrect or incomplete information may be of little or no use to an APHIS official searching for a specific dog or cat or trying to ascertain whether a dealer or exhibitor is in compliance with the regulations. Therefore, we are proposing to amend the regulations to require dealers and exhibitors to use Record of Dogs and Cats on Hand (VS Form 18-5) and Record of Disposition of Dogs and Cats (VS Form 18-6) to make, keep, and maintain the information required by § 2.75(a)(1).

This proposed change in the regulations would promote compliance with the Act by simplifying the recordkeeping process for dealers and exhibitors. By filling out the prescribed

forms, a dealer or exhibitor would have recorded all the information required by § 2.75(a)(1). Use of the forms would also aid APHIS in its enforcement of the regulations by standardizing the format in which animal identification records are kept, thus making the task of reviewing records or searching for specific information easier.

Miscellaneous

In addition to the proposed changes set forth above, we are also proposing to amend the regulations by providing APHIS form numbers alongside the Veterinary Services (VS) form numbers currently used in the regulations. Since the 1988 APHIS reorganization that established REAC as a separate unit, APHIS form numbers have been assigned to the VS forms used by REAC. When the existing stock of VS forms in depleted, only APHIS form numbers will be used. Until that occurs, however, we believe that both APHIS and VS form numbers should be set out in the regulations to help prevent any confusion. Therefore, we are proposing to add APHIS form numbers in front of the VS form numbers that appear in §§ 2.2, 2.5, 2.35, 2.38, 2.75, 2.78, and 2.102.

Executive Order 12866 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12866. Based on information compiled by the Department, we have determined that this proposed rule: (1) Would have an effect on the economy of less than \$100 million; (2) would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (3) would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (4) would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and (5) would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

We are proposing to amend the Animal Welfare regulations to require applicants for license renewal to certify that they are in compliance with the regulations before a renewal is issued. We are also proposing to require dealers and exhibitors to use certain forms to make, keep, and maintain the animal identification records required by the regulations. These actions are necessary

to help ensure that applicants for license renewal are in compliance with the regulations and that dealers and exhibitors keep accurate and complete records. We do not expect there to be an economic impact on any entities, large or small, that would be affected by these proposed changes in the regulations.

Because all licensees are currently required to operate in compliance with the regulations, the proposed requirement for license renewal applicants to certify that they are in compliance with the regulations would have no effect in terms of increased operational costs or burdens. Similarly, the proposal to require the use of VS Form 18-5, "Record of Dogs and Cats on Hand," and VS Form 18-6, "Record of Disposition of Dogs and Cats," to make, keep, and maintain the required animal identification records would involve no new costs or burdens. Dealers and exhibitors are already required to keep the records, so they will not have to gather or record any new information in order to complete the forms. We would not require any existing records to be converted over to the new forms. Additionally, the forms would be provided by APHIS to the dealers and exhibitors free of charge.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This proposed rule has been reviewed under Executive order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection of recordkeeping requirements included in this proposed rule will be submitted for approval to the Office of Management and Budget. Please send written

comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please send a copy of your comments to: (1) Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, and (2) Clearance Officer, OIRM, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250.

List of Subjects in 9 CFR Part 2

Animal welfare, Pets, Reporting and recordkeeping requirements, Research.

Accordingly, 9 CFR part 2 would be amended as follows:

PART 2—REGULATIONS

1. The authority citation for part 2 would continue to read as follows:

Authority: 7 U.S.C. 2131-2157; 7 CFR 2.17, 2.51, and 371.2(g).

2. Section 2.2 would be revised to read as follows:

§ 2.2 Acknowledgement of regulations and standards.

(a) *Application for initial license.* APHIS will supply a copy of the applicable regulations and standards to the applicant with each request for a license application. The applicant shall acknowledge receipt of the regulations and standards and agree to comply with them by signing the application form before a license will be issued.

(b) *Application for license renewal.* APHIS will supply a copy of the applicable regulations and standards to the applicant for license renewal with each request for a license renewal. The applicant for license renewal shall acknowledge receipt of the regulations and standards and shall certify that, to the best of the applicant's knowledge and belief, he or she is in compliance with the regulations and standards and agrees to continue to comply with the regulations and standards by signing the application form before a license will be renewed.

§ 2.5 [Amended]

3. In § 2.5, paragraph (b), the first sentence would be amended by adding the words "APHIS Form 7003/" immediately before the words "VS Form 18-3".

§ 2.35 [Amended]

4. In § 2.35, paragraph (d)(1) would be amended by adding the words "APHIS Form 7001/" immediately before the words "VS Form 18-1" and by adding the words "APHIS Form 7005/" immediately before the words "VS Form 18-5".

5. In § 2.35, paragraph (d)(2) would be amended by adding the words "APHIS Form 7001/" immediately before the words "VS Form 18-1" and by adding the words "APHIS Form 7006/" immediately before the words "VS Form 18-6".

§ 2.38 [Amended]

6. In § 2.38, paragraph (h)(3) would be amended by adding the words "APHIS Form 7001/" immediately before the words "VS Form 18-1".

7. In § 2.38, paragraph (i)(3) the beginning of the second sentence would be amended by removing the words "Veterinary Services" and adding the words "APHIS Form 7009/VS" in their place.

8. Section 2.75 would be amended as follows:

a. Paragraph (a)(2) would be revised to read as set forth below.

b. In paragraph (a)(3), the words "APHIS Form 7001/" would be added immediately before the words "VS Form 18-1", and the words "paragraph (a)(1) of this section and" would be removed.

c. In paragraph (b)(2), the words "APHIS Form 7019/" would be added immediately before the words "VS Form 18-19", and the words "APHIS Form 7020/" would be added immediately before the words "VS Form 18-20".

As revised, § 2.75 (a)(2) would be read as follows:

§ 2.75 Records: Dealers and exhibitors.

(a) * * *

(2) Each dealer and exhibitor shall use Record of Dogs and Cats on Hand (APHIS Form 7005/VS Form 18-5) and Record of Disposition of Dogs and Cats (APHIS Form 7006/VS Form 18-6) to make, keep, and maintain the information required by paragraph (a)(1) of this section.

* * * * *

§ 2.78 [Amended]

9. In § 2.78, paragraph (d) would be amended by adding the words "APHIS Form 7001/" immediately before the words "VS Form 18-1".

§ 2.102 [Amended]

10. In § 2.102, paragraph (a)(3) the beginning of the second sentence would be amended by removing the words "Veterinary Services" and adding the words "APHIS Form 7009/VS" in their place.

Done in Washington, DC, this 21st day of December 1993.

Patricia Jensen,
Deputy Assist Secretary, Marketing and Inspection Services.

[FR Doc. 93-31679 12-27-93; 8:45 am]
BILLING CODE 3410-34-P

9 CFR Part 51

[Docket No. 93-023-1]

Animals Destroyed Because of Brucellosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the brucellosis indemnity regulations to provide for the payment of indemnity to owners who have brucellosis exposed cattle or bison destroyed that were previously sold or traded from any herd that has subsequent to the sale or trade been found to be affected with brucellosis. This action appears necessary to give herd owners sufficient incentive to destroy their exposed animals in a timely manner. Prompt destruction of brucellosis-affected animals would assist in eradicating the disease in the United States.

DATES: Consideration will be given only to comments received on or before January 27, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 93-023-1. 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 encouraged to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. M. J. Gilsdorf, National Brucellosis Epidemiologist, Cattle Diseases and Surveillance Staff, Veterinary Services, APHIS, USDA, room 731, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-4918.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis, also called Bang's disease or undulant fever, is a serious infectious disease of cattle, bison, and other species, including humans, caused by

bacteria of the genus *Brucella*. Brucellosis in cattle and bison is characterized by fever, sterility, slow breeding, abortion, and loss of milk production. To help prevent the spread of the disease, the regulations in 9 CFR part 51 (referred to below as the regulations) provide for payment of Federal indemnity to owners of certain animals destroyed because of brucellosis. The payment of indemnity is intended to provide owners with a financial incentive for promptly destroying animals affected with or exposed to brucellosis. Because the continued presence of brucellosis in a herd seriously threatens the health of animals in that herd and possibly other herds, the prompt destruction of brucellosis-affected cattle or bison is critical if brucellosis-eradication efforts in the United States are to succeed.

In accordance with § 51.3(a)(1) of the regulations, the Administrator of the Animal and Plant Health Inspection Service (APHIS) may authorize the payment of Federal indemnity by the United States Department of Agriculture (USDA) to any owner whose cattle or bison are destroyed as brucellosis reactors.

In accordance with § 51.3(a)(2)(i) of the regulations, the Administrator of APHIS may also authorize the payment of Federal indemnity by USDA to any owner whose herd of cattle or bison is destroyed because of brucellosis. The Administrator may authorize the payment of Federal indemnity by USDA for brucellosis exposed cattle or bison in the herd only when the Administrator determines that destruction of all cattle and bison in the herd will contribute to the brucellosis eradication program.

Currently the regulations do not provide for the payment of indemnity for destroying cattle and bison that were sold or traded from a herd prior to the time that herd was found to be affected with brucellosis. We are proposing to change the regulations to allow for payment of Federal indemnity to owners who have brucellosis exposed cattle or bison destroyed that were previously sold or traded from a herd that has subsequent to the sale or trade been found to be affected with brucellosis.

Under current practice, when a herd is found to be affected with brucellosis, animals sold or traded from the herd are traced to the new owners. Animals are traced if they were in a herd during a period in which epidemiological information and professional judgment show they could have become brucellosis affected. Epidemiological information such as test results, herd history, and related evidence would be