

Licensing and Registration Under the Animal Welfare Act

Guidelines for Dealers, Exhibitors, Transporters, and Researchers

Introduction:

Ensuring proper animal care and comfort is not just good business-it is also required by law under the Animal Welfare Act. Passed by Congress in 1966 and amended in 1970, 1976, 1985, and 1990, the law protects many animals not raised for food or fiber. It also sets stiff penalties for sponsors and promoters of outlawed animal-fighting ventures.

Many businesses that buy or sell warmblooded animals, exhibit them to the public, transport them commercially, or use them in experiments or teaching must be licensed or registered by the U.S. Department of Agriculture (USDA). Normal farm-type operations that raise, or buy and sell, animals only for food and fiber, and businesses that use only fish and other coldblooded animals are exempt by law; those that use only rats, mice, or birds are exempt by regulation. The rabbit business is exempt from regulation if the rabbits are intended only for food or fiber. If any rabbits are designated for use in the pet, exhibit, or laboratory-animal trade, the business is regulated. Certain other types of businesses are specifically exempt by law or regulation. No exempt business has to be licensed or registered.

This pamphlet lists the major types of regulated and exempt businesses, but it does not cover all cases. If in doubt about your status, telephone or write the Regional Office of the USDA, Animal and Plant Health Inspection Service (APHIS), Animal Care (AC) for your State (see page 19). AC personnel will answer your questions and provide a copy of the Code of Federal Regulations, Title 9, Chapter 1, Subchapter A, which gives the legal requirements for businesses regulated by the Animal Welfare Act.

If you are an owner or the person in charge of a regulated business, the law requires you to be licensed or registered with USDA. Failure to become licensed or registered is a punishable violation of the Animal Welfare Act.

On the basis of information you supply, APHIS determines whether your business should be licensed, registered, or both. Licensing involves a yearly fee; registration is free. The owner, operator, or manager has responsibility for knowing about licensing or registration requirements.

The annual license fee for licensed animal dealers (Class A or B) ranges from \$30 to \$750, depending on your annual dollar volume of business in regulated animals. (Class A licensees are breeders and deal only in animals they breed and raise. Class B licensees include brokers,

bunchers, and operators of auction sales.) The annual license fee for licensed animal exhibitors (Class C) ranges from \$30 to \$300, depending on the number of regulated animals held. In addition to the annual license fee, an application fee of \$10 must be paid with all yearly license applications.

The same standards of animal care apply to all registered and licensed businesses, and APHIS field inspectors make periodic unannounced visits to all locations where animals are held to see that regulations and standards are followed.

Basically, the Federal animal care standards cover humane handling, housing, space, feeding and watering, sanitation, ventilation, shelter from extremes of weather, adequate veterinary care, separation of incompatible animals, transportation, and handling in transit.

If your facilities or practices do not meet Federal standards when you apply, you will receive up to three inspections within a period not to exceed 90 days to correct any deficiencies. Licenses are not issued until all deficiencies are corrected. If you do not pass inspection within the 90-day period, you must wait at least 6 months before reapplying for a license. Legal action results if you operate a regulated business without a license.

Animal Dealers

If your business falls under any of the categories of "dealers" listed below, you must be licensed by USDA. You cannot be licensed or registered as an exhibitor. You must be licensed according to what type of activity is your predominant business. When first contacting APHIS, indicate the species you handle, the type of business you are in, and the type of business to which you sell animals. You can hold one type of license only.

Regulated Businesses

Pet Wholesalers: Anyone importing, buying, selling, or trading pets in wholesale channels must be licensed. Annual license fees are based on the amount received from the sale of regulated animals less the amount paid for these animals.

Pet Breeders: Anyone breeding pets for the wholesale trade must be licensed. You also may have to be licensed if you sell dogs as breeding stock to other breeders. Some small-scale breeders can qualify for an exemption (see "Hobby Breeders"). Annual license fees are based on 50 percent of gross sales of regulated animals.

Laboratory Animal Dealers: Anyone importing, buying, selling, or trading laboratory animals, either directly to research institutions or through other dealers, must be licensed. This licensing requirement includes "bunchers," who supply dealers with dogs, cats, and other regulated animals collected from random sources; it also includes research institutions (except State or Federal facilities) that sell or trade surplus animals to others. Annual license fees are based on the amount received from the sale of regulated animals less the amount paid for these animals.

Laboratory Animal Breeders: Anyone breeding regulated animals for laboratory-animal trade

must be licensed. Annual license fees are based on 50 percent of gross sales of regulated animals.

Animal Brokers: Anyone who deals in regulated animals but does not take physical possession must be licensed. If you meet this definition of a broker, you are exempt from certain regulations imposed on dealers who handle animals, but you need the same type of license. Annual license fees are based on income from commissions and brokerage fees (with no deductions).

Auction Operators: Anyone who operates an auction at which regulated animals are sold must be licensed. For example, licenses must be acquired by radio and television stations that conduct auctions with telephone bids on regulated animals-whether or not the proceeds go to charity. Annual license fees for auction operators are based on income from commissions and fees from selling regulated animals.

Promoters Giving Animal Prizes: A carnival concessionaire or other promoter who gives regulated animals as prizes must be licensed. Annual license fees are based on the amount paid to the promoter to offer animal prizes less the amount paid for these animals.

Exotic Animal Dealers: Anyone importing, buying, selling, or trading animals foreign to the United States (wild or domesticated) must be licensed. You also must be licensed if you sell domestically bred exotic animals. Annual license fees are based on the amount received from the sale of regulated animals less the amount paid for these animals.

Wild Animal Dealers: A business or individual selling wild animals must be licensed. "Wild animals" means any animal that is now or historically has been found in the wild, or in the wild state, within the boundaries of the United States, its territories, or possessions. This term includes, but is not limited to, animals such as deer, skunk, raccoon, mink, armadillo, coyote, squirrel, fox, and wolf.

If you sell any wild or exotic animals, you are not eligible to claim exemption as a retail pet store. You become a full-fledged dealer, and you must comply with standards of care for all regulated animals-not just wild or exotic animals. Annual license fees are based on the amount received from the sale of regulated animals less the amount paid for these animals.

Suppliers of Specimens: Anyone who sells dead animals that are regulated or who sells the blood, serum, or parts of these animals must be licensed. Annual license fees are based on income from specimens less cost of the specimens or the animals from which they were prepared.

Exempt Businesses

Retail Pet Stores: Anyone whose entire business consists of selling domestic animals to pet owners is exempt. However, if as part of your business you exhibit animals, you may have to be licensed as an exhibitor.

For example, you need an exhibitor's license if you take animals outside the store for teaching or promotion or if you set up a petting display. You must be licensed as a dealer if you sell wild or

exotic animals, or if you sell regulated animals to other retailers, research institutions, exhibitors, or other animal dealers. You need to be licensed as an exhibitor if you display a monkey or other wild animal inside the store.

Exemptions for retail pet stores are on an all-or-nothing basis. If you qualify for exemption, none of your business is regulated or inspected. If you do not qualify, you are a full-fledged dealer, and all your regulated animals are inspected.

Retail Chain Stores: Centrally managed stores that sell pets entirely at retail are exempt. Like independent retailers, chains are treated as business entities on an all-or-nothing basis. If all outlets qualify as retail pet stores, the entire chain is free from regulation. Conversely, if any outlet does not qualify as a retail pet store, the company must be licensed as a dealer, and all regulated animals at all outlets are inspected.

Direct Sales: Anyone who sells domestic pets directly to pet owners is exempt, regardless of sales volume. Such sales can be made in person or by mail.

Hobby Breeders: Small-scale breeders with gross sales under \$500 per year are exempt, as long as these sales do not include wild or exotic animals, dogs, or cats. If you own no more than three breeding female dogs or cats and sell the offspring, into the pet channels only, you are exempt.

Public Pounds: Animal shelters that are part of State, county, or local governments are exempt. The exemption covers only the pound's own activities. You must have a dealer's license if you purchase animals from pounds for resale or acquire them on contract for resale. The Pet Protection Act of 1990 places some restrictions on pounds and shelters, such as a specific holding period for animals before they may be sold to a dealer.

Private Shelters: Animal shelters operated by humane societies and other private groups are exempt unless animals are disposed of through trade channels as pets or to research institutions for use as laboratory animals, or animals are taken off the premises for exhibition to the public.

Trade-Day Sales Sponsors: Anyone arranging occasions for people to make private sales or trades of animals is exempt. The exemption holds only if the sponsor does not act as intermediary in the transaction. The buyers, sellers, and traders at trade-day sales, however, must be licensed if they meet the definition of a dealer.

Boarding Kennels: Anyone housing animals for others is exempt, except for intermediate handlers and holding facilities. You must be registered as an intermediate handler if, as part of your services, you receive shipment of regulated animals traveling on public carriers. You have to agree in writing to observe USDA's standards of animal care if you operate a holding facility—meaning that you board regulated animals for licensed dealers or research facilities. APHIS inspects regulated animals in holding facilities to ensure that they receive the required care; dealers or research facilities need prior APHIS approval to board regulated animals with you.

Dealers in a Nonregulated Species: There is a blanket exemption for anyone handling only those animals not included under Federal law or regulations (see Introduction). Examples of

businesses not needing licensing or registration are those restricted to birds, fish, reptiles, and amphibians.

Animal Transporters

If you are involved in any way in the transportation of regulated animals as part of your business operation, you must be licensed as a dealer or registered as an intermediate handler or carrier. When contacting APHIS, indicate whether you are applying for a license as a private carrier or are being registered as an intermediate handler or public carrier, as described below.

Regulated Businesses

Carriers: Any enterprise transporting regulated animals for hire as a common carrier must be registered as a carrier. This includes airlines, railroads, motor carriers, shipping lines, and other enterprises. As a carrier, all your facilities where animals are kept or held are regulated, including terminals and freight storage. You are responsible for enforcing all restrictions on animals that can be legally shipped by your customers. You also are responsible for proper crating, whether the shipper or receiver is a private pet owner, a business, an institution, or a Government agency. Pets transported by their owners as carryon baggage are not subject to these restrictions.

Intermediate Handlers: Anyone taking custody of regulated animals in connection with transporting them on public carriers must be registered as an intermediate handler. This requirement covers boarding kennels that take responsibility for shipping animals or receiving them after or during shipment, as well as freight forwarders and freight handlers.

Contract Carriers: Anyone transporting regulated animals by contract or agreement must obtain a license as a dealer and is responsible for complying with all regulations and standards. This requirement covers those that are not involved as common carriers or intermediate handlers but do transport animals for profit or compensation, such as transporting animals for licensed dealers to airports, pet stores, etc.

Exempt Businesses

Transporters of Nonregulated Species: There is a blanket exemption for anyone transporting only animals not included under Federal law or regulations (see Introduction). Examples of carriers not needing licensing or registration are those restricting their services to birds, fish, reptiles, and amphibians.

Animal Taxis: Individuals who transport private pets to and from the veterinarian, groomer, etc.

Animal Exhibitors

If you have animals on display to the public or conduct performances featuring animals, you must become licensed as an exhibitor. When first contacting APHIS about a license, indicate the number and species of exhibit animals you have on hand because the license fee is determined by the number of animals held or exhibited. Also, indicate the annual income you receive from exhibiting animals and from trading in animals. The annual license fees for an exhibitor are

based on the number of animals held or exhibited.

Under special circumstances, exhibitors may be registered instead of licensed, which requires no fee. This applies to some noncommercial exhibits, such as municipal deer parks that do not charge admission and exhibit only animals native to the area.

If you have a traveling animal show that goes to more than one State, send your itinerary along with your license application to the AC Regional Office in the area where you have your permanent office or winter quarters. Inspections may be conducted at sites where your show is performing.

Zoological Parks: Animal exhibits open to the public must be licensed whether they are owned by States, counties, or other local governments; corporations; foundations; or private individuals. Zoos run by agencies of the Federal Government are not licensed or registered, but the animals in these zoos are inspected and are subject to these same USDA standards of animal care. Petting zoos with regulated animals, including rabbits, must be licensed and are subject to special regulations protecting animals and the public.

Marine Mammal Shows: Exhibits, shows, and acts with marine mammals must be licensed. This includes public aquariums, amusement parks, and zoos. However, exhibits in which free-living marine mammals are viewed in their natural state are exempt; examples are coastal seal rookeries or commercial whale sightseeing tours. Marine mammals include polar bears, sea otters, whales, porpoises, dolphins, manatees, dugongs, seals, sea lions, walruses, and other mammals that have fins or flippers. Marine mammals are protected by a separate set of standards for care and handling.

Animal Performances: Any owner exhibiting animals doing tricks or shows must be licensed. This includes each person owning animals performing in circuses, marine mammal shows, amusement parks, carnivals, independent animal acts, television shows, movies, or educational exhibits. All animals must receive the same quality of housing and other care, regardless of whether they are currently performing.

Roadside Zoos: Tourist attractions exhibiting regulated animals must be licensed even if only a single regulated animal is on exhibit.

Carnivals: Concessionaires who exhibit regulated animals must be licensed as exhibitors. (If you give live regulated animals as prizes, you must be licensed as a dealer.) Carnivals cannot be included in the exemption of an agricultural show, such as a fair with a midway.

Promotional Exhibits: Anyone who uses regulated animals to promote or advertise goods and services must be licensed. (If you give away or sell animals as a prize, you must be licensed as a dealer.) You must be licensed even if you do promotions with only a single animal, such as a bear at a gasoline service station, a monkey at a trade show, or an elephant at a shopping center. You also must be licensed if you use animals to promote photographs or photography.

Animal-Fighting Ventures: Staged dogfights, bear or raccoon baiting, and similar animal-

fighting ventures are prohibited by the Animal Welfare Act, with stiff penalties for convicted sponsors and promoters. Cockfights are permitted only in the few States that have no law against them. Animal-fighting ventures cannot be licensed or registered under the Act.

Exempt Businesses

Private Collections: Anyone who collects animals but does not exhibit them to the public is exempt. The exemption does not apply, however, if you sell (for other than fur) any animal in the collection.

Amusement Parks: Amusement parks not owning animals are exempt. A person owning animals that perform in an amusement park must be licensed as an exhibitor and must comply with USDA requirements for facilities, conditions, and situations where animals are exhibited. Amusement parks exhibiting marine mammals must be licensed, and their facilities must be inspected by USDA.

Farm Animal Exhibition: Anyone who arranges and takes part in showing farm animals at agricultural shows, fairs, and exhibits is exempt. However, anyone exhibiting farm animals for nonagricultural purposes (such as petting zoos) must be licensed. Exhibitors of foreign farm animals not commonly kept on American farms, including camels, must be licensed.

Booking Agents- Licensed Acts: Anyone booking or arranging animal acts without owning any animals is exempt. However, as an agent you should realize that the exhibitors you book must comply with USDA requirements for facilities, conditions, and situations where animals are exhibited. (Unlicensed Acts (foreign): If foreign circuses, acts, or shows enter the United States to exhibit, their U.S. agent is required to be licensed and be responsible for the show.

Pet Shows: Sponsors and participants at pet shows, such as dog, cat, or rabbit shows, are exempt by law.

Horse Shows: Trainers, owners, riders, and sponsors of horse shows-þevents where horses perform in certain gaits-are not regulated under the Animal Welfare Act. APHIS does regulate them, however, under the Horse Protection Act, which forbids the inhumane practice of making a horse sore to enhance its performance. This law does not require registration or licensing.

Rodeos: Competitive events featuring only farm animals and horses are exempt from both the Animal Welfare Act and the Horse Protection Act. Two examples would be bull riding and barrel racing. Circus-type acts performed at rodeos are not exempt and must be licensed as exhibitors.

Animal Preserves: Game preserves, hunting preserves, and similar enterprises that keep animals in the wild state are exempt. However, if you maintain special exhibits for compensation or promotional activities, you must be licensed or registered as an exhibitor. If you sell animals to exhibits, research, or the pet trade, you must be licensed as a dealer.

Hunts: Hunting events are not regulated. Sponsors are not considered exhibitors if they keep

animals only for sport-not for exhibition purposes. Hunting is not considered animal fighting, even if dogs, falcons, or other animals are used to help bring down game.

Shows of Nonregulated Animals: Anyone with exhibits limited to species of animals not covered by law or regulated is exempt. Typical examples would be aviaries, reptile houses, and aquariums not showing marine mammals.

Research Facilities

Institutions using any regulated live animals for research, testing, teaching, or experimentation must register with the USDA as "research facilities." If the institution is part of a larger organization, the parent organization must acquire the registration. Individual researchers and their attending veterinarians should make sure their institution is legally registered and all USDA regulations and standards are followed.

- Included under research, testing, teaching, or experimentation are:
- Investigations on animal propagation and control-such as wildlife ecology;
- Laboratory tests-including pregnancy tests, allergy tests, and other diagnostic procedures;
- Quality-control studies-such as studies on the safety, effectiveness, durability, or other quality tests of commercial products; and
- College instruction-whether for research, or education for the improvement of medical treatment techniques and methods.

Registration is required to ensure that laboratory animals are provided with care and comfort meeting USDA standards. The law and regulations require the use of appropriate pain-relieving drugs wherever possible. Registered research facilities and all agencies of the Federal Government using animals in research must submit an annual report stating how many regulated animals were used and if any painful experiments were conducted. The report must include the number and species of animals used in painful procedures and an explanation as to why it was necessary to omit pain relief.

Regulated Institutions

State-Owned and Local Government Facilities: Public research institutions administered and/or funded by a State or local government must be registered. State-run or locally run institutions do not have to be licensed as dealers even if they sell or trade regulated animals, but they must be licensed as exhibitors if they exhibit animals.

Private research or testing institutions must be registered as research facilities. If private institutions sell, exhibit, or trade regulated animals to others, the institutions must be licensed as

animal dealers or exhibitors.

Drug Firms: Manufacturers of vaccines, drugs, and other medicines must be registered as research facilities if they do research, development, or quality-control tests on regulated animals. Institutions must be registered under the Animal Welfare Act even if they have USDA establishment licenses to produce biologics under the Virus-Serum-Toxin Act. APHIS enforces both acts, and the same inspector may check for compliance with both laws.

Teaching Institutions: Facilities involved in using animals for teaching purposes above the secondary-school level must be registered under the Animal Welfare Act—for example, college or university medical schools, veterinary schools, biology departments, etc.

Diagnostic Laboratories: All diagnostic laboratories using regulated animals must be registered.

Marine Mammal Facilities: Facilities using marine mammals for behavioral, biomedical, and related studies must be registered. (If the facility is open as an exhibit to the public, it must also be licensed as an exhibitor.) The same standards of animal care required for exhibitors apply to marine mammal research facilities.

Exempt Institutions

Federal Facilities: Agencies of the Federal Government that do research are not required to register with USDA and are not inspected by APHIS, but each Federal agency is responsible for complying with all USDA standards of animal care and for submitting an annual report to USDA on the use of regulated laboratory animals. Federal agencies that exhibit regulated animals are not required to be licensed but are inspected by USDA.

School Laboratories: Elementary, secondary, and all other schools below the college level are by law exempt from registration.

Agricultural Research Institutions: Research institutions that perform work involving food, fiber, or agriculture and that use horses and domestic farm animals, including rabbits, are exempt by regulation and do not have to be registered. However, if such institutions are doing nonagricultural biomedical research, they do need to be registered.

Institutions Using Only Biologic Specimens: If only dead biologic specimens—no live animals—are used, an institution is exempt. Suppliers of dead specimens made from regulated animals or dead animals, however, have to be licensed as dealers.

Institutions Using Only Nonregulated Species: A research institution is exempt if it uses only laboratory animals exempted by law or regulation. Examples are birds and domestic rats and mice. Wild species of rats and mice are regulated.

Animal Care Contact Information:

If you need more information about the Animal Welfare Act or your responsibilities in animal

care under this legislation, please contact the Animal Care Regional Office for your State. You may also send us an electronic mail message at the address below, or visit our home page on the World Wide Web.

E-mail: ace@aphis.usda.gov

World Wide Web: www.aphis.usda.gov/ac

Animal Care Regional Offices

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