

USDA Regulations for Ferrets by Dr. Sandra Kudrak

Presented April 30, 2005, St. Louis, MO
2005 International Ferret Symposium®

Thank you very much. Good morning, I appreciate everyone being here, and if you aren't holding your head and going "uhhh," you're going to by the end of this lecture just from all of the hoops that have to be jumped through when you're working with the Federal Government. I guess the reason that I'm here and that I'm giving this presentation is to kind of give an overview of what's been happening the last several years. There's been a project under way to try and have some federal protection for ferrets, so that we don't have to go by state, by state, by state, by state to try and get them some protection. That's a great way to go, and if we can get state protection that's wonderful, but if we can do it one fell swoop and provide even coverage across the United States, it's going to be a lot better off for these little guys. And so for the last three years or so we've been trying to work through the USDA to provide some protection under the Animal Welfare Act to see if we can get some very consistent protection for these guys, and that's what we're going to go through a little bit today.

[So if we could go into the next slide, that'd be great.] This is not an us or them kind of situation – and thanks to the Ferret Company for letting me borrow this picture from them. A lot of people have viewed the relationship with the USDA as being very adversarial. In other words, they're trying to prevent us from getting protection for the ferrets. That's really not true at all. The veterinarians within the USDA are actually very accommodating. I've been working with several of them over the last few years, and they really want to see some protection for ferrets. The problem is that the system, as you're about to find out, is very cumbersome, and it's not very forgiving or easy to get passage through, and that's where we are right now. But fortunately, the USDA has been very good about trying to work with us, and try to get things going and moving, and directing us in the right direction. So, it's not us against them, it's just a difficult system.

This isn't the most stimulating, exciting topic, and it's frustrating to talk about, it's frustrating to be involved in, it's boring from the legal standpoint and the paperwork standpoint, but it's really the best way that we have to go. You'll notice through here there are a lot of pictures of ferrets through here – these are all my own personal guys that in one way or the other have been failed by the system; so they're kind of my personal incentive to keep this project going. Most of these guys are ferrets that have gone through pet stores that were shipped too young, too inappropriately, were deemed severe biters, were slated to be euthanized or sent back, and somehow wound up either through a shelter or with myself; and so these guys that you're seeing are all my household guys that remind me every day with a friendly nip, or a not so friendly nip. Thank you. I hope that you'll remember some of these faces when you go back to your own shelters and look at the faces that you see there; because these are the guys that we're doing this all for.

[Next please.] That was quick! But it was just a slide saying that although it's boring it's something that's really important to do for our companions. And that's little Ethyl who's going to have adrenal surgery in about two weeks, so wish her well if you could.

[Next slide please.] Alrighty. So the whole process of this slide show is to describe to you a little bit of the process of rule making, which is the process that we have to go through to make something into basically law for the United States. There are other avenues as I've alluded to – there's state legislations that you can go through. That's a wonderful way to go. They're a little less cumbersome, they get some immediate results in a lot of instances, and it's definitely a good way to go; but if we can get something federally, it blankets the United States.

[Next please.] The division that we're working within the USDA is APHIS or the Animal and Plant Health Inspection Service and that is the group that basically is in charge of seeing this get through. It sounds simple – you just go to APHIS, tell them what you want and you're done. It doesn't work that way.

[Next please.] The first problem is, we have to figure out what's an animal, because APHIS is only in charge of dealing with animals. Sounds easy – an animal's an animal, right? It's not. This is only part of the definition of an animal, and for those of you in the back I'll read it to you (it continues on the next slide). “The term animal means any live or dead dog, cat, monkey, non-human primate mammal, guinea pig, hamster, rabbit or other such warm blooded animals such as the Secretary may determine as being used or is intended for use for research, testing, experimentation, exhibition purposes, or as a pet, but such term excludes birds, rats of the genus *ratus*, mice of the genus *mus* bred for use in research, horses not used for research purposes and horses not used for research purposes and other farm animals such as, but not limited to, livestock or poultry, used or intended for food or fiber or live stock [next slide], livestock or poultry intended for use for improving animal nutrition, breeding, management, or production efficiency, or improving the quality of food or fiber. With respect to the dog, the term means all dogs, including those used for hunting, security or breeding purposes.” So if that doesn't give you an indication as to why this process is difficult, I don't know what does, but obviously it put poor Bear to sleep there. Fortunately for our purposes, ferrets are considered animals under this definition. So, for those of you that were wondering, at least ferrets are animals. So we've got that all straightened out, everybody knows where we are. But, you know, what is this process of rule making, and when does APHIS decide that they're going to conduct rule making? And, I know we have to go on, it's scary, but Ricky says let's go to the next slide and see what we've got.

Okay, so rule making is very complicated, but basically it's the process that APHIS goes through to try and determine a need and construct some sort of a guideline for the government to follow when they need to enforce that rule. And the basics for rule making are followed by the Administrative – or set by the Administrative Procedure Act, which is what we're going to go through kind of briefly here. But basically this process has to go into effect whenever APHIS determines there is need to enforce a rule. So they first determine the need, then they go ahead and set the rule from there.

[Next slide please.] The APA requirements are very stringent, they're very extensive. Some of the requirements apply to some rules and not to others, so what I tried to do is kind of highlight the steps that we were going to have to go through to get any sort of ferret protection legislation or rule making under effect. So the basic steps are what we've outlined here. It's actually a little more complicated even than what it appears. But basically, what's going to have to happen is there will be publication of a proposed rule in the Federal Register, the public will

have a chance to submit comments, which is actually when you guys all really come into play, because that's when we need as many people as possible to become involved; and then after the written comments are written, reviewed, examined by APHIS, then at that point a final rule will go into publication in the Federal Register, at which point in time a law will go into effect or rule will go into effect. I use those two terms interchangeably – they're not really synonymous, but for our purposes, rule and law can kind of be synonymous, and APHIS – they refer to these just as rules.

[Next slide please.] After the rule is published they'll give at least 30 days for all parties to come in to compliance. Typically it's a lot longer than that – it's usually a matter of a year or two years that they leave for compliance; and then they'll start to enforce the rule after that point in time. This is what they call “informal” or “notice and comment” rule making; and you'll see how kind of ironic that term informal is as we go through this process, because it's anything but informal.

[Next slide please.] Basically what it comes down to is if – [referring to slide: there's a judge in the background with the glowing eyes] – if the rules have not been properly issued, they cannot be enforced, and if there's an attempt made to enforce an improperly issued rule, then the legal system becomes involved, and obviously nobody wants to go there. So the easiest way to go through this process is to just do the slow by step-wise process to get through the whole process, and even though you might be like Linus and kind of skip over the shoe to get to the meat of the matter, Tammy's going to sit in the background and make sure that doesn't happen.

[Next slide please.] A lot of people ask why do we have to have it published in the Federal Register – what's the point of publishing it? What that does is it gives official notice to all associated parties that this rule is going into effect. It basically provides legal documentation that this has been properly reviewed, it's gone through the steps, and it is the official notice that this was properly done. Once it's been officially published in the Federal Register, then it is essentially a legal rule at that point in time, and that's kind of the big goal – is to get everything published into the Federal Register as quickly as possible.

Okay, so we have this great idea. We want to have a rule published. How do we start? Where do you get started? What do you do? First you have to identify exactly what the need is, and then convince, obviously, the appropriate people that the need is real and valid. This can come either internally, so for example APHIS sees that there's a problem and they say we need to take steps to correct this; or it can come from external sources, for example, a group like us that say we've noticed this problem in our ferrets, we want someone to address it. In this instance, that's what happened. One of the first steps are risk analyses. Sometimes the APHIS will require that the external group perform the risk analyses, sometimes they'll do it themselves. In the instances of the rule we're going to discuss, APHIS did the risk analysis for us. After that, a work plan is developed as to exactly what's going to be required, how are we going to proceed from here on out, and that goes to what they call the Risk Analysis Department; then the Office of Management and Budget, and they make a decision as to if we're going to proceed with this, is it something that's considered significant, not significant, or economically significant.

[Next slide please.] Question from audience: What do you try to seek – the not significant? Answer: Not significant is obviously the simplest way to go through. Very few

rulings are determined to be non-significant, especially going through APHIS. The vast majority of APHIS regulations go through as significant. Not significant is much simpler to get through, unfortunately, we were deemed as significant when we went through. We didn't have to go to economically significant, which is the most difficult pathway, but we didn't get the easiest of not significant either. So, it's all in the red tape. Really there isn't a significant difference in the outcome; the difference is in how many hoops you have to jump through. Question: You still have to submit the same information whether it's significant or non-significant? Answer: Yes you do. You submit the same information, but there are more agencies that will review a significant or an economically significant bill or rule, and every time an agency reviews it (as I have found out), it comes back to you with changes, and then you have to propose counter-changes, and it comes back to you with more changes, and every time an agency takes your rule, it gets mangled and then you have to put the original intent back in it, and it gets mangled again, and, as you'll see, there are probably 20 or 30 agencies that review even not significant bills, so it gets complicated. But that leads right to this slide as to what does not significant mean? It doesn't mean that it's not important, it just means that the agencies have determined that it will have minimal enough economic impact that they don't have to scrutinize it nearly as closely, but what they consider minimal impact is fairly few things unfortunately.

[Next slide please.] This is Mausi. This, just to put a plug in for the celebrity auction tonight, this picture of Mausi has been laser-engraved on to a slate and will be available tonight for the auction. He was one of my first ferrets that had adrenal insulinoma, IBD, a chordoma, you name it, and his owner rather than seek a shelter actually chose to drop him in the street in downtown Bangor with a little thing "give me a good home" tagged around his neck. So Mr. Mausi is going to do his part to contribute tonight on a slate, so hopefully everyone will bid for Mouse tonight. But, as we were saying before, not significant doesn't mean that it's not important or wasn't a priority. The Office of Management and Budget just decided it's not necessary for them to go through and review the docket.

[So let's go onto the next slide.] So basically there are number of criteria that they will determine automatically qualifies a rule as being significant. There are a number of these and quite frankly, I'm not really clear where the ferret rule fell in to here, but they have their own ways and you don't question them, and for whatever reason they deemed it significant. But basically, if it has a significant effect on the economy in any way of any sector of the economy it's automatically deemed significant, and I have a feeling that they were considering the issues of the ferret farms when they deemed us significant, because I think that they felt that holding the ferrets longer may have a significant impact on the ferret farms economy. So I have a feeling this may be actually where we fell, although whether that fell into a \$100 million dollars, which is their cutoff criteria, is a completely different matter. Question: Do you think perhaps _____ met with a lobbyist? Answer: I don't know where the rating came from. When I asked the contact that I worked with with the USDA why we were rated significant instead of non-significant, he said that basically, if it comes through APHIS they almost guaranteed give it a significant, and they said that because it usually generates a lot of public commentary and a lot of public issues that they just assume that it's going to be significant and they work from there. So I don't think there was any particular group that pushed for it to go the more difficult route, but I think it's just the nature of they realize this is a very public issue, there are a lot of people involved, there are a lot of sides to the issue, and they wanted to make sure that all sides got a fair hearing, and I think that's probably where it came from – an effort on their behalf to be fair

and not have us try to sneak anything under the rug for them. Question: Were there public hearings? Answer: There have not been public hearings to date, and we'll get to exactly where we are. The public commentary is still coming and probably will come fairly soon. So far it has all been within the USDA, there's been no public commentary or hearings to date on this – that's still upcoming; so this is all workings within the USDA that we're discussing at this point.

[Next slide.] And then the other ratings that automatically will make something a significant ruling is if it will cause conflict within the agencies, effect a lot of the monetary effects of the government or grants, and if it causes some legal or novel policy issues that they're going to have to try and resolve – all of those types of things obviously will automatically get a significant rating.

[Next please.] (Laughter from audience.) This is little Nina and she's scared enough by just the fact that we have a significant rating, she doesn't want to go any further. Because we weren't deemed economically significant, we're not even going to go there because that's a whole other can of worms and we'll just skip right through that because it's not relevant to what we're trying to do. We'll just stick to the fact that we were significant and not scare poor Nina any further.

[Next slide please.] So, once you get ready and you're trying to head to get your stuff published in the Federal Register, you have to make sure that all of the analyses and impact statements are completed, you have to have the Office of the General Counsel and the USDA offices review the proposed rules; and then, if it's significant or economically significant it has to go through the Office of Management and Budget, which keeps things forever, I've discovered. It's like a big sink hole. Once things go into OMB they just never come back out again. Each time it goes to a reviewer, it can get sent back and the process can start all over again with more comments, questions, and corrections done; and then once it's gone all the way through, the Office of the General Counsel, which is basically the legal department of the USDA gets the final chance again to re-review any changes that they've made. We've been through the Office of the General Counsel twice so far; they've only made very minor wording changes on the current proposal. So, at least so far things have gone pretty smoothly as far as major changes are concerned, but the public commentary which is the big step is still yet to come.

[Next.] So once the agency review has been completed, it's gone through all the different agencies, the rule becomes a proposed rule with a 60 day comment period, and they will issue an interim rule to give a chance for some degree of protection to go into effect while they're waiting for the comment period. And then once it's been through the comment period, revisions, and so on, it will get published into the Federal Register; and that's of course the big hurdle that you're trying to accomplish.

[Next please.] That's when public commentary comes in, and that's where public hearings will be made. They usually will request for letters to be sent, emails to be sent, and obviously when we get to that stage we're going to try and make sure that everybody here has a chance to put their comments in; and the actual wording of the rule will become available after all of the legal stuff has gone through so that you know where everything stands and you can review the proposed rule and make your own comments to it. And at that point, all of those comments go back through, they're reviewed, any impact decisions are made, and everything

gets revised once again, and the process starts all over again. And if there's enough negative commentary, at that point a rule may be squashed and that's it – it's done with. If there's enough good support, then at that point they decide to go on and kind of tackle the next stage of getting it to a final form for final publication.

[Next please.] Question: Isn't it a requirement now that whenever they have comments posted in the Federal Registry that who supports or opposes the bill – it's changed – they require now that post who supports and who opposes the bill? Answer: The question was is it a requirement that they post who's supporting and who's opposing, and I know that in previous bills that I've been asked to comment on, they have asked for my name and contact information, and I believe they do take that – I don't know whether they publicly publish that information or not. I'm not sure as to the exact answer to your question there, but I do know that they very routinely collect all of that information. I can find that out for you though and let you know after the meeting if you're interested. But I'm not sure that that will be published, but I do know they collect who's on which side. Okay, anybody else have any questions there?

So this is kind of a summary of the steps that we've gone through so far. Identify the need; prepare the risk analysis as we need to; get the work plan prepared; get a rating that's designated by OMB; and draft your rule; get the attorneys and everybody else involved to take a look at it; get it published into the Federal Register; get the comments in; and then go from there. So that's kind of – and I'll show you on a future slide exactly where we are with the ferret rule that we've proposed. Question from Audience: Do you have any counsel or legal authority helping you draft all these things or are you doing it? Answer: I've actually – most of the work that's been done has actually been done by the USDA attorneys, and I've been acting as kind of an outside advisor for them. They contact me back and forth as information is needed; they've contacted a few other sources as well. And so it's all been done by their attorneys and I think things are likely to go more smoothly when things are all done in-house, because they are done the way they want them, they don't have to revise them. Question: So they would prefer that they draft their own legislation? Answer: They would prefer that they draft their own. And obviously once they take all the comments and everything else into account, you know, what they draft may or may not be the final rule, but they'd prefer to do it in their own formats with their own wording so that they don't have to go back and forth with a lot of changes. (Inaudible audience question.) Answer: The question was whether or not they've advised us that it would be better to have their attorneys do it as opposed to hire our own attorneys, and what I've found is true, is that it's probably almost for a small group cost prohibitive to do it yourself, because I would say that I've probably over the last three years spent 300 or 400 hours working on this, and you could imagine if you're paying an attorney \$300 or \$400 an hour how quickly that would add up. And I think it's the kind of situation that if – it gets enough public scrutiny that they also can't push anything under the rug. This is an extremely back and forth compromising kind of a situation and I was a little paranoid when I started the process, but my experience has been that there's enough input from so many sides that it's really hard for anybody to skew anything in any one direction, so I've been pretty comfortable with the process so far as far as it being fair is concerned. I don't always get my way, but neither does anybody else, so it seems to be pretty fair so far. (Inaudible comment from audience.) Answer: The comment was that she's in the legal field and is uncomfortable having only one side's counsel represented; but the thing is that, again, it goes back to that slide, it's not an us against them situation. They're drafting this with the intention that, to be fair to everybody and provide some protection for a third party, a

minor species. And so it's not "we want this, they don't want it." It's a matter of everybody recognizes this needs to be done, the question is how can we do it so that we get the most benefit with the least amount of harm to all involved parties. Again, it's not that us against them situation, it's the 'how can we all work together to achieve a common goal, which is protection for these guys,' so it's been very non-adversarial so far.

So then once you get to the point where you've got a final rule, the comments are reviewed, the issues are considered, decisions are made, and the final rule work plan (we're back to the work plan stage) is devised, and then the final rule is drafted, it goes through all the agencies all over again, more changes are made, more compromise back and forth, [Next please.] and then finally you get to a point where the final rule is published into the Federal Register, and then becomes effective, and then any interim rules that were put into place for temporary protection are usually replaced then by your final rule. So you can see there are tons of steps here where things can go wrong. They can get way-layed, they can get bypassed, a lot of the rules can just stagnate if there's not an impetus to keep them going. So it's a very complicated process and the idea is that everything is going to be looked at as completely as possible. You know many stupid things we hear in the news that rules that are passed and decisions the federal government makes, you know, all of us have gone 'what were they thinking?', but they try to set up a complicated process so that all sides can be fairly evaluated. That's the goal – whether it works in practicality or not is another issue, but that's the goal.

[Next please.] So this is kind of the second half of that tree that we started out – issues raised by the comments are considered, a new work plan is revised, a final rule is drafted, it goes back to the attorneys, go back to the OMB, the final rule is published, and then finally it becomes effective. Only after it's become effective can it be enforced. So nowhere through here can the USDA use this rule to enforce any of the violations it's seeing. You've got to wait until you've gone through the whole the process, the waiting period has elapsed, and then the rules can be enforced from there.

[Next please.] So how long does this all take? Mausi's falling asleep too. The amount of time depends on how complex the rule is, and what the rating is, and of course the number of comments and the type of comments that are received during the public commentary period. If there's an overwhelming amount of comments they will often extend the amount of time available for public commentary so as many people as possible can have their say. And of course, all of these things slow the process down – they're important, but they slow the process down. Obviously the significant and economically significant rules take a lot longer than something that's deemed non-significant; more analyses are required, there's more review, they go back and forth between more agencies, and the clearance process is very extensive. So, it's a long process is what it comes down to.

[Next.] (This is Pendleton.) Something that's deemed not significant can take a year or more to be cleared. Significant rules can take two or three years or more. I can say that I've been working on this for over three years now and we're still in the middle of the swamp in the mire somewhere, so it's a long process is what it comes down to.

These are the basic clearances that are required: If it's deemed not significant, the easiest pathway, you have to go through all of them on the left. If it's deemed significant you go

through all of them on the left and all of them on the right. And then every time it gets changed or reviewed, it goes back through everybody all over again. So, you figure, for example when it goes to the OGC, they have 90 days to look at it; so if you figure that each one of these people get 90 days to look this over, and it gets sent back to them four times, you can see where your waiting periods get very out of control very quickly; so it's a cumbersome process. Question: Does it always have to run through them four times? Answer: The question is does it always have to run through them four times? Well, yes and no. It depends on how many changes are made. If they are happy with what the USDA attorneys have drafted the first time, it may go through once nice and clean; if they're not happy, it goes back. We've already gone through at least two cycles now, so, the more changes that are required the more times it runs through. (Inaudible audience question.) Answer: The question was if a major breeder determined this to be an economic hardship would that push it into the economically significant category. I think economically significant would require a really major, you know, kind of an economy-felt type of situation, not a locally. I think a breeder would push it probably into the significant category, but I think it would take an awful lot to push something into the economically significant. Because if you thought that list of clearances required was huge for significant, economically significant is like four times that many, so it's a really cumbersome thing to get an economically significant rule through. So the hoops to get to the top are cumbersome, but again, they're meant to protect everybody. It's the kind of thing where it's difficult so that everybody gets a fair say into the matter. (And that's Mr. Watson who always has to get to the top of the recycling bin and see if he can get to the top of the shower, and then commit suicide by jumping off.)

[Next please.] So what it comes down to is the Administrative Procedure Act only gives you the basic guidelines that you've got to follow. From there there are a number of other laws, presidential executive orders, all kinds of things that are required, and I haven't figured out that there's a pattern as to who determines which ones need to be followed and which ones do not. This part gets very muddy, and when I've asked the veterinarians at the USDA they just say 'we don't know, the system just does it.' And, so, no one's been able to explain to me how we get through these, but these are kind of the basic orders that come into consideration when you're looking at a significant bill. Some of these may apply to the ferret, some may not. So, this is kind of just a real quick overview that we'll just speed through. Now, this is on top of all the other agency reviews by the way. Orders including regulatory planning and review; this is when the Office of Management and Budget has to be notified of any regulatory action, that's pretty much for everything across the board, and it gives them a chance to outweigh the benefits and the costs and so on; so that's kind of all part of the process that we've already gone through.

There's a public comment period and all of that kind of stuff that we've already talked about. It means that you have to provide scientific evidence, economic evidence, technical information, and whatever other details that they need to be able to make a decision.

[Next.] The Regulatory Flexibility Act is I think what you were probably alluding to there; they have to look at the economic effects on small businesses, non profit organizations and government jurisdictions. We've kind of tried to work this from both aspects because, as you'll see in the petition that was submitted, we've kind of argued that the system as it exists is somewhat burdensome on ferret shelters because they wind up taking in a lot of these animals that otherwise wouldn't be going through the system; and then on the other side you've got the major ferret farms saying keeping them longer is going to be a burden for us. So that's kind of

one of those where the scales get balanced on both sides. So we've tried to use this Flexibility Act to some extent to the benefit of the shelters to say 'the system as it works right now doesn't work and we need to address some changes' so we'll go through that a little bit more in a second.

Environmental Policy Act – this doesn't have anything to do with California for all the Californians in the room – but, basically it leaves things open to 'will there be any environmental effects from the rules that are proposed,' and in our instance I don't think that this is going to be a factor at all.

(Laughter from audience.) I just found this hysterical. When they said that we were going to go through the Paperwork Reduction Act, after the file that I have is probably 12 inches thick on this already, there's no Paperwork Reduction Act as far as I'm concerned. But this basically says that all the hoops have to be jumped before it goes to public approval so that – that way it kind of minimizes the recordkeeping, in theory, I guess.

[Next.] Congressional Review Act of 1995 that requires all of the agencies to submit any proposed rules through to Congress and requires a public delay period before publication so that, again, all fair parties can review it.

[Next.] Endangered Species Act. Again, I don't see that this is going to involve us at all, but certainly significant rules may have to go through the Endangered Species Act as well.

[Next.] I have no idea what this has to do with us, but I was counseled by the USDA that this may be something that we have to go through as well. I don't know where this could possibly affect ferrets but, nonetheless, it's one of the hoops that we're probably going to have to jump somewhere along the line.

[Next.] So, where are we? Here's Nina. She's not scared anymore. We've gotten through all the hard stuff. We can talk about where we actually are; the practical; what you probably all came for.

So over the last several years there have been multiple attempts, many of which were non-productive, to work with the USDA to try and provide some protection for ferrets; which right now only receive very basic protection under the Animal Welfare Act. They are classified as animals; they get the same basic protection that a minor species of animal would receive, but they don't have the protection for example that dogs and cats have; and our argument is that they are very popular pets and they should be treated similar to dogs and cats as far as the Animal Welfare Act is considered. Over the last couple of years we've made a lot of progress, we've gone a long ways, and there is a petition that was submitted a few years ago that is under consideration to provide species specific protection; in other words, require that the specific needs of ferrets be taken into consideration and a special section of the Animal Welfare Act drafted specifically for the protection of all ferrets that are sold and shipped commercially in the United States.

[Next.] This is the formal petition, and again for the people in the back I'll read through it, although many of you are probably already familiar with this. It was officially submitted March 10, 2004, submitted by the International Ferret Congress, myself, FerretWise Rescue and Rehab Shelter, West Central Ohio Ferret Shelter, Ferret Lovers Club of Texas, Maryland Ferret

Paws Incorporated, Support Our Shelters, Ferret Rescue of Maine and Western Maine Ferret Rescue. And first I would like to thank all of these organizations for having jumped on board and supported this. This wouldn't have gone nearly as far as it has without all of your support, so I'd like to go out of my way to thank all of you for kind of putting your backing behind this. And many of you weren't aware that this was in the works and I understand as we come to public commentary more and more of you will be able to help us out with this. But especially to these groups that were willing to stick their necks out when there was nothing official on the table in March of 2004, I'd like to thank you. So, if we could just have a round of applause for these guys that... (applause). So this was submitted to the Administrator of APHIS and the Secretary of the USDA.

[Next.] And this is the text of the informal petition that was submitted. "Dear Sir/Madam: We are petitioning the United States Department of Agriculture regarding the lack of adequate protection for the domestic ferret under the current provisions of the Animal Welfare Act. Currently the domestic ferret is considered to be one of the most popular companion animals in the United States as well as around the world. Sadly the protection afforded to it by the Animal Welfare Act does not take into the account the specific biological, physiological and social needs of this animal in a manner consistent with other household pets such as cats and dogs. Given practices such as early enforced weanings, ferret kits are being shipped too young resulting in large numbers of animals becoming ill during or shortly after transport. Many more animals develop significant behavior abnormalities such as aggression not normally seen in ferrets because their inherent needs are not being met during the weaning and transportation process. Additionally, ferret kits are arriving to pet stores malnourished and ill. Starvation, pneumonia, prolapsed rectums and seizures are regularly documented. These animals because of behavior and health problems are being relinquished in large numbers to shelters and private individuals willing to attempt to rehabilitate them. Unfortunately many are unable to recover to a state which makes them adoptable, causing a huge burden on the shelters as well as the general public. The lack of protection afforded to this animal is contrary to both the language and congressional intent of the Animal Welfare Act. We formally request that the rule making be instituted to provide for adequate regulations specifically addressing the unique needs of the ferrets as has been done for other species. The above parties are available and willing to provide their experience and expertise to see that fair, legal and adequate regulations be drafted. We ask that the Agency take immediate action to remedy these violations of the Animal Welfare Act.

So this was the petition that was accepted by the USDA and is under current consideration. The details of the rule I'm not at liberty to discuss at this point. Once it comes to public comment we'll be able to get into that more, but I can assure you that it certainly encompasses the guidelines that we put forth in the petition. And this is the furthest that any specific guideline or request has gotten in the USDA to date for ferrets, and if we can get this all the way through it will provide uniform protection for all these little guys, so, we've come a long ways. (Inaudible Audience Question.) Answer: The question is basically can you buy your way through the process – if you had all the money in world could you buy your way through this? And I think unfortunately the answer is that, no, you really can't. There are so many checks and balances, and review agencies, and back and forth that you may be able to speed the process along a little, but I don't think that you could buy your way through it. (Inaudible Audience Question.) Answer: Yeah, as I said, I felt so far that the process has been very fair. I haven't felt that it's been skewed by either direction, and certainly people that could potentially oppose

this, and I think we all have a few names that come right to mind, have not dumped mass amounts of money or effort into it; and we're actually going to talk about that a little bit in a second, but it's been a very fair give and take so far, and there have been a lot of people playing devil's advocate with me and saying well what about, what about, what about, and again it just comes down to education. And it's just like with ferret owners, if you sit down and educate them as to what they need to expect and what's going to be expected of them, same thing with the USDA – if we explain to them what the problems are, they're very willing and open to listen and make changes. So, it's been a very give and take process so far.

So, Zachary wants to know where we are at this point. We are somewhere right in there. This is all a very mushy and grey zone. It looks very exact when you look at it on the slides, but these rules just slide back and forth between all these different agencies so quickly that it's a little hard to tell, but we recently just went through our last review, as far as I know for right now, by the OMB and I think that we are waiting for it to go through for publication in the Federal Register. So my hope is that within the next six months or year they're going to have it in the Federal Register for us to review. But as far as I know, we've gotten all the way down through the USDA attorneys with very minor changes, we've gone through the OMB, and we're just waiting for publication in the Federal Register, coming up relatively soon I hope. But again, we'll make sure that everyone that's interested has that information available to them. If you just keep checking the major ferret websites and FML, FHL, things like that, we'll make sure that information gets out. (Inaudible Audience Question.) Answer: The question is, okay, we've seen the petition, what's the actual rule that's under discussion? And, unfortunately, because that's still under review and it hasn't come to public comment, they've asked me not to comment on that now, until it comes to public comment. That will be available to everybody shortly. I've seen copies of it, I haven't seen the final copy as to where it is exactly at this minute, but the proposed rules are very fair appearing, but I can't discuss them yet. That will come out soon. (Inaudible Audience Question.) Answer: It will address the issues that came up in the petition. Audience Comment: I think that that was one of the problems when the initial proposal went out, why some people could not sign on to the proposal, because there were certain things in the initial proposal that were objectionable. Answer: And, certainly that's all part of the give and take. There are going to be things that we're going to find objectionable, there are things that the farms find objectionable, there are going to be things that everybody has to give some give and take on. Right now the actual rule is much more vague than the original proposals were, but they still fit in the guidelines of getting some basic protection. Once we have some basic protection, we can ratchet things in a little bit more to get more specific protections, but right now we're working on the basics of getting good care, housing, feeding, shipping, and those basics in there; but the exacts aren't available for public comment yet. (Inaudible Audience Question.) Answer: You bet. As I say, we'll have that out to FML, FHL, I'm sure it'll be on the website, I'll make sure I let Mary Lou know that it's coming out so that we can get something in the Ferrets. We'll make sure that the information is available for most active ferret owners will be able to find it from one source or another, so, we'll make sure that's out. Question: I'm wondering what sort of arguments you would like those of us with shelters to make when it comes to commenting. I mean there are certainly _____, but what specifically you would like us to cover? Answer: I think the biggest thing that you guys can do is relate your own personal experiences with some of these kits that have come in that are in poor shape, the nippers, the biters, we've all seen them. I think that if you're seeing issues that are related to poor early husbandry, poor early transport, poor weaning processes, things like that, those are the things that your own

experiences are going to be the most valuable on. You know, if you can say in x number of years you've had to take in so many of these animals at a cost of xy&z, you know, those kind of stories and individual animal stories will go a long way. So I think just describing your own experiences is probably – they've got the scientific information, they've got all of the technical information, the ferret farms are going to give them all kinds of their information, and I think just your personal experiences are going to be the most moving and powerful that you can submit to them at that point.

(Inaudible Audience Question.) Answer: The question is, how do the breeders know this is all happening? And, I've discovered from my other legislative works that somehow the breeders always know what's going on. They seem to have enough feelers out that they can tell pretty well what's going on. And of course when it's published in the Federal Register it's public information for everyone and I'm sure they have their lobbyists and so on that review legislations that are going to be pertinent to them and rules that are going to be pertinent to them, so, they'll know. And actually this hasn't come up on the slides yet, it's coming, but I've actually been in contact with at least one of the major ferret farms that is, and this is the most exciting part, interested in working with us on this as opposed to against us. So we may have the cooperation of at least probably one of the most major suppliers of ferrets in the United States; and if we can work with them to kind of meet some middle ground, that's going to be a lot better than working against them.

(Inaudible Audience Question.) Answer: The question here is that, you know, there have been other groups have tried to push through, especially transport legislation and rules, there are certainly a number of groups that are working on that and there is a rule that has temporarily stagnated anyway that incorporates ferrets in it.

So, we're just about out of time so I'm just going to speed through this and we cover any questions over it during the break. But this is basically what we've talked about already, we've gotten a significant rating, we're working through it.

[Next slide.] Oh, that's hard to read. Ouch. It looks better on my screen at home. We'll leave the lime green out next time. This is to kind of bullet that there has been discussion with the major ferret farms to try and coordinate with them to find some sort of middle ground that everyone can be happy with. But, you know, that's still somewhat on a tenuous basis, but we're working on it. And at least they're open and willing to discussion, and that's the first step to forming any bridge – open communication, and that's where we are, so that's a good sign.

[Next please.] So, this is really the end of my presentation. I'd like to thank the Senior Veterinary Medical Officer, Dr. Jerry DePoyster, who has really gone out of his way to try and help through this process, and he also helped kind of get me the flow charts of where are we anyway, and how does this all flow? So, he's been very helpful in this.

[Next slide.] (Audience laughter) That's Mausie, he wants a raisin.

And, the next two slides, because we don't have too much time for questions here.

[Next slide.] And, faces for you to remember, these guys are why we're doing this. Bear on the left was unsellable, too aggressive, was shipped at 4 weeks, right to the very last day he

was a biter, he never really outgrew it, but he was a sweet biter. Pency, on the bottom, had multiple congenital deformities and was basically paralyzed at the pet store, was out for public sale, had no use of her hind legs. And, Mausie, I already told you his story about his dumping. And then these are the little guys that are still with me, all with their own sad stories as well. So, that's the twelvesome that has been featured in this presentation.

So I know we're just about out of time, do we have time for any questions? A couple? Okay.

Question: Did you take all these photographs?

Answer: These are actually professionally taken. I fess up – it was not me, I hired a professional photographer, and he'd never had any exposure to ferrets, so being in my house with 12 loose ferrets was quite an experience for him. But he did well.

Any other specific questions?

Question: If this becomes law will it effect the areas that are now _____ ?

Answer: The question is if this becomes a rule what will it do to the areas like California and other areas where ferrets are currently illegal. It will not affect that in any way. That is a state issue, and the state will have to resolve that. But what will happen is if, for example, ferrets can be sold in California eventually, it will govern everything involving those ferrets, but it will not make them legal in those states. Those states have to do that individually.

Question: Have you addressed this issue with _____?

Answer: PIJAC being? Oh, oh yes. I have not directly, no. I have not gone there yet. That will come through in the public commentary.

Comment: [thanking Dr. Kudrak for her efforts]

Answer: Thank you very much. These are the guys [the ferrets]. (Applause). Thank you. I definitely appreciate that, but these are the guys that really are the driving force for all of that. This is why we're here, and that's why we're all in this room, so, you know, every little bit we do makes a difference. So, I appreciate your having me, and I'm happy to take any other questions during the break if anybody has any. Thank you.

Minor editing has been done for clarity and ease of reading.

© 2005 International Ferret Congress. All rights reserved. This document may be distributed for non-commercial use so long as it is unmodified and this copyright notice is included.