

§ 1098.70 Computation of the net pool obligation of each pool handler.

(f) Subtract for each month from the effective date hereof through July 1974 an amount computed by multiplying the quantity of producer milk classified as Class II milk used to produce butter or nonfat dry milk by the lesser of 50 cents per hundredweight or the amount that the basic formula price exceeds a butter-powder formula price determined as follows:

- (1) Multiply the Chicago butter price by 4.2;
(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and
(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 48 cents, and round to the nearest cent.

2. In § 1098.72 paragraph (a) (3) is revised as follows:

§ 1098.72 Computation of uniform prices for base milk and excess milk.

(a) Add together the resulting amounts: Provided, That for each month from the effective date hereof through July 1974, there shall be deducted from the value of such excess milk an amount determined pursuant to § 1098.70(f) that is not in excess of an amount determined by multiplying the quantity of excess milk by the rate computed pursuant to § 1098.70(f);

PART 1104—MILK IN THE RED RIVER VALLEY MARKETING AREA

1. In § 1104.70 a new paragraph (g) is added as follows:

§ 1104.70 Computation of the net pool obligation of each pool handler.

(g) Subtract for each month from the effective date hereof through July 1974 an amount computed by multiplying the quantity of producer milk classified as Class II milk used to produce butter or nonfat dry milk by the lesser of 50 cents per hundredweight or the amount that the basic formula price (pursuant to Part 1106) exceeds a butter-powder formula price determined as follows:

- (1) Multiply the Chicago butter price by 4.2;
(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and
(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 48 cents, and round to the nearest cent.

PART 1106—MILK IN THE OKLAHOMA METROPOLITAN MARKETING AREA

1. In § 1106.70 a new paragraph (g) is added as follows:

§ 1106.70 Computation of the net pool obligation of each pool handler.

(g) Subtract for each month from the effective date hereof through July 1974 an amount computed by multiplying the quantity of producer milk classified as Class II milk used to produce butter or nonfat dry milk by the lesser of 50 cents per hundredweight or the amount that the basic formula price exceeds a butter-powder formula price determined as follows:

- (1) Multiply the Chicago butter price by 4.2;
(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and
(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 48 cents, and round to the nearest cent.

PART 1108—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

1. In § 1108.70 add a new paragraph (f) as follows:

§ 1108.70 Computation of the net pool obligation of each pool handler.

(f) Subtract for each month from the effective date hereof through July 1974 an amount computed by multiplying the quantity of producer milk classified as Class II milk used to produce butter or nonfat dry milk by the lesser of 50 cents per hundredweight or the amount that the basic formula price exceeds a butter-powder formula price determined as follows:

- (1) Multiply the Chicago butter price by 4.2;
(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and
(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 48 cents, and round to the nearest cent.

2. In § 1108.72 paragraph (b) (3) is revised as follows:

§ 1108.72 Computation of uniform prices for base milk and excess milk.

(3) Add together the resulting amounts: Provided, That for each month from the effective date hereof through July 1974, there shall be deducted from the value of such excess milk an amount determined pursuant to § 1108.70(f) that

is not in excess of an amount determined by multiplying the quantity of excess milk by the rate computed pursuant to § 1108.70(f);

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Animal and Plant Health Inspection Service [ 9 CFR Part 2 ] ANIMAL WELFARE

Amendment of Regulations Regarding License Fees and Denials of Applications for Licenses

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to the provisions of the Act of August 24, 1966 (Public Law 89-544), as amended by the Animal Welfare Act of 1970 (Public Law 91-579), the Department of Agriculture is considering amending Part 2, Subchapter A, Chapter 1, Title 9, Code of Federal Regulations, with respect to the calculation of the dollar amount upon which the license fee is based for dealers and exhibitors and to deny the issuance of a license to any person if the Secretary has reason to believe that the applicant is unfit to engage in the activity for which he has made application, with opportunity for notice and hearing, in accordance with the rules of practice.

Statement of considerations. Many persons and organizations have expressed objections concerning the license fees established by the Department under the authority in the Laboratory Animal Welfare Act of 1966, as amended by the Animal Welfare Act of 1970, and set forth in § 2.6 of the regulations issued thereunder (9 CFR 2.6). Primarily, objections have been raised in regard to the method of establishing these fees, the amount of fees, and the failure to differentiate between a breeder who raises animals for sale and a dealer who purchases animals for wholesale or retail sale purposes. In the light of such comments it is proposed that: (a) The annual licensee fee of a Class "A" dealer will be based on 50 percent of the total gross amount, expressed in dollars, derived from the sale of animals to research facilities, dealers, exhibitors, retail pet stores, and persons for use as pets, directly or through an auction sale, by the dealer or applicant during his preceding business year (calendar or fiscal).

(b) The annual license fee of the Class "B" dealer will be established by calculating the total amount received from the sale of animals by the dealer or applicant during his preceding business year (calendar or fiscal) less the amount paid for such animals. The net difference, exclusive of other costs, would be the figure used to determine the annual license fee.

In considering the proposed methods of calculating license fees for the Class "A" dealer and the Class "B" dealer, the Department has taken into consideration the provisions in the statute requiring that license fees be reasonable and such fees shall be adjusted on an equitable basis taking into consideration the type

and nature of the operation to be licensed. Consideration has been given to the overhead in the production of animals for sale and the overhead involved for the buying and reselling of animals at wholesale or as pets.

The method of establishing the annual fee for the Class "A" or the Class "B" dealer is based on a proposed method. Any comments received from the public will be considered in the final rulemaking on the method to be used in calculating the annual fee for the two classes of dealers.

Since the inception of the Animal Welfare program in 1967, the Department has been placed in the position of having to issue a license to any applicant when the requirements of §§ 2.1, 2.2, and 2.3 of the regulations have been met and the applicant's premises, facilities, and equipment comply with the standards.

The Department is proposing that a new section (§ 2.11) be added to include regulations authorizing the Administrator to deny a license to an applicant when the Secretary finds after notice and opportunity for hearing, that such applicant is unfit to engage in that activity for which he has made application, by reason of his having, at any time within two years prior to his application, engaged in any activity prohibited by the Laboratory Animal Welfare Act of 1966, as amended by the Animal Welfare Act of 1970, or any regulation or standard issued thereunder, and that § 2.4 be amended to reflect such change.

The Department believes that under the Animal Welfare Act it is responsible for the humane care and handling of animals, including the responsibility to deny an applicant a license when the Secretary finds after opportunity for hearing that the applicant is unfit to be licensed. Therefore, it is proposed that the regulations be amended as follows:

**§ 2.4 [Amended]**

1. § 2.4 would be amended by deleting the word "and" before "2.10" and inserting a comma in lieu thereof and by adding "and 2.11," after "2.10."

2. In § 2.6 paragraph (b) (2) would be amended by deleting "(3) and (4)" therein and inserting "(4) and (5)" in lieu thereof and redesignating the paragraph as (b) (3); present paragraphs (b) (3), (b) (4), and (b) (5) would be redesignated as paragraphs (b) (4), (b) (5), and (b) (6) respectively; and paragraphs (b) (1) and (b) (4) (redesignated as (b) (5) in this proposal) would be amended and a new paragraph (b) (2) would be added to read as follows:

**§ 2.6 Annual fees; and termination of licenses.**

(b) (1) Except as provided in paragraph (b) (4) and (5), the annual fee for a Class "A" dealer shall be based on 50 percent of the total gross amount, expressed in dollars, derived from the sale of animals to research facilities, dealers, exhibitors, retail pet stores, and persons for use as pets, directly or through an auction sale, by the dealer or applicant

during his preceding business year (calendar or fiscal) in the case of a person who operated during such a year.

(2) Except as provided in paragraph (b) (4) and (5), the annual fee for a Class "B" dealer or an applicant for a Class "B" license shall be established by calculating the total amount received from the sale of animals to research facilities, dealers, exhibitors, retail pet stores, and persons for use as pets, directly or through an auction sale, during his preceding business year (calendar or fiscal) less the amount paid for such animals, by the dealer or applicant. This net difference, exclusive of other costs, shall be the figure used to determine the license fee of such Class "B" dealer or applicant for a Class "B" license.

(5) In the case of an applicant for a license as a dealer or operator of an auction sale who did not operate for at least six months during his preceding business year, the annual fee will be based on the anticipated yearly dollar amount of business, as provided in subparagraphs (b) (1), (2) or (3) of this paragraph, derived from the sale of animals to research facilities, dealers, exhibitors, retail pet stores, and persons for use as pets, directly or through an auction sale.

3. Table 1 of § 2.6(c) would be amended to read as follows:

TABLE 1.—Dealers and operators of an auction sale

Over	But not over	Fee
\$0	.....	\$500
500	.....	2,000
2,000	.....	10,000
10,000	.....	25,000
25,000	.....	50,000
50,000	.....	100,000
100,000	.....	500

4. § 2.6(e) would be amended to read as follows:

(e) In any situation in which a licensed dealer or operator of an auction sale shall have demonstrated in writing to the satisfaction of the Secretary that he has good reason to believe that his dollar amount of business, upon which the license fee is based, for the forthcoming business year will be less than the previous business year, then his estimated dollar amount of business shall be used for computing the license fee for the forthcoming business year: *Provided, however,* That if such dollar amount, upon which the license fee is based, for that year does in fact exceed the amount estimated, the difference in amount of the fee paid and that which was due based upon such actual dollar business upon which the license fee is based, shall be payable in addition to the required annual fee for the next subsequent year, on the anniversary date of his license as prescribed in this section.

5. § 2.7(b) would be amended to read:

**§ 2.7 Annual report by licensees.**

(b) A person licensed as a dealer shall set forth in his annual report the dollar

amount of business, upon which the license fee is based, from the sale of animals by the licensee to research facilities, dealers, exhibitors, retail pet stores, and persons for use as pets, directly or through an auction sale, by the licensee during the preceding business year (calendar or fiscal) and such other information as may be required thereon.

6. A new § 2.11 would be added to read:

**§ 2.11 Denial of license.**

A license will be issued to any applicant when the requirements of §§ 2.1, 2.2, and 2.3 have been met; however, if the Secretary has reason to believe that the applicant is unfit to engage in the activity for which application has been made by reason of the fact that the applicant has within 2 years prior to filing the application engaged in any activity in violation of any provision of the Act, the regulations, or standards, which previously has not been the subject of an administrative proceeding under the Act resulting in the imposition of a sanction against the applicant, an administrative proceeding shall be promptly instituted in which the applicant will be afforded an opportunity for a hearing in accordance with the rules of practice under the Act, for the purpose of the applicant showing cause why the application for license should not be denied. In the event it is determined that the application should be denied, the applicant shall not be precluded from again applying for a license after one year from the date of the final order denying the application.

Any person who wishes to submit written data, views, arguments, or information concerning this notice may do so by filing them with the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Federal Building, Hyattsville, Maryland 20782, before May 17, 1974.

All written submissions made pursuant to this notice will be made available for public inspection at times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of March 1974.

J. K. ATWELL,  
Acting Deputy Administrator,  
Veterinary Services, Animal  
and Plant Health Inspection  
Service.

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**DEPARTMENT OF COMMERCE**

National Oceanic and Atmospheric  
Administration

[ 50 CFR Part 260 ]

**INSPECTION AND CERTIFICATION OF  
FISHERY PRODUCTS**

**Fees and Charges**

On pages 27405-27406 of the FEDERAL REGISTER of Wednesday, October 3, 1973,