rules and regulations

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

This document authorizes expenses of the Washington-Oregon Fresh Prune Marketing Committee, under Marketing Order No. 924, for the 1974–75 fiscal period at $16,275 and prescribes that each handler pay $0.80 per ton of prunes handled as his pro rata share of such expenses. Unexpended assessment income from 1973–74 will be carried over as a committee reserve.

Notice was published in the July 9, 1974, issue of the FEDERAL REGISTER (39 FR 25223) that consideration was being given to proposals regarding the expenses and the fixing of the rate of assessment for the fiscal period ending March 31, 1975, and carryover of unexpended funds, pursuant to the marketing agreement and Order No. 924 (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This notice afforded interested persons until July 29, 1974, to submit written data, views, or arguments in connection with said proposals. None were received.

After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Washington-Oregon Fresh Prune Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 924.214 Expenses, rate of assessment, and carryover of unexpended assessment funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Washington-Oregon Fresh Prune Marketing Committee during the period April 1, 1974, through March 31, 1975, will amount to $16,275.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 924.41, is fixed at $0.80 per ton of fresh prunes.

(c) *Carryover of unexpended funds.* Unexpended assessment funds in excess of expenses incurred during the fiscal year ended March 31, 1974, will be carried over as a reserve in accordance with § 924.42 of said marketing agreement and order.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of fresh prunes grown in the designated production area are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable prunes handled during the aforesaid period; and (3) such period began on April 1, 1974, and said rate of assessment will automatically apply to all such prunes beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: July 31, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-17789 Filed 8-2-74;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—ANIMAL WELFARE

PART 2—REGULATIONS

License Fees and Denial of Applications

Statement of considerations. The Act of August 24, 1966 (Pub. L. 89–544) was amended by the Animal Welfare Act of 1970 (Pub. L. 91–579). The regulations and standards to implement such legislative amendments were published as miscellaneous amendments in the FEDERAL REGISTER on December 24, 1971 (36 FR 24917–24927).

Many persons and organizations have expressed objections concerning the license fees established by the Department under the authority of 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.

Since the inception of the Animal Welfare program in 1967, the Department has issued 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 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.

In light of the above-mentioned industry comments on annual fees and the need to deny a license under certain circumstances, on April 1, 1974, there was published in the FEDERAL REGISTER (39 FR 11921–11922), a notice with respect to proposed amendments to §§ 2.4, 2.6, 2.7 and the addition of a new § 2.11 to Part 2, Subchapter A, Chapter I, Title 9, Code of Federal Regulations. Such notice gave interested persons until May 17, 1974, to submit written data, views, or arguments concerning the proposed amendments.

Forty written comments submitted by members of the pet industry, organizations representing all facets of the pet industry, and publishers of pet industry publications were received by the Department. The contents of the comments supported the proposal on denial of license and requested a reduction in license fees for Class "A" and Class "B" dealers as proposed.

Department employees have participated in group meetings of members of the pet industry to discuss the proposed amendments. The consensus of people attending the meetings was to favor the proposed rulemaking as published in the FEDERAL REGISTER.

After due consideration of all relevant material, including that submitted in connection with such notice, the proposal is hereby adopted with a minor change in paragraph (b) (2) of § 2.6 for consistency and clarity.

This revision of regulations set forth in Part 2 shall not affect the annual license fees payable to the Department on anniversary dates prior to the effective date of this revision. The effective date of this revision will be thirty days after publication in the FEDERAL REGISTER. For example: if the publication date were July 1, the effective date would be July 31. Annual fees due on anniversary dates falling before the effective date will be subject to the existing regulations in Part 2 now in effect.

Accordingly, Part 2, Title 9, Code of Federal Regulations, is amended in the following respects:

§ 2.4 [Amended]

PARAGRAPH 1. § 2.4 is 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."

PAR. 2. In § 2.6 paragraph (b)(2) is 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) are 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) are amended and a new paragraph (b)(2) is added to read as follows:

§ 2.6 Annual fees; and termination of licenses.

* * * * *

(b)(1) Except as provided in paragraphs (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 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), and (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.

* * * * *

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

* * * * *

TABLE 1—DEALERS AND OPERATORS OF AN AUCTION SALE

Over	But not over	Fee
$0	$500	$5
500	2,000	15
2,000	10,000	25
10,000	25,000	100
25,000	50,000	200
50,000	100,000	300
100,000		500

* * * * *

PAR. 4. § 2.6(e) is 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.

* * * * *

PAR. 5. § 2.7(b) is 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.

* * * * *

PAR. 6. A new § 2.11 is 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 provisions 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.

(Secs. 3 and 21, 80 Stat. 351 as amended, 80 Stat. 353; 7 U.S.C. 2133, 2151; 37 FR 28464, 28477; 38 FR 19141.)

Effective date. The foregoing amendments shall become effective September 4, 1974.

It does not appear that further public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary.

Done at Washington, D.C. this 31st day of July 1974.

J. M. HEJL,
Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74-17788 Filed 8-2-74;8:45 am]

Title 12—Banks and Banking

CHAPTER I—BUREAU OF THE COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 9—FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Miscellaneous Amendments

This amendment differs from the pubthe authority conferred in section 1(j) of Pub. L. 87-722, 76 Stat. 668, 12 U.S.C. 92a. Notice of the proposed rulemaking was published in the FEDERAL REGISTER on April 24, 1974. A number of comments were received following publication and have been given consideration.

This amendmet differs from the published proposed amendment in that it does not include one of the proposals which was published for comment. The amendment of § 9.7 is being given further study. That proposal would have required national banks to establish procedures to ensure that investment decisions of trust departments are not based