

Animal and Plant Health Inspection Service, USDA

§ 2.1

EFFECTIVE DATE NOTE: At 64 FR 15920, Apr. 2, 1999, the definitions of *buffer area*, *interactive area*, *interactive session*, *sanctuary area*, and *swim-with-the-dolphin (SWTD) program* were suspended, effective Apr. 2, 1999.

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AUTHORITY: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

SOURCE: 54 FR 36147, Aug. 31, 1989, unless otherwise noted.

Subpart A—Licensing

§ 2.1 Requirements and application.

(a)(1) Any person operating or desiring to operate as a dealer, exhibitor, or operator of an auction sale, except persons who are exempted from the licensing requirements under paragraph (a)(3) of this section, must have a valid license. A person must be 18 years of age or older to obtain a license. A person seeking a license shall apply on a form which will be furnished by the AC Regional Director in the State in which that person operates or intends to operate. The applicant shall provide

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the information requested on the application form, including a valid mailing address through which the licensee or applicant can be reached at all times, and a valid premises address where animals, animal facilities, equipment, and records may be inspected for compliance. The applicant shall file the completed application form with the AC Regional Director.

(2) If an applicant for a license or license renewal operates in more than one State, he or she shall apply in the State in which he or she has his or her principal place of business. All premises, facilities, or sites where such person operates or keeps animals shall be indicated on the application form or on a separate sheet attached to it. The completed application form, along with the application fee indicated in paragraph (d) of this section, and the annual license fee indicated in table 1 or 2 of §2.6 shall be filed with the AC Regional Director.

(3) The following persons are exempt from the licensing requirements under section 2 or section 3 of the Act:

(i) Retail pet stores which sell non-dangerous, pet-type animals, such as dogs, cats, birds, rabbits, hamsters, guinea pigs, gophers, domestic ferrets, chinchilla, rats, and mice, for pets, at retail only: *Provided, That,* Anyone wholesaling any animals, selling any animals for research or exhibition, or selling any wild, exotic, or nonpet animals retail, must have a license;

(ii) Any person who sells or negotiates the sale or purchase of any animal except wild or exotic animals, dogs, or cats, and who derives no more than \$500 gross income from the sale of such animals to a research facility, an exhibitor, a dealer, or a pet store during any calendar year and is not otherwise required to obtain a license;

(iii) Any person who maintains a total of three (3) or fewer breeding female dogs and/or cats and who sells only the offspring of these dogs or cats, which were born and raised on his or her premises, for pets or exhibition, and is not otherwise required to obtain a license;

(iv) Any person who sells fewer than 25 dogs and/or cats per year which were born and raised on his or her premises, for research, teaching, or testing pur-

poses or to any research facility and is not otherwise required to obtain a license. The sale of any dog or cat not born and raised on the premises for research purposes requires a license;

(v) Any person who arranges for transportation or transports animals solely for the purpose of breeding, exhibiting in purebred shows, boarding (not in association with commercial transportation), grooming, or medical treatment, and is not otherwise required to obtain a license;

(vi) Any person who buys, sells, transports, or negotiates the sale, purchase, or transportation of any animals used only for the purposes of food or fiber (including fur);

(vii) Any person who breeds and raises domestic pet animals for direct retail sales to another person for the buyer's own use and who buys no animals for resale and who sells no animals to a research facility, an exhibitor, a dealer, or a pet store (e.g., a purebred dog or cat fancier) and is not otherwise required to obtain a license;

(viii) Any person who buys animals solely for his or her own use or enjoyment and does not sell or exhibit animals, or is not otherwise required to obtain a license;

(b) Any person who sells fewer than 25 dogs or cats per year for research or teaching purposes and who is not otherwise required to obtain a license may obtain a voluntary license, provided the animals were born and raised on his or her premises. A voluntary licensee shall comply with the requirements for dealers set forth in this part and the Specifications for the Humane Handling, Care, Treatment, and Transportation of Dogs and Cats set forth in part 3 of this subchapter and shall agree in writing on a form furnished by APHIS to comply with all the requirements of the Act and this subchapter. Voluntary licenses will not be issued to any other persons. To obtain a voluntary license the applicant shall submit to the AC Regional Director the application fee of \$10 plus an annual license fee. The class of license issued and the fee for a voluntary license shall be that of a Class "A" licensee (breeder). Voluntary licenses will not be issued to any other persons or for any other class of license.

(c) No person shall have more than one license.

(d) A license will be issued to any applicant, except as provided in §§ 2.10 and 2.11, when the applicant:

(1) Has met the requirements of this section and of §§ 2.2 and 2.3; and

(2) Has paid the application fee of \$10 and the annual license fee indicated in § 2.6 to the AC Regional Director and the payment has cleared normal banking procedures.

(e)(1) On or before the expiration date of the license, a licensee who wishes a renewal shall submit to the AC Regional Director a completed application form and the application fee of \$10, plus the annual license fee indicated in § 2.6 by certified check, cashier's check, personal check, or money order. A voluntary licensee who wishes a renewal shall also submit the \$10 application fee plus an annual license fee. An applicant whose check is returned by the bank will be charged a fee of \$15 for each returned check. One returned check will be deemed nonpayment of fees and will result in denial of license. Payment of fees must then be made by certified check, cashier's check, or money order. An applicant will not be licensed until his or her payment has cleared normal banking procedures.

(2) The \$10 application fee must also be paid if an applicant is applying for a changed class of license. The applicant may pay such fees by certified check, cashier's check, personal check, or money order. An applicant whose check is returned by a bank will be charged a fee of \$15 for each returned check and will be required to pay all subsequent fees by certified check, money order, or cashier's check. A license will not be issued until payment has cleared normal banking procedures.

(f) The failure of any person to comply with any provision of the Act, or any of the provisions of the regulations or standards in this subchapter, shall constitute grounds for denial of a license; or for its suspension or revocation by the Secretary, as provided in the Act.

[54 FR 36147, Aug. 31, 1989, as amended at 63 FR 62926, Nov. 10, 1998]

§ 2.2 Acknowledgement of regulations and standards.

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

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

[60 FR 13895, Mar. 15, 1995]

§ 2.3 Demonstration of compliance with standards and regulations.

(a) Each applicant must demonstrate that his or her premises and any animals, facilities, vehicles, equipment, or other premises used or intended for use in the business comply with the regulations and standards set forth in parts 2 and 3 of this subchapter. Each applicant for an initial license or license renewal must make his or her animals, premises, facilities, vehicles, equipment, other premises, and records available for inspection during business hours and at other times mutually agreeable to the applicant and APHIS, to ascertain the applicant's compliance with the standards and regulations.

(b) In the case of an application for an initial license, the applicant must demonstrate compliance with the regulations and standards, as required in paragraph (a) of this section, before APHIS will issue a license. If the applicant's animals, premises, facilities, vehicles, equipment, other premises, or records do not meet the requirements of this subchapter, APHIS will advise the applicant of existing deficiencies and the corrective measures that must