

proposed rule, the change will be reflected in the definition of *dealer* in § 1.1.

We do not believe that modifying the definition of *dealer* to reflect our policy is contrary to the intent of the AWA because the Act does not make retail dealers of dogs intended for hunting, breeding, or security purposes subject to Federal licensing and regulation. We believe it is important to modify the definition of *dealer* in order to make explicit the provisions of the Act. It is important to note that our change is consistent with congressional revisions of the AWA in which Congress did not alter our definition of *retail pet store*. Therefore, we are confident that the proposed rule and this final rule reflect Congress' original and continuing intent that, with respect to dealers of hunting, breeding, and security dogs, the definition of *dealer* focus solely on dealers who sell on the wholesale level.

We also believe that our implementation of the AWA has significantly improved the well-being of animals owned by the wholesale dealers we regulate, as well as that of animals owned by retail dealers. It is likely that many retail outlets have improved the living standards of their animals in order to meet the standards of their wholesale counterparts.

Further, we have determined that retail dealers, especially those who sell from their homes, are already subject to a degree of self-regulation and oversight by persons who purchase animals from the retailers' homes, as well as by breed and registry organizations, which require their registrants to meet certain guidelines related to the health and genetic makeup of animals bred and to the education of the registrants. Typically, wholesale dealers do not have the same amount of oversight from the public.

Other commenters suggested that unregulated retail dealers of purebred dogs have no regard for hereditary diseases they propagate. These commenters indicated that unsuspecting customers who purchase diseased animals have no means for Federal recourse. Many of these same commenters noted that retail dealers who are humane would welcome licensing and inspection requirements.

In response, retail dealers of pets are not unregulated. Many State and local laws and ordinances are in place to monitor and respond to allegations of inhumane treatment and inadequate housing for animals owned by private retail dealers.

Another large group of commenters supported most of the proposal, but requested that we further modify the

definition of "dealer" in § 1.1 to include establishments referred to as "puppy mills." These commenters indicated that retail dealers should remain excluded from the definition of "dealer," but suggested that we need to regulate high-volume dealers.

Although there is no standard, fully encompassing definition for the term "puppy mill," most people use it to refer to high-volume breeding establishments that sell dogs at the wholesale level and sell few, if any, dogs directly to the public. Therefore, as wholesale dealers, the sellers in question are subject to licensing and inspection requirements.

We are not making any changes to the rule as a result of these comments because we have determined that this rule will make our regulations more consistent with our policy to regulate only wholesale dealers of dogs intended for hunting, breeding, or security purposes, and will, therefore, clarify licensing and inspection requirements for affected dealers of these dogs.

We received a total of 1,238 comments expressing support for our proposal. The vast majority of these comments came from self-identified hobby breeders who indicated they were registered with kennel clubs or other breed registry organizations.

Many of these commenters indicated that their breeding dog was a family pet and their hobby breeding establishment was a home-based business. Most commenters shared the concern that additional regulation of retail dealers would require them to become registered dealers and to adhere to licensing and inspection requirements. Those who expressed this concern were adamantly opposed to paying licensing fees for their hobby breeding establishments and having their private homes inspected. Many suggested that such requirements would be cumbersome, if not impossible, to enforce.

In response, we are charged with enforcing the provisions of the AWA which require the regulation only of wholesale dealers of hunting, breeding, or security dogs.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 604, we have performed a final regulatory flexibility analysis, which is set out below, regarding the economic effects of this rule on small entities.

This final rule amends the regulations to reflect our policy of regulating only wholesale dealers of dogs intended for hunting, breeding, or security purposes. As such, this action does not result in any change to our operations. We currently help ensure the humane handling, care, and treatment of hunting, breeding, and security dogs through the licensing and inspection of wholesale dealers of these dogs; we regulate these dealers under the same regulations in place for wholesale dealers of other types of dogs.

We have used all available data to estimate the potential economic effects of changing the definition of *dealer* in § 1.1 to reflect our policy of regulating wholesale dealers of hunting, breeding, or security dogs. However, specific data concerning the number of small entities that will be affected by this rule is not available. In our proposed rule, we invited comments. However, none of the comments we received specifically addressed potential economic effects.

To comply with our current policy and the regulations, wholesale dealers of dogs intended for hunting, breeding, or security purposes incur costs for licensing, as well as other expenses. The costs of licensing for affected dealers include an annual application fee of \$10 and an annual class "A" license fee based on 50 percent of total gross sales or compensation from leased animals. License fee amounts are determined according to ranges shown in Table 1 of 9 CFR part 2, § 2.6.

Among other costs incurred by wholesale dealers of hunting, breeding, and security dogs are expenses related to veterinary care, tagging or tattoo marking for animal identification, recordkeeping, health certification of dogs commercially transported, and maintenance of appropriate facilities and operating standards (*see* 9 CFR part 3, subpart A). It is reasonable to assume, however, that these responsibilities are met by affected dealers simply as a matter of good business practice. When dealers satisfy the facilities and operating standards of the regulations by, for example, providing a safe and healthy environment (including appropriate heating, cooling and ventilation of the dogs' housing to adequate feeding and exercising programs), those dealers are contributing to their dogs' eventual sale value. As another example, records of transactions can only further a wholesale dealer's business success.