NEBRASKA ADMINISTRATIVE CODE

TITLE 23, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 18

NEBRASKA DEPARTMENT OF AGRICULTURE

COMMERCIAL DOG AND CAT OPERATOR INSPECTION REGULATIONS

December, 2015

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NEBRASKA ADMINISTRATIVE CODE

TITLE 23 - NEBRASKA DEPARTMENT OF AGRICULTURE

CHAPTER 18 - COMMERCIAL DOG AND CAT OPERATOR INSPECTION REGULATIONS

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TITLE 23 - DEPARTMENT OF AGRICULTURE

CHAPTER 18 - COMMERCIAL DOG AND CAT OPERATOR INSPECTION REGULATIONS

001 Statement of Purpose. The purpose of these regulations is to aid in the administration of the Commercial Dog and Cat Operator Inspection Act, Neb. Rev. Stat. §§54-625 to 54-643.

002 Administration. These regulations shall be administered by the Department of Agriculture located in the State Office Building, Fourth Floor, 301 Centennial Mall South, Lincoln, Nebraska. The mailing address is P.O. Box 94787, Lincoln, Nebraska 68509-4787. The telephone number is (402) 471-2351; Fax number (402) 471-6893.

003 Definitions. The definition of terms found in the Commercial Dog and Cat Operator Inspection Act §§54-625 to 54-643 and below shall apply to such terms when found in these regulations.

003.01 ACT means the Commercial Dog and Cat Operator Inspection Act, §§54-625 to 54-643.

003.02 ANIMAL means dogs, cats, and pet animals.

003.03 CAGE CARD means a card that is at least 3 inches by 5 inches in size, made of a durable material or enclosed in a transparent, protective cover, and contains information identifying each dog or cat.

003.04 COMPLETE DESCRIPTION of a dog or cat shall include the breed or type; the sex; the date of birth or approximate age; the weight or approximate size; color; and any distinctive markings.

003.05 DISPOSED OF AND DISPOSITION means the sale, lease, exchange, barter, or any other transfer of a dog or cat, including death or euthanasia.

003.06 EMPLOYEE means any paid or unpaid individual or individuals assisting an operator in the handling and care of the operator's dogs or cats.

003.07 HANDLING means petting, feeding, watering, cleaning, manipulating, loading, crating, shifting, transferring, immobilizing, restraining, treating, training, working or moving, walking or exercising, or any similar activity with respect to any dog or cat.

003.08 HUMANE HANDLING, CARE, TREATMENT, AND TRANSPORTATION means the minimum requirements necessary for a dog's or cat's handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, transport in commerce, adequate veterinary care, and exercise for dogs pursuant to the Act, these regulations, and 9 C.F.R. §§3.1 to 3.19.

003.09 MEDICAL PROCEDURE means vaccinations, worming treatments, x-rays, surgery, medications administered, individual physical and dental examinations, or other similar veterinary medical treatment.

003.10 PERSON means any individual, partnership, limited liability company, association, corporation, joint-stock company, political body, society, community, the public generally or organized group of persons, whether incorporated or not.

003.11 STATEMENT OF INFERTILITY means a statement signed by a veterinarian licensed to practice in Nebraska expressing the opinion that a specific dog or cat is infertile, or is not capable of initiating, sustaining, or supporting reproduction. An example of the Statement of Infertility form is attached as Appendix G.

003.12 TUFTS ANIMAL CARE AND CONDITION SCALES FOR ASSESSING BODY CONDITION, WEATHER AND ENVIRONMENTAL SAFETY, AND PHYSICAL CARE IN DOGS: SECTION II, Weather Safety Scale (Tufts Weather Safety Scale), SECTION III, Environmental Health Scale (Tufts Environmental Health Scale), SECTION IV, Physical Care Scale (Tufts Physical Care Scale) means the guidelines used to objectively assess the health or safety risk of a dog. A copy of these guidelines, as they existed on July 1, 2014, is attached as Appendix F, and incorporated herein by reference.

004 Application For License. All persons operating a boarding kennel, pet shop, animal control facility, animal rescue, animal shelter, or acting as a dealer or commercial dog or cat breeder shall have a valid license issued by the Department in accordance with the Act and these regulations.

004.01 Any person applying for a license under the provisions of the Act and these regulations shall apply on an application form furnished by the Department. The applicant shall provide all information requested on the application form, including a valid mailing address through which the licensee or applicant can always be reached, and a valid premises address where dogs, cats, pet animals, dog and cat facilities, equipment, and records may be inspected for compliance. The applicant shall list on the application form or on a separate sheet attached to it, the premises, facilities or sites where a person operates, houses, has an interest in or keeps dogs, cats, and pet animals. The applicant shall file the completed

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application form with the Department. Application forms may be obtained by contacting the Department.

004.02 An applicant shall obtain a separate license for each separate physical facility requiring a license according to the Act and these regulations. For purposes of licensure, a separate physical facility is one which is not located on the same or adjacent parcels of land.

004.03 Any person exempt from the license requirements may voluntarily apply for a license, but shall agree in writing to comply with the requirements set forth in the Act and these regulations. The voluntary licensee is subject to the same inspection and enforcement actions as any other licensee.

004.04 Before the Department issues a license, the application form and required fee must be received and an inspector of the Department shall inspect the operation of the applicant to determine whether the applicant qualifies to hold a license pursuant to the Act, these regulations and the standards set out in 9 C.F.R. §§3.1 to 3.19.

004.05 A license shall be issued to specific persons for specific premises, facilities and operations, and does not transfer upon change of ownership or any other change of business or operation nor is it valid at a different location.

004.06 There shall be no refund of fees if an applicant does not pass the qualifying inspection, or if a license is terminated for any reason before its expiration.

004.07 Licensees shall accept delivery of registered mail or certified mail sent by the Department.

004.08 No activity for which a license is required by the Act and these regulations shall be conducted by any person until the requirements for issuing the license have been met and a valid license has been duly issued.

004.09 A license which has been revoked, lapsed, or voluntarily surrendered under the Act and these regulations shall be returned to the Department. The licensee shall provide a written statement to the Director, if the license has been lost or misplaced.

004.10 Each applicant shall make, keep, and maintain:

004.10A Records as required under 23 NAC 18-010; and

004.10B Any other information requested by the Department on the application or renewal form.

004.11 A licensee shall notify the Department in writing of any change in the name, address, management, control or ownership of the business or operation, any change in the type of license activities occurring at the licensed location, or of additional sites, within ten (10) days of the change.

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005 License Enforcement Actions.

005.01 The Director may deny issuing or may revoke or suspend a license, or place on probation a licensee on any one (1) or more of the following grounds:

005.01A Deliberate misrepresentation or concealment, including failure to disclose all locations housing dogs or cats made to employees or agents of the Department or reported on the application;

005.01B Conviction of any violation of any law, in any jurisdiction, on the disposition or treatment of dogs or cats;

005.01C The failure of any person to comply with any provision of the Act and these regulations;

005.01D The refusal to allow the Department access to any records for the purpose of examining and copying such records required to be kept under the Act and these regulations;

005.01E The refusal of a licensee to allow Department employees or agents to enter and inspect all premises in or upon which dogs or cats are housed, sold, exchanged, or leased or are suspected of being housed, sold, exchanged, or leased;

005.01F The refusal of any applicant to allow Department employees or agents access to the premises to be licensed to determine if such applicant meets licensure requirements pursuant to the Act and these regulations;

005.01G Failure to pay any required fees under the Act and these regulations. Any returned check will be deemed nonpayment of fees;

005.01H Failure to pay any administrative fine levied pursuant to §54-633;

005.01I Failure to comply with a stop-movement order pursuant to §54-628.01; or

005.01J Having had a license revoked, suspended, or otherwise having been subject to a disciplinary proceeding under any jurisdiction resulting in the applicant having voluntarily surrendered a license or permit to avoid disciplinary sanctions.

005.02 Licensees whose licenses have been suspended or revoked.

005.02A Any person whose license has been suspended or revoked for any reason shall not be licensed under such licensee's name within the period during which the suspension or revocation is in effect. No partnership, firm, corporation or other legal entity in which any such person has an interest, financial or otherwise, will be licensed during that period.

005.02B Any person who has been an officer, agent, or employee of a licensee whose license has been suspended or revoked and who was responsible for or participated in the violation upon which the license was suspended or revoked will not be licensed within the same period during which the suspension or revocation is in effect.

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005.03 Any person whose license has been suspended may apply in writing to the Director for reinstatement of the licensee's license. Any person whose license has been revoked may apply in writing to the Director for issuance of a new license.

006 Inspections and Complaints.

006.01 In addition to the definitions set forth in 23 NAC 18-003, the following shall apply to 23 NAC 18-006:

006.01A Abandoned shall mean the term as defined in Neb. Rev. Stat. §28-1008(1).

006.01B Cruelly mistreat shall mean the term as defined in Neb. Rev. Stat. §28-1008(3).

006.01C Cruelly neglect shall mean the term as defined in Neb. Rev. Stat. §28-1008(4).

006.01D Direct violations shall mean violations of the Act, these regulations or 9 C.F.R. §§3.1 to 3.19 that have a high potential to adversely affect the health, well-being or safety of the dogs or cats but do not meet the definitions of abandoned, cruelly mistreated, cruelly neglected or significant threat to the health or safety of the dogs or cats.

006.01E Flagged violations shall mean violations of the Act, these regulations or 9 C.F.R. §§3.1 to 3.19 that the Department reasonably suspects may involve dogs or cats being abandoned, cruelly mistreated, cruelly neglected or subject to conditions which may pose a significant threat to the health or safety of the dogs or cats.

006.01F Indirect violations shall mean violations of the Act, these regulations or 9 C.F.R. §§3.1 to 3.19 that do not have a high potential to adversely affect the health, well-being or safety of the dogs or cats.

006.01G Representative of the operator means a person over the age of nineteen an operator has expressly authorized, verbally or in writing, to the Department, to allow entry on the premises of the licensee operator for the purpose of inspection under the Act. If the operator decides to revoke an authorization, the operator must inform the Department, in writing.

006.02 Any inspection conducted under the Act will be performed in accordance with the Act and these regulations.

006.02A Inspections shall be documented and the written report shall specify a compliance date for any violation of the Act, these regulations or 9 C.F.R. §§3.1 to 3.19. Compliance dates shall be set for violations based on the potential effect of the violation on the dogs or cats as follows:

006.02A(1) Flagged violations shall be set with a compliance date ranging between immediately and up to 24 hours, taking into account the seriousness of the violation and the actual harm to the dogs or cats.

006.02A(2) Direct violations shall be set with a compliance date ranging between immediately and up to 45 days, taking into account the seriousness of the violation

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and the potential harm to the dogs or cats. Compliance dates shall allow the violator to come into compliance while safeguarding the health or safety of the dogs or cats.

006.02A(3) Indirect violations may be given a longer time frame for correction.

006.02B If during any inspection the Department reasonably suspects a person has committed a flagged violation, the following provisions are applicable:

006.02B(1) If the Department reasonably suspects any dog or cat is abandoned or being cruelly mistreated or cruelly neglected, the Department shall, the same day, notify the law enforcement agency of the county in which the alleged violation is occurring.

006.02B(2) If the Director has reason to believe that any alleged violation of the Act or these regulations or an order of the Director or any other existing condition posing a significant threat to the health or safety of the dogs or cats harbored or owned by an applicant or a licensee constitutes cruel neglect, abandonment, or cruel mistreatment, a special investigator appointed as a deputy state sheriff authorized pursuant to Neb. Rev. Stat. §81-201 of the Department may inspect, care for or impound the dogs or cats or the Director may request any other law enforcement officer as defined in Neb. Rev. Stat. §28-1008 to inspect, care for or impound the dogs or cats.

006.02B(3) The Department may enter into agreements with any appropriate public or private entity to provide for the care, shelter and disposition of the impounded dogs or cats.

006.02C The Department, at it's discretion, will attempt to make unannounced inspections during normal business hours.

006.03 All premises of operators shall be inspected as often as set out in §54-628, or as often as determined necessary by the Department to carry out its duties under the Act and these regulations.

006.04 If an operator, or a representative of the operator, applicant or any other person the Department has reason to believe is an operator does not make the premises available to the Department for inspection, the following procedures shall be implemented:

006.04A If an operator, or a representative of the operator, applicant or other person the Department has reason to believe is an operator is not present or does not respond to notification of the Department's presence at the premises, the Department will attempt to contact by telephone the operator. If telephone contact is made, the operator will be notified of the intended inspection and that a representative over the age of nineteen must be onsite within a reasonable amount of time, not to exceed two hours, to allow the inspection.

006.04A(1) If the Department cannot make contact with the operator by telephone, or the inspection is not allowed within the set timeframe, a notice of the attempted inspection such as the example Attempted Inspection Notice form, attached as Appendix H, will be posted in a prominent location on the premises, such as the front door of the facility or residence; and

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006.04A(2) The failure to allow the Department to have full and complete access for inspections as set forth in subsections (1), (3), (4), (5), (6), (7), (8) and (9) of §54-628 of the Act may be considered by the Department as a refusal by the operator to allow an inspection pursuant to the Act and the Department may seek to obtain an inspection warrant for purposes of inspecting the premises for compliance with the Act, these regulations, or 9 C.F.R. §§3.1 to 3.19.

006.04B If the operator expressly refuses to make premises upon which dogs or cats are present available for inspection, the Department may immediately seek to obtain an inspection warrant or a search warrant for purposes of inspecting the premises for compliance with the Act, these regulations, or 9 C.F.R. §§3.1 to 3.19.

006.04C Any operator not allowing the Department to make an attempted inspection shall be subject to the reinspection fees set forth in §54-628(3) and subject to the provisions of §54-628 (9) of the Act and the Department may pursue one or any combination of enforcement actions provided.

006.05 All complaints alleging a violation of the Act, these regulations, or 9 C.F.R. §§3.1 to 3.19, shall be reviewed and evaluated, after which the Department may assign priorities to the complaints and initiate an inspection. The priorities and inspections shall be conducted in the following descending order when determined by the Department to be reasonable and logical:

006.05A Any written or signed complaint, including those submitted by facsimile or electronic transmission, indicating that a person is in violation or is suspected to be in violation of the Act, these regulations, or 9 C.F.R. §§3.1 to 3.19;

006.05B Any complaint from an identified source indicating that a person is in violation or is suspected to be in violation of the Act, these regulations, or 9 C.F.R. §§3.1 to 3.19; or

006.05C Any complaint from an anonymous source indicating a person is in violation, or is suspected to be in violation of the Act, these regulations, or 9 C.F.R. §§3.1 to 3.19.

006.06 Any complaint indicating a dog or cat is abandoned or being cruelly neglected or cruelly mistreated, shall, the day it is received, be referred to the law enforcement agency of the county in which the alleged violation is occurring. The Department may investigate such complaints for the purpose of determining if there are any violations of the Act, these regulations, or 9 C.F.R. §§3.1 to 3.19.

007 Humane Handling, Care, Treatment, and Transportation of Dogs and Cats.
Operators shall comply with the requirements of the Act and these regulations regarding the humane handling, care, treatment, and transportation of dogs and cats. For the purposes of enforcement of the Act and these regulations, the Department adopts the specifications for the humane handling, care, treatment, and transportation of dogs and cats, the standards of the Animal and Plant Health Inspection Service of the United States Department of Agriculture (USDA), as published in 9 C.F.R. §§3.1 to 3.19 (2015) (a copy of which is attached to these regulations as Appendix A and incorporated herein by reference) so long as these standards do not conflict with the Act or these regulations. If there is an inconsistency between the Act and

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9 C.F.R. §§3.1 to 3.19, the Act shall control. If there is an inconsistency between 9 C.F.R. §§3.1 to 3.19, and these regulations, the regulations shall control. Humane handling, care, treatment, and transportation shall include but not be limited to, the following:

007.01 Adequate Food and Water.

007.01A All dogs and cats shall be provided with food at least one time per day, except as otherwise directed by the attending veterinarian. Such food shall be fresh, wholesome, palatable, and of sufficient quantity and nutritive value to maintain the normal condition and weight of dogs and cats.

007.01B Water shall be continually available to each dog and cat or it must be offered to the dogs and cats as often as necessary to ensure their health or safety, but never less than twice per day for at least one hour each time, unless restricted by the attending veterinarian.

007.01B(1) Factors in determining if a dog or cat is receiving an adequate amount of water from appropriate receptacles and watering systems as set forth in 23 NAC 18-007.10 include, but are not limited to:

007.01B(1)(a) Ambient temperature;

007.01B(1)(b) A dog's or cat's body condition, such as sunken eyes and skin tenting; or

007.01B(1)(c) A dog's or cat's behavior, such as excessive nosing at an empty water bowl.

007.01B(2) Excessive thirst may indicate a disease condition to be addressed by the attending veterinarian.

007.02 Compatible Grouping. All dogs and cats housed in the same primary enclosure must be compatible, with the following restrictions:

007.02A Females in heat (estrus) may not be in the same primary enclosure with males, except for breeding purposes;

007.02B Any dog or cat exhibiting a vicious or overly aggressive disposition must be housed separately;

007.02C Puppies or kittens four months of age or less may not be in the same primary enclosure with adult dogs or cats other than their dams or foster dams;

007.02D Dogs or cats may not be in the same primary enclosure with any other species of animals, unless they are compatible; and

007.02E Dogs or cats that have, or are suspected of having, a contagious disease must be isolated from healthy animals.

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007.03 Veterinary Care Requirements for Commercial Dog or Cat Breeders, Pet Shops or Dealers. Attending veterinarian and adequate veterinary care are required for animals under the care, supervision, or control of a commercial dog or cat breeder, pet shop, or dealer.

007.03A Each commercial dog or cat breeder, pet shop, and dealer licensed under the Act and these regulations shall have a written veterinary care plan with an attending veterinarian who is licensed to practice in Nebraska. The formal arrangements shall include a written program of veterinary care and regularly scheduled visits to the premises upon which the dogs or cats are harbored. The form entitled, Veterinary Care Plan, incorporated herein by reference, is attached as Appendix I and may be used to satisfy the requirements for a written veterinary care plan.

007.03B Each commercial dog or cat breeder, pet shop, and dealer licensed under the Act and these regulations shall establish, maintain, and follow programs of adequate veterinary care that include:

007.03B(1) The availability of appropriate facilities, employees, equipment, and services to comply with the provisions in the Act and these regulations;

007.03B(2) The use of appropriate methods to prevent, control, diagnose and treat diseases and injuries, and the availability of emergency, weekend, and holiday care;

007.03B(3) The maintenance of individual health records shall be kept pursuant to 23 NAC 18-010.06, for:

007.03B(3)(a) All dogs and cats which are sixteen (16) weeks of age or older;

007.03B(3)(b) All dogs or cats younger than sixteen (16) weeks of age when permanently transferred from the litter; or

007.03B(3)(c) Any dog or cat younger than sixteen (16) weeks of age if it received any individual medical procedure, separate from the litter.

007.03B(4) Daily observation of all dogs and cats to assess their health or safety. Provided, however, that daily observation of dogs and cats may be accomplished by someone other than the attending veterinarian; and provided further, that a mechanism of direct and frequent communication is required so that timely and accurate information on problems of dog or cat health, behavior, and well-being is conveyed to the attending veterinarian; and

007.03B(5) Adequate grooming to avoid matted hair which significantly impairs a dog's health or safety or provides a nesting area for disease carrying pests or parasites and to ensure that nails are not impairing the comfort of the dog.

007.04 Additional Veterinary Care Requirements for Commercial Dog Breeders.

007.04A Commercial dog breeders shall have the attending veterinarian annually review and update the veterinary care plan required in 23 NAC 18-007.03A at the time of the onsite visit.

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007.04B Commercial dog breeders shall comply with §54-641.02(3)(a) which requires that breeding dogs receive regular grooming. The Tufts Physical Care Scale may be used as a guideline to assist the Department in making a determination as to a dog's adequate regular grooming. Evidence that a dog is receiving adequate regular grooming is shown by:

007.04B(1) The matting of a dog's coat does not exceed ten percent.

007.04B(2) A dog's nails are trimmed short enough to ensure the comfort of the dog.

007.04C All commercial dog breeders shall provide each breeding dog a wellness examination at least once every three years which shall include a basic physical and dental examination pursuant to §54-641.02(1)(c).

007.05 Veterinary Care Requirements for Boarding Kennels, Animal Control Facilities, Animal Rescues and Animal Shelters. Each boarding kennel, animal control facility, animal rescue, and animal shelter shall establish, maintain, and follow a written emergency veterinary care plan. The form entitled, Emergency Veterinary Care Plan, incorporated herein by reference, is attached as Appendix J, and may be used to satisfy the requirements for a written emergency veterinary care plan. The written emergency veterinary care plan shall include:

007.05A The veterinarian of choice by the owner of the dog or cat that is being boarded, in the event veterinary care is needed; or

007.05B A formal arrangement with a veterinarian licensed to practice in Nebraska to provide veterinary services as needed.

007.05C The provision of veterinary care for dogs or cats which are sick, diseased, injured or lame.

007.06 Exercise for Dogs. All operators shall establish and follow an appropriate exercise plan for each dog housed on the premises. All dogs greater than twelve weeks of age, or age specified by the attending veterinarian, shall be provided opportunity for exercise.

007.06A The exercise plan shall be in writing and available to the Department at the time of inspection. Such plan shall:

007.06A(1) Be approved and signed by the attending veterinarian, or incorporated into the veterinary care plan or emergency veterinary care plan; and

007.06A(2) State that the dog has the required exercise space listed in 23 NAC 18-007.06C(1) and 007.06C(2); or

007.06A(3) Identify the frequency, method, and duration of additional exercise if the exercise requirements are not otherwise met.

007.06B Exemptions to the exercise requirement of any dog shall be determined only by the attending veterinarian and shall be recorded in the veterinary care plan or emergency veterinary care plan.

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007.06C Animal control facilities, animal shelters, animal rescues, boarding kennels, dealers, and pet shops shall provide exercise to dogs by using the following methods, including, but not limited to:

007.06C(1) An individually housed dog with at least 200% of its minimum required floor space;

007.06C(2) Group housed dogs with at least 100% of the minimum required floor space for each animal;

007.06C(3) Access to a run or open area at the frequency and duration prescribed by the attending veterinarian; or

007.06C(4) Positive interaction with humans, such as walking, playing ball, or grooming.

007.06D Commercial Dog Breeders. Commercial dog breeders shall comply with the requirements set forth in §54-641.01, regarding exercise for dogs owned or harbored by such commercial dog breeders.

007.07 Employee Requirements. All operators shall be responsible for ensuring that:

007.07A Adequate training and guidance are provided to employees involved in the handling, care, and treatment of the dogs and cats on the licensed premises;

007.07B A sufficient number of trained employees are available to perform general husbandry tasks; and

007.07C Employees involved in the handling, care, and treatment of a operator's dogs and cats can, and do, perform at the level required by the Act and these regulations.

007.07D Factors to be considered in determining the adequacy and appropriate number of employees:

007.07D(1) Number of dogs and cats maintained on the premises;

007.07D(2) Maintenance requirements of the individual dogs or cats based on, but not limited to, size, breed, and age;

007.07D(3) Design and construction of the facility; and

007.07D(4) General condition of facility. A facility that is routinely noncompliant in general husbandry areas may indicate too few employees on site, or employees who are not trained in the appropriate humane handling, care, and treatment of dogs and cats.

007.07E Factors indicating inadequately trained, or insufficient number of, employees:

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007.07E(1) High incidence of injury to the dogs and cats in the operator's care which are subject to the Act;

007.07E(2) Inadequate cleanliness of facility due to accumulations of litter, food waste, feces, trash, junk, or weeds; or

007.07E(3) Multiple substantiated complaints against the licensed facility by the general public.

007.08 Pest Control. All operators shall establish, maintain, and follow an effective pest control program for the control of insects or external parasites affecting dogs and cats. Signs of an ineffective pest control program may include, but shall not be limited to:

007.08A Sighting of the pest or pests;

007.08B Dog or cat scratching excessively;

007.08C Open sores or sores due to flies and other insects; or

007.08D Areas of hair loss on the dog or cat.

007.09 Primary Enclosures.

007.09A All operators shall maintain primary enclosures for dogs and cats which provide adequate space and flooring in accordance with §54-641. Primary enclosures shall also be maintained in a clean and sanitary manner as follows:

007.09A(1) Be cleaned as often as necessary, but at least one time per day, to:

007.09A(1)(a) Prevent contamination of the animal;

007.09A(1)(b) Minimize disease hazards; and

007.09A(1)(c) Reduce odors.

007.09A(2) Be cleaned daily to remove any excreta and food waste so that no more than twenty-four (24) hours of feces and urine accumulates by:

007.09A(2)(a) Cleaning the entire primary enclosure;

007.09A(2)(b) Cleaning soiled areas only (spot-clean); or

007.09A(2)(c) Any other Department approved method.

007.09A(3) Be cleaned in a manner that does not:

007.09A(3)(a) Harm the dog or cat by the use of direct exposure to steam or harsh or toxic chemicals;

007.09A(3)(b) Contaminate the dog, cat, or its bedding;

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007.09A(3)(c) Wet the dog, cat or its bedding; or

007.09A(3)(d) Distress the dog or cat, evidenced by, but not limited to, shivering, shaking, cowering, excessive howling, or whining.

007.09A(4) Have all excreta and food waste removed daily from under the primary enclosure to prevent or reduce:

007.09A(4)(a) Soiling of the dog or cat;

007.09A(4)(b) Disease hazard;

007.09A(4)(c) Pests, insects, and vermin; and

007.09A(4)(d) Odors.

007.09A(5) Be sanitized as set forth in 23 NAC 18-007.10D as often as necessary, but at least one time every two weeks, to minimize disease hazards.

007.09B Tethering. Permanent tethering is prohibited for use as a primary enclosure by any operator. The Department may approve temporary tethering of a dog for up to three (3) days, if the operator: (1) makes the request in writing to the Department; (2) includes the reason or justification for tethering the dog; and (3) includes the length of time the dog will be tethered. Factors to consider when approving or disapproving temporary tethering of a dog may include, but are not limited to:

007.09B(1) Routine cleaning or maintenance;

007.09B(2) The availability of shelter;

007.09B(3) Length of the tether;

007.09B(4) Type and strength of the tether;

007.09B(5) Method of attachment of tether to the dog;

007.09B(6) Possible entanglements with other animals or objects;

007.09B(7) Access to food and water;

007.09B(8) Access to shade at all times during the day;

007.09B(9) Breed and behavior characteristics of the dog or dogs; and

007.09B(10) Protection from predators.

007.09C Commercial dog or cat breeders shall provide sufficient shade to shelter all the dogs or cats housed in the primary enclosure at one time.

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007.10 General Requirements for All Housing Facilities. All housing facilities shall:

007.10A Allow the dogs or cats easy and convenient access to clean food and water which shall be non-toxic and free from algae growth.

007.10A(1) Food and water receptacles and watering systems shall be constructed of hard surfaces which are sanitized as set forth in 23 NAC 18-007.10D(1).

007.10B Be designed, constructed, and maintained in such a manner as to:

007.10B(1) Be structurally sound;

007.10B(2) Be kept in good repair, having no sharp or jagged edges which could injure a dog or cat;

007.10B(3) Be free of excessive rust which prevents the required cleaning and sanitation;

007.10B(4) Securely contain the dogs or cats; and

007.10B(5) Protect the dogs or cats from predators.

007.10C Be kept clean and be easy to clean. All housing facilities shall have waste properly disposed. All operators shall maintain waste disposal procedures for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris on all premises where housing facilities are located, including buildings, pens, and surrounding grounds. Weeds, grasses and bushes shall be controlled so as to facilitate cleaning and pest control. The Tufts Environmental Health Scale may be used as a guideline to assist the Department in making a determination as to whether a dog or cat's environment is acceptable.

007.10C(1) Waste disposal procedures shall minimize:

007.10C(1)(a) Pest infestation;

007.10C(1)(b) Vermin infestation;

007.10C(1)(c) Harmful odors; and

007.10C(1)(d) Disease hazards.

007.10C(2) Trash containers in housing facilities, food storage areas, and food preparation areas shall be leak proof and have tightly fitted lids on them at all times.

007.10C(3) The surfaces of housing facilities, including objects within the facility, must be constructed in a manner and made of materials that allow them to be readily cleaned and sanitized, or removed or replaced when worn or soiled.

007.10D Be properly sanitized.

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007.10D(1) Hard surfaces which include, but are not limited to, sealed concrete, sealed wood, ceramic tile, stainless steel or other metals, glass board, or strong plastic laminate sheeting, shall be impervious to moisture and sanitized as follows:

007.10D(1)(a) Washing with hot water of at least 180°F and soap or detergent;

007.10D(1)(b) Washing with a detergent solution, followed by a safe and effective disinfectant; or

007.10D(1)(c) Live steam or pressurized live steam.

007.10D(2) For outside non-hard or porous surfaces which include, but are not limited to dirt, sand, gravel and grass, acceptable methods of sanitation include, but are not limited to:

007.10D(2)(a) Removal of feces; and

007.10D(2)(b) Exposure to direct sunlight or use of a safe and effective disinfectant.

007.10E Have proper pest control. All operators shall establish, maintain, and follow an effective pest control program for the control of insects and birds and mammals that are pests, such as starlings and small rodents. Signs of an ineffective pest control program may include, but shall not be limited to:

007.10E(1) Sighting of the pest or pests;

007.10E(2) Droppings;

007.10E(3) Rodent holes;

007.10E(4) Chewed insulation on floors, walls, ceilings and other surfaces; or

007.10E(5) Nests.

007.10F Have proper drainage. All licensed facilities shall have a method to:

007.10F(1) Prevent excess or standing water and other fluids;

007.10F(2) Keep the dog, cat, and its bedding dry; and

007.10F(3) Minimize pest infestation, harmful odors, vermin infestation and disease hazards.

007.10G Provide adequate shelter and protection.

007.10 G(1) Each dog and cat shall be provided with adequate shelter from the elements at all times. The Tufts Weather Safety Scale may be used as a guideline to assist the Department in making a determination as to a dog's health or safety risk in adverse weather conditions. Weather conditions may be established by either a

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reliable weather website or a hand held weather meter which measures weather data. Adequate shelter shall:

007.10G(1)(a) Protect the dogs' and cats' health and safety;

007.10G(1)(b) Allow all the dogs and cats in the enclosure to have access to the shelter at the same time;

007.10G(1)(c) Protect the dogs and cats from adverse weather conditions;

007.10G(1)(d) Be large enough to allow each dog or cat to sit, stand, lie down, and turn around freely; and

007.10G(1)(e) Not include barrels, cars, refrigerators, freezers, washing machines, dryers, and the like.

007.10G(2) Dogs and cats shall be protected from extreme temperatures and weather conditions. The following indicate such shelter and protection is not being provided:

007.10G(2)(a) Dogs or cats have symptoms of hypothermia;

007.10G(2)(b) Dogs or cats have symptoms of hyperthermia;

007.10G(2)(c) Dogs or cats are of a breed not acclimated to the temperature of the primary enclosure;

007.10G(2)(d) Sick, infirmed, aged or young dogs or cats are in conditions which increase their vulnerability;

007.10G(2)(e) Dogs or cats are housed in a way that does not completely protect them from heavy rains; or

007.10G(2)(f) Dogs or cats are housed in such manner that snow blocks access or prevents walking or movement.

007.10H Properly store food, bedding, toxic substances and other items as follows:

007.10H(1) Food storage methods shall protect food from:

007.10H(1)(a) Spoilage;

007.10H(1)(b) Contamination;

007.10H(1)(c) Deterioration of nutritive value; and

007.10H(1)(d) Vermin infestation.

007.10H(2) Food storage areas shall be free of any accumulation of trash, waste material, junk, weeds, and other discarded materials.

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007.10H(3) Toxic substances shall not be stored in food storage areas, food preparation areas, or animal living areas unless such substances are stored in a secured cabinet; and

007.10H(4) Bedding shall be stored and maintained in a clean, dry environment to protect from contamination, water damage, and vermin infestation.

007.10I Maintain proper ventilation.

007.10I(1) Ventilation in enclosed areas shall be maintained to provide for the health and safety of the dogs or cats being housed.

007.10I(1)(a) Proper ventilation shall minimize the following:

007.10I(1)(a)(i) Harmful odors;

007.10I(1)(a)(ii) Drafts;

007.10I(1)(a)(iii) Noxious fumes or toxic gases, including ammonia; and

007.10I(1)(a)(iv) Moisture condensation, indicative of excessive humidity, which could cause wet bedding or wetting of the dog or cat.

007.10I(1)(b) If upon inspection, an ammonia odor is detected, an ammonia meter may be used to verify the presence of ammonia and may indicate the enclosed area is not ventilated to minimize the ammonia present.

007.10I(1)(c) The presence of dogs or cats exhibiting signs of illness or stress associated with poor or improper ventilation may indicate the enclosed area is not ventilated to minimize the conditions listed in 23 NAC 18-007.10I(1)(a).

007.10I(2) Methods of ventilation may include, but are not limited to:

007.10I(2)(a) Windows;

007.10I(2)(b) Vents sufficient to allow an adequate exchange of air flow throughout the facility;

007.10I(2)(c) Fans, exhaust fans, or blowers;

007.10I(2)(d) Air conditioning; and

007.10I(2)(e) Doors.

007.11 Indoor and Sheltered Housing Lighting. Indoor and sheltered housing facilities shall have:

007.11A Sufficient light to permit routine inspection and cleaning of the housing facility;

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007.11B Sufficient light, uniformly diffused, to allow the operator, or his or her employees, to observe the dogs and cats housed therein; and

007.11C A regular diurnal lighting cycle of either natural or artificial light shall be provided to all dogs or cats housed in an indoor housing or sheltered housing facility.

007.12 Outdoor Housing. All operators who maintain outdoor housing facilities which contain one or more sheltered structures, shall ensure such structures be constructed so that each shelter:

007.12A Be accessible to each dog or cat;

007.12B Have a roof, floor, and sides;

007.12C Provide adequate protection or shelter from extreme cold or heat;

007.12D Provide protection from direct rays of the sun;

007.12E Provide protection from the direct effects of wind, rain, or snow;

007.12F Have a wind break and rain break at the entrance; and

007.12G Provide a way for the dogs or cats to keep warm, including the availability of clean, dry bedding.

007.13 Transportation. Operators shall only transport dogs or cats in a manner which complies with the following:

007.13A Dogs or cats being transported shall be provided adequate shelter as set forth in 23 NAC 18-007.10G; and

007.13B Proper ventilation shall be maintained as set forth in 23 NAC 18-007.10I.

008 Identification. All licensees, except boarding kennels, shall individually identify each dog and cat housed, purchased, sold, leased, exchanged, or otherwise transferred, acquired or disposed.

008.01 For purposes of the Act and these regulations, all licensees with a United States Department of Agriculture license may identify their animals as prescribed in 9 C.F.R. §§2.50 to 2.55, (2015), a copy of which is attached to these regulations as Appendix B and incorporated herein by reference. If there is any inconsistency between these regulations and the federal regulations under 9 C.F.R. §§2.50 to 2.55 (2015), these regulations shall control.

008.02 Individual identification shall be done by one (1) or more of the following methods:

008.02A An individual identification tag;

008.02B A cage card;

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008.02C A distinctive and legible tattoo marking approved by the Department; or

008.02D A microchip implant. Pursuant to §54-641.03, all commercial dog breeders initially licensed on or after October 1, 2012, shall microchip each breeding dog.

008.02E Live puppies or kittens, which are maintained as a litter in the same primary enclosure with their dam, are not required to be individually identified provided the dam has been individually identified in accordance with 23 NAC 18-008;

008.02F Boarding kennels, in lieu of individual identification, shall maintain records as required by 23 NAC 18-010.03.

008.03 All puppies and kittens shall be individually identified by the licensee in possession of the puppies and kittens after separation from their litter.

008.04 If, at the time of acquisition, a dog or cat is already individually identified by a tag, tattoo, or microchip which has been applied by another entity, the acquiring licensee shall continue identifying the dog or cat by such identification, except for breeding dogs belonging to a licensee who was initially licensed on or after October 1, 2012. If the dog or cat is identified with more than one method of identification, all identifying names or numbers shall be maintained in the licensee's records.

008.05 Tags, when used as a method of individual identification, shall meet the following requirements:

008.05A Tags may be made of a durable alloy such as brass, bronze, steel or a durable plastic. Aluminum of a sufficient thickness to assure the tag is durable and legible may also be used; and

008.05B Tags shall be embossed or stamped on one (1) side that is easily readable and shall include the individual number or name identifying the dog or cat.

008.06 Licensees shall obtain, at their own expense, tags, tattoos, microchips, cage cards, or any other individual identification method approved by the Department.

008.07 The individual identification number or name from a tag, microchip, tattoo, cage card, or other individual identification shall be recorded and maintained in records for a period of at least three (3) years following a dog's or cat's disposition. For licensees using a microchip, the licensee shall:

008.07A Record the manufacturer of the microchip;

008.07B Record the approximate location of the microchip in the dog or cat; and

008.07C Use an alternative method of individual identification at any time if the microchip system is determined to be ineffective, or if no scanner is available at the time of inspection.

009 Prohibitions for Stolen Dogs or Cats. No person shall buy, sell, exhibit, transport or offer for transportation, any stolen dog or cat.

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010 Record Keeping. All records, except records for boarding kennels, shall be kept and maintained for a period of three (3) years, unless the Director requests, in writing, that they be maintained for a longer period, for the purpose of investigation. The three-year time period shall begin from the date a dog or cat was acquired and from the date a dog or cat was disposed. Such records shall include the Certificate of Veterinary Inspection if required by §54-788 for the dogs or cats, and shall be physically maintained on the premises, or be readily available for review at the time of inspection. Records shall contain information sufficient to completely and accurately identify each dog and cat being housed or contained by the operator.

010.01 Acquisition Records for Commercial Dog or Cat Breeders, Pet Shops, Dealers, and Voluntary Licensees.

010.01A Each commercial dog or cat breeder, pet shop, dealer, and voluntary licensee shall make, keep and maintain records or forms based on information obtained from a seller or other source of dogs or cats which fully and correctly document information concerning each dog or cat purchased or otherwise acquired, owned, or held in the licensee's possession or control, including any offspring born of any dog or cat while in the licensee's possession or control. A commercial dog or cat breeder, pet shop, dealer or voluntary licensee may use the form referred to as Record of Acquisition and Dogs and Cats on Hand, Animal and Plant Health Inspection Service Form 7005 or similar Department approved form to record acquisition of dogs or cats. A copy of Form 7005 is attached to these regulations as Appendix C, and incorporated herein by reference. Records shall be completed within 48 hours of acquiring a dog or cat. Such completed records and forms required to be kept pursuant to this section, shall include:

010.01A(1) The date a dog or cat was purchased, held, owned, received, controlled, or otherwise acquired, including births;

010.01A(2) The name and complete mailing address of the person from whom the dog or cat was purchased, received, or otherwise acquired. Such information is required, regardless of whether or not the person selling, transporting, or otherwise transferring ownership of the dog or cat is required to be licensed under the Act and these regulations;

010.01A(3) The United States Department of Agriculture license number, the license number issued under the Act and these regulations, or the license number from any other state, whichever is applicable. If the license number is not available, one of the following shall be acceptable:

010.01A(3)(a) The vehicle license number and state; or

010.01A(3)(b) The driver's license number and state.

010.01A(4) The method of transportation, including the name of the initial carrier or intermediate handler or, if a privately owned vehicle is used to transport a dog or cat, the name of the owner of the privately owned vehicle;

010.01A(5) The individual identification number or name from the tag, tattoo, microchip, or cage card.

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010.01A(6) The form referred to as the USDA's United States Interstate and International Certificate of Health Examination for Small Animals, APHIS Form 7001 (also known as health certificate), or similar state form, a copy of which is attached as Appendix D and incorporated herein by reference, to make, keep and maintain the information required by 23 NAC 18-010 of these regulations, shall accompany all dogs and cats imported into Nebraska. A health certificate shall be signed by a veterinarian who is licensed and accredited in the state of origin of such dogs or cats imported into Nebraska.

010.02 Disposition Records for Commercial Dog or Cat Breeders, Dealers, Pet Shops and Voluntary Licensees.

010.02A Each commercial dog or cat breeder, dealer, pet shop and voluntary licensee shall make, keep, and maintain records and forms for each dog or cat transported, sold, exchanged, leased, deceased, delivered, euthanized or otherwise disposed. Records shall be completed within 48 hours of the disposition of a dog or cat. Such records and forms shall include:

010.02A(1) The form referred to as the Record of Disposition of Dogs and Cats, Animal and Plant Health Inspection Form 7006, a copy of which is attached to these regulations as Appendix E, and incorporated herein by reference. Commercial dog or cat breeders, dealers, pet shops and voluntary licensees may use Form 7006 or a similar Department approved form to record disposition of dogs and cats. Such completed form shall include:

010.02A(1)(a) The date of disposition of each dog and cat;

010.02A(1)(b) The name and complete mailing address of the person to whom a dog or cat was transferred, except when disposition is by death or euthanasia;

010.02A(1)(c) The United States Department of Agriculture license number, the license number issued under the Act and these regulations, or the license number issued by another state, whichever is applicable. If this subpart does not apply, one of the following shall be required:

010.02A(1)(c)(i) The vehicle license number and state; or

010.02A(1)(c)(ii) The driver's license number and state.

010.02A(2) The individual identification number or name from the tag, tattoo, microchip, or cage card;

010.02A(3) A complete description of the dog or cat; and

010.02A(4) If the dog or cat dies or is euthanized, a record of how the animal was disposed, including a description of the circumstances surrounding the death. If euthanized, the name of the person performing the euthanasia and the method of euthanasia shall be recorded in the dog's or cat's health records; or may be recorded generally, in the veterinary care plan.

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010.03 Records for Boarding Kennels.

010.03A Every operator of a boarding kennel shall upon the arrival of a dog or cat make, keep, and maintain records or forms which fully and correctly documents the following information concerning each dog or cat boarded, or otherwise kept or maintained:

010.03A(1) Name, address and phone number of dog or cat owner;

010.03A(2) Emergency contact number;

010.03A(3) Dog's or cat's name, age, sex and breed;

010.03A(4) Rabies vaccination information;

010.03A(5) Pre-existing physical problems;

010.03A(6) Medication information and instructions;

010.03A(7) Veterinarian of choice;

010.03A(8) Special feeding instructions, if needed;

010.03A(9) Special boarding instructions, if needed;

010.03A(10) Any additional services to be performed;

010.03A(11) Date received; and

010.03A(12) Date released.

010.03B Every operator of a boarding kennel shall record daily health observations, including any medications, treatments given, and exercise periods shall be maintained.

010.03C All records shall be maintained for a period of sixty (60) days except on those dogs or cats on which a complaint was made by the owner of the kenneled dogs or cats, or if some other problem occurred during boarding, those records shall be kept for one (1) year, unless the Director requests in writing that they be maintained for a longer period, for the purpose of investigation.

010.04 Acquisition Records for Animal Control Facilities, Animal Rescues, and Animal Shelters.

010.04A Each animal control facility, animal rescue, and animal shelter shall make, keep, and maintain records which fully and correctly disclose the following information concerning each dog and cat housed, purchased, leased, exchanged or otherwise acquired, including births. Records shall be completed within 48 hours of acquiring a dog or cat. Such records shall include:

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010.04A(1) The form referred to as Record of Acquisition and Dogs and Cats on Hand, Animal and Plant Health Inspection Service Form 7005, or other Department approved form;

010.04A(2) The date a dog or cat was received or acquired;

010.04A(3) The name and complete mailing address of the person from whom a dog or cat was received or acquired, including the driver's license number; or, the name, official title, and mailing address of any state or political subdivision of a state, or its representative, from whom a dog or cat was received or acquired;

010.04A(4) The individual identification, if available. Dogs or cats having no individual identification at time of entry into the animal control facility, animal rescue, or animal shelter shall be identified in accordance with 23 NAC 18-008;

010.04A(5) The form referred to as the USDA's United States Interstate and International Certificate of Health Examination for Small Animals, APHIS Form 7001 (also known as health certificate), or similar state form, shall accompany all dogs and cats imported into Nebraska. A health certificate shall be signed by a veterinarian who is licensed and accredited in the state of origin of such dogs or cats imported into Nebraska.

010.05 Disposition Records for Animal Control Facilities, Animal Rescues, and Animal Shelters.

010.05A Each animal control facility, animal rescue, or animal shelter shall make, keep, and maintain records which fully and correctly documents information concerning each dog and cat sold, exchanged, leased, transferred or otherwise disposed. Records shall be completed within 48 hours of the disposition of a dog or cat. Such records shall include:

010.05A(1) The form referred to as Record of Disposition of Dogs and Cats on Hand, Animal and Plant Health Inspection Service Form 7006 or other Department approved form;

010.05A(2) The date a dog or cat was sold, exchanged, leased, transferred or otherwise disposed;

010.05A(3) The name and complete mailing address of the person to whom a dog or cat was sold, exchanged, leased, transferred or otherwise disposed;

010.05A(4) The individual identification number or name of the dog or cat; and

010.05A(5) The method of disposition. If the dog or cat dies or is euthanized, a record of how the animal was disposed, including a description of the circumstances surrounding the death. If euthanized, the name of the person performing the euthanasia and the method of euthanasia shall be recorded in the dog's or cat's health records;

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010.05B A state or political subdivision of a state which contracts out its animal control duties shall submit information to the Department identifying which licensed animal control facility, animal rescue, or animal shelter is housing or containing the dogs or cats under its animal control authority.

010.06 Health Records. Individual health records of dogs and cats shall be kept and maintained by all operators except boarding kennels. Individual health records, or a copy, shall be prepared within 48 hours. The information for individual health records shall be taken from the person from whom a dog or cat was purchased or otherwise transferred or acquired. Commercial dog breeders shall also comply with any additional requirements set forth in §54-641.02. Health records, or a copy, shall accompany all dogs and cats upon the transfer of ownership, and shall include the following:

010.06A Vaccination records, including rabies vaccination certificate, and any other treatments and medications given;

010.06B All medical procedures performed;

010.06C The reasons for or the condition requiring treatment, medication, or medical procedure, including the results of such treatment, medication or medical procedure; and

010.06D Record of all offspring produced, including the number of litters produced and litter size for each dog and cat.

010.06E If a dog or cat is no longer capable of breeding, or is infertile, and the commercial dog or cat breeder wants to exempt said dog or cat from being counted as part of its breeding stock, a commercial dog or cat breeder may have the dog or cat surgically sterilized by a licensed veterinarian; or may obtain a statement of infertility from a veterinarian licensed to practice in Nebraska verifying that such dog or cat is no longer capable of breeding. The attending veterinarian may use the Statement of Infertility Form, attached herein as Appendix G.

010.06F If a dog or cat dies, the health records shall include:

010.06F(1) An explanation of how the death occurred (euthanasia, natural causes or other);

010.06F(2) The date of death;

010.06F(3) If euthanasia was performed, the name of the person performing the euthanasia and the method of euthanasia.

011 Procurement of Dogs and Cats By Dealers and Pet Shops.

011.01 A dealer or pet shop which obtains dogs and cats from within this state shall only obtain such dogs and cats from other licensees who are licensed under the Act and in accordance with these regulations.

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011.02 No person shall obtain live dogs or cats by use of false pretenses, misrepresentation or deception.

012 Licensees Restricted in Sales to Dealers. Licensees shall not sell to dealers operating within the state who are not licensed under the Act and in accordance with these regulations.

013 Spaying and Neutering. Licensees and any other retailer, who transfers ownership of a dog or cat to an ultimate consumer, shall comply with the spaying and neutering requirements of the Act.

014 Assessment of Administrative Fines. The Department may impose an administrative fine pursuant to §54-633(3) and this section.

014.01 In addition to the definitions set forth in 23 NAC 18-003, the following shall apply to 23 NAC 18-014:

014.01A LEVEL OF VIOLATION shall mean the alleged violation is a first or subsequent violation.

014.01B FIRST VIOLATION shall mean the alleged violator has not been found by an order of the Director or any court, or by the violator's own admission in a settlement agreement, to have committed a violation of the Act or these regulations in the three years immediately preceding the date of the alleged violation.

014.01C SUBSEQUENT VIOLATION shall mean the alleged violator has committed the same violation of the Act or these regulations one or more times within the three years immediately preceding the date of committing the current alleged violation as determined by an order of the Director or any court, or the alleged violator has entered into a settlement agreement admitting to the facts establishing the previous violation.

014.01D BASE FINE shall mean the amount of the administrative fine set by regulation for a particular violation of the Act or these regulations prior to any adjustments for gravity or size of the operation.

014.02 When it is determined that an administrative fine is an appropriate penalty for a violation of the Act or these regulations, the actual amount of such administrative fine shall be calculated by determining the base fine and making the necessary adjustments for gravity and the size of business as set forth in this section. An alleged violator shall be subject to the assessment of a fine for each violation, but may not be fined for lesser included violations arising out of the same act, if the alleged violator has been fined for the greater violation. The Department may, however, issue any fine at the statutory maximum for any egregious violation. The base fines established for the specific violations are as follows:

014.02A Failing to provide a dog or cat with necessary food or water.

014.02A(1) Base fine for a first violation is $2,500.

014.02A(2) Base fine for a subsequent violation is $5,000.

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014.02B Threatening a dog's or cat's health or safety by egregiously failing to maintain sanitary premises, pens, enclosures, or structures. Such violations may include: (i) filthy premises containing an accumulation of feces, urine, or both, from which the dog or cat cannot extricate itself such that the premises would be rated as filthy or very unsanitary on the Tufts Environmental Health Scale; (ii) overwhelming odor creating poor air quality which makes breathing difficult for the dogs and cats due to insufficient ventilation, insufficient cleaning of animal waste, or both; (iii) large amounts of litter, food waste, trash, junk, or weeds are present, which inhibits comfortable rest, normal postures or movement, or poses an immediate danger to dogs and cats; (iv) dogs and cats having no means to escape contact with feces, urine, mud, or standing water; (v) animals provided with contaminated food, drinking water, or both; (vi) dogs and cats being handled in a manner that causes a significant threat to health or safety, or (vii) exposes the dogs or cats to sharp, jagged objects in or on parts of the primary enclosures; or (viii) excessive rust that prevents the required cleaning and sanitation, or which affects the structural strength of the surface or (ix) infestation of insects, parasites, or rodents.

014.02B(1) Base fine for a first violation is $2,500.

014.02B(2) Base fine for a subsequent violation is $5,000.

014.02C Failing to provide shelter or protection from extreme temperatures or humidity and weather conditions suitable for the age, species, breed or type, and physical condition of the animal so as to provide for the dog's and cat's health or safety. Such violations may include dogs and cats which are subjected to temperature extremes resulting in hypothermia, hyperthermia, or any condition related thereto.

014.02C(1) Base fine for a first violation is $2,500.

014.02C(2) Base fine for a subsequent violation is $5,000.

014.02D Failing to provide dogs and cats with adequate space required for the species or breed whereby such animal has no room to stand, sit, lie down in a comfortable, normal position, or turn about freely, and to walk in a normal manner.

014.02D(1) Base fine for a first violation is $2,500.

014.02D(2) Base fine for a subsequent violation is $5,000.

014.02E Failing to maintain a dog in a healthy condition as an indicator of the overall health or safety of such dog. For example, a matted dog with significant underlying lesions, other health impairments, or both, resulting from the mats, is a failure to maintain a dog in a healthy condition.

014.02E(1) Base fine for a first violation is $2,500.

014.02E(2) Base fine for a subsequent violation is $5,000.

014.02F Failing to provide veterinary care for a dog or cat when such veterinary care appears to be necessary, and is later determined by a veterinarian that such care was necessary for the health or safety of such dog or cat.

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014.02F(1) Base fine for a first violation is $2,500.

014.02F(2) Base fine for a subsequent violation is $5,000.

014.02G Violating 54-628(4) or otherwise refusing to allow the Department to enter the premises during normal business hours for the purposes of inspection under the Act and these regulations, or otherwise denying access to any officer, agent, employee, or appointee of the Department.

014.02G(1) Base fine for a first violation is $2,500.

014.02G(2) Base fine for a subsequent violation is $5,000.

014.02H Interfering with the Department in the performance of its duties. Such interference includes offering any resistance to, thwarting, or hindering any officer, agent, employee, or appointee of the Department and any misrepresentation or concealment, or hiding dogs or cats or failing to disclose all locations housing dogs or cats harbored by the alleged violator.

014.02H(1) Base fine for a first violation is $2,500.

014.02H(2) Base fine for a subsequent violation is $5,000.

014.02I Failing to comply with an order of the Director.

014.02I(1) Base fine for a first violation is $2,500.

014.02I(2) Base fine for a subsequent violation is $5,000.

014.02J Using any license issued by the Department while the license is under suspension; or, for purposes other than those authorized by the Act.

014.02J(1) Base fine for a first violation is $2,500.

014.02J(2) Base fine for a subsequent violation is $5,000.

014.02K Failing to make available to the Department, for purposes of inspection or to copy, all records, papers, and other information necessary for the enforcement of the Act and these regulations, or both.

014.02K(1) Base fine for a first violation is $2,500.

014.02K(2) Base fine for a subsequent violation is $5,000.

014.02L For commercial dog breeders: (1) failing to have euthanasia performed by a licensed veterinarian; (2) failing to have surgical births or other surgical procedures performed by a licensed veterinarian using anesthesia; or (3) failing to contact a licensed veterinarian without delay after an occurrence of a serious or life-threatening injury or medical condition of a dog under such dog breeder's care, supervision or control.

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014.02L(1) Base fine for a first violation is $2,500.

014.02L(2) Base fine for a subsequent violation is $5,000.

014.02M Failing to comply with the wellness examination for each breeding dog at least once every three years, including a basic physical and dental examination.

014.02M(1) Base fine for a first violation is $2,500.

014.02M(2) Base fine for a subsequent violation is $5,000.

014.02N Failing to accept delivery of registered mail or certified mail after being verified by the United States Postal Service as not being picked up by the licensee or his or her representative.

014.02N(1) Base fine for a first violation is $1,500.

014.02N(2) Base fine for a subsequent violation is $3,000.

014.02O Impairing a dog's or cat's health or safety by failing to maintain sanitary premises, pens, enclosures or structures. Such violations may include, but shall not be limited to: (i) an accumulation of waste matter making it difficult for a dog or cat to avoid such that the premises would be rated as unsanitary on the Tufts Environmental Health Scale; (ii) moderate amounts of litter, food waste, trash, junk or weeds are present which may inhibit comfortable rest, normal movement, or both; (iii) potential injury to a dog or cat from sharp edges or glass; or (iv) standing water or mud making it difficult for a dog or cat to avoid.

014.02O(1) Base fine for a first violation is $1,500.

014.02O(2) Base fine for a subsequent violation is $3,000.

014.02P Failing to inform the Department of any convictions of any violation of any local ordinance, county resolution, state or federal law on the disposition or treatment of dogs or cats.

014.02P(1) Base fine for a first violation is $1,500.

014.02P(2) Base fine for a subsequent violation is $3,000.

014.02Q Failing to comply with any provisions of the Act and these regulations which may impair the health or safety of a dog or cat including, but not limited to, failing to effectively control insects or external parasites affecting dogs or cats.

014.02Q(1) Base fine for a first violation is $1,500.

014.02Q(2) Base fine for a subsequent violation is $3,000.

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014.02R Failing to notify the Department of any change in the name, address, management, control or ownership of the business or operation, or of additional sites.

014.02R(1) Base fine for a first violation is $1,500.

014.02R(2) Base fine for a subsequent violation is $3,000.

014.02S Failing to keep all records required by the Department.

014.02S(1) Base fine for a first violation is $1,500.

014.02S(2) Base fine for a subsequent violation is $3,000.

014.02T Failing to maintain a written veterinary care plan or a written emergency veterinary care plan.

014.02T(1) Base fine for a first violation is $500.

014.02T(2) Base fine for a subsequent violation is $1,000.

014.02U Failing to develop, maintain or follow the exercise plan for dogs.

014.02U(1) Base fine for a first violation is $500.

014.02U(2) Base fine for a subsequent violation is $1,000.

014.02V Failing to maintain sanitary premises such that the premises would be rated as marginal on the Tufts Environmental Health Scale, or otherwise failing to maintain premises, structures, enclosures or pens in accordance with the standards set forth in the Act, these regulations and 9 C.F.R. §§3.1 to 3.19.

014.02V(1) Base fine for a first violation is $500.

014.02V(2) Base fine for a subsequent violation is $1,000.

014.02W Failing to pay any required fees under the Act and these regulations. A check with insufficient funds will be deemed nonpayment of fees.

014.02W(1) Base fine for a first violation is $500.

014.02W(2) Base fine for a subsequent violation is $1,000.

014.02X Failing to properly identify dogs and cats.

014.02X(1) Base fine for a first violation is $500.

014.02X(2) Base fine for a subsequent violation is $1,000.

014.02Y Any other violation of the Act, these regulations and 9 C.F.R. §§3.1 to 3.19 not otherwise set out in 23 NAC 18-014.

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014.02Y(1) Base fine for a first violation is $500.

014.02Y(2) Base fine for a subsequent violation is $1,000.

014.03 Gravity adjustment criteria. The base administrative fine may be changed by considering the gravity of harm of the violation and the gravity of misconduct of the person committing the violation. The specific numerical value will be assigned to each category as set forth in the following charts:

014.03A Gravity of harm.

Violation	Circumstances	Value
Department's Ability to Enforce the Act	Violation significantly interfered with Department's ability to enforce the Act	5
	Violation moderately interfered with Department's ability to enforce the Act	3
	Violation slightly interfered with Department's ability to enforce the Act	1
	Violation did not interfere with Department's ability to enforce the Act	0
Harm to Dog or Cat Health	Actual life threatening harm to dog or cat health or safety.	5
	Actual serious harm to dog or cat health or safety.	4
	Potential serious harm to dog or cat health or safety.	3
	Minor actual harm to dog or cat health or safety.	2
	Minor potential harm to dog or cat health or safety.	1
	No potential harm to dog or cat health or safety.	0
Extent of Violations At Operations	Violations at operation so widespread and pervasive the quality of care at the entire operation is affected	5
	Numerous and widespread violations greatly affecting the quality of care at operation	4
	Moderately widespread violations moderately affecting the quality of care at operation	3
	Less widespread violations, slightly affecting the quality of care at the operation	2
	Only a few minor violations, not affecting the quality of care at the operation	1
	No violations at operation	0

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014.03B Gravity of misconduct. For the purposes of this subsection prior violation means a violation which was committed within the last three years.

Violation	Circumstances	Value
Compliance History	Two or more prior violations, either similar or unrelated to current violation	3
	One prior violation similar to current violation	2
	One prior violation unrelated to current violation	1
	No prior violations	0
Culpability	Knowing or willful violation.	5
	Violation resulting from faulty, careless, or negligent action	3
	Violation was neither knowing or willful and did not result from faulty, careless, nor negligent action	0
Remedial Efforts	Violator voluntarily notified the Department of incident or violation	-1
	Violator instituted steps to correct the violation immediately after discovery of the violation	-2
	Violator notified the Department of incident and took reasonable and timely steps to correct the violation	-3
Financial Gain	Violation has or would have resulted in significant financial gain for violator.	3
	No financial gain to violator as a result of violation	0

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014.03C To determine the adjusted fine, the base fine shall be adjusted based on the total number of points calculated from 23 NAC 18-014.03A and 014.03B and multiplying the base fine by the gravity adjustment percentage of base value set forth below.

Adjustments for Gravity

Total Gravity Value	Adjustment
3 or below	25% of base value
4-6	50% of base value
7-10	75% of base value
11 or above	100% of base value

014.04 To determine the actual administrative fine, the adjusted fine as determined in 23 NAC 18-014.03C shall be multiplied by the appropriate value corresponding with the size of operation criteria set forth below.

Size of Operation Criteria

Number of Dogs or Cats at Operation	Multiplier Value
0 to 5	0.2
6 to 15	0.4
16 to 30	0.6
31 to 50	0.8
over 51	1.0

014.05 Nothing in these regulations shall prevent the Department from entering into a settlement agreement with any person violating the Act or these regulations which specifies a different fine or other compliance action.

015 Publications Adopted. See Appendix.

016 Annotation. Neb. Rev. Stat. §§54-625 to 54-643.

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APPENDIX

A. Code of Federal Regulations, 9 C.F.R., Part 3 - Standards, Subpart A - Humane Handling, Care, Treatment, and Transportation of Dogs and Cats, §§3.1 to 3.19 (2015).

B. Code of Federal Regulations, 9 C.F.R., Part 2 - Regulations, Subpart E - Identification of Animals, §§2.50 to 2.55 (2015).

C. Record of Acquisition and Dogs and Cats on Hand, APHIS FORM 7005.

D. United States Interstate and International Certificate of Health Examination for Small Animals, APHIS FORM 7001.

E. Record of Disposition of Dogs and Cats, APHIS FORM 7006.

F. Tufts Animal Care and Condition Scales for Assessing Body Condition, Weather and Environmental Safety, and Physical Care in Dogs: SECTION II. Weather Safety Scale, SECTION III, Environmental Health Scale, and SECTION IV, Physical Care Scale.

G. Statement of Infertility.

H. Attempted Inspection Notice.

I. Veterinary Care Plan.

J. Emergency Veterinary Care Plan.

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APPROVED

FEB 1 2 2016

PETE RICKETTS
GOVERNOR

FILED

FEB 1 2 2016

STATE

APPROVED
DOUGLAS J. PETERSON
ATTORNEY GENERAL

JAN 2 8 2016

BY
ASSISTANT ATTORNEY GENERAL