

105 CMR: DEPARTMENT OF PUBLIC HEALTH

105 CMR 910.000: LICENSURE OF RESEARCH INSTITUTIONS USING DOGS OR CATS IN RESEARCH AND EDUCATION

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910.001: Purpose

The purpose of 105 CMR 910.000 is to establish standards for the licensure of research institutions using dogs or cats in scientific investigation, experimentation, instruction, or for the testing of drugs and medicines, and to ensure the humane treatment by the licensed institutions of dogs, and cats, specifically, and other animals in general.

910.002: Authority

105 CMR 910.000 is adopted under the authority of M.G.L. c. 140, § 174D.

910.003: Short Title

105 CMR 910.000 may be known as "Research Animal Regulations."

910.004: Application

(A) 105 CMR 910.000 is applicable to any research institution which applies for a license pursuant to M.G.L. c. 140, § 174D. Any such institution shall meet all of the requirements of 105 CMR 910.000.

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910.004: continued

(B) Any research institution using dogs and cats in research on the effective date of 105 CMR 910.000 which does not meet the standards and criteria of the regulations shall have up to 180 days from the effective date hereof to come into compliance. If at the end of 180 days, a research institution is still not in compliance with 105 CMR 910.000 it may apply to the Commissioner in writing for an extension of time to come into compliance, stating the reasons for such an extension. Upon receiving such request, the Commissioner may further extend the time for compliance for a period not to exceed an additional 60 days.

910.010: Definitions

For the purpose of 105 CMR 910.000, the following terms shall have the following meanings:

Ambient temperature means the temperature surrounding the animal.

Animal the dog and cat specifically, and all other sentient creatures except humans.

Animal Care Committee means the committee established by a research institution under federal guidelines for review of research involving the use of animals.

Cat means any live or dead cat (*Felis catus*).

Commissioner means the Massachusetts Commissioner of Public Health.

Department means the Department of Public Health.

Dog means any live or dead dog (*Canis familiaris*).

Euthanasia means the humane killing of an animal accomplished by a method which conforms to the recommendations of the current American Veterinary Medical Association Panel on Euthanasia and which produces instantaneous unconsciousness and immediate death without visible evidence of pain.

Indoor housing facility means any structure or building, housing or intended to house animals, which has the capability of controlling the environment within the enclosure created by the continuous connection of a roof, floor, and walls with at least one opening for entry and exit that is provided with a door or any movable structure used to close off the opening and typically consisting of a panel of wood, glass, metal, *etc.*, which slides on rollers or swings on hinges. Any openings which provides natural light shall be covered with a transparent material, *e.g.*, glass, plastic, *etc.*

Licensee means a research institution holding a license issued by the Commissioner pursuant to 105 CMR 910.000.

Outdoor housing facility means any structure or building, housing or intended to house animals, which does not meet the definition of "indoor housing facility."

Primary enclosure means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment, pool, or hutch.

Record includes any files, reports, forms or data maintained by a research institution or required to be maintained by the Commissioner regarding the care, handling, and veterinary treatment of research animals.

910.010: continued

Research Institution means any institution operated by the United States or by the Commonwealth or a political subdivision thereof, or any school or college of medicine, public health, dentistry, pharmacy, veterinary medicine, or agriculture, medical, biological or diagnostic laboratory, biological corporation, hospital or other educational or scientific establishment within the Commonwealth above the rank of secondary school, which, in connection with any of its activities, investigates or gives instruction concerning the structure or functions of living organisms or the causes, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.

Sanitize means to make physically clean and to remove and destroy, to the maximum degree that is practical, agents injurious to health.

Standards means the requirements of 105 CMR 910.000 with respect to the humane handling, care, treatment, and transportation of animals by research institutions.

Veterinarian means a doctor of veterinary medicine who has a valid license to practice veterinary medicine.

910.020: Application for License

(A) Any research institution using dogs or cats in scientific investigation, experiment, or instruction or for the testing of drugs or medicines shall apply for a license within 60 days of the effective date of 105 CMR 910.000 on a form approved by the Commissioner. A research institution which intends or plans to use dogs or cats for the purposes listed above shall, no less than 60 days prior to the commencement of such planned or intended use, apply to the Commissioner for an initial license.

(B) The applicant shall also submit a statement of ownership of the research institution, which shall include the names and addresses of all owners, or, in the case of a corporation, the officers.

(C) The completed application form shall be signed by a legally responsible and duly authorized representative of the institution.

(D) The applicant shall provide a statement that the institution is in compliance with the rules and regulations promulgated by the Commissioner.

(E) The completed application form shall, upon request, be accompanied by such records as the Commissioner shall otherwise request.

(F) A copy of the law and regulations shall be supplied to the applicant together with the license application. The applicant shall sign a receipt at the time of the precensing inspection, acknowledging that the applicant has received a copy of the law and regulations. This receipt must be signed by a legally responsible and duly authorized representative of the institution.

(G) Upon receipt and review of the application for a license or a renewal thereof, and after any inspection or investigation of the research institution which may be made, as permitted in 105 CMR 910.024, by the Commissioner or his/her designated agents, the Commissioner shall issue a license unless it is found, after notice and hearing, that the institution is not a fit and proper institution to receive such license or that issuance of the license is not in the public interest.

910.021: Expiration and Renewal of License

(A) Each license shall expire on the June 30th next following the date of issue.

(B) If a licensee desires a renewal of its license, it shall apply for a renewal license at least 60 days prior to the expiration of its license, on a form approved by the Commissioner.

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910.021: continued

(C) An applicant for a renewal license shall submit a report on its care, handling and veterinary treatment of dogs and cats on a form provided by the Commissioner. Such report shall be submitted to the Commissioner not later than 30 days prior to expiration of the applicant's then current license.

(D) If an application for a renewal license is timely filed by the applicant, but is not acted upon by the Commissioner prior to its expiration date, it shall be extended in full force and effect until such license is either renewed, modified, suspended or revoked by the Commissioner.

910.022: Fees

The fee for an initial or renewal license shall be as is required by law.

910.023: Notification

A licensee shall notify the Commissioner orally within seven days of any change in its ownership, name or location and of any substantial change in its facilities or activities regarding care and treatment of dogs and cats. If requested by the Commissioner after said notification, the licensee shall promptly submit to the Commissioner a new or amended application, together with written documentation reflecting such change. This written documentation must be received no later than 30 days after a request by the Commissioner.

910.024: Visits and Inspections

(A) The Commissioner or an agent designated by him may, in connection with the granting, continuance, or renewal of a license, visit and inspect the animal research and care facilities of a licensee or research institution which has applied for a license. The inspections shall be carried out during ordinary business hours unless the Commissioner determines that an investigation outside of ordinary business hours is necessary. The inspections may be held without prior notice, and each facility shall be inspected at least four times a year; provided, however, that inspections shall not take place at times which will endanger the health, safety, or welfare of animals or human beings.

(B) For the purpose of visits and inspections of licensees and of applicants for licenses, the Commissioner may designate the Massachusetts Society for the Prevention of Cruelty to Animals and/or the Animal Rescue League of Boston as agents.

(C) The Commissioner or agents designated by him shall have the right to inspect the facilities, records, practices or activities relating to animal care, handling, and veterinary treatment of research institutions which are licensed or which have applied for a license pursuant to 105 CMR 910.000.

(D) At the time of an inspection, the use of a room, table or other facilities necessary for the proper examination of such records and inspection of such property or animals shall be made available to the Commissioner or his/her authorized representative by the research institution.

(E) At the request of the Commissioner or agent designated by him/ her, the institution shall disclose the location of animals owned, held, or otherwise in its possession, and location of facilities and/or laboratories where animals are being used in research, testing or experimentation, or otherwise held.

(F) Each inspector of the designated agencies shall be required to complete satisfactorily a course of training approved by the Commissioner before being authorized to conduct inspections. Upon satisfactory completion of such training and qualification in all other respects for appointment as an inspector, an individual identification badge or card shall be issued to the inspector. Such badge or card shall be presented at the time of any inspection or visit to a research institution under the authority of 105 CMR 910.000.

910.024: continued

(G) At the conclusion of an inspection, the inspector shall meet with the veterinarian in charge of the animal research and care facility which has been inspected, or his or her designee, and shall conduct an informal exit interview for the purpose of informing the veterinarian, or designee, of the findings or observations by the inspector which may appear to constitute deficiencies in compliance with any regulation in this chapter. During the exit interview, the veterinarian, or designee, shall be offered an opportunity to discuss such findings or observations with the inspector and shall be invited to furnish additional information to the inspector which may clarify the circumstances relating to such findings or observations.

910.030: Record Keeping

(A) Every research institution shall make, keep, and maintain systems of records or forms which fully and correctly disclose the following information concerning each dog and cat purchased or otherwise acquired, owned, held, or otherwise in its possession, including any offspring born of such dog and cat while in its possession or under its control:

- (1) The name and address of the person from whom such live dog or cat was purchased or otherwise acquired.
- (2) The date of acquisition of each live dog or cat.
- (3) A description of each live dog and cat which shall include:
 - (a) the species;
 - (b) the sex;
 - (c) date of birth, if known, or approximate age;
 - (d) the color and any distinctive markings; and
 - (e) the breed or type.
- (4) Any identification number or mark assigned to each live dog and cat by such research institution, as required in 105 CMR 910.030(B).

(B) Identification of Dogs and Cats.

(1) Except as otherwise provided in 105 CMR 910.030, any dog or cat received by a licensed research institution or bred by such institution, must be identified by an official tag of the type described in the regulations implementing the Animal Welfare Act, 9 CFR Part 2, as most recently amended, and be affixed to the animal's neck by means of a collar made of material which does not cause irritation or trauma. Provided, however, that no official tag need be affixed to any puppy or kitten less than 16 weeks of age that is identified by means of a plastic type collar acceptable to the Commissioner and which has the information (which shall be legibly placed thereon) as required for an official tag pursuant to the Animal Welfare Act regulations, as most recently amended.

(2) Except as otherwise provided in 105 CMR 910.030, when a licensee purchases or otherwise acquires a dog or cat, such licensee shall immediately affix to such animal's neck an official tag of the type described in the regulations implementing the Animal Welfare Act, 9 CFR Part 2, as most recently amended, by means of a collar made of material which does not cause irritation or trauma. Except in the following circumstances such animal must be so tagged at the time it is received by said institution:

- (a) No official tag need be affixed if the dog or cat is already identified by an official tag which has been applied by a dealer.
- (b) No official tag need be affixed to any dog or cat that has been identified by means of a distinctive and permanent tattoo marking approved by the Commissioner.
- (c) No official tag need be affixed to any puppy or kitten less than 16 weeks of age that has been identified by means of a plastic collar acceptable to the Commissioner and which has the information (which shall be legible placed thereon) as required for an official tag pursuant to the Federal Animal Welfare Act regulations, as most recently amended.
- (3) When the licensee has made a reasonable effort to affix an official tag to an adult cat or dog, as set forth in 105 CMR 910.010(B)(1) and (2), and has been unable to do so, or when the cat or dog exhibits distress from the attachment of a collar and tag, the collar and tag shall be attached to the door of the primary enclosure containing the cat or dog and proper measures taken to maintain the identity of the cat or dog without an affixed collar and official tag.

910.030: continued

(4) Unweaned puppies or kittens need not be individually identified as required by 105 CMR 910.010(B)(1) and (2) while they are maintained as a litter with their dam in the same primary enclosure provided she has been so identified.

(5) All live dogs or cats received by a research institution, shall be identified, at the time of such receipt, by the official tag or tattoo, which was affixed to the animal before the time it was acquired by the research institution as provided in 105 CMR 910.010(B)(1), or by a tag, tattoo, or collar, applied to the live dog or cat by the research institution and which individually identifies such dog or cat by description or number.

(6) Any dog or cat with an unknown history obtained by a research institution or offered to a research institution, or any dog or cat not properly identified, must be reported within 24 hours to the Commissioner or his/her designee. The Commissioner or his/her designee, shall within three working days of receipt of the notice determine which animal humane agency shall take possession of the unidentified dog or cat. If an unidentified dog or cat is received by a research institution on a Friday or weekend the institution may report said animal to the Commissioner or his/her designee on the following Monday.

(C) Each research institution shall maintain at each facility and make available to the Commissioner or his/her designated agents, at the time of an inspection or on request, a copy of its record of practices and/or policies regarding the care, handling, and veterinary care and treatment of dogs and cats, including records of practices and/or policies regarding:

(1) the daily feeding, sanitation and exercising of each dog and cat;

(2) the veterinary medical treatment given to each dog and cat including, without limitation, medications, post-operative care, and means of euthanasia;

(3) the record of individual characteristics of each dog and cat required by 105 CMR 910.030(A);

(4) the record of the acquisition and disposition of dogs and cats;

(5) a copy of the approval statement by the animal care committee and/or the attending veterinarian, as provided in 105 CMR 910.200, regarding the conduct of research projects which, due to specific scientific requirements, cannot meet the standards and criteria of 105 CMR 910.000; and

(6) any other information pertinent to the enforcement of 105 CMR 910.000.

(D) All of the records maintained by the institution pursuant to 105 CMR 910.000 shall be kept for at least three years.

(E) Each research institution shall annually submit to the Department a report regarding its care and treatment of research dogs and cats on a form developed by the Commissioner. The report shall be submitted to the Commissioner no later than 30 days before expiration of the licensee's license.

910.031: Record Keeping by the Commissioner

All inspection reports will be held by the Commissioner and shall be considered public records.

910.040: Correction Orders and Administrative Reconsideration

(A) Whenever the Commissioner or a designated inspection agent finds that a research institution licensed pursuant to 105 CMR 910.000 is not in compliance with any regulation in 105 CMR 910.000, the Commissioner may order the licensee to correct such deficiency. The correction order shall include a statement of the deficiencies found, the provisions of the regulations relied upon, and the period prescribed for correction, which shall be reasonable, depending on the type of deficiencies cited and the time required for correction, which shall not exceed 60 days.

(B) The licensee may, within ten days of receipt, file a written request with the Commissioner for administrative reconsideration. The request shall clearly identify the licensee, state the date and nature of the order, the reason why the order should be rescinded or modified, and the approximate time required by the licensee to take corrective measures.

910.040: continued

(C) If the Commissioner does not grant, deny, or otherwise act upon a request for reconsideration by a research institution within ten days after its receipt by the Commissioner, such request for reconsideration shall be deemed denied and the Correction Order shall remain in effect. Except in case of emergency, as determined by the Commissioner, the running of the time specified in the Correction Order for correction of cited deficiencies shall be tolled upon the filing of a request for administrative reconsideration by a research institution, and shall commence running upon action by the Commissioner or, without such action, upon expiration of the ten day reconsideration period.

(D) Upon expiration of the time prescribed in a correction order for the correction of deficiencies, the Commissioner or a designated inspection agent will reinspect the research institution in order to determine compliance by such institution with the correction order. If, upon reinspection, the Commissioner makes a determination of substantial non-compliance with the correction order, the Commissioner may extend the time for compliance or issue an Agency Notice of Action to the research institution in accordance with the procedures set forth in 105 CMR 910.041(B).

910.041: Administrative Sanctions

(A) After notice and hearings as required by 105 CMR 910.041(B), the Commissioner may revoke, refuse to issue, refuse to renew, make probationary or suspend a license issued pursuant to 105 CMR 910.000 if the Commissioner finds that by reason of the standards, facilities, practices, or activities of the licensee, the institution is not fit and proper to receive such a license and that the issuance or continuation thereof is not in the public interest. Standards, facilities, practices or activities that may render the continuation of a license not in the public interest include:

- (1) failure to meet any requirement for such license established under 105 CMR 910.000 or, after issuance, failure to observe any term of the license;
- (2) failure to comply with any applicable regulation or deficiency correction order;
- (3) furnishing or making false statements or reports required under 105 CMR 910.000;
- (4) refusal to submit any reports or make available any records required under 105 CMR 910.000;
- (5) refusal to admit at a reasonable time any duly authorized representative or designated agent of the Commissioner for purposes of investigation or inspection authorized by 105 CMR 910.000;
- (6) conviction in any court of competent jurisdiction of any crime which directly or indirectly relates to the humane care and treatment of animals.

(B) If the Commissioner has reason to believe, in consideration of a factor or factors enumerated in 105 CMR 910.041(A), that initial or continued licensure of a research institution is not in the public interest, he may issue to such research institution an Agency Notice of Action.

(C) An Agency Notice of Action shall be in writing, signed by the Commissioner, and shall state with particularity the facts, the law or regulation relied upon and the basis for the Commissioner's belief that initial or continued licensure of the research institution is not in the public interest, and the nature of the proposed administrative sanction.

(D) An Agency Notice of Action sent to a research institution shall be accompanied by a copy of 105 CMR 910.000, and shall be sent to the research institution by certified mail, return receipt requested.

910.042: Hearing Procedure

(A) Prior to the imposition of any Administrative Sanction, the affected research institution is entitled to an adjudicatory hearing governed by the procedures of M.G.L. c. 30A and 801 CMR 1.00 *et seq.* A research institution which has received an Agency Notice of Action may, within 30 days of receipt of such Notice, file with the Commissioner a request for an adjudicatory hearing.

910.042: continued

(B) A research institution requesting an adjudicatory hearing shall file, within 21 days of such request, its answer to the Agency Notice of Action. Such answer shall include full, direct and specific answers to each claim set forth in the Agency Notice of Action admitting, denying or explaining material facts, as well as all affirmative defenses relied upon.

(C) An adjudicatory hearing shall be scheduled with reasonable promptness after the filing of a request for such proceeding by a research institution. Notice of the date of an adjudicatory hearing shall be served upon the research institution no less than 15 days prior to the date set for the hearing.

(D) The Commissioner or a hearing officer designated by the Commissioner shall conduct an adjudicatory hearing. The Commissioner or hearing officer shall make all decisions regarding procedural matters which may arise in the course of the hearing.

(E) Adjudicatory hearings shall be recorded by electronic or stenographic means.

(F) After an adjudicatory hearing, the Commissioner shall issue a final decision and shall provide the reasons therefor. The Commissioner may decline to issue, revoke, not renew, modify, suspend, make probationary, or otherwise limit a license as he/she deems appropriate.

(G) The Commissioner shall make or cause to be made a record of each adjudicatory hearing. The record may contain the following items and other papers or documents which the Commissioner or hearing officer has specifically designated be made part of the record.

- (1) All papers filed and served in connection with the proceeding;
- (2) All documents or other data received in evidence at the hearing;
- (3) A transcript of the hearing, if one has been prepared;
- (4) Interlocutory orders of the Commissioner or hearing officer and the final decision of the Commissioner, including a statement of reasons.

(H) All matters not specifically addressed in 105 CMR 910.000 shall be governed by M.G.L. c. 30A and regulations promulgated thereunder found at 801 CMR 1.00.

(I) The decision of the Commissioner after an adjudicatory hearing shall be a final agency decision and shall be reviewable pursuant to M.G.L. c. 30A, § 14.

(J) In the event that revocation or non-renewal is imposed, the licensee shall be permitted a reasonable period to cease using dogs and cats in research but in no case less than 30 days after the final decision by the Commissioner.

910.100: Facilities, General

(A) Structural Strength. Indoor and outdoor housing facilities for dogs or cats shall be structurally sound and shall be maintained in good repair, to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals.

(B) Water and Electric Power. Reliable and adequate electric power, if required to comply with other provisions of 105 CMR 910.000, and adequate potable water shall be available.

(C) Storage. Supplies of food and bedding shall be properly stored in facilities which adequately protect such supplies against infestation or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.

(D) Waste Disposal. Provisions shall be made for the prompt removal and disposal of animal and food wastes, bedding, dead animals, and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, and disease hazards.

(E) Washrooms and Sinks. Facilities, such as washrooms, basins, or sinks, shall be provided to maintain cleanliness among animal caretakers.

910.101: Facilities, Indoor

- (A) Heating. Indoor housing facilities for dogs or cats shall be sufficiently heated when necessary to protect the dogs or cats from cold, and to provide for their health and comfort. In usual circumstances the ambient temperature shall not be allowed to fall below 55°F. for dogs and cats.
- (B) Ventilation. Indoor housing facilities for dogs or cats shall be adequately ventilated to provide for the health and comfort of the animals at all times. Such facilities shall be provided with fresh air either by means of windows, doors, vents, or air conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or air conditioning, shall be provided when the ambient temperature is 80°F. or higher.
- (C) Lighting. Indoor housing facilities for dogs or cats shall have ample light by natural or artificial means, or both, of good quality and well distributed. Such lighting shall provide uniformly distributed illumination of sufficient light intensity to permit routine inspection and cleaning during the entire working period. Primary enclosures shall be so placed as to protect the dogs or cats from excessive illumination.
- (D) Interior Surfaces. The interior building surfaces of indoor housing facilities shall be constructed and maintained so that they are substantially impervious to moisture and may be readily sanitized.
- (E) Drainage. A suitable method shall be provided to rapidly eliminate excess water from indoor housing facilities. If drains are used, they shall be properly constructed and kept in good repair to avoid foul odors therefrom. If closed drainage systems are used, they shall be equipped with traps.

910.102: Facilities, Outdoor

- (A) Shelter from sunlight. When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to allow all dogs and cats kept outdoors to protect themselves from the direct rays of the sun.
- (B) Shelter from rain or snow. Dogs and cats kept outdoors shall be provided with access to shelter to allow them to remain dry during rain or snow.
- (C) Shelter from cold weather. Shelter shall be provided for all dogs and cats kept outdoors when the atmospheric temperature falls below 55°F. Sufficient clean bedding material or other means of protection from the weather elements shall be provided for all dogs and cats.
- (D) Drainage. A suitable method shall be provided to rapidly eliminate excess water.

910.103: Primary Enclosure

All primary enclosures for dogs and cats shall conform to the following requirements:

- (A) General.
- (1) Requirements for primary enclosures for dogs and cats. Primary enclosures shall be structurally sound, maintained in good repair to protect the dogs and cats from injury and provide for their health and comfort, to contain them, and to keep predators out.
 - (2) Primary enclosures shall be constructed and maintained so as to enable the dogs and cats to remain dry and clean.
 - (3) Primary enclosures shall be constructed and maintained so that the dogs and cats contained therein have convenient access to clean food and water as required in 105 CMR 910.000.
 - (4) The floors of the primary enclosures shall be constructed so as to protect the dogs' and cats' feet and legs from injury.

910.103: continued

(B) Additional requirements for primary enclosures housing cats.

- (1) In all enclosures having a solid floor, a receptacle containing sufficient clean litter shall be provided to contain excreta.
- (2) Each primary enclosure shall be provided with a solid resting surface or surfaces which, in the aggregate, shall be of adequate size to comfortably hold all occupants of the primary enclosures at the same time. Such resting surface or surfaces shall be elevated in primary enclosures housing two or more cats, and shall be adequate to hold all occupants at the same time.

(C) Space requirements.

- (1) Dogs and cats. Primary enclosures shall be constructed and maintained so as to provide sufficient space to allow each dog and cat to turn about freely and to easily stand, sit, lie, and stretch in a comfortable normal position.
- (2) Dogs. In addition to the provisions of 105 CMR 910.103(C)(1), each dog housed in any primary enclosure shall be provided with a minimum square footage of floor space as required by the regulations implementing the Animal Welfare Act. This required floor space is equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus six inches, expressed in square feet. No more than 12 adult compatible unconditioned dogs shall be housed in the same primary enclosure. This requirement may be computed by using the following equation:

$$\frac{(\text{length of dog in inches} + 6) \times (\text{length of dog in inches} + 6)}{144} =$$

required square feet of floor space. These requirements may require modifications according to the body conformation of particular breeds. If the federal regulation is amended to include a larger cage size, that provision shall supersede the above.

- (3) Dog houses with chains. If dog houses with chains are used as primary enclosures for dogs kept outdoors, the chains used shall be so placed or attached that they cannot become entangled with the chains of other dogs or any other objects. Such chains shall be of a type commonly used for the size dogs involved and shall be attached to the dog by means of a well-fitted collar. Such chains shall be at least three times the length of the dog as measured from the tip of its nose to the base of its tail and shall allow the dog convenient access to the dog house.
- (4) Cats. In addition to the provision of 105 CMR 910.103(C)(1) each adult cat housed in any primary enclosure shall be provided with space the size required by the regulations implementing the Animal Welfare Act. The required space is a minimum of 2½ square feet of floor space. Not more than 12 adult unconditioned cats shall be housed in the same primary enclosure. If the federal regulation is amended to include a larger cage size, that provision shall supersede the above.

(D) Exercise. Each research institution shall ensure that each dog is allowed the opportunity to exercise at regular intervals, but in no event less than once a day.910.130: Feeding

- (A) Dogs and cats shall be fed at least once each day except that more frequent feedings may be needed in special circumstances where nutritional supplement is required (*e.g.*, pregnancy and lactation). The food shall be free from contamination, wholesome, palatable, and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the dog or cat.

910.130: continued

(B) Food receptacles shall be accessible to all dogs or cats and shall be located so as to minimize contamination by excreta. Feeding pans shall be durable and kept clean and they must be constructed of material that is non-toxic and not rusted or corroded. The food receptacles shall be sanitized at least once every two weeks. Disposable food receptacles may be used but must be discarded after each feeding. Self-feeders may be used for the feeding of dry food, and they shall be sanitized regularly to prevent molding, deterioration, or caking of feed.

(C) If potable water is not accessible to the dogs and cats at all times, it shall be offered to such animals at least twice daily for periods of not less than one hour, except as might otherwise be required to provide adequate veterinary care. Watering receptacles shall be kept clean and shall be sanitized at least once every two weeks and be constructed of non-toxic materials that are not rusted or corroded.

910.131: Sanitation

(A) Cleaning of primary enclosures. Excreta shall be removed from primary enclosures as often as necessary but not less than once a day to prevent contamination of the dogs or cats contained therein and to reduce disease hazards and odors. When a hosing or flushing method is used for cleaning a primary enclosure commonly known as a cage, any dog or cat contained therein shall be removed from such enclosure before the cleaning process, and shall be returned only after the cage is dry. Adequate measures shall be taken to protect the animals in other such enclosures from being contaminated with water and other wastes.

(B) Sanitization of primary enclosures.

(1) Prior to the introduction of unconditioned dogs or cats into primary enclosures previously occupied, such enclosures shall be sanitized in the manner provided in 105 CMR 910.131(B)(3).

(2) Primary enclosures for dogs or cats shall be sanitized often enough to prevent accumulation of debris or excreta, or a disease hazard. Provided, however, that such enclosures shall be sanitized at least once every two weeks in the manner provided in 105 CMR 910.131(B)(3).

(3) Cages, rooms and hard-surfaced pens or runs shall be sanitized by washing them with hot water (180°F) and soap or detergent as in a mechanical cage washer, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with live steam. Pens or runs using gravel, sand, or dirt shall be sanitized by removing the soiled gravel, sand, or dirt and replacing it as necessary.

(C) Housekeeping. Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and disease and to facilitate the prescribed husbandry practices set forth in 105 CMR 910.000. Premises shall remain free of accumulations of trash.

(D) Pest control. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained under the direction of the attending veterinarian, and appropriate records kept thereof.

910.132: Employees

A sufficient number of trained employees shall be utilized to maintain the prescribed level of husbandry practices set forth in this subpart. Such practices shall be under the supervision of an animal caretaker who has a background in animal husbandry or care.

910.133: Classification and Separation

Dogs or cats housed in the same primary enclosure shall be maintained in compatible groups, with the following additional restrictions:

910.133: continued

- (A) Females in season (estrus) shall not be housed in the same primary enclosure with males, except for breeding purposes.
- (B) Any dog or cat exhibiting a vicious disposition shall be housed individually in a primary enclosure or in a manner which will not be a threat to other animals. Muzzles shall not be used as a primary method for restraining such animals.
- (C) Puppies or kittens shall not be housed in the same primary enclosure with adult dogs or cats other than their dams, except when permanently maintained in breeding colonies.
- (D) Dogs shall not be housed in the same primary enclosure with cats, nor shall dogs or cats be housed in the same primary enclosure with any other species of animals.
- (E) Dogs or cats under quarantine or treatment for a communicable disease shall be separated from other dogs or cats and other susceptible species of animals in such a manner as to minimize dissemination of such disease.

910.134: Veterinary Care

- (A) Programs of disease control and prevention, euthanasia, and adequate veterinary care shall be established and maintained under the supervision and assistance of a doctor of veterinary medicine, and appropriate records kept thereof.
- (B) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or humanely disposed of unless such action is inconsistent with the research purposes for which such animal was obtained and is being held: provided, however, that the provision shall not effect compliance with any state or local law requiring the holding for a specified period of animals suspected of being diseased.
 - (1) In the case of a research institution, the program of adequate veterinary care shall include the appropriate use of anesthetic, analgesic, or tranquilizing drugs, whenever the animal is likely to suffer more than transient pain. The use of these three classes of drugs shall be in accordance with the currently accepted veterinary medical practice as cited in appropriate professional journals or reference guides which shall produce in the individual subject animal an appropriate level of tranquilization, anesthesia, or analgesia, consistent with the protocol or design of the experiment. The use of these three classes of drugs shall be used in such a manner to effectively minimize the pain and discomfort of the dogs or cats while under experimentation.
 - (2) If the experiment or procedure is likely to cause greater discomfort than that attending anesthetization, dogs or cats must first be rendered incapable of perceiving pain and be maintained in that condition until the experiment or procedure is ended. The only exception to this is those cases where the anesthetization would defeat the purpose of the experiment and data cannot be obtained by any other humane procedure. Such procedures must be carefully supervised by the responsible investigator or other qualified senior scientist and must have prior written approval of the attending veterinarian and/or institutional animal care committee. A record of such approval must be maintained by the research institution.
 - (3) It shall be incumbent upon each research institution through its animal care committee, if existing, and/or the attending veterinarian to provide written guidelines and consultation to research personnel with respect to the type and amount of tranquilizers, anesthetics, or analgesics recommended as being appropriate for each dog or cat used by that institution.
 - (4) It shall be the obligation of the institution to ensure that all personnel who carry out animal anesthesia, surgery or other manipulations are qualified through training and experience to accomplish these tasks in a humane and scientifically acceptable manner.
 - (5) Muscle relaxants or paralytic drugs (*e.g.* succinylcholine or other curariform drugs) are not permitted to be employed alone for surgical restraint, but may be used in connection with drugs producing adequate anesthesia.

910.134: continued

(6) If it becomes necessary to kill an experimental dog or cat, such euthanasia must be performed by trained persons utilizing methods which do not cause pain or distress to the animal subject. When euthanasia is administered, such performance must conform to the recommendations of the American Veterinary Medical Association Panel on Euthanasia. In the case of any proposal to administer euthanasia by any method which differs from those recommended by the American Veterinary Medical Association Panel on Euthanasia, such methods must be specifically approved by the attending veterinarian and/or the institutional animal care committee prior to performance of such euthanasia. Record of approval must be maintained by the research institution.

(7) Post surgical care must be carried out immediately following all survival surgical procedures. Such care shall include observation of the animal until it has recovered from anesthesia and must also include any action necessary to ensure the animal's physical comfort and alleviation of post surgical pain. Appropriate medical records must be maintained by the institution in each case.

(8) When multiple survival surgical procedures, unrelated components of any research project, are to be performed on a single dog or cat, they must be approved by the animal care committee and/or the attending veterinarian. A record of such approval, and the reasons therefor, shall be placed on file at the institution.

(9) In all situations where physical restraint is necessary in excess of a few hours, the use of a proposed mechanical restraining method must first be justified and receive approval by the institutional animal care committee, if any, or the attending veterinarian. A record of such approval shall be placed on file at the institution.

(10) In the case of naturally occurring diseases, dogs and cats shall be provided with proper veterinary care.

(C) Supervision.

(1) The care handling and veterinary treatment of dogs and cats used in research, teaching and testing of drugs and medicines shall be under supervision of the attending veterinarian or the chairman of the animal care committee, if any.

(2) When dogs and cats are used by students for their education or the advancement of Science, the care and handling of such dogs and cats shall be under the direct supervision of an instructor with animal science background or experienced in handling and care of animals.

910.135: Transportation

When dogs or cats are transported between two facilities of a research institution or from one research institution to another, the licensee shall assure that dogs or cats are receiving sufficient air for normal breathing, that their ambient temperatures are within the prescribed limits, that all other applicable standards are being complied with, and that dogs or cats in obvious physical distress are provided needed veterinary care as soon as possible.

910.200: Compliance with Standards

(A) Each research institution shall comply in all respects with the standards set forth in 105 CMR 910.000 for the humane handling, care, treatment, and transportation of dogs and cats; provided, that research involving the use of dogs or cats that, due to experimental design, does not conform to regulations or standards promulgated by the Commissioner must be approved, prior to the conduct thereof, by the institutional animal research committee and/or the attending veterinarian of the licensee. The approval must be in writing and must be placed on file at the institution, subject to inspection by the Commissioner or his designee. In granting approval to research projects which do not conform to these standards, the animal care committee and/or the attending veterinarian shall abide by the "Guidelines for the Care and Use of Laboratory Animals" published by the National Institutes of Health as follows:

(1) The research must be such as to yield fruitful results for the good of society and not random or unnecessary in nature.

(2) The experiment must be based on knowledge of the disease or problem under study and so designed that the anticipated results will justify its performance.

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(3) Statistical analysis, mathematical models, or in vitro biological systems must be used when appropriate to replace, reduce or complement animal experiments and to reduce numbers of animals used.

(4) The experiment must be conducted so as to avoid all unnecessary suffering and injury to the animal.

(5) The scientist in charge of the experiment must terminate it whenever he/she believes that its continuation may result in unnecessary injury or suffering to the animals.

(6) Care of animals must be such as to minimize discomfort and the consequences of any disability resulting from the experimentation, in accordance with acceptable practices in veterinary medicine.

(B) In addition to the specific requirements of 105 CMR 910.000 for the care, treatment, and handling of dogs and cats, each licensee shall treat all other research animals in a manner consistent with the intent of 105 CMR 910.000.

910.201: Appointment of Responsible Individual

Each research institution shall appoint either an individual or a committee authorized by the institution to supervise its compliance with 105 CMR 910.000 and to act as a liaison between the institution and the Commissioner or his/her designated agents on matters relating to the care and treatment of research animals.

910.210: Severability

Any section, subsection, paragraph, or provision of 105 CMR 910.000 declared illegal or unconstitutional by a court of competent jurisdiction is severable from 105 CMR 910.000.

REGULATORY AUTHORITY

105 CMR 910.000: M.G.L. c. 140, § 174D.