

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF AGRICULTURAL RESOURCES

REPORT ON THE PROCEEDINGS OF THE PROPOSED CHANGES TO
ANIMAL SHELTER AND RESCUE ORGANIZATION REGULATIONS

(330 CMR 30.00)

AND

LICENSING AND OPERATION OF PET SHOPS

(330 CMR 12.00)

PUBLIC HEARING

APRIL 23, 2019

A. Animal Shelter and Rescue Organization Regulations Summary

330 CMR 30.00 is being proposed to establish reasonable regulations for the operation of animal shelters and animal rescue organizations. The current rules for this activity were established by a Director's Order (under MGL Chapter 129, section 2), in 2005. The Order was issued in response to several incidences involving well-intentioned people rescuing and transporting companion animals into Massachusetts, which subsequently became sick and transmitted disease to the resident population of animals. At that time there were roughly 70 organizations conducting these activities. Since 2005, more than 400 organizations have registered with the Department, and over 150 of them are now importing animals from out of state, and out of the country. The Department continues to respond to complaints and reports of diseased or dangerous animals being adopted out by some of these organizations. These organizations need to be held to a minimum standard to ensure both animal health and public safety are protected.

These regulations establish the requirements for registration with the Department, and the conditions under which such registration could be suspended or revoked. The facility requirements, including the frequency of cleaning, are set along with the standards of care for the animals and the need for regular and emergency veterinary care. Additionally, vaccinations, disease testing and health certifications are required for animals prior to being adopted out, and must be provided within a specific period of time before importation. Further, because some of these organizations are working with animals with known behavior issues, there is a need to ensure disclosure of behaviors of concern to protect public safety. Lastly, 330 CMR 30.00 provides the authority to inspect these operations and their records to ensure compliance with the regulations.

Licensing and Operation of Pet Shops Regulations Summary

The regulation for the licensing and operation of pet shops at 330 CMR 12.00 establishes the facility and animal care standards for such businesses. Additionally, the regulation imposes animal health and veterinary certification requirements for the birds, mammals and reptiles being offered for sale through these stores. The regulation also details the mechanism by which a customer may return an animal for a refund should it be found to have an illness or other medical condition not recognized at the time of sale. Lastly, 330 CMR 12.00 provides the authority to inspect the businesses and their records to ensure compliance with the regulation.

The proposed amendments to 330 CMR 12.00 serve to clarify the licensing procedure as well as the process by which such licenses can be suspended or revoked. There are further clarifications to the facility standards, and the expectations for establishing a sanitary and healthy environment for the animals kept within the pet shop. The 14-day warranty granting customers an opportunity to return an animal for a full refund has been improved and provides better consumer protection.

Submitting 330 CMR 30.00 and 330 CMR 12.00 as a Package

In many ways the requirements within the proposed Animal Shelter and Rescue Regulations (330 CMR 30.00) mirror the regulations imposed on licensed pet shops (330 CMR 12.00). Despite the obvious divergent missions between non-profit animal shelters and for-profit pet shops, the activities themselves are quite similar and require the same adherence to animal care, facility maintenance and record keeping standards. This is one of the reasons these regulations are being presented as a package, to ensure fair treatment of both for-profit and non-profit operations. The regulations being proposed as a package will serve to eliminate a duplicative step for registered animal shelters or rescues offering their animals for adoption through licensed pet shops. Requests for this change made up the majority of the comments received by the Department during the EO562 regulatory review. The

animal sheltering community was seeking increased access to licensed pet shops in an effort to expand their audience, but found the existing regulations for pet shops too onerous. By establishing reasonable regulations for animal shelters and rescues under 330 CMR 30.00, the Department is able to loosen the regulatory burden on the pet shop end under 330 CMR 12.00 for animals being sourced from compliant organizations. The elimination of this step will serve to improve endeavors between licensed pet shops and non-profit animal shelters and rescues, while maintaining animal health standards and established consumer protections. This benefits the pet shops, the shelters and rescues, and the animals.

B. Summary of Comments Submitted

The Department received oral and written testimony from 94 separate individuals and organizations. The majority of the comments that were received were submitted by and related to animal shelters and rescues (330 CMR 30.00). Only a handful of individuals specifically addressed the pet shop regulations (330 CMR 12.00) within their testimony.

The comments received related to the following topics, in order of most comments received:

- Transfer of prescription medication to adopters – no amendments made
- Behavior screening animals for temperament concerns – addressed with amendments
- Veterinary estimate for animals with existing medical conditions – no amendments made
- Licensing fee reduction or waiver – no amendments made
- Timing within vaccination protocols – addressed with amendments
- Timing of spay/neuter surgery – no amendments made
- Requirement for all licensees to have a designated room to house sick animals – addressed with amendments
- Requirement for including the license number on any advertisements – addressed with amendments
- Switch definitions of Isolation vs. Quarantine – no amendments made
- Extend license period beyond one year – no amendments made
- Eliminate the contradiction in the health certificate requirement – addressed with amendments
- Eliminate the requirement for identification on rodents and small birds – addressed with amendments
- Include a “grace period” for compliance – no amendments made
- Eliminate the record keeping requirement – no amendments made
- Prohibit wire-floored cages in pet shops – no amendments made
- Prohibition of 48-hour isolation facility being located in a dwelling – no amendments made

The resulting proposed regulations reflect reasonable minimum standards necessary for the operation of animal shelter and rescue organizations and pet shops. The Department has attempted to address the concerns of the regulated community while balancing the responsibility to animal health and welfare, and public health and safety.

C. Amendments Made per Comments with Reasoning

The Department addressed concerns regarding the means of officially identifying small rodents and birds, clarification of the requirement to include the license number on certain advertisements, clarification that facilities must have a quarantine room to house sick animals, amendments to the language related to documenting concerning behaviors, adjustments to the vaccination protocols that reflect the most current national recommendations. See below for details of changes made. See also Appendix A-4 for additional clarifications made not related to public comments received.

Issue: Behavior screening animals for temperament concerns

30.06(3)

Remove *“Screening. Any Dog shall be screened, assessed or otherwise evaluated to determine suitability for Placement based on behavior and temperament.”* and replace with *“Behavior. The Organization shall document any behavioral information received on intake as well as any behavioral observations made while the animal was in the Organization’s possession.”* Also add *“Any Animal with behavioral issues that may pose a safety risk to humans or other animals, such as aggression, will also need to comply with the provisions of 30.9(4).”*

-Comments expressed concerns with the reliability of behavior assessments or tests. Adjusted language still requires organizations to acknowledge concerning behaviors reported or observed, but does not prescribe a pass/fail test of each animal. Clarifies the requirement to document and disclose concerning behaviors to prospective adopters.

30.11(2)(l)

Remove *“for all Dogs, a behavioral screening of the Animal completed by the Organization or provided professionally documenting”* and replace with *“observations or findings of”*.

-Change made to provide consistency with changes made to 30.06(3).

Issue: Timing within vaccination protocols

30.06(2)(e)

Add *“Vaccination upon intake is required unless prior veterinary records indicate the Dog or Cat is currently vaccinated.”*

-Comment requested acknowledgement of prior history for dogs and cats that may have been previously vaccinated.

30.08(3)

Remove *“follows, or in accordance with the most recent recommendations of the American Hospital Association of America and Association of Feline Practitioners in effect at the time of vaccination, based on the age of the Dog or Cat as of the date of Import.”*

(a) *Any Dog Imported into the Commonwealth shall have a DHPP/DA2PP vaccine administered no less than seven (7) days prior to the date of Import into the Commonwealth.*

(b) *Any Cat Imported into the Commonwealth shall have a FVRCP vaccine administered no less than seven (7) days prior to the date of Import into the Commonwealth.*

(c) *Any Dog, Cat or ferret six (6) months of age or older shall be vaccinated against rabies by a Veterinarian as stated in M.G.L. c. 140, § 145B.*

(d) *Any Dog over six (6) months of age shall be tested for heartworm.” And replace with “described in 30.06(2). No Dog or Cat shall be imported without having received at least one vaccine prior to shipment. Any Dog over six (6) months of age shall have a negative test for heartworm within three (3) months prior to shipment.”*

-Changes made in consultation with shelter medicine experts at the University of Wisconsin. Edits provide clarity and simplify the language by reducing the need for multiple vaccines and a waiting period prior to shipping the dog or cat.

Issue: Requirement for all licensees to have a designated room to house sick animals

30.05(2)

Remove "*Licensee*" and replace with "*Facility*".

- As written, it would have required a quarantine room even for foster home-based organizations, which was not intended. As edited, it correctly applies to only organizations with a dedicated bricks-and-mortar shelter building.

30.07(3)

Remove "*Quarantined in place, or at a premises designated in its affiliated Organization's operations plan, or at another Department-approved Isolation or Quarantine Room, or at a veterinary facility.*" And replace with "*handled in a manner that prevents the spread of disease.*"

-Changed as to not limit options that serve to prevent the spread of disease, but may be less disruptive for the animal.

30.12(4)

Add "*or in such other location that prevents the spread of disease*".

-Change made to provide consistency with changes made to 30.05(2) and 30.07(3).

Issue: Requirement for including the license number on any advertisements

30.04(8):

Add "*that offer a specific animal for Placement.*"

-Comments indicate it is not clear when the license number would have to be included, and how it can be displayed on the organization's website. Amended language is to provide clarity.

Similar change made to Pet Shop regulations (330 CMR 12.00)

12.02(8)

Add "*that offer a specific animal for Placement.*"

-Comments indicate it is not clear when the license number would have to be included, and how it can be displayed on the organization's website. Amended language is to provide clarity and consistency with 330 CMR 30.

Issue: Eliminate the contradiction in the health certificate requirement

30.09(2)(b):

Add "*any such Dog or Cat*".

-Comments asked to clarify that only dogs and cats are required to be examined by a veterinarian prior to placement.

30.11(2)(i)

Add "*Dog or Cat*". Also remove "*3. the Animal's current health status; and 4. the Veterinarian's diagnosis of any medical condition.*"

-Comments asked to clarify that only dogs and cats are required to be examined by a veterinarian prior to placement, and that animals that have a medical condition would not receive a health certificate but would be adopted out with a disclosure statement instead.

Issue: Eliminate the requirement for identification on rodents and small birds

30.02 Definitions

Official Identification: add "*For rabbits, reptiles, rodents and small birds, if no ID is affixed, a detailed description of the animal attached to the enclosure will suffice.*"

-This was included to address comments expressing concern about affixing ID to small animals, including leg bands for very small birds.

Similar change made to Pet Shop regulations (330 CMR 12.00)

12.01 Definitions

Official Identification: added "*For rabbits, reptiles, rodents and small birds, if no identification is affixed, a detailed description of the animal and the group with which it arrived attached to the enclosure will suffice.*"

D. Amendments Not Made per Comments with Reasoning

After reaching out to the Shelter Medicine Program at the University of Wisconsin, communicating with the Board of Registration in Veterinary Medicine, and reviewing a number of related statutes, the Department did not make changes that would allow for shelter staff to dispense prescription medication without veterinary involvement, eliminate the requirement for a veterinary estimate of costs associated with treating or maintaining an animal with a medical condition, alter the requirement for spay/neuter surgery by the age of six months, prohibit cages with wire floors for dogs and cats, switch the definitions of quarantine and isolate, eliminate the record keeping requirement, extend the licensing period beyond one year, or add a grace period for all organizations to gain compliance. Please see below for details:

Issue: Transfer of Controlled Substances by Non-Veterinarians

In oral and written testimony representatives of animal shelters and rescues expressed that it would be a hardship if they were unable to transfer prescription medication along with an animal to a new adopter. Although on the surface it may seem logical to do this, there are a number of laws and regulations established to protect the public which prohibit this transfer without the involvement of a veterinarian. Although the Department agrees that an animal that requires medication should not go without, there are important safeguards in place to ensure the prospective adopter understands what the medication is, how it is to be administered, and for how long. Furthermore, the new owner would need to recognize if the animal was not responding to treatment and when and where to seek veterinary assistance. Ensuring the owner of the animal understands these things is the obligation of the licensed veterinarian when dispensing prescription medication.

When a veterinarian is treating an animal at an animal shelter, the shelter is the owner. The veterinarian provides instruction to the shelter and the shelter agrees to follow the instructions provided. The breakdown in protections occurs when the shelter then transfers the animal along with the prescription medication to an adopter. The adopter has not received any instructions from a licensed veterinarian regarding the handling and use of the medication, or what to do if the animal fails to respond to treatment.

This is a complicated issue that involves several state agencies with various statutory authority and separate regulations. The Board of Registration in Pharmacy and the Board of Registration in Veterinary Medicine have shared jurisdiction when it comes to the practice of veterinary medicine and the dispensing of prescription medication. Veterinarians are unique in that they can both prescribe and dispense medication for their client's animals, whereas human physicians can prescribe but only a separate pharmacy can dispense the medication. The regulations that address the conditions under which a veterinarian may dispense prescription medication are at 256 CMR, under the Board of Registration in Veterinary Medicine.

MGL Chapter 94C, section 1 defines all prescription medication as controlled substances. The definition of "dispense", in part, is "to deliver a controlled substance to an ultimate user...". The "ultimate user" is defined, in part, as "a person who lawfully possesses a controlled substance for administering to an animal owned by him or by a member of his household." The term "distribute" is defined as "to deliver other than by administering or dispensing a controlled substance."

MGL Chapter 94C, section 9 states, in part, "...a veterinarian registered under said section 7, may, when acting in good faith and in the practice of veterinary medicine... dispense by delivering to an ultimate user a controlled substance in a single dose or in a quantity that is, in the opinion of such veterinarian, essential for the treatment of a patient..." 256 CMR 5.02 states, in part "A [veterinarian] shall dispense or prescribe drugs and medications in accordance with 247 CMR: Board of Registration in Pharmacy and only for specific animals and for specific medical problems. When treating

groups of animals, a licensee shall judiciously dispense or prescribe drugs and medications on a per client basis only for specific medical problems and only in accordance with 256 CMR 7.01(2)(e)."

256 CMR 7.01(2)(e) states, in part "A licensee shall: ... (e) Dispense or prescribe controlled substances only in the course of his or her professional practice after establishing a genuine Veterinarian-client Patient Relationship..." In accordance with 256 CMR 2.01, the Veterinarian-client Patient Relationship (VCPR) is established when "The Veterinarian has assumed the responsibility for making clinical judgments regarding the health of the patient and the client has agreed to follow the Veterinarian's instructions; and, The Veterinarian is readily available for follow-up evaluation or has arranged for... veterinary emergency coverage and continuing care and treatment."

There is no doubt that the veterinarian is complying with the laws and regulations when they examine an animal and dispense prescription medication to the shelter for treating the animal. As a result, the Board of Registration in Veterinary Medicine has indicated they would not play a role in enforcement, as the veterinarian has done nothing wrong. However, once the shelter transfers the animal to a new owner, the VCPR is broken, since there is no veterinarian involved. The transfer of prescription medication between the shelter and the adoptive owner would be deemed distribution of a controlled substance. The Department has consulted with staff at the Board of Registration in Pharmacy, who agree with that interpretation.

The only ways to ensure compliance with the laws and regulations are to either have the veterinarian speak with the adoptive owner to maintain the VCPR, or to ensure the course of medication is completed prior to transferring the animal. As the laws and regulations are written, it is not legal for the shelter to transfer prescription medication to a new adopter, and the proposed regulations specifically, and rightly, prohibit it in 330 CMR 30.09(6).

Issue: Providing a Veterinarian's Good Faith Estimate for Repair or Maintenance of an Animal with a Chronic or Persistent Medical Condition

While licensed pet shops are prohibited from selling animals with illnesses or congenital abnormalities, animal shelters and rescues are in part set up to find such animals good homes. Although the public may be seeking to help a homeless animal by adopting it and providing it a home, not all adopters are willing or capable of handling special needs animals. The proposed regulations seek to ensure a prospective adopter is fully aware of any known medical or behavioral issues the animal may be affected with. Additionally, any such disclosure of a medical issue must contain "a Veterinarian's good faith estimate of the cost to treat or maintain the Animal with said condition... [which] shall clearly and conspicuously include the following language or substantially similar language: THIS GOOD FAITH ESTIMATE IS NOT AN OFFER TO PERFORM VETERINARY SERVICES. IT IS AN ESTIMATE BASED ON THE VETERINARIAN'S EXAMINATION OF THE ANIMAL AND THE ANIMAL'S MEDICAL RECORDS. THE ACTUAL COST OF TREATING OR MAINTAINING THE ANIMAL, EITHER BY THE VETERINARIAN WHO MADE THE ESTIMATE OR ANOTHER VETERINARIAN, MAY BE HIGHER OR LOWER THAN THE ESTIMATED COST." In addition to understanding that the animal is affected with a medical condition, it is essential that the prospective adopter also be able to assess their ability to cover the costs associated with caring for the animal. This would include issues like a diabetic cat requiring insulin injections for the rest of its life. That could be an added expense of more than \$100 per month. If the adopter cannot afford the additional \$100 per month, then they are not the right adopter because they are not economically able to provide for that animal.

Animal shelters and rescues expressed concern that the requirement to obtain a cost estimate was burdensome. They also felt that putting an accurate number on the cost was difficult because different veterinarians charge different amounts for the same services. It was for this reason the disclaimer language was added to protect the shelter or rescue and their veterinarian from anyone coming back and complaining that their own veterinarian indicated the cost would be significantly higher or lower than the estimate provided. With the addition of that language, several comments at the public hearing indicated the estimate had no value because the number could be anything and yet it then says it could be higher or lower.

A good faith estimate is just that; any information is better than none at all. Failing to provide enough information leaves the door open to having an adoption not work out, and that would be disruptive for both parties and stressful on the animal. Providing a clear picture of the expectations allows the prospective adopter to make an informed decision about making a life-long commitment to an animal with a known medical condition. That is what is in the best interest of the animal, the adopter and the shelter. For those reasons the Department did not make further adjustments to the proposed regulation.

Issue: Reducing or waiving the proposed \$100 annual licensing fee

The Division of Animal Health spends a significant portion of their resources following up on complaints and reports of infectious disease related to the operation of animal shelters and animal rescues. The nominal \$100 annual licensing fee should cover the administrative process of licensing organizations and conducting the related inspections for approval to import animals from out of state. This fee will not cover the costs of investigations conducted in response to complaints about licensed or unlicensed organizations. Both New Hampshire and Maine charge \$100 annually for a similar license, and Connecticut charges \$200. For these reasons, the Department believes the proposed \$100 annual fee is reasonable.

Issue: Spaying and Neutering Puppies and Kittens by 6 Months of Age

The rescue and sheltering of unwanted or displaced cats and dogs began as a means of dealing with an overpopulation problem associated with the indiscriminate breeding of free-roaming animals. As a result, most rescue organizations include spay/neuter surgeries for intact animals as a part of their missions. The Guidelines for Standards of Care in Animal Shelters¹ issued by the Association of Shelter Veterinarians includes the following statement, “Surgical sterilization (spaying or neutering) prior to release to adopters, including kittens and puppies as young as 6 weeks old, remains the most reliable and effective means of preventing unwanted reproduction of cats and dogs and decreasing their birthrates.” Although not all veterinarians agree that spay/neuter surgeries at 6 weeks of age are advisable, it would be nearly impossible to reduce indiscriminate breeding without performing surgeries prior to cats and dogs reaching sexual maturity, which is about 6 months of age. The proposed regulations allow for a medical exemption, “If a Veterinarian has examined a Dog or Cat and documented that a specific medical condition would cause spay or neuter surgery to be detrimental to the Animal's health...” This language should provide enough flexibility to accommodate variations in veterinary discretion, particularly when there are concerns about large dog breeds for which some research indicates later spay/neuter surgery can ensure proper growth and development.

Issue: Switch definitions of “Isolation” and “Quarantine”

The definitions of these words and their use related to the translocation of shelter animals has intertwined over the years. The terms are basically interchangeable. The dictionary definition of “quarantine” refers to “enforced isolation”. The General Laws under Chapter 129 related to quarantine continually use the phrase “quarantined or isolated”. The Department has used the terms as written in the proposed regulations for the last 15 years, and any change at this point will likely cause additional confusion.

Issue: Extend the license period beyond one year

Order 1-AHO-05 required a one-time registration with the Department. Several of the registrations are likely no longer active, but the Department would have no way of knowing without any required renewals. While working with these organizations, the Department has recognized a relatively rapid turnover of operational personnel, and to some

¹ Newbury, Blinn, Bushby, Cox, Dinnage, Griffin, Hurley, Isaza, Jones, Miller, O’Quin, Patronek, Smith-Blackmore, Spindel, 2010. Guidelines for Standards of Care in Animal Shelters (<https://www.sheltervet.org/assets/docs/shelter-standards-oct2011-wforward.pdf>)

degree, the opening and closing of organizations themselves. To ensure the Department is able to maintain appropriate contact with operating organizations an annual renewal of licensing is critical.

Issue: Include a grace period for compliance

Since the Division of Animal Health is solely responsible for the enforcement of the proposed regulations, the Division's Inspectors and Director will have discretion in determining violations thereof. The current Division policies related to facility violations for similar operations allow for a reasonable period of time to make corrections prior to issuing enforcement action for a violation. Given the significant array of different sheltering and rescue models, it is essential that any possible noncompliance be assessed to determine the potential negative impact on animals or the adopting public before determining if its correction can wait. Several of the proposed regulation's requirements should be implemented immediately for the health and welfare of the animals in the organization's care. While other measures that may not have an immediate impact on the animals or adopters could be completed over time. Given the potential to impact animal health, it is not appropriate to have a blanket grace period on all of the regulations. However, as it relates to any facilities that may need renovations to meet compliance, the Division can continue to exercise discretion.

Issue: Eliminate the record keeping requirement

The principles of animal disease control rely heavily on adequate documentation to trace animals from their original source to their final destination. It is essential that organizations responsible for the care and placement of companion animals maintain complete records on the source of the animals, the veterinary care provided including vaccines administered, and to whom each animal was transferred. Not only does this information aid the organization and the Department in responding to potential disease outbreaks, it is also the only way the organization can track their own progress to determine if their efforts have been successful.

Issue: Allowing the Use of Wire-Floored Cages in Pet Shops

There were a handful of comments related to the prohibition of wire-floored cages in animal shelters and rescues under 330 CMR 30.00, while the pet shop regulations at 330 CMR 12.00 still allow their use. Both sets of regulations initially contained language that described when wire-floored cages would be permitted; "If the cage or enclosure has a wire floor, then the wire used shall be of adequate gauge to prevent sagging under the animal's weight or injury to an animal's feet, and the mesh shall be small enough to prevent an animal's feet from falling through the bottom." This language is similar to that used in the federal regulations, which also allow the use of these cages. The use of such cages allows urine and feces to drop down to a catch tray below, so the animal can continue to sit, lie down, and move about the cage without getting contaminated with waste. The prohibition of such cages was included in 330 CMR 30.00 at the request of the stakeholders while the Department was developing the regulation. The Department has not had to respond to complaints of injuries of dogs or cats in pet shops using these cages, so no effort was made to prohibit their use.

Issue: Prohibiting an Isolation Room from being located in a dwelling

The Division has had a long standing policy that it will not license dwellings as pet shops, and for similar reasons is proposing a prohibition of approving Isolation Rooms in dwellings. Complications arise when Inspectors are forced to go into someone's living quarters to complete an inspection. Beyond any ethical concerns, there is a potential to unintentionally violate the owner's fourth amendment rights. To avoid any ambiguity or conflict, the proposed regulation requires any location subject to Inspection by the Division to be located separate from any dwelling.

APPENDICES

A-1: Stakeholder Meetings

The Department met with a range of organizations of different sizes and with different operational models to conceptually discuss 330 CMR 30.00. The groups and individuals invited to these stakeholder meetings included:

Animal Rescue Front

Animal Rescue League of Boston

Dakin Humane Society

Great Dog Rescue New England

MSPCA

Save One Soul Animal Rescue League

Sweet Paws Rescue

Tipton Treasures / PAWS New England

Ann Lindsay, President - Massachusetts Animal Coalition

Dr. Emily McCobb, Director - Shelter and Community Medicine / Asst. Director - Center for Animals and Public Policy - Cummings School of Veterinary Medicine at Tufts University

These organizations and individuals met with the Department seven times between January of 2016 and February of 2017 to discuss the major topics of regulation and the issues that both they and the Department sought to address.

A similar discussion regarding 330 CMR 12.00 was had with Robert Likins, Vice President of Government Affairs at the Pet Industry Joint Advisory Council, a trade association representing retail pet stores.

A-2: Public Announcement:

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Department of Agricultural Resources, under its authority pursuant to M.G.L. c. 129, §§ 2, 7, 9, 37 and 39A and M.G.L. c. 140, § 139A and in accordance with M.G.L. c. 7, § 3B and M.G.L. c. 30A, will hold a public hearing on amendment of 330 CMR 12.00, promulgation of 330 CMR 30.00 and promulgation of a related fee change at 801 CMR 4.00. Amendments to 330 CMR 12.00 clarify licensing procedures and facility and animal care standards for the operation of pet shops. 330 CMR 30.00 is being proposed to establish reasonable regulations for the operation of animal shelters and animal rescue organizations. The amendment of 801 CMR 4.00 establishes a nominal fee of \$100 annually to register the animal shelter or rescue with MDAR.

A public hearing will be conducted on the following date at the following location to receive comments on the proposed regulations.

Tuesday, April 23, 2019, 1:00 p.m. – 4 p.m.

Conference Rooms C and D

100 Cambridge Street,

Boston, MA 02184

Testimony may be presented orally or in writing at the hearing. Written comments will be accepted until 5 p.m. on Monday, April 29, 2019. Written testimony must be submitted by email to michael.cahill@mass.gov or by mail to Michael Cahill, 251 Causeway Street, 5th floor, Boston, MA 02114-2151.

Copies of the proposed regulations are available on the MDAR website at:

Pet Shop Program:

<https://www.mass.gov/pet-shop-licensing-and-inspection-program>; and,

Shelter/Rescue Program:

<https://www.mass.gov/animal-shelter-and-rescue-program>

or may be obtained by calling Michael Cahill at 617-626-1794.

For special accommodations for this event or to obtain this information in an alternative format, you may contact ADA coordinator Donald Gomes at 617-626-1608.

A-3: List of Public Hearing Attendees/Oral Testimony Presented

List of Public Hearing Attendees

Public Hearing Sign-In Sheet

April 23, 2019, 1:00 – 4:00 P.M.

GENERAL PUBLIC

	Name	Contact Information (Voluntary)	Speaking Today (Yes/No)
✓	Sharon DuBois Billerica Cat Care Coalition	info@billerica-cat-care-coalition.org	yes
✓	Carmine Dicenso Dakin Humane Society	cdicenso@ mspsa.org dakin-humane.org	yes
✓	Karina King Dakin Humane Society	KKing@Dakin-Humane.org	yes
✓	Cynthia Cox MSPCA	ccox@mspsa.org	yes
✓	Shirley Moore Save A Dog	shirley@saveadog.org	yes
?	Barbara Ensign		
✓	Rob Mellace		yes
✓	Linda Brackett		yes
✓	Kate Ke Donna Turley	donna.turley@gmail.com	yes
	Kate Keegan		No
u	Pam Peeble	TIO	No

✓	Sheryl Blencato	Second Chance Animal Services	yes
✓	Deni Goldman	Shultz's Guest	yes
✓	Robin Carbron	" House "	yes
✓	Ginzi Coleman		yes
✓	Edward Schettin	ARL Boston	yes
✓	Elizabeth Jeffers	Baypath Humane	NO
✓	Curt Rogers	@ROGERS@ MRFRS.ORG	yes
✓	Rachael Max	Rachael @ here today sanctuary.org	Yes
✓	Kate Keegan		No
✓	Dorothy Bursky	NEAS	NO
✓	Betty Ozolins	NEAS	No
✓	Cassandra O'Connell	Gifford Cat Shelter	NO
✓	Ann Gurka	"	No
✓	Marsha Smith	"	NO

✓	Jessie Doyle	Volunteer	yes
✓	Stacey Ober	American Kennel club	yes
✓	Hyndy	Sterling Multi	possible
✓	Crystal Arnott	Lowell Humane Society	
✓	Jim OConnell	Lowell Humane	?
✓	Eileen Wagner	Last Hope K9 Rescue	yes
✓	Lee Greenwood	Best Friends Animal Society	NO
✓	Bob Smith	EASTFIELD HOSPITAL FOR ANIMALS	yes
✓	Naomi Covino	Browns Dog Coalition	y
✓	Kate Keegan	All Dog Rescue	y
✓	Lee Greenwood	Best Friends Animal Soc	y
✓	Marine Mazzio	Kitty Connect.	y

330 CMR 12.00, 30.00; 801 CMR 4.00

Public Hearing Sign-In Sheet

April 23, 2019, 1:00 – 4:00 P.M.

ELECTED/MUNICIPAL OFFICIALS

[illegible]

Public Comments Submitted (Mailed or eMailed Comments Received)

American Kennel Club
Animal Rescue Konnection
Animal Rescue League of Boston
Deb Bachrach
Baypath Humane Society
Billerica Cat Care Connection
Nancy Beaudette
Andrea Belford
Yakima Belle
Best Friends Animal Society
Becky Bronson
Jennifer Byrnes
Denise Cabral
Cape Ann Animal Aid
Terry Carlo
Bonnie Chandler
Charles River Alleycats
Tara Chumsae
Jeanne Clark
Bruce Cummings
Gale Cummings
Dakin Humane Society
Ronnie DiComo
Tracy Donovan
Leslie Doyle
Martialia Files
Fish Mart (CT)
Linda & Kevin Flynn
Forever Home Rescue New England
Jennifer Gasser
Carmine Gentile
Gale Golden
Tom Golden
Elizabeth Gonzalez
Maureen Gonzalez
Karen Granoff
Sue Ellen Healy
Here Today Adopted Tomorrow
House Rabbit Network
Humane Society of the United States
Carolyn Ing
Judith Johnson
Christine Johnston, DVM
Iva Kimmelman
Kitty Connection
Last Hope K-9 Rescue
Patty Lepore
Collin Lovas
Lowell Humane Society

Patricia Lydon
Massachusetts Animal Coalition
Amy Marder, VMD
Deborah Mason
Charlotte McGowan
Lauren McIntyre
Milford Humane Society
Ira Montague
Marcia Motta
Merrimack River Feline Rescue Society
Massachusetts Society for the Prevention of Cruelty to Animals
Linda Murphy
Joni Nelson
Northeast Animal Shelter
Michael Parker
Ardina Pawlosky
David & Frances Phillips
Pet Industry Joint Advisory Council
Pitbull Mojo
Scott Plantier
Lee Poland
Dorri Poppe
Sandra Ross
Virginia Rowland
Adrienne Rowles
Save A Dog
Scituate Animal Shelter
John Seeley
Julie Seeley
Shultz's Guest House
Robert Shurtleff, DVM
Bill Smith
Martha Smith-Blackmore, DVM
South Shore Humane Society
Ann Spanel
Patti Strand
Anne Testoni
Kelly Ann Thomas
Tara Tomany
Donna Turley
Margaret & James Vohr
Mary Walsh
Beverly Westerveld
Westfield Homeless Cat Project
Worcester Animal Rescue League

A-4: CHANGES MADE NOT RELATED TO SPECIFIC COMMENTS

330 CMR 30.00 Animal Rescue and Shelter Organization Regulations

30.02

Definitions

Foster Care: remove the phrase “*in the Commonwealth*”.

An organization operating in multiple states may be fostering an animal in Massachusetts but may place the animal in another state. These animals are not exempt.

30.05(5)(d)5:

Add “*(c) and*”.

Housing accommodations for livestock, including barns, may not need adhere to strict standards set for dogs and cats.

30.06

30.06(1)(b)

Change “*Provided*” to “*Sought*”.

Non-emergency medical needs may not warrant veterinary care within 48 hours, but that the scheduling of an appointment should occur within 48 hours.

30.06(4)(a)

Insert the language “*in accordance with the American Veterinary Medical Association’s Guidelines for the Euthanasia of Animals.*”

Change made to clarify what other methods of euthanasia may be acceptable for non-dog or cat species.

30.06(5)

Remove “*No female Animal in season shall be kept in any enclosure with an unneutered mature male Animal of the same species.*”

May not be applicable to certain species of rodents, birds and livestock. The key point is to ensure organizations are not adding to the homeless animal population by breeding animals for which they are attempting to find placement.

30.13

30.13(5)

Remove “*12.02 or any other section of 330 CMR 12*” and replace with “*30*”

This language was taken from the pet shop regulations (330 CMR 12.00), but was not adjusted to reflect the regulation within which appears.

30.13(7)

Add “*Severability. If any provision of 330 CMR 30.00 shall be declared invalid for any reason whatsoever, that decision shall not affect any other portion of 330 CMR 30.00, which shall remain in full force and effect; and to this end the provisions of 330 CMR 30.00 are hereby declared severable.*”

This language appears in several other Department regulations and was suggested to be added here to enhance enforceability if any particular sections are challenged.

330 CMR 12.00 Licensing and Operation of Pet Shops

12.01

Definitions

Add *“OCVI. An Official Certificate of Veterinary Inspection form issued by a USDA Accredited Veterinarian in the state of origin and approved by an animal health official of the state of origin listing all Animals (with an accurate description or Official Identification) covered by the certificate that have been examined by the person issuing the form, stating the nature of the examination and the findings of the health of the Animals covered by the certificate, and containing the names and addresses of the consignor and the consignee of the Animals, the vaccinations that the Animals may have received, and the dates that the vaccinations occurred. An OCVI shall include an Interstate Certificate of Veterinary Inspection.”*

-Added for clarification and to ensure consistency with 330 CMR 30. Requirements are already covered under federal regulations, but many have changed recently. Appropriate to codify here – see 12.09(3).

12.03

12.03(5)(f)

Add *“(f) Maintained at a comfortable noise level. Under normal circumstances the noise level shall not be at or above 100 dB for a sustained period of fifteen (15) minutes or longer.”*

-Included to provide consistency with 330 CMR 30.

12.04

12.04(5)

Change *“Provided”* to *“Sought”*.

Non-emergency medical needs may not warrant veterinary care within 48 hours, but that the scheduling of an appointment should occur within 48 hours.

12.04(10)(a)

Insert the language *“Other methods of euthanasia may be deemed acceptable for other species in accordance with the American Veterinary Medical Association’s Guidelines for the Euthanasia of Animals.”*

Change made to clarify what other methods of euthanasia may be acceptable for non-dog or cat species, and to remain consistent with 330 CMR 30.

12.09

12.09(3)

Add *“If the Animal was imported into the Commonwealth, a copy of the Animal’s OCVI.”*

Change made to ensure consistency with language in 330 CMR 30. This does not represent any additional regulatory burden.

12.10

12.10(6)

Add *“Severability. If any provision of 330 CMR 12.00 shall be declared invalid for any reason whatsoever, that decision shall not affect any other portion of 330 CMR 12.00, which shall remain in full force and effect; and to this end the provisions of 330 CMR 12.00 are hereby declared severable.”*

This language appears in several other Department regulations and was suggested to be added here to enhance enforceability if any particular sections are challenged.