



OKLAHOMA RULE AMENDS BREEDER REGULATIONS

**** COMMENT DEADLINE JANUARY 17TH ****

The Issue:

On the heels of legislation adopted during last year's session, the Oklahoma Commercial Pet Breeder Board is proposing amendments to regulations governing commercial pet breeders in the state. [The proposed rule](#) would modify provisions governing meetings of the Board, procedures for declaratory rulings, administrative hearing procedures, and imposition of administrative fines, as well as revising substantive standards of care under the regulations.

The Impact:

The proposed rule repeals existing provisions on board meetings, election of officers and filing of petitions for declaratory rulings, replacing these provisions with new sections. Among amendments to provisions of the existing rules are:

- Elimination of the requirement to hold board meetings during “regular business hours” and current notice requirements for board meetings.
- A change in what constitutes a quorum of the board, which is currently a majority of all board members. Under the proposed rule four members would constitute a quorum.
- New language specifying requirements for filing a petition for a declaratory ruling. If the Board “refuses to make a ruling or begin an individual proceeding within forty-five days” then the petition is “deemed denied.”
- New provisions governing the joining of additional interested parties to a petition.
- A new provision explicitly prohibiting the Board from hiring or allowing “any Humane Society or Member of any Humane Society to perform any inspection” of a licensee. Note, however, that this language would not prohibit use of other non-governmental inspectors. There are no specific qualifications for an inspector set forth.
- Additional criteria for denial, suspension or revocation of a license as provided by statute.
- Elimination of an existing provision that allows the executive director to “request that the chair review an application and investigation report and recommend whether a license should be granted or denied.” The proposal would also eliminate a provision in the existing rules that recommendations for approval or rejection of an application “will be reviewed by the executive director.

The proposal includes new provisions on prehearing conferences, which may be scheduled by the hearing officer “as necessary.” These conferences offer the opportunity for parties to resolve concerns prior to the hearing, such as identification of issues, identification of admissions (to avoid unnecessary evidence), identification of witnesses and testimony/exhibits, settlement of specific issues, and other relevant matters that can streamline cases. However, the proposal does not specify any right to such a conference – this would be purely at the discretion of the hearing officer.

New provisions are also set forth establishing how the hearing shall proceed, including responsibilities of the hearing officer. **An existing requirement that “the hearing officer’s order will be subject to review” is being deleted in the proposed rule.** It is unclear why the board would eliminate such language. While under the existing rule an appeal of the Board’s order may be made to any “court of competent jurisdiction” the new proposal specifies that such an appeal may be made only to the District Court in Oklahoma County.

The inspection fee schedule, which currently provides for fees based on the cost of inspections, but to a specified maximum fee, is being revised to now impose a minimum fee, irrespective of cost (which means that inspection fees could actually exceed cost in some cases). The proposed rule also creates a new schedule of administrative fines of between \$100 and \$1,000 for first violations, ranging up to \$10,000 for certain subsequent violations. Under the proposal, “each day a violation is committed or continues may be deemed to be a separate offense” (and therefore could draw a separate fine). **Additionally, the proposal provides that further unspecified penalties may be imposed “when circumstances require.”**

Substantive care standards remain largely the same as under existing rules with the exception of new language for watering and feeding animals. However, a new mandate requires breeders to “have pets examined by a licensed veterinarian within 10 days prior to sale and [to provide buyers] with veterinary records.”

PIJAC Position:

Rules establishing substantive standards should be based on objective criteria that are not unduly burdensome on licensees and are demonstrated by research to meet the welfare needs of the animals they are intended to protect. Administration and enforcement of the licensing law should be conducted only by properly trained, governmental personnel, minimizing unnecessary burdens on licensees.

The Result:

The deadline for public comment on [the proposed rule](#) is January 17, 2012. The Department is required to give due consideration to all comments it receives, and this is the opportunity for those covered by the rule to raise issues of concern before the regulation is adopted into law.

Written comments can be sent to:
Oklahoma Board of Commercial Pet Breeders
1000 Northwest Grand Boulevard, Suite 140,
Oklahoma City, Oklahoma 73118.

OR

Comments may be submitted by e-mail to Angel.Soriano@osbcpb.ok.gov

Additionally, a public hearing has been scheduled for January 17, 2012 at 5:00 p.m. at the address listed above, at which time public comments may be delivered. Persons wishing to speak during the public hearing must sign in at the door by 5:00 p.m. The Board may be contacted at 405-286-3970.

For other questions about this rulemaking please feel free to contact PIJAC's Michael Maddox via email at Michael@pijac.org or by phone at 202-452-1525 ext 106. Visit the [Breaking News](#) page of PIJAC's website for updates on this as well as other initiatives impacting pet owners and the pet trade.

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On behalf of pets, responsible pet owners, and the pet industry, we thank you!