



## OKLAHOMA PROPOSES PET BREEDER REGULATIONS

**\*\* DECEMBER 1, 2010 COMMENT DEADLINE \*\***

### The Issue.

The Commercial Pet Breeders Act, adopted earlier this year, established a Board of Commercial Pet Breeders (Breeders Board) which was charged with promulgating rules for licensing procedures of breeders and standards of care for animals subject to the act. The Breeders Board has now published a proposed rule and opened it up for public comment until the end of November. **All those involved in, or concerned about, dog and cat breeding in the state of Oklahoma are strongly urged to review this PetAlert and to submit comments!**

### The Impact.

Anybody qualifying as a “commercial pet breeder” must be licensed under the proposed rule. Under the proposal, a “commercial pet breeder” is defined as any person that possesses or has possessed at any time in the last twelve months eleven or more adult intact female dogs or cats “for use in breeding or dealing in animals for direct or indirect sale or for exchange in return for consideration.” Anybody operating as a commercial pet breeder as of July 1, 2011 is required to submit a completed application, along with an application and inspection fee, by July 15, 2011. Anybody not already acting as a commercial breeder as of that date must submit the application at least 45 days before the first day of operation.

Prior to issuance of a license, all facilities must be inspected and all application requirements met. The proposed rule sets forth extensive information requirements for applicants, including identifying information about the applicant and any owner with at least 10% interest in the entity, background information and proof of a surety bond. The bond is intended to cover costs of caring for animals in the event a breeder’s license is suspended or revoked and must be in an amount commensurate with the number of animals that are possessed or housed, as follows:

- \$5,000 for those maintaining 21 or fewer adult dogs or cats;
- \$10,000 for those maintaining more than 21 but no more than 50 adult dogs or cats; and
- \$50,000 for commercial pet breeders maintaining 51 or more adult dogs or cats

A license may be denied, or may be suspended or revoked, for any of the following reasons:

- Any felony conviction;
- Any misdemeanor conviction involving animal cruelty;
- Any convictions for violation of the Commercial Pet Breeders Act (Act) more than 3 times;
- Any suspension or revocation of a license, or refusal of a license improper care of animals, under the Animal Welfare Act;

- Failure to file the annual report required under this law by February 1 of any calendar year;
- The Evaluator or the Board finds the application contains false or misleading information;
- The application is incomplete or improperly completed and the applicant fails to provide a properly completed application after receiving notice from the Application Evaluator
- The applicant fails to pay the license application fee or the inspection fee in a timely manner;
- The applicant fails to comply with all rules and statutes adopted or enacted under the Act;
- The applicant fails three inspections in connection with one application; or
- The applicant fails to provide any other information as required by the Board.

If the “Application Evaluator” determines that an applicant is not in compliance with the Act or the rules, the applicant must be provided notice listing each violation and then will have 45 days to correct the deficiencies. Persons who have licenses denied or revoked are not permitted to reapply for six months.

Those who are granted licenses will be provided a license certificate. The original certificate or a certified copy must be prominently displayed at the licensee’s place of business, and a copy must accompany any transport of pets. Additionally, the license number must be included on all invoices, advertisements or promotions regarding pets.

### **Fees**

The proposal calls for the following license fees:

Initial application fee: \$250.00

Renewal application fee: \$250.00

Inspection fee for facility housing up to 21 pets: \$250.00

Inspection fee for facility housing more than 21 and up to 50 pets: \$550.00

Inspection fee for facility housing more than 51 and up to 75 pets: \$750.00

Inspection fee for facility housing more than 76 and up to 100 pets: \$950.00

Inspection fee for facility housing more than 101 pets: \$1150.00

Re-Inspection Fee: Half of original fee but not less than \$250.00

Licensees may also be subject to late fees for renewal applications or fees that are not submitted timely. **Note that USDA licensees will have their state license fee reduced by the amount of their USDA fee.**

### **Investigation of Complaints**

The Director is authorized to evaluate complaints of licensees, and may order an investigation, or not, depending on the merit of the complaint. In the case of investigations, breeders are required to cooperate and “shall allow Board members, or other state agencies, a political subdivision of the state, a local animal control authority, registered breeder inspectors, investigators, or other Board authorized representatives assisting the Board in the conduct of an investigation to enter unto their premises, during regular business hours, to investigate alleged violations.”

Following any investigation, a report is issued by the investigator within 10 days, and the Board may take action on the report. A process is set forth for hearings, and for appeal of a hearing officer’s order.

Investigators must be full-time employees of the Board, and must have a minimum of 3 years experience with a law enforcement agency, and be certified as full-time peace officers by the Council of Law Enforcement Education and Training. Additionally, investigators must obtain a minimum of 30 hours of continuing education annually, at least 4 hours of which must be dedicated to classes discussing animal cruelty, animal inspection, animal investigation, or animal welfare.

Inspectors may be full-time or part-time employees of the Board, or independent contractors. Inspectors must maintain their professional standards according to their individual professional licensure, if any.

## Housing and Care Standards

The proposed rule includes standards for housing facilities, ventilation, food and water, primary enclosures, waste removal and sanitation, veterinary care, grooming and exercise. Among these are the following requirements:

- Unfettered access to clean and unfrozen water at all times;
- Feed pets at least once each day, or more often if necessary for adequate veterinary care;
- House animals in facilities that shelter pets from direct sunlight and extreme heat. Use ventilation, heating, and cooling, as necessary, to prevent the temperature in a housing facility to fall below 50 degrees Fahrenheit or rise above 85 degrees Fahrenheit at all times.
- Provide sufficient ventilation to the enclosed or sheltered part of a housing facility to minimize the spread of any airborne contagion or vector, odors, drafts, ammonia levels, and moisture condensation. Ventilation rates are measured in cubic feet per minute (CFM) per pet, and the volumetric airflow rate must be at least 100 CFM per pet. Air may be recirculated, but at least 30 CFM of the air in a housing facility containing pets must at all times be fresh air. Air must be filtered and filtration must be by a disposable filter rated at a minimum efficiency reporting value (MERV) of at least 8.
- The humidity level must be maintained between 30-70% when the temperature inside the facility is below 85 degrees Fahrenheit. When temperatures exceed 85 degrees Fahrenheit, the humidity level or temperature inside the housing facility must be adjusted to achieve a Heat Index value of 85 (85 HI) or lower. At no time may the Heat Index in a housing facility containing pets exceed 90 HI. Breeders may provide ventilation by using vents, fans, or air conditioning, but they shall use auxiliary ventilation, such as blowers or fans when ambient temperatures inside the housing facility approximate 80 degrees Fahrenheit.
- Running potable water must be provided to housing facilities to allow cleaning and sanitizing, and to provide drinking water to the pets. Breeders shall provide or secure the provision of reliable electric power adequate for heating, cooling, ventilation, and lighting.
- Outside floor areas in contact with pets and exposed to direct sun must consist of compacted earth, absorbent bedding, sand, gravel, grass, or other material that does not transfer heat and become hot to the touch. Outdoor floors are subject to sanitization requirements, and commercial pet breeders shall remove feces and debris from the floor and clean as necessary on a daily basis.
- Primary enclosures for dogs must contain at least 12 square feet of indoor floor space per each dog up to 25 inches long contained inside, at least 20 square feet of indoor floor space per each dog between 25 and 35 inches long contained inside, and at least 30 square feet of indoor floor space per each dog for dogs 35 inches and longer contained inside, with the length of the dog measured from the tip of the nose to the base of the tail.
- Primary enclosures for cats must be at least 24 inches high, contain a resting surface large enough to hold all the occupants at the same time comfortably, and contain at least 3.0 square feet of floor space for each cat weighing up to 8.8 pounds, at least 4.0 square feet of floor space for each cat more than 8.8 pounds.
- Breeders may only use primary enclosures that have a solid or slatted floor through which pets' paws do not fit and on which the pets cannot get caught or stuck. Spaces between slats may not be greater than one half inch on any side, and the slat itself be no less than 3.5 inches in width. In no event may the floor of a primary enclosure containing any pet be made of wire or metal strand, whether coated or not.
- Primary enclosures with dogs may not be stacked on top of or above any other primary enclosure containing a pet, but primary enclosures containing cats may be stacked on top of other enclosures containing cats or dogs.
- Breeders must provide animals with adequate veterinary care, including an annual physical exam by an Oklahoma State Licensed Veterinarian. Breeders must provide sick or injured animals veterinary care within 24 hours, unless on weekends. Rabies vaccine may only be administered under the supervision of an Oklahoma licensed veterinarian.
- Except for puppies 8 weeks or under, all dogs must be placed in an exercise area for at least one hour daily. The exercise area must be at least five times the size of the primary enclosure, and must comply with the cover, shade, temperature, and ventilation requirements for housing facilities.

- A female dog or cat may only be bred twice in any eighteen month period to ensure female animals adequate rest between breeding cycles.
- Breeders must employ for care of the animals one full-time staff person, 16 years or older, or the equivalent of a 40 hour employee for each 25 adult pets located at the facility, or more employees if necessary to ensure that all the care requirements of these rules are met.

### **Transport Standards**

The proposal includes a number of requirements for transporting animals. Among them are:

- The temperature in pet holding, transportation, or cargo areas must be above 45 °F (7.2 °C) and below 85 °F (29.5 °C) while pets are present.
- During travel, dogs shall be removed from the primary enclosure while in active transport a minimum of every 8 hours and allowed to urinate, defecate, and obtain exercise.
- Consignments to carriers carry specific rules, including a prohibition against delivering pet for transport more than 4 hours before schedule departure.

### **PIJAC Position.**

PIJAC is strongly supportive of humane standards in the care of pet animals in commercial settings, but believes that state requirements should be consistent with prevailing standards of care recognized under federal law and in the industry. Departures from established prevailing standards should never be arbitrary and should only be made based on objective criteria supported by scientific research.

### **Recommended Action.**

The Board is accepting public comments on this proposal until December 1, 2010, and has scheduled a public hearing for December 9, 2010. **The Board is specifically requesting input from business entities affected by the rule as to the increased costs, both direct and indirect, that would result from the regulations. Note also that the law authorizing this rulemaking specifically requires that the Board “consider relevant state, federal, and nationally recognized standards for animal health and welfare.”** Comments should be addressed to the attention of Will Brogden and may be submitted to:

Oklahoma Board of Commercial Pet Breeders  
3126 So. Boulevard, Box 237  
Edmond, OK 73013

**Pet breeders, pet stores and all lovers of pets are strongly urged to submit comments prior to the deadline. It is critical that the Board hear from as many interested persons as possible!**

While many provisions of the proposed rule are summarized in this Pet Alert, you may review the entire rule at <http://www.ok.gov/petbreeders/documents/Rules%20Final.pdf>

Comments should reflect your personal concerns about the proposal, including any anticipated cost implications from the rule. In addition, you may wish to incorporate some of the following points, in your own words.

- While many of the requirements in this proposed rule are consistent with recognized standards of animal health and welfare, some provisions are not. Departure from recognized standards should only be made on a sound, objective basis and should be supported by peer-reviewed science.
- Some of the requirements of this proposed rule would result in excessive cost to commercial pet breeders, even forcing breeders out of business unnecessarily.
- Bond requirements under the proposal are neither necessary nor reasonable. Breeders will be unable to obtain a \$50,000 bond, forcing them from business even if they are compliant with all substantive standards of the law.
- License fee requirements are excessive, far higher than other state licensing fees.

- Inspections of breeders should only be conducted by independent professionals, and should never include persons with a bias, including persons associated with non-governmental entities. This should be explicitly stated in the rule
- Ventilation requirements are not consistent with recognized standards. The Board should identify the basis for this requirement, and should modify it if it is not supported by peer-reviewed scientific study.
- Primary enclosure size requirements are inconsistent with recognized standards of care for both dogs and cats, and are both unnecessary and inappropriate for animal health and welfare. The costs associated with these requirements would be exorbitant.
- Staff requirements fail to take into account the differing needs of differently constructed facilities, and are excessive for some facilities with automated technology.
- Transport standards are contrary to the health and welfare needs of the animals.

Again, people may wish to use, but should avoid exclusively relying on, these bullet points.

For questions or additional information about this rulemaking, contact PIJAC's Michael Maddox via email at [Michael@pijac.org](mailto:Michael@pijac.org) or by phone at 202-452-1525 ext 106.

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