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Sequence Number: 04-09-10
 Rule ID(s): 4705
 File Date: 04/22/2010
 Effective Date: 07/21/2010

A Notice of Withdrawal for 1200-33-.08 (3) was filed on July 16, 2010. To view the notice (07-11-10) click here. <http://tn.gov/sos/pub/tar/announcements/07-11-10.pdf>

Rulemaking Hearing

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission: Department of Health
Division: Bureau of Health Licensure and Regulation
 Division of Animal Welfare
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1200-33-01	Commercial Breeders
Rule Number	Rule Title
1200-33-01-.01	Purpose
1200-33-01-.02	Definitions
1200-33-01-.03	Application for Licensure
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1200-33-01-.06	Annual Report
1200-33-01-.07	Inspection of Premises and Access to Records
1200-33-01-.08	Standards of Care
1200-33-01-.09	Appendix A

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Rulemaking Hearing Rules
for the
Division of Animal Welfare
Bureau of Health Licensure and Regulation

Chapter 1200-33-01
Commercial Breeders

New Rules

1200-33-01-.01	Purpose.
1200-33-01-.02	Definitions.
1200-33-01-.03	Application for License.
1200-33-01-.04	Licensure and Renewal.
1200-33-01-.05	Fees.
1200-33-01-.06	Annual Report.
1200-33-01-.07	Inspection of Premises and Access to Records.
1200-33-01-.08	Standards of Care.
1200-33-01-.09	Appendix A.

1200-33-01-.01 Purpose.

The rules of this chapter implement the Commercial Breeder Act, T.C.A. § 44-17-701, et. seq.

Authority: T.C.A. § 44-17-713 [effective January 1, 2010]; and Chapter 591 of the Public Acts of 2009.

1200-33-01-.02 Definitions.

In addition to the definitions contained in T.C.A. Section 44-17-702, the following definitions are applicable to this chapter:

- (1) "Applicant" means a person who has submitted or is in the process of submitting a completed application to obtain a commercial breeder's license;
- (2) "Commissioner" means the commissioner of health or the commissioner's designee;
- (3) "Department" means the department of health;
- (4) "Licensee" means a person who holds a current, unexpired license as a commercial breeder issued by the commissioner;
- (5) "Premises" means the indoor or outdoor facilities where the dogs and cats receive shelter, food and other care as well as the real property on which the facilities are located.

Authority: T.C.A. §44-17-713 [effective January 1, 2010]; and Chapter 591 of the Public Acts of 2009.

1200-33-01-.03 Application for License.

- (1) Any person seeking licensure as a commercial breeder shall complete an application on a form prescribed by the commissioner and submit the completed application to the commissioner.
- (2) Applications for licensure are available upon request from the commissioner.

- (3) Any application submitted which lacks required information or reflects a failure to meet any of the requirements for licensure will be returned to the applicant with written notification of the information that is lacking or the reason(s) the application does not meet the requirements for licensure and will be held in "pending" status until satisfactorily completed within a reasonable period of time, not to exceed sixty (60) days from the date the application is submitted.

Authority: T.C.A. §§44-17-703(a) and 44-17-713 [effective January 1, 2010]; and Chapter 591 of the Public Acts of 2009.

1200-33-01-.04 Licensure and Renewal.

(1) Licensure.

- (a) A person may submit an application to be licensed as a commercial breeder to the commissioner, along with the required application and initial licensing fee.
- (b) An applicant for licensure shall provide evidence satisfactory to the commissioner that the applicant:
1. Possesses or maintains, under his or her immediate control, twenty (20) or more unsterilized adult female dogs or cats for the purpose of selling the offspring as companion animals;
 2. Has a valid sales tax registration number and is in good standing with the Tennessee department of revenue;
 3. Has never been convicted of a violation of T. C. A. §39-14-212 or convicted of any other criminal offense involving an animal provided in T. C. A. Title 39, Chapter 14, Part 2, for a period of ten (10) years immediately preceding the date of the application;
 4. Does not operate or maintain a controlling interest in any releasing agency as defined in T. C. A. §44-17-702(8); and
 5. Has premises for the companion animals that comply with the requirements contained in 9 CFR §3.1 through 3.19 (a copy of which is attached to the regulations as Appendix A and incorporated herein by reference) determined through an inspection conducted by the department.
- (c) An applicant shall submit to a criminal background check and submit the results of the check to the commissioner as a part of the application for licensure. The applicant shall ensure that all employees working on the premises who have direct contact with the dogs and cats shall submit to a criminal background check.

(2) Renewal.

- (a) A license issued to a commercial breeder pursuant to this chapter shall expire one (1) year from the date of its issuance and shall become invalid on such date unless renewed. Any licensee seeking to renew a license after the license expiration date shall file a new application.
- (b) A commercial breeder may renew a current, valid license by submitting a renewal form approved by the commissioner, the required renewal fee, and any other information required for renewal, to the commissioner no earlier than one hundred and twenty (120) days nor later than thirty (30) days prior to the expiration date of the license.
- (c) Any portion of a licensee's renewal submitted by mail to the commissioner shall be deemed to have been submitted on the date of the official postmark on such mail.

Authority: T.C.A. §§44-17-704, 44-17-705, 44-17-707, and 44-17-713 [effective January 1, 2010]; and Chapter 591 of the Public Acts of 2009.

1200-33-01-.05 Fees.

- (1) Application and initial license fee.
 - (a) Between twenty (20) and forty (40) unsterilized adult female cats or dogs.. \$500.00
 - (b) Forty-one (41) or more unsterilized adult female cats or dogs.....\$1,000.00
- (2) Renewal fee.
 - (a) Between twenty (20) and forty (40) unsterilized adult female cats or dogs...\$500.00
 - (b) Forty-one (41) or more unsterilized adult female cats or dogs.....\$1,000.00
- (3) Duplicate license.....\$25.00

Authority: T. C.A. §§44-17-703(b), 44-17-705(a), and 44-17-713 [effective January 1, 2010]; and Chapter 591 of the Public Acts of 2009.

1200-33-01-.06 Annual Report.

- (1) Each licensee shall submit an annual report to the commissioner by July 1st of each year on a form prescribed by the commissioner in compliance with T. C. A. §44-17-707.

Authority: T.C.A. §§44-17-707, and 44-17-713 [effective January 1, 2010]; and Chapter 591 of the Public Acts of 2009.

1200-33-01-.07 Inspection of Premises and Access to Records.

- (1) Inspection of Premises.
 - (a) During an inspection or reinspection of the licensee's premises, the licensee shall allow the department inspectors to photograph the premises and the companion animals; and
 - (b) During an inspection or reinspection of a licensee's premises, each licensee shall provide any documentation requested by a department inspector at the time of the request.
- (2) Access to Records.
 - (a) During an inspection or reinspection of the licensee's premises, the licensee shall provide copies of the following records to the department inspector upon request:
 - 1. Each companion animal acquired, held, maintained, bred at the premises and sold, traded, bartered, given away or disposed of from the premises;
 - 2. The name and address of the person from whom each companion animal was acquired;
 - 3. The date each companion animal was acquired and removed from the premises;
 - 4. A description of each companion animal showing age (including date of birth), size, color, distinctive markings, sex, breed and vaccination information.

Records shall also include any other significant identification for each animal including an official tag number, tattoo, or microchip number;

5. The name and address of the person to whom any companion animal is sold, traded, bartered or given, showing the method of disposition;
 6. Any statements, notes, correspondence, memoranda, facsimile, records or reports about the prevention, control, and treatment of any companion animal diseases, injuries or conditions as they relate to the condition of the premises; and
 7. Any statements, certifications, correspondence, memoranda, facsimile, or reports from a licensed veterinarian about the companion animals required by 9 CFR §3.1 through 3.19.
- (b) Each licensee shall maintain the records for a period of one (1) year from the date that the companion animal is acquired by the licensee or born on the licensee's premises.

Authority: T.C.A. §§44-17-704, 44-17-705(a), 44-17-708, and 44-17-713 [effective January 1, 2010]; and Chapter 591 of the Public Acts of 2009.

1200-33-01-.08 Standards of Care.

- (1) Each licensee shall comply with 9 CFR §3.1 through 3.19, T.C.A. Title 44, Chapter 17, Part 7, the rules contained in this chapter and all other applicable federal or state laws or rules relative to the premises.
- (2) Each licensee shall ensure that any act that constitutes the practice of veterinary medicine will be performed by an individual licensed as a veterinarian by the Board of Veterinary Medical Examiners.
- (3) In addition to the standards contained in 9 CFR § 3.1 through 3.19, each licensee shall ensure that the following conditions are met:
 - (a) The premises will have a solid floor without slats or gaps;
 - (b) The enclosures within the premises shall be no more than forty-two (42) inches above the floor of the room or ground should the premises be elevated above the floor of the room or ground;
 - (c) The enclosures within the premises shall not be stacked or otherwise placed above one another; and
 - (d) The companion animal will be removed from his or her individual enclosure on the premises when cleaning the enclosure of waste and contaminants.
- (4) A licensee may allow the companion animal into the breeder's residence at the licensee's discretion as long as the licensee complies with the standards of care provided in this rule.

Authority: T.C.A. §44-17-713 [effective January 1, 2010]; and Chapter 591 of the Public Acts of 2009.

1200-33-01-.09 Appendix A

Code of Federal Regulations

Title 9. Animals and Animal Products

Chapter I. Animal and Plant Health Inspection Service, Department of Agriculture

Subchapter A. Animal Welfare

Part 3. Standards

Specifications for the Humane Handling, Care, Treatment, and Transportation of Dogs and Cats

Facilities and Operating Standards

§ 3.1 Housing facilities, general.

(a) Structure; construction. Housing facilities for dogs and cats must be designed and constructed so that they are structurally sound. They must be kept in good repair, and they must protect the animals from injury, contain the animals securely, and restrict other animals from entering.

(b) Condition and site. Housing facilities and areas used for storing animal food or bedding must be free of any accumulation of trash, waste material, junk, weeds, and other discarded materials. Animal areas inside of housing facilities must be kept neat and free of clutter, including equipment, furniture, and stored material, but may contain materials actually used and necessary for cleaning the area, and fixtures or equipment necessary for proper husbandry practices and research needs. Housing facilities other than those maintained by research facilities and Federal research facilities must be physically separated from any other business. If a housing facility is located on the same premises as another business, it must be physically separated from the other business so that animals the size of dogs, skunks, and raccoons are prevented from entering it.

(c) Surfaces--

(1) General requirements. The surfaces of housing facilities--including houses, dens, and other furniture-type fixtures and objects within the facility--must be constructed in a manner and made of materials that allow them to be readily cleaned and sanitized, or removed or replaced when worn or soiled. Interior surfaces and any surfaces that come in contact with dogs or cats must:

(i) Be free of excessive rust that prevents the required cleaning and sanitization, or that affects the structural strength of the surface; and

(ii) Be free of jagged edges or sharp points that might injure the animals.

(2) Maintenance and replacement of surfaces. All surfaces must be maintained on a regular basis. Surfaces of housing facilities--including houses, dens, and other furniture-type fixtures and objects within the facility--that cannot be readily cleaned and sanitized, must be replaced when worn or soiled.

(3) Cleaning. Hard surfaces with which the dogs or cats come in contact must be spot-cleaned daily and sanitized in accordance with § 3.11(b) of this subpart to prevent accumulation of excreta and reduce disease hazards. Floors made of dirt, absorbent bedding, sand, gravel, grass, or other similar material must be raked or spot-cleaned with sufficient frequency to ensure all animals the freedom to avoid contact with excreta. Contaminated material must be replaced whenever this raking and spot-cleaning is not sufficient to prevent or eliminate odors, insects, pests, or vermin infestation. All other surfaces of housing facilities must be cleaned and sanitized when necessary to satisfy generally accepted husbandry standards and practices. Sanitization may be done using any of the methods provided in § 3.11(b)(3) for primary enclosures.

(d) Water and electric power. The housing facility must have reliable electric power adequate for heating, cooling, ventilation, and lighting, and for carrying out other husbandry requirements in accordance with the regulations in this subpart. The housing facility must provide adequate running potable water for the dogs' and cats' drinking needs, for cleaning, and for carrying out other husbandry requirements.

(e) Storage. Supplies of food and bedding must be stored in a manner that protects the supplies from spoilage, contamination, and vermin infestation. The supplies must be stored off the floor and away from the walls, to allow cleaning underneath and around the supplies. Foods requiring refrigeration must be stored accordingly, and all food must be stored in a manner that prevents contamination and deterioration of its nutritive value. All open supplies of food and bedding must be kept in leakproof containers with tightly fitting lids to prevent contamination and spoilage. Only food and bedding that is currently being used may be kept in the animal areas. Substances that are toxic to the dogs or cats but are required for normal husbandry practices must not be stored in food storage and preparation areas, but may be stored in cabinets in the animal areas.

(f) Drainage and waste disposal. Housing facility operators must provide for regular and frequent collection, removal, and disposal of animal and food wastes, bedding, debris, garbage, water, other fluids and wastes, and dead animals, in a manner that minimizes contamination and disease risks. Housing facilities must be equipped with disposal facilities and drainage systems that are constructed and operated so that animal waste and water

are rapidly eliminated and animals stay dry. Disposal and drainage systems must minimize vermin and pest infestation, insects, odors, and disease hazards. All drains must be properly constructed, installed, and maintained. If closed drainage systems are used, they must be equipped with traps and prevent the backflow of gases and the backup of sewage onto the floor. If the facility uses sump or settlement ponds, or other similar systems for drainage and animal waste disposal, the system must be located far enough away from the animal area of the housing facility to prevent odors, diseases, pests, and vermin infestation. Standing puddles of water in animal enclosures must be drained or mopped up so that the animals stay dry. Trash containers in housing facilities and in food storage and food preparation areas must be leakproof and must have tightly fitted lids on them at all times. Dead animals, animal parts, and animal waste must not be kept in food storage or food preparation areas, food freezers, food refrigerators, or animal areas.

(g) Washrooms and sinks. Washing facilities such as washrooms, basins, sinks, or showers must be provided for animal caretakers and must be readily accessible.

§ 3.2 Indoor housing facilities.

(a) Heating, cooling, and temperature. Indoor housing facilities for dogs and cats must be sufficiently heated and cooled when necessary to protect the dogs and cats from temperature or humidity extremes and to provide for their health and well-being. When dogs or cats are present, the ambient temperature in the facility must not fall below 50 °F (10 °C) for dogs and cats not acclimated to lower temperatures, for those breeds that cannot tolerate lower temperatures without stress or discomfort (such as short-haired breeds), and for sick, aged, young, or infirm dogs and cats, except as approved by the attending veterinarian. Dry bedding, solid resting boards, or other methods of conserving body heat must be provided when temperatures are below 50 °F (10 °C). The ambient temperature must not fall below 45 °F (7.2 °C) for more than 4 consecutive hours when dogs or cats are present, and must not rise above 85 °F (29.5 °C) for more than 4 consecutive hours when dogs or cats are present. The preceding requirements are in addition to, not in place of, all other requirements pertaining to climatic conditions in parts 2 and 3 of this chapter.

(b) Ventilation. Indoor housing facilities for dogs and cats must be sufficiently ventilated at all times when dogs or cats are present to provide for their health and well-being, and to minimize odors, drafts, ammonia levels, and moisture condensation. Ventilation must be provided by windows, vents, fans, or air conditioning. Auxiliary ventilation, such as fans, blowers, or air conditioning must be provided when the ambient temperature is 85 °F (29.5 °C) or higher. The relative humidity must be maintained at a level that ensures the health and well-being of the dogs or cats housed therein, in accordance with the directions of the attending veterinarian and generally accepted professional and husbandry practices.

(c) Lighting. Indoor housing facilities for dogs and cats must be lighted well enough to permit routine inspection and cleaning of the facility, and observation of the dogs and cats. Animal areas must be provided a regular diurnal lighting cycle of either natural or artificial light. Lighting must be uniformly diffused throughout animal facilities and provide sufficient illumination to aid in maintaining good housekeeping practices, adequate cleaning, adequate inspection of animals, and for the well-being of the animals. Primary enclosures must be placed so as to protect the dogs and cats from excessive light.

(d) Interior surfaces. The floors and walls of indoor housing facilities, and any other surfaces in contact with the animals, must be impervious to moisture. The ceilings of indoor housing facilities must be impervious to moisture or be replaceable (e.g., a suspended ceiling with replaceable panels).

§ 3.3 Sheltered housing facilities.

(a) Heating, cooling, and temperature. The sheltered part of sheltered housing facilities for dogs and cats must be sufficiently heated and cooled when necessary to protect the dogs and cats from temperature or humidity extremes and to provide for their health and well-being. The ambient temperature in the sheltered part of the facility must not fall below 50 °F (10 °C) for dogs and cats not acclimated to lower temperatures, for those breeds that cannot tolerate lower temperatures without stress and discomfort (such as short-haired breeds), and for sick, aged, young, or infirm dogs or cats, except as approved by the attending veterinarian. Dry bedding, solid resting boards, or other methods of conserving body heat must be provided when temperatures are below 50 °F (10 °C). The ambient temperature must not fall below 45 °F (7.2 °C) for more than 4 consecutive hours when dogs or cats are present, and must not rise above 85 °F (29.5 °C) for more than 4 consecutive hours

when dogs or cats are present. The preceding requirements are in addition to, not in place of, all other requirements pertaining to climatic conditions in parts 2 and 3 of this chapter.

(b) Ventilation. The enclosed or sheltered part of sheltered housing facilities for dogs and cats must be sufficiently ventilated when dogs or cats are present to provide for their health and well-being, and to minimize odors, drafts, ammonia levels, and moisture condensation. Ventilation must be provided by windows, doors, vents, fans, or air conditioning. Auxiliary ventilation, such as fans, blowers, or air-conditioning, must be provided when the ambient temperature is 85 °F (29.5 °C) or higher.

(c) Lighting. Sheltered housing facilities for dogs and cats must be lighted well enough to permit routine inspection and cleaning of the facility, and observation of the dogs and cats. Animal areas must be provided a regular diurnal lighting cycle of either natural or artificial light. Lighting must be uniformly diffused throughout animal facilities and provide sufficient illumination to aid in maintaining good housekeeping practices, adequate cleaning, adequate inspection of animals, and for the well-being of the animals. Primary enclosures must be placed so as to protect the dogs and cats from excessive light.

(d) Shelter from the elements. Dogs and cats must be provided with adequate shelter from the elements at all times to protect their health and well-being. The shelter structures must be large enough to allow each animal to sit, stand, and lie in a normal manner and to turn about freely.

(e) Surfaces.

(1) The following areas in sheltered housing facilities must be impervious to moisture:

(i) Indoor floor areas in contact with the animals;

(ii) Outdoor floor areas in contact with the animals, when the floor areas are not exposed to the direct sun, or are made of a hard material such as wire, wood, metal, or concrete; and

(iii) All walls, boxes, houses, dens, and other surfaces in contact with the animals.

(2) Outside floor areas in contact with the animals and exposed to the direct sun may consist of compacted earth, absorbent bedding, sand, gravel, or grass.

§ 3.4 Outdoor housing facilities.

(a) Restrictions.

(1) The following categories of dogs or cats must not be kept in outdoor facilities, unless that practice is specifically approved by the attending veterinarian:

(i) Dogs or cats that are not acclimated to the temperatures prevalent in the area or region where they are maintained;

(ii) Breeds of dogs or cats that cannot tolerate the prevalent temperatures of the area without stress or discomfort (such as short-haired breeds in cold climates); and

(iii) Sick, infirm, aged or young dogs or cats.

(2) When their acclimation status is unknown, dogs and cats must not be kept in outdoor facilities when the ambient temperature is less than 50 °F (10 °C).

(b) Shelter from the elements. Outdoor facilities for dogs or cats must include one or more shelter structures that are accessible to each animal in each outdoor facility, and that are large enough to allow each animal in the shelter structure to sit, stand, and lie in a normal manner, and to turn about freely. In addition to the shelter structures, one or more separate outside areas of shade must be provided, large enough to contain all the animals at one time and protect them from the direct rays of the sun. Shelters in outdoor facilities for dogs or cats must contain a roof, four sides, and a floor, and must:

(1) Provide the dogs and cats with adequate protection and shelter from the cold and heat;

- (2) Provide the dogs and cats with protection from the direct rays of the sun and the direct effect of wind, rain, or snow;
- (3) Be provided with a wind break and rain break at the entrance; and
- (4) Contain clean, dry, bedding material if the ambient temperature is below 50 °F (10 °C). Additional clean, dry bedding is required when the temperature is 35 °F (1.7 °C) or lower.

(c) Construction. Building surfaces in contact with animals in outdoor housing facilities must be impervious to moisture. Metal barrels, cans, refrigerators or freezers, and the like must not be used as shelter structures. The floors of outdoor housing facilities may be of compacted earth, absorbent bedding, sand, gravel, or grass, and must be replaced if there are any prevalent odors, diseases, insects, pests, or vermin. All surfaces must be maintained on a regular basis. Surfaces of outdoor housing facilities--including houses, dens, etc.--that cannot be readily cleaned and sanitized, must be replaced when worn or soiled.

§ 3.5 Mobile or traveling housing facilities.

(a) Heating, cooling, and temperature. Mobile or traveling housing facilities for dogs and cats must be sufficiently heated and cooled when necessary to protect the dogs and cats from temperature or humidity extremes and to provide for their health and well-being. The ambient temperature in the mobile or traveling housing facility must not fall below 50 °F (10 °C) for dogs and cats not acclimated to lower temperatures, for those breeds that cannot tolerate lower temperatures without stress or discomfort (such as short-haired breeds), and for sick, aged, young, or infirm dogs and cats. Dry bedding, solid resting boards, or other methods of conserving body heat must be provided when temperatures are below 50 °F (10 °C). The ambient temperature must not fall below 45 °F (7.2 °C) for more than 4 consecutive hours when dogs or cats are present, and must not exceed 85 °F (29.5 °C) for more than 4 consecutive hours when dogs or cats are present. The preceding requirements are in addition to, not in place of, all other requirements pertaining to climatic conditions in parts 2 and 3 of this chapter.

(b) Ventilation. Mobile or traveling housing facilities for dogs and cats must be sufficiently ventilated at all times when dogs or cats are present to provide for the health and well-being of the animals, and to minimize odors, drafts, ammonia levels, moisture condensation, and exhaust fumes. Ventilation must be provided by means of windows, doors, vents, fans, or air conditioning. Auxiliary ventilation, such as fans, blowers, or air conditioning, must be provided when the ambient temperature within the animal housing area is 85 °F (29.5 °C) or higher.

(c) Lighting. Mobile or traveling housing facilities for dogs and cats must be lighted well enough to permit proper cleaning and inspection of the facility, and observation of the dogs and cats. Animal areas must be provided a regular diurnal lighting cycle of either natural or artificial light. Lighting must be uniformly diffused throughout animal facilities and provide sufficient illumination to aid in maintaining good housekeeping practices, adequate cleaning, adequate inspection of animals, and for the well-being of the animals.

§ 3.6 Primary enclosures.

Primary enclosures for dogs and cats must meet the following minimum requirements:

(a) General requirements.

- (1) Primary enclosures must be designed and constructed of suitable materials so that they are structurally sound. The primary enclosures must be kept in good repair.
- (2) Primary enclosures must be constructed and maintained so that they:
 - (i) Have no sharp points or edges that could injure the dogs and cats;
 - (ii) Protect the dogs and cats from injury;
 - (iii) Contain the dogs and cats securely;

- (iv) Keep other animals from entering the enclosure;
- (v) Enable the dogs and cats to remain dry and clean;
- (vi) Provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to all the dogs and cats;
- (vii) Provide sufficient shade to shelter all the dogs and cats housed in the primary enclosure at one time;
- (viii) Provide all the dogs and cats with easy and convenient access to clean food and water;
- (ix) Enable all surfaces in contact with the dogs and cats to be readily cleaned and sanitized in accordance with § 3.11(b) of this subpart, or be replaceable when worn or soiled;
- (x) Have floors that are constructed in a manner that protects the dogs' and cats' feet and legs from injury, and that, if of mesh or slatted construction, do not allow the dogs' and cats' feet to pass through any openings in the floor;
- (xi) Provide sufficient space to allow each dog and cat to turn about freely, to stand, sit, and lie in a comfortable, normal position, and to walk in a normal manner; and
- (xii) Primary enclosures constructed on or after February 20, 1998 and floors replaced on or after that date, must comply with the requirements in this paragraph (a)(2). On or after January 21, 2000, all primary enclosures must be in compliance with the requirements in this paragraph (a)(2). If the suspended floor of a primary enclosure is constructed of metal strands, the strands must either be greater than 1/8 of an inch in diameter (9 gauge) or coated with a material such as plastic or fiberglass. The suspended floor of any primary enclosure must be strong enough so that the floor does not sag or bend between the structural supports.

(b) Additional requirements for cats.

- (1) Space. Each cat, including weaned kittens, that is housed in any primary enclosure must be provided minimum vertical space and floor space as follows:
 - (i) Prior to February 15, 1994 each cat housed in any primary enclosure shall be provided a minimum of 2 1/2 square feet of floor space;
 - (ii) On and after February 15, 1994:
 - (A) Each primary enclosure housing cats must be at least 24 in. high (60.96 cm);
 - (B) Cats up to and including 8.8 lbs (4 kg) must be provided with at least 3.0 ft² (0.28 m²);
 - (C) Cats over 8.8 lbs (4 kg) must be provided with at least 4.0 ft² (0.37 m²);
 - (iii) Each queen with nursing kittens must be provided with an additional amount of floor space, based on her breed and behavioral characteristics, and in accordance with generally accepted husbandry practices. If the additional amount of floor space for each nursing kitten is equivalent to less than 5 percent of the minimum requirement for the queen, such housing must be approved by the attending veterinarian in the case of a research facility, and, in the case of dealers and exhibitors, such housing must be approved by the Administrator; and
 - (iv) The minimum floor space required by this section is exclusive of any food or water pans. The litter pan may be considered part of the floor space if properly cleaned and sanitized.
- (2) Compatibility. All cats housed in the same primary enclosure must be compatible, as determined by observation. Not more than 12 adult nonconditioned cats may be housed in the same primary enclosure. Queens in heat may not be housed in the same primary enclosure with sexually mature males, except for breeding. Except when maintained in breeding colonies, queens with litters may not be housed in the same primary enclosure with other adult cats, and kittens under 4 months of age may not be housed in the same

primary enclosure with adult cats, other than the dam or foster dam. Cats with a vicious or aggressive disposition must be housed separately.

(3) Litter. In all primary enclosures, a receptacle containing sufficient clean litter must be provided to contain excreta and body wastes.

(4) Resting surfaces. Each primary enclosure housing cats must contain a resting surface or surfaces that, in the aggregate, are large enough to hold all the occupants of the primary enclosure at the same time comfortably. The resting surfaces must be elevated, impervious to moisture, and be able to be easily cleaned and sanitized, or easily replaced when soiled or worn. Low resting surfaces that do not allow the space under them to be comfortably occupied by the animal will be counted as part of the floor space.

(5) Cats in mobile or traveling shows or acts. Cats that are part of a mobile or traveling show or act may be kept, while the show or act is traveling from one temporary location to another, in transport containers that comply with all requirements of § 3.14 of this subpart other than the marking requirements in § 3.14(a)(6) of this subpart. When the show or act is not traveling, the cats must be placed in primary enclosures that meet the minimum requirements of this section.

(c) Additional requirements for dogs--

(1) Space.

(i) Each dog housed in a primary enclosure (including weaned puppies) must be provided a minimum amount of floor space, calculated as follows: Find the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; then divide the product by 144. The calculation is: (length of dog in inches + 6) x (length of dog in inches + 6) = required floor space in square inches. Required floor space in inches/144 = required floor space in square feet.

(ii) Each bitch with nursing puppies must be provided with an additional amount of floor space, based on her breed and behavioral characteristics, and in accordance with generally accepted husbandry practices as determined by the attending veterinarian. If the additional amount of floor space for each nursing puppy is less than 5 percent of the minimum requirement for the bitch, such housing must be approved by the attending veterinarian in the case of a research facility, and, in the case of dealers and exhibitors, such housing must be approved by the Administrator.

(iii) The interior height of a primary enclosure must be at least 6 inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position: *Provided That*, prior to February 15, 1994, each dog must be able to stand in a comfortable normal position.

(2) Compatibility. All dogs housed in the same primary enclosure must be compatible, as determined by observation. Not more than 12 adult nonconditioned dogs may be housed in the same primary enclosure. Bitches in heat may not be housed in the same primary enclosure with sexually mature males, except for breeding. Except when maintained in breeding colonies, bitches with litters may not be housed in the same primary enclosure with other adult dogs, and puppies under 4 months of age may not be housed in the same primary enclosure with adult dogs, other than the dam or foster dam. Dogs with a vicious or aggressive disposition must be housed separately.

(3) Dogs in mobile or traveling shows or acts. Dogs that are part of a mobile or traveling show or act may be kept, while the show or act is traveling from one temporary location to another, in transport containers that comply with all requirements of § 3.14 of this subpart other than the marking requirements in § 3.14(a)(6) of this subpart. When the show or act is not traveling, the dogs must be placed in primary enclosures that meet the minimum requirements of this section.

(4) Prohibited means of primary enclosure. Permanent tethering of dogs is prohibited for use as primary enclosure. Temporary tethering of dogs is prohibited for use as primary enclosure unless approval is obtained from APHIS.

(d) Innovative primary enclosures not precisely meeting the floor area and height requirements provided in paragraphs (b)(1) and (c)(1) of this section, but that provide the dogs or cats with a sufficient volume of space and the opportunity to express species-typical behavior, may be used at research facilities when approved by

the Committee, and by dealers and exhibitors when approved by the Administrator.

(Approved by the Office of Management and Budget under control number 0579-0093)

§ 3.7 Compatible grouping.

Dogs and cats that are housed in the same primary enclosure must be compatible, with the following restrictions:

- (a) Females in heat (estrus) may not be housed in the same primary enclosure with males, except for breeding purposes;
- (b) Any dog or cat exhibiting a vicious or overly aggressive disposition must be housed separately;
- (c) Puppies or kittens 4 months of age or less may not be housed in the same primary enclosure with adult dogs or cats other than their dams or foster dams, except when permanently maintained in breeding colonies;
- (d) Dogs or cats may not be housed in the same primary enclosure with any other species of animals, unless they are compatible; and
- (e) Dogs and cats that have or are suspected of having a contagious disease must be isolated from healthy animals in the colony, as directed by the attending veterinarian. When an entire group or room of dogs and cats is known to have or believed to be exposed to an infectious agent, the group may be kept intact during the process of diagnosis, treatment, and control.

§ 3.8 Exercise for dogs.

Dealers, exhibitors, and research facilities must develop, document, and follow an appropriate plan to provide dogs with the opportunity for exercise. In addition, the plan must be approved by the attending veterinarian. The plan must include written standard procedures to be followed in providing the opportunity for exercise. The plan must be made available to APHIS upon request, and, in the case of research facilities, to officials of any pertinent funding Federal agency. The plan, at a minimum, must comply with each of the following:

- (a) Dogs housed individually. Dogs over 12 weeks of age, except bitches with litters, housed, held, or maintained by any dealer, exhibitor, or research facility, including Federal research facilities, must be provided the opportunity for exercise regularly if they are kept individually in cages, pens, or runs that provide less than two times the required floor space for that dog, as indicated by § 3.6(c)(1) of this subpart.
- (b) Dogs housed in groups. Dogs over 12 weeks of age housed, held, or maintained in groups by any dealer, exhibitor, or research facility, including Federal research facilities, do not require additional opportunity for exercise regularly if they are maintained in cages, pens, or runs that provide in total at least 100 percent of the required space for each dog if maintained separately. Such animals may be maintained in compatible groups, unless:
 - (1) Housing in compatible groups is not in accordance with a research proposal and the proposal has been approved by the research facility Committee;
 - (2) In the opinion of the attending veterinarian, such housing would adversely affect the health or well-being of the dog(s); or
 - (3) Any dog exhibits aggressive or vicious behavior.
- (c) Methods and period of providing exercise opportunity.
 - (1) The frequency, method, and duration of the opportunity for exercise shall be determined by the attending veterinarian and, at research facilities, in consultation with and approval by the Committee.
 - (2) Dealers, exhibitors, and research facilities, in developing their plan, should consider providing positive

physical contact with humans that encourages exercise through play or other similar activities. If a dog is housed, held, or maintained at a facility without sensory contact with another dog, it must be provided with positive physical contact with humans at least daily.

(3) The opportunity for exercise may be provided in a number of ways, such as:

(i) Group housing in cages, pens or runs that provide at least 100 percent of the required space for each dog if maintained separately under the minimum floor space requirements of § 3.6(c)(1) of this subpart;

(ii) Maintaining individually housed dogs in cages, pens, or runs that provide at least twice the minimum floor space required by § 3.6(c)(1) of this subpart;

(iii) Providing access to a run or open area at the frequency and duration prescribed by the attending veterinarian; or

(iv) Other similar activities.

(4) Forced exercise methods or devices such as swimming, treadmills, or carousel-type devices are unacceptable for meeting the exercise requirements of this section.

(d) Exemptions.

(1) If, in the opinion of the attending veterinarian, it is inappropriate for certain dogs to exercise because of their health, condition, or well-being, the dealer, exhibitor, or research facility may be exempted from meeting the requirements of this section for those dogs. Such exemption must be documented by the attending veterinarian and, unless the basis for exemption is a permanent condition, must be reviewed at least every 30 days by the attending veterinarian.

(2) A research facility may be exempted from the requirements of this section if the principal investigator determines for scientific reasons set forth in the research proposal that it is inappropriate for certain dogs to exercise. Such exemption must be documented in the Committee-approved proposal and must be reviewed at appropriate intervals as determined by the Committee, but not less than annually.

(3) Records of any exemptions must be maintained and made available to USDA officials or any pertinent funding Federal agency upon request.

(Approved by the Office of Management and Budget under control number 0579-0093)

§ 3.9 Feeding.

(a) Dogs and cats must be fed at least once each day, except as otherwise might be required to provide adequate veterinary care. The food must be uncontaminated, wholesome, palatable, and of sufficient quantity and nutritive value to maintain the normal condition and weight of the animal. The diet must be appropriate for the individual animal's age and condition.

(b) Food receptacles must be used for dogs and cats, must be readily accessible to all dogs and cats, and must be located so as to minimize contamination by excreta and pests, and be protected from rain and snow. Feeding pans must either be made of a durable material that can be easily cleaned and sanitized or be disposable. If the food receptacles are not disposable, they must be kept clean and must be sanitized in accordance with § 3.11(b) of this subpart. Sanitization is achieved by using one of the methods described in § 3.11(b)(3) of this subpart. If the food receptacles are disposable, they must be discarded after one use. Self-feeders may be used for the feeding of dry food. If self-feeders are used, they must be kept clean and must be sanitized in accordance with § 3.11(b) of this subpart. Measures must be taken to ensure that there is no molding, deterioration, and caking of feed.

§ 3.10 Watering.

If potable water is not continually available to the dogs and cats, it must be offered to the dogs and cats as often

as necessary to ensure their health and well-being, but not less than twice daily for at least 1 hour each time, unless restricted by the attending veterinarian. Water receptacles must be kept clean and sanitized in accordance with § 3.11(b) of this subpart, and before being used to water a different dog or cat or social grouping of dogs or cats.

§ 3.11 Cleaning, sanitization, housekeeping, and pest control.

(a) Cleaning of primary enclosures. Excreta and food waste must be removed from primary enclosures daily, and from under primary enclosures as often as necessary to prevent an excessive accumulation of feces and food waste, to prevent soiling of the dogs or cats contained in the primary enclosures, and to reduce disease hazards, insects, pests and odors. When steam or water is used to clean the primary enclosure, whether by hosing, flushing, or other methods, dogs and cats must be removed, unless the enclosure is large enough to ensure the animals would not be harmed, wetted, or distressed in the process. Standing water must be removed from the primary enclosure and animals in other primary enclosures must be protected from being contaminated with water and other wastes during the cleaning. The pans under primary enclosures with grill-type floors and the ground areas under raised runs with mesh or slatted floors must be cleaned as often as necessary to prevent accumulation of feces and food waste and to reduce disease hazards pests, insects and odors.

(b) Sanitization of primary enclosures and food and water receptacles.

(1) Used primary enclosures and food and water receptacles must be cleaned and sanitized in accordance with this section before they can be used to house, feed, or water another dog or cat, or social grouping of dogs or cats.

(2) Used primary enclosures and food and water receptacles for dogs and cats must be sanitized at least once every 2 weeks using one of the methods prescribed in paragraph (b)(3) of this section, and more often if necessary to prevent an accumulation of dirt, debris, food waste, excreta, and other disease hazards.

(3) Hard surfaces of primary enclosures and food and water receptacles must be sanitized using one of the following methods:

(i) Live steam under pressure;

(ii) Washing with hot water (at least 180 °F (82.2 °C)) and soap or detergent, as with a mechanical cage washer; or

(iii) Washing all soiled surfaces with appropriate detergent solutions and disinfectants, or by using a combination detergent/disinfectant product that accomplishes the same purpose, with a thorough cleaning of the surfaces to remove organic material, so as to remove all organic material and mineral buildup, and to provide sanitization followed by a clean water rinse.

(4) Pens, runs, and outdoor housing areas using material that cannot be sanitized using the methods provided in paragraph (b)(3) of this section, such as gravel, sand, grass, earth, or absorbent bedding, must be sanitized by removing the contaminated material as necessary to prevent odors, diseases, pests, insects, and vermin infestation.

(c) Housekeeping for premises. Premises where housing facilities are located, including buildings and surrounding grounds, must be kept clean and in good repair to protect the animals from injury, to facilitate the husbandry practices required in this subpart, and to reduce or eliminate breeding and living areas for rodents and other pests and vermin. Premises must be kept free of accumulations of trash, junk, waste products, and discarded matter. Weeds, grasses, and bushes must be controlled so as to facilitate cleaning of the premises and pest control, and to protect the health and well-being of the animals.

(d) Pest control. An effective program for the control of insects, external parasites affecting dogs and cats, and birds and mammals that are pests, must be established and maintained so as to promote the health and well-being of the animals and reduce contamination by pests in animal areas.

§ 3.12 Employees.

Each person subject to the Animal Welfare regulations (9 CFR Parts 1, 2, and 3) maintaining dogs and cats must have enough employees to carry out the level of husbandry practices and care required in this subpart. The employees who provide for husbandry and care, or handle animals, must be supervised by an individual who has the knowledge, background, and experience in proper husbandry and care of dogs and cats to supervise others. The employer must be certain that the supervisor and other employees can perform to these standards.

§ 3.13 Consignments to carriers and intermediate handlers.

(a) Carriers and intermediate handlers must not accept a dog or cat for transport in commerce more than 4 hours before the scheduled departure time of the primary conveyance on which the animal is to be transported. However, a carrier or intermediate handler may agree with anyone consigning a dog or cat to extend this time by up to 2 hours.

(b) Carriers and intermediate handlers must not accept a dog or cat for transport in commerce unless they are provided with the name, address, and telephone number of the consignee.

(c) Carriers and intermediate handlers must not accept a dog or cat for transport in commerce unless the consignor certifies in writing to the carrier or intermediate handler that the dog or cat was offered food and water during the 4 hours before delivery to the carrier or intermediate handler. The certification must be securely attached to the outside of the primary enclosure in a manner that makes it easily noticed and read. Instructions for no food or water are not acceptable unless directed by the attending veterinarian. Instructions must be in compliance with § 3.16 of this subpart. The certification must include the following information for each dog and cat:

- (1) The consignor's name and address;
- (2) The tag number or tattoo assigned to each dog or cat under §§ 2.38 and 2.50 of this chapter;
- (3) The time and date the animal was last fed and watered and the specific instructions for the next feeding(s) and watering(s) for a 24-hour period; and
- (4) The consignor's signature and the date and time the certification was signed.

(d) Carriers and intermediate handlers must not accept a dog or cat for transport in commerce in a primary enclosure unless the primary enclosure meets the requirements of § 3.14 of this subpart. A carrier or intermediate handler must not accept a dog or cat for transport if the primary enclosure is obviously defective or damaged and cannot reasonably be expected to safely and comfortably contain the dog or cat without causing suffering or injury.

(e) Carriers and intermediate handlers must not accept a dog or cat for transport in commerce unless their animal holding area meets the minimum temperature requirements provided in §§ 3.18 and 3.19 of this subpart, or unless the consignor provides them with a certificate signed by a veterinarian and dated no more than 10 days before delivery of the animal to the carrier or intermediate handler for transport in commerce, certifying that the animal is acclimated to temperatures lower than those required in §§ 3.18 and 3.19 of this subpart. Even if the carrier or intermediate handler receives this certification, the temperatures the dog or cat is exposed to while in a terminal facility must not be lower than 45 °F (2.2 °C) for more than 4 consecutive hours when dogs or cats are present, as set forth in § 3.18, nor lower than 45 °F (2.2 °C) for more than 45 minutes, as set forth in § 3.19, when moving dogs or cats to or from terminal facilities or primary conveyances. A copy of the certification must accompany the dog or cat to its destination and must include the following information:

- (1) The consignor's name and address;
- (2) The tag number or tattoo assigned to each dog or cat under §§ 2.38 and 2.50 of this chapter;
- (3) A statement by a veterinarian, dated no more than 10 days before delivery, that to the best of his or her knowledge, each of the dogs or cats contained in the primary enclosure is acclimated to air temperatures

lower than 50 °F (10 °C); but not lower than a minimum temperature, specified on a certificate, that the attending veterinarian has determined is based on generally accepted temperature standards for the age, condition, and breed of the dog or cat; and

(4) The signature of the veterinarian and the date the certification was signed.

(f) When a primary enclosure containing a dog or cat has arrived at the animal holding area at a terminal facility after transport, the carrier or intermediate handler must attempt to notify the consignee upon arrival and at least once in every 6-hour period thereafter. The time, date, and method of all attempted notifications and the actual notification of the consignee, and the name of the person who notifies or attempts to notify the consignee must be written either on the carrier's or intermediate handler's copy of the shipping document or on the copy that accompanies the primary enclosure. If the consignee cannot be notified within 24 hours after the dog or cat has arrived at the terminal facility, the carrier or intermediate handler must return the animal to the consignor or to whomever the consignor designates. If the consignee is notified of the arrival and does not accept delivery of the dog or cat within 48 hours after arrival of the dog or cat, the carrier or intermediate handler must return the animal to the consignor or to whomever the consignor designates. The carrier or intermediate handler must continue to provide proper care, feeding, and housing to the dog or cat, and maintain the dog or cat in accordance with generally accepted professional and husbandry practices until the consignee accepts delivery of the dog or cat or until it is returned to the consignor or to whomever the consignor designates. The carrier or intermediate handler must obligate the consignor to reimburse the carrier or intermediate handler for the cost of return transportation and care.

(Approved by the Office of Management and Budget under control number 0579-0093)

§ 3.14 Primary enclosures used to transport live dogs and cats.

Any person subject to the Animal Welfare regulations (9 CFR parts 1, 2, and 3) must not transport or deliver for transport in commerce a dog or cat unless the following requirements are met:

(a) Construction of primary enclosures. The dog or cat must be contained in a primary enclosure such as a compartment, transport cage, carton, or crate. Primary enclosures used to transport dogs and cats must be constructed so that:

(1) The primary enclosure is strong enough to contain the dogs and cats securely and comfortably and to withstand the normal rigors of transportation;

(2) The interior of the primary enclosure has no sharp points or edges and no protrusions that could injure the animal contained in it;

(3) The dog or cat is at all times securely contained within the enclosure and cannot put any part of its body outside the enclosure in a way that could result in injury to itself, to handlers, or to persons or animals nearby;

(4) The dog or cat can be easily and quickly removed from the enclosure in an emergency;

(5) Unless the enclosure is permanently affixed to the conveyance, adequate devices such as handles or handholds are provided on its exterior, and enable the enclosure to be lifted without tilting it, and ensure that anyone handling the enclosure will not come into physical contact with the animal contained inside;

(6) Unless the enclosure is permanently affixed to the conveyance, it is clearly marked on top and on one or more sides with the words "Live Animals," in letters at least 1 inch (2.5 cm.) high, and with arrows or other markings to indicate the correct upright position of the primary enclosure;

(7) Any material, treatment, paint, preservative, or other chemical used in or on the enclosure is nontoxic to the animal and not harmful to the health or well-being of the animal;

(8) Proper ventilation is provided to the animal in accordance with paragraph (c) of this section; and

(9) The primary enclosure has a solid, leak-proof bottom or a removable, leak-proof collection tray under a slatted or mesh floor that prevents seepage of waste products, such as excreta and body fluids, outside of the

enclosure. If a slatted or mesh floor is used in the enclosure, it must be designed and constructed so that the animal cannot put any part of its body between the slats or through the holes in the mesh. Unless the dogs and cats are on raised slatted floors or raised floors made of mesh, the primary enclosure must contain enough previously unused litter to absorb and cover excreta. The litter must be of a suitably absorbent material that is safe and nontoxic to the dogs and cats.

(b) Cleaning of primary enclosures. A primary enclosure used to hold or transport dogs or cats in commerce must be cleaned and sanitized before each use in accordance with the methods provided in § 3.11(b)(3) of this subpart. If the dogs or cats are in transit for more than 24 hours, the enclosures must be cleaned and any litter replaced, or other methods, such as moving the animals to another enclosure, must be utilized to prevent the soiling of the dogs or cats by body wastes. If it becomes necessary to remove the dog or cat from the enclosure in order to clean, or to move the dog or cat to another enclosure, this procedure must be completed in a way that safeguards the dog or cat from injury and prevents escape.

(c) Ventilation.

(1) Unless the primary enclosure is permanently affixed to the conveyance, there must be:

(i) Ventilation openings located on two opposing walls of the primary enclosure and the openings must be at least 16 percent of the surface area of each such wall, and the total combined surface area of the ventilation openings must be at least 14 percent of the total combined surface area of all the walls of the primary enclosure; or

(ii) Ventilation openings on three walls of the primary enclosure, and the openings on each of the two opposing walls must be at least 8 percent of the total surface area of the two walls, and the ventilation openings on the third wall of the primary enclosure must be at least 50 percent of the total surface area of that wall, and the total combined surface area of the ventilation openings must be at least 14 percent of the total combined surface area of all the walls of the primary enclosure; or

(iii) Ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each of the four walls must be at least 8 percent of the total surface area of each such wall, and the total combined surface area of the openings must be at least 14 percent of total combined surface area of all the walls of the primary enclosure; and

(iv) At least one-third of the ventilation area must be located on the upper half of the primary enclosure.

(2) Unless the primary enclosure is permanently affixed to the conveyance, projecting rims or similar devices must be located on the exterior of each enclosure wall having a ventilation opening, in order to prevent obstruction of the openings. The projecting rims or similar devices must be large enough to provide a minimum air circulation space of 0.75 in. (1.9 cm) between the primary enclosure and anything the enclosure is placed against.

(3) If a primary enclosure is permanently affixed to the primary conveyance so that there is only a front ventilation opening for the enclosure, the primary enclosure must be affixed to the primary conveyance in such a way that the front ventilation opening cannot be blocked, and the front ventilation opening must open directly to an unobstructed aisle or passageway inside the conveyance. The ventilation opening must be at least 90 percent of the total area of the front wall of the enclosure, and must be covered with bars, wire mesh, or smooth expanded metal having air spaces.

(d) Compatibility.

(1) Live dogs or cats transported in the same primary enclosure must be of the same species and be maintained in compatible groups, except that dogs and cats that are private pets, are of comparable size, and are compatible, may be transported in the same primary enclosure.

(2) Puppies or kittens 4 months of age or less may not be transported in the same primary enclosure with adult dogs or cats other than their dams.

(3) Dogs or cats that are overly aggressive or exhibit a vicious disposition must be transported individually in a primary enclosure.

(4) Any female dog or cat in heat (estrus) may not be transported in the same primary enclosure with any male dog or cat.

(e) Space and placement.

(1) Primary enclosures used to transport live dogs and cats must be large enough to ensure that each animal contained in the primary enclosure has enough space to turn about normally while standing, to stand and sit erect, and to lie in a natural position.

(2) Primary enclosures used to transport dogs and cats must be positioned in the primary conveyance so as to provide protection from the elements.

(f) Transportation by air.

(1) No more than one live dog or cat, 6 months of age or older, may be transported in the same primary enclosure when shipped via air carrier.

(2) No more than one live puppy, 8 weeks to 6 months of age, and weighing over 20 lbs (9 kg), may be transported in a primary enclosure when shipped via air carrier.

(3) No more than two live puppies or kittens, 8 weeks to 6 months of age, that are of comparable size, and weighing 20 lbs (9 kg) or less each, may be transported in the same primary enclosure when shipped via air carrier.

(4) Weaned live puppies or kittens less than 8 weeks of age and of comparable size, or puppies or kittens that are less than 8 weeks of age that are littermates and are accompanied by their dam, may be transported in the same primary enclosure when shipped to research facilities, including Federal research facilities.

(g) Transportation by surface vehicle or privately owned aircraft.

(1) No more than four live dogs or cats, 8 weeks of age or older, that are of comparable size, may be transported in the same primary enclosure when shipped by surface vehicle (including ground and water transportation) or privately owned aircraft, and only if all other requirements of this section are met.

(2) Weaned live puppies or kittens less than 8 weeks of age and of comparable size, or puppies or kittens that are less than 8 weeks of age that are littermates and are accompanied by their dam, may be transported in the same primary enclosure when shipped to research facilities, including Federal research facilities, and only if all other requirements in this section are met.

(h) Accompanying documents and records. Shipping documents that must accompany shipments of dogs and cats may be held by the operator of the primary conveyance, for surface transportation only, or must be securely attached in a readily accessible manner to the outside of any primary enclosure that is part of the shipment, in a manner that allows them to be detached for examination and securely reattached, such as in a pocket or sleeve. Instructions for administration of drugs, medication, and other special care must be attached to each primary enclosure in a manner that makes them easy to notice, to detach for examination, and to reattach securely. Food and water instructions must be attached in accordance with [§ 3.13\(c\)](#).

(Approved by the Office of Management and Budget under control number 0579-0093)

§ 3.15 Primary conveyances (motor vehicle, rail, air, and marine).

(a) The animal cargo space of primary conveyances used to transport dogs and cats must be designed, constructed, and maintained in a manner that at all times protects the health and well-being of the animals transported in them, ensures their safety and comfort, and prevents the entry of engine exhaust from the primary conveyance during transportation.

(b) The animal cargo space must have a supply of air that is sufficient for the normal breathing of all the animals being transported in it.

(c) Each primary enclosure containing dogs or cats must be positioned in the animal cargo space in a manner that provides protection from the elements and that allows each dog or cat enough air for normal breathing.

(d) During air transportation, dogs and cats must be held in cargo areas that are heated or cooled as necessary to maintain an ambient temperature and humidity that ensures the health and well-being of the dogs or cats. The cargo areas must be pressurized when the primary conveyance used for air transportation is not on the ground, unless flying under 8,000 ft. Dogs and cats must have adequate air for breathing at all times when being transported.

(e) During surface transportation, auxiliary ventilation, such as fans, blowers or air conditioning, must be used in any animal cargo space containing live dogs or cats when the ambient temperature within the animal cargo space reaches 85 °F (29.5 °C). Moreover, the ambient temperature may not exceed 85 °F (29.5 °C) for a period of more than 4 hours; nor fall below 45 °F (7.2 °C) for a period of more than 4 hours. The preceding requirements are in addition to, not in place of, all other requirements pertaining to climatic conditions in parts 2 and 3 of this chapter.

(f) Primary enclosures must be positioned in the primary conveyance in a manner that allows the dogs and cats to be quickly and easily removed from the primary conveyance in an emergency.

(g) The interior of the animal cargo space must be kept clean.

(h) Live dogs and cats may not be transported with any material, substance (e.g., dry ice) or device in a manner that may reasonably be expected to harm the dogs and cats or cause inhumane conditions.

§ 3.16 Food and water requirements.

(a) Each dog and cat that is 16 weeks of age or more must be offered food at least once every 24 hours. Puppies and kittens less than 16 weeks of age must be offered food at least once every 12 hours. Each dog and cat must be offered potable water at least once every 12 hours. These time periods apply to dealers, exhibitors, research facilities, including Federal research facilities, who transport dogs and cats in their own primary conveyance, starting from the time the dog or cat was last offered food and potable water before transportation was begun. These time periods apply to carriers and intermediate handlers starting from the date and time stated on the certificate provided under § 3.13(c) of this subpart. Each dog and cat must be offered food and potable water within 4 hours before being transported in commerce. Consignors who are subject to the Animal Welfare regulations (9 CFR parts 1, 2, and 3) must certify that each dog and cat was offered food and potable water within the 4 hours preceding delivery of the dog or cat to a carrier or intermediate handler for transportation in commerce, and must certify the date and time the food and potable water was offered, in accordance with § 3.13(c) of this subpart.

(b) Any dealer, research facility, including a Federal research facility, or exhibitor offering any dog or cat to a carrier or intermediate handler for transportation in commerce must securely attach to the outside of the primary enclosure used for transporting the dog or cat, written instructions for the in-transit food and water requirements for a 24-hour period for the dogs and cats contained in the enclosure. The instructions must be attached in a manner that makes them easily noticed and read.

(c) Food and water receptacles must be securely attached inside the primary enclosure and placed so that the receptacles can be filled from outside the enclosure without opening the door. Food and water containers must be designed, constructed, and installed so that a dog or cat cannot leave the primary enclosure through the food or water opening.

(Approved by the Office of Management and Budget under control number 0579-0093)

[FN1] These minimum standards apply only to live dogs and cats, unless stated otherwise.

Code of Federal Regulations [Currentness](#)

§ 3.17 Care in transit.

(a) Surface transportation (ground and water). Any person subject to the Animal Welfare regulations transporting dogs or cats in commerce must ensure that the operator of the conveyance, or a person accompanying the operator, observes the dogs or cats as often as circumstances allow, but not less than once every 4 hours, to make sure they have sufficient air for normal breathing, that the ambient temperature is within the limits provided in [§ 3.15\(e\)](#), and that all applicable standards of this subpart are being complied with. The regulated person must ensure that the operator or person accompanying the operator determines whether any of the dogs or cats are in obvious physical distress and obtains any veterinary care needed for the dogs or cats at the closest available veterinary facility.

(b) Air transportation. During air transportation of dogs or cats, it is the responsibility of the carrier to observe the dogs or cats as frequently as circumstances allow, but not less than once every 4 hours if the animal cargo area is accessible during flight. If the animal cargo area is not accessible during flight, the carrier must observe the dogs or cats whenever they are loaded and unloaded and whenever the animal cargo space is otherwise accessible to make sure they have sufficient air for normal breathing, that the animal cargo area meets the heating and cooling requirements of [§ 3.15\(d\)](#), and that all other applicable standards of this subpart are being complied with. The carrier must determine whether any of the dogs or cats are in obvious physical distress, and arrange for any needed veterinary care as soon as possible.

(c) If a dog or cat is obviously ill, injured, or in physical distress, it must not be transported in commerce, except to receive veterinary care for the condition.

(d) Except during the cleaning of primary enclosures, as required in [§ 3.14\(b\)](#) of this subpart, during transportation in commerce a dog or cat must not be removed from its primary enclosure, unless it is placed in another primary enclosure or facility that meets the requirements of [§ 3.6](#) or [§ 3.14](#) of this subpart.

(e) The transportation regulations contained in this subpart must be complied with until a consignee takes physical delivery of the dog or cat if the animal is consigned for transportation, or until the animal is returned to the consignor.

§ 3.18 Terminal facilities.

(a) Placement. Any person subject to the Animal Welfare regulations (9 CFR parts 1, 2, and 3) must not commingle shipments of dogs or cats with inanimate cargo in animal holding areas of terminal facilities.

(b) Cleaning, sanitization, and pest control. All animal holding areas of terminal facilities must be cleaned and sanitized in a manner prescribed in [§ 3.11\(b\)\(3\)](#) of this subpart, as often as necessary to prevent an accumulation of debris or excreta and to minimize vermin infestation and disease hazards. Terminal facilities must follow an effective program in all animal holding areas for the control of insects, ectoparasites, and birds and mammals that are pests to dogs and cats.

(c) Ventilation. Ventilation must be provided in any animal holding area in a terminal facility containing dogs or cats, by means of windows, doors, vents, or air conditioning. The air must be circulated by fans, blowers, or air conditioning so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans, vents, fans, blowers, or air conditioning must be used in any animal holding area containing dogs and cats, when the ambient temperature is 85 °F (29.5 °C) or higher.

(d) Temperature. The ambient temperature in an animal holding area containing dogs or cats must not fall below 45 °F (7.2 °C) or rise above 85 °F (29.5 °C) for more than four consecutive hours at any time dogs or cats are present. The ambient temperature must be measured in the animal holding area by the carrier, intermediate handler, or a person transporting dogs or cats who is subject to the Animal Welfare regulations (9 CFR parts 1, 2, and 3), outside any primary enclosure containing a dog or cat at a point not more than 3 feet (0.91 m) away from an outside wall of the primary enclosure, and approximately midway up the side of the enclosure. The preceding requirements are in addition to, not in place of, all other requirements pertaining to climatic conditions in parts 2 and 3 of this chapter.

(e) Shelter. Any person subject to the Animal Welfare regulations (9 CFR parts 1, 2, and 3) holding a live dog or cat in an animal holding area of a terminal facility must provide the following:

(1) Shelter from sunlight and extreme heat. Shade must be provided that is sufficient to protect the dog or cat

from the direct rays of the sun.

(2) Shelter from rain or snow. Sufficient protection must be provided to allow the dogs and cats to remain dry during rain, snow, and other precipitation.

(f) Duration. The length of time any person subject to the Animal Welfare regulations (9 CFR parts 1, 2, and 3) can hold dogs and cats in animal holding areas of terminal facilities upon arrival is the same as that provided in § 3.13(f) of this subpart.

§ 3.19 Handling.

(a) Any person subject to the Animal Welfare regulations (9 CFR parts 1, 2, and 3) who moves (including loading and unloading) dogs or cats within, to, or from the animal holding area of a terminal facility or a primary conveyance must do so as quickly and efficiently as possible and must provide the following during movement of the dog or cat:

(1) Shelter from sunlight and extreme heat. Sufficient shade must be provided to protect the dog or cat from the direct rays of the sun. The dog or cat must not be exposed to an ambient air temperature above 85 °F (29.5 °C) for a period of more than 45 minutes while being moved to or from a primary conveyance or a terminal facility. The temperature must be measured in the manner provided in § 3.18(d) of this subpart. The preceding requirements are in addition to, not in place of, all other requirements pertaining to climatic conditions in parts 2 and 3 of this chapter.

(2) Shelter from rain and snow. Sufficient protection must be provided to allow the dogs and cats to remain dry during rain, snow, and other precipitation.

(3) Shelter from cold temperatures. Transporting devices on which live dogs or cats are placed to move them must be covered to protect the animals when the outdoor temperature falls below 50 °F (10 °C). The dogs or cats must not be exposed to an ambient temperature below 45 °F (7.2 °C) for a period of more than 45 minutes, unless they are accompanied by a certificate of acclimation to lower temperatures as provided in § 3.13(e). The temperature must be measured in the manner provided in § 3.18(d) of this subpart. The preceding requirements are in addition to, not in place of, all other requirements pertaining to climatic conditions in parts 2 and 3 of this chapter.

(b) Any person handling a primary enclosure containing a dog or cat must use care and must avoid causing physical harm or distress to the dog or cat.

(1) A primary enclosure containing a live dog or cat must not be placed on unattended conveyor belts, or on elevated conveyor belts, such as baggage claim conveyor belts and inclined conveyor ramps that lead to baggage claim areas, at any time; except that a primary enclosure may be placed on inclined conveyor ramps used to load and unload aircraft if an attendant is present at each end of the conveyor belt.

(2) A primary enclosure containing a dog or cat must not be tossed, dropped, or needlessly tilted, and must not be stacked in a manner that may reasonably be expected to result in its falling. It must be handled and positioned in the manner that written instructions and arrows on the outside of the primary enclosure indicate.

(c) This section applies to movement of a dog or cat from primary conveyance to primary conveyance, within a primary conveyance or terminal facility, and to or from a terminal facility or a primary conveyance.

(Approved by the Office of Management and Budget under control number 0579–0093)

[FN1] These minimum standards apply only to live dogs and cats, unless stated otherwise.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
NA					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Bureau of Health Licensure and Regulation, Division of Animal Welfare on 12/17/09 and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: October 9, 2009

Rulemaking Hearing(s) Conducted on: (add more dates). December 17, 2009

Date: 4/5/10

Signature: Alison G. Cleaves

Name of Officer: Alison G. Cleaves
Deputy General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 4/5/10

Notary Public Signature: Theodora P. Wilkins

My commission expires on: 7/1/2011



All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.
Attorney General and Reporter
4-18-10
Date

Department of State Use Only

Filed with the Department of State on: 4/22/10

Effective on: 7/21/10

Tre Hargett
Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

PUBLIC HEARING COMMENTS

RULEMAKING HEARING

Division of Animal Welfare Bureau of Health Licensure and Regulation

Chapter 1200-33-01 Commercial Breeders

The Division received eight (8) written comments from the public prior to the December 17, 2009 rulemaking hearing. There were six (6) verbal comments received at the rulemaking hearing. Representative Sontany made a written comment before and verbal comments during the rulemaking hearing addressing the standards of care relative to the animals. In particular, Representative Sontany wanted the animals to be able to move about freely, wanted the enclosures for the animals to have a solid floor without slats or gaps, wanted the enclosure to be elevated above the floor or ground, did not want the enclosures to be stacked, wanted the premises to be protected from temperature extremes and wanted sanitation requirements and exercise for the animals.

Angela Shubert also made a written comment before the hearing and a verbal comment during the hearing. Ms. Shubert inquired about whether the initial licensure fee was nonrefundable; the Division indicated to her that generally, those fees are nonrefundable. She also inquired about whether there would be a transition period for commercial breeders to become licensed and comply with the law; the Division indicated to her that there would be a transition period for compliance. Ms. Shubert inquired about whether a commercial breeder could dispose of his or her animals as they choose; the Division indicated that as long as the breeder owned the animals, the breeder could dispose of the animal as long as it does not violate any laws or rules. Ms. Shubert asked about the Department inspector's ability to photograph the premises during an inspection. In response, the Division indicated that an inspector may need to photograph the premises should the inspector determine that there may be a violation.

Barbara Chiger made a verbal comment at the rulemaking hearing indicating that she was concerned about the Department of Health implementing and administering this program, inquiring further about staff qualifications. In response, the Division indicated to her that we were implementing the law that was enacted by the General Assembly and that the director of this program would be a licensed veterinarian. Ms. Chiger also indicated that she wanted the commercial breeder title changed; in response, we indicated that we would need to license persons using the title contained in the law.

Becky Harstat made a verbal comment at the rulemaking hearing indicating that she was not a commercial breeder, but that she was a show breeder who trained companion dogs.

Dale Bartlett from the United States Humane Society made a verbal comment at the rulemaking hearing stating that the rules which addressed the physical premises for the animals did not meet the intent of the law and that he would like to see the standards of care strengthened. In response, the Division indicated that the law created regulation of companion animal premises and not the condition of the animals.

The Division also received written comments from the following individuals without any verbal comments made at the rulemaking hearing: Christy (last name unknown) stated that the commercial breeder law went too far and would put good breeders out of business. In response, the Division indicated that the rulemaking hearing was about the rules. This comment was about the law, which cannot be changed in the rulemaking hearing; Rebecca Trollinger stated that she did not want us to pass the commercial breeder law and that the law was an unnecessary governmental intrusion. In response, the Division indicated that the rulemaking hearing was about the rules. This comment was about the law, which cannot be changed in the rulemaking hearing; Ruth Barham

stated that it is an invasion of privacy for the State to ask for the names of the individuals who buy from or sell to commercial breeders. In response, the Division indicated that this requirement is contained in the law (Tenn. Code Ann. §44-17-707). Ms. Barham also asked if the State would allow hobby breeders not to obtain licensure as long as they do not own twenty (20) or more unsprayed cats or dogs. In response, the Division indicated that an individual would only need to obtain licensure as a commercial breeder if the individual met the statutory requirements.

Barbara Thomas submitted a written statement prior to the rulemaking hearing and indicated in her comments that those persons seeking a commercial breeder license should be required to take a basic course in animal husbandry with an examination. In response, the law implementing the Commercial Breeder Act does not require that a commercial breeder take a certain education course as a prerequisite to obtaining licensure. Also, the law regulates the animal premises and not the individual qualifications of a commercial breeder; Donna FeFee from the German Shepherd Dog Club of East Tennessee, Inc. and Jon Cole from the Tennessee Federation of Dog Clubs submitted the same written comment providing inquiring as to whether the names, locations, and licensure status of applicants will be available online. In response, applicant names, locations and status will be available as a public record. Ms. FeFee also inquired about the specific procedures that inspectors will follow in order to eliminate or minimize the likelihood of carrying disease from one facility to another. In response, we indicated that while this does not need to be part of this rulemaking, training can be provided to the inspectors, which could include sanitation requirements. Ms. FeFee further inquired about what constitutes "normal business hours" in the context of inspections that will be performed and if the absence of a commercial breeder for an unannounced visit would constitute a violation. In response, "normal business hours" would be those hours when the inspector would be working, but the inspector could use his or her discretion to accommodate an inspection outside of normal business hours. In the event that a commercial breeder is not on the premises at the time of an unannounced visit, this alone, would not constitute a violation of laws and rules. Ms. Fefee also expressed concerns about their being a transition period during which time the commercial breeders could comply with the law and using the federal standards as the standards of care contained in the rules. Ms. Fefee suggested a change to the rule that required all employees of the commercial breeder to complete a criminal background check to only requiring a check for those employees who have direct contact with the animals. Ms. Fefee also expressed concern that copies of records requested by the Department would become a public record and that copies could be obtained by the Department inspector upon request. Ms. Fefee also commented about the timeframe for the maintenance of records and recordkeeping requirements.

At the conclusion of the December 17, 2009 rulemaking hearing, the comment period for the submission of comments from the public was held open until January 19, 2010. During the extended comment period, the Department received two (2) additional comments, one (1) from Representative Janis Sontany and the other from Sherry Lynn Rout from The American Society for the Prevention of Cruelty to Animals. Representative Sontany commented that she would like to have a no contest plea to any violation of state or federal law pertaining to animal cruelty added to the basis for denying or disciplining a commercial breeder license. She also suggested the inclusion of the federal regulations into our state rules relative to the veterinary care of injured animals and an exercise plan for the animals. Ms. Rout commented that the federal standards relative to premises for animals are inadequate to ensure the health and well-being of the animals. Ms. Rout suggested the following changes to the rules relative to the premises; specifically, that the enclosures for the animals not be stacked on top of one another; that the enclosures not have slatted floors ;and that the animals be afforded enough lighting, ventilation, and cage space. Ms. Rout also commented that food and water should be free of contaminates, that the animals should receive proper exercise, that the animals should not be bred too frequently, and that the animals should receive veterinary care where appropriate.

Regulatory Flexibility Addendum

Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

Regulatory Flexibility Analysis

Commercial Breeder Act Chapter 1200-33-01

- (1) The extent to which the rule or rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

The new rules do not overlap, duplicate, or conflict with other federal, state, and local governmental rules, but the rules are consistent with the federal rules relative to commercial breeder premises contained in 9 CFR §3.1 through 3.19.

- (2) Clarity, conciseness, and lack of ambiguity in the rule or rules.**

The new rules exhibit clarity, conciseness, and lack of ambiguity.

- (3) The establishment of flexible compliance and/or reporting requirements for small businesses.**

The new rules contain reporting requirements that apply to all licensed commercial breeders regardless of the size of the business that they operate.

- (4) The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.**

The new rules contain reporting requirements that apply to all licensed commercial breeders regardless of the size of the business that they operate.

- (5) The consolidation or simplification of compliance or reporting requirements for small businesses.**

The new rules contain reporting requirements that apply to all licensed commercial breeders regardless of the size of the business that they operate.

- (6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.**

The rules establish standards of care relative to commercial breeder premises that are consistent the federal rules contained in 9 CFR §3.1 through 3.19.

- (7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.**

The new rules do not create unnecessary entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

Economic Impact Statement

Commercial Breeder Act Chapter 1200-33-01

- (1) **The type or types of small businesses and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.**

All persons operating as commercial breeders, whether they are operating a small or a large business, are required to obtain licensure from the Commissioner of Health and comply with applicable laws and rules. We are unaware of the number of potential licensees.

- (2) **The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule that would bear the cost of, or indirectly benefit from the proposed rule.**

The new rules contain reporting requirements that apply to all licensed commercial breeders regardless of the size of the business that they operate.

- (3) **A statement of the probable effect on impacted small businesses and consumers.**

The new rules will impact all persons operating as a commercial breeder regardless of whether they operate a small or a large business.

- (4) **A description or any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.**

There is no less burdensome, less intrusive or less costly alternative methods of implementing the law.

- (5) **A comparison of the proposed rule with any federal or state counterparts.**

The new rules reference the federal guidelines (9 CFR §3.1 through 3.19) in the standards of care with which a licensed commercial breeder must comply.

- (6) **Analysis of the effect of the possible exemption of small businesses from all of any part of the requirements contained in the proposed rule.**

Regardless of whether the commercial breeder operates a small or a large business, all commercial breeders must comply with the mandates in the law.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rule 1200-33-01.01 Purpose provides that the purpose of the new rules is to implement the Commercial Breeder Act contained in Tenn. Code Ann. Section 44-17-701, et. seq.

Rule 1200-33-01-.02 Definitions provides the definitions needed for the promulgation of rules and the implementation of the Commercial Breeder Act. Because the purpose of the Commercial Breeder Act is to regulate the premises of the dogs and cats bred, the rules define "premises" to mean the indoor or outdoor facilities where the dogs and cats receive shelter, food and other care as well as the real property on which the facilities are located.

Rule 1200-33-01-.03 Application for Licensure provides that in order to apply for a license as a commercial breeder, an applicant must complete and submit a form prescribed by the Commissioner. In the event that an application for licensure lacks the required information or reflects a failure to meet any of the requirements of licensure, then it will be returned to the applicant with notification of what information is lacking providing the applicant an opportunity to provide the information that is needed.

Rule 1200-33-01-.04 Licensure and Renewal provides that in order to obtain licensure as a commercial breeder, the applicant must submit a completed application, with an initial licensing fee and the results of a criminal background check. The applicant must also submit the results of the criminal background checks of employees who have direct contact with the dogs or cats. The applicant must also show proof that he or she possesses or maintains, under his or her immediate control, twenty (20) or more unsterilized adult female dogs or cats for the purpose of selling the offspring as companion animals (statutory definition contained in Tenn. Code Ann. Section 44-17-702(3)); that the applicant has a valid sales tax registration number and is in good standing with the Department of Revenue; that the applicant has never been convicted of a violation of Tenn. Code Ann. Section 39-14-212 or convicted of any other criminal offense involving an animal within ten (10) years immediately preceding the date of application; the applicant does not operate or maintain a controlling interest in any releasing agency; and that the premises where the dogs and cats will be maintained will comply with the federal regulations relative to animal breeding premises.

The rule also provides that a commercial breeder license shall be renewed on an annual basis as provided in statute (Tenn. Code Ann. Section 44-17-705(a)). In the event that a licensee does not renew his or her license before its expiration, then the licensee may reapply for licensure by submitting a new application. A licensee may renew his or her license by submitting a renewal application and fee to the Commissioner no earlier than one hundred and twenty (120) days and no later than thirty (30) days prior to the expiration date of the license.

Rule 1200-33-01-.05 Fees provides that the initial licensure and renewal fees will be the same depending on the number of dogs and cats in the commercial breeder's possession.

Rule 1200-33-01-.06 Annual Report provides that each licensee shall submit an annual report as required by Tenn. Code Ann. Section 44-17-707 by July 1st of each year to the Commissioner.

Rule 1200-33-01-.07 Inspection of Premises and Access to Records provides that in conducting an inspection or reinspection of the licensee's premises, the licensee shall allow the Department of Health inspectors the ability to photograph the premises and the dogs and cats, if necessary as part of the inspection process. The rule also provides that each licensee shall provide any documentation requested by the Department inspectors in conducting an inspection or reinspection.

Relative to the access to records, the rule provides that in conducting an inspection or reinspection of premises, the licensee shall provide certain records to the inspector upon request, including, but not limited to the date the each dog or cat was acquired, bred and sold or given away from the premises; the name and address of the person who acquired the animal; the date each animal was acquired and removed; a description of each animal; the name and address of the person to whom the animal was sold or given; any documentation of the condition of the animals as it relates to the premises; and any documentation from a licensed veterinarian as required by federal regulations.

Rule 1200-33-01-.08 Standards of Care provides that each licensee shall comply with the federal rules relative to animal premises contained in 9 CFR Section 3.1 through 3.19. The rule also provides that each licensee shall ensure that any act that constitutes the practice of veterinary medicine will be performed by a licensed veterinarian.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The rules were promulgated to implement Chapter 591 of the 2009 Public Acts, Tenn. Code Ann. Section 44-17-701 through 715.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Those individuals who operate as commercial breeders of dogs or cats will be most directly affected by these rules.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

There are no known Attorney General opinions or judicial rulings relevant to these rules.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The rules should neither decrease nor increase state revenues because the program is expected to be self-sufficient.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Alison G. Cleaves, Deputy General Counsel, Department of Health is the appropriate agency representative possessing substantial knowledge and understanding of the rules.

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Alison G. Cleaves, Deputy General Counsel, Department of Health will explain the rule to the scheduled committees.

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Alison G. Cleaves, Deputy General Counsel, Department of Health, 220 Athens Way, Suite 200, Nashville Tennessee will explain the rule at a scheduled meeting of the Committee. Ms. Cleaves's phone number is (615) 741-1611 and email address is alison.cleaves@tn.gov.

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

Any additional information requested by the Committee relative to the rulemaking hearing rules will be provided upon request.