NEBRASKA ADMINISTRATIVE CODE

TITLE 23, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 18

NEBRASKA DEPARTMENT OF AGRICULTURE

COMMERCIAL DOG AND CAT OPERATOR INSPECTION REGULATIONS

~~August, 2003 Amendment~~

October, 2011 Amendment

NEBRASKA ADMINISTRATIVE CODE

TITLE 23 - NEBRASKA DEPARTMENT OF AGRICULTURE, BUREAU OF ANIMAL INDUSTRY

CHAPTER 18 - COMMERCIAL DOG AND CAT OPERATOR INSPECTION REGULATIONS

NUMERICAL TABLE OF CONTENTS

SUBJECT	STATUTORY AUTHORITY	CODE SECTION
Statement of Purpose	§§54-625 to ~~54-641~~ 54-643	001
Administration	§§54-625 to ~~54-641~~ 54-643	002
Definitions	§§54-625 to ~~54-641~~ 54-643	003
Application for License	§§54-625 to ~~54-641~~ 54-643	004
License Enforcement Actions	§§54-625 to ~~54-641~~ 54-643	005
Inspections and Complaints	§§54-625 to ~~54-641~~ 54-643	006
Humane Handling, Care, Treatment, and Transportation of Dogs and Cats	§§54-625 to ~~54-641~~ 54-643	007
Identification	§§54-625 to ~~54-641~~ 54-643	008
Prohibitions for Stolen Dogs ~~and~~ or Cats	§§54-625 to ~~54-641~~ 54-643	009
Record Keeping	§§54-625 to ~~54-641~~ 54-643	010
Procurement of Dogs and Cats by Dealers and Pet Shops	§§54-625 to ~~54-641~~ 54-643	011
Licensees Restricted in Sales to Dealers	§§54-625 to ~~54-641~~ 54-643	012
Spaying and Neutering	§§54-625 to ~~54-641~~ 54-643	013
Assessment of Administrative Fines	§§54-625 to 54-643	014
Fine Assignment Schedule Tables	§§54-625 to 54-643	015
Fines and Remedies	§§54-625 to 54-643	016
Publications Adopted	§§54-625 to ~~54-641~~ 54-643	~~014~~ 017
Annotation	§§54-625 to ~~54-641~~ 54-643	~~015~~ 018

NEBRASKA ADMINISTRATIVE CODE

TITLE 23 - NEBRASKA DEPARTMENT OF AGRICULTURE, BUREAU OF ANIMAL INDUSTRY

CHAPTER 18 - COMMERCIAL DOG AND CAT OPERATOR INSPECTION REGULATIONS

ALPHABETICAL TABLE OF CONTENTS

SUBJECT	STATUTORY AUTHORITY	CODE SECTION
Administration	§§54-625 to ~~54-641~~ 54-643	002
Annotation	§§54-625 to ~~54-641~~ 54-643	~~015~~ 018
Application For License	§§54-625 to ~~54-641~~ 54-643	004
Assessment of Administrative Fines	§§54-625 to 54-643	014
Definitions	§§54-625 to ~~54-641~~ 54-643	003
Fine Assignment Schedule Tables	§§54-625 to 54-643	015
Fines and Remedies	§§54-625 to 54-643	016
Humane Handling, Care, Treatment, and Transportation of Dogs and Cats	§§54-625 to ~~54-641~~ 54-643	007
Identification	§§54-625 to ~~54-641~~ 54-643	008
Inspections and Complaints	§§54-625 to ~~54-641~~ 54-643	006
License Enforcement Actions	§§54-625 to ~~54-641~~ 54-643	005
Licensees Restricted in Sales to Dealers	§§54-625 to ~~54-641~~ 54-643	012
Procurement of Dogs and Cats by Dealers and Pet Shops	§§54-625 to ~~54-641~~ 54-643	011
Prohibitions for Stolen Dogs ~~and~~ or Cats	§§54-625 to ~~54-641~~ 54-643	009
Publications Adopted	§§54-625 to ~~54-641~~ 54-643	~~014~~ 017
Record Keeping	§§54-625 to ~~54-641~~ 54-643	010
Spaying and Neutering	§§54-625 to ~~54-641~~ 54-643	013
Statement of Purpose	§§54-625 to ~~54-641~~ 54-643	001

NEBRASKA ADMINISTRATIVE CODE

LAST DATE AMENDED: ~~July 21, 2001~~ March 22, 2004

TITLE 23 - DEPARTMENT OF AGRICULTURE, BUREAU OF ANIMAL INDUSTRY

CHAPTER 18 - COMMERCIAL DOG AND CAT OPERATOR INSPECTION REGULATIONS

001 Statement of Purpose. The purpose of these regulations is to aid in the administration of the Commercial Dog and Cat Operator Inspection Act, Neb. Rev. Stat. §§54-625 to ~~54-641~~ 54-643.

002 Administration. These regulations shall be administered by the Department of Agriculture's Bureau of Animal Industry located in the State Office Building, Fourth Floor, 301 Centennial Mall South, Lincoln, Nebraska. The mailing address is P.O. Box 94787, Lincoln, Nebraska 68509-4787. The telephone number is (402) 471-2351; Fax number (402) 471-6893.

003 Definitions. The definition of terms found in the Commercial Dog and Cat Operator Inspection Act §§54-625 to ~~54-641~~ 54-643 and below shall apply to such terms when found in these regulations.

003.01 ACT means the Commercial Dog and Cat Operator Inspection Act, §§54-625 to ~~54-641~~ 54-643.

003.02 ANIMAL means dogs, cats, and pet animals.

003.03 CAGE CARD means a card that is at least 3 inches by 5 inches in size, made of a durable material or enclosed in a transparent, protective cover, and contains the name or individual identification number of the dog or cat, including a complete description of such dog or cat.

003.04 COMPLETE DESCRIPTION of a dog or cat shall include the breed or type; the sex; the date of birth or approximate age; the weight or approximate size; color; and any distinctive markings.

003.05 DISPOSED OF AND DISPOSITION means the sale, lease, exchange, barter, or any other transfer of a dog or cat, including death or euthanasia.

003.06 EMPLOYEE means any paid or unpaid individual or individuals assisting a licensee in the handling and care of the licensee's dogs or cats.

003.07 HANDLING means petting, feeding, watering, cleaning, manipulating, loading, crating, shifting, transferring, immobilizing, restraining, treating, training, working or moving, walking or exercising, or any similar activity with respect to any dog or cat.

003.08 HUMANE HANDLING, CARE, TREATMENT, AND TRANSPORTATION means the minimum requirements necessary for a dog's or cat's handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperatures, transport in commerce, adequate veterinary care, and exercise for dogs pursuant to the Act, these regulations, and 9 C.F.R. §§3.1 to 3.19.

003.09 INDIVIDUAL IDENTIFICATION means an identification method used to identify an individual dog or cat. Approved forms of individual identification shall include tags, tattoos, microchips or cage cards containing a number or name for each dog or cat, or any other method approved by the Department.

003.10 MEDICAL PROCEDURE means vaccinations, worming treatments, x-rays, surgery, medications administered, individual physical examinations, or other similar veterinary medical treatment.

003.11 ~~003.02~~ PERSON means any individual, partnership, limited liability company, association, corporation, joint-stock company, political body, society, community, the public generally or organized group of persons, whether incorporated or not.

003.12 STATEMENT OF INFERTILITY means a statement signed by a veterinarian licensed to practice in Nebraska expressing the opinion that a specific dog or cat is infertile, or is not capable of initiating, sustaining, or supporting reproduction. The Statement of Infertility form is attached as Appendix G.

003.13 *TUFTS ANIMAL CARE AND CONDITION SCALES FOR ASSESSING BODY CONDITION, WEATHER AND ENVIRONMENTAL SAFETY, AND PHYSICAL CARE IN DOGS: SECTION II, Weather Safety Scale (Tufts Weather Safety Scale)* means the guidelines used to objectively assess the health or safety risk of a dog during adverse weather conditions. A copy of these guidelines, as they existed on January 1, 2010, is attached as Appendix F, and incorporated herein by reference.

004 Application For License. All persons operating a boarding kennel, pet shop, animal control facility, animal rescue, animal shelter, or acting as a dealer or commercial breeder shall have a valid license issued by the Department in accordance with the act and regulations.

004.01 ~~Any person operating a boarding kennel or acting as a dealer or commercial breeder shall have a valid license issued by the department in accordance with the act and regulations. As of October 1, 2003, any person operating an animal control facility or animal shelter shall have a valid license issued by the department in accordance with the act and regulations. As of January 1, 2004, any person operating a pet shop shall have a valid license issued by the department in accordance with the act and regulations.~~ Any person applying for a license under the provisions of the act and regulations shall apply on an application form furnished by the Department. The applicant shall provide all information requested on the application form, including a valid mailing address through which the licensee or applicant can always be reached, and a valid premises address where dogs, cats, pet animals, dog and cat facilities, equipment, and records may be inspected for compliance. The applicant shall list on the application form or on a separate sheet attached to it, the premises, facilities or sites where a person operates, houses, has an interest in or keeps

dogs, cats, and pet animals. The applicant shall file the completed application form with the Department. Application forms may be obtained by contacting the Department of Agriculture's Bureau of Animal Industry.

~~004.02 Any person seeking a license under the provisions of the act and regulations shall apply on an application furnished by the department. The applicant shall provide all information requested on the application, including a valid mailing address through which the licensee or applicant can always be reached, and a valid premises address where dogs or cats, dog and cat facilities, equipment and records may be inspected for compliance. All premises, facilities or sites where a person operates, has an interest in or keeps dogs and cats shall be shown on the application or on a separate sheet attached to it. The applicant shall file the completed application with the department. Applications must be accompanied with the appropriate fee as required in the act and regulations. Applications may be obtained by contacting the Department of Agriculture's Bureau of Animal Industry, located in the State Office Building, Fourth Floor, 301 Centennial Mall South, Lincoln, Nebraska. The mailing address is P.O. Box 94787, Lincoln, Nebraska 68509-4787.~~

004.02 ~~004.03~~ An applicant shall obtain a separate license for each separate physical facility requiring a license according to the act and regulations. For purposes of licensure, a separate physical facility is one which is not located on the same or adjacent parcels of land.

004.03 ~~004.04~~ Any person exempt from the license requirements may voluntarily apply for a license, but shall agree in writing to comply with the requirements set forth in the act and regulations~~, the specifications for the humane handling of dogs and cats as set forth in subsection 007.01~~. The voluntary licensee is subject to the same inspection and enforcement actions as any other licensee. ~~A voluntary license may be surrendered at any time the licensee so desires.~~

004.04 ~~004.05~~ Before the ~~department~~ Department ~~approves an application for~~ issues an initial license, the application and required fee must be received and an inspector of the ~~department~~ Department ~~may~~ shall inspect the operation of the applicant to determine whether the applicant qualifies to hold a license pursuant to the Commercial Dog and Cat Operator Inspection Act. ~~An applicant who qualifies shall be issued a license, after paying the required annual license fee, any applicable penalty, and after passing any inspection conducted by the~~

~~department.~~ The initial license fee of one hundred twenty-five dollars ($125) shall only apply to a first-time applicant. If an applicant was previously licensed pursuant to the act, and such license expired, was revoked or voluntarily relinquished, such applicant shall not be considered a first time applicant.

004.05 ~~004.06~~ A license shall be issued to specific persons for specific premises, facilities and operations, and does not transfer upon change of ownership or any other change of business or operation nor is it valid at a different location.

004.06 ~~004.07~~ There shall be no refund of fees if an applicant does not pass the qualifying inspection, or if a license is terminated for any reason before its expiration.

004.07 ~~004.08~~ Licensees shall accept delivery of registered mail or certified mail sent by the ~~department~~ Department.

004.08 ~~004.09~~ Licenses for commercial breeders, dealers, pet shops, and boarding kennels shall expire on March 31 of each year. Licenses for animal rescues, animal shelters, and animal control facilities shall expire on ~~September 30, 2004 and on~~ September 30 each year ~~thereafter~~. ~~Licenses for pet shops shall expire on March 31, 2005 and on March 31 each year thereafter~~. Licenses shall ~~automatically~~ terminate at midnight on the expiration date unless the properly completed application with the appropriate fee has been received by the ~~department~~ Department. A person whose license has been ~~automatically~~ terminated shall not conduct any activity for which a license is required by the act and regulations until requirements for issuing the license have been met and a valid license has been duly issued.

~~004.10 Any person who seeks the reinstatement of a license that has been automatically terminated shall follow the procedure applicable to new applicants for a license.~~

004.09 ~~004.11~~ A license which ~~is invalid~~ has expired, been revoked, or voluntarily relinquished under the act and regulations shall be surrendered to the ~~department~~ Department. The licensee shall provide a written statement to the ~~director~~ Director, if the license has been lost or misplaced.

004.10 ~~004.12 Each applicant shall submit the total number of dogs and cats sold, traded, bartered, brokered, given away, boarded or leased during the previous calendar year and any other information required on the application.~~ Each applicant shall make, keep, and maintain:

004.10A Records as required under section 010;

004.10B Any other information requested by the Department on the application or renewal form.

004.11 ~~004.13~~ A licensee shall notify the ~~department~~ Department in writing of any change in the name, address, management, control or ownership of the business or operation, or of additional sites, within ten (10) days of the change.

~~004.14 The license shall be renewed annually pursuant to the requirements of the act and the regulations.~~

005 License Enforcement Actions.

005.01 The ~~director~~ Director may deny issuing or renewing or may revoke~~,~~ or suspend a license, or place on probation~~,~~ a ~~license~~ licensee on any one (1) or more of the following grounds:

005.01A ~~Material and deliberate misstatement on the application for any original license or for any renewal license;~~ Deliberate misrepresentation or concealment, including failure to disclose all locations housing dogs or cats made to employees or agents of the Department or reported on the application;

005.01B Conviction of any violation of any local ordinance, county resolution, or any state or federal law on the disposition or treatment of dogs or cats;

005.01C The failure of any person to comply with any provision of the act and regulations; or

005.01D The refusal to allow the Department ~~an inspector free and unrestricted~~ access to ~~inspect~~ any records for the purpose of examining and copying such records required to be kept under the act and regulations; ~~or any dog or cat, premises, facility, area, equipment or vehicle.~~

005.01E The refusal of a licensee to allow Department employees or agents to enter and inspect all premises in or upon which dogs or cats are housed, sold, exchanged, or leased or are suspected of being housed, sold, exchanged, or leased;

005.01F The refusal of any applicant to allow Department employees or agents access to the premises to be licensed to determine if such applicant meets licensure requirements pursuant to the act and these regulations.

005.01G ~~005.01E~~ Failure to pay any required fees under the act and regulations. Any returned check will be deemed nonpayment of fees.

005.01H Failure to pay any administrative fine levied pursuant to section 54-633.

005.01I Failure to comply with a stop-movement order pursuant to section 54-628.01.

005.02 Licensees whose licenses have been suspended or revoked.

005.02A Any person whose license has been suspended or revoked for any reason shall not be licensed under ~~his or her~~ such licensee's name~~, or in any other manner~~ within the period during which the suspension or revocation is in effect. No partnership, firm, corporation or other legal entity in which any such person has an interest, financial or otherwise, will be licensed during that period.

005.02B Any person who has been an officer, agent, ~~immediate family member~~ or employee of a licensee whose license has been suspended or revoked and who was responsible for or participated in the violation upon which the license was suspended or revoked will not be licensed within the same period during which the suspension or revocation is in effect.

005.03 Any person whose license has been suspended may apply in writing to the ~~director~~ Director for reinstatement of ~~his or her~~ the licensee's license. Any person whose license has been revoked may apply in writing to the Director ~~director~~ for issuance of a new license.

006 Inspections and Complaints.

006.01 All premises licensed under the act and regulations shall be inspected pursuant to §54-628, or as often as determined necessary by the ~~department~~ Department to carry out its duties under the act and regulations. The Department will make two consecutive attempts to conduct an inspection of a licensed premise. If the licensee, or a representative of the licensee, is repeatedly unavailable, or refuses to make its premises available for inspection, the following procedures shall be implemented:

006.01A An Attempted Inspection Notice form, attached as Appendix H, will be posted in a prominent location on the premises, such as the front door of the facility or residence, with instructions to contact the Department within fifteen (15) calendar days of the attempted inspection; and

006.01B If, after the second attempted inspection, the licensee or the licensee's representative has failed to contact the Department as requested, such failure to contact the Department may be considered by the Department as a refusal by the licensee to allow an inspection pursuant to the act. At such time, the Department may obtain an inspection warrant for purposes of inspecting the licensed premises for compliance with the act, these regulations, or both.

006.02 Any inspection conducted under the act will be performed in accordance with ~~subsection 007.01,~~ the act, these regulations, or both.

006.03 All complaints ~~received under~~ alleging a violation of the act, ~~and~~ these regulations, or both, shall be reviewed and evaluated, after which the ~~department~~ Department may assign priorities to the complaints and initiate an inspection. The priorities and inspections shall be conducted in the following descending order when determined by the ~~department~~ Department to be reasonable and logical:

~~006.03A Any complaint indicating dog or cat neglect or abuse which may endanger the health of any dogs or cats.~~

006.03A Any written or signed complaint, including those submitted by facsimile or electronic transmission, indicating that a person is in violation or is suspected to be in violation of the act, these regulations, or both;

006.03B Any complaint from an identified source indicating that a person is in violation or is suspected to be in violation of the act, these regulations, or both; or

~~006.03B Written and signed complaints indicating a violation of the act and regulations.~~

006.03C ~~Anonymous complaints indicating a violation of the act and regulations.~~ Any complaint from an anonymous source indicating a person is in violation, or is suspected to be in violation of the act, these regulations, or both.

006.04 Any complaint indicating a dog or cat is being cruelly neglected or cruelly mistreated, which may endanger the health or safety of such dogs or cats, shall be referred to the law enforcement agency of the county in which the alleged violation is occurring. The Department may inspect such complaints for the purpose of determining if there are any violations of the act, these regulations, or both.

~~006.04 Routine inspections shall be conducted in the following order:~~

~~006.04A Random selection of facilities which are not licensed by the United States Department of Agriculture.~~

~~006.04B Random selection of facilities which are United States Department of Agriculture licensed.~~

007 Humane Handling, Care, Treatment, and Transportation of Dogs and Cats.
~~007.01~~ Licensees shall comply with the requirements of the act and these regulations regarding the humane handling, care, treatment, and transportation of dogs and cats. For the purposes of enforcement of the act and regulations, the ~~department~~ Department adopts the specifications for the humane handling, care, treatment, and transportation of dogs and cats, the standards of the Animal and Plant Health Inspection Service of the United States Department of Agriculture (USDA), as published in 9 C.F.R. §§ 3.1 to 3.19 (~~2003~~ 2011) (a copy of which is attached to ~~the~~ these regulations as Appendix A and

incorporated herein by reference) so long as these standards do not conflict with the act. If there is an inconsistency between the act and 9 C.F.R. §§ 3.1 to 3.19, the act shall control. If there is an inconsistency between 9 C.F.R. §§ 3.1 to 3.19, and these regulations, the regulations shall control. Humane handling, care, treatment, and transportation shall include but not be limited to, the following:

007.01 All dogs and cats shall be provided with food at least one time per day, except as otherwise directed by the attending veterinarian. Such food shall be fresh, wholesome, palatable, and of sufficient quantity and nutritive value to maintain the normal condition and weight of dogs and cats.

007.02 Water shall be continually available to each dog and cat or it must be offered to the dogs and cats as often as necessary to ensure their health or safety, but not less than twice per day for at least one hour each time, unless restricted by the attending veterinarian.

007.03 ~~007.02~~ Attending veterinarian and adequate veterinary care are required for animals under the care, supervision, or control of a commercial breeder, pet shop, or dealer.

007.03A ~~007.02A~~ Each commercial breeder, pet shop, and dealer licensed under the act and regulations shall have a written veterinary care plan with ~~a consulting~~ an attending veterinarian who is licensed to practice in Nebraska. The formal arrangements shall include a written program of veterinary care and regularly scheduled visits to the premises of the licensee. The form entitled, Veterinary Care Plan, incorporated herein by reference, is attached as Appendix I and may be used to satisfy the requirements for a written veterinary care plan.

007.3B ~~007.02B~~ Each commercial breeder, pet shop, and dealer licensed under the act and regulations shall establish, ~~and~~ maintain, and follow programs of adequate veterinary care that include:

007.03B(1) ~~007.02B(1)~~ The availability of appropriate facilities, ~~personnel~~ employees, equipment, and services to comply with the provisions in the act and regulations;

007.03B(2) ~~007.02B(2)~~ The use of appropriate methods to prevent, control, diagnose and treat diseases and injuries, and the availability of emergency, weekend, and holiday care;

007.03B(3) ~~007.02B(3) The maintenance of individual health records on all dogs and cats above the age of eight (8) weeks or that have been weaned or that have been treated with a medical procedure, whichever occurs first. Litter health records may be kept on litters when litter-mates are treated with the same medication or procedure. Health records, or a copy, shall accompany all dogs and cats upon the transfer of ownership;~~ The maintenance of individual health records shall be kept pursuant to subsection 010.06, as follows:

> 007.03B(3)(a) All dogs and cats which are sixteen (16) weeks of age or older;
>
> 007.03B(3)(b) All dogs or cats younger than sixteen (16) weeks of age when permanently transferred from the litter; or
>
> 007.03B(3)(c) Any dog or cat younger than sixteen (16) weeks of age if it received any individual medical procedure, separate from the litter.

007.03B(4) ~~007.02B(4)~~ Daily observation of all dogs and cats to assess their health ~~and well-being~~ or safety. Provided, however, that daily observation of dogs and cats may be accomplished by someone other than the attending veterinarian; and provided further, that a mechanism of direct and frequent communication is required so that timely and accurate information on problems of dog or cat health, behavior, and well-being is conveyed to the attending veterinarian;

007.03B(5) Adequate grooming to avoid matted hair which significantly impairs a dog's health or safety or provides a nesting area for disease carrying pests or parasites.

~~007.02B(5) Adequate training and guidance to personnel involved in the care of dogs and cats. The employer must be certain his or~~

her employees can perform at the level required by the act and regulations; and

007.02B(6) Adequate pre-procedural and post-procedural care in accordance with established veterinary medical and nursing procedures.

007.04 007.03 Each boarding kennel, animal control facility, animal rescue, and animal shelter shall establish, maintain, and follow a written emergency have a veterinary care plan. Such plan shall include: The form entitled, Emergency Veterinary Care Plan, incorporated herein by reference, is attached as Appendix J, and may be used to satisfy the requirements for a written emergency veterinary care plan. The written emergency veterinary care plan shall include:

007.04A 007.03A The veterinarian of choice by the owner of the dog or cat that is being boarded, in the event veterinary care is needed; or

007.04B 007.03B A formal arrangement with a veterinarian licensed to practice in Nebraska to provide veterinary services as needed.

007.05 Exercise for Dogs. All licensees shall establish and follow an appropriate exercise plan for each dog housed on the premises. All dogs greater than twelve weeks of age, or age specified by the attending veterinarian, shall be provided opportunity for exercise by acceptable methods which are documented by the attending veterinarian in the veterinary care plan or emergency veterinary care plan.

007.05A The exercise plan shall be in writing and available to the Department at the time of inspection. Such plan shall:

007.05A(1) Be approved and signed by the attending veterinarian, or incorporated into the veterinary care plan or emergency veterinary care plan; and

007.05A(2) State that the dog has the required exercise space listed in subparts 007.05C(1) and 007.05C(2) , below; or

007.05A(3) Identify the frequency, method, and duration of additional exercise if the exercise requirements are not otherwise met.

007.05B Exemptions to the exercise requirement of any dog shall be determined only by the attending veterinarian and shall be recorded in the veterinary care plan or emergency veterinary care plan.

007.05C Animal control facilities, animal shelters, animal rescues, boarding kennels, dealers, and pet shops shall provide exercise to dogs by using the following methods, including, but not limited to:

007.05C(1) An individually housed dog with at least 200% of its minumum required floor space;

007.05C(2) Group housed dogs with at least 100% of the minmum required floor space for each animal;

007.05C(3) Access to a run or open area at the frequency and duration prescribed by the attending veterinarian; or

007.05C(4) Positive interaction with humans, such as walking, playing ball, or grooming; and

007.05D Commercial Dog Breeders. Pursuant to §54-640, commercial dog breeders shall provide the opportunity for exercise at least two times per day outside of a cage or pen. Access to outdoor runs may be substituted for the twice daily exercise requirement only when approved by the Department.

007.06 Primary Enclosures. All primary enclosures of dogs and cats shall meet minimum space requirements as set forth in 9 C.F.R. § 3.6. In addition, all licensees shall ensure that primary enclosures:

007.06A Be cleaned as often as necessary, but at least one time per day, to:

007.06A(1) Prevent contamination of the animal;

007.06A(2) Minimize disease hazards; and

007.06A(3) Reduce odors.

007.06B Be cleaned daily to remove any excreta and food waste by:

007.06B(1) Cleaning the entire primary enclosure;

007.06B(2) Cleaning soiled areas only (spot-clean); or

007.06B(3) Any other Department approved method.

007.06C Be cleaned in a manner that does not:

007.06C(1) Harm the dog or cat by the use of direct exposure to steam or harsh or toxic chemicals;

007.06C(2) Contaminate the dog, cat, or its bedding;

007.06C(3) Wet the dog, cat or its bedding; or

007.06C(4) Distress the dog or cat, evidenced by, but not limited to, shivering, shaking, cowering, excessive howling, or whining.

007.06D Have all excreta and food waste removed daily from under the primary enclosure to prevent or reduce:

007.06D(1) Soiling of the dog or cat;

007.06D(2) Disease hazard;

007.06D(3) Pests, insects, and vermin; and

007.06D(4) Odors.

007.06E Be sanitized as often as necessary, but at least one time every two weeks, to minimize disease hazards. Primary enclosures may consist of hard surfaces or non-hard or porous surfaces.

007.06E(1) Hard surfaces, food and water receptacles, and watering systems shall be constructed of, but not limited to:

007.06E(1)(a) Sealed concrete;

007.06E(1)(b) Sealed wood;

007.06E(1)(c) Ceramic tile;

007.06E(1)(d) Stainless steel or other metals;

007.06E(1)(e) Glass board; or

007.06E(1)(f) Strong plastic laminate sheeting.

007.06E(2) Acceptable methods of sanitation for hard surfaces:

007.06E(2)(a) Washing with hot water of at least 180°F and soap or detergent;

007.06E(2)(b) Washing with a detergent solution, followed by a safe and effective disinfectant; or

007.06E(2)(c) Live steam or pressurized live steam.

007.06E(3) Non-hard or porous surfaces include, but are not limited to, dirt, sand, gravel and grass.

007.06E(4) Acceptable methods of sanitation for non-hard or porous surfaces include, but are not limited to:

007.06E(4)(a) Removal of feces; and

007.06E(4)(b) Exposure to direct sunlight or use of a safe and effective disinfectant.

007.06F Be designed, constructed, and maintained in such a manner as to:

007.06F(1) Be structurally sound;

007.06F(2) Be kept in good repair, having no sharp or jagged edges which could injure a cat or dog;

007.06F(3) Be free of excessive rust which prevents the required cleaning and sanitation;

007.06F(4) Securely contain the dogs or cats;

007.06F(5) Protect the dogs or cats from predators;

007.06F(6) Provide shelter and protection from extreme temperatures and weather conditions;

007.06F(7) Enable all surfaces in contact with the dogs or cats to be readily cleaned and sanitized, or be replaceable when worn or soiled;

007.06F(8) Enable the dogs or cats to remain dry and clean; and

007.06F(9) Provide the dogs or cats with easy and convenient access to clean food and water which shall be non-toxic and free from algae growth. Excessive thirst may indicate a disease condition to be addressed by the attending veterinarian. Factors in determining if a dog or cat is receiving an adequate amount of water include, but are not limited to:

007.06F(9)(a) Ambient temperature;

007.06F(9)(b) A dog's or cat's body condition, such as sunken eyes and skin tenting; or

007.06F(9)(c) A dog's or cat's behavior, such as excessive nosing at an empty water bowl.

007.07 Waste Disposal. Procedures shall be established by all licensees for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris on all premises where housing facilities are located, including buildings, pens, and surrounding grounds.

007.07A Waste disposal procedures shall minimize:

007.07A(1) Pest infestation;

007.07A(2) Vermin infestation;

007.07A(3) Harmful odors; and

007.07A(4) Disease hazards.

007.07B Trash containers in housing facilities, food storage areas, and food preparation areas shall be leakproof and have tightly fitted lids on them at all times.

007.08 Employee Requirements. All licensees shall be responsible for ensuring that:

007.08A Adequate training and guidance are provided to employees involved in the handling, care, and treatment of the dogs and cats on the licensed premises;

007.08B A sufficient number of trained employees are available to perform general husbandry tasks; and

007.08C Employees involved in the handling, care, and treatment of a licensee's dogs and cats can, and do, perform at the level required by the act and these regulations.

007.08D Factors to be considered in determining the adequacy and appropriate number of employees:

007.08D(1) Number of dogs and cats maintained on the premises;

007.08D(2) Maintenance requirements of the individual dogs or cats based on, but not limited to, size, breed, and age;

007.08D(3) Design and construction of the facility; and

007.08D(4) General condition of facility. A facility that is routinely noncompliant in general husbandry areas may indicate too few employees on site, or employees who are not trained in the appropriate humane handling, care, and treatment of dogs and cats.

007.08E Factors indicating inadequately trained, or insufficient number of, employees:

007.08E(1) High incidence of injury to the dogs and cats in the licensee's care which are subject to the act;

007.08E(2) Inadequate cleanliness of facility due to accumulations of litter, food waste, feces, trash, junk, or weeds; or

007.08E(3) Multiple substantiated complaints against the licensed facility by the general public.

007.09 Pest Control. All licensees shall establish, maintain, and follow an effective pest control program for the control of insects, external parasites affecting dogs and cats, and birds and mammals that are pests, such as starlings and small rodents. Signs of an ineffective pest control program may include, but shall not be limited to:

007.09A Sighting of the pest or pests;

007.09B Droppings;

007.09C Rodent holes;

007.09D Chewed insulation on floors, walls, ceilings and other surfaces;

007.09E Nests;

007.09F Dog or cat scratching excessively;

007.09G Open sores or sores due to flies and other insects; or

007.09H Areas of hair loss on the dog or cat.

007.10 Drainage. All licensed facilities shall have a method to:

007.10A Prevent excess or standing water and other fluids;

007.10B Keep the dog, cat, and its bedding dry; and

007.10C Minimize pest infestation, harmful odors, vermin infestation and disease hazards.

007.11 Shelter from the Elements. Each dog and cat shall be provided with adequate shelter from the elements at all times. The *Tufts Weather Safety Scale* may be used as a guideline to assist the Department in making a determination as to a dog's health or safety risk in adverse weather conditions. Adequate shelter shall:

007.11A Protect the dogs' and cats' health or safety;

007.11B Allow all the dogs and cats in the enclosure to have access to the shelter at the same time;

007.11C Protect the dogs and cats from adverse weather conditions.

007.11D Be large enough to allow each dog or cat to sit, stand, lie down, and turn around freely; and

007.11E Not include barrels, cars, refrigerators, freezers, washing machines, dryers, and the like.

007.12 Outdoor Housing. All licensees who maintain outdoor housing facilities which contain one or more sheltered structures, shall ensure such structures be constructed so that each shelter:

007.12A Be accessible to each dog or cat;

007.12B Have a roof, floor, and sides;

007.12C Provide adequate protection or shelter from extreme cold or heat;

007.12D Provide protection from direct rays of the sun;

007.12E Provide protection from the direct effects of wind, rain, or snow;

007.12F Have a wind break and rain break at the entrance; and

007.12G Provide a way for the dogs or cats to keep warm, including the availability of clean, dry bedding.

007.13 Storage. Food, bedding, toxic substances and other items shall be properly stored by all licensees as follows:

007.13A Food storage methods shall protect food from:

007.13A(1) Spoilage;

007.13A(2) Contamination;

007.13A(3) Deterioration of nutritive value; and

007.13A(4) Vermin infestation.

007.13B Food storage areas shall be free of any accumulation of trash, waste material, junk, weeds, and other discarded materials.

007.13C Toxic substances shall not be stored in food storage areas, food preparation areas, or animal living areas unless such substances are stored in a secured cabinet; and

007.13D Bedding shall be stored and maintained in a clean, dry environment to protect from contamination, water damage, and vermin infestation.

007.14 Tethering. Permanent tethering is prohibited for use as a primary enclosure by any licensee. The Department may approve temporary tethering of a dog for up to three (3) days, if the licensee: (1) makes the request in writing to the Department; (2) includes the reason or justification for tethering the dog; and (3) includes the length of time the dog will be tethered. Factors to consider when approving or disapproving temporary tethering of a dog may include, but are not limited to:

007.14A Routine cleaning or maintenance;

007.14B The availability of shelter;

007.14C Length of the tether;

007.14D Type and strength of the tether;

007.14E Method of attachment of tether to the dog;

007.14F Possible entanglements with other animals or objects;

007.14G Access to food and water;

007.14H Access to shade at all times during the day;

007.14I Breed and behavior characteristics of the dog or dogs; and

007.14J Protection from predators.

007.15 Ventilation.

007.15A The enclosed areas of a facility or shelter shall be sufficiently ventilated to provide for the dogs' or cats' health or safety, and to minimize the following:

007.15A(1) Harmful odors;

007.15A(2) Drafts;

007.15A(3) Noxious fumes or toxic gases, including ammonia.

007.15A(4) Moisture condensation, indicative of excessive humidity, which could cause wet bedding or wetting of the dog or cat.

007.15B Methods of ventilation may include, but are not limited to:

007.15B(1) Windows;

007.15B(2) Vents sufficient to allow an adequate exchange of air flow throughout the facility;

007.15B(3) Fans, exhaust fans, or blowers;

007.15B(4) Air conditioning; and

007.15B(5) Doors.

007.16 Lighting.

007.16A Indoor housing and sheltered housing facilities shall have sufficient light to permit routine inspection and cleaning of the housing facility;

007.16B Indoor housing and sheltered housing facilities shall have sufficient light, uniformly diffused, to allow the licensee, or his or her employees, to observe the dogs and cats housed therein; and

007.16C A regular diurnal lighting cycle of either natural or artificial light shall be provided to all dogs or cats housed in an indoor housing or sheltered housing facility.

008 Identification.

008.01 For purposes of the act and these regulations, all ~~All~~ licensees with a United States Department of Agriculture license ~~shall~~ may identify their animals as prescribed in 9 C.F.R. §§ 2.50 to 2.55, (~~2003~~ 2011), a copy of which is attached to these ~~the~~ regulations as Appendix B and incorporated herein by reference. If there is any inconsistency between these regulations and the federal regulations under 9 C.F.R. §§ 2.50 to 2.55 (2011), these regulations shall control.

008.02 ~~All licensees without a United States Department of Agriculture license shall identify all dogs and cats held on the premises, purchased, boarded, sheltered, or otherwise acquired, sold, released, given away or otherwise disposed of or removed from the premises for any reason to or through any person, by one (1) or more of the following appropriate methods:~~ All licensees, except boarding kennels, shall individually identify each dog and cat housed, purchased, sold, leased, exchanged, or otherwise transferred, acquired or disposed, by one (1) or more of the following methods:

008.02A ~~By an official tag of the type described in subsection 008.07 of this section affixed to the neck of the dog or cat by means of a collar made of a material generally considered acceptable to pet owners. In general, well fitting collars made of plastic, nylon or leather will be acceptable. The use of certain types of chains may also be acceptable if sharp edges cannot be felt which may reasonably be expected to cause discomfort to the animal. The use of materials such as wire, elastic or any other material which may seem to cause discomfort to the dog or cat shall not be used;~~ An individual identification tag;

008.02B A cage card;

008.02C ~~008.02B~~ A distinctive and legible tattoo marking approved by the ~~department~~ Department;

008.02D ~~008.02C~~ A microchip implant. ~~which meets the following requirements:~~

~~008.02C(1) A microchip scanner device shall be readily available to the department's inspector or authorized agents.~~

~~008.02C(2) Identification records which indicate the microchip number, the manufacturer of the microchip, and the approximate location of the microchip in the dog or cat shall be maintained and readily available for inspection.~~

~~008.02C(3) The department may require an official tag or tattoo at any time if the microchipping system is determined to be ineffective or a dog or cat with a microchip implant is moved to a regulated facility which does not have a compatible scanner.~~

~~008.02D Puppies or kittens, less than sixteen (16) weeks of age, may be identified by:~~

~~008.02D(1) A plastic type collar acceptable to the department which has the information legibly placed on the collar as required for an official tag pursuant to subsection 008.08 of this section;~~

~~008.02D(2) A distinctive and legible tattoo marking approved by the department; or,~~

~~008.02D(3) A microchip implant acceptable to the department.~~

008.02E Live puppies or kittens, which are maintained as a litter in the same primary enclosure with their dam, are not required to be individually identified provided the dam has been individually identified in accordance with section 008;

008.02F ~~008.02E~~ Boarding kennels, in lieu of individual identification, shall maintain records as required by subsection 010.03 ~~010.02~~.

008.03 All dogs and cats shall be ~~officially~~ individually identified at the time of acquisition, or in the case of puppies or kittens, when ~~weaned or~~ separated from their ~~mother or foster mother~~ litter. ~~When any licensee has made a reasonable effort to affix an official tag to a cat, as set forth in this section, and has been unable to do so, or when the cat exhibits serious distress from the attachment of the collar and tag, the licensee shall attach the collar and tag to the door of the primary enclosure containing the cat and take measures to maintain the identity of the cat in relation to the tag. Each primary enclosure shall contain no more than one (1) weaned cat without a fixed collar and official tag, unless the cats are identified by a distinctive and legible tattoo or plastic-type collar approved by the department.~~

008.04 ~~If a dog or cat is already identified by an official tag or tattoo which has been applied by another licensed entity under 9 C.F.R. §§2.50 to 2.55, (2003), or under this act and regulations, including microchips, the acquiring licensee may continue identifying the dog or cat by the previous identification number, or may replace the previous tag with his or her own official tag, tattoo, or microchip, in which case, only the new identification number shall be used for all subsequent sales or transactions. In either case, the licensee shall correctly list all old and~~

~~new tag numbers, tattoos, or microchips in his or her records.~~ If, at the time of acquisition, a dog or cat is already individually identified by a tag, tattoo, or microchip which has been applied by another entity, the acquiring licensee shall continue identifying the dog or cat by such identification. If the dog or cat is identified with more than one method of identification, all identifying names or numbers shall be maintained in the licensee's records.

~~008.05 Tags shall be sequentially numbered, used in sequential order, and shall be referenced to records which completely and accurately identify the source of the dog or cat and any number used by that source to identify the dog or cat, all medical treatments or procedures, and disposition of the dog or cat.~~

~~008.06 No licensee shall use the same identification number for a period of at least 5 years.~~

~~008.07 The official tag shall be made of a durable alloy such as brass, bronze, steel or a durable plastic. Aluminum of a sufficient thickness to assure the tag is durable and legible may also be used. The tag shall be one (1) of the following shapes:~~

~~008.07A Circular in shape and not less than one and one-fourth inches (1 1/4") in diameter; or~~

~~008.07B Oblong and flat in shape, not less than two inches long by three-fourths inch (2" × 3/4") wide and riveted to a collar acceptable to the director.~~

~~008.08 Each official tag shall have the following information embossed or stamped on one (1) side that is easily readable:~~

~~008.08A The letters NE;~~

~~008.08B The letters and numbers identifying the licensee or facility, as assigned by subsection 008.09; and~~

~~008.08C The number identifying the dog or cat.~~

008.05 Tags, when used as a method of individual identification, shall meet the following requirements:

008.05A Tags may be made of a durable alloy such as brass, bronze, steel or a durable plastic. Aluminum of a sufficient thickness to assure the tag is durable and legible may also be used; and

008.05B Tags shall be embossed or stamped on one (1) side that is easily readable and shall include the individual number or name identifying the dog or cat.

008.06 ~~008.09~~ ~~Licensees shall obtain the official tags or cage cards at their own expense. Tags and cards are available from commercial manufacturers. At the time a licensee is issued a license, the department shall assign a license number to be used on official tags.~~ Licensees shall obtain, at their own expense, tags, tattoos, microchips, cage cards, or any other individual identification method approved by the Department.

~~008.10 Each licensee shall be held accountable for all official tags acquired. In the event an official tag is lost from a dog or cat while in the possession of the licensee, the licensee shall make every diligent effort to locate and reapply the tag to the proper dog or cat. If the lost tag is not located, the licensee shall affix another official tag to the dog or cat and record both the old and new tag numbers on the official records. Only the new number shall be used on subsequent transactions.~~

008.07 ~~008.11~~ ~~When a dog or cat with an official tag is euthanized or dies from any other cause, the official tag shall be removed from the dog or cat and saved for a period of one (1) year following the death. If the official tag is removed from a dog or cat at the time of disposition of the dog or cat, the official tag shall be saved for a period of one (1) year following the disposition.~~ The individual identification number or name from a tag, microchip, tattoo, cage card, or other individual identification shall be recorded and maintained in records for a period of at least three (3) years following a dog's or cat's disposition. For licensees using a microchip, the licensee shall:

008.07A Record the manufacturer of the microchip;

008.07B Record the approximate location of the microchip in the dog or cat; and

008.07C Use an alternative method of individual identification at any time if the microchip system is determined to be ineffective, or if no scanner is available at the time of inspection.

009 Prohibitions for Stolen Dogs or Cats. No person shall buy, sell, exhibit, transport or offer for transportation, any stolen dog or cat.

010 Record Keeping. All records, except records for boarding kennels shall be kept and maintained for a period of three (3) years, unless the Director requests, in writing, that they be maintained for a longer period, for the purpose of investigation. The three-year time period shall begin from the date a dog or cat was acquired and from the date a dog or cat was disposed. Such records shall include the Certificate of Veterinary Inspection, for dogs or cats moving interstate, and shall be physically maintained on the licensed premises, or be readily available for review at the time of inspection. Records shall contain information sufficient to completely and accurately identify each dog and cat being housed or contained by the licensee.

010.01 Acquisition Records for Commercial Breeders, Pet Shops, ~~and~~ Dealers~~.~~, and Voluntary Licensees.

010.01A Each commercial breeder, pet shop, ~~and~~ dealer, and voluntary licensee shall make, keep and maintain records or forms based on information obtained from ~~the~~ a seller or other source of dogs or cats which fully and correctly disclose ~~the following~~ information concerning each dog or cat purchased or otherwise acquired, owned, or held ~~or otherwise~~ in his or her possession or control, ~~which is transported, euthanized, sold, or otherwise disposed of by that licensee. The records shall include:~~ including any offspring born of any dog or cat while in his or her possession or ~~under his or her~~ control. ~~Such records shall include:~~ A commercial breeder, pet shop, dealer or voluntary licensee may use the form referred to as Record of Acquisition and Dogs and Cats on Hand, Animal and Plant Health Inspection Service Form 7005 or similar Department approved form to record acquisition of dogs or cats. A copy of Form 7005 is attached to these regulations as Appendix C, and incorporated herein by reference. Such completed records and forms required to be kept pursuant to this section, shall include:

010.01A(1) ~~The name and complete mailing address of the person from whom a dog or cat was purchased or otherwise received or acquired whether or not the person is required to be licensed under this act and regulations;~~ The date a dog or cat was purchased, held, owned, received, controlled, or otherwise acquired, including births;

010.01A(2) The name and complete mailing address of the person from whom the dog or cat was purchased, received, or otherwise acquired. Such information is required, regardless of whether or not the person selling, transporting, or otherwise transferring ownership of the dog or cat is required to be licensed under the act and these regulations;

010.01A(3) ~~010.1A(2)~~ The United States Department of Agriculture license ~~or registration~~ number, the license number issued under the act and regulations, or the license ~~or registration~~ number from any other state, whichever is applicable~~;~~. If the license number is not available, one of the following shall be acceptable:

010.01A(3)(a) The vehicle license number and state; or

010.01A(3)(b) The driver's license number and state.

~~010.01A(3) The vehicle license number and state, and the driver's license number and state, if he or she is not licensed or registered under the act and regulations or by the United States Department of Agriculture;~~

~~010.01A(4) The name and complete mailing address of the person to whom a dog or cat was sold, given or delivered, and that person's license or registration numbers if licensed or registered under the act and regulations or by the United States Department of Agriculture;~~

~~010.01A(5) The date a dog or cat was acquired or disposed of, or both, and the method of disposition, including by death or euthanasia~~;

010.01A(4) The method of transportation, including the name of the initial carrier or intermediate handler or, if a privately owned vehicle is used to transport a dog or cat, the name of the owner of the privately owned vehicle;

010.01A(5) ~~010.01A(6) The official tag number, tattoo, or microchip assigned to a dog or cat by the department or the United States Department of Agriculture;~~ The individual identification number or name from the tag, tattoo, microchip, or cage card.

~~10.01A(7) A description of each dog or cat which shall include:~~

~~010.01A(7)(a) The species and breed or type;~~

~~010.01A(7)(b) The sex;~~

~~010.01A(7)(c) The date of birth or approximate age; and~~

~~010.01A(7)(d) The color and any distinctive markings;~~

~~010.01A(8) The method of transportation including the name of the initial carrier or intermediate handler or, if a privately owned vehicle is used to transport a dog or cat, the name of the owner of the privately owned vehicle;~~

~~010.01A(9) The form referred to as Record of Acquisition and Dogs and Cats on Hand, Animal and Plant Health Inspection Service Form 7005 or similar form may be used, a copy of which is attached to these regulations as Appendix C, and incorporated herein by reference ; the form referred to as the Record of Disposition of Dogs or Cats, Animal and Plant Health Inspection Service Form 7006 or similar form may be used, a copy which is attached as Appendix D, and incorporated herein by reference, all of which shall be maintained by commercial breeders, dealers, and voluntary licensees;~~

010.01A(6) ~~010.01A(10)~~ The form referred to as ~~The~~ the USDA's United States ~~Department of Agriculture~~ Interstate and International Certificate of Health Examination for Small Animals, APHIS Form 7001 (also known as health certificate), or similar state form, a copy of which is attached as Appendix D and incorporated herein by reference, to make, keep and maintain the information required by part 010 of these regulations, shall accompany all dogs and cats imported into Nebraska. A health certificate shall be signed by a veterinarian who is licensed and accredited in the state of origin of such dogs or cats imported into Nebraska. ~~VS Form 18-1 or similar form may be used by dealers, a copy which is attached as Appendix E, and incorporated herein by reference, to make, keep and maintain the information required by part 010.01A of these regulations; and~~

~~010.01A(11) One (1) copy of the record containing the information required by this section shall accompany each shipment of any dog or cat purchased or otherwise acquired by a commercial breeder or dealer. One (1) copy of the record containing the information required by this section shall accompany each shipment of any dog or cat sold or otherwise disposed of by a commercial breeder or dealer; provided, however, that information which indicates the source and date of acquisition of a dog or cat need not appear on the copy of the record accompanying the shipment. One (1) copy of the record containing the information required by this section shall be retained by the commercial breeder or dealer.~~

~~010.01B Individual medical records shall be based on information obtained from the seller and maintained on all dogs or cats bought, raised, or otherwise obtained, held, kept, maintained, sold, donated or otherwise disposed of, including by death or euthanasia. Such records shall specify all treatments and medications given and all procedures performed on the dogs or cats, to include reasons for or the condition requiring the treatment, medication or procedure, and the results of the treatment, medication or procedure will be included in this record. Litter health records may be kept on litters when all litter mates are treated with the same medication or procedure. Medical records or a copy may accompany the dog or cat when sold.~~

~~010.01C No licensee for a period of one (1) year, shall destroy or dispose of, without the consent in writing of the director, any books, records, documents or other papers required to be kept and maintained under the act and regulations.~~

~~010.01D Unless otherwise specified, the records required to be kept and maintained under this regulation shall be held for one (1) year after a dog or cat is euthanized or disposed of and for any period in excess of one (1) year as necessary to comply with the act and regulations. Whenever the director notifies the licensee in writing that specified records shall be retained pending completion of an investigation or proceeding under the act and regulations, the licensee shall hold those records until their disposition is authorized by the director.~~

010.02 Disposition Records for Commercial Breeders, Dealers, Pet Shops and Voluntary Licensees.

010.02A Each commercial breeder, dealer, pet shop and voluntary licensee shall make, keep, and maintain records and forms for each dog or cat transported, sold, exchanged, leased, deceased, delivered, euthanized or otherwise disposed. Such records and forms shall include:

010.02A(1) The form referred to as the Record of Disposition of Dogs and Cats, Animal and Plant Health Inspection Form 7006, a copy of which is attached to these regulations as Appendix E, and incorporated herein by reference. Commercial breeders, dealers, pet shops and voluntary licensees may use Form 7006 or a similar Department approved form to record disposition of dogs and cats. Such completed form shall include:

010.02A(1)(a) The date of disposition of each dog and cat;

010.02A(1)(b) The name and complete mailing address of the person to whom a dog or cat was transferred, except when disposition is by death or euthanasia;

010.02A(1)(c) The United States Department of Agriculture license number, the license number issued under the act and these regulations, or the license number issued by another state, whichever is applicable. If this subpart does not apply, one of the following shall be required:

010.02A(1)(c)(i) The vehicle license number and state; or

010.02A(1)(c)(ii) The driver's license number and state.

010.02A(2) The individual identification number or name from the tag, tattoo, microchip, or cage card;

010.02A(3) A complete description of the dog or cat; and

010.02A(4) If the dog or cat dies or is euthanized, a record of how the animal was disposed, including a description of the circumstances surrounding the death. If euthanized, the name of the person performing the euthanasia and the method of euthanasia shall be recorded in the dog's or cat's health records; or may be recorded generally, in the veterinary care plan.

010.03 ~~010.02~~ Records for Boarding Kennels.

010.03A ~~010.02A~~ Every operator of a boarding kennel shall make, keep, and maintain records or forms which fully and correctly disclose the following information concerning each dog or cat boarded, or otherwise kept or maintained:

010.03A(1) ~~010.02A(1)~~ Name, address and phone number of dog or cat owner;

010.03A(2) ~~010.02A(2)~~ Emergency contact number;

010.03A(3) ~~010.02A(3)~~ Dog's or cat's name, age, sex and breed;

010.03A(4) ~~010.02A(4)~~ Rabies vaccination information;

010.03A(5) ~~010.02A(5)~~ Pre-existing physical problems;

010.03A(6) ~~010.02A(6)~~ Medication information and instructions;

010.03A(7) ~~010.02A(7)~~ Veterinarian of choice;

010.03A(8) ~~010.02A(8)~~ Special feeding instructions, if needed;

010.03A(9) ~~010.02A(9)~~ Special boarding instructions, if needed;

010.03A(10) ~~010.02A(10)~~ Any additional services to be performed;

010.03A(11) ~~010.02A(1)1~~ Date ~~dog or cat was~~ received; and

010.03A(12) ~~010.02A(12)~~ Date ~~dog or cat was~~ released.

010.03B ~~010.02B~~ The record of daily health observations, including any medications, ~~and~~ treatments given, and exercise periods shall be maintained.

010.03C ~~010.02C~~ All records shall be maintained for a period of sixty (60) days except on those dogs or cats on which a complaint was made by the owner of the kenneled dogs or cats, or if some other problem occurred during boarding, those records shall be kept for one (1) year, unless the ~~director~~ Director requests in writing that they be maintained for a longer period, for the purpose of investigation.

010.04 Acquisition Records for Animal Control Facilities, Animal Rescues, and Animal Shelters.

010.04A Each animal control facility, animal rescue, and animal shelter shall make, keep, and maintain records which fully and correctly disclose the following information concerning each dog and cat housed, purchased, leased, exchanged or otherwise acquired, including births. Such records shall include:

010.04A(1) The form referred to as Record of Acquisition and Dogs and Cats on Hand, Animal and Plant Health Inspection Service Form 7005, or other Department approved form;

010.04A(2) The date a dog or cat was received or acquired;

010.04A(3) The name and complete mailing address of the person from whom a dog or cat was received or acquired, including the driver's license number; or, the name, official title, and mailing address of any state or political subdivision of a state, or its representative, from whom a dog or cat was received or acquired;

010.04A(4) The individual identification, if available. Dogs or cats having no individual identification at time of entry into the animal control facility, animal rescue, or animal shelter shall be identified in accordance with section 008;

010.05 Disposition Records for Animal Control Facilities, Animal Rescues, and Animal Shelters.

010.05A Each animal control facility, animal rescue, or animal shelter shall make, keep, and maintain records which fully and correctly disclose information concerning each dog and cat sold, exchanged, leased, transferred or otherwise disposed. Such records shall include:

010.05A(1) The form referred to as Record of Disposition of Dogs and Cats on Hand, Animal and Plant Health Inspection Service Form 7006 or other Department approved form;

010.05A(2) The date a dog or cat was sold, exchanged, leased, transferred or otherwise disposed;

010.05A(3) The name and complete mailing address of the person to whom a dog or cat was sold, exchanged, leased, transferred or otherwise disposed;

010.05A(4) The individual identification number or name of the dog or cat; and

010.05A(5) The method of disposition. If the dog or cat dies or is euthanized, a record of how the animal was disposed, including a description of the circumstances surrounding the death. If euthanized, the name of the person performing the euthanasia and the method of euthanasia shall be recorded in the dog's or cat's health records;

010.05B A state or political subdivision of a state which contracts out its animal control duties shall submit information to the Department identifying which licensed animal control facility, animal rescue, or animal shelter is housing or containing the dogs or cats under its animal control authority.

010.06 Health Records. Individual health records of dogs and cats shall be kept and maintained by all licensees except boarding kennels. Individual health records, or a copy, shall be prepared from information obtained from the person from whom a dog or cat was purchased or otherwise transferred or acquired. Such health records, or a copy, shall accompany all dogs and cats upon the transfer of ownership, and shall include the following:

010.06A Vaccination records, including rabies vaccination certificate, and any other treatments and medications given;

010.06B All medical procedures performed;

010.06C The reasons for or the condition requiring treatment, medication, or medical procedure, including the results of such treatment, medication or medical procedure; and

010.06D Record of all offspring produced, including the number of litters produced and litter size for each dog and cat.

010.06E If a dog or cat is no longer capable of breeding, or is infertile, and the commercial breeder wants to exempt said dog or cat from being counted as part of its breeding stock, a commercial breeder may have the dog or cat surgically sterilized by a licensed veterinarian; or may obtain a statement of infertility from a veterinarian licensed to practice in Nebraska verifying that such dog or cat is no longer capable of breeding. The attending veterinarian may use the Statement of Infertility Form, attached herein as Appendix G.

010.06F If a dog or cat dies, the health records shall include:

010.06F(1) An explanation of how the death occurred (euthanasia, natural causes or other);

010.06F(2) The date of death;

010.06F(3) If euthanasia was performed, the name of the person performing the euthanasia and the method of euthanasia.

011 Procurement of Dogs and Cats By Dealers and Pet Shops.

011.01 ~~A dealer may obtain dogs and cats from within this state only from other licensees who are licensed under the act and regulations in accordance with these regulations.~~ A dealer or pet shop which obtains dogs and cats from within this state shall only obtain such dogs and cats from other licensees who are licensed under the act and in accordance with these regulations.

011.02 No person shall obtain live dogs or cats by use of false pretenses, misrepresentation or deception.

012 Licensees Restricted in Sales to Dealers. Licensees shall not sell to dealers operating within the state who are not licensed under the act and in accordance with these regulations.

013 Spaying and Neutering. ~~013.01~~ Licensees and any other retailer, who transfers ownership of a dog or cat to an ultimate consumer, shall comply with the spaying and neutering requirements of the act.

014 Assessment of Administrative Fines. If any person licensed pursuant to the act fails to comply with Neb. Rev. Stat. §54-631, the Department may impose an administrative fine pursuant to §54-633(3) and this section.

014.01 In addition to the definitions set forth in section 003, the following shall apply to sections 014, 015, and 016:

014.01A Level of violation means the violation is a first, second, third or more violation.

014.01A(1) A first violation means the violator has not been found, by the violator's own admission in a consent agreement or by an order of the Director, to have committed the same alleged violation in the last three years of the current alleged violation.

014.01A(2) A second violation means the violator has been found, by the violator's own admission or an order of the Director, to have committed the same alleged violation once within the last three years of committing the current alleged violation.

014.01A(3) A third violation means the violator has been found, by his or her own admission in a consent agreement or by an order of the Director, to have committed the same violation at least two times within the last three years of committing the current alleged violation.

014.01B Median fine means the fine to be assessed in the absence of aggravating factors or mitigating factors or when the aggravating factors and the mitigating factors are equally applicable.

014.01C Aggravating factors mean findings of fact which enhance the seriousness of a violation and indicate a larger fine than the median fine would be appropriate. Such factors include:

014.01C(1) The seriousness of the violation, including the gravity of the actual or potential injury to the health or safety of a dog or cat;

014.01C(2) The potential for the violation to cause a significant threat to the health or safety of a dog or cat which creates a substantial risk of death or which causes prolonged impairment of health and prolonged loss or impairment of the function of any bodily organ;

014.01C(3) The actual physical harm or injury to a dog or cat;

014.01C(4) The alleged violator's intentional, willful, or negligent failure to avoid the violation;

014.01C(5) The failure by the alleged violator to take steps to remedy the alleged violation;

014.01C(6) The similarity of the current alleged violation to previous violations that occurred within the last three years;

014.01C(7) The likelihood that the alleged violator will repeat the violation;

014.01C(8) The alleged violator's nondisclosure of the violation to the Department;

014.01C(9) The alleged violator's failure to cooperate with the investigation of the Department.

014.01D Mitigating factors means findings of fact which reduce the seriousness of the violation and indicate a smaller fine than the median fine would be appropriate. Such factors include:

014.01D(1) The culpability and good faith of any past violations by such person.

014.01D(2) The violation has no potential for causing physical injury or harm to dogs or cats;

014.01D(3) The unintentional, nonwillful, or non-negligent nature of the violation;

014.01D(4) The alleged violator's attempts to take remedial action regarding the violation;

014.01D(5) The lack of previous similar violations within the last three years;

014.01D(6) The likelihood that the alleged violator will repeat the violation;

014.01D(7) The alleged violator's disclosure of the violation to the Department;

014.01D(8) The alleged violator's cooperation with the investigation of the Department or related investigations, including entering into a consent agreement.

014.01E The type of the alleged violation means the category of the violation as a type I, type II, or type III violation.

014.01E(1) Type I violations mean the least serious violations. Such violations are considered to be technical violations that have minimal or no potential to result in significant harm to the health or safety of a dog or cat, including, but not limited to:

014.01E(1)(a) Failing to properly identify dogs and cats in violation of section 008.

014.01E(1)(b) Failing to maintain a written veterinary care plan.

014.01E(1)(c) Failing to develop, maintain or follow the exercise plan for dogs.

014.01E(1)(d) Failing to maintain premises, structures, enclosures or pens in good repair in accordance with the standards set forth in 9 C.F.R. Sections 3.1 to 3.19.

014.01E(1)(e) Failing to pay any required fees under the act and regulations. Any returned check will be deemed nonpayment of fees.

014.01E(1)(f) Failing to comply with any provision of the act and regulations which may prevent the Department from carrying out its duties under the act and these regulations;

014.01E(2) Type II violations mean moderately serious violations that do not result in significant harm to the health or safety of a dog or cat, including, but not limited to:

014.01E(2)(a) Failing to keep all records required by the Department pursuant to section 010.

014.01E(2)(b) Failing to notify the Department of any change in the name, address, management, control or ownership of the business or operation, or of additional sites, in violation of section 004.

014.01E(2)(c) Failing to accept delivery of registered mail or certified mail in violation of section 004, and verified by the United States Postal Service as not being picked up by the licensee or his or her representative.

014.01E(2)(d) Failing to maintain sanitary premises, pens, enclosures or structures in such a way as to impair a dog's or cat's health or safety. Such violations may include, but shall not be limited to: (i) an accumulation of waste matter making it difficult for a dog or cat to avoid; (ii) moderate amounts of litter, food waste, trash, junk or weeds are present which may inhibit comfortable rest, normal movement, or both; (iii) potential injury to a dog or cat from sharp edges or glass; (iv) significant odor which makes breathing unpleasant for animals; or (v) standing water or mud making it difficult for a dog or cat to avoid.

014.01E(2)(e) Making a deliberate misrepresentation or concealment to the Department, including failure to disclose all locations housing dogs or cats;

014.01E(2)(f) Failing to inform the Department of any convictions of any violation of any local ordinance, county resolution, state or federal law on the disposition or treatment of dogs or cats in violation of section 005.

014.01E(2)(g) Refusing to allow an inspector access to inspect any dog or cat, premises, facility, area, equipment or vehicle as required under the act.

014.01E(2)(h) Failing to comply with any provisions of the act and regulations which may impair the health or safety of a dog or cat.

014.01E(3) Type III violations mean the most serious violations and includes violations that result in significant harm to a dog's or cat's health or safety, or has the potential for the death of such animal. Such violations shall include, but not be limited to, the following:

014.01E(3)(a) Failing to provide a dog or cat with necessary food or water.

014.01E(3)(b) Failing to maintain sanitary premises, pens, enclosures, or structures in such a way as to be a significant threat to a dog's or cat's health or safety and which may promote contamination and disease risk. Such violations may include: (i) filthy premises containing an accumulation of feces, urine, or both, from which the dog or cat cannot extricate itself; (ii) overwhelming odor creating poor air quality which makes breathing difficult for the dogs and cats due to insufficient ventilation, insufficient cleaning of animal waste, or both; (iii) large amounts of litter, food waste, trash, junk, or weeds are present, which inhibits comfortable rest, normal postures or movement, or poses an immediate danger to dogs and cats; (iv) dogs and cats having no means to escape contact with feces, urine, mud, or standing water; (v) animals provided with contaminated food, drinking water, or both; (vi) dogs and cats being handled in a manner that causes a significant threat to health or safety, or (vii) exposes the dogs or cats to sharp, jagged objects in or on parts of the primary enclosures; or (viii) excessive rust that prevents the required cleaning and sanitation, or which affects the structural strength of the surface or (viv) infestation of insects, parasites, or rodents.

014.01E(3)(c) Failing to provide shelter or protection from extreme temperatures or humidity and weather conditions suitable for the age, species, breed or type, and physical condition of the animal so as to provide for the dog's and

cat's health or safety. Such violations may include dogs and cats which are subjected to temperature extremes resulting in hypothermia, hyperthermia, or any condition related thereto.

014.01E(3)(d) Failing to provide dogs and cats with adequate space required for the species or breed whereby such animal has no room to stand, sit, lie down in a comfortable, normal position, or turn about freely, and to walk in a normal manner.

014.01E(3)(e) Failing to maintain a dog in a healthy condition as an indicator of the overall health or safety of such dog. For example, a matted dog with significant underlying lesions, other health impairments, or both, resulting from the mats, is a failure to maintain a dog in a healthy condition.

014.01E(3)(f) Failing to provide veterinary care for a dog or cat when such veterinary care appears to be necessary, and is later determined by a veterinarian that such care was necessary for the health or safety of such dog or cat.

014.01E(3)(g) Refusing to allow the Department to enter the premises during normal business hours for the purposes of inspection under the act and these regulations.

014.01E(3)(h) Denying access to any officer, agent, employee, or appointee of the Department or offering any resistance to, thwarting, or hindering such persons by misrepresentation or concealment.

014.01E(3)(i) Failing to disclose all locations housing dogs or cats owned or controlled by the alleged violator.

014.01E(3)(j) Interfering with the Department in the performance of its duties.

014.01E(3)(k) Failing to comply with an order of the Director.

014.01E(3)(l) Using any license issued by the Department while the license is under suspension; or, for purposes other than those authorized by the act.

014.01E(3)(m) Failing to make available to the Department, for purposes of inspection or to copy, all records, papers, and other information necessary for the enforcement of the act.

014.01F Consent agreement means a signed, written agreement between the Department and the violator, setting forth an admission of the alleged violation and a consent to the assessment of a stated fine.

014.02 The amount of the fine assessed under this section shall be determined by the Director based on the type of violation, the level of violation, and whether or not facts exist to prove mitigating factors or aggravating factors.

014.03 The Director shall determine the fine based on the fine assignment schedule tables in section 015 as follows:

014.03A For type I violations, the Fine Assignment Schedule Table in subsection 015.01 shall be used.

014.03B For type II violations, the Fine Assignment Schedule Table in subsection 015.02 shall be used.

014.03C For type III violations, the Fine Assignment Schedule Table in subsection 015.03 shall be used.

014.04 The Director shall apply the median fine unless mitigating factors or aggravating factors are found or when the aggravating factors or mitigating factors are equal in gravity.

014.05 An alleged violator shall be subject to the assessment of a fine for each violation, but may not be fined for any lesser included violations arising out of the same act, if the alleged violator has been fined for the greater violation.

015 Fine Assignment Schedule Tables.

015.01 Fine Assignment Schedule Table - Type I

Type I (Least Serious) Category of Violation

Level of Violation	Mitigated	Median	Aggravated
FIRST	$100	$250	$500
SECOND	$250	$500	$1500
THIRD	$500	$1000	$2000

015.02 Fine Assignment Schedule Table - Type II

Type II (Moderately Serious) Category of Violation

Level of Violation	Mitigated	Median	Aggravated
FIRST	$200	$325	$2000
SECOND	$325	$600	$2500
THIRD	$575	$1500	$3500

15.03 Fine Assignment Schedule Table - Type III

Type III (Most Serious) Category of Violation

Level of Violation	Mitigated	Median	Aggravated
FIRST	$500	$1000	$3500
SECOND	$1000	$2000	$4500
THIRD	$3000	$4000	$5000

016 Fines and Remedies.

016.01 Nothing in these regulations shall prevent the Department from entering into a settlement agreement with any person violating the Commercial Dog and Cat Operator Inspection Act, or the rules and regulations adopted and promulgated under it, which specifies a different remedy than specified in the act or regulations.

016.02 The Department may issue any fine at the statutory maximum for any egregious violation.

~~014~~ 017 Publications Adopted. See Appendix.

~~015~~ 018 Annotation. Neb. Rev. Stat. §§54-625 to ~~54-641~~ 54-643 ~~(Cum. Supp. 2000 and Supp. 2003)~~.

APPENDIX

A. Code of Federal Regulations, 9 C.F.R., Part 3 - Standards, Subpart A - Humane Handling, Care, Treatment, and Transportation of Dogs and Cats, §§3.1 to 3.19 ~~(2003)~~. (2011).

B. Code of Federal Regulations, 9 C.F.R., Part 2 - Regulations, Subpart E - Identification of Animals, §§2.50 to 2.55 ~~(2003~~) (2011).

C. Record of Acquisition and Dogs and Cats on Hand, APHIS FORM 7005.

D. ~~Record of Disposition of Dogs or Cats, APHIS FORM 7006.~~
United States Interstate and International Certificate of Health Examination for Small Animals, APHIS FORM 7001.

E. ~~United States Interstate and International Certificate of Health Examination for Small Animals, VS FORM 18-1~~. Record of Disposition of Dogs and Cats, APHIS FORM 7006.

F. *Tufts Animal Care and Condition Scales for Assessing Body Condition, Weather and Environmental Safety, and Physical Care in Dogs: SECTION II. Weather Safety Scale*.

G. Statement of Infertility.

H. Attempted Inspection Notice.

I. Veterinary Care Plan.

J. Emergency Veterinary Care Plan.

tilal

H:\Wp__w90\Regs\2010 Dog and Cat Regs\102711 draft.wpd