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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 603
DEPARTMENT OF AGRICULTURE

FILED

01/12/2024 3:36 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Animal health rules updates

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 02/29/2024 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
Sunny Summers
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 02/27/2024

TIME: 9:00 AM - 10:00 AM

OFFICER: Sunny Summers

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 503-446-4951

CONFERENCE ID: 981149335

SPECIAL INSTRUCTIONS:

Meeting ID: 269 675 184 83

Passcode: xpA4EE

[Download Teams](#) | [Join on the web](#)

Or call in (audio only)

+1 503-446-4951,,981149335# United States, Portland

Phone Conference ID: 981 149 335#

NEED FOR THE RULE(S)

Definition updates will clarify the difference between a foster facility and physical location controlled by an Animal Rescue Entity. License fee update will establish a tiered license fee structure based on Entity type, number of physical locations, and the number of animals taken into the ARE's legal custody.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

ORS 609 - OR Legislature website

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

These rules are not expected to affect racial equity in this state.

FISCAL AND ECONOMIC IMPACT:

This rule change will increase license fees paid by Animal Rescue Entities. This rule change is not expected to have any additional record keeping or professional services impacts to comply with the rule beyond what is currently required.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

This rule change is expected to increase Other Funds revenue by increasing the license fees paid by Animal Rescue Entities.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

A rule advisory committee (RAC) met twice (October 27, 2023, January 10, 2023) to review multiple fee structure proposals and were in unanimous agreement on the proposed fee structure.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

603-015-0080, 603-015-0085

AMEND: 603-015-0080

RULE SUMMARY: Updating Animal Rescue Entity rules to clarify definitions

CHANGES TO RULE:

603-015-0080

Definitions

As used in OAR 603-015-0075 to 603-015-0110:¶

(1) "Department" means the State Department of Agriculture and the Enforcing Agency, which is the office of the State Veterinarian, located within the State Department of Agriculture.¶

(2) "Animal rescue entity" means any individual or organization-including but not limited to an animal control agency, humane society, animal shelter, animal sanctuary, or boarding kennel not subject to ORS 167.374, but excluding a veterinary facility and a foster facility-that keeps, houses, and maintains in the individual's or organization's legal custody 10 or more animals at any given time and that solicits or accepts donations in any form.¶

(3) "Foster facility" means a separate location controlled by, but not owned or operated by the animal rescue entity, at which a person has volunteered to maintain physical custody of animals that are within the legal custody of an animal rescue entity. A foster facility with fewer than 10 animals in the legal custody of an animal rescue entity is not considered a separate physical location out of which an animal rescue entity operates.¶

(4) "Physical location" means either:¶

(a) a separate location controlled and operated by the animal rescue entity at which any number of animals are maintained in the legal custody of the animal rescue entity; or¶

(b) a separate location controlled by, but not owned or operated by the animal rescue entity at which 10 or more animals are maintained in the legal custody of an animal rescue entity.¶

(5) "10 or more animals" means the combined number of animals kept, housed, and maintained in the animal rescue entity's legal custody, whether at that animal rescue entity's physical location, another physical location of the same animal rescue entity, or in the physical custody of a foster facility. A nursing mother and her unweaned offspring constitute one animal unit. Weaned offspring constitute individual animal units.¶

(56) "Animal" means any nonhuman mammal, bird, reptile, amphibian, or fish.¶

(~~67~~) "License year" means a 12-month period beginning July 1 and ending on June 30 for which a license is valid or the remainder of that period at the time a license is issued.¶

(~~78~~) "Legal custody" means the authority to make decisions on behalf of an animal, including but not limited to decisions regarding health care, physical placement, and general welfare. The Department considers the fact that an individual or organization makes decisions on behalf of an animal to be evidence that that individual or organization possesses legal custody of that animal.¶

(~~89~~) "State Veterinarian" means the chief animal health official of the State as per ORS 596.210.¶

(~~910~~) "Unique identification" means any physical means by which an animal may be distinguished from all other similar animals, including but not limited to, a microchip, ear tag, leg band, tattoo, brand, or a photograph or written description of distinguishing features.

Statutory/Other Authority: ORS 609.415, 561, 596

Statutes/Other Implemented: ORS 609.415, 609.420

AMEND: 603-015-0085

RULE SUMMARY: Establish tiered license fee structure

CHANGES TO RULE:

603-015-0085

Licensing

(1) In order to operate in Oregon, each separate physical location out of which an animal rescue entity operates shall obtain and maintain a license from the Department. An animal rescue entity must complete the process laid out in section (2), (3), and (4) of this rule prior to commencing operations within Oregon.¶

(2) An animal rescue entity shall apply to the Department for the issuance or renewal of a license using the following process:¶

(a) Obtain a license application from the Department's online services link or by contacting the Department.¶

(b) Complete the license application in full, including any required attachments or additional information requested and return the completed application to the Department.¶

(c) For the issuance of a license, schedule an inspection by the Department upon the Department's request under section (3) of this rule.¶

(d) For the renewal of a license, either schedule an inspection by the Department upon the Department's request under section (3) of this rule or obtain an exemption as per section (7) of this rule.¶

(3) The Department will review and process applications using the following process:¶

(a) The Department will process complete license applications on a first come, first served basis.¶

(b) Prior to the Department's issuance of a license, the Department shall request and conduct an inspection of any portion(s) of the animal rescue entity that it determines reasonably appropriate. The inspection shall allow the Department to determine if the animal rescue entity is compliant with the following:¶

(A) Indoor facilities as per OAR 603-015-0040;¶

(B) Outdoor facilities as per OAR 603-015-0045;¶

(C) Health and husbandry practices as per OAR 603-015-0050;¶

(D) Record keeping as per OAR 603-015-0060 and OAR 603-015-0090 including importation documents if animals are acquired from an out-of-state or international source; and¶

(E) Any other applicable laws or regulations.¶

(c) Following an inspection, the Department will issue the animal rescue entity a written, preliminary determination describing the results of the inspection. The final determination of the results of the inspection shall be made in the licensing decision.¶

(d) The Department may require follow-up documentation from the animal rescue entity following the inspection to determine compliance with the laws laid out in subsection (3)(b) of this rule.¶

(e) The Department will issue a preliminary licensing decision following the completion of the steps laid out in section (2) and (3) of this rule and following the Department's review of all information. If the Department preliminarily determines that an animal rescue entity should receive a license, the Department will submit an invoice for payment of the license fee required under section (4) of this rule to the animal rescue entity. A final licensing decision will be made following receipt of payment.¶

(f) The Department shall not issue or renew a license if:¶

(A) The application is incomplete;¶

(B) The animal rescue entity fails to pay the license fee;¶

(C) The animal rescue entity did not allow an inspection as required by subsection (3)(b) of this rule;¶

(D) The animal rescue entity did not provide follow up documentation required under subsection (3)(d) of this rule;¶

(E) The animal rescue entity is out of compliance with any of the provisions laid out in subsection (3)(b) of this rule); or¶

(F) The Department determines it should exercise its discretion to decline to do so under section (8) of this rule.¶
(4) For the issuance or renewal of a license, the fee shall be \$375 per license year. Fees are not prorated. A license will be valid for the remainder of the license year in which the license is issued or renewed.¶

(5) If the Department receives a complaint about an animal rescue entity or a facility control calculated based on a combination of a single organization license fee, the number of physical locations owned, operated, or controlled by the ARE, and the total number of animals transferred into an ARE's custody during the prior licensing year. Fees are not prorated. A license will be valid for the remainder of the license year in which the license is issued or renewed.¶

(a) Organization license fee - Each ARE shall pay an organization license fee based on the ARE's organization type. Organization fees shall be calculated as follows:¶

(A) ARE's which own or operate one or more physical locations meeting the definition in OAR 603-015-080(4)(a);

this fee includes one primary physical location owned or operated by the ARE - \$300¶

(B) ARE's which do not own or operate any physical locations, that operate only foster facilities or physical locations meeting the definition in OAR 603-015-080(4)(b) - \$225¶

(b) Physical location fee - Each ARE shall pay a physical location fee for each physical location where animals in the legal custody of the ARE are kept. For AREs which are licensed under (4)(a)(A) of this rule, the ARE's primary physical location will be exempt from this fee. The physical location fee shall be \$75 per physical location.¶

(c) Animal transfer fee -Each ARE shall pay an animal transfer fee based on the number of animals transferred into the ARE's custody during the previous license year. Transferred animals shall include any animal that was in the ARE's legal custody for any length of time. Animal transfer fees will not be assessed to AREs being newly licensed, by an animal rescue entity, including foster facilities, but shall be assessed each following license year for renewal. Animal Transfer Fees shall be calculated as follows:¶

(A) 50 or fewer animals transferred into the ARE's custody - \$100¶

(B) 51 to 100 animals transferred into the ARE's custody - \$200¶

(C) 101 to 250 animals transferred into the ARE's custody - \$600¶

(D) 251 to 500 animals transferred into the ARE's custody - \$1,200¶

(E) 501 to 1000 animals transferred into the ARE's custody - \$2,200¶

(5) If the Department receives a complaint about an animal rescue entity or a physical location or foster facility controlled by an animal rescue entity, the Department may initiate an investigation and inspect that animal rescue entity or facility. The Department may seek and obtain a warrant to conduct an investigation or inspection, and when conducting an investigation or inspection pursuant to this rule, the Department may seize any evidence or report any other violations that it observes or otherwise discovers.¶

(6) An animal rescue entity may only transfer a license to another person with the prior written consent of the Department. The Department will only grant a transfer request if it determines the current license has not expired and the request complies with the requirements of this provision. To request a transfer of a license, a licensee shall submit a request to transfer the license to the Department in writing and include the name, address, and management, ownership, or substantial control of their business or operation to which the animal rescue entity wishes to transfer its license and shall include any other information or documentation requested by the Department. The transferee shall submit a signed release to the Department permitting the performance of a background investigation of the transferee, and the Department shall conduct a background investigation. An inspection is required to complete the license transfer. The Department will either deny or grant the transfer as soon as practicable.¶

(7) A license renewal for an animal rescue entity may be granted by the Department without an inspection if the animal rescue entity has not committed any violations in the preceding license year and has not made changes to its business or facility. Changes include but are not limited to any alteration of the business location, facility structure, or ownership information. The request for an inspection exemption can be made on the license renewal form.¶

(8) The Department may refuse to issue or renew, suspend, or revoke a license for any one or more of the following grounds:¶

(a) Falsification or a deliberate misstatement in the application for any license, any renewal license, or any license transfer;¶

(b) Engaging in continued noncompliance or repeat violations of provisions outlined in section (3)(b) of this rule;¶

(c) Engaging in action that seriously threatened the health, safety, or welfare of any animal or person;¶

(ed) Failure to correct deficiencies found during an inspection or investigation or any other violations; or¶

(fe) Any other reason allowed or required by law.

Statutory/Other Authority: ORS 609.415, 561, 596

Statutes/Other Implemented: ORS 609.415, 609.420