



Massachusetts Animal Coalition

Working together to decrease the number of homeless, neglected, displaced and abused animals in Massachusetts.

Information about the Shelter/Rescue Regulations Hearing on September 24th

General Information

The Department of Agricultural Resources (MDAR) is holding a hearing on proposed regulations for shelters and rescues in Massachusetts. You can see the draft proposal [online](#). The Department is issuing these regulations under their authority in the [Mass. General Laws section 2 of chapter 129](#), which gives them authority to promulgate regulations based “...on contagious diseases of such animals: the prevention and treatment of contagious diseases, burial of carcasses of diseased animals, and disinfection of places where contagion exists.”

These regulations would impact “Animal Rescue Organization” defined as a person, organization, or other legal entity, that is not required to be licensed under M.G.L. c. 129, Sections 39, 39A or 45, and that either on its own behalf or as facilitator for others engages or arranges for others to engage in the activities of transferring ownership of a Domestic Animal.” See regulations for more detail.

Where/When

The hearing starts at 2pm in the 2nd floor conference rooms B, C and D, at 100 Cambridge Street, Boston, MA 02114. Please plan to allow for traffic and parking, and to sign in to testify. The hearing ends at 5pm. It is important the people show up and testify!

How to Get There

The [cheapest parking](#) is underneath the Boston Common (www.massconvention.com/about-us/boston-common-garage), which then requires walking several blocks up Beacon Street, past the State House, and turning left on Bowdoin Street. Walk down past the parking garage on the right and go up the stairs into the park; enter 100 Cambridge Street from the park. There is closer, though more expensive, parking at the garage at [100 Cambridge Street](#). (www.100cambridgestreet.com). There is another garage [at Government Center](#) (<http://www.governmentcentergarage.com/>). The Bowdoin T stop is closest; Park Street is also within walking distance, as is Government Center.

Tips for Testimony (oral and written)

- Please RSVP to info@massanimalcoalition.org so we can help coordinate testimony.
- There will be a place to sign in when you get to the hearing room. When testifying, it’s best to tell your story – how these regulations will affect your organization and the animals in your care. It is best to offer alternatives to specific regulations instead of just oppose them. The goal we should have is to convince the MDAR that many of the provisions need to be revisited – that the goal to reduce disease transmission can be accomplished in ways that won’t hurt shelter/rescue goals. (See below).

- It is extremely important that we all appear professional, both in our actions and how we dress; that our manner and comments are thoughtful and complete.
- Most everyone is not opposed to having regulations; it's the detail on many sections that is of concern. Emphasizing that we want to work with MDAR to make these effective can be helpful.
- If you cannot make the hearing, you can submit testimony ahead of time or have someone bring testimony to the hearing for you. They will not be accepting comments after September 24.
- This will depend on attendance, but MDAR is estimating people will have 2-5 minutes to speak.

Who is Holding the Hearing?

We expect that staff from the Department of Agricultural Resources, likely Mike Cahill, Loraine O'Connor and the Department's attorney will be at the hearing.

What More Can You Do to Prepare?

Do your homework – [see the text of the regulations online](http://www.massanimalcoalition.com/resources/september-24th-hearing-on.html). (<http://www.massanimalcoalition.com/resources/september-24th-hearing-on.html>). You can contact us with questions at info@massanimalcoalition.org or if you have a specific question, you can contact Mike Cahill at MDAR at 617-626-1794.

What Happens After the Hearing?

After the hearing, MDAR can decide to edit the regulations or not. Once they have determined that they have what they consider to be a final, edited version, it will go to the Secretary of State where it will become final (and therefore become law).

What are the Biggest Problems with the Regulations?

First, individuals and organizations engaged in sheltering and rescue *should read the proposed regulations*. They are lengthy and might take several times to read through to understand them, and how certain sections relate. **The issues below are not designed to replace a thorough reading and independent thinking about the impact of these regulations on you or your organization.** They will impact different organizations in different ways and your testimony should reflect how they will impact you.

Generally, the main concerns that have been identified have to do with a lack of understanding of significant aspects of sheltering by the MDAR. While we understand that MDAR has been dealing with a growing number of contagious disease incidences caused by shelters and rescues, these regulations and their one-size-fits-all approach doesn't provide the most effective way to reduce disease transmission, and in several ways runs counter to such goals.

Sheltering and animal health

These requirements would increase the disease incidence in shelters and are contrary to the Association of Shelter Veterinarians Guidelines (www.sheltervet.org). Studies have shown that the primary risk factors for disease in shelters are the amount of time spent in the shelter and animal density. Requiring veterinary examinations and health certificates prior to the advertisement or transfer of animals would significantly increase the length of stay before adoption, resulting in delays that would increase crowding, disease, and euthanasia. While health certificates for all animals may sound ideal, it will be impossible for most shelters and rescues to accomplish.

The language in sections relating to contagious diseases is vague and does not clearly define infectious and contagious diseases. Organizations are concerned that this requirement would prevent shelters from adopting, transferring, or fostering animals, especially cats, with mild conditions such as upper respiratory tract infections, flea allergies, feline leukemia positive cats or animals that need dental work. Feline upper respiratory tract infection is endemic in shelters and nearly impossible to eradicate; for many cats, the only way for the signs to resolve is to remove them from the stressful situation, i.e. the shelter, and place them in a home. These sections (found in 30.09) would result in thousands of animals being held for long holding periods and/or euthanasia. If there is indeed a problem with contagious disease in specific communities that can be traced back to specific organizations, perhaps a better way to prevent such disease would be to target these organizations and review their practices.

A health certificate also does not prevent the problem the MDAR is trying to solve as it is still possible for a sick animal to be adopted out with a current 30 day health certificate as many animals don't show any signs of illness until after 1-2 weeks of being in their adoptive home. Many reputable and responsible organizations will be hurt by the financial inability to hire veterinarians for the job, meaning the unnecessary deaths of thousands of animals for lack of proper paper work.

Overreach

These proposed regulations cast their net far beyond matters related to preventing or treating contagious diseases in shelter animals or disposing of the bodies of shelter animals who die from contagious disease. G.L. c. 129, sec. 2, the primary statutory authority for the regulations, lists specific topics about which regulations may be issued. The allowed topics focus *exclusively* on contagious diseases of animals: the prevention and treatment of contagious diseases, burial of carcasses of diseased animals, and disinfection of places where contagion exists. The intention of the primary statutory authority was to regulate the ownership of cattle, swine and farm animals, the statute makes no mention of household companion animals. The proposed regulations however go far beyond this scope. For example, section 30.09(5) and (6) deals with animals affected by a non-contagious medical condition – by definition not a contagious disease. Behavioral issues have nothing to do with contagious disease. Section 30.09(2), (3), (4) prohibits the adoption of animals with “any significant behavioral concern” unless the animal is first treated for the problem or the problem is disclosed in writing to the adopter. The entirety of this section does not fall within the statutory authority given by law to the MDAR.

Vagueness

Several sections suffer from the use of vague language. This is particularly worrisome in the sections regarding animal behavior. Terms such as “serious behavior issue or concern” are highly subjective and to authorize *revocation* of an organization's license based on a disagreement over behavior issues that are often situational and complicated seems unethical. Another example can be found in 30.04 (9) which requires an organization to notify the Department of a “substantial change” of information in an application. Such terms are vague.

Foster Care

Provisions in 30.04 and 30.07 (5) would likely deter people from serving as foster homes, as their names would be given to MDAR and they would be subject to home inspections without limitations. Foster homes make the difference between life and death for many animals. Suggestions for improving this section could include differentiating between foster homes where animals are being adopted from and foster homes that are fostering an animal that will be returned to a shelter prior to adoption. Adding language that allows an inspection when *only when necessary for a significant reason (like a disease outbreak) may ease concerns*. Filing the names of foster homes when an application is filed is nonsensical – it would only be up-to-date for a short period of times, as new foster homes join the program on a day to day or month to month basis. A more efficient way would be to allow the MDAR to receive information about foster homes *upon request related to disease outbreak*. This would be less of a deterrent and provide the Department with better, more updated information.

Publications

Requiring organizations to alter publications per 30.04(7) is vague, impractical, extremely costly and unnecessary. This would not be practical for things already printed, and pieces that might mention adoption may or may not be seen as “advertisements.” It is also very confusing on how this would apply when spoken on radio or television and in social media (Facebook, Twitter and other forums) where saying or writing such a number is impossible or impractical.

Veterinary estimate

Requiring a veterinarian’s estimate for a non-contagious medical condition is useless; veterinarian’s estimates will vary widely as to make this meaningless (30.09 (6)).

Confusing and contradictory language

Below are just a few examples of such language. MAC members may find others and wish to address them (note that issues relating to scope, as described above, may also apply).

In the spay/neuter section 30.09 (8), this should mimic the state law; using different language regarding the use of a certificate process for animals adopted unaltered is confusing and unnecessary.

Given that these regulations are for animal rescue organizations (not animal control agencies, though they aren’t specifically exempted under the definition) it is unclear why these regulations cite responsibilities for animal control officers (30.10 (1)). It is also confusing and contradictory that the regulations on one hand require a stray dog to remain in the custody of an animal control officer (30.10) and then in 30.10 (3) state that the organization then bears the responsibility to locate and notify the owner and facilitate its return. Given that the stray dog would be in the possession of the animal control officer, it doesn’t make sense for the Organization to be the entity to do this.

The use of the term “any animal” or “every animal” is used in places it shouldn’t be. For example, in 30.06 (2)(i) it says “every animal shall be given the opportunity to exercise outside of its enclosure regularly in order to maintain the animal in good health and reduce the stress of confinement. This should not apply to every animal.

Another example of this is found in 30.06 (2)(j) which states that “every animal shall be housed in compatible groups without overcrowding.” The way this is written means that we *must* house animals in groups.

There are also sections in the regulations that contradict themselves. For example, 30.09 (1)(d) and 30.09 (5) and 30.09 (6) are in direct contradiction. 30.09 (1)(d) states that “No Organization may offer for sale, advertise, or transfer an animal unless the animal appears to be healthy at the time of transfer,” while 30.09 (5) states that “An animal acquired by an Organization found to be affected by any non-contagious medical condition... shall be treated and stabilized by a veterinarian prior to being offered for sale or transfer.” And 30.09 (6) states that “No Organization may transfer an animal with a non-contagious medical condition unless accompanied by a disclosure statement...”

In 30.07 (2), “USDA accredited veterinarian” be changed to “licensed veterinarians.” Increasing it to USDA certified veterinarian adds a significant burden that exists above the current emergency order (current order reads: “each and every animal entering the Commonwealth must be accompanied by a valid health certificate from the place of origin that meets or exceeds the Commonwealth of Massachusetts Small Animal Interstate Certificate of Health Examination.” These forms are signed by a licensed veterinarian, but not necessarily by a USDA certified veterinarian.

The euthanasia section (30.06) should be improved so that it contains the same humane language as is now required for stray dogs and cats. There should be a initial phase-in time for compliance with regulations. The registration fee should be disclosed. Revocation only happen with a substantial violation

Thank you to the MAC member organizations that provided comments to help create this summary.