

adopt rules and policies necessary for the operation and provision of health and human services by the department and for administration of Health and Safety Code, Chapter 1001.

The amendment affects Education Code, Chapter 61; Occupations Code, Chapter 157; Health and Safety Code, Chapters 311, 531 and 1001; and Government Code, Chapter 531. Review of the rules implements Government Code, §2001.039.

§13.61. *Medically Underserved Areas and Resident Pharmacists.*

(a) This section implements the responsibility of the Department of State Health Services (department) [~~Texas Department of Health~~] to define the term "medically underserved areas" under the Education Code, §61.924 [~~§61.854~~]. That section provides that each college of pharmacy shall give priority consideration to an applicant for a resident pharmacist position who demonstrates a willingness to practice pharmacy in medically underserved areas of this state, as defined by the department [~~Texas Department of Health~~].

(b) The term, "medically underserved areas," is defined as meeting any of the criteria:

(1) designated by the United States Secretary of Health and Human Services (secretary) as a whole county or partial county Health Professional Shortage Area (HPSA) [an area] in a metropolitan or non-metropolitan area of Texas (which need not conform to the geographic boundaries of a political subdivision and which is a rational area for the delivery of health services) which the secretary [~~the United States Secretary of Health and Human Services (secretary)~~] determines has a primary care physician shortage and which is not reasonably accessible to an adequately served area as delineated in 42 United States Code (U.S.C.), §254e (42 Code of Federal Regulations (C.F.R.), Part 5);

(2) designated by the secretary as a population group HPSA which the secretary determines to have [~~sueh~~] a primary care physician shortage as delineated in 42 U.S.C., §254e (42 C.F.R. Part 5);

(3) designated by the secretary as a facility HPSA for a public or nonprofit private medical facility or other facility which the secretary determines has [~~sueh~~] a primary care physician shortage as delineated in 42 U.S.C., §254e (42 C.F.R., Part 5); or

(4) designated by the secretary as an area with a medically underserved population (MUP) and [designated by the secretary as] having a shortage of primary care physicians and personal health services as defined in 42 U.S.C., §254c (42 C.F.R., Part 491.5, Subpart A).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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CHAPTER 169. ZOONOSIS CONTROL

SUBCHAPTER A. RABIES CONTROL AND ERADICATION

25 TAC §§169.21 - 169.34

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department), proposes amendments to §§169.21 - 169.34, concerning the control of rabies.

BACKGROUND AND PURPOSE

These rules are necessary to comply with Health and Safety Code, Chapter 826, "Rabies," §826.011, which provides the Executive Commissioner of the Health and Human Services Commission with the authority to administer the rabies control program and adopt rules necessary to effectively administer the program.

Government Code, §2001.039, requires that each state agency review and consider for re-adoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Sections 169.21 - 169.34 have been reviewed and the department has determined that reasons for adopting the sections continue to exist because rules on this subject are needed.

Specifically, the sections cover definitions, information relating to the control of rabies, preexposure rabies vaccination, reports of human exposure to rabies, facilities for the quarantining or impounding of animals, quarantine method and testing, requirements of a quarantine facility, vaccination requirement, disposition of domestic animals exposed to rabies, interstate movement of dogs and cats into Texas, international movement of dogs and cats into Texas, submission of specimens for laboratory examination, and statewide quarantine.

After carefully considering the alternatives, the department believes the rules as amended are the best method of implementing the statute to protect the public health with rules for the control and eradication of rabies in the State of Texas.

SECTION-BY-SECTION SUMMARY

The amendment to §169.21 modifies the language to make it more concise.

The amendment to §169.22 updates the definitions and the legacy agency name.

The amendment to §169.23 changes Zoonosis Control Division to Zoonosis Control Branch.

The amendment to §169.24 clarifies preexposure rabies vaccination.

The amendment to §169.25 clarifies potential rabies exposure.

The amendment to §169.26 updates the legacy agency name, clarifies facility and animal care requirements, and deletes the last paragraph because the date by which compliance was required has passed.

The amendment to §169.27 clarifies language relating to rabies exposure and animal quarantine and disposition.

The amendment to §169.28 clarifies and updates language relating to the requirements of quarantine facilities.

The amendment to §169.29 clarifies the rabies vaccination requirement.

The amendment to §169.30 clarifies language pertaining to disposition of domestic animals exposed to rabies.

The amendments to §169.31 and §169.32 clarify language pertaining to dogs and cats coming into Texas from other states and other countries.

The amendment to §169.33 updates the legacy agency name, and clarifies language pertaining to the submission of rabies specimens for laboratory examination.

The amendment to §169.34 replaces the board with the Executive Commissioner of the Health and Human Services Commission.

The proposed revisions to the sections update and clarify language to enable those subject to the sections to more readily comply. The amendments enhance implementation of a comprehensive rabies control program that will diminish public exposure to rabies, reduce morbidity and mortality from rabies among humans and animals, and provide for humane treatment of animals suspected of rabies.

FISCAL NOTE

Martha McGlothlin, Section Director, Community Preparedness Section, has determined that for each year of the first five-year period that the sections will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the sections as proposed.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. McGlothlin has also determined that there will be no effect on small businesses or micro-businesses required to comply with the sections as proposed. This was determined by interpretation of the rule that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the sections. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. The Texas Veterinary Medical Association and the Texas State Board of Medical Examiners were contacted about proposed changes to rabies vaccination certificate requirements; there is not an anticipated fiscal impact for veterinarians who will need to comply with these amendments. There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

In addition, Ms. McGlothlin has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the sections will be that it enhances public health and safety by advising pre-exposure rabies vaccination of persons at high risk for rabies exposure; requiring reporting of potential exposure of humans to rabies; imposing quarantine or testing of animals that potentially exposed a human to rabies; setting standards for the humane and effective quarantine of these animals; establishing minimum standards for vaccination of dogs and cats against rabies with associated recordkeeping and records retention; establishing requirements for the disposition of domestic animals exposed to a rabid animal; establishing rabies vaccination requirements for interstate and international movement of dogs and cats into Texas; establishing standards for the submission of specimens to the department's laboratory for rabies testing; and establishing statewide rabies quarantine for particular wildlife species. After careful consideration of alternatives, the department concludes that the rules, as revised, provide a clear, concise comprehensive policy of rabies control that will diminish public exposure to rabies, reduce morbidity and mortality from rabies among humans and animals, and provide for

humane treatment of animals suspected of rabies. This policy is the most efficient use of public and private resources to achieve these goals.

REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed amendments do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Tom Sidwa, DVM, Department of State Health Services, Community Preparedness Section, Zoonosis Control Branch, 1100 West 49th Street, Austin, Texas 78756, or by email to Tom.Sidwa@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Lisa Hernandez, certifies that the proposed rules have been reviewed by legal counsel and found to be within the state agencies' authority to adopt.

STATUTORY AUTHORITY

The proposed amendments are authorized by Health and Safety Code, §826.011, which provides the department with the authority to administer the rabies control program and adopt rules necessary to effectively administer this program; §826.012, which provides that rules adopted by the department are minimum standards for rabies control; §826.042, which provides that the department shall adopt rules governing the testing of quarantined animals and the procedure for and method of quarantine; §826.045, which requires the department to adopt rules to enforce an area rabies quarantine; §826.051, which requires the department to adopt rules governing the types of facilities that may be used to quarantine or impound animals; and Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001.

The proposed amendments affect Health and Safety Code, Chapters 826 and 1001; and Government Code, Chapter 531. Review of the rules implements Government Code, §2001.039.

§169.21. *Purpose.*

The purpose of these sections is to protect [the] public health by establishing uniform rules for the control and eradication of rabies in the State of Texas, in accordance with Chapter 826 of the Texas Health and Safety Code.

§169.22. *Definitions.*

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Unless defined below, all words have definitions as provided in the Texas Health and Safety Code, §826.002.

(1) (No change.)

(2) Assistance animal [dog]--An animal [A dog] that is specially trained or equipped to help a person with a disability [physical challenge] and that:

(A) is used by a person with a disability [physical challenge] who has satisfactorily completed a specific course of training in the use of the animal [dog]; and

(B) has been trained by an organization generally recognized by agencies involved in the rehabilitation of persons with disabilities [a physical challenge] as reputable and competent to provide animals [dogs] with training of this type.

(3) Cat--Any domestic cat, excluding hybrids [Felis catus].

(4) Confinement--The restriction of an animal to an area, in isolation from other animals and people, except for contact necessary for its care.

(5) [(4)] Currently vaccinated--Vaccinated and satisfying all the following criteria.

(A) The animal must have been vaccinated against rabies with a vaccine licensed by the United States Department of Agriculture (USDA) for that animal species at or after the minimum age requirement and using the recommended route of administration for the vaccine [according to the label recommendations of a United States Department of Agriculture (USDA) approved vaccine].

(B) At least 30 days have elapsed since the initial vaccination.

(C) The time elapsed since the most recent vaccination has not exceeded the recommended interval for booster vaccination as established by the manufacturer [label recommendations of the vaccine].

(6) [(5)] Custodian--A person or agency which feeds, shelters, harbors, owns, has possession or control of, or has the responsibility to control an animal.

(7) [(6)] Department--The Department of State Health Services [The Texas Department of Health (TDH)].

(8) [(7)] Dog--Any domestic dog, excluding hybrids [Canis familiaris, including hybrids].

(9) [(8)] Domestic animal--Any animal normally adapted to live in intimate association with humans or for the advantage of humans.

[(9) Domestic dog--Any Canis familiaris, excluding hybrids.]

(10) Domestic ferret --Any *Mustela putorius furo* [Mustela putorius furo].

(11) Health service region--A contiguous group of Texas counties, so designated by the Executive Commissioner of the Health and Human Services Commission.

(12) [(11)] High-risk animals--Those animals which have a high probability of transmitting rabies; they include skunks, bats, [species of] foxes [indigenous to North America], coyotes, and raccoons.

(13) [(12)] Housing facility--Any room, building, or area used to contain a primary enclosure or enclosures.

(14) [(13)] Humanely killed--To cause the death of an animal by a method which:

(A) rapidly produces unconsciousness and death without [visible evidence of] pain or distress; or

(B) utilizes anesthesia produced by an agent which causes painless loss of consciousness, and death following such loss of consciousness.

(15) [(14)] Hybrid--Any offspring of two animals of different species.

(16) [(15)] Impoundment--The collecting and confining of an animal by a government entity or government contractor pursuant to a state or local ordinance [because of a state or local ordinance or because of a contract with a county or municipality].

(17) [(16)] Impoundment facility--An enclosure or a structure in which an animal is collected or confined by a government entity or government contractor pursuant to a state or local ordinance [because of a state law or local ordinance or because of a contract with a county or municipality].

[(17) Isolation--The separation of an animal exposed or potentially exposed to rabies.]

(18) Local rabies control authority--The officer designated by the municipal or county governing body under the Texas Health and Safety Code, §826.017 [Chapter 826].

(19) Low-risk animals--Those animals which have a low probability of transmitting rabies; they include all animals of the orders Didelphimorphia [Marsupialia], Insectivora, Rodentia, Lagomorpha, and Xenarthra.

(20) Observation period--The time following a potential rabies exposure [bite incident] during which the [biting animal's] health status of the animal responsible for the potential exposure must be monitored. The observation period for [domestic] dogs, cats, and domestic ferrets (only) is 10 days (240 hours); the observation period for other animals, not including those defined as high risk or low risk, is 30 days. All observation periods are calculated from the time of the potential exposure.

(21) Police service animal [dog]--An animal as defined in the Texas Penal Code, §38.151 [Domestic dog that is owned or employed by a governmental law enforcement agency].

(22) (No change.)

[(23) Public health region--A contiguous group of Texas counties, so designated by the board.]

(23) [(24)] Quarantine facility--A structure where animals are held for rabies observation.

(24) [(25)] Quarantine period--That portion of the observation period during which an animal that has potentially exposed a human to rabies [a biting animal] is under physical confinement [physically confined] for observation as provided for in §169.27 of this title (relating to Quarantine Method and Testing).

(25) [(26)] Sanitize--To make physically clean and to destroy disease-producing agents.

(27) ~~Therapy dog~~--A dog that helps a person with a diagnosed emotional disorder for whom a letter has been issued by a physician stating that the removal of the animal would be detrimental to the person's emotional health.]

(26) [(28)] Unowned animal--Any animal for which a custodian [an owner] has not been identified.

(27) [(29)] Vaccinated--Properly administered [injected] by or under the direct supervision of a [licensed] veterinarian with a rabies vaccine licensed for use in that species by the USDA [United States Department of Agriculture].

(28) Veterinarian--A person licensed to practice veterinary medicine in the United States.

(29) [(30)] Zoonosis Control Branch [Zoonosis Control Division (ZCD)]--The branch [division] within the department [Texas Department of Health] to which the responsibility for administering [implementing] these rules is assigned.

(30) [(31)] Zoonosis control representative--Any person employed by the department to perform zoonosis control duties [ZCD].

§169.23. Information Relating to the Control of Rabies.

The department's Zoonosis Control Branch [Zoonosis Control Division (ZCD)] will assume the responsibility of collecting, analyzing, and preparing monthly and annual summations of rabies activity in the state. These reports will be forwarded to national, state, and municipal agencies as required, and selected statistics will be sent to veterinary medical and animal control organizations throughout the state.

§169.24. Preexposure Rabies Vaccination [Immunization].

Preexposure rabies vaccinations [immunization] should be administered to all individuals whose activities place them at a significant risk of exposure to rabies, in accordance with the recommendations of the Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices [CDC Immunization Practices Advisory Committee] (ACIP).

§169.25. Reports of Human Exposure to Rabies.

(a) Any person having knowledge of a potential rabies exposure to a human [as defined in the Texas Health and Safety Code, §826.041.] will report the incident to the local rabies control authority as soon as possible after [, but not later than 24 hours from the time of] the incident. This requirement does not apply to contacts with [bites by] low-risk animals as defined in §169.22 of this title (relating to Definitions).

(b) The [owner of] custodian of an [the potentially rabid] animal that has potentially exposed a person to rabies will place that animal in quarantine or submit it for testing as prescribed in §169.27 of this title (relating to Quarantine Method and Testing).

(c) (No change.)

§169.26. Facilities for the Quarantining or Impounding of Animals.

(a) Generally.

(1) - (5) (No change.)

(6) Management. The manager of a quarantine facility should be either [a licensed veterinarian or] an individual who has satisfactorily completed an appropriate department [TDH] training course or a veterinarian.

(7) - (11) (No change.)

(12) Primary enclosures. Primary enclosures shall:

(A) - (E) (No change.)

(F) provide sufficient space to allow each animal to turn around fully, stand, sit, and lie in a comfortable [normal] position.

(b) Feeding.

(1) [~~Dogs and cats shall be fed at least once a day except as directed by a licensed veterinarian.~~] All [The] food shall be free from contamination, wholesome, palatable, and of sufficient quality and nutritive value to meet the normal daily requirements for the condition, size, and age [and size] of the animal [dog or cat].

(2) Dogs and cats shall be fed at least once a day, except as directed by a veterinarian.

(3) [(2)] Domestic ferrets shall have continuous [24-hour] access to food. [The food shall be free from contamination, wholesome, palatable, and of sufficient quality and nutritive value to meet the normal daily requirements for the condition, size, and age of the domestic ferret.]

(4) [(3)] All other animals shall be fed appropriately as described on the packaging of a commercial, species-specific food or as directed by a veterinarian. [Food receptacles shall be accessible to all dogs, cats, and domestic ferrets and shall be located so as to minimize contamination by excreta. Food pans or bowls shall be durable and kept clean and sanitary. Disposable food receptacles may be used but must be discarded after each feeding or for domestic ferrets, after 24 hours of use. Self feeders may be used for feeding dry pet foods and shall be kept clean and sanitary.]

(5) Food receptacles shall be accessible to all animals and shall be located so as to minimize contamination by excreta. Food receptacles shall be durable and kept clean and sanitary. Disposable food receptacles may be used but must be discarded after each feeding or, for domestic ferrets, after 24 hours of use. Self feeders may be used for feeding dry foods to animals acclimated to their use.

(c) Watering. If potable water is not accessible to all animals [dogs and cats] at all times, it shall be offered to them at least twice daily for periods of not less than one hour, except as directed by a [licensed] veterinarian. Drinking bottles may be used for animals acclimated to their use. Domestic ferrets shall have potable water accessible at all times, provided in drinking bottles of appropriate size to maintain a fresh supply. Water receptacles shall be kept clean and sanitary.

(d) (No change.)

(e) Pest Control. A regular program for the control of insects, ectoparasites, and other pests shall be established and maintained. The facility shall be free of visible signs of insects, rodents, and other vermin infestations at all times.

(f) (No change.)

(g) This section applies to all animal shelters located in counties with a population of 75,000 or greater as required by the Texas Health and Safety Code, Chapter 823, and to all quarantine or impoundment facilities regardless of county population.

[(h) Impoundment facilities in counties with a population less than 75,000 have until January 16, 2005, to be in compliance with the minimum standards set forth in this section.]

§169.27. Quarantine Method and Testing.

(a) When a [domestic] dog, cat, or domestic ferret which has potentially exposed [bitten] a human to rabies has been identified, the [owner of] custodian will [be required to] place the animal in quarantine as defined in the Texas Health and Safety Code, §826.002, until the end of the 10-day observation period. The observation period will begin at the time of the exposure. [Unvaccinated animals should not be vaccinated against rabies during the observation period; however,

animals may be treated for unrelated medical problems diagnosed by a veterinarian. The observation period will begin at the time of the bite incident. If the animal becomes ill during the observation period, the local rabies control authority must be notified by the person having possession of the animal.] The animal must be placed in a department-licensed quarantine facility specified by the local rabies control authority and observed at least twice daily. However, the local rabies control authority may allow the animal to be quarantined [placed] in a veterinary clinic. As an alternative, the local rabies control authority may allow home confinement [quarantine if the following criteria can be met]. If the potential rabies exposure occurs in a city or county other than where the animal's custodian resides, the animal may be transferred to a department-licensed quarantine facility or a veterinary clinic in the city or county of the custodian's residence or allowed home confinement, if applicable, if there is mutual agreement to do so between the local rabies control authorities for the city or county where the exposure occurred and where the custodian resides. The alternative to quarantining (to include home confining) a dog, cat, or domestic ferret is to have the animal humanely killed in such a manner that the brain is not damaged and a suitable specimen (head with brain intact or brain) submitted to a department-designated laboratory for rabies testing as specified in subsection (h) of this section. To allow home confinement, the following criteria must be met.

(1) (No change.)

(2) The animal has been vaccinated against rabies and the time elapsed since the most recent vaccination has not exceeded the manufacturer [label] recommendations for the vaccine. If an unvaccinated animal is not over 16 weeks [four months] of age at the time of the potential exposure [bite], it may be allowed home confinement [quarantine].

(3) The local rabies control authority or a [licensed] veterinarian must observe the animal at least on the first and last days of the home confinement [quarantine period].

(4) The animal was not a stray [as defined in the Texas Health and Safety Code, §826.002], at the time of the potential exposure [bite].

(b) A domestic animal which has potentially exposed a human and has been designated by the local rabies control authority as unowned may be humanely killed. A suitable specimen shall be submitted for rabies testing as specified in subsection (h) of this section. [A domestic animal which has bitten a human and has been designated by the local rabies control authority as unclaimed may be humanely killed in such a manner that the brain is not mutilated. A suitable specimen (head with brain intact or brain) shall be submitted to a department certified laboratory for rabies diagnosis as specified in subsection (h) of this section.]

(c) If the animal implicated in the potential exposure [biting animal] is a high-risk animal, it shall be humanely killed and a suitable specimen submitted for rabies testing as specified in subsection (h) of this section.

(d) If the [biting] animal implicated in the potential exposure is a low-risk animal, neither quarantine nor rabies testing will be required unless the local rabies control authority has cause to believe the [biting] animal is rabid, in which case it shall [should] be humanely killed and a suitable specimen submitted for rabies testing as specified in subsection (h) of this section.

(e) (No change.)

(f) If the [biting] animal implicated in the potential exposure is not included in subsection (a), (b), (c), (d), or (e) of this section, the [biting] animal will be humanely killed and a suitable specimen

submitted for rabies testing as specified in subsection (h) of this section or the local rabies control authority may require the animal to be quarantined at a department-licensed quarantine facility or a veterinary clinic, or confined elsewhere as deemed appropriate by the local rabies control authority [or suitably confined] for the 30-day observation period as an alternative [alternate method] to killing and testing. If the potential rabies exposure occurs in a city or county other than where the animal's custodian resides, the animal may be transferred to a department-licensed quarantine facility or a veterinary clinic in the city or county of the custodian's residence or allowed confinement deemed appropriate if there is mutual agreement to do so between the local rabies control authorities for the city or county where the exposure occurred and where the custodian resides.

(g) Any animal required to be quarantined under this section, which cannot be maintained in [a] secure quarantine, shall be humanely killed and a suitable specimen submitted for rabies testing as specified in subsection (h) of this section.

(h) All laboratory specimens referred to in subsections (a) - (g) [(b)-(g)] of this section shall be submitted in accordance with §169.33 of this title (relating to Submission of Specimens for Laboratory Examination).

(i) At the discretion of the local rabies control authority, [currently vaccinated] assistance animals[, therapy, and police dogs] may not be required to be placed in quarantine (to include confinement) during the observation period.

(j) Police service animals are exempted from quarantine per the Texas Health and Safety Code, §826.048, including confinement.

(k) Animals should not be vaccinated against rabies during the observation period; however, animals may be treated for unrelated medical problems diagnosed by a veterinarian. If the animal becomes ill during the observation period, the local rabies control authority must be notified by the person having possession of the animal.

§169.28. Requirements of a Quarantine Facility.

(a) Quarantine procedures.

(1) A quarantine facility [Quarantine facilities] shall have and use written standard operating procedures (SOP) specific for that facility to ensure effective and safe quarantine procedures. The SOP shall be posted in the quarantine facility, or otherwise be readily available to all employees in the quarantine facility, and adhered to by each employee.

(2) An animal being quarantined because it [which] may have exposed a human to rabies [and animals suspected of rabies that are placed in quarantine for observation] must be maintained in a primary enclosure, separated from all other animals by a solid partition [from all other animals in such a manner] so that there is no possibility of physical contact between animals. An empty chamber between animals is not an acceptable alternative. To prevent rabies transmission, handling of rabies-suspect animals shall be minimized and carried out in a manner that avoids physical contact of other animals and people with the saliva of quarantined animals. Individuals handling animals suspected of shedding rabies virus should utilize appropriate personal protective equipment. To prevent escape, the primary enclosure [chamber] must be enclosed on all sides, including the top. Quarantine cages, runs, or rooms must have "Rabies Quarantine" signs posted.

[(3) Unowned animals may be destroyed for rabies diagnosis prior to the end of the quarantine period.]

(b) Facilities planning. Any entity [county, city, town, or incorporated community] desiring to construct a [animal] quarantine fa-

cility [facilities] shall submit plans to the department for review prior to beginning construction [approval].

(c) Inspection requirements of quarantine facilities.

(1) It will be the responsibility of the department to inspect all [animal] quarantine facilities, including those operated by government contractors. The inspection of the premises will be accomplished during ordinary business hours. All deficiencies will be documented in writing. Those that are of sufficient significance to affect the humane care or security of any animal housed within [confined to] the facility must be corrected within a reasonable period of time.

(2) (No change.)

(3) The quarantine facility manager has the right to appeal the results of the inspection [evaluation]. If the opinion of management of the quarantine facility is in conflict with the inspection [evaluation], he or she may request a review of the inspection by the manager [director] of the department's Zoonosis Control Branch. [Zoonosis Control Division. In the event points of difference still remain, the supervisor may request a review of the inspection by the chief of the department's Bureau of Communicable Disease Control.] The appeal [Each of the appeals] listed in this paragraph [, when required,] will be made in writing through the regional director's office of the health service [public health] region in which the quarantine [animal] facility is located.

§169.29. Vaccination Requirement.

(a) The [owner or] custodian (excluding animal shelters as defined in the Texas Health and Safety Code, §823.001) of each [domestic] dog or cat shall have the animal vaccinated against rabies by 16 weeks [four months] of age. The animal must be vaccinated by or under the direct supervision of a veterinarian with rabies vaccine licensed by the United States Department of Agriculture for that animal species at or after the minimum age requirement and using the recommended route of administration for the vaccine. The attending veterinarian has discretion as to when the subsequent vaccination will be scheduled as long as the revaccination due date does not exceed the recommended interval for booster vaccination as established by the manufacturer or vaccination requirements instituted by local ordinance. The custodian shall retain each vaccination certificate until the animal receives a subsequent booster. [The animal must receive a booster within the 12-month interval following the initial vaccination. Every domestic dog or cat must be revaccinated against rabies at a minimum of at least once every three years with a rabies vaccine licensed by the United States Department of Agriculture. The vaccine must be administered according to label recommendations.] Livestock (especially those that have frequent contact with humans), domestic ferrets, and wolf-dog hybrids should be vaccinated against rabies. The administration of a rabies vaccine in a species for which no licensed vaccine is available is at the discretion of the veterinarian; however, an animal receiving a rabies vaccine under these conditions will not be considered to be vaccinated against rabies virus in potential rabies exposure situations. [Nothing in this section prohibits a veterinarian and owner or custodian from selecting a more frequent rabies vaccination interval. Health and Safety Code, §§826.014 and 826.015 allow local jurisdictions to establish more frequent rabies vaccination intervals.]

(b) An official [Official] rabies vaccination certificate [certificates] shall be issued for each animal by the [vaccinating] veterinarian responsible for administration of the vaccine and contain the following information:

(1) custodian's [owner's] name, address, and telephone number;

(2) - (4) (No change.)

(5) revaccination due date [date vaccination expires (revaccination due date)];

(6) (No change.)

(7) veterinarian's signature, [or] signature stamp, or computerized signature, plus address, phone number, and license number.

(c) Each veterinarian who issues a rabies vaccination certificate, or the veterinary practice where the certificate was issued, shall retain a readily retrievable copy of the certificate [A copy of each rabies vaccination certificate issued shall be retained by the issuing veterinarian and be readily retrievable] for a period of not less than two years after the revaccination due date [five years from the date of issuance].

(d) (No change.)

§169.30. Disposition of Domestic Animals Exposed to Rabies.

(a) Not currently vaccinated animals which have been bitten by, directly exposed by physical contact with, or directly exposed to the fresh tissues of a high-risk animal that is either unavailable for testing or for which a negative test cannot be confirmed or a rabid animal [or directly exposed by physical contact with a rabid animal or its fresh tissues] shall be:

(1) (No change.)

(2) [if sufficient justification for preserving the animal exists, the exposed animal shall be] immediately vaccinated against rabies, placed in confinement [strict isolation] for 90 days, and given booster vaccinations during the third and eighth weeks of confinement [isolation]. For young animals, additional vaccinations may be necessary to ensure that the animal receives at least two vaccinations at or after the age prescribed by the United States Department of Agriculture (USDA) for the vaccine administered.

(b) Currently vaccinated animals which have been bitten by, directly exposed by physical contact with, or directly exposed to the fresh tissues of a high-risk animal that is either unavailable for testing or for which a negative test cannot be confirmed or a rabid animal [or otherwise significantly exposed to a rabid animal] shall be:

(1) (No change.)

(2) immediately [if sufficient justification for preserving the animal exists, the exposed vaccinated animal shall be] given a booster rabies vaccination [immediately] and placed in confinement [strict isolation] for 45 days.

(c) These provisions apply only to domestic animals for which a USDA-licensed [an approved] rabies vaccine is available.

(d) In situations where none of the requirements of this section are applicable, the recommendations contained in the latest edition of the publication titled The Compendium of Animal Rabies Control, published by the National Association of State Public Health Veterinarians, should be followed. The administration of a rabies vaccine in a species for which no licensed vaccine is available is at the discretion of the veterinarian; however, an animal receiving a rabies vaccine under these conditions will not be considered to be vaccinated against rabies virus in potential rabies exposure situations.

§169.31. Interstate Movement of Dogs and Cats into Texas.

Each dog and cat 12 weeks [over three months] of age or older to be transported into Texas for any purpose shall be admitted only when vaccinated against rabies and the time elapsed since the most recent vaccination has not exceeded the manufacturer [label] recommendations for the vaccine. If an initial vaccination was administered less than 30 days prior to arrival, the custodian should confine the dog or cat for the balance of the 30 days. Additionally, documentation [identification] must be provided by a vaccination certificate showing the date

of vaccination, vaccine used, and signature of the [licensed] veterinarian responsible for administration of the vaccine [who administered the vaccine]. If the dog or cat is less than 12 weeks of age, the custodian should confine the animal until 30 days subsequent to its initial vaccination.

§169.32. *International Movement of Dogs and Cats into Texas.*

The federal government regulates the entry of pets into the United States; requirements set forth in this section are in addition to meeting federal requirements. Each dog and cat 12 weeks [over three months] of age or older to be transported into Texas for any purpose shall be admitted only when vaccinated against rabies and the time elapsed since the most recent vaccination has not exceeded the manufacturer [label] recommendations for the vaccine. If an initial vaccination was administered less than 30 days prior to arrival in the United States, the custodian must confine the dog or cat for the balance of the 30 days. Additionally, documentation [identification] must be provided by a vaccination certificate showing the date of vaccination, vaccine used, and signature of the veterinarian responsible for administration of the vaccine [who administered the vaccine]. Any dog or cat that has received a rabies vaccine not licensed by the United States Department of Agriculture or has been vaccinated under the authority of a veterinarian who was not licensed to practice veterinary medicine in the United States may be admitted but must be vaccinated according to Texas requirements within 30 days after entering Texas. If the dog or cat is less than 12 weeks of age, the custodian must confine the animal until 30 days subsequent to its initial vaccination. [International movement of dogs and cats into Texas will also include any rules and regulations prescribed by the United States government.]

§169.33. *Submission of Specimens for Laboratory Examination.*

Preparation of specimens either for shipment or for personal delivery for rabies diagnosis shall include the following.

(1) (No change.)

(2) The head of the suspect animal shall be separated from the body by a qualified person as soon as possible [immediately] after the death of the animal [by a qualified person]. Only the head shall be submitted with the exception that whole bats and small rodents may be submitted. If only the brain is submitted rather than the entire head, the minimum tissue requirements for rabies testing are a complete transverse cross section of the brain stem and tissue from one of the following: cerebellum or hippocampus [parts of the cerebellum, hippocampus, and brain stem must be included]. Submissions that do not meet these tissue requirements [Specimens which do not include at least two of these three areas of the brain] will be considered unsatisfactory due to a lack of sufficient material.

(3) The specimen [head] shall be immediately chilled to between 32 [45] degrees Fahrenheit and 45 [32] degrees Fahrenheit either in a refrigerator or by packing for shipping with sufficient amounts of refrigerants in the container; the specimen [The head] should not be frozen. When shipping, sufficient refrigerant shall be added so the specimen will remain chilled for a minimum of 48 hours. Do not use dry ice. Gel packs or similar refrigerants are recommended. Ice is not recommended.

(4) If specimens are shipped, containment in compliance with requirements in the Code of Federal Regulations (CFR), Title 49, [two containers] shall be used for packing. Packing methods shall prevent leakage and provide for proper identification (such as an identification number) of the specimen.

[(A) The immediate (inner) container. Only one head shall be placed in each immediate container which shall be double plastic bags. Attach the owner's name or an identification number to each

double-sealed plastic bag. Adhesive tape is useful. Do not use masking tape.]

[(B) The shipping (outer) container.]

[(i) The immediate container(s) shall be placed in an insulated shipping container of adequate strength to withstand shipping conditions, such as a styrofoam container inside a cardboard box.]

[(ii) Sufficient refrigerant shall be added so the head will remain chilled for a minimum of 48 hours. Do not use dry ice. Gel packs or similar refrigerants are recommended. Ice is not recommended but, if used, must be doubled-bagged in heavy-duty plastic bags.]

[(iii) Packing material, such as newspaper, shall be added to absorb water and blood in the event of leakage and buffer the specimens.]

(5) [(iv)] A completed department [Texas Department of Health] Form G-9, Rabies Submission Form, which is available at the department's Laboratory Services Section, Department of State Health Services [Bureau of Laboratories, Texas Department of Health], 1100 West 49th Street, Austin, Texas 78756, is required for each specimen [head] submitted to the department's Laboratory Services Section. Each form must contain the same identification information provided with the specimen [as located on the specimen bag] as stated in paragraph (4) of this section [subparagraph (A) of this paragraph]. Submission form(s) shall be contained [placed] in a water-proof bag [on top of the Styrofoam container inside the cardboard box. If a combination of a Styrofoam container and cardboard box is not used, the form(s) shall be placed on top of the packing material inside the outer container].

(6) [(v)] Labeling on the outside of the shipping container shall be legible and include:

(A) [(H)] name, address, and telephone number of the [appropriate] laboratory [(listed in paragraph (6) of this section)];

(B) [(H)] name, [the] return address, [name,] and telephone number of the shipper; [and]

(C) language in compliance with requirements in the CFR, Title 49, pertaining to the shipment of infectious substances for diagnostic purposes; and

(D) [(H)] the following information [statement]: "RABIES IDENTIFICATION TEAM, LABORATORY SERVICES SECTION - REFRIGERATE ON ARRIVAL." ["RABIES SUSPECT - REFRIGERATE ON ARRIVAL."]

(7) [(5)] The following procedures are required for shipment:

(A) shipment shall be by bus or other reliable carrier; the department does not recommend the United States Postal Service. If an overnight carrier is used, such as United Parcel Service (UPS) or Federal Express, ship the specimen such that it will arrive by Friday or delay shipment until Monday. These services do not deliver to the department on the weekend;

(B) a shipping receipt will be obtained and retained by the shipper;

(C) at the time of the shipment, the shipper shall telephone the [appropriate] laboratory and notify laboratory personnel of the shipment; and

(D) the shipper shall provide the return postage (in the form of stamps, not money) if return of the shipping container is desired.

(8) Paragraphs (5) and (6) of this section apply to specimens submitted to the department's Laboratory Services Section. The appropriate form, labeling instructions, and shipping requirements for another department-designated laboratory can be obtained by contacting that laboratory; a list of these laboratories with their contact information will be maintained on the department's website.

[(6) The certified laboratories in Texas are:]

[(A) Austin - Bureau of Laboratories, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, telephone the rabies shipment notification hotline at 1-800-252-8163, or the local telephone at: (512) 458-7595, (512) 458-7515, or (512) 458-7491.]

[(B) El Paso - Laboratory, El Paso City-County Health Department, 222 South Campbell, El Paso, Texas 79901, telephone: (915) 543-3536;]

[(C) Houston - Bureau of Laboratory Services, City of Houston Health Department, 1115 South Braeswood, Houston, Texas 77030, telephone: (713) 558-3468 or (713) 558-3467;]

[(D) San Antonio - Laboratory, San Antonio Metropolitan Health District, 332 West Commerce Street, Room 203, San Antonio, Texas 78205, telephone: (210) 207-8884.]

§169.34. *Statewide Quarantine.*

(a) Declaration. The Executive Commissioner of the Health and Human Services Commission (HHSC) [board] declares a statewide rabies quarantine.

(1) - (2) (No change.)

(3) Animals subject to the statewide rabies quarantine include any live species of foxes indigenous to North America, coyote (*Canis latrans*) [~~(Canis latrans)~~], or raccoon (*Procyon lotor*) [~~(Procyon lotor)~~, or species of foxes indigenous to North America].

(4) Transport exceptions. Animals subject to the statewide rabies quarantine may be transported by peace officers and individuals hired or contracted by local, state, or federal government agencies [state or federal agencies or local governments] to deal with stray animals when such transport is a part of their official duty. These animals may also be transported by employees of zoos or other institutions accredited by the American Association of Zoological Parks and Aquariums when such transport is part of their official duty. If an exempt individual transports such animals for release, the animals must be released within a ten-mile radius or within ten miles of the city limits of where they were originally captured.

(b) Executive Commissioner of the HHSC's [Board's] designee. The Executive Commissioner of the HHSC's [board's] designee is the commissioner of the Department of State Health Services, whom the Executive Commissioner of the HHSC [board] appoints to act as his or her [its] designee as described in the Texas Health and Safety Code, §826.045.

(c) - (d) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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TRD-200703752

Lisa Hernandez
General Counsel
Department of State Health Services
Earliest possible date of adoption: September 30, 2007
For further information, please call: (512) 458-7111 x6972

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 7. DIVISION OF EMERGENCY MANAGEMENT

SUBCHAPTER A. EMERGENCY MANAGEMENT PROGRAM REQUIREMENTS

37 TAC §§7.1 - 7.3

The Texas Department of Public Safety proposes amendments to Chapter 7, Subchapter A, §§7.1 - 7.3, concerning Emergency Management Program Requirements.

Amendment to §7.1 is necessary in order to change the title of the section to better clarify the subject of the rule.

Amendment to §7.2 is necessary in order to add language from Texas Government Code, Chapter 418 outlining the role of emergency management coordinators.

Amendment to §7.3 is necessary in order to explain the preferred method for jurisdictions to notify EMD about its emergency management program and the officials responsible for the program.

Oscar Ybarra, Chief of Finance, has determined that for each year of the first five-year period the rules are in effect there will be no fiscal implications for state or local government, or local economies.

Mr. Ybarra also has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of enforcing the rules will be rules that more accurately reflect policy and procedures relating to emergency management. There is no anticipated adverse economic effect on individuals, small businesses, or micro-businesses.

The department has determined that Chapter 2007 of the Government Code does not apply to these rules. Accordingly, the department is not required to complete a takings impact assessment regarding these rules.

Comments on the proposal may be submitted to Russ Lecklider, State Coordinator for Administration, Emergency Management Division, Texas Department of Public Safety, P.O. Box 4087, Austin, Texas 78773-0220, (512) 424-2437.

The amendments are proposed pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Government Code, §418.024, and §418.042.

Texas Government Code, §§411.004(3), 418.024, and 418.042 are affected by this proposal.

§7.1. *Emergency Management Organization Required.*