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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 603  
DEPARTMENT OF AGRICULTURE

**FILED**  
08/27/2020 1:38 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Animal Rescue Entity License Rules

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/14/2020 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:  
Amy Bingham  
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HEARING(S)

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

DATE: 09/30/2020

TIME: 2:00 PM

OFFICER: Amy Bingham

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#### NEED FOR THE RULE(S):

The Animal Rescue Entity Licensing Program is a new program within ODA, derived from SB 883 amending the definition of 'enforcing agency' in ORS 609.415 from the agency that operates a city or county dog licensing and control program to the State Veterinarian. Developing these rules is a necessary step to provide the authority for the State Veterinarian to license, inspect, and enforce compliance actions for licensing requirement violations.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

SB 883 amending ORS 609.415  
ORS 609.420

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#### FISCAL AND ECONOMIC IMPACT:

Animal rescue entities who meet the licensing requirements will incur the cost of an annual licensing fee which is \$375/year and be required to maintain required records.

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#### 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).*

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s):

Oregon Department of Agriculture will incur the costs associated with staffing and operating the licensing and enforcement program.

County and City Government agencies that operate dog licensing and control programs will no longer be the enforcing agency and will no longer need to operate their licensing and enforcement programs.

No impact is anticipated for the general public.

(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).

A) There is estimated to be around 510 Animal Rescue Entities that may meet the licensing requirements that could be impacted by these rules.

B) Record keeping requirements shall include:

- a. The date the animal rescue entity acquired possession, control, or charge of the animal. An animal rescue is deemed to acquire possession, charge, or control of an animal when the animal rescue entity comes to keep, house, and maintain that animal in its legal custody;
- b. The source of the animal including name, street address, and telephone number of the person or entity from whom the animal was obtained;
- c. A description of the animal's appearance and characteristics at intake including all identification, present age, sex, species, breed type, weight, and condition of animal;
- d. A photograph of the animal taken within 24 hours of intake;
- e. If applicable, the number of offspring the animal produced while kept, housed, and maintained by the animal rescue entity;
- f. If applicable, the manner of disposition of the animal including transfer of legal custody to another animal rescue entity or organization, date of disposition, the name, address, and telephone number for any person or entity taking legal custody of an animal;
- g. A record with the animal's microchip or other unique identification;
- h. If applicable, all medications and treatments administered while the animal is under the care of the animal rescue entity, including type, amount, and date of medication administered; and
- i. If applicable, copies of certificates of veterinary inspection, proof of rabies vaccination, and other required documents demonstrating proof that imported animals from out-of-state or from an international source have met Oregon import requirements as per pertinent provisions in ORS chapter 596 and OAR chapter 603, Division 011.

There is no additional cost to comply anticipated associated with the recordkeeping requirements, animal rescue entities were previously required to comply with recordkeeping requirements under ORS 609.415

C) SB 883 changed the enforcement authority but made no change to the record keeping and inspection requirements. There may be associated costs with an organization in a county that did not previously implement ORS 609.415. If a facility does not initially meet the inspection requirements, adjustments to their facility may be required in order to obtain a license. The most obvious cost difference will be the annual license fee.

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

A representative sample of key animal rescue entity businesses were included on ODA's Rule Advisory Committee. Advisory Committee composed of representatives from: Oregon Humane Society; Willamette Humane Society; Humane Society of Central Oregon; Harmony New Beginnings, Farm Sanctuary; Wildwood Farm Sanctuary; OHA, Oregon Public Health Division, State Public Health Veterinarian; Oregon Veterinary Medical Association; Private practitioner; National Animal Interest Alliance; Oregon Animal Control Council; and Special prosecutor for animal crimes in Oregon, District Attorney's Office, Benton County.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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RULES PROPOSED:

603-015-0075, 603-015-0080, 603-015-0085, 603-015-0090, 603-015-0095, 603-015-0100, 603-015-0105, 603-015-0110

ADOPT: 603-015-0075

RULE SUMMARY: The Animal Rescue Entity Licensing Rules are established to ensure that all animal rescue entities that operate within the State of Oregon comply with the record keeping and licensing requirements in ORS 609.415.

CHANGES TO RULE:

603-015-0075

Intent and Purpose

The intent and purpose of OAR 603-015-0075 to 603-015-0110 is to ensure that all animal rescue entities comply with record keeping and licensing requirements.

Statutory/Other Authority: ORS 609.415, 561, 596

Statutes/Other Implemented: ORS 609.415, 609.420

ADOPT: 603-015-0080

RULE SUMMARY: The Animal Rescue Entity Licensing Rules are established to ensure that all animal rescue entities that operate within the State of Oregon comply with the record keeping and licensing requirements in ORS 609.415.

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 is not considered a separate physical location out of which an animal rescue entity operates. ¶¶

(4) "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.¶¶

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

(6) "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.¶¶

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

Statutory/Other Authority: ORS 609.415, 561, 596

Statutes/Other Implemented: ORS 609.415, 609.420

RULE SUMMARY: The Animal Rescue Entity Licensing Rules are established to ensure that all animal rescue entities that operate within the State of Oregon comply with the record keeping and licensing requirements in ORS 609.415.

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.¶

(a) Beginning on the effective date of these rules and ending on June 30, 2021, the Department has determined that an animal rescue entity is in compliance with this requirement if it has applied for a license under section (2)(a) and (b) of this rule and is cooperating with the Department to complete the process laid out in section (3) of this rule.¶

(b) Beginning on July 1, 2021 and for every date thereafter, the Department has determined that an animal rescue entity is in compliance with this requirement if it has a current, unexpired license from the Department. On and after July 1, 2021, 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 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 subpart (b) of this section (3).¶

(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 subpart (b) of this section (3);¶
- (D) The animal rescue entity did not provide follow up documentation required under subpart (d) of this section (3);¶
- (E) The animal rescue entity is out of compliance with any of the provisions laid out in subpart (b) of this section (3); 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 controlled by an animal rescue entity, including foster facilities, 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 a license, or refuse to suspend 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;¶
- (d) Failure to correct deficiencies found during an inspection or investigation or any other violations; or¶
- (e) Any other reason allowed or required by law.
- Statutory/Other Authority: ORS 609.415, 561, 596
- Statutes/Other Implemented: ORS 609.415, 609.420

ADOPT: 603-015-0090

RULE SUMMARY: The Animal Rescue Entity Licensing Rules are established to ensure that all animal rescue entities that operate within the State of Oregon comply with the record keeping and licensing requirements in ORS 609.415.

CHANGES TO RULE:

603-015-0090

Record keeping

- (1) A record of each animal shall be maintained by the animal rescue entity for the entire time that the animal rescue entity keeps, houses, and maintains the animal and for a minimum period of 12 months after date of disposition or transfer of legal custody of the animal. ¶
- (2) The record kept by the animal rescue entity shall include:¶
  - (a) The date the animal rescue entity acquired possession, control, or charge of the animal. An animal rescue is deemed to acquire possession, charge, or control of an animal when the animal rescue entity comes to keep, house, and maintain that animal in its legal custody;¶
  - (b) The source of the animal including name, street address, and telephone number of the person or entity from whom the animal was obtained;¶
  - (c) A description of the animal's appearance and characteristics at intake including all identification, present age, sex, species, breed type, weight, and condition of animal;¶
  - (d) A photograph of the animal taken within 24 hours of intake;¶
  - (e) If applicable, the number of offspring the animal produced while kept, housed, and maintained by the animal rescue entity;¶
  - (f) If applicable, the manner of disposition of the animal including transfer of legal custody to another animal rescue entity or organization, date of disposition, the name, address, and telephone number for any person or entity taking legal custody of an animal;¶
  - (g) A record with the animal's microchip or other unique identification;¶
  - (h) If applicable, all medications and treatments administered while the animal is under the care of the animal rescue entity, including type, amount, and date of medication administered; and¶
  - (i) If applicable, copies of certificates of veterinary inspection, proof of rabies vaccination, and other required documents demonstrating proof that imported animals from out-of-state or from an international source have met Oregon import requirements as per pertinent provisions in ORS chapter 596 and OAR chapter 603, Division 011.

Statutory/Other Authority: ORS 609.415, 561, 596

Statutes/Other Implemented: ORS 609.415, 609.420



ADOPT: 603-015-0095

RULE SUMMARY: The Animal Rescue Entity Licensing Rules are established to ensure that all animal rescue entities that operate within the State of Oregon comply with the record keeping and licensing requirements in ORS 609.415.

CHANGES TO RULE:

603-015-0095

Investigations

(1) The purpose of an investigation under this rule is to determine whether the animal rescue entity is subject to or in compliance with the requirements of ORS 609.415 and OAR 603-015-xxxx to OAR 603-015-xxxx. ¶

(2) The Department may conduct an inspection of an animal rescue entity at any time during normal business hours ORS 561.275. The Department may request any reports, information, or records from the animal rescue entity. ¶

(3) An animal rescue entity shall allow the Department to inspect reports, information, or records of the animal rescue entity upon request and shall furnish any reports, information, or records requested by the Department. The Department may issue subpoenas to require the production of reports, information, or records ORS 561.279. ¶

(4) The Department may seek and obtain a warrant to conduct an investigation or inspection or obtain reports, information, or records under this rule. ¶

(5) 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.

Statutory/Other Authority: ORS 609.415, 561, 596

Statutes/Other Implemented: ORS 609.415, 609.420

ADOPT: 603-015-0100

RULE SUMMARY: The Animal Rescue Entity Licensing Rules are established to ensure that all animal rescue entities that operate within the State of Oregon comply with the record keeping and licensing requirements in ORS 609.415.

CHANGES TO RULE:

### 603-015-0100

#### Enforcement Actions

(1) The Department may take the following enforcement actions against an animal rescue entity, either individually or in combination:¶

(a) Issue a notice of violation for any violations under OAR 603-015-0075 to OAR 603-015-0110. Each animal involved and each day of a violation constitutes a separate violation. A plan of correction will accompany a notice of violation. A plan of correction will include the following:¶

(A) A statement of the actions that must be taken by the animal rescue entity to eliminate the violation.¶

(B) Requirements for the animal rescue entity to report the completion of specific actions.¶

(C) A reasonable period of time by which compliance is to be achieved not to exceed 30 business days after service of the notice of violation, or if the violation deficiency requires more than 30 days to correct, a period of time contained in a plan of correction acceptable to the Department. If compliance is not achieved within the specified time frame additional regulatory action may be taken by the Department including but not limited to license revocation, impoundment of animals, a civil penalty, or additional civil penalties.¶

(b) Suspend an animal rescue entity's license. ¶

(c) Issue an order impounding animals. A violation may result in impoundment of any or all animals kept, housed, or maintained under the animal rescue entity's possession, control, or charge. Impoundment costs incurred by the Department will be charged to the animal rescue entity. The location and manner of impoundment will be at the discretion of the Department.¶

(d) Issue a civil penalty for each violation. ¶

(e) Take any other enforcement action allowed by law.¶

(2) All final orders issued under OAR 603-015-0075 to OAR 603-015-0110 shall be contested case orders and shall comply with ORS 183.415 and other applicable provisions of the Oregon Administrative Procedures Act and its implementing regulations and any other Department laws or regulations relating to such orders. An animal rescue entity shall have the right to judicial review of such orders pursuant to ORS 183.482.¶

(3) At the discretion of the director, the Department may settle cases when circumstances deem it appropriate.

Statutory/Other Authority: ORS 609.415, 561, 596

Statutes/Other Implemented: ORS 609.415, 609.420

ADOPT: 603-015-0105

RULE SUMMARY: The Animal Rescue Entity Licensing Rules are established to ensure that all animal rescue entities that operate within the State of Oregon comply with the record keeping and licensing requirements in ORS 609.415.

CHANGES TO RULE:

603-015-0105

Assessing a Civil Penalty

(1) In assessing a civil penalty, the Department shall assess a civil penalty of not more than \$500 for each violation against an animal rescue entity for failure to comply with the provisions of ORS 609.415 and OAR 603-015-0075 to OAR 603-015-0110.

(2) In determining the amount of a civil penalty to be assessed for a violation, the Department shall consider the degree and extent of harm or risk of harm caused by the violation including but not limited to factors such as record of previous violations, preventability of the violation, and whether negligence or misconduct was involved. The following violation matrix and penalty calculation formula shall be used for penalty assessment. See attached chart.

Statutory/Other Authority: 596, ORS 609.415, 561

Statutes/Other Implemented: ORS 609.415, 609.420

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

<b>RULE</b>	<b>CATEGORY 1</b>	<b>CATEGORY 2</b>	<b>CATEGORY 3</b>
LICENSE (OAR 603-015-0075)	<ul style="list-style-type: none"> <li>• Falsification of licensing application information.</li> </ul>	<ul style="list-style-type: none"> <li>• Failure to obtain a license or failure to renew license.</li> </ul>	<ul style="list-style-type: none"> <li>• Any other violation of the licensure provisions.</li> </ul>
ANIMAL RECORDS: (OAR 603-015-0060)	<ul style="list-style-type: none"> <li>• Animal movement or medical records are not maintained or available upon request.</li> </ul>	<ul style="list-style-type: none"> <li>• Animals are not properly identified.</li> </ul>	<ul style="list-style-type: none"> <li>• Animal records are not complete.</li> <li>• Any other violation of the animal record provisions.</li> </ul>

ADOPT: 603-015-0110

RULE SUMMARY: The Animal Rescue Entity Licensing Rules are established to ensure that all animal rescue entities that operate within the State of Oregon comply with the record keeping and licensing requirements in ORS 609.415.

CHANGES TO RULE:

603-015-0110

Civil Penalty Determination Formula

The Department will use the following formula to calculate the civil penalty assessed:  $B + [(0.1 \times B) (P + S)]$ .

where:

(1) B = Base penalty from matrix: Category 1 = \$250; Category 2 = \$150; Category 3 = \$75.

(2) P = Past occurrence of violations within the past 5 years. P will be weighted from 0 to 6 in the following manner: 0 = No prior violations or insufficient evidence on which to base a finding; 1 = Past occurrence of one category 3 violation; 2 = Past occurrence of one Category 2 violation or two category 3 violations; 3 = Past occurrence of one Category 1 violation, two Category 2 violations, or three Category 3 violations; 4 = Past occurrence of two Category 1 violations, three Category 2 violations, or four Category 3 violations; 5 = Past occurrence of three Category 1 violations, four Category 2 violations, or five or more Category 3 violations; 6 = Past occurrence of more than three Category 1 violations or five or more Category 2 violations.

(3) S = Size of rescue entity, the number of animals in the entity's legal custody. S will be weighted from 0 to 2 in the following manner: 0 = Small rescue entity (0 to 25 animals); 2 = Medium rescue entity (26 to 100 animals); 4 = Large rescue entity (greater than 100 animals).

Statutory/Other Authority: ORS 609.415, 561, 596

Statutes/Other Implemented: ORS 609.415, 609.420