

State of Rhode Island and Providence Plantations
Department of Environmental Management

**NOTICE OF THE PUBLICATION OF A PROPOSED
DIRECT FINAL RULE**

Rules and Regulations Governing the Destruction of Animals
by Carbon Monoxide Poisoning (ERLID # 2455)

Pursuant to the provisions of Chapters 2-10-3.1, 42-17.1, 42-17.2 and 42-17.6 of the General Laws of Rhode Island as amended, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws of 1956, as amended, and specifically Section 42-35-2.11 of the amended Administrative Procedures Act, the Director of the Department of Environmental Management (the "Department" or "DEM") hereby proposes to file a Direct Final Rule pursuant to Section 42-35-2.11 of the General Laws of 1956, as amended. The Director believes that this proposed action is noncontroversial and anticipates that no objections will be received to the proposed repeal of the *Rules and Regulations Governing the Destruction of Animals by Carbon Monoxide Poisoning*. The subject regulations are proposed to be repealed because they have been superseded by R.I. Gen. Laws § 4-19-2, Disposition of Animals, which prohibits the destruction of animals by carbon monoxide poisoning. Thus, consistent with the Governor's mandate to repeal unnecessary regulations, the Department proposes the repeal of the subject regulations.

Pursuant to the requirements of Section 42-35-2.6 and 42-35-2.7 of the Rhode Island General Laws, DEM has made the following determinations: DEM has considered alternative approaches to the proposed dismissal and has determined that there is no alternative approach among the alternatives considered that would be as effective and less burdensome.

A copy of the subject regulations will be available for examination from August 11, 2017 through September 10, 2017 by mail or at the Office of Customer and Technical Assistance at 235 Promenade Street, Providence, RI 02908, weekdays from 8:30 - 4:00 PM or by calling the Office at (401) 222-6800. Electronic copies of the proposed regulations to be repealed will also be available on the DEM website.

DEM encourages the submission of written objections to the proposed repeal of the *Rules and Regulations Governing the Destruction of Animals by Carbon Monoxide Poisoning* (ERLID # 2455), via a Direct Final Rule pursuant to Section 42-35-2.11 of the General Laws of 1956, as amended. If no objection is received on or before September 10, 2017, DEM will file the repeal without opportunity for public comment. All written objections should be sent to the Department at the Division of Agriculture located at 235 Promenade Street, Providence, RI 02908 or via e-mail to scott.marshall@dem.ri.gov and must be received no later than 11:59 PM on **September 10, 2017**.

Janet L. Coit
Director, Department of Environmental Management

Posted

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DIVISION OF AGRICULTURE

RULES AND REGULATIONS GOVERNING THE DESTRUCTION OF ANIMALS
BY CARBON MONOXIDE POISONING

EFFECTIVE - March 18, 2003

Authority: These regulations are adopted pursuant to Chapter 42-35, 42-17 and 4-19-11.1
of the Rhode Island General laws of 1956, as amended.

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PREPARED

RULE 1.00- PURPOSE

The purpose of these rules and regulations is to:

Provide guidelines when using carbon monoxide as a euthanizing agent in the destruction of animals in the State of Rhode Island.

RULE 2.00- AUTHORITY

These rules and regulations are promulgated pursuant to Chapter 42-17.1, Environmental Management, and Chapter 4-19-11.1 in accordance with 42-35, Administrative Procedures, of the State of Rhode Island General Laws of 1956, as amended.

RULE 3.00- ADMINISTRATIVE FINDINGS

Carbon monoxide is used as a euthanizing agent in the destruction of animals in the State of Rhode Island primarily in chambers. Specific guidelines need to be followed for the safe and humane use of this agent when euthanizing animals. Public health and safety issues when using this agent are of great importance in the welfare of humans operating Carbon Monoxide chambers.

RULE 4.00- APPLICATION

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purpose of state law, goals and policies.

These Regulations shall apply to any person using carbon monoxide as a euthanizing agent in the destruction of animals in the State of Rhode Island.

RULE 5.00- DEFINITIONS

For the purposes of these regulations, the following terms shall have the following meanings:

- (1) “Animal” and “animals” means every living creature except a human being.
- (2) “ Animal shelter” means a facility which is used to house or contain animals and which is owned, operated or maintained by a duly incorporated humane society, society for the prevention of cruelty to animals or other nonprofit organization devoted to the welfare, protection and humane treatment of animals.
- (3) “ Animal Control Officer” or “dog officer” means any person employed, contracted or appointed by the state or any political subdivision of the state for the purpose of aiding in the enforcement of this chapter or any other law or ordinance relating to the licensing of dogs cats, or other animals; the control of dogs, cats or other animals; or the seizure and impoundment of dogs, cats or other animals and

includes any state or municipal peace officer, animal control officer, sheriff, constable or other employee whose duties in whole or in part include assignments which involve the seizure or taking into custody of any dog, cat or other animal.

- (4) "Chamber" means an approved structure in which an animal is individually placed and contained for the purpose of humane euthanasia.
- (5) "Department" means the Department of Environmental Management.
- (6) "Director" means the Director of the Rhode Island Department of Environmental Management or his/her duly authorized agent or agents.
- (7) "Division" means the Division of Agriculture.
- (8) "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia produced by an agent which causes painless loss of consciousness and death during that loss of consciousness.
- (9) "Facility" or "housing facility" means any room, building or area used to contain a primary enclosure or enclosures which is used to house or contain animals and which is owned, operated or maintained by a public or private, licensed or not licensed duly incorporated humane society, society for the prevention of cruelty to animals or other nonprofit organization devoted to the welfare, protection and humane treatment of animals.
- (10) "Guardian" means a person(s) having the same rights and responsibilities of an owner, keeper and both terms shall be used interchangeably. A guardian shall also mean a person who possesses, has title to or an interest in, harbors or has control, custody or possession of an animal and who is responsible for an animal's safety and well-being.
- (11) "Kennel" means a place or establishment other than a pound or animal shelter where animals not owned by the proprietor are sheltered, fed and watered for a fee.
- (12) "Livestock" means domesticated animals, which are commonly held in moderate contact with humans which include but are not limited to cattle, bison, equines, sheep, goats, llamas and swine.
- (13) "Owner keeper" means any person or agency keeping, harboring, or having charge or control of an animal or any person or agency which permits any dog, cat, ferret, or domestic animal to habitually be fed within that person's yard or premises. This term shall not apply to veterinary facilities, any licensed boarding kennel, municipal pound, pet shop, or animal shelter.

- (14) "Person" means an individual firm, joint stock company, partnership, association, private or municipal corporation, trust, estate, state, commission, political subdivision, any interstate body, the federal government, or any agent or subdivision of the federal government, or other government entity or other legal entity.
- (15) "Pets" means domesticated animals kept in close contact with humans which include but may not be limited to dogs, cats, ferrets, equines, llamas, goats, sheep and swine.
- (16) "Pet shop" means a temporary or permanent establishment where animals are bought, sold, exchanged, or offered for sale or exchange to the general public at retail. This shall not include an establishment or person whose total sales are the offspring of canine or feline females maintained on their premises and sold from those premises.
- (17) "Pound" or "dog pound" means a facility operated by a state or any political subdivision of a state for the purpose of impounding or harboring seized stray, homeless, abandoned or unwanted dogs, cats, and other animals or a facility operated for that purpose under a contract with any municipal corporation or incorporated society for the prevention of cruelty to animals.
- (18) "Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space as a room, pen, cage, compartment or hutch.
- (19) "Research facility" or "facility" means any place, laboratory or institution at which scientific tests, investigations or experiments involving the use of living animals are carried out, conducted or attempted.
- (20) "State veterinarian" means a licensed veterinarian from the Department of Environmental Management.
- (21) "Veterinarian" or "licensed graduate veterinarian" means a person licensed to engage in the practice of veterinary medicine, surgery and dentistry in this state who is a graduate of an accredited veterinary medical, surgical, and dental school or college of a standard recognized by the Rhode Island Veterinary Medical Association.

RULE 6.00- GENERAL REQUIREMENTS

As per Rhode Island State general laws Chapter 4-19 Section 4-19-11.1 part d, the Department of Environmental Management has the authority to promulgate rules and regulations to be followed when using carbon monoxide as a euthanizing agent in the destruction of animals.

- 6.01 All facilities using carbon monoxide chambers in the destruction of animals in the State of Rhode Island shall comply with rules and regulations as promulgated by the Department of Environmental Management.
- 6.02 All facilities using carbon monoxide chambers shall notify the Department of Environmental Management in writing that the existing working chamber was inspected prior to July 1, 2002 and found to be in safe working order.
- 6.03 All facilities using carbon monoxide chambers shall provide the Department of Environmental Management with a detailed schematic drawing of the location of the chamber at that facility.
- 6.04 All facilities shall list the authority responsible for the care and training of personnel in the use of the chamber including name, address, telephone, emergency telephone and contact person.
- 6.05 All chambers shall be inspected for structural integrity and safety biannually. All records of the inspection process shall be retained at the facility for a minimum of two (2) years. All costs relating to inspection, repair and upkeep of individual chambers shall be born by the owner of the individual facility. DEM shall conduct an annual inspection review of each chamber facility.
- 6.06 All repairs done on each chamber shall be documented in a written statement and retained for a minimum of two (2) years.
- 6.07 If the individual chamber shall become non-functional, DEM shall be notified within ten (10) business days.
- 6.08 A daily log shall be kept including the name of the owner (if owned), a description of the individual animal to include species, breed, gender, color, tattoo, microchip#, or other markings, date, time, veterinary exam (yes/no), owner notification (yes/no), reason for euthanasia and the signature of the operator or agent for that facility.
- 6.09 All personnel who operate the CO chamber shall undergo a yearly review of the chamber operation and safety guidelines. This review shall be verified in writing, signed and dated listing all personnel and retained for at least two (2) years at the facility. All new hires shall undergo a training program including a written

description of the training protocol which shall be signed and dated by the trainee as well as the agent responsible for the training.

- 6.10 A description of the chamber operation and safety rules to be followed shall be posted in bold type in a conspicuous location near the chamber: as well as a copy of the chamber operation and safety rules being available on file at the facility.
- 6.11 A written protocol for accidental human exposure to carbon monoxide shall be in place and reviewed yearly. The protocol shall list important contact agencies including the telephone number of at least the RI Department of Health, DEM Division of Agriculture, two (2) emergency facilities, local fire department, local police department and the Rhode Island State Police.
- 6.12 The use of the carbon monoxide chamber must be within the guidelines of the most current Report of the AVMA Panel on Euthanasia.
- 6.13 If a chamber shall become inoperable, a written protocol of backup procedures shall be on file to include contact person, telephone number and at least two (2) veterinary clinics for after hour, night, weekend and holiday consultation.
- 6.14 All prior records of inspection, repair and personnel training (if available) shall be available at the time of the first inspection.
- 6.15 Existing Rhode Island General Laws mandate that only one animal in a chamber at a time. (Rhode Island General Laws 4-1-3.1)
- 6.16 Existing Rhode Island General Laws mandate accurate record keeping of all animals euthanized at shelters and pounds and that a monthly report of these records be submitted to DEM. (Rhode Island General Laws § 4-19-11.2 Animal Care)
- 6.17 All facilities using a chamber not in prior use must submit a letter of intent to use such a chamber at that facility site and comply with existing rules and regulations as promulgated by DEM.
- 6.18 Each violation of Rhode Island General Laws Chapter 4-19 (Section 4-19-11.1) Animal Care is punishable by a fine not to exceed five hundred dollars (\$500) and/or imprisonment not to exceed thirty (30) days.
- 6.19 All animals euthanized in a chamber shall be monitored from the time they go in the chamber until they are pronounced dead by a Rhode Island licensed veterinarian or a person deemed qualified to pronounce the animal dead.
- 6.20 Any facility using a carbon monoxide chamber that does not comply with the rules and regulations promulgated by DEM shall be deemed in violation of

Section 4-19-11.1 and cannot use that chamber until such a time that all rules and regulations have been met and agreed upon by DEM.

6.21 All rules and regulations shall not apply if a town or city ordinance exists banning the use of carbon monoxide chambers within the town or city limits.

RULE 7.00- VIOLATIONS

The Director of the Department of Environmental Management may make all necessary rules and regulations to be followed when using carbon monoxide as a euthanizing agent in the destruction of animals in the State of Rhode Island; and any person who shall fail to comply with any rule or regulation so made shall be fined not exceeding five hundred Dollars (\$500) and/or imprisonment not exceeding thirty (30) days.

RULE 8.00- SEVERABILITY

If any provision of these rules and regulations is held invalid by a court of competent jurisdiction, the remaining sections or provisions of the regulations shall not be affected thereby. These regulations supercede any prior regulations.

RULE 9.00- CONSISTENCY

No provision of these regulations shall be construed to prevent enforcement of any state, federal, or local laws and regulations duly adopted for the purpose of protecting the public health and welfare.

RULE 10.00- EFFECTIVE DATES

These rules and regulations shall take effect on the date specified in the attached certification of promulgation by the Director of Environmental Management.

The foregoing rules and regulations, after due notice and an opportunity for hearing, are hereby adopted and filed with the Secretary of State this _____ day of _____, 2003 to become effective twenty (20) days after filing, in accordance with the provisions of Chapter 4-19 Section 4-19-11.1 of the General Laws of the State of Rhode Island of 1956, as amended.

Jan Reitsma
Director, Department of Environmental Management

Notice Given on November 4, 2002
Public Hearing Held December 11, 2002
Filing Date February 26, 2003
Effective Date March 18, 2003