

New Hampshire  
Department of Agriculture,  
Markets & Food

Shawn N. Jasper, Commissioner

March 31, 2022

Office of Legislative Services  
Administrative Rules Division  
State House, Room 109  
Concord, NH 03301

RE: NOTICE NO. 2021-104

RULE # Agr 1700

Dear Director:

On March 18, 2022, the Joint Legislative Committee on Administrative Rules (JLCAR) voted to postpone consideration of the New Hampshire Department of Agriculture, Markets & Food's (department) response to JLCAR's preliminary objection to the aforementioned rules.

Enclosed are fixed and annotated copies of the New Hampshire Department of Agriculture, Markets & Food's (department) amended response to the JLCAR's preliminary objection to the aforementioned rules. The department addressed JLCAR staff comments re. Agr 1707.02 by readopting the current language in said section.

Sincerely,



Shawn N. Jasper  
Commissioner

Enclosures

CHAPTER Agr 1700 TRANSFER OF ANIMALS AND BIRDS

**Readopt with amendment Agr 1702.01, effective 5-21-15 (Document #10834), as amended effective 11-20-20 (Document #13132), to read as follows:**

Agr 1702.01 **Definitions** As used herein: Edit: underline

- (a) "Animal" means an animal customarily used as a household pet;
- (b) "Bird" means any bird customarily used as a household pet;
- (c) "Broker" means a "pet vendor" as defined in RSA 437:1, IV that does not own or operate a physical facility within New Hampshire;
- (d) "Carapace" means a bony or chitinous case or shield covering the back or part of the back of an animal;
- (e) "Foster facilities" means premises which are not in the business of transferring animals because they house animals solely for medical or behavioral rehabilitation when the animals are owned by a license-holder for another premises;
- (f) "License holder" means any person to whom a license has been issued by the department either as a broker or for a premises used to house, harbor, or display animals intended for transfer to the public;
- (g) "Person" means any individual, firm, corporation, or other entity engaged in the business of transferring to the public animals customarily used as household pets;
- (h) "Primary enclosure" means a four-sided structure that is used as a housing unit for an animal;
- (i) "Reasonable times" means a minimum of eight regular, posted open hours maintained by the license holder at the same time every week between 8 am and 4pm, Monday through Friday, which are subject to unannounced inspection by the department and access to the public for the return of pets in accordance with RSA 437:3;
- (j) "State" means the state of New Hampshire;
- (k) "Turtles" means all chelonia, including tortoises and terrapins being sold as household pets; and
- (l) "Zoonotic disease" means an illness that is transmissible to humans from animals customarily used as household pets.

**Readopt Agr 1707.02, effective 5-21-15 (Document #10834), as amended effective 11-20-20 (Document #13132), to read as follows:**

Agr 1707.02 Forms. Persons seeking a pet vendor license shall apply for that license by completing and submitting form “Application to License Pet Vendor Premises” (Revised 5/20) with a non-refundable fee required by RSA 437:3.

**APPENDIX**

<b>Rule</b>	<b>State Statute</b>
Agr 1702.01	RSA 437:1, IV & RSA 437:9, I
Agr 1707.02	RSA 437:9, I

**Edit.** The adopting, amending, and repealing language (AARL) is missing. Please be sure to include it at the time of adoption.

CHAPTER Agr 1700 TRANSFER OF ANIMALS AND BIRDS

Agr 1702.01 **Definitions.** As used herein:

**Edit.** Underline.

- (a) "Animal" means an animal customarily used as a household pet;
- (b) "Bird" means any bird customarily used as a household pet;
- (c) "Broker" means a "pet vendor" as defined in RSA 437:1, IV that does not own or operate a physical facility within New Hampshire;
- (d) "Carapace" means a bony or chitinous case or shield covering the back or part of the back of an animal;
- (e) "Foster facilities" means premises which are not in the business of transferring animals because they house animals solely for medical or behavioral rehabilitation when the animals are owned by a license-holder for another premises;
- (f) "License holder" means any person to whom a license has been issued by the department either as a broker or for a premises used to house, harbor, or display animals intended for transfer to the public;
- (g) "Person" means any individual, firm, corporation, or other entity engaged in the business of transferring to the public animals customarily used as household pets;
- (h) "Primary enclosure" means a four-sided structure that is used as a housing unit for an animal;
- (i) "Reasonable times" means a minimum of eight regular, posted open hours maintained by the license holder at the same time every week between 8 am and 4pm, Monday through Friday, which are subject to unannounced inspection by the department and access to the public for the return of pets in accordance with RSA 437:3;
- (j) "State" means the state of New Hampshire;
- (k) "Turtles" means all chelonia, including tortoises and terrapins being sold as household pets; and
- (l) "Zoonotic disease" means an illness that is transmissible to humans from animals customarily used as household pets.

~~Agr 1707.02 Application Form and Zoning Approvals.~~

- ~~(a) Persons seeking a pet vendor license shall apply for that license by completing and submitting form “Application to License Pet Vendor Premises” (Revised 9/21) with a non-refundable fee required by RSA 437:3.~~
- ~~(b) Pursuant to RSA 437:3, local zoning approval shall not be required for pet vendors transferring 49 or fewer dogs, cats, ferrets, or birds between January 1 and December 31 of a year.~~
- ~~(c) Pursuant to RSA 437:3, local zoning approval shall be required for pet vendors transferring 50 or more dogs, cats, ferrets, or birds between January 1 and December 31 of a year.~~
- ~~(d) Any pet vendor license issued by the department without sufficient proof provided by the applicant of local zoning approval shall automatically be suspended when a pet vendor transfers 49 such animals between January 1 and December 31.~~
- ~~(e) If the license is suspended as described in (d) above, the person shall not transfer any more such animals until the license holder submits sufficient proof of local zoning approval to the department and receives from the department written approval reinstating the suspended license.~~
- ~~(f) Any pet vendor found in violation of any of these provisions shall be subject to the penalties in RSA 437:10 for operating as an unlicensed pet vendor.~~

**APPENDIX**

<b>Rule</b>	<b>State Statute</b>
Agr 1702.01	RSA 437:1, IV & RSA 437:9, I
Agr 1707.02	RSA 437:9, I

**Note to the JLCAR.** The Committee previously voted to preliminarily object to the rule based on staff comments. Specifically to language in the rule that would automatically suspend a person's licensee without notice and a hearing in violation of RSA 541-A:30, III, and RSA 437:4, as amended by 2021, 215:4 (HB 250). The agency proposed different language to try to address the issue but each proposal would have still violated the licensee's right to notice and hearing. See the attachments. The agency has in this objection response deleted the entire section, and the IP Notice indicates that Agr 1707.02 was being readopted with amendment to implement the new requirement for local zoning approval only once a pet vendor transfers 50 or more animals pursuant to Chapter 215, the Laws of 2021 (HB 250), eff. 8-17-21. The IP proposal inserted new paragraphs which represent (b)-(f) above. It is not clear when the agency will move forward with rulemaking to implement HB 250. If the Committee determines that the deletion does not adequately address the preliminary objection it could enter a final objection or it could determine that there is a new basis for objection to the proposal based on clarity caused by the deletion of the primary rule in the proposal.