

**Readopt with amendment Agr 2800, effective 4-18-2014 (Document #10568), to read as follows:**

CHAPTER Agr 2800 ANIMAL POPULATION CONTROL

PART Agr 2801 INTRODUCTION AND DEFINITIONS

Agr 2801.01 Purpose. These rules implement the forms and procedures of the department of agriculture, markets and food pursuant to RSA 437-A, the animal population control program. The purpose of the program is to encourage permanent sexual sterilization of dogs and cats to reduce the population of unwanted companion animals and protect public health and safety.

Agr 2801.02 Applicability. In accordance with RSA 437-A:3, I, this program shall be open to any resident of the state who:

(a) Owns a companion animal and is eligible to participate in one of the following:

- (1) The Food Stamp Program;
- (2) The Supplemental Security Income Program;
- (3) The temporary assistance to needy families;
- (4) The aid to the needy blind program;
- (5) The Medicaid program;
- (6) The old age assistance program; or
- (7) The aid to the permanently and totally disabled program.

(b) Owns a companion animal that has not been imported into the state in violation of RSA 437-A:3.

Agr 2801.03 Definitions. As used in this chapter, unless the context clearly dictates otherwise:

(a) “Administrator” means the administrator of the animal population control program, who is appointed by the commissioner of agriculture, markets and food;

(b) “Applicant” means the owner of a companion animal;

(c) “Companion animal” means a dog or cat;

(d) “Complaint” means a written and signed allegation of violation of these rules and/or RSA 437-A by an applicant or participating veterinarian;

(e) “Department” means the department of agriculture, markets and food;

(f) “Filing” means signing, dating and sending a document by first class mail to the department;

(g) “Participating veterinarian” means a veterinarian or veterinary practice that has filed the veterinarian’s agreement to participate with the administrator.

(h) “Payee” means a participating veterinarian or veterinary practice;

(i) “Person” as defined in RSA 21:9, means corporate and political bodies as well as individuals;

(j) “Program” means the animal population control program pursuant to RSA 437-A:2;

(k) “Sterilization” means spaying or neutering, including maintenance, discharge, and removal of sutures;

(l) “Vendor” means the participating veterinarian; and

(m) “Vendor identification number” means the federal tax number or social security number of the vendor.

## PART Agr 2802 ELIGIBILITY STANDARDS

### Agr 2802.01 Eligibility for People to Participate in Program.

(a) The applicant seeking to participate under the program shall meet the following requirements:

(1) Be a resident of the state of New Hampshire; and

(2) Receive benefits under the programs or acts listed in Agr 2801.02(a); or

(3) Be eligible to receive benefits under the programs or acts listed in Agr 2801.02(a) as determined by a household income that is no more than 130% of the federal poverty level; and

(4) Own a companion animal.

(b) Each applicant for the program shall:

(1) Provide the administrator with verification of the applicant’s participation or eligibility to participate in the programs specified in Agr 2801.02(a); and

(2) Provide either a valid New Hampshire driver’s license or a non-drivers I.D. to establish proof of identity.

(c) Acceptable verification of Supplemental Security Income (SSI) benefits under Agr 2801.02(a)(2) shall be:

(1) In the applicant’s name; and

(2) One of the following documents:

a. Current SSI check;

b. SSI check stub; or

c. SSI award letter.

(d) Acceptable verification of the applicant's participation in one or more of the programs specified by Agr 2801.02 (a)-(1) or (3)-(7) shall be:

(1) In the applicant's name;

(2) Issued within 30 days of the applicant's request for program eligibility; and

(3) One of the following New Hampshire department of health and human services' documents:

a. Form 440, "New Hampshire Food Stamp Program Authorization to Issue Coupons";

b. Form 804, "Redetermination Notice";

c. Form 805, "Notice of Decision", indicating a determination of eligibility for initial or continuing receipt of public assistance or food stamps;

d. Form 807R, "Interview Appointment Notice - Redetermination/Recertification"; or

e. Any other written correspondence from the New Hampshire department of health and human services, division of human services to the applicant indicating the applicant's current receipt of benefits under Agr 2801.02(a)(1), (3)-(7).

(e) In lieu of proof of participation as outlined in Agr 2802.01(d), acceptable verification of the applicant's eligibility to participate in the programs specified by Agr 2801.02 (a), (8) shall be:

(1) A completed Animal Population Control Program Income Verification Form; and

(2) Documentation verifying income, such as copies of:

a. Checks;

b. Bank statements; or

c. An award letter.

(f) If the applicant is unable to produce the verification required, or if the verification provided does not prove eligibility for one of the programs under Agr 2801.02(a), then the administrator shall request that:

(1) The Social Security Administration verify the applicant's eligibility status for SSI under Agr 2801.02(a)(2); or

(2) The New Hampshire department of health and human services, division of human services verify the applicant's eligibility status for the programs specified under Agr 2801.02(a)(1), (3)–(7).

(g) An applicant or applicant's household shall be limited to a maximum of three approved applications during any 5-year period. The 5-year period shall be calculated on a rolling 60-month basis from the date each application is received by the department, that is, every time an application is received by the department, the department shall check back 60 months from that date for past approvals, if any.

## PART Agr 2803 FORMS

### Agr 2803.01 Veterinarian's Agreement to Participate and Fee Schedule.

(a) The "Veterinarian's Agreement and Fee Schedule" shall be filed annually with the administrator by a practicing veterinarian in order to participate in the animal population control program. The practicing veterinarian or veterinarian practice may file the Veterinarian's Agreement and Fee Schedule by December 31 of the year prior to the agreement taking effect.

(b) This completed agreement shall be sent to: "Administrator, Animal Population Control Program, New Hampshire Department of Agriculture, Markets & Food, PO Box 2042, Concord, NH 03302-2042."

(c) The practicing veterinarian shall provide the following on the agreement form:

- (1) A veterinarian or veterinary practice name;
- (2) Address;
- (3) Business telephone number;
- (4) Business fax number;
- (5) Name and title of facility representative;
- (6) Vendor identification number;
- (7) Names of the veterinarians practicing at the facility and their signatures; and
- (8) New Hampshire license number for each veterinarian practicing at the facility.

(d) The practicing veterinarian shall provide on the application a fee schedule for the following:

- (1) For sterilization of female dogs, the fee for each of the following categories of weights:
  - a. Up to 25 lbs.;
  - b. 26-50 lbs.;
  - c. 51-75 lbs.; and

- d. Over 75 lbs.
  - (2) The fee for sterilization of female cats at any weight;
  - (3) For sterilization of male dogs, the fee for each of the following categories of weights:
    - a. Up to 25 lbs.;
    - b. 26-50 lbs.;
    - c. 51-75 lbs.; and
    - d. Over 75 lbs.
  - (4) The fee for sterilization of male cats at any weight;
  - (5) The examination fee; and
  - (6) The period for which the foregoing fees shall be effective.
- (e) The practicing veterinarian shall agree to the following:
- (1) To abide by all applicable New Hampshire statutes and department rules, including but not limited to RSA 437-A and Agr 2800;
  - (2) That the fee schedule is accurate as outlined above;
  - (3) That the fees remain in effect from the date of the agreement to the above expiration date;
  - (4) That the sterilization fees include maintenance, discharge, and removal of sutures;
  - (5) That the practicing veterinarian's reimbursement is ~~limited to 80~~ shall be 100 percent of the sterilization fees approved by the department pursuant to Agr 2803.01(e)(10) less the \$25 co-pay per surgery;
  - (6) That the exam fee is for a routine physical examination prior to sterilization;
  - (7) That the practicing veterinarian's reimbursement for pre-surgical rabies immunization is no more than ~~\$1525~~ per companion animal, for an applicant who is receiving aid under one of the programs listed in Agr 2801.02(a), in accordance with RSA 437-A:4, II (b);
  - (8) That reimbursement will be provided upon receipt of the vaccination certificate, signed by the participating veterinarian and the applicant, that the immunization has been administered;
  - (9) That any fees associated with any surgical complications are not subject to reimbursement from the animal population control fund;

(10) That if any of the surgical or physical examination fees are determined to be 20 percent higher than the average surgical or physical examination fee, the fee shall be deemed unreasonable in accordance with Agr 2804.03; the applicant shall not be eligible to participate;

(11) That as funds become depleted, the participating veterinarian shall be notified via U.S.P.S., email, or other means, such as a phone call, in advance to stop performing surgeries, administering vaccines, or conducting other activities under this program;

(12) To submit complete and correct monthly invoices and application form for Sterilization of a Dog or Cat within 10 days of the end of the month in which the sterilization surgery or immunization was performed; and

(13) That the practicing veterinarian shall not be reimbursed for services performed on ineligible companion animals, including services performed when the program was closed per Agr. 2803.01(e)(11).

Agr 2803.02 Owner Application for Sterilization of a Dog or Cat.

(a) The “Application for Sterilization of a Dog or Cat” form shall be filled out by the companion animal’s owner who is receiving aid under one of the programs listed in Agr 2801.02(a).

(b) The companion animal’s owner shall provide the following in Part 1 – Client/Pet Information section of the application form:

- (1). Name, address, and phone number of applicant;
- (2). Program under which eligibility is claimed in accordance with RSA 437-A:3, I;
- (3). The following regarding the animal:
  - a. Name;
  - b. Species;
  - c. Breed;
  - d. Sex;
  - e. Age; and,
  - f. Weight;
- (4). Signature of applicant and date signed; and
- (5). That the applicant consents to the following:
  - a. Immunizations if required;
  - b. Sterilization of the pet described above;

c. That the information above is true and correct to the best of the applicant's knowledge; and

d. That the applicant authorizes the department of health and human services, division of family assistance and/or social security administration to release eligibility verification for one of the programs in Agr 2801.02(a) to the administrator.

(c) After the application form is completed, the applicant shall:

(1) Send the application form; and

(2) The proof of eligibility required under Agr 2802.01 to the administrator for approval.

(d) An applicant shall be notified of an incomplete application at the time of receipt by the program administrator in accordance with RSA 541-A:29 and said application shall be deemed abandoned when the applicant fails to supply the documents required under Agr 2802.01 within 60 days of the program administrator's initial notice of additional required information. Applicant may not reactivate an abandoned application but can reapply by filling out another owner Application for Sterilization of a Dog or Cat and complying with the requirements of Agr 2802.01.

(e) Upon review by the administrator, if an applicant meets the requirements of Agr 2802.01, then the administrator shall:

(1) Sign and date Part 2 – Certification by Program Administrator section of the form certifying approval was granted; and

(2) Mail the form back to the applicant.

(f) An approved applications shall only remain valid until both the calendar and fiscal years in which it was issued have ended. For example, an application approved in May shall remain valid after the close of the fiscal year on June 30th, but shall expire on December 31st when the calendar year has ended.

(g) Upon return receipt of the form from the administrator, the applicant shall submit the form and the co-payment as required by RSA 437-A:3, I to the participating veterinarian performing the companion animal's sterilization procedure.

(h) The participating veterinarian shall:

(1) Provide the following in Part 3 – Veterinarian Information section of the form:

a. Name of participating veterinarian;

b. Address of participating veterinarian's office;

c. Telephone number of participating veterinarian's office;

d. Date of surgery;

e. ~~Types Date of rabies vaccinations administered and date;~~

f. Acknowledgement that the co-payment was received from or on behalf of the applicant for the sterilization;

g. Certification that the sterilization and/or immunizations of the animal above was carried out as recorded;

h. Signature of veterinarian that performed the surgery and date; and

i. Obtain applicant's signature and date verifying that the sterilization surgery was completed; and

(2) Submit the form to the administrator at the address on the form within 10 days following the end of the monthly period after retaining the copy designated for the payee at the bottom of the form.

Agr 2803.03 Invoice of Sterilization Surgeries, Exams, and Immunizations.

(a) Only numbered invoice pads provided to the participating veterinarian by the department shall be acceptable for reimbursement submissions.

(b) An "Invoice" shall be:

(1) Completed by the participating veterinarian; and

(2) Submitted to the program administrator within 10 days of the end of the month in which the sterilization surgery or immunization was performed under the program.

(c) The participating veterinarian shall provide the following:

(1) Payee's name and address;

(2) That the payee certifies that this invoice is correct in all its particulars;

(3) Authorized payee signature, title, and date signed;

(4) Sterilization surgeries for the calendar month indicated;

(5) Number of female dogs receiving sterilization surgery or immunization in each of the following weight categories:

a. Up to 25 lbs.;

b. 26-50 lbs.;

c. 51-75 lbs.; and

d. Over 75 lbs.;

(6) Number of female cats receiving sterilization surgery or immunization at any weight;



(7) Number of male dogs receiving sterilization surgery or immunization in each of the following weight categories:

- a. Up to 25 lbs.;
- b. 26-50 lbs.;
- c. 51-75 lbs.; and
- d. Over 75 lbs.;

(8) Number of male cats receiving sterilization surgery or immunization at any weight; and

(9) Certification indicating that the participating veterinarian certifies that the above articles have been received or services rendered as stated herein; and

(d) Total reimbursement for the month indicated shall be determined by participating veterinarian:

(1) Separately listing the amount of sterilization surgeries performed on dogs by sex and weight;

(2) Separately listing the amount of sterilization surgeries performed on cats, of any weight, by sex;

(3) Separately listing the unit cost of each sterilization surgery performed;

(4) Multiplying the number of sterilization surgeries by their respective unit cost to calculate the subtotals;

(5) Adding the subtotals to calculate the sterilization surgical total;

~~(6) Calculating 80 percent of the sterilization surgical total;~~

~~(7) Indicating total payment received from applicant and subtracting that total from the 80 percent sterilization surgical total;~~

~~(8) Adding the total immunization costs, not to exceed \$1525 per immunization, to the total determined from (7) above; and~~

~~(9) Adding the total examination fee.~~

(e) The invoice shall include a place for the administrator to sign and date that the administrator received the invoice from the participating veterinarian.

## PART Agr 2804 ADMINISTRATIVE PROCEDURES

### Agr 2804.01 Administrator's Duties.

(a) The administrator shall:

- (1) Verify eligibility to participate in the program, under RSA 437-A:3, I, through the procedures specified in Agr 2802.01;
- (2) Maintain an up-to-date list of participating veterinarians;
- (3) As required by RSA 437-A:4, I, calculate the average sterilization fees for dogs and cats of all the participating veterinarians;
- (4) Disqualify any sterilization fee deemed unreasonable, in accordance with Agr 2804.03 and notify veterinarian or veterinarian practice; and
- (5) Notify participating veterinarians as outlined in Agr 2803.01(e)(10) when the funds for the program become depleted so they may stop performing surgeries, administering vaccines, or conducting other activities under this program;

Agr 2804.02 Funding Fees Collected.

(a) Cities and towns shall:

- (1) Forward the yearly animal population control fees collected in conjunction with the dog licensing fees, in accordance with RSA 466:4, I(b), to the department;
- (2) Remit fees collected no later than May 15th; and
- (3) Make the checks payable to “Treasurer State of NH.”

Agr 2804.03 Unreasonable Fees by Participating Veterinarians.

(a) Any sterilization or physical examination fees equal to or greater than 20 percent more than the average fees of other participating veterinarians shall be deemed unreasonable by the administrator and shall be disqualified.

(b) Upon notification by the administrator that the fee is unreasonable, the participating veterinarian may agree to lower any unreasonable fee in order to participate in the program.

Agr 2804.04 Monthly Submissions. Each participating veterinarian shall submit complete and correct monthly invoices and the Application for Sterilization of a Dog or Cat no later than 10 days immediately following the end of that monthly period.

PART Agr 2805 COMPLAINTS, VIOLATIONS AND FINES

Agr 2805.01 Complaint. A complaint may be filed by any person, in accordance with the following provisions:

(a) A complaint shall be sent by first class mail to the department containing the following:

- (1) The complainant’s name and address;

- (2) The alleged violator’s name and address; and
- (3) A description of animal involved, if applicable;
  - a. A detailed description of the alleged violation committed; and
  - b. The signature of the complainant; and

(b) If the complaint alleges a violation against a participating veterinarian a copy of the complaint shall be forwarded by the department to the administrator and the New Hampshire Board of Veterinary Medicine;

(c) If the complaint alleges a violation against a person under one of the programs listed in Agr 2801.02(a) and RSA 437-A:3, I, a copy of the complaint shall be forwarded by the department to the administrator and the New Hampshire department of health and human services, division of human services.

Agr 2805.02 Notification of Violation. The alleged violator shall be notified of:

- (a) The alleged violation;
- (b) The proposed administrative action;
- (c) The intent to hold an adjudicatory hearing, as necessary in accordance with the department’s rules of practice and procedure, Agr 200; and
- (d) The applicability of Agr 200, to the proceedings in the case.

Agr 2805.03 Administrative Fine. Any person who violates the rules adopted in accordance with RSA 437-A under this chapter or the statutory provisions of RSA 437-A shall be subject to an administrative fine of \$1,000 for each violation, pursuant to RSA 437-A:6 and processes set forth in Agr 200.

**Appendix**

<b>Rule</b>	<b>State Statute</b>
Agr 2801.01	RSA 437-A:2; RSA 437-A:3
Agr 2801.02	RSA 437-A:3
Agr 2801.03	RSA 437-A:1, RSA 541-A:7
Agr 2802	RSA 437-A:3
Agr 2803	RSA 437-A:4
Agr 2804	RSA 437-A:4-a
Agr 2805	RSA 437-A:6