

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH

OFFICE OF ANIMAL WELFARE

Statutory Authority: 16 Delaware Code, Sections 3004F(d) and 3008F9(a)
(16 Del.C. §§3004F(d) & and 3008F9(a))

FINAL

ORDER

4501 Regulations For Animals Held in Shelter

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("DHSS") initiated proceedings to adopt State of Delaware Regulations for Animals Held in Shelter. The DHSS proceedings to promulgate the regulations were initiated pursuant to 29 **Delaware Code** Chapter 101 and authority as prescribed by 16 **Delaware Code**, Section 122(3)p.

On February 1, 2015 (Volume 18, Issue 8), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Delaware Code** Section 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by March 10, 2015, after which time the DHSS would review information, factual evidence and public comment to the said proposed regulations. In addition, a public hearing was held on February 23, 2015 at the DelDot Building, 800 Bay Road, Dover, Delaware.

Written and verbal comments were received during the public comment period and evaluated. The results of that evaluation are summarized in the accompanying "Summary of Evidence."

SUMMARY OF EVIDENCE

In accordance with Delaware law, public notices regarding proposed Department of Health and Social Services (DHSS) Regulations governing Animals Held in Shelter were published in the *Delaware State News*, the *News Journal*, and the *Delaware Register of Regulations*. Written comments were received on proposed regulations during the public comment period (February 1, 2015 through March 10, 2015). A public hearing was held on February 23, 2015 to receive verbal comments regarding the proposed regulations. Comments were received by the following:

- Doug Beatty
- Tiffany Briddell, Shelter Manager, Delaware SPCA
- Felicia Cross, Executive Director, Forgotten Cats
- Rebecca Ferrer
- Jackie Figart
- Carol Furr
- Deborah Hamilton and Cheryl Heiks, Best Friends Animal Society
- Leora Briggs Hansa
- Caroline Hughes, VMD, President, Delaware SPCA
- Bryce Hurd
- Roberta A. Jackson, VMD, President, Delaware Board of Veterinary Medicine
- Sherene Lindo
- Sue Martell
- Tacia McIlvaine
- Janet Mitchell, VMD, President, Delaware Veterinary Medical Association
- Jane Pierantozzi, Executive Director and Bob Wasserbach, President, Faithful Friends Animal Society
- Araina Sala
- Catherine Samardza
- Dr. Ann Scharf
- Richard Shehorn, Jr.
- Velvet Sponaugle
- Kevin Usilton, Executive Director, First State Animal Center and SPCA
- Sherri Warburton, Director of Animal Control, Delaware Animal Care and Control and First State Animal Center and SPCA
- Anita Wollison

In addition, comments were received by Marlene Oetzel, Beth Suydam and Patrick Carroll, but since the comments did not address the proposed regulations, they are not included here but they have been reviewed and are on file with the

OAW.

Please note that comments included here are those that pertain directly to the proposed regulations. Those that did not address the regulations have not been incorporated. In some cases, it was necessary to summarize comments.

Public comments and the DHSS (Agency) responses are as follows:

Tiffany Briddell, Shelter Manager, Delaware SPCA

- My first comment involves training and certification for the euthanasia technicians. How would stress management be provided to them?

Agency Response: The Agency appreciates and acknowledges these comments. Per regulation 4.2, stress management is included in the core curriculum of the training course required for certification.

- We are hoping to establish our own training program or protocol to train our employees. We would like a list of determining factors in the exclusion of the program if we are able to conduct our own training.

Agency Response: The Agency appreciates and acknowledges these comments. The regulations allow the Office of Animal Welfare to certify existing training courses, such as those offered in other states, which meet the standards set forth in 5.1. However, the organization or institution providing the training may not be an animal shelter in Delaware. To clarify, the Agency will revise regulation 5.1 to read "Any organization or institution desiring to conduct a euthanasia technician certification education program shall apply to the Office of Animal Welfare and submit satisfactory evidence that it is ready and qualified to instruct students in the prescribed basic curriculum for certifying euthanasia technicians and that it is prepared to meet other standards which may be established by the Office. The organization or institution may not be an animal shelter in Delaware."

Felicia Cross, Executive Director, Forgotten Cats, Inc.

1. Euthanasia should only be done by veterinarian.

Agency Response: The Agency appreciates and acknowledges these comments. Since 1985, Delaware law has permitted euthanasia of shelter animals by someone other than a veterinarian due to the potential volume of animals. The shelters will be responsible for ensuring that anyone who is not a licensed veterinarian, nationally certified euthanasia technician, or licensed veterinary technician performing euthanasia in their facility on shelter animals will be trained and certified according to these regulations. The purpose of these regulations is to ensure that when euthanasia is performed, it is done accurately and with compassion, minimizing distress and discomfort. The regulation will remain as written.

2. 10.2.3.6 the floor of the area shall provide dry, non-slip footing to prevent accident, and 10.2.3.7 the area shall be one that can be easily cleaned and disinfected, should be requirements for the entire facility not specifically listed under euthanasia.

Agency Response: The Agency appreciates and acknowledges these comments. Regulation 10.0 refers to euthanasia practices only, as required by 16 Del.C. §3004F, and therefore cannot be broadly applied to the rest of the facility. The conditions, equipment and supplies required are for the euthanasia area only. The regulation will remain as written.

3. 10.2.2.2 response protocols for accidental exposure of humans to euthanasia drugs or pre-euthanasia anesthetics and 10.2.2.3 Material Data Sheets for euthanasia drugs and pre-euthanasia anesthetics pertain to personnel protection and have nothing to do with animal welfare. I don't believe you should be telling shelters what supplies to have in a room as long as they are adhering to their protocol.

Agency Response: The Agency appreciates and acknowledges these comments. Regulation 10.0 is written to ensure the safety of both animals and people. It is important to have the euthanasia room properly equipped in order for a safe and humane procedure to take place. The environment and equipment requirements are in keeping with euthanasia protocols recommended by American Veterinary Medical Association, Humane Society of the United States and Association of Shelter Veterinarians. The regulation will remain as written.

Carol Furr, Leora Briggs Hansa, Catherine Samardza, Richard Shehorn, Jr., Tacia McIlvaine, Sherene Lindo, Dr. Ann Scharf, Velvet Sponaugle, Douglas Beatty, Rebecca Ferrer, Anita Wollison

It is disturbing that some things are not addressed in these regulations. For example, shelters are required to have a rescue registry, to work with placing animals rather than euthanizing them. The law is not specific, allowing shelters to pick and choose which rescues to work with, and euthanizing animals even if a rescue steps forward. Complaints concerning this issue have been brought to OAW multiple times, both as a formal complaint and as the subject in meetings with OAW's director. Yet there is nothing in the regulations concerning this shelter standard.

Agency Response: The Agency appreciates and acknowledges these comments. The law mandates that animal shelters shall establish and maintain a registry of organizations willing to accept animals for the purpose of adoption or long-term placement, but it does not specify that shelters must work with every rescue group. As rescues are not currently regulated or evaluated by the state or an independent overseer, it is up to the animal shelter to determine which rescues to which they will transfer animals and the criteria they use in evaluating those rescues. So long as the shelters establish and

maintain a rescue registry that includes various rescues, including breed specific rescues, they have met the requirements of the law. Therefore, the regulations will remain as written.

Additionally, the laws and the regulations refer to "unadoptable animals" and "temperament." Neither term is defined, nor are there criteria to determine how animals are declared unadoptable or how a behavioral assessment is made. And this despite the fact that the temperament tests/behavioral assessments at First State Animal Center and SPCA have been questioned and criticized by both private citizens, the New Castle County audit and a NCC police officer sent to inspect the shelter for contractual compliance.

Agency Response: The Agency appreciates and acknowledges these comments. The term "unadoptable animals" is not used in the law nor in regulations and therefore, a definition is not required. To clarify, state law does not currently include a provision that animals be classified as "adoptable" or "unadoptable" in making decisions about euthanasia. The law instead lists the conditions that must be met before an animal is euthanized in 16 **Del.C.** §3004F. None of these requirements includes classifying an animal as "unadoptable". An animal shelter may euthanize an animal provided all six conditions of 16 **Del.C.** §3004F(b) are met, or if necessary to alleviate undue suffering or to protect shelter staff and/or other sheltered animals from an animal's severe aggression or contagious deadly health condition. As this comment does not address current language in the law or regulations, the regulations will remain as written. In addition, "temperament" is being removed from Regulation 11.1.3. As a result, temperament is only used once in the regulations (8.3) in the context of vaccinations and not euthanasia. Therefore, a definition is not warranted.

2.0 "Intake rate" should be more clearly defined; animals that are not in the shelter ("field documented") should not be included in the total, nor should animals that are brought to a shelter simply for spay/neuter/vaccination services.

Agency Response: The Agency appreciates and acknowledges these comments. Intake is defined in 2.0 as "number of live animals for which the animal shelter assumes responsibility and are admitted for temporary shelter and care", so as to not be interpreted to include animals that are brought in for spay/neuter or returned in the field. The Agency will change "responsibility" to "custody" to clarify this point. In addition, a second sentence will be added to the definition which reads "This shall include animals admitted to the shelter, foster care, or a satellite location."

3.3.4 Shouldn't this read "*an approved training course*?"

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise regulation 3.3.4 to read "Has successfully completed an approved euthanasia training course".

3.3.6 Shouldn't the certifying veterinarian be an outside agent from the shelter in question to prevent bias and preferential treatment?

Agency Response: The Agency appreciates and acknowledges these comments. The shelter veterinarian is the person overseeing the certified euthanasia technicians in the shelter and for that reason, needs to be comfortable with their level of skill and performance. The shelter veterinarian is also in the best position to assess the competency of the technician. However to receive certification by the Office of Animal Welfare, a person must first satisfy the requirements in 3.3, including the submission of proof of proficiency as documented by the shelter veterinarian. Therefore, the regulations will remain as written.

4.0 Twelve (12) hours seems like a short period of time to certify a person to safely and humanely kill animals.

Agency Response: The Agency appreciates and acknowledges these comments. This is the minimum requirement and does not preclude further training. Some individuals may require additional practical training, as determined by the shelter or consulting veterinarian, to meet the proficiency requirement. In drafting this regulation, national training programs and other states' regulations regarding euthanasia technician training programs were used as reference. The regulations will remain as written.

5.0 This section solicits organizations/institutions to step forward to conduct this training program. This training should not be provided by any shelter or shelter staff that is currently operating, and the regulations should make that clear. Otherwise, what's the point of this regulation?

Agency Response: The Agency appreciates and acknowledges these comments. This provision is included to allow the Office of Animal Welfare to certify existing training courses, such as those offered in other states, which meet the standards established in regulation 5.0. The Agency will revise regulation 5.1 to read "Any organization or institution desiring to conduct a euthanasia technician certification education program shall apply to the Office of Animal Welfare and submit satisfactory evidence that it is ready and qualified to instruct students in the prescribed basic curriculum for certifying euthanasia technicians and that it is prepared to meet other standards which may be established by the Office. The organization or institution may not be an animal shelter in Delaware."

7.3 Revocation of certification. This states that if a euthanasia technician fails to meet the original terms of certification, OAW "may" revoke the certification. This should be "shall." The only thing worse than laws based on the honor system are regulations that are voluntary in nature.

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise regulation 7.3 to change "may" to "shall".

7.4 This section says that concerns regarding any euthanasia technician's behavior or proficiency or animal handling should be reported to OAW. But nothing follows this statement. Shouldn't there be a required investigation noted here? Because in the law, or regulations, we have learned the hard way that if it isn't written down, it doesn't count.

Agency Response: The Agency appreciates and acknowledges these comments. The OAW already has enforcement authorization under 16 Del.C. §3008F and has the powers to conduct investigations or inspections as necessary. Therefore, the regulations will remain as written.

8.3 Refers to vaccines and who can administer them. Refers to "trained shelter personnel" with no definition or criteria for that training.

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise the last sentence of 8.3 to read "Vaccines shall be given as soon as safe to do so and be administered by a licensed veterinarian, a veterinary technician, or trained shelter personnel under the direction of a veterinarian, veterinary technician or animal care manager."

8.4 Refers to examination of animals within 72 hours of entry to shelter. Again, refers to "shelter personnel with knowledge and training in animal health assessment." No criteria to determine that knowledge.

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise the second sentence of 8.4 to read "Exam must be performed by a licensed veterinarian, veterinary technician, or shelter personnel with knowledge and training in animal health assessment under the direction of a veterinarian, veterinary technician or animal care manager."

10.1 Lists those who can perform euthanasia, but does not list a Delaware, OAW certified technician. Why not? This section does mention a "person certified by a licensed veterinarian as proficient." This phrase should be removed and replaced with "a technician certified by the Office as determined in Section 3.0."

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise 10.1 to read "... or a person certified by a licensed veterinarian as proficient to perform euthanasia (hereby referred to as certified euthanasia technician) after completion of the certification requirements outlined in regulation 3.0. The certified euthanasia technician is only permitted to perform euthanasia on shelter animals within the animal shelter of which they are employed. No one other than the shelter or consulting veterinarian may perform euthanasia on privately owned animals."

10.2 and 11.3 Allowing the use of three separate euthanasia manuals will result in lack of consistency in the shelters. One manual - AVMA - should be determined as the euthanasia policy manual. In addition, there should be a note that the guidelines used must be the most current available.

Agency Response: The Agency appreciates and acknowledges these comments. Regulation 5.3 mentions these three organizations - AVMA, HSUS and AHA - as having OAW approved euthanasia technician training courses. Therefore, shelter veterinary staff should have the flexibility to have available the manual of the training program in which they participated. In addition, all three manuals are considered to be suitable reference materials for staff. The regulation does state "current copy" of euthanasia reference manual, requiring that the most current version to be used. The regulations will remain as written.

10.2.4.12 This section should require all shelters to comply with DEA requirements for controlled substances on the premises. Because it was noted in the 2012 NCC audit that FSAC (then KCSPCA) was in violation of DEA regulations.

Agency Response: The Agency appreciates and acknowledges these comments. The Agency is making a revision to regulation 10.2.5 to address this issue, and will read "All chemical agents, pre-euthanasia anesthetics and euthanasia drugs used in the euthanasia area shall be clearly labeled, logged, and stored according to state and federal laws."

10.4 Euthanasia allowed in transport vehicles. This should only be allowed by a licensed veterinarian who can properly determine the condition of the animal in question.

Agency Response: The Agency appreciates and acknowledges these comments. Regulation 10.4 addresses emergency situations involving a severely injured or ill animal where attempting to move the animal would cause greater pain. The same rules governing who can perform euthanasia in an animal shelter as stated in 10.1 apply here. The regulations will remain as written.

11.1.3 Intracardiac injections (aka "heart stick" and "cardiac stick") is not a preferred form of euthanasia listed by AVMA or the Association for Shelter Veterinarians for shelter environments. And no euthanasia should be allowed solely due to an "animal's temperament." Determining an animal's temperament has not been established in these regulations nor by legislation. AND if a healthy animal has already been heavily sedated - as required - it should no longer be necessary to use a "heart stick."

Agency Response: The Agency appreciates and acknowledges these comments. As stated in Section 11.1.3, intracardiac injection is only to be used as a last resort when intravenous or intraperitoneal cannot be successfully administered due to animal's physical condition, and it is only to be administered by a veterinarian. Further, the regulation states that intracardiac (IC) injection may only be performed on a deeply anesthetized or unconscious animal so the animal

is unable to feel pain. IC is currently an acceptable method of euthanasia listed in the most current edition of AMVA Guidelines (2013), pages 27-28. In certain cases, a veterinarian will need to deem the most appropriate and most humane method, and should have the discretion to make that judgment based on the situation. The regulation will remain as written.

11.5 Refers to the number of persons required to handle animals in any euthanasia procedure. Text reads "The handler should be trained in safe and humane animal handling techniques." Trained by whom? What criteria should be used to determine if a person is adequately trained?

Agency Response: The Agency appreciates and acknowledges these comments. The regulations will remain as written.

11.9 Why do these regulation discuss killing an entire litter of puppies or kittens and their mother? Why would this be necessary? Any exceptions allowing this should be noted, or this section should be removed to avoid the tacit permission implied to do this.

Agency Response: The Agency appreciates and acknowledges these comments. There may be medical conditions in which animals cannot be rehabilitated or that pose a significant health risk to animals or staff, such as Rabies. The purpose of this regulation is to minimize distress to the animals, should such a scenario arise. The Agency will revise the second sentence of 11.9 to read "When selected for euthanasia by the shelter veterinarian, mother animals should be euthanized prior to their offspring."

13.3.2 Confirmation of death - cardiac stick syringe - see our comments on 11.1.3.

Agency Response: The Agency appreciates and acknowledges these comments. In following the guidelines outlined by the AVMA and Association of Shelter Veterinarians, regulation 13.0 requires a combination of criteria in reliably confirming death. Verification of death by cardiac puncture is an acceptable method. The regulation will remain as written.

13.3.3 Confirmation of death - "onset of rigor mortis." Rigor sets in at between 3 and 6 hours after death. 11.8 requires that "no animal shall be left unattended between the time euthanasia procedures are first begun and the verification of death." This section should be struck - because either someone will be sitting staring at a dead animal for hours, or that animal will be left unattended while rigor sets in.

Agency Response: The Agency appreciates and acknowledges these comments. Regulation 13.0 applies to any animal that dies in a shelter, not only animals that were euthanized. Rigor mortis is a definitive method for verification of death and would be a sufficient way to confirm death if an animal dies in a shelter of natural causes. As such, rigor mortis should remain in this section. To clarify, rigor mortis is one way that shelters may confirm death, it is not a requirement. They may instead verify by using stethoscope or by cardiac stick syringe. Therefore, the regulation will remain as written.

14.5 states that records must be maintained for a minimum of 24 months unless otherwise directed by the Department. Has anyone checked the State of Delaware retention policy for records such as this? The FOIA policies? We think that allowing a shelter to destroy records after two years will prevent any reasonable comparison or analysis of statistics, whether to demonstrate problems or improvements. In addition, there are no penalties listed here for any violations. Why not? Again, that sort of oversight is what caused so many problems with the laws.

Agency Response: The Agency appreciates and acknowledges these comments. The regulation does meet FOIA requirements, and statistics are being gathered on a quarterly and annual basis. A violation of this subsection is a violation of the law. Penalties are described in 15.3. However, to meet state requirements for state-funded organizations, and requirements set by 24 DE Admin. Code 3300, subsection 2.1.9, the Agency will revise regulation 14.5 to read "Records must be maintained for minimum of 48 months from the date created unless otherwise directed by the Department."

15.1.1 Unannounced inspections: the word "annually" implies that a yearly anniversary is known. Additionally, once a year is not enough, and regulations that only mandate one inspection will not result in consistent and thorough oversight. This should be a minimum of three times per year, no "annually" mentioned.

Agency Response: The Agency appreciates and acknowledges these comments. The regulation states that inspections will be performed at least annually, and that additional inspections may be conducted as the Department deems necessary. The regulations will remain as written.

15.1.2 Title 9 refers to dog control. It covers dog-at-large, dangerous and potentially dangerous dogs, and humane treatment standards for individuals and commercial kennels. Shelters are exempt from the humane treatment standards. What kind of crimes are being postulated here? That should be clarified. Currently, the "proper authorities" is FSAC. We do not believe this section is necessary if shelters are exempt from Title 9.

Agency Response: The Agency appreciates and acknowledges these comments. Proper authorities for Title 9 would be the Counties. Shelters are not exempt from Title 9. The regulation will remain as written.

15.3.1 No penalties are specified. Violations "may" be accompanied by an order of correction. Again, this establishes the regulations as optional on the part of the Office and Department, establishes no financial penalties and leaves the time frame of any corrective action unspecified. This should all be spelled out, with corrective orders required from the Office, so that there is no inconsistency in enforcement.

Agency Response: The Agency appreciates and acknowledges these comments. Penalties are described in 15.3.

The timeframe will be determined as appropriate to the specific situation and the type and severity of the violation. The Agency will revise 15.3.1 to change "may" to "shall".

Deborah Hamilton and Cheryl Heiks, Best Friends Animal Society

Best Friends Animal Society is submitting the following comments on the Division of Public Health, Office of Animal Welfare proposed regulations for Animals Held in Shelter under statutory authority in Title 16, Sections 3004F(d) and 3008F(a).

Best Friends submits these comments acknowledging the advancement and limitations of the newly enacted statute that does not authorize the full range of best practices in shelter standards for all animals. The regulations as proposed contain provisions that Best Friends interprets as vastly improving upon limited existing requirements for care and record keeping.

Best Friends supports the draft regulations as they apply to animal shelters (including rescue organizations that operate a brick and mortar shelter) and define:

- minimum standards of care and treatment;
- requirements for adoption and recovery;
- acceptable standards, methods and procedures of euthanasia;
- training and certification requirements for certified euthanasia technicians;
- record keeping obligations;
- procedures for inspections and complaints.

The protection and care for animals in shelters is the primary focus of this current proposal for regulation and is a core concern of shelter operators. Best Friends supports any and all additional actions to increase opportunities for placement and adoption of companion animals from shelters as a crucial goal of shelters to reduce the number of healthy animals euthanized reflecting the most basic freedom to live.

The training requirements in the proposed regulations focuses solely on "euthanasia". The code provisions enable animal shelters to impound or seize animals, however there is not specific training/handling requirements for working with these more challenging animals and their behaviors. Best Friends recommends that animal sheltering personnel should have adequate training in areas of their work in addition to euthanasia and including but not limited to rehabilitation and first aid. Training is an ongoing need and should reflect a continuous learning process.

Agency Response: The Agency appreciates and acknowledges these comments. Training for shelter personnel, beyond training for certified euthanasia technicians, is not required by law and is therefore provided at the discretion of each animal shelter. The regulation will remain as written.

In addition to adoption as companion animals, Best Friends would like to point out that for cats another successful outcome for healthy outdoor cats is to become part of a "Trapped, Neutered and Returned to Field Community Cat Program." Addressing this outcome for cats in future statutory authority and subsequent regulation is needed for the Office of Animal Welfare.

Best Friends recommends that in contemplating future consideration beyond companion animals, adding "other live outcomes" to the draft language and amended in the purpose statement revised to read: Section 1.2 Authority and Purpose - "The overall purpose of these regulations is to promote and ensure the protection and care of companion animals in animal shelters and to increase opportunities for their placement, adoption and other live outcomes."

Agency Response: The Agency appreciates and acknowledges these comments. The law as currently written concerns sheltered animals that may be suitable for adoption or placement. Therefore, the regulation will remain as written.

In addition, revision of the data collection by shelters should be expanded through revised language such as: Section 2.0 Definitions - "Euthanasia Rate" is the number measuring the numbers and types of animals that are being euthanized and for what type of animals in custody of an animal shelter (including privately owned) that are (strike "have been") euthanized including the reason for this outcome.

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise the definition of "Euthanasia rate" in regulation 2.0 Definitions to read "is the number of animals, by animal type, in custody of an animal shelter that have been euthanized. This shall not include euthanasia of privately owned pets."

Best Friends applauds the inclusion of language in the title for Section 9.0 Animal Adoption, Recovery and Rehabilitation. This acknowledgement of rehabilitation as part of the shelter care is a powerful message by inclusion of rehabilitation as part of the shelter mission. Additionally, the inclusion of standardized provisions for publication of stray animals and hours for potential reunification with owners or caregivers is in keeping with the intent of newly authorized statutory authority for Office of Animal Welfare.

In Section 11.0 Euthanasia Methods and Procedures for Animal Shelters, 11.1.3, it is worth noting that if the animal is "deeply anesthetized", his/her temperament or physical condition should never be problematic and ideally the option would be removed completely as it requires heavy sedation regardless, if that is the case, sedate the animal and use either 11.1.1 or 11.1.2.

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise regulation

11.1.3 to remove the word "temperament". As stated in Section 11.1.3, intracardiac injection is only to be used as a last resort when intravenous or intraperitoneal cannot be successfully administered due to animal's physical condition, and it is only to be administered by a veterinarian. Further, the regulation states that intracardiac (IC) injection may only be performed on a deeply anesthetized or unconscious animal so the animal is unable to feel pain. IC is currently an acceptable method of euthanasia listed in the most current edition of AMVA Guidelines (2013), pages 27-28. In certain cases, a veterinarian will need to deem the most appropriate and most humane method, and should have the discretion to make that judgment based on the situation. The regulation will remain as written.

Section 14.0 covers Record Keeping and Reporting for Animal Shelters and Best Friends supports this requirement. Best Friends would like to note that the National Federation of Humane Societies Basic Matrix for shelter data reporting delineated can be found at <http://aspcapro.org/sites/default/files/nfhs-basic-matrix-fillable.pdf>. The Basic Data Matrix serves as a tool for data collection across a wide spectrum of agencies and puts forward the minimal amount of data a sheltering organization should collect, including "Return to Field" for cats.

Agency Response: The Agency appreciates and acknowledges these comments. Regulation 14.0 clarifies reporting requirements required by law, which will result in uniform data reporting from all animal shelters. In addition, definitions for adoption, euthanasia rate, and intake rate are included in regulation 2.0 to eliminate confusion and inconsistency in data reporting. Therefore, the regulation will remain as written.

Best Friends is deeply respectful of the legislative and Markell administration commitment to improved structure support for animal shelters and for animals in shelter environments. This is clearly reflected in the proposed regulations notwithstanding the additional work that remains to enact further modernization of animal protection statutory provisions. Thank you for your attention to the comments.

Caroline Hughes, VMD, President, Delaware Society for the Prevention of Cruelty to Animals

I am concerned that the regulations are over-reaching when they discuss pre-euthanasia anesthetics in part because many of these drugs are controlled substances that fall under the purview of the DEA and require a veterinarian to have licensure. It's the law. And Sections 1 and 7 specifically mention the ability to have the sodium pentobarbital, but it does not mention other drugs that constitute pre-use of euthanasia anesthetics. So I want to ensure that it is not implied that certified euthanasia technicians have access and full ability to use these drugs which would be outside the purview of other laws in the state.

Agency Response: The Agency appreciates and acknowledges these comments. Regulation 11.2 will be revised to read "Pre-euthanasia anesthetics shall be administered to animals who are aggressive, severely distressed, or frightened as directed by the shelter veterinarian. This does not prevent the use of pre-euthanasia anesthetics for other animals as instructed by the shelter veterinarian."

I'm concerned, from the Delaware SPCA's point of view of the cost of euthanasia training course. I'm also interested that in the definitions "euthanasia training course" was not defined.

Agency Response: The Agency appreciates and acknowledges these comments. The shelters will be responsible for ensuring that anyone who is not a licensed veterinarian, nationally certified euthanasia technician, or licensed veterinary technician performing euthanasia in their facility on shelter animals will be trained and certified according to these regulations. Any cost associated with meeting this requirement will be the obligation of the shelter or employee and may vary depending on where the training is obtained. However, to assist the animal shelters with compliance in the initial year, training is being provided at no cost to the shelters by the Office of Animal Welfare in spring 2015. In addition, the euthanasia training course is fully detailed in regulation 4.0. Therefore, a definition is not necessary. The regulation will remain as written.

In Section 4.1, it talks about a veterinarian certifying that these individuals have demonstrated competency in applying skills outlined in 4.2, but it does not further define how said veterinarian will demonstrate competency. So one veterinarian at one shelter may think it's fine to observe a technician inducing euthanasia on one animal. Another veterinarian may require ten procedures with their presence. And, therefore, I don't find this to be uniform or serving of the public or the animals across the State of Delaware.

Agency Response: The Agency appreciates and acknowledges these comments. The shelter veterinarian is the person overseeing the certified euthanasia technicians in the shelter and for that reason, needs to be comfortable with their level of skill and performance. The shelter veterinarian is also in the best position to assess the competency of the technician. Because each trainee may have a different level of skill and experience, a uniform approach will not work for all. The regulation needs to give the veterinarian some flexibility to exercise their own discretion in assessing competency. The regulation will remain as written.

"In the opinion of the Office" is mentioned in 6.2 and also, for example - and it's throughout these Regulations. 5.1, it says that "...that is prepared to meet other standards which may be established by the Office." I think this is not clear and is vague and allows the Office to potentially not be uniform in how they administer certain parts of these regulations.

Agency Response: The Agency appreciates and acknowledges these comments. The Agency reserves the right to define additional standards based on changing industry standards or continuing education needs of certified persons. The regulation will remain as written.

In 7.4 they describe disciplinary actions for the euthanasia technician, and it is very important to add besides "technical proficiency of euthanasia" the "determination of death." I think we've all heard too often that animals have been said to be euthanized and discovered the next day alive. So I think that would be very beneficial to add to 7.4.

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise regulation 7.4 to read "Any concerns regarding the technical proficiency of euthanasia, the ability to accurately confirm death, professional behavior, or the handling of animals being euthanized of a certified euthanasia technician shall be directed to the Office immediately."

In 8.4, it talks about "shelter personnel with knowledge and training in animal health assessment." Well, who decides who has training in an animal health assessment? If I read two articles on the Web, does that allow me to have suitable knowledge of animal health assessment? Again, that's vague and not clear and allows different shelters to determine who will have knowledge and training of animal health assessment and different standards.

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise the second sentence of 8.4 to read "Exam must be performed by a licensed veterinarian, veterinary technician, or shelter personnel with knowledge and training in animal health assessment under the direction of a veterinarian, veterinary technician or animal care manager."

10.1 describes something that I think is a little bit confusing. It describes the certified euthanasia technician is only permitted to perform euthanasia within the animal shelter of which they are employed. So what I'm confused about is: If a private person brings their animal to the shelter, does that imply that the euthanasia technician will be allowed to euthanize the privately-owned animal as well as the animals that are held within the shelter? And I believe the law is called Animals Held in a Shelter. So that's not clear to me.

Agency Response: The Agency appreciates and acknowledges these comments. The law, 16 Del. C. 30F, applies only to animals in custody of an animal shelter, not privately-owned animals. Therefore, a certified euthanasia technician would not ever be allowed to euthanize a privately-owned animal. The Agency is making a revision to 10.1 to read "... or a person certified by a licensed veterinarian as proficient to perform euthanasia (hereby referred to as certified euthanasia technician) after completion of the certification requirements in regulation 3.0. The certified euthanasia technician is only permitted to perform euthanasia on shelter animals within the animal shelter of which they are employed. No one other than the shelter or consulting veterinarian may perform euthanasia on privately owned animals."

10.2.3.8 not accessible to public when euthanasia is performed. I understand when these are animals held in shelter the public may not want to be there. However, there are instances where a private citizen may want a veterinarian or somebody else who's working in the clinic at one of these shelters to euthanize their animals and would want them to be there and present. I'm concerned that that would preclude the ability of the owner to be present.

Agency Response: The Agency appreciates and acknowledges these comments. As stated above, the law applies only to animals in custody of an animal shelter, not privately-owned animals. The regulation will remain as written.

10.2.4.2 talks about holding cages. I think this is in conflict with 11.9 where they describe "no animal shall be permitted to observe or hear the euthanasia of another animal." But why would you have holding cages in a room where you're going to euthanize animals? It conflicts in my mind.

Agency Response: The Agency appreciates and acknowledges these comments. As stated in regulation 10.2.4.2, the cages are available "to hold an animal waiting for the pre-euthanasia anesthetic or euthanasia drug to take effect, if needed." The purpose is not so multiple animals can be in the room at the same time, and therefore, does not conflict with 11.9. To clarify, the Agency will revise 10.2.4.2 to read "Holding cages of the appropriate size available to hold an animal while waiting for a pre-euthanasia anesthetic or euthanasia drug to take effect, if needed, should be easily accessible in or near the room. These cages shall be maintained in a clean and sanitary condition. If these cages are in the euthanasia room, and occupied, no other animal may be euthanized at the same time pursuant to 11.9."

10.2.5 does not address how these drugs, specifically euthanasia drug, which is allowed in the law - pentobarbital will be stored. But, in addition, if you're going to include pre-euthanasia drugs or other chemical agents, I believe storage is imperative to be mentioned in some way.

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise regulation 10.2.5 to read "All chemical agents, pre-euthanasia anesthetics and euthanasia drugs used in the euthanasia area shall be clearly labeled, logged and stored according to state and federal laws."

14.1. I just wonder why all the words of the law are repeated in the rules and regulations. I don't think this is necessary and it makes for just confusion to the general audience about the regulations. I think it's a total repeat of what's in the law in 14.1.

Agency Response: The Agency appreciates and acknowledges these comments. Regulation 14.1 includes some clarifying language that has been added to the law, 16 Del. C. §3007F. This language can be found in 14.1.6 and 14.1.7. When modifying a list, it is standard to include the whole list for context. The regulation will remain as written.

15.3. These penalties are very vague and very difficult for me to understand. But, specifically, I see no penalties for euthanasia technicians if they are performing euthanasia in an improper role and what would occur and what are the warning periods? Is there remediation? What goes on that way?

Agency Response: The Agency appreciates and acknowledges these comments. Penalties for violations of the 16 Del. C. 30F are detailed in 16 Del. C. §107(a). Regulation 15.3.1 further describes the range of corrective actions that may be ordered for violations, and will be determined by the Office depending on the specific situation. As stated in 7.3, certified euthanasia technicians may have their certificate revoked by the Office. In addition, 16 Del. C. §3006F describes any violation of euthanasia method and procedure, 16 Del. C. §3004F(d) constitutes a class A misdemeanor and shall be punishable as provided by law. The regulation will remain as written.

15.2.3. It talks about a final written report will be posted on the department website at the conclusion of the proceedings. I guess, again, this comes back to the definition of "complaints" of actual of nuisance complaints versus the volume versus where is this department website? How will this all be followed up? So that was very vague in my mind.

Agency Response: The Agency appreciates and acknowledges these comments. Any citizen may come forth with a complaint concerning alleged violations of this subchapter. The Office of Animal Welfare's law enforcement professionals will analyze each complaint to determine if it falls within the scope of authority of the Office of Animal Welfare and if there is probable cause to launch an investigation. Not all complaints are posted online, only those where violations are found. The regulation will remain as written.

Bryce Hurd, Sue Martell, Tacia McIlvaine, Araina Sala, Jackie Figart

Several public comments were received regarding the use of intracardiac injection (IC) as a method of euthanasia in animal shelters. In summary, these individuals believe IC to be a painful method of euthanasia and as such, should not be permitted in animal shelters.

Agency Response: The Agency appreciates and acknowledges these comments. As stated in Section 11.1.3, intracardiac injection is only to be used as a last resort when intravenous or intraperitoneal cannot be successfully administered due to animal's physical condition, and it is only to be administered by a veterinarian. Further, the regulation states that intracardiac (IC) injection may only be performed on a deeply anesthetized or unconscious animal so the animal is unable to feel pain. IC is currently an acceptable method of euthanasia listed in the most current edition of AMVA Guidelines (2013), pages 27-28. In certain cases, a veterinarian will need to deem the most appropriate and most humane method, and should have the discretion to make that judgment based on the situation. The regulation will remain as written.

Roberta A. Jackson, VMD, President, Delaware State Board of Veterinary Medicine

Our board had the opportunity to review your draft of the euthanasia technician proposed legislation and offer the following comments/suggestions below. I welcome the chance to discuss the matter further at our mutual convenience, should you feel it necessary.

1. We take issue with the term "certified euthanasia technician". Licensed Veterinary Technicians in our state have completed extensive training, taken a rigorous licensing examination, pay a licensing fee, and fulfill 6 hours of yearly continuing education requirements. We find it offensive to the LVT in our state that have worked so hard to be recognized in the state to share the term technician with the people completing your proposed training regimen. We would like to suggest the term be replaced with "certified euthanasia specialist".

Agency Response: The Agency appreciates and acknowledges these comments. Although we recognize and understand the case for using an alternative title, the term "certified euthanasia technician" is currently in the Delaware Shelter Standard Law and to change that term would require an amendment to the law. The term "certified euthanasia technician" is the industry-recognized term in animal sheltering to identify shelter personnel, who are not veterinarians, that have received specific training in performing euthanasia in animal shelters. We consulted many other states' regulations and national animal welfare organizations for reference and this term is used broadly. Therefore, the regulation will remain as written.

2. We take issue that the draft as written does not mention any type of fee for the certification of these individuals. We maintain if the individuals are serious enough in their chosen career to undergo training, they should be willing to pay a fee to offset the training and recertification and not draw funds away from the rabies' surcharge designed intent of low cost spays and neuters.

Agency Response: The Agency appreciates and acknowledges these comments. To clarify, no money is being taken from the state spay/neuter fund to cover training costs. The shelters will be responsible for ensuring that anyone who is not a licensed veterinarian, nationally certified euthanasia technician, or licensed veterinary technician performing euthanasia in their facility on shelter animals will be trained and certified. Any cost associated with meeting that requirement will be the obligation of the shelter or the employee and may vary depending on where the training is obtained. However, to assist the

animal shelters with compliance in the initial year, training is being provided at no cost to the shelters by the Office of Animal Welfare in spring 2015. The regulation will remain as written.

3. We propose licensed veterinary technicians also be required to complete the training referenced in Section 4.0 for the certified euthanasia "technician". We especially value the training they would receive in regard to stress management as it relates to this particularly grueling area.

Agency Response: The Agency appreciates and acknowledges these comments. The law does not require additional training for licensed veterinary technicians, so requiring it in regulations would contradict the law. We will, however, strongly encourage the training for any licensed veterinary technicians working in animal shelters that will be performing euthanasia of shelter animals. The regulation will remain as written.

4. We propose that Section 4.2.3 add the following language: "...as well as review federal and state laws regulating the storage and accountability of euthanasia and other controlled substances."

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise 4.2.3 to read "Proper dose calculation and record keeping, proper storage, handling and disposal of pre-euthanasia anesthetics and euthanasia drugs in accordance with state and federal laws."

5. We question the humanity of intracardiac and intraperitoneal injections without a clause requiring sedation of the animal first. We don't believe that intracardiac injection is an acceptable method of euthanasia based on the current AVMA guidelines. Or are there different rules surrounding humane euthanasia of non-owned pets that we may be unaware of?

Agency Response: The Agency appreciates and acknowledges these comments. As stated in Section 11.1.3, intracardiac injection is only to be used as a last resort when intravenous or intraperitoneal cannot be successfully administered due to animal's physical condition, and it is only to be administered by a veterinarian. Further, the regulation states that intracardiac (IC) injection may only be performed on a deeply anesthetized or unconscious animal so the animal is unable to feel pain. IC is currently an acceptable method of euthanasia listed in the most current edition of AVMA Guidelines (2013), pages 27-28. In certain cases, a veterinarian will need to deem the most appropriate and most humane method, and should have the discretion to make that judgment based on the situation. The regulation will remain as written.

6. We propose Section 6.3 and 6.4 be changed to five days.

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise 6.3 and 6.4 to five business days.

7. We propose Section 7.0 include a clause that applicants must receive a total of 6 hours continuing education in order to renew certification, specifically addressing compassion fatigue.

Agency Response: The Agency appreciates and acknowledges these comments. Compassion fatigue training is included in the initial certification training. The Agency agrees that continuing education involving compassion fatigue would be valuable for euthanasia technicians and all animal shelter staff, however, such training is not readily available. Due to the uncertainty of availability and cost of training, we cannot make it a requirement, only a recommendation. The Agency will work to identify compassion fatigue training opportunities or resource materials for shelter staff as they become available. The regulation will remain as written.

Tacia McIlvaine

I was disheartened to read several of the proposed regulations put forth to the public for consideration in regards to animals held in shelter.

Intracardiac injection by hypodermic needle may be performed only by a licensed veterinarian and only when performed on a deeply anesthetized animal to whom intravenous or intraperitoneal cannot be successfully administered due to animal's temperament or physical condition." If the animal is already anesthetized, there is no need, nor excuse for using the heart stick on an animal for temperament.

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise regulation 11.1.3 to remove the word "temperament".

The fact that all Delaware shelters euthanasia policy manuals and procedures, as mandated by Delaware Code, were not presented to the public by the Office of Animal Welfare to consider for this public comment period, to me, is lackadaisical. The fact that the proposed regulations put forth by the Office of Animal Welfare reads very similar to the proposed regulations submitted by the Delaware Department of Agriculture in 2013 (16 **DE Reg.** 1023 04-01-13), seems very disingenuous. Not to mention very disrespectful of the legislators and citizens who worked to create this office to protect Delaware's companion animals that have the misfortune of ending up in the shelter system. I respectfully request that the Delaware Office of Animal Welfare remove any new euthanasia protocols not already specified in Delaware Code until such time as the contracted dog control/animal cruelty agencies have demonstrated a complete and total adherence to Delaware laws already in place. I also respectfully request that the OAW go back to the "drawing board" and redo this entire process. Copying and pasting previously submitted regulations is unacceptable. And thoughtless.

Agency Response: The Agency appreciates and acknowledges these comments. Delaware law requires that any animal shelter performing euthanasia shall have a current policy and procedure manual and that it shall be made available to OAW upon request. However, Delaware law does not require the OAW to share the manuals with the public. 16 **Del.C.**

§3004F(d)(1) mandates that regulations shall be promulgated by the Department regarding acceptable methods of euthanasia in animal shelters. 16 Del.C. §3004F(d)(4) mandates that training and certification requirements for euthanasia technicians shall be established by the Department. These regulations satisfy both mandates. The Office of Animal Welfare reviewed previously-submitted public comments to the Department of Agriculture in drafting these regulations and consulted with the Delaware Board of Veterinary Medicine. The Office also initiated a contract with a veterinary consultant to draft regulations in alignment with AVMA guidelines and industry standards. The regulation will remain as written.

Janet Mitchell, VMD, President, Delaware Veterinary Medical Association

The Board of the Delaware Veterinary Medical Association has had an opportunity to review and discuss the proposed Regulations for Animals Held in Shelters. We appreciate the thoroughness and detail of this document. In general we are supportive of the materials as written. We do have a few comments for your consideration.

1. Regarding section 11.4 we recommend that it read "Large animal species shall or must be euthanized by a licensed veterinarian....."

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise regulation 11.4 to read "Large animal species shall be euthanized by a licensed veterinarian proficient with the handling of horses and livestock."

2. Regarding Section 8.4 we have concern with the term shelter personnel serving in the capacity to make health assessments. We would recommend limiting this to veterinarians and veterinary technicians/medical assistants.

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise the second sentence of regulation 8.4 to read "Exam must be performed by a licensed veterinarian, veterinary technician, or shelter personnel with knowledge and training in animal health assessment under the direction of a veterinarian, veterinary technician or animal care manager."

3. Should the term "companion animal" be defined?

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise the second paragraph of regulation 1.0 to remove the word "companion".

Jane Pierantozzi, Executive Director, and Bob Wasserbach, President, Faithful Friends Animal Society

Faithful Friends Animal Society is generally in favor of state regulations that support Delaware's shelter standards laws and ensure the protection and care of companion animals while held in shelter. We are pleased to have reviewed the Office of Animal Welfare's proposed shelter regulations, pursuant to Title 16 of **Delaware Code**, §§ 3004F and 3008F. We take note that the regulations are specific to §3004F(d) "Euthanasia method and procedure" but feel that 3004F(a), (b) and (c) must also logically be addressed as they pertain to euthanasia in animal shelters, for which we have concerns. We respectfully submit our written comments pertaining to *Regulations for Animals Held in Shelter*:

2.0: We ask that the terms "Severely aggressive" (to mean posing an imminent danger to staff) and "Aggressive" (to mean exhibiting defensive but trainable behaviors, such as food/treat guarding or aggression toward other animals) be added to the list of definitions to distinguish the levels of aggression since these terms influence outcomes for animals held in shelter.

Agency Response: The Agency appreciates and acknowledges these comments. The term "severely aggressive" is not used in the regulations and therefore cannot be included in the definitions. The term "aggressive" is only used once in regulation 11.2 and is not used in a manner where severity of aggressiveness is relevant. Therefore, the regulation will remain as written.

5.1: We are concerned that there will be lack of consistency in euthanasia training, and therefore a range of quality of training, if each shelter is allowed to develop an in-house training program. Regulation 5.1 seems to grant the authority to do so. How could the Office of Animal Welfare possibly monitor a shelter's in-house training to assure quality of training and to ensure that practical training criteria are met satisfactorily?

Agency Response: The Agency appreciates and acknowledges these comments. This provision is included to allow the Office of Animal Welfare to certify existing training courses, such as those offered in other states, which meet the standards established in regulation 5.0. The Agency will revise regulation 5.1 to read "Any organization or institution desiring to conduct a euthanasia technician certification education program shall apply to the Office of Animal Welfare and submit satisfactory evidence that it is ready and qualified to instruct students in the prescribed basic curriculum for certifying euthanasia technicians and that it is prepared to meet other standards which may be established by the Office. The organization or institution may not be an animal shelter in Delaware."

7.4: Will OAW have a policy for handling whistle-blower complaints about improper or unprofessional behavior with regard to euthanizing animals?

Agency Response: The Agency appreciates and acknowledges these comments. Any citizen may come forth with a complaint concerning alleged violations of this subchapter. The Office of Animal Welfare's law enforcement professionals will analyze each complaint to determine if it falls within the scope of authority of the Office of Animal Welfare and if there is probable cause to launch an investigation. The Office has policies and procedures for processing complaints. All investigative reports are confidential, and we protect the privacy of persons who report complaints to our Office.

8.4: We are concerned with the vagueness of the language "shelter personnel with knowledge and training in animal health assessment" in that there should be specificity on the knowledge and training required. Certainly a person with veterinary training would presumably be able to assess an animal's health adequately, as would a person with animal behavioral training to be able to assess temperament and behavioral issues. Persons without such skills should be assessing neither health nor temperament. We know that some shelters, including FSAC-SPCA, routinely use a boxed "temperament test" to make life-or-death decisions about animals rather than for behavioral modification training, for which the tests were intended; FSAC's rate of euthanasia of dogs "due to aggression" is disproportionately high (30 to 43%). We are concerned about animals being unfairly labeled "severely aggressive" and euthanized before the 72-hour (or 5-day) holding period. We ask that some guidelines be developed for employing such tests by laypersons to assess temperament and that the terms "severely aggressive" and "aggressive behaviors" be distinguished from one another.

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise the second sentence of 8.4 to read "Exam must be performed by a licensed veterinarian, veterinary technician, or shelter personnel with knowledge and training in animal health assessment under the direction of a veterinarian, veterinary technician or animal care manager." Regarding euthanasia decisions based on aggression, 16 **Del.C.** §3002F(a) states that animal evaluation and testing protocols for newly impounded animals are to be developed with a licensed veterinarian. Additionally, 16 **Del.C.** §3004F(c) states that the decision to euthanize an animal immediately to "protect shelter staff and/or other sheltered animals from an animal's severe aggression" shall be made by a licensed veterinarian.

9.0: Animal Adoption, Recovery and Rehabilitation, fails to address 3004F (a) and (b) that require animal shelters to meet certain conditions before an animal is euthanized, including transferring to another shelter or a rescue group and maintaining a rescue registry, per 3003F(d). We believe that it would be beneficial to Delaware citizens to have access to a publicly posted, state-maintained rescue registry so they know who to contact for help rescuing an animal. A state-maintained rescue registry would also maintain fairness by eliminating discriminatory practices by some shelters that result in fewer animals being saved. There should be valid reasons why any rescue would be removed from such a list, such as loss of nonprofit status or business license, committing fraud, or animal cruelty, for example. If the state is unable to maintain a statewide rescue registry, it should require that each shelter make its rescue registry available to OAW upon request.

Agency Response: The Agency appreciates and acknowledges these comments. The law mandates that animal shelters shall establish and maintain a registry of organizations willing to accept animals for the purpose of adoption or long-term placement, but it does not specify that shelters must work with every rescue group. As rescues are not currently regulated or evaluated by the state or an independent overseer, it is up to the animal shelter to determine which rescues to which they will transfer animals and the criteria they use in evaluating those rescues. So long as the shelters establish and maintain a rescue registry that includes various rescues, including breed specific rescues, they have met the requirements of the law. With regard to shelters making rescue registries available to OAW, Delaware law, 16 **Del.C.** §3008F(d), states that "Upon request of the Department, animal shelters shall make available records concerning the requirements of this subchapter." Therefore, the regulations will remain as written.

9.1: We strongly recommend the state invest in a publicly accessible, single online repository for shelters to post identifying information about stray animals in shelter so Delaware pet owners have just one online place to look for lost pets. It's too difficult for owners to relocate lost pets using the current, seriously fragmented, animal control system, and a single online portal could vastly improve our state's pitifully low return-to-owner rate.

Agency Response: The Agency appreciates and acknowledges these comments. Regulation 9.1 requires all animal shelters to post stray animals on their website within 24 hours of intake. The purpose of this provision is to aid in the recovery of lost pets by owners searching for them.

10.2.3.8: We believe the euthanasia room should be accessible to a pet owner who is requesting euthanasia so that an owner can remain with his/her pet at the very end of its life until it takes its last breath. This should not be denied to a grieving pet owner.

Agency Response: The Agency appreciates and acknowledges these comments. These regulations apply only to Animals Held in Shelter, 16 **Del.C.** Chapter 30F. Therefore, regulation 10.2.3.8 only applies to animals in custody of an animal shelter, not privately-owned animals. If an animal shelter provides euthanasia services for public animals, this procedure may only be performed by a Delaware licensed veterinarian pursuant to 23 **Del.C.** Chapter 33. The regulation will remain as written.

11.6: We ask that this step be documented in the animal's record, along with the authorization required in 11.7.

Agency Response: The Agency appreciates and acknowledges these comments. The Department has the authority to request protocols and documentation concerning this regulation. The regulation will remain as written.

11.7: There should be documentation (e.g., signed checklist) to support that the shelter did indeed exhaust reasonable alternatives, per the conditions under 3004F(a) and (b), before it euthanized an animal.

Agency Response: The Agency appreciates and acknowledges these comments. The Department has the authority to request protocols and documentation concerning this regulation. The regulation will remain as written.

14.0: Recordkeeping: It is our understanding that shelters should be using the Asilomar format for standardized reporting of shelter statistics, including euthanasia. We believe this should be in the regulations and a shelter should not be allowed to create its own particular line/category that is not in the Asilomar Accords and that misrepresents its statistics, for example, by including animals that are not actually held at the shelter (e.g., an animal brought in by a member of the public for a spay or neuter). This apparently relates to the intake rate in the regulations.

Agency Response: The Agency appreciates and acknowledges these comments. Current law does not mirror the requirements of the Asilomar Accords. However, Regulation 14.0 serves to clarify reporting requirements which will result in uniform data reporting from all animal shelters. In addition, definitions for adoption, euthanasia rate, and intake rate are included in regulation 2.0 to eliminate confusion and inconsistency in reporting. Therefore, the regulation will remain as written.

14.1.9, 14.1.10 & 14.3: We ask that copies of any and all records of examination notes, vaccinations, and medical treatment, as well as health history if known, travel with the animal when that animal is adopted or transferred to another shelter or rescue organization. This will help remove some of the mystery surrounding each animal's health and prevent over-vaccinating the animal.

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will add regulation 14.6 to read "A medical history to include examinations, vaccinations, and all medical treatment shall be provided in written form with the animal at the time of adoption or transfer."

14.3: We ask that OAW specify that records should be easily accessible. When the New Castle County (NCC) Auditor's Office engaged a contractual auditor to audit Kent County SPCA's (now FSAC-SPCA's) compliance with the NCC contract, the auditor's report stated, "As noted elsewhere in the report, Audit had great difficulty retrieving and assessing information on these elements. Some of the records on euthanasia test items could not be located. Many of those that were retrieved were pulled from folders that were in boxes in no obvious order."

Agency Response: The Agency appreciates and acknowledges these comments. 16 Del.C. §3008F(d) states, "Upon request of the Department, animal shelters shall make available records concerning the requirements of this subchapter." The regulations will remain as written.

15.3: We realize that the OAW does not have authority under the current law to issue more severe sanctions for noncompliance than what 16 Del.C. §107(a) allows. We hope that the OAW will work the State Legislature to have harsher penalties for severe violations of the law.

Agency Response: The Agency appreciates and acknowledges these comments.

15.1.2: We don't understand why an inspection would just be looking at compliance with 16 Del.C. Section 3008F. We believe the inspection should encompass the whole of Chapter 30F, "Animals Held in Shelter." We ask that it be edited to read, "...compliance with or violations of 16 Del.C. Chapter 30F or of these regulations for animals held in shelter."

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will edit the first sentence of regulation 15.1.2 to read, "... compliance with or violations of 16 Del.C. Ch. 30F."

Cathy Samardza (comments made at public hearing not covered in Ms. Samardza's written comments)

Certifications do cost money. In most other states, it's the responsibility of the euthanasia technician to pay for those certifications and the registration and for the training. I agree they cost money. I don't agree that that's a problem except that there is no mention of registration fees in there at all.

Agency Response: The Agency appreciates and acknowledges these comments. The shelters will be responsible for ensuring that anyone who is not a licensed veterinarian, nationally certified euthanasia technician, or licensed veterinary technician performing euthanasia in their facility on shelter animals will be trained and certified. Any cost associated with meeting that requirement will be the obligation of the shelter or the employee and may vary depending on where the training is obtained. However, to assist the animal shelters with compliance in the initial year, training is being provided at no cost to the shelters by the Office of Animal Welfare in spring 2015. The regulation will remain as written.

Velvet Sponaugle

Although I am now a private citizen, I have extensive euthanasia experience as well as veterinary technician experience. I graduated from the University of Delaware in 1971 with a BS in Agricultural Science and a minor in Veterinary Medicine. I started working at the Kent County SPCA in the seventies. My duties included the complete care of the adult dog kennels as well as euthanasia. When the SPCA acquired responsibility for Animal Cruelty investigations, I became the first Animal Cruelty Officer. I took several law enforcement courses. After I left the SPCA, I continued my career as a Veterinary Technician for the next 40 years. With this background, I can make some observations regarding the

Office of Animal Welfare Proposal.

3-1 There is no such classification as Nationally Certified Euthanasia Technician. There are courses provided by national organizations such as the American Humane Association. But; there are no nationally certified Euthanasia Technicians; there are only state certified Euthanasia Technicians. A licensed Veterinary Technician has no training in euthanasia. This is not covered in the courses offered in the curriculum. To my knowledge, Veterinary Technicians are not permitted to perform euthanasia in any state. A licensed Veterinary Technician should be required to take the extra courses to acquire the certification in euthanasia procedures, not be automatically excused from the requirements of Euthanasia Technician. Sections 3-5 as well as 10.1 also mentions these classifications

Agency Response: The Agency appreciates and acknowledges these comments. The law does not require additional training for licensed veterinary technicians, so requiring it in regulations would contradict the law. We will, however, strongly encourage the training for any licensed veterinary technicians working in animal shelters that will be performing euthanasia of shelter animals. The regulation will remain as written.

7.3 The pertinent line - the Office of Animal Welfare "may" revoke their certification should be "shall revoke".

Agency Response: The Agency appreciates and acknowledges these comments. The Agency will revise regulation 7.3 to change "may" to "shall".

11.8 No animal shall be left unattended between the time of euthanasia procedures are first begun and the verification of death. 13.3.3 Onset of rigor mortis - This happens over a period of 2 to 6 hours. 11.8 and 13.3.3 these two sections provide unintended problems. Unless you intend that the Euthanasia person to be tied up for several hours this section "13.3.3" needs to be struck.

Agency Response: The Agency appreciates and acknowledges these comments. Regulation 13.0 applies to any animal that dies in a shelter, not only animals that were euthanized. Rigor mortis is a definitive method for verification of death and would be a sufficient way to confirm death if an animal dies in a shelter of natural causes. As such, rigor mortis should remain in this section. To clarify, rigor mortis is one way that shelters may confirm death, it is not a requirement. They may instead verify by using stethoscope or by cardiac stick syringe. Therefore, the regulation will remain as written.

Kevin Usilton, Executive Director, First State Animal Center and SPCA

I am submitting written testimony in opposition of the animal shelter standards that were written and presented for discussion on February 2015. These standards are lacking clarification in some areas and are overstepping the bounds of oversight in other areas.

If these standards are so important for animal shelters, what about the hundreds of animals sitting in our rescue agencies? These agencies should be subject to the same level of oversight as a brick and mortar shelter.

Agency Response: The Agency appreciates and acknowledges these comments. At this time, the law only applies to animal shelters and therefore, these regulations cannot apply to entities that do not fall under that description. The definition of "animal shelter" can be found in regulation 2.0 Definitions.

Minimum standards of care and treatment: This is an area which is lacking in clarification from Title 16. The intentions of shelter standards should be to set standards for minimum levels of care for animal. As such, there are no standards, for the five freedoms of animal welfare as published by the Animal Welfare Council in 2009. These five freedoms are freedom from hunger and thirst, freedom from discomfort, freedom from pain, injury, or disease, freedom to express normal behavior, and freedom from fear and distress.

Agency Response: The Agency appreciates and acknowledges these comments. Regulation 8.0 - 8.4 provides clarity for the provisions of the law that address shelter care and treatment, specifically 16 **Del.C.** §3002F. To make further changes would involve an amendment of the law, which is outside the statutory authority given to the Agency.

Certification and training for euthanasia technicians, acceptable standards, methods, and procedure for euthanasia: This area is overstepping the bounds of oversight. We already have acceptable standards for euthanasia in Title 16; and the American Veterinary Medical Association has guidelines on euthanasia standards already published. These new regulations are requiring renewed training and certification of euthanasia technicians which does not raise the level of professional expertise, just makes additional administrative duties. Since our euthanasia is based on dog control and cruelty investigations, we will require our contracts for these services to supply the necessary resources to meet the new demand.

Agency Response: The Agency appreciates and acknowledges these comments. 16 **Del.C.** §3004F(d)(1) mandates that regulations shall be promulgated by the Department regarding acceptable methods of euthanasia in animal shelters. 16 **Del.C.** §3004F(d)(4) mandates that training and certification requirements for euthanasia technicians shall be established by the Department. These regulations satisfy both mandates. Should the animal shelter management decide that euthanasia be administered by a person who is not a licensed veterinarian, nationally certified euthanasia technician, or licensed veterinary technician, regulations 3.0-7.0 apply. The regulation will remain as written.

Animal adoption, recovery, and rehabilitation: Where are the requirements for adoption? Missing is a key aspect of shelter/rescue operations. Many of our states animals languish in cages in shelters and rescues for one, two, three years. All adopted animals must be spayed/neutered, vaccinated, and microchipped prior to adoption paperwork being finalized. All microchips should be registered with a national company to ensure ease of returning lost pets should the pet become lost. Animal agencies should make every attempt to offer most available hours for adoption, is an example of overreach of authority. Nonprofit's donors and supporters will set the mission based programs to meet the needs of the community, it should not be oversight from a state agency.

Agency Response: The Agency appreciates and acknowledges these comments. Delaware law requires that animals must be spayed or neutered prior to adoption, and that they be vaccinated against specific diseases. It does not mandate that adopted animals be microchipped. The requirement that shelters be open to the public after normal business hours, including evening and weekends, is for the purpose of increasing opportunities for people to reclaim lost pets and to create increased opportunities for adoption. The specific hours of operation, as well as adoption policies and procedures are left to the individual shelters to define. Therefore, the regulation will remain as written.

All found pets should be reported to the appropriate animal control agency as a found animal to be recorded in the lost and found registry. All found pets should be listed on a website to allow the lost owners visual identification to find their pet. All lost pets should also be reported to the appropriate animal control agency to be recorded in the lost and found registry. The lost and found registry should be update at least monthly, to ensure accurate information is on file.

Agency Response: The Agency appreciates and acknowledges these comments. According to 16 Del.C. §3003F(c)(2) and regulation 9.1, each animal shelter is already required to post found animals on their website within 24 hours of taking custody of that animal. Additionally, 9 Del.C. §910(c) already requires a person report a found dog to the appropriate agency within 48 hours of finding that dog. The regulation will remain as written.

Procedures for inspections and complaints: Processes for inspections and complaints, are not clearly defined. What constitutes a complaint? Is probable cause required? Is the complaint a witnessed event by the RP? Is it something they read on line? Is there recourse for unfounded complaints? Are their civil judgments against false harassing complaints?

Agency Response: The Agency appreciates and acknowledges these comments. Any citizen may come forth with a complaint concerning alleged violations of this subchapter. The Office of Animal Welfare's law enforcement professionals will analyze each complaint to determine if it falls within the scope of authority of the Office of Animal Welfare and if there is probable cause to launch an investigation. The Office has policies and procedures for processing complaints. All investigative reports are confidential, and we protect the privacy of persons who report complaints to our Office. The regulation will remain as written.

Record keeping obligations: Record keeping for every animal, every detail of that animal, and every disposition of that animal and of course proof that every detail occurred to every animal is a mountainous administrative task for our large intake shelter. We utilize a shelter software program to track every detail of the animals which come to us for a safe place while temporarily homeless. As with any software program, there are limitations to the reports available, and these additional administrative requirements will again require additional resources. By adding additional reporting of 14.2 thru 14.5 how will these requirements help animals located in shelters?

Agency Response: The Agency appreciates and acknowledges these comments. Accurate records and data are essential for monitoring the health of the animals and ensuring basic standards of care. Documenting correct origins, descriptions and location of animals also plays an important role in reunification of lost pets with owners. Lastly, records are necessary to verify adherence to law. The records detailed in this regulation follow the recommendations outlined in the Association of Shelter Veterinarians Guidelines for Standards of Care in Animal Shelters, recognized as industry best practices. They are also similar to other states' requirements for record keeping by animal shelters. Documentation does not need to be computerized, but it does need to be legible. Sample forms are widely available for shelter professionals from organizations such as Maddie's Shelter Medicine Program at the University of Florida's website. The regulation will remain as written.

**Sherri Warburton, Director of Animal Control
Delaware Animal Care and Control and First State Animal Center and SPCA**

Definitions within this policy must be defined using the most concrete definitions. In this proposal in Section 2.0, Definitions, some must be expanded. Examples such as the term "euthanasia" shouldn't mirror accepted terminology used by veterinarians and animal welfare workers. The proposed definition of "euthanasia as an act of inducing a painless death" is vague and nondefining. In 2010 the Association of Shelter Veterinarians published Guidelines for Standards of Care in Animal Shelters. The Guidelines define euthanasia as "to cause the death of an animal using humane techniques...humane euthanasia is accomplished by an intravenous or intraperitoneal injection of a solution of sodium pentobarbital."

Agency Response: The Agency appreciates and acknowledges these comments. The definition for euthanasia will remain as written. The methods by which euthanasia may be performed are outlined in Regulation 11.0.

The term "intake" is exclusionary. The Guidelines define "intake" as "the point of admittance of animals into a shelter." That's a more concrete definition and covers all intakes, including dead on arrivals or in-for-testing animals, which technically would be excluded from your definition.

Agency Response: The Agency appreciates and acknowledges these comments. The regulations in question concern animals held in shelter only, not privately-owned animals. Animals who are dead on arrival or who are privately owned patients receiving spay/neuter surgeries or veterinary care should not be included in data reflecting the shelter intake population. The proposed definition of "intake" is intended to ensure uniform data reporting representing live animals admitted to the shelter's possession and their disposition, as recommended by the Asilomar Accords and National Humane Federation. The Agency will revise the definition of "Intake rate" in 2.0 to read "means the number of live animals for which an animal shelter assumes custody and are admitted for temporary shelter and care. This shall include animals admitted to the shelter, foster care, or a satellite location."

And let's also look at what is absent from the definitions. Section 15.0, Inspections of Complaints of Animal Shelters. Missing from the definitions is defining what a "complaint" is. The most basic definition of a "complaint" is a "grievance." In the broadest spirit of defining a complaint, a tort must be committed that constitutes an offense that must be supported by probable cause. With the volatile nature of social media, are complaints going to be accepted by social media by the Office of Animal Welfare or must there be firsthand knowledge? The basis of what constitutes a complaint should be defined in 2.0.

Agency Response: The Agency appreciates and acknowledges these comments. Any citizen may come forth with a complaint concerning alleged violations of this subchapter. The Office of Animal Welfare's law enforcement professionals will analyze each complaint to determine if it falls within the scope of authority of the Office of Animal Welfare and if there is probable cause to launch an investigation. The regulation will remain as written.

In closer examination of Section 15.0, I found it odd that only violations are mentioned and there's no mention of a definition of a warning. 15.3.1 states "The Department shall have the power to issue orders to correct deficiencies and to impose penalties pursuant to **Delaware Code** Title 16, Section 107(a)." Question: Who sets the defined penalty between not less than \$100 or more than \$1,000? The referenced statute also states that "All fines and penalties assessed by the Department under this statute shall be retained by the Department in order to defray costs associated with the lead-based paint poisoning prevention program." After reading the entire penalty section, it appears the penalties statute is written for violations of the lead-based paint program and has nothing to do with animal welfare.

Agency Response: The Agency appreciates and acknowledges these comments. To clarify, the only statute referenced for penalties is 16 **Del.C.** §107(a) which applies to anyone who fails to comply with the regulations adopted by the Department. Lead-based paint penalties are described in 16 **Del.C.** §107(d) and are not referenced in the regulations. The amount assessed for penalties will be determined by the Department and will be based on the type and severity of violation.

Policy 15.3.1 states "Violations must be corrected within a time frame established by the Department." This language is vague and, at the very least, should define the minimum correction time for an organization. Compare that to **Delaware Code** Title 9, Subsection 0903(c) for kennels which reads "If, upon inspection or investigation, the premises or facilities are found not to satisfy the requirements for the humane handling and care and treatment of dogs specified in Subsection 904 of this title, the operator of premises or facilities shall be issued a warning identifying the deficiencies. Such operator shall have a minimum of ten business days to bring the premises or facility into compliance with Section 904 of this title."

Agency Response: The Agency appreciates and acknowledges these comments. The timeframe for correction will be determined as appropriate to the specific situation and the type and severity of the violation. Ten days, for instance, would not be appropriate where the health and welfare of animals is in imminent danger. Therefore, the regulation will remain as written.

Lastly, there is no mention of actions involving the state veterinarian who still has a poultry and animal division. Since there's no full-time veterinarian on staff with the Office of Animal Welfare, it's alarming that veterinarian expertise in both writing policy and defining violations such as this Title 16 Animals Held in Shelters is absent.

Agency Response: The Agency appreciates and acknowledges these comments. The State Veterinarian has authority within Title 3, Agriculture, and the Shelter Standards Law is under Title 16, Health and Safety. The Office worked in consult with a Delaware licensed veterinarian in drafting these regulations.

The public comment period was open February 1, 2015 through March 10, 2015. Minor amendments were made to the proposed regulations based on public comment; these amendments are not substantive in nature. The regulations have been reviewed by the Delaware Attorney General's office and approved by the Cabinet Secretary of DHSS.

FINDINGS OF FACT:

Minor amendments were made to the proposed regulations based on public comment; these amendments are not substantive in nature. Additionally, some grammatical amendments were made to the proposed regulations. The Department finds that the proposed regulations, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulations for Animals Held in Shelter are adopted and shall become effective May 11, 2015, after publication of the final regulation in the Delaware *Register of Regulations*.

Rita M. Landgraf, Secretary

4501 Regulations For Animals Held in Shelter

1.0 Authority and Purpose

- 1.1 These regulations are promulgated by the Delaware Department of Health and Social Services pursuant to 16 Del.C. §§3004F(d) and 3008F(a) pertaining to animal shelter standards and shall apply to any animal shelter as defined in Section 2.0.
- 1.2 The overall purpose of these regulations is to promote and ensure the protection and care of **[companion]** animals in animal shelters and to increase opportunities for their placement and adoption. They also establish requirements for humane euthanasia of animals held in animal shelters.
- 1.3 These regulations define: (1) training and certification requirements for certified euthanasia technicians; (2) minimum standards of care and treatment; (3) requirements for adoption and recovery; (4) acceptable standards, methods and procedures of euthanasia; (5) record keeping obligations; and (6) procedures for inspections and complaints.

2.0 Definitions

The following words or terms, when used in these regulations, shall have the meaning indicated, unless the context otherwise requires:

"Adoption" means the permanent transfer of ownership/guardianship of a companion animal from a shelter to a new owner/guardian.

"Animal shelter" means a public or private facility which includes a physical structure that provides temporary or permanent shelter to stray, abandoned, abused, or owner-surrendered animals and that is operated, owned, or maintained by a duly incorporated humane society, animal welfare society, or other nonprofit organization for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals. "Animal shelter" shall not include individuals providing temporary foster care to animals in their home or to animal rescue groups sheltering animals on an individual's private property.

"Applicant" means a person that has submitted an application for certification as an euthanasia technician in an animal shelter for which they work.

"Certified euthanasia technician" is the designation to be used for the individual defined according to 16 Del.C. §3004F(d)(4d). "Certified euthanasia technician" means a person certified by a licensed veterinarian and the Office of Animal Welfare, after passing both a written and practical examination, as proficient to perform euthanasia in an animal shelter setting.

"Department" means the Department of Health and Social Services or its duly authorized representatives.

"Euthanasia" is the act of inducing painless death.

"Euthanasia rate" is the number of animals[, **by animal type,**] in custody of an animal shelter that have been euthanized. This shall not include euthanasia of privately owned pets.

"Intake rate" means the number of live animals for which an animal shelter assumes **[responsibility custody]** and are admitted for temporary shelter and care. **[This shall include all animals admitted to the shelter, foster care, or a satellite location.]**

"Licensed veterinarian" means a veterinarian licensed to practice veterinary medicine pursuant to Title 24.

"Licensed veterinary technician" means an individual licensed as a veterinary technician pursuant to Title 24.

"Office" means the Office of Animal Welfare or its duly authorized representatives.

"Pre-euthanasia anesthetics" means drugs administered prior to the administration of the euthanasia drug, which render an animal unconscious, immobilized, and with total loss of ability to perceive pain while retaining functions vital for life.

3.0 Certification Requirements for Euthanasia Technicians

- 3.1 Individuals who perform euthanasia in an animal shelter, other than a licensed veterinarian, a nationally certified euthanasia technician; or a licensed veterinary technician, must be trained and certified as set forth in this Section.
- 3.2 Individuals seeking certification as a euthanasia technician shall submit a written application documenting their qualifications to the Office of Animal Welfare, Carvel Building, 1901 N. Dupont Highway, New Castle, DE 19720.
- 3.3 In order to qualify for certification as a certified euthanasia technician, an applicant shall submit proof of the following requirements:
 - 3.3.1 Is eighteen (18) years of age or older;
 - 3.3.2 A criminal background check within 6 months of application showing the individual has not been convicted of any of the following:
 - 3.3.2.1 any felony offense.
 - 3.3.2.2 a crime or infraction involving animal abuse or neglect.
 - 3.3.2.3 use, possession, sale, distribution, or traffic of illegal substances.
 - 3.3.3 Is employed by a Delaware animal shelter;
 - 3.3.4 Has successfully completed [a an approved] euthanasia training course;
 - 3.3.5 Has passed a written examination given by or approved by the Office of Animal Welfare ("Office"), and
 - 3.3.6 Demonstrates proficiency [in euthanasia procedure] under the direct supervision of the shelter's staff veterinarian or consulting veterinarian.
- 3.4 The Office of Animal Welfare will receive and review all applications for euthanasia technician certification and determine eligibility.
- 3.5 For any person who is currently performing euthanasia, who is not a licensed veterinarian, a nationally certified euthanasia technician, or a licensed veterinary technician, the training requirement must be met within six months of the effective date of this Rule.

4.0 Training of Certified Euthanasia Technicians

- 4.1 The euthanasia training course shall be at least twelve (12) hours and shall include both lecture and practical instruction.
- 4.2 The course must be administered by or approved by the Office of Animal Welfare and minimum curriculum requirements shall include:
 - 4.2.1 Animal anatomy;
 - 4.2.2 The pharmacology and proper administration of euthanasia drugs and pre-euthanasia anesthetics;
 - 4.2.3 Proper dose calculation and record keeping, proper storage, handling and disposal of pre-euthanasia anesthetics and euthanasia drugs [in accordance with state and federal laws];
 - 4.2.4 Proper restraint and handling with emphasis on easing trauma and stress to the animal;
 - 4.2.5 Proper injection techniques;
 - 4.2.6 Techniques for properly and accurately verifying an animal's death;
 - 4.2.7 The proper disposal of a euthanized animal; and
 - 4.2.8 Euthanasia technician stress management.
- 4.3 There shall be at least one instructor per course who can provide proof of being proficient and experienced in intravenous and intraperitoneal administration of pharmaceuticals.
- 4.4 Following the lecture training detailed in 4.2 of these regulations, the applicant shall take a written examination provided by or approved by the Office of Animal Welfare.
- 4.5 Those passing the written examination are eligible for the practical portion of the training during which the individual shall work under the direct supervision of the shelter's staff veterinarian or consulting veterinarian. Through practical training, the individual shall:
 - 4.5.1 Demonstrate competency in applying the skills outlined in 4.2; and
 - 4.5.2 Exhibit respectful, professional and compassionate behavior in regard to the euthanasia process.
- 4.6 Once the supervising veterinarian deems the individual is proficient in giving intravenous and intraperitoneal injections, as well as making a positive determination of death, the veterinarian shall sign a proficiency statement and notify the Office of Animal Welfare.

5.0 Approval of Euthanasia Training Course

- 5.1 Any organization or institution desiring to conduct a euthanasia technician certification education program shall apply to the Office of Animal Welfare and submit satisfactory evidence that it is ready and qualified to instruct students in the prescribed basic curriculum for certifying euthanasia technicians and that is prepared to meet other standards which may be established by the Office. [The organization or institution may not be an animal shelter in Delaware.]
- 5.2 If the Office determines that any approved educational program is not maintaining the standards required by these regulations and by the Office, written notice thereof, specifying the deficiency and the time within which the same shall be corrected, shall immediately be issued to the program. The Office shall withdraw such program's approval if it fails to correct the deficiency within the time proscribed. The organization or institution may reapply for approval to the Office once the program meets standards established by the Office.
- 5.3 A euthanasia technician certification course approved by the American Humane Association, the American Veterinary Medical Association or The Humane Society of the United States shall be deemed to have the approval of the Delaware Office of Animal Welfare.

6.0 Issuance of Certification

- 6.1 Upon receipt of the required documentation listed in section 3.3 of these regulations, the Office of Animal Welfare shall issue a certificate of course completion which will serve as certification.
- 6.2 The Office of Animal Welfare may, by endorsement, without written examination, certify an euthanasia technician who has completed a training program that meets the educational requirements for certification defined by the Office and if, in the opinion of the Office, the applicant meets the qualifications specified by these regulations for an euthanasia technician.
- 6.3 Certificates shall be kept on file at the euthanasia technician's place of employment. A shelter shall notify the Office of Animal Welfare in writing, no later than **[10 days 5 business days]** from the date of termination or resignation, of a Certified Euthanasia Technician's employment.
- 6.4 A Certified Euthanasia Technician shall notify the Office within **[10 days 5 business days]** of change of employment from one Delaware animal shelter to another Delaware animal shelter, if applicable.

7.0 Recertification and Revocation

- 7.1 Recertification will be required every three years by applying to the Office of Animal Welfare and may be granted provided that the euthanasia technician is currently employed by a Delaware animal shelter and has not been convicted of any felony offense, crime or infraction involving animal abuse or neglect, or the use, possession, sale, distribution, or traffic of illegal substances within the previous three years.
- 7.2 To apply for recertification, the applicant shall submit to the Office of Animal Welfare a letter signed by their employer that they still meet the criteria listed in section 3.3 of these regulations and have remained proficient in giving intravenous and intraperitoneal injections, as well as making a positive determination of death.
- 7.3 If at any time the euthanasia technician fails to meet the original terms of certification, they are no longer employed by a Delaware animal shelter, or their employer requests revocation, the Office of Animal Welfare **[may shall]** revoke their certification.
- 7.4 Any concerns regarding the technical proficiency of euthanasia, **[the ability to accurately confirm death,]** professional behavior, or the handling of animals being euthanized of a certified euthanasia technician should be directed to the Office immediately.

8.0 Shelter Care and Treatment

- 8.1 Animal shelters shall follow written veterinary care protocols developed with a licensed veterinarian, to include: evaluation and testing of newly impounded animals, disease control and prevention, and adequate veterinary care. These protocols shall be updated regularly and available on site at all times, and copies provided to the Department of Health and Social Services ("Department") upon request.
- 8.2 Animal shelters shall vaccinate all dogs against canine distemper virus, canine parvovirus, and bordetella bronchiseptica and all cats against feline viral rhinotracheitis, calicivirus, and the panleukopenia virus before or upon entering the shelter or holding facility to reduce the spread of disease.
- 8.3 Vaccines should be administered as soon as possible, but no more than 8 hours after entering the shelter. This provision shall not apply to animals in quarantine for rabies observation, or to animals having injuries, illness, or temperament that make administration of the vaccinations unsafe. If vaccines are not given to an animal due to one of these exceptions, the reason must be explained and well documented. The animal must be reassessed within a reasonable amount of time based on the condition. Vaccines shall be given as soon as safe to do so and be administered by a licensed veterinarian, veterinary technician, or trained shelter personnel **[under the direction of a veterinarian, veterinary technician, or animal care manager].**

8.4 An examination of animals entering an animal shelter shall be performed within 72 hours of entry. Exam must be performed by a licensed veterinarian, veterinary technician, or shelter personnel with knowledge and training in animal health assessment [under the direction of a veterinarian, veterinary technician, or animal care manager]. In rare circumstances where handling of an animal may be unsafe, the exam may be done visually with the reason for a visual exam clearly documented. Written examination findings must be kept in the animal's record and a copy provided to the Department upon request.

[8.5 **This section applies to all animals in the organization's custody whether at the shelter, in foster care, or a satellite location.**]

9.0 Animal Adoption, Recovery, and Rehabilitation

9.1 Animal shelters shall post all stray animals on their website within 24 hours of intake. The posting shall contain sufficient detail to allow the animal to be recognized and claimed by their owners. Shelters may post stray animals on additional websites or through social media at their discretion.

9.2 Animal shelters shall be open to the public after normal business hours, including evenings and weekends, to increase access for purposes of reclaiming a lost pet or adoption. The hours for public access shall be posted at the facility and clearly visible from the outside. Hours shall also be posted on the shelter's website.

10.0 Euthanasia in Animal Shelters

10.1 Euthanasia shall be performed by a licensed veterinarian, a licensed veterinary technician, a nationally certified euthanasia technician, or a person certified by a licensed veterinarian as proficient to perform euthanasia (hereby referred to as certified euthanasia technician) [after completion of the requirements outlined in regulation 3.0]. The certified euthanasia technician is only permitted to perform euthanasia [on shelter animals] within the animal shelter of which they are employed. [No one other than the shelter or consulting veterinarian may perform euthanasia on privately owned animals.]

10.2 Standards for the euthanasia area in animal shelters

10.2.1 Each shelter shall have a specific area designated for euthanasia. That area shall be:

10.2.1.1 A separate room;

10.2.1.2 An area that is physically separated from the rest of the facility by a wall, barrier or other divider; or

10.2.1.3 An area that is not used for any other purpose while animals are being euthanized.

10.2.2 The following information shall be kept in the euthanasia area:

10.2.2.1 A written copy of the policy and procedure manual regarding euthanasia drafted by a licensed veterinarian of the shelter's choice;

10.2.2.2 Response protocols for accidental exposure of humans to euthanasia drugs or pre-euthanasia anesthetics;

10.2.2.3 Material Safety Data Sheets for euthanasia drugs and pre-euthanasia anesthetics; and

10.2.2.4 Current copy of euthanasia reference manual issued by the American Veterinary Medical Association, the American Humane Association, or The Humane Society of the United States.

10.2.3 The euthanasia area shall meet the following minimum standards:

10.2.3.1 Shall provide a safe, quiet environment in which to perform euthanasia.

10.2.3.2 Shall provide adequate space for two persons to perform euthanasia.

10.2.3.3 Lighting shall be bright and even and provide adequate illumination for inspection and identification of animals, performance of euthanasia procedures, and safe working conditions for personnel.

10.2.3.4 The air temperature shall be within a range of 65 degrees and 85 degrees Fahrenheit, a comfortable range for both personnel and animals.

10.2.3.5 The area shall have adequate ventilation that prevents accumulation of odors.

10.2.3.6 The floor of the area shall provide dry, non-slip footing to prevent accidents.

10.2.3.7 The area shall be one that can be easily cleaned and disinfected.

10.2.3.8 The area shall not be accessible to the public when euthanasia is being performed

10.2.4 The euthanasia area shall have the following equipment and supplies:

10.2.4.1 A table or other work area where animals can be handled safely while euthanasia is performed.

10.2.4.2 Holding cages of the appropriate size available to hold an animal while waiting for a pre-euthanasia anesthetic or euthanasia drug to take effect, if needed, should be easily accessible in or near the room]. These cages shall be maintained in a clean and sanitary condition. [If these

cages are in the euthanasia room, and occupied, no other animal may be euthanized at the same time pursuant to subsection 11.9.]

10.2.4.3 Variety of syringes and needles. Needles are to be used only once.

10.2.4.4 A first aid kit.

10.2.4.5 One or more tourniquets.

10.2.4.6 Electric clippers with a number 40 blade in good working order.

10.2.4.7 Humane restraint devices for use on dogs and cats.

10.2.4.8 Stethoscope.

10.2.4.9 Towels, sponges and disinfectant.

10.2.4.10 Sharps disposal system.

10.2.4.11 Universal microchip scanner in good working order.

10.2.4.12 Log book to record animal ID, weight of animal, drug names and amounts utilized for the euthanasia procedure.

10.2.5 All chemical agents, pre-euthanasia anesthetics and euthanasia drugs used in the euthanasia area shall be clearly labeled, **logged, and stored according to state and federal laws**.

10.3 Subsections 10.1 and 10.2 do not apply to livestock and horses, which may be euthanized in an outdoor environment.

10.4 When deemed necessary due to severe injury or illness, and when it can be performed without risk to personal safety, humane euthanasia may be performed outdoors or in a transport vehicle as long as the animal is on shelter property.

11.0 Euthanasia Methods and Procedures for Animal Shelters

11.1 The use of sodium pentobarbital or sodium pentobarbital in combination with phenytoin sodium shall be the exclusive drugs for euthanasia of dogs and cats by animal shelters, given by the following acceptable methods:

11.1.1 Intravenous injection by hypodermic needle:

11.1.2 Intraperitoneal injection with sodium pentobarbital alone by hypodermic needle, if intravenous access is distressful, dangerous or impractical and the animal is less than 10 lb; or

11.1.3 Intracardiac injection by hypodermic needle may be performed only by a licensed veterinarian and only when performed on a deeply anesthetized **[or unconscious]** animal to whom intravenous or intraperitoneal cannot be successfully administered due to animal's **[temperament or]** physical condition.

11.2 Pre-euthanasia anesthetics shall be administered to animals who are aggressive, severely distressed, or frightened as **[outlined directed]** by the shelter veterinarian **[or shelter euthanasia manual]**. This does not prevent the use of pre-euthanasia anesthetics for other animals as instructed by the shelter veterinarian **[or individual shelter protocol]**.

11.3 Small animal species other than dogs and cats should be humanely euthanized by the preferred methods recommended by the manuals listed in section 10.2.2.4.

11.4 Large animal species **[should shall]** be euthanized by a licensed veterinarian proficient with the handling of horses and livestock.

11.5 To assure safe and humane euthanasia technique, a minimum of two persons shall be required for any euthanasia procedure. One person shall be a licensed veterinarian, licensed veterinary technician, or a certified euthanasia technician, and one or more persons shall be handler(s). The handler should be trained in safe and humane animal handling techniques.

11.6 The identity of each animal to be euthanized must be determined with certainty prior to the procedure. This includes but is not limited to scanning for a microchip, verification of sex, breed, shelter ID number and distinguishing markings, and verifying that the animal is properly designated for the procedure.

11.7 Euthanasia must be authorized by the animal care/control manager, director or veterinarian as appropriate for each animal for which euthanasia is performed. Documentation of this authorization shall be kept in the animal's record and a copy provided to the Department upon request.

11.8 No animal shall be left unattended between the time euthanasia procedures are first begun and the verification of death.

11.9 No animal shall be permitted to observe or hear the euthanasia of another animal, nor permitted to view the bodies of dead animals. This provision shall not apply to puppies and kittens with their mothers. When selected for euthanasia **[by the shelter veterinarian]**, mother animals should be euthanized prior to their offspring. The puppies or kittens should be euthanized immediately following the mother.

12.0 Handling and Restraint of Animals for Euthanasia

- 12.1 To minimize stress, fear and discomfort, the least amount of restraint that is necessary to perform the procedure safely shall be used. All animals shall be handled in a gentle and compassionate manner.
- 12.2 When animals are fearful, fractious or highly aroused, human contact should be minimized as to prevent injury and reduce stress to both the animal and the handler. For these animals, pre-euthanasia anesthesia shall be administered.
- 12.3 Catch poles are not to be used on cats.

13.0 Confirmation of Death

- 13.1 No dog, cat, or other species may have its body disposed of until death is confirmed by a licensed veterinarian, licensed veterinary technician, or a certified euthanasia technician. Verification of death shall be made by physical examination of the individual animal.
- 13.2 Methods for confirmation of death must be preceded by ensuring that the animal has neither a blink nor toe pinch reflex.
- 13.3 Methods for confirmation of death:
 - 13.3.1 Complete lack of heartbeat and respiration as determined by stethoscope;
 - 13.3.2 Lack of movement of a cardiac stick syringe; or
 - 13.3.3 Onset of rigor mortis
- 13.4 Verification of death is to be performed by two individuals.

14.0 Record Keeping and Reporting for Animal Shelters

- 14.1 Animal shelters shall maintain records regarding the following information:
 - 14.1.1 Intake rate;
 - 14.1.2 Euthanasia rate including age (infant, juvenile, and adult), by animal;
 - 14.1.3 Number of adoptions;
 - 14.1.4 Number reclaimed by owner;
 - 14.1.5 Number transferred to other agencies for adoption;
 - 14.1.6 Number of animals spayed or neutered. This shall include shelter and public animals;
 - 14.1.7 Number of animals in the shelter. This shall include all animals in the organization's custody whether at the shelter, in foster care, or a satellite location;
 - 14.1.8 Records showing the number of animals that died or were lost/stolen;
 - 14.1.9 Records showing compliance with vaccination requirements; and
 - 14.1.10 Records regarding medical treatment provided.
- 14.2 Animal statistics outlined in 14.1.1 - 14.1.8 must be posted on the shelter's website on a quarterly basis, no later than 30 days after the close of the quarter. A final annual report for each calendar year shall also be provided to the Department by February 28 of the year following the year for which the statistics were compiled.
- 14.3 There shall be kept at each shelter a record of all animals received and their disposition. Such record shall state:
 - 14.3.1 origin of animal, including the name and address of the organization or individual from whom the animal was acquired, if applicable, and date animal was received;
 - 14.3.2 unique identification number for each animal;
 - 14.3.3 description including species, estimated age, sex, color markings, and if spayed/neutered;
 - 14.3.4 location of animal if not kept at shelter facility;
 - 14.3.5 medical condition at initial exam given within 72 hours of intake, and any subsequent medical care including examinations, treatments date and time, name and dosage of medication, and name of provider;
 - 14.3.6 vaccination history including date and time of all vaccines given, name of medication, and name of provider; and
 - 14.3.7 disposition of animal and disposition date, name and address of person or organization if adopted or transferred; in the event of death, cause of death if known; if euthanized, the date, reason, method, person administering procedure and handler.
- 14.4 Records shall be kept in accordance with these regulations and this section and shall be made available for review by the Department during any inspection or upon request.

14.5 Records must be maintained for a minimum period of [24 48] months from the date created unless otherwise directed by the Department.

[14.6 A medical history to include examinations, vaccinations, and all medical treatment shall be provided in written form with the animal at the time of adoption or transfer.]

15.0 Inspections and Complaints of Animal Shelters

15.1 Inspections of animal shelters shall be conducted in accordance with 16 Del.C. §3008F

15.1.1 Unannounced inspections will be performed at least annually. Additional inspections may be conducted to follow up on previous violations, in response to complaints, or as the Department deems necessary to ensure the health and well-being of the animals.

15.1.2 The Department or its duly authorized representative(s) shall have the power to enter at all reasonable times, during ordinary business hours, for the purpose of determining whether or not there is compliance with or violations of 16 Del.C. [~~§3008F~~ Ch. 30F]. If violations outside the scope of authority of the Department are discovered, such as violations that could be considered crimes under Title 9, the Department will notify the proper authorities.

15.1.3 The Department has the right to inspect any and all records pertaining to the animals that are the subject of these regulations and will be given access to view and copy such records.

15.1.4 All inspection findings will be documented in writing and a copy provided to the animal shelter within 30 days. Such notice may be sent by Certified Mail or hand delivered. Once provided to the animal shelter, findings will also be posted on the Department web site.

15.2 Complaints: Department shall conduct an investigation upon receipt of a written complaint of alleged violations of Title 16 Delaware Code.

15.2.1 All complaints shall be reviewed and complaints concerning violations of this chapter will be investigated by the Department or its designee.

15.2.2 The Department shall notify the animal shelter of the complaint within 30 days of receipt of said complaint. Based on nature of complaint, the Department may request assistance from the appropriate law enforcement agency having jurisdiction over the shelter.

15.2.3 The Department shall issue a final written report of violations to the animal shelter, sent by Certified Mail or hand delivered. The final report will also be posted to the Department web site at the conclusion of the proceedings and after the animal shelter is notified.

15.3 The Department shall have the power to issue orders to correct deficiencies and to impose penalties pursuant to 16 Del.C. §107(a).

15.3.1 Notice of a violation [may shall] be accompanied by an order that requires corrective action be taken. Violations must be corrected within the timeframe established by the Department. The order shall be signed by the Director or his/her designee or any of his/her appointed representatives and may require:

15.3.1.1 In instances where the health and welfare of animals is in imminent danger, the closure of the facility until correction of the violation is proven.

15.3.1.2 The acquisition or use of additional equipment, supplies, training, or personnel to insure that the violation does not recur.

15.3.1.3 The submission of a plan to prevent future violations to the Department for review and approval.

15.3.1.4 Any other corrective action deemed necessary for proper compliance with the Regulations including interim remedies pending correction of violations.

15.4 Hearing Request: An animal shelter may request a hearing if they wish to contest the findings of the investigation.

15.4.1 The request shall be made in writing to the Department within 30 days after publication of the findings. Within 30 days of receipt of the request for public hearing, the Department shall set a time and place to conduct a hearing on the complaint.

15.4.2 Notice of the hearing shall be given and the hearing conducted in accordance with the Administrative Procedures Act, Chapter 101 of Title 29, and the Freedom of Information Act, Chapter 100 of Title 29.