

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
NOTICE OF PUBLIC HEARING

November 4, 2019  
1:00 p.m. Central Time  
Nebraska State Office Building – Lower Level B  
301 Centennial Mall South, Lincoln, Nebraska

The purpose of this hearing is to receive comments on proposed changes to Title 173, Chapter 5 of the Nebraska Administrative Code (NAC) – *Rabies Control Program*. The chapter details the regulations for rabies control and prevention in accordance with the State's Rabies Program. The proposed changes update vaccinations of domestic animals; provisions related to seizure, confinement, testing, and disposition of domestic animals that expose humans to rabies; and post exposure management of domestic animals and livestock.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

Interested persons may attend the hearing and provide verbal or written comments or mail, fax or email written comments, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 or [dhhs.regulations@nebraska.gov](mailto:dhhs.regulations@nebraska.gov), respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals with hearing impairments may call DHHS at (402) 471-9570 (voice and TDD) or the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

## FISCAL IMPACT STATEMENT

Agency: <b>Department of Health and Human Services</b>	
Title: Division of Public Health	Prepared by: Bryan F Buss
Chapter: 173 NAC 5	Date prepared: 4/6/19
Subject: Rabies Control Program	Telephone: 402-471-8820

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> )
Increased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Increased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Indeterminable	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )

Provide an Estimated Cost & Description of Impact:

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

TITLE 173            COMMUNICABLE DISEASES

CHAPTER 5         RABIES CONTROL PROGRAM

001. SCOPE AND AUTHORITY. These regulations are intended to implement the law governing the control of rabies pursuant to Nebraska Revised Statute (Neb. Rev. Stat.) §§ 71-4401 to 71-4412.

002. INITIAL AND BOOSTER RABIES VACCINATIONS. Young domestic and hybrid animals must be initially vaccinated against rabies commencing at three months of age and can be considered immunized within 28 days. Regardless of the age of the animal or product used at initial vaccination, a booster vaccination should be administered one year later. Subsequent booster vaccinations should then be given at intervals consistent with the vaccine labeling. A domestic animal is considered immunized immediately after any booster vaccination.

003. RABIES CONTROL. Rabies control requirements are as follows:

003.01 DOMESTIC ANIMALS THAT HAVE BITTEN A PERSON. Any domestic animal which is owned by a person and has bitten any person or caused an abrasion of the skin of any person must be seized by the rabies control authority for a period of not less than ten days if the animal is suspected of having rabies or is not vaccinated. If, after observation and examination by a veterinarian, at the end of the ten-day period the animal shows no clinical signs of rabies, the animal may be released to its owner.

003.02 VACCINATED ANIMALS THAT HAVE BITTEN A PERSON. Whenever any person has been bitten or has an abrasion of the skin caused by domestic animal owned by another person, which animal has been vaccinated in accordance with this chapter, the animal must be confined and observed by the owner or other responsible person, as required by the rabies control authority, for a period of at least ten days and must be examined by a veterinarian at the end of the ten-day period. If no clinical signs of rabies are found by the veterinarian, the animal may be released from confinement.

003.03 LAW ENFORCEMENT OR GOVERNMENT AGENCY ANIMALS THAT HAVE BITTEN A PERSON. A vaccinated domestic animal that bites or causes an abrasion of the skin of any person during training or the performance of the animal's duties must be observed for a period of at least ten days, during which time the agency must maintain ownership, control, and supervision of the animal. Any animal showing any signs of illness during the ten days must be examined by a veterinarian.

003.04 UNOWNED ANIMALS THAT HAVE BITTEN A PERSON. Any domestic animal which has bitten a person or caused an abrasion of the skin of a person and the ownership of which cannot be determined within 72 hours of the time of the bite or abrasion or is a stray or unwanted, must be euthanized, and the head or entire brain, including the brainstem, must be submitted for testing. The 72-hour period includes holidays and weekends and must not be extended for any reason.

003.05 VACCINATION IN CONFINEMENT. Rabies vaccine must not be administered to any domestic animal during a 10-day observation period to avoid confusing rare adverse vaccine reactions with signs of rabies.

003.06 ILLNESS IN CONFINED ANIMALS. Any illness in a domestic animal being confined and observed for rabies must be reported immediately to the Department or local rabies control authority. Such animals must be evaluated by a veterinarian at the first sign of illness during confinement. If signs suggestive of rabies develop, the animal must be euthanized, and the head or entire brain, including the brainstem, must be submitted for testing unless the Department advises otherwise.

003.07 EXPOSURE TO RABIES BY OTHER ANIMALS. Other animals that might have exposed a person to rabies must be reported immediately to the local rabies control authority who may consult the Department. Management of such animals depends on the species as, the shedding period for rabies virus is undetermined for most species. Previous vaccination might not preclude the necessity for euthanasia and testing.

003.08 EXPOSURE BY RABID ANIMALS. In the case of domestic animals or livestock known to have been bitten by or exposed to a confirmed or suspect rabid animal, the following rules apply:

003.08(A) ANIMALS REGARDED AS RABID. Wild mammalian carnivores, skunks, and bats that are not available or suitable for testing must be regarded as rabid.

003.08(B) UNVACCINATED DOMESTIC ANIMALS AND LIVESTOCK. If the domestic animal has never been vaccinated in accordance with Section 002 or is unvaccinated livestock, it must be immediately destroyed unless the owner is willing to place the animal in strict quarantine under veterinary supervision for a period of not less than six months. If dogs or cats receive rabies vaccination within 96 hours of the exposure, at the time of entry into quarantine, the quarantine period may be reduced to 4 months. Strict quarantine in this context refers to confinement in an enclosure that precludes direct contact with people and other animals.

003.08(C) VACCINATED ANIMALS. Livestock current on rabies vaccination with a United States Department of Agriculture-licensed vaccine approved for that species or a domestic animal that has been vaccinated in accordance with Section 002 or is overdue for booster vaccination but has appropriate documentation of having received a United States Department of Agriculture-licensed rabies vaccine at least once previously, are subject to the following procedures:

- (i) The animal must immediately receive veterinary medical care for assessment, wound cleansing, and booster rabies vaccination. The animal must be kept under

the owner's control and observed for 45 days;

- (ii) If the animal is not revaccinated within 96 hours of the exposure, it must be confined in strict quarantine under the supervision of a veterinarian and managed as unvaccinated in accordance with Section 003.08(B); or
- (iii) The animal must be destroyed if the owner does not comply with either item (i) or (ii) above.

003.08(D) ANIMALS OVERDUE FOR BOOSTER VACCINATION. If the animal is overdue for a booster vaccination and is without appropriate documentation of having received a United States Department of Agriculture-licensed rabies vaccine at least once previously, the animal must immediately receive veterinary medical care for assessment, wound cleansing, and be managed as directed by the Department.

- (i) A domestic animal may be treated as unvaccinated, immediately given a booster vaccination, and placed in strict quarantine in accordance with Section 003.08(B);  
or
- (ii) Prior to booster vaccination, the attending veterinarian will consult the Department in the possible use of prospective serologic monitoring and subsequent management of the domestic animal as the Department directs.
- (iii) Livestock overdue for a booster vaccination must be evaluated on a case-by-case basis and managed as directed by the Department.

003.09 OTHER EXPOSED ANIMALS. All animals other than domestic animals or livestock, which are known to have been exposed to a confirmed rabid animal must be euthanized immediately unless the animal is managed on a case-by-case basis as directed by the Department.

004. APPROVED TESTS FOR RABIES DETECTION. The Direct Fluorescent Antibody (DFA) test is approved for rabies diagnosis and must be performed in accordance with the established national standardized protocol by a qualified laboratory that has been designated by the Department. Any test method other than Direct Fluorescent Antibody (DFA) may only be used if approved by the Department.

005. REPORT OF TESTS FOR IDENTIFYING ANIMALS AFFLICTED WITH RABIES. The laboratory must report the results of the test to the Department and rabies control authority which submitted the specimen for testing.

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TITLE 173 — COMMUNICABLE DISEASES

CHAPTER 5 — RABIES CONTROL PROGRAM

~~5-001 SCOPE AND AUTHORITY: These regulations are intended to implement the law governing the control of rabies, Neb. Rev. Stat. sections 71-4401 to 71-4412. Remains in section 001 as modified~~

~~5-002 DEFINITIONS~~ Removed (definitions remain in Neb. Rev. Stat. 71-4401)

~~Department~~ means the Department of Health and Human Services Regulation and Licensure.

~~Domestic animal~~ means any dog or cat, and cat means a cat which is a household pet.

~~Own, unless otherwise specified,~~ means to possess, keep, harbor, or have control of, charge of, or custody of a domestic animal. This term does not apply to domestic animals owned by other persons which are temporarily maintained on the premises of a veterinarian or kennel operator for a period of not more than 30 days.

~~Owner~~ means any person possessing, keeping, harboring or having charge or control of any domestic animal or permitting any domestic animal to habitually be or remain on, be lodged, or fed within the person's house, yard or premises. This term does not apply to veterinarians or kennel operators temporarily maintaining on their premises domestic animals, owned by other persons, for a period of not more than 30 days.

~~Rabies control authority~~ means county, township, city, or village health departments and law enforcement officials who must enforce Neb. Rev. Stat. sections 71-4401 to 71-4412 relating to the vaccination and impoundment of domestic animals. These public officials are not responsible for any accident or disease of a domestic animal resulting from the enforcement of these sections.

~~Vaccination against rabies~~ means the inoculation of a domestic animal with a rabies vaccine as set forth in 173 NAC 5-004. Vaccinations must be performed by a veterinarian duly licensed to practice veterinary medicine in the State of Nebraska.

~~5-003 SPECIES OF RABID ANIMALS: The following are species of animals capable of harboring and spreading the rabies virus.~~

~~5-003.01 Species amenable to rabies protection by immunization:~~

- ~~1. Dogs;~~
- ~~2. Cats;~~
- ~~3. Ferrets;~~
- ~~4. Cattle;~~
- ~~5. Horses; and~~
- ~~6. Sheep.~~

~~5-003.02 Species not amenable to rabies protection by immunization:~~

~~1. Carnivorous:~~

- ~~a. Skunks;~~
- ~~b. Raccoons;~~
- ~~c. Foxes;~~
- ~~d. Coyotes;~~
- ~~e. Bobcats;~~
- ~~f. Bats; and~~
- ~~g. Hybrids (offspring of wild species bred with domestic dogs or cats).~~

~~2. Non-carnivorous: Regard these animals as rabid unless proven negative by the Direct Fluorescent Antibody laboratory test. This category includes but is not limited to the following species of animals:~~

- ~~a. Civet cats;~~
- ~~b. Deer;~~
- ~~c. Groundhogs;~~
- ~~d. Beavers;~~
- ~~e. Opossums; and~~
- ~~f. Badgers.~~

~~5-003.03 Other Species: Call the Department's Rabies Control Program for further information.~~

~~5-003.03A Livestock, which includes, but is not limited to, mules, goats and swine.~~

~~5-003.03B Rodents and lagomorphs, which includes, but is not limited to, rabbits, hares, squirrels and mice.~~

Removed

## 5-004 VACCINATION AGAINST RABIES; REQUIRED

5-004.01 Every domestic animal in the State of Nebraska must be vaccinated against rabies with a licensed vaccine. A list of licensed vaccines is available from the Department's Rabies Control Program.



~~5-004.02 All domestic animals must be vaccinated against rabies commencing at three months of age, one year and three months, and a booster triennially.~~

Remains in section 002 as modified

~~5-004.03 Unvaccinated domestic animals acquired or moved into the State of Nebraska must be vaccinated within 30 days after purchase or arrival unless under the age for initial vaccination. Removed (remains in Neb. Rev. Stat. 71-4402 and 71-4402.02)~~

~~5-004.04 The provisions of Neb. Rev. Stat. sections 71-4401 to 71-4412, with respect to vaccination, do not apply to any domestic animal owned by a person temporarily remaining within the State of Nebraska for less than 30 days; to any domestic animal brought into the State of Nebraska for field trial or show purposes; or to any domestic animal brought into the State for hunting purposes for a period of less than 30 days. Such domestic animals must be kept under strict supervision of the owner. It is unlawful to bring any domestic animal into the State of Nebraska which does not comply with the animal health laws and import rules and regulations of the State of Nebraska which are applicable to domestic animals.~~

~~5-004.05 Domestic animals assigned to a research institution or a similar facility are exempt from Neb. Rev. Stat. sections 71-4401 to 71-4412 and Title 173 NAC 5.~~

Removed (remains in Neb. Rev. Stat. 71-4405)

#### 5-005 RABIES CONTROL AUTHORITY; SEIZURE; REQUIREMENTS OF RABIES TESTING; POUNDS; IMPOUNDMENT; NOTICE; RELEASE; FEE; DOMESTIC ANIMALS BITTEN BY A RABID ANIMAL; DISPOSITION

~~5-005.01 Any animal which is owned by a person and has bitten any person or caused an abrasion of the skin of any person must be seized by the rabies control authority for a period of not less than ten days if:~~

- ~~1. The animal is suspected of having rabies, regardless of the species and whether or not the animal has been vaccinated;~~
- ~~2. The animal is not vaccinated and is determined to be a rabid species; or~~
- ~~3. The animal is of a species which has been determined to be a rabid species not amenable to rabies protection by immunization, whether or not the animal has been vaccinated.~~

~~5-005.02 If, after observation and examination by a veterinarian, at the end of the ten-day period the animal shows no clinical signs of rabies, the animal may be released to its owner. If federal, state, or local laws prohibit ownership of wild or other animals, release of the animal may be prohibited.~~

~~5-005.03 Whenever any person has been bitten or has an abrasion of the skin caused by an animal owned by another person, which animal has been vaccinated in accordance with Neb. Rev. Stat. section 71-4402 and 173 NAC 5-004, or if the injury to a person is caused by an owned animal determined to be a rabid species amenable to rabies protection by immunization which has been vaccinated, the animal must be confined by the owner or other responsible person, as required by the rabies control authority, for a period of at least ten days and must be observed and examined by a veterinarian at the end of the ten-day period. If no clinical signs of rabies are found by the veterinarian, the animal may be released from confinement.~~

~~5-005.04~~ A vaccinated animal owned by a law enforcement or governmental military agency which bites or causes an abrasion of the skin of any person during training or the performance of the animal's duties may be confined as provided in 173 NAC 5-005.03. The agency must maintain ownership of and must control and supervise the actions of the animal for a period of 15 days following the injury. If during the 15-day period the death of the animal occurs for any reason, a veterinarian must within 24 hours of the death have the tissues of the animal examined for clinical signs of rabies.

~~5-005.05~~ Any animal of a rabid species which has bitten a person or caused an abrasion of the skin of a person and is unowned or the ownership of which cannot be determined within 72 hours of the time of the bite or abrasion, must be immediately subject to any tests described in 173 NAC 5-006 to determine whether the animal is afflicted with rabies. The 72-hour period includes holidays and weekends and must not be extended for any reason.

Remains in section 003 (003.01 to 003.07) as modified

~~5-005.06~~ In the case of domestic animals known to have been bitten by a rabid animal, the following rules apply:

~~5-005.06A~~ If the bitten or exposed domestic animal has not been vaccinated in accordance with Neb. Rev. Stat. section 71-4402 and 173 NAC 5-004, the bitten or exposed domestic animal must be immediately destroyed unless the owner is willing to place the domestic animal in strict isolation in a kennel under veterinary supervision for a period of not less than six months; and

~~5-005.06B~~ If the bitten or exposed domestic animal has been vaccinated in accordance with Neb. Rev. Stat. section 71-4402, the domestic animal is subject to the following procedure:

- ~~1.~~ The domestic animal must be immediately revaccinated and confined for a period of not less than 30 days following vaccination;
- ~~2.~~ If the domestic animal is not immediately revaccinated, it must be confined in strict isolation in a kennel for a period of not less than six months under the supervision of a veterinarian; or
- ~~3.~~ The domestic animal must be destroyed if the owner does not comply with either 173 NAC 5-005.06B, item 1 or 2.

Remains in section 003.08 as modified

~~5-005.07~~ The rabies control authority may authorize an animal pound or pounds or may enter into a cooperative agreement with a licensed veterinarian for the establishment and operation of a pound.

~~5-005.08~~ Any dog found outside the owner's premises whose owner does not possess a valid certificate of rabies vaccination and valid rabies vaccination tag for the dog must be impounded. The rabies control authority may require the impoundment of domestic animals other than dogs. All impounded domestic animals must be given proper care, treatment, and maintenance. Each impounded domestic animal must be kept and maintained at the pound for a period of not less than 72 hours unless reclaimed earlier by the owner.

~~5-005.09~~ Notice of impoundment of all animals, including any significant marks of identification, must be posted at the pound as public notification of impoundment. Any unvaccinated domestic animal may be reclaimed by its owner during the period of

~~impoundment by payment of prescribed pound fees and by complying with the rabies vaccination requirement of Neb. Rev. Stat. sections 71-4401 to 71-4412 and 173 NAC 5 within 72 hours of release. Any vaccinated domestic animal may be reclaimed by its owner by furnishing proof of rabies vaccination and payment of all impoundment fees prior to release.~~

~~5-005.10 At the expiration of impoundment, a domestic animal may be claimed by payment of established pound fees and by compliance with the rabies vaccination requirement of Neb. Rev. Stat. sections 71-4401 to 71-4412 within 72 hours of release. If the domestic animal is unclaimed at the end of five days, the authorities may dispose of the domestic animal in accordance with applicable laws or rules and regulations.~~

Removed (remains in Neb. Rev. Stat. 71-4408)

## **5-006 APPROVED TESTS FOR RABIES DETECTION BY LABORATORY EXAMINATION**

~~5-006.01 The Direct Fluorescent Antibody (DFA) test is the only test approved as a non-bioassay method, and must be performed in a manner to include at least the following techniques:~~ Remains in section 004 as modified

~~5-006.01A Tissue preparations must include microscope slide brain tissue impressions that are made from the brain stem, cerebellum, hippocampus and cerebral hemisphere. Two methods can be used to collect the tissue samples from the brain, including:~~

- ~~1. The cranium is opened, the brain is dissected and a small piece of each of the tissues identified above is removed and impressed onto a clean glass microscope slide.~~
- ~~2. A sampling tube (clear drinking straw or a clear plastic pipette) is introduced through the occipital foramen and pushed toward one eye. The tube is pulled out containing a sample of the brain cylinder. The brain cylinder will contain material from the brain stem, cerebellum, hippocampus and cortex and medulla oblongata.~~

~~5-006.01B The microscope slide tissue impressions from a suspected rabid animal must be examined using a fluorescence microscope. In addition, the examination must include tissue impressions with their respective determinations accomplished as prescribed. No DFA test result is considered valid unless the determinations are accomplished as prescribed below:~~

~~5-006.01B1 Determining test specificity must be performed using rabid mouse brain suspension-adsorbed conjugate on any positive brain tissue impressions. Subsequent examination under the fluorescence microscope must result in the confirmation of the absence of fluorescence.~~

~~5-006.01B2 Determining test method sensitivity must be performed using positive rabies tissue impressions on a microscope slide for a positive control. Normal mouse brain-adsorbed conjugate must be used. Subsequent examination under the fluorescence microscope must result in the confirmation of the presence of fluorescence.~~

~~5-006.01B3~~ Determining test method true negative reactivity for rabies must be performed using known negative animal impressions on a microscope slide. Subsequent examination under the fluorescence microscope must reveal the absence of fluorescence.

~~5-006.01C~~ A positive DFA test for rabies is the appearance of specific rabies antibody fluorescence in the brain tissue upon excitation of ultraviolet illumination using a fluorescence microscope.

~~5-006.01D~~ If the DFA test is inconclusive, additional tests must be performed and must include at least a virus isolation test.

~~5-006.02~~ The virus isolation test is approved as a bioassay method and must be performed in a manner to include at least the following techniques:

~~5-006.02A~~ Pieces of tissue from the brain stem, hippocampus, cerebellum, and cerebral hemispheres taken from both sides of the suspected animal brain, if available, are weighted together. A 20% (w/v) suspension of each brain specimen for inoculation is made in growth medium (EMEM) and is centrifuged at 500 g for 10 minutes. The supernatant is filtered through a 0.2 membrane filter and 0.5 ml is added to  $6 \times 10^6$  cells suspended in a conical tube.

~~5-006.02B~~ Cells and virus are incubated for 1 hour at 37 degrees C. mixing every 15 minutes to adsorb virus onto cells in suspension. Cells and virus mixture are centrifuged at 500 g for 5 minutes. Supernatant is discarded and cells are resuspended in 6 ml of growth medium.

~~5-006.02C~~ Cells are seeded onto flasks and Labtek slides. Approximately  $3 \times 10^6$  cells are used to seed 3 Labtek slides and  $3 \times 10^6$  are used to seed 1 T25 tissue culture flask. One of the 3 Labtek slides is fixed and stained with FITC-labeled anti-rabies antibody at 24, 48 and 72 hours.

~~5-006.02D~~ If one of the initial Labtek slides is positive, the T25 flask can be autoclaved and discarded. If initial slides are negative, the T25 flask is pulled on day 3 and the growth medium discarded and replaced with viral medium. The flask is incubated for 3-4 days. Medium is discarded, cells are trypsinized and cells are harvested into 6 ml of EMEM. All cells are seeded into Labtek slides as described above. If the DFA is negative with the second set of Labtek slides, the specimen is considered to be negative for rabies virus.

~~5-007 PREPARATION OF SPECIMENS; TRANSPORTATION:~~ The rabies control authority must assure arrangements for preparation and transportation of specimens for testing are made according to the following procedures:

~~5-007.01~~ Preparation of animal for identifying affliction with rabies:

- ~~1.~~ Animals larger than one pound weight must be decapitated prior to transport to a testing laboratory.
- ~~2.~~ Animal brain tissue for the Direct Fluorescent Antibody test must not be frozen or preserved with formalin or alcohol.

~~5-007.02 Transportation of potential rabid animal tissue must include the use of approved packaging. Approved packaging consists of the following:~~

- ~~1. Place the specimen in several layers of plastic bags and tie securely to prevent leakage.~~
- ~~2. Place the specimen enclosed in plastic bags into a leak proof container; i.e., Styrofoam.~~
- ~~3. Place frozen gel packs around the specimen. Do not use loose ice as it may leak and cause contamination.~~
- ~~4. Seal the container.~~
- ~~5. Place the leak proof container into another box and seal the box.~~

Removed

~~5-008 REPORT OF TESTS FOR IDENTIFYING ANIMALS AFFLICTED WITH RABIES: The laboratory must report the results of the test to the rabies control authority which submitted the specimen for testing.~~

Remains in section 005 as modified