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To whom it may concern:

The document that follows is commentary on the proposed revisions to regulations regarding dog law enforcement which I obtained from the website:

**PROPOSED RULEMAKING**  
**DEPARTMENT OF AGRICULTURE**  
**[7 PA. CODE CHS. 21, 23, 25 AND 27]**  
**Dog Law Enforcement**  
**[36 Pa.B. 7596]**  
**[Saturday, December 16, 2006]**

INDEPENDENT REGULATORY  
REVIEW COMMISSION

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I have taken the liberty of copying some sections of the proposed revision of regulations below. My comments are based upon my experiences and those of others who are or were engaged in maintaining a field trial kennel of competition bird dogs. They would also apply to a number of other kennel types that could not be defined in any way as "puppy mills." I think the intention of bringing that industry under some sort of control is honorable. Of course the road to hell is paved with good intentions. Some of the items below seem to miss their intended target and put unreasonable restrictions upon operations at which they are not aimed.

Please feel free to contact me regarding my comments. Thank you for considering my concerns.

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**(v) Daily records of exercise shall be kept for each dog in the kennel. The records, at a minimum, must set forth:**

**(A) The breed, color, markings, sex, approximate weight and age of each dog or when applicable, the microchip number of each dog.**

**(B) The date and the time period each dog was exercised and whether the exercise was on a leash or in an exercise area.**

**(C) Any medical exemption written by a veterinarian licensed to practice in this Commonwealth.**

For a field trial kennel, hobby kennel, or for a professional trainer, this is somewhat onerous. Most trainers do not have the time or personnel to cope with such a requirement. While it might seem a way to get some sort of control on puppy mills, it should be considered to whom else it might apply. The requirement would also seem to apply to shelters and rescue operations.

**(2) Dogs housed in outdoor facilities shall be provided with a flat and level surface for housing and for exercise. Outdoor facilities and exercise areas must have a slope of at least 1/8 inch per foot to provide drainage, but may not be placed on a slope of more than 6 inches per 10 feet. The slope must be situated to assure drainage away from the primary enclosure and away from any adjacent primary enclosure and run associated with that primary enclosure.**

This is impossible for anyone to comply with. How can you have a flat and level surface, and also have it slope at least 1/8 inch per foot to provide drainage. Level and sloping can be considered to be mutually exclusive.

Just for the sake of argument, let's also consider a facility that takes in strays. It is not a breeding kennel or puppy mill. Such facilities would have to comply with the requirements. I quote the definition from page 1 of the document:

***Establishment*--The premises including the home, homestead, place of business or operation of any individual or person, including a dealer, which includes all of the land, property, housing facilities or any combination thereof, on, in or through which any dog is kept, bred, harbored, boarded, sheltered, maintained, sold, given away, exchanged or in any way transferred. Establishment shall encompass all of the individuals or persons residing thereon. It may be public or private and includes an individual, person, organization, business or operation, which utilizes offsite or temporary homes to keep, maintain, breed, train, harbor, board, shelter, sell, give away, adopt, exchange, or in any way transfer dogs.**

This would seem to apply to me if I take in strays and then give them to a good home. My wife and I have done this in the past. It certainly would apply to animal shelters and rescue operations. What needs to be set forth here is some sort of number limit as to the number of dogs exchanged per year in such ways, and also an exemption for animal shelters and rescue operations. Professional trainers should also be exempted from this.

**8) Outdoor runs and exercise areas may be constructed of concrete, gravel or stone. If gravel or stone is utilized, it must be constructed in layers to provide proper drainage and footing that will not cause injury to the dogs. The first layer of gravel**

or stone must be a course layer of number 2, 3 or 4 crushed durable rock and the top layer of gravel or stone must be a fine layer which fills in the courser layer of stone or gravel and results in an even surface. The first layer must be of a thickness adequate to provide proper drainage (approximately 4--5 inches) and the top layer must be of a thickness adequate to assure none of the bottom layer stones are protruding (approximately 2--5 inches). The surfaces shall be kept in good repair at all times. Cracks or chips in concrete shall be repaired as soon as weather permits. Repairs to stone or gravel surfaces shall be done as necessary to prevent protrusion of the course first layer and to repair any holes or depressions caused by compaction of the materials or digging by the dogs. Pulverized stone, sand, sawdust or any other material that cannot be readily hosed down and sanitized or that may cause respiratory or digestive problems for the dogs may not be utilized.

My exercise area, for example, is a chain link fenced enclosure of approximately one acre in area. It is covered with grass, shaded by trees, and has some areas where grass will not grow. Occasionally there is weather that leaves puddles for a short period. Our dogs have free access to this area, and we remove manure from it every day. Is this the sort of area the regulations are seeking to prohibit? See also #10, 11 below and apply this to our operation. At one time, we had a dozen or so adult dogs and two litters of puppies during at least one calendar year. These regulations would have applied to us. You can also refer to the example of my friend's facility that follows the section on record keeping below.

Our local animal shelter maintains three exercise yards. These are not in compliance with the regulations above, since they are not surfaced in this way. The cost to do this would be impossible for the shelter to bear.

One must also consider the fact that dogs dig. The type of construction above would be subject to the dogs doing this. Maintaining the surface in the manner set forth in the regulations would be nearly impossible.

**(10) Outdoor facilities must be constructed and maintained in a manner and in an area that assures adequate and proper drainage and elimination of standing water, pooled water and mud--even in times of severe weather conditions. The outdoor facility and drainage system must be constructed to insure the animals stay dry and are not subjected to wet, muddy or unsanitary conditions. Outdoor facilities shall be cleaned of all feces and sanitized to wash away urine, and kill all parasites, fungus and other disease causing elements. The facilities shall be cleaned and sanitized every 24 hours and in a manner consistent with this chapter.**

**(11) Outdoor facilities, including runs and exercise areas shall be kept free of grass and weeds. Grass and weeds shall be cut back from the sides of runs and exercise areas to a distance of 5 feet to help prevent tick, flea and other parasite infestation. Where pesticides are used, the owners shall consult a licensed veterinarian with**

**regard to the proper pesticides to use to assure the health, safety and welfare of the dogs.**

See my comments above. Very few animal shelters would be in compliance with this in their outdoor exercise areas.

In a field trial kennel operation, the dogs are taken out into natural settings for training. This is exempted from the above in what way? A farm field with pheasants in it could possibly be construed to be an exercise area. I see no exemption for such methods of training. Perhaps I missed it? If not, it would appear that this regulation is designed to prevent such training.

**8) Records shall be kept in accordance with the act and §§ 21.14(a)(5) and 21.41 (relating to kennel licensure provisions; and general requirements) must evidence, among the other provisions, the date and time of day following conditions were met:**

- (i) The housing facility was cleaned.**
- (ii) The housing facility was sanitized.**
- (iii) Each individual cage, dog box or primary enclosure was cleaned.**
- (iv) Each food and water bowl was sanitized.**
- (v) New food and potable water was provided each dog.**

The sections above, and also the sections (21.25-21.27) on heating, cooling, lighting, and ventilation are extremely cumbersome, and would be onerous and very expensive to comply with if one operates a training kennel for competition dogs. It would seem to require heating for dogs kept outdoors when the temperature drops below 35 degrees F. These requirements would also apply to animal shelters and rescue operations, and might necessitate hiring an additional person, at least part time, to do the record keeping.

For another example, I have a friend who raises and trains grouse dogs, mostly English setters. He usually keeps between ten and twelve adult dogs in his facility and will raise one or two litters of puppies in some years (not every year). In a year in which he houses twelve dogs of his own, has two litters of eight puppies (each litter), and boards two dogs for clients, that would give him a total of thirty dogs during that particular year. The provisions above would all apply to his operation.

For another example of this, let's say I decide go back into breeding and training English setters for field trials. Apply all of the above provisions to my operation and you can see what happens. I must pave my entire exercise yard, giving it sufficient slope so as to not have puddles even in extreme weather conditions. I currently have about one acre in chain link fence, and must eliminate all grass and weeds from that area, and also

an area outside the fencing. Consider the record keeping necessary for such an operation. Additionally, I must construct a kennel facility that meets all of the above requirements. My estimate is that this would cost me in excess of \$100,000. Is this type of operation what you are trying to eliminate? If so, it goes way beyond what is reasonable to ensure humane treatment of animals.

I suspect that the reason for this rewriting of the regulations is to bring puppy mills into some sort of humane situation. Unfortunately the provisions above apply to many operations that could in no way be considered puppy mills. The current regulations already give plenty of reasons to bring puppy mills into compliance without this extensive rewrite.

### ***Private Sector***

**The proposed amendments to the regulations will impose additional costs on the regulated community. Licensed kennels will likely have to make some changes to comply with the lighting, ventilation and space requirements, as well as, the additional sanitation and housing requirements in these regulations. Furthermore, establishments utilizing temporary homes will now have to comply with the kennel licensure and recordkeeping requirements of the act and these regulations. The costs to the regulated community will be varied, depending on the size and condition of the existing kennel. It is estimated that the costs will range from \$5,000 to \$20,000 per existing kennel for compliance with the new standards.**

I estimate it would cost me in the neighborhood of \$100,000 to do all of the above if I were to decide to open a field trial kennel. Many field trial competitors have kennel operations in excess of stated minimum number of dogs. The dogs are treated very well and kept in more than adequate facilities, but those facilities could not meet the requirements outlined above. The record keeping for a competition kennel would be more than onerous. What is being put into the rewrite of the regulations would put many of the trainers and hunting dog owners I know out of business. Is that what they are aiming for?

I believe most of this can be done in such a manner that it applies only to the target we all wish to regulate, that being puppy mills, and leaves other humanely operated shelters, and small to moderate sized training and breeding kennels alone. (One way to do this might be to limit application to operations that raise more than four litters per year for sale, or which sell more than a specified number of dogs through any venue of sale.) The rewrite of the regulations seems to be a case of overkill in my humble opinion.

Somewhere in the definitions section, a distinction must be made between dogs raised to improve the breed or for competition in trials and shows, and dogs raised as a "cash crop." This is what we are really after, isn't it?

There are some practices that professional trainers utilize that go beyond the requirement for exercise for example, but might not meet the strict letter of the rule, so to speak. For example, in order for a bird dog to be in good physical condition it is common for handlers to use a practice called "roading." In this, they will harness two to four dogs together and take them for walks, sometimes from horseback and sometimes from an ATV in which the handler rides. This is a practice I personally used when I had my setters in competition, and I assure you it is not inhumane, but it might not meet the strict interpretation of the rule requiring individual exercise even though it usually exceeds the time requirement. Another practice that might not meet the regulations would be taking the dog to a field to work birds while not on a leash. Someone who was inspecting the kennel might be able to say that the exercise area (a farm field) did not meet the requirements put forth in the regulations.

Kennel owners who are also professional trainers would be required to spend huge sums to bring them into compliance. This is not what you are after in the rewrite of the regulations, and certainly will not benefit the small businessman who operates a training facility, nor will it bring great relief to dogs that don't need it anyway. I have some experience in such things and am willing to discuss them at length with you if you wish. I have copied the pertinent part of the second webpage that deals with exercise, removing the parts that do not apply. In reading this following, I see a problem with the types of exercise I mention above not being in compliance with the proposed regulations:

**In addition to the space requirements, each dog shall receive 20 minutes of exercise per day. Dogs shall be observed and supervised during exercise and shall be exercised the following manner:**

**(i) Walked on a leash by a handler or put in an exercise area.**

This makes no provision for roading or working a dog in a large farm field.  
See comments above

**(ii) An exercise area must meet the following criteria:**

**(A) The space per dog must be consistent with § 21.24(b)(3) (relating to shelter, housing facilities and primary enclosures).**

**(B) Fencing must be adequate to prevent dogs from escaping from the exercise area and shall be kept in good repair and free of rust, jagged edges or other defects which could cause injury to the dogs.**

**(C) The exercise area must be equipped in a manner to allow dogs to be exercised even during inclement weather and to protect the dogs from becoming wet, matted or muddy during the exercise.**

**(D) The provisions regarding the type of materials utilized for flooring in § 21.24(b)(6) apply.**

**(E) The same sanitation requirements in § 21.24(b)(8) and (9) and the applicable provisions of § 21.29 (relating to sanitation) apply.**

There is no way that working a field trial dog, or any other working breed, in a natural setting meets the above section's requirements. There needs to be language that permits working a bird dog or other working breed in a natural setting to be allowable in meeting the exercise requirement. Further, this regulation would seem to preclude the working of any working breed when it is raining. Would this also mean that when a professional trainer is attending an organized field trial he would have to withdraw his dogs from competition when it is raining or the course might have some mud on it? There seems to be no exception for when working dogs are away from the kennel at a field trial or show.

Again, for the sake of clarity, let's suppose that I am a professional trainer and I have taken my string to a field trial. It is common practice to "stake out" dogs while they are not competing. Would I need to keep records of this nature and ensure that each of my string of dogs gets the required exercise? Who would be doing the checking on this to ensure compliance?

**(F) Spayed and neutered dogs may be exercised together. Otherwise males and females shall be separated and may not be exercised at the same time in the same exercise enclosure.**

At a field trial, it is not uncommon for a female to be braced with a male. You have to train dogs in varying situations so as not to have problems in a trial. Exercising males and females together is usually not a problem if the female is not in season. Trainers are very careful about this, because random breeding is not the way to improve the breed in question. Owners would come down very hard on a trainer that allowed an expensive setter female to be bred by a pointer dog, for example.

**(B) The date and the time period each dog was exercised and whether the exercise was on a leash or in an exercise area.**

This is in the requirement for record keeping. Professional trainers would meet the exercise requirement easily, but many would balk at having to keep records that really don't do what this rewriting of the regulations is aimed at.