



# Coalition Against Misery

PO Box 343 Pocopson, PA 19366 888.518.6571 203.509.3657 (f)

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March 15, 2007

Bureau of Dog Law Enforcement  
Pennsylvania Department of Agriculture  
Attn: Ms. Mary Bender  
2301 North Cameron Street  
Harrisburg, PA 17110-9408

RE: Proposed Dog Law regulations  
Attachments: Comments from Coalition Against Misery  
Endorsements for Comments from Coalition Against Misery  
Breed Club Ethics Guidelines

Dear Ms. Bender,

I respectfully submit these comments on the proposed changes to the Dog Law regulations.

First, I would like to commend the Department of Agriculture and the Bureau of Dog Law Enforcement for proposing amendments to the Dog Law Regulations that will help improve conditions for dogs in commercial kennels in Pennsylvania.

The Coalition Against Misery and Hearts United for Animals have been involved in addressing the issues associated with commercial breeding for over ten years. We have visited hundreds of kennels in many states and rescued thousands of dogs from these operations. We could write pages about the conditions in the commercial kennels and the condition of the dogs who have come into our custody. We have visited almost every kennel in Lancaster County and I have personally handled the care of hundreds of dogs rescued from those facilities. Although the commercial breeding community frequently says that there are few poor kennels, it is our experience that every dog who has come under our care from a commercial kennel has had serious medical or emotional problems. It is not the exception; it is the rule.

Based our experience there are a few additional areas that we think need to be addressed in the regulations. We are very grateful for the increase in the size of the cages. This change will make a substantial difference in the lives of the dogs. The regulations need to clarify how many dogs can be housed in one cage. A large cage becomes very small if it is crowded with many dogs. Many dogs in commercial kennels are injured by fights caused by cage aggression brought on by the stress. If there were fewer dogs, or if the size of the cage was increased incrementally for every dog in the cage, the injuries would be reduced and the health of the dogs enhanced.

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what breeds of dogs can be housed outdoors is the same language that is in the current regulations and has been found to be too vague to be enforced by several District Justices. The failure of the current language can be shown by the fact that Chihuahuas, Dachshunds, Yorkshire Terriers, Maltese and other small breed dogs are housed outdoors without heat during the temperature extremes. The winter temperatures in Pennsylvania are far too extreme to allow the majority of dogs to be housed outdoors.

A large percentage of the female dogs who have been rescued from commercial breeding facilities by the Coalition Against Misery and Hearts United for Animals have had serious medical problems because they have been bred too early in their lives and too often. Quality breeders do not allow their female dogs to be bred until they are approximately two years old. By that age they will have completed all of the necessary tests to insure that the dog will produce healthy puppies and the dog will be sufficiently mature to withstand the gestation and birth of puppies. Further, they do not allow their dogs to be bred every time they come into season. Typically, they limit breeding to once every two years. Since the dogs in the care of quality breeders have a far greater quality of food, health care and comfort than do those dogs in commercial kennels, it is obvious that dogs who do not have such care should not be bred as often as those in the care of quality breeders. Information about the breeding practices of quality breeders is attached to this filing.

People across this country and indeed across the entire world are rising up against puppy mills. The Coalition Against Misery received thousands of endorsements to the comments that are attached to this letter. The endorsements came from every state and many other countries. Pennsylvania citizens are ashamed that this commonwealth has become one of the havens for such a despicable industry. The commercial kennel industry harms not only the dogs but also people and businesses across the commonwealth because people refuse to visit a state that harbors such misery.

The remainder of our comments are enumerated on the attached pages. Thank you for your time and consideration.

Sincerely,



Lee Wheeler

Coalition Against Misery

cc Independent Regulatory Review Commission  
33 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17101

Comments from the Coalition Against Misery with regard to the Proposed Rulemaking from the Department of Agriculture published in the Pennsylvania Bulletin on December 16, 2007

1. Section 21.3 Enforcement and compliance.

The first sentence of section 21.3 should be revised to allow the State Police Officers and Humane Society Police Officers to enforce the provisions of the regulations in addition to the employees of the Department of Agriculture.

PROPOSED LANGUAGE: "Unless otherwise stated, only Employees of the Department, State Police Officers and Humane Society Police Officers are authorized to enforce this chapter. "

COMMENT: This change would help insure more humane living conditions for the animals in kennels by enabling the State Police Officers and Humane Society Police Officers to better address issues of cruelty to animals in commercial kennels since this proposed change would give them the ability to access the facilities. The employees of the Department of Agriculture cannot enforce the Pennsylvania cruelty laws and the Humane Society Police Officers do not have the right to access a kennel without a warrant. This dichotomy effectively leaves thousands of dogs in kennels without the protection of the Pennsylvania Cruelty laws. Additionally, providing more persons to enforce the law will insure greater compliance with the regulations and help reduce the budgetary pressure on the Department of Agriculture, which is particularly important in this age of potential terrorism.

2. Sections 21.21, 21.22 and 21.24 Kennels – Primary Enclosures

COMMENT: Sections 21.21, 21.22, and 21.24 often address similar issues with different language and terminology, occasionally duplicating language. This could lead to confusion and allow a licensee to allege that the regulation was not clear and therefore not enforceable, as they have successfully alleged in court proceeding with regard to the current regulations. For example, dog quarters and kennel facility are not defined terms. Neither is sheltered housing although it is used in several locations. It should be defined and used consistently. Outdoor facility is also used many times but is not defined. Does it mean outdoor housing facility or outdoor primary facility? This is further confused by the overlap between the definition of housing facility that includes "or other structure or area housing or intended to house dogs" which seems to encompass the definition of primary enclosure. Apparently the use of the word "immediately" in the primary enclosure definition is intended to provide the distinction but it is not clear. The use of the word "immediately" is further confusing because the definition of primary enclosure is the same wording that is in the AWA except for the addition

of the word "immediately." The Department has stated that one of the purposes of these new regulations is to provide clarity to the Department employees and to judges but these inconsistencies within the definitions frustrates this goal.

### 3. Section 21.23: Space.

We propose adding the following language at the end of 21.23(a)

#### PROPOSED LANGUAGE:

There shall be a maximum of two dogs or cats, excluding puppies or kittens that are not weaned, housed in a primary enclosure."

COMMENT: The large majority of citizens in Pennsylvania strongly object to putting dogs in small cages for their entire lives. Dogs confined to these living conditions develop mental conditions like going around in circles incessantly, biting their skin, barking at nothing and fighting with other animals in the cage. It is inconceivable that anyone fair-minded person would consider these living conditions to be acceptable. Cage aggression is a common problem in kennels often resulting in serious injuries. The proposed regulation does not clearly state whether the size requirements are cumulative for each dog in the kennel or not and does not limit the number of dogs per primary enclosure. That failure means that five or even ten poodles could be housed in one 5 by 5 kennel. These conditions do currently exist in Pennsylvania commercial kennels and the new regulations should be clearly drafted to prohibit such conditions.

### 4. Section 21.24 Shelter, housing facilities and primary enclosures,

#### PROPOSED LANGUAGE:

Delete Section 21.24(b) and all other references to outdoor kennels/outdoor housing facilities/out door primary enclosures.

COMMENT: This section addresses "Outdoor housing facilities". Since a "housing facility" is defined in the regulations as "any land, premises, shed, barn, building, house, trailer or other structure or area housing or intend to house dogs for any period of time", what is an outdoor housing facility?

In February 2007 there are dogs literally freezing to death in kennels in Lancaster County, Pennsylvania. This entirely unacceptable and the regulations must be revised to prevent it from ever happening again. It is inappropriate to keep dogs outside when the temperature is below 65 degrees or over 80 degrees. The exclusion language included in this section that would prohibit "breeds of dogs that cannot tolerate the prevalent temperatures of the area without stress or discomfort such as short-hair breeds in cold climate" from being kept outdoors is

far too vague and subject to different opinions. The same language is in the current regulations and has been found by the courts to be too vague to enforce. Can a Cocker Spaniel be kept outside when the temperature is 20 degrees? Or what about a Schnauzer? What about a long hair Dachshund? There are very few breeds of dogs that would be comfortable outside when the temperature is 20 degrees not to mention the zero degree temperatures experienced in February 2007 in Pennsylvania. A Cocker Spaniel may not die in 20-degree temperatures but he will certainly suffer. Since the exclusion language says "without stress" the argument can clearly be made that almost no breed of dogs can be kept in an outdoor kennel. Many dogs who have been rescued from outdoor kennels have significant frostbite injuries requiring the animals to undergo surgery to have parts of their bodies amputated. The only way to provide clarity for the regulated community, the Department employees and the judges is to provide regulations that disallow outdoor kennels and provide specific temperature parameters in indoor kennels.

5. Section 21.24(c): There should be a restriction on tethering dogs. This is prohibited in the Animal Welfare Act Section 3.6 (c)(1)(4) and has no place in the Pennsylvania regulations. It is clearly dangerous for the dogs.

#### 6. Section 21.25 Temperature Control

21.25(b): What are "outdoor and sheltered housing facilities"? They are not defined terms.

21.25(d): We have not read a kennel regulation from any other state or the federal government that uses the term "slab temperature". A review of the encyclopedia, the dictionary and google did not provide a ready or understandable description. Consequently it would be very difficult to comply with the provision. Additionally, the use of the words "heating season" is subjective. If a kennel owners determines their heating season to be December and January, does that mean they do not have to comply with heating requirements for other months? It would be preferable to have the temperature stated clearly.

This provision should be revised to provide that the temperature in the primary enclosure must not fall under 65 degrees or rise above 80 degrees. Additionally, it should state that no kennel shall be granted a license unless there is an hvac system installed that is sufficient to maintain the temperature at the level prescribed in the regulations.

#### PROPOSED LANGUAGE:

"Every indoor housing facility shall have a heating, air conditioning, and ventilation system that is adequately sized for each housing facility. The ambient

temperature in the housing facility or any primary enclosure located inside a housing facility shall not fall below sixty-five degrees or rise above eighty degrees for more than one hour when a dog or cat is present. Under no circumstances shall propane be used to fuel any heating, air conditioning or ventilation system.

(f) No license shall be granted or renewed unless the State Dog Warden or Employee determines that there are heating, air conditioning and ventilation systems in place that insure the provisions in this regulation can be met." (This language assumes the definitional problems will be resolved.)

Delete 21.25(d) since it is confusing. In 21.25 (e) delete the words "and the sheltered part of sheltered housing facilities" because it is not a defined term and therefore creates confusion. Delete 21.25(e)(1) and (2).

#### COMMENT:

There is long history of failure to protect the dogs in commercial kennels in Pennsylvania from excessive heat and cold as is evidenced by the fact that dogs are currently freezing to death. The current regulation includes the same language as the proposed regulation with regard to dogs that cannot tolerate the cold, and according to our information it has never been enforced. Although the regulation says that shorthaired dogs cannot be maintained in outdoor kennels unless approved by a veterinarian, short hair dogs have been kept in outdoor kennels through out Pennsylvania for many years and the Pennsylvania Department of Agriculture has not taken any action. The kennels do not obtain approvals by veterinarians and the State Department of Agriculture Dog Wardens who inspect the kennels do not ask for the approvals.

It is clearly understood through out the world of dog lovers and quality dog breeders that it is inappropriate to housedogs outside during the extremes of temperatures. Although they may live through the experience, they will certainly suffer during the times of temperature extremes. Dogs like Dachshunds, Chihuahuas, Poodles, Maltese, Greyhounds, Pugs and others are never going to be acclimated to cold temperature extremes. And dogs like Huskies, Pugs, Bulldogs, Bernese Mountain Dogs and others are never going to be acclimated to hot temperature extremes. The regulations should require humane conditions and it is ludicrous to think that keeping a Dachshund outside in a rabbit hutch type box when it's 20 degrees Fahrenheit outside is humane.

7. 21.24, 21.25, 21.26, 21.27, 21.28, 21.29 The term "kennel" is used in these regulations but it is not defined.

8. We propose adding the following sections to the regulations:

A. PROPOSED LANGUAGE: "21.31 Breeding Conditions. A kennel shall not: allow any female dog or cat to be bred until the female dog or cat reaches the age of two years; allow any female dog or cat to be bred after the female dog or cat reaches the age of six years; allow any female dog or cat to be bred more than one time in a twelve-month period; or allow any female dog or cat that has undergone two or more cesarean sections to be bred. A kennel shall maintain records of the breeding history of every female dog or cat owned or harbored by the kennel. Such records shall be subject to review by the Department, State Police Officers and Humane Society Police Officers."

COMMENT: Quality breeders and breed clubs have set standards for breeding dogs. They state that a female dog cannot be bred unless she is sufficiently mature which is typically around two years old. Not only is it harmful to the female dog to be bred and go through a pregnancy at a young age, but also breeding should not occur until both the female and males dogs are old enough to know whether they have genetic problems that would be inherited by the puppies. Copies of the Ethics Code from the Breed Clubs that establish this point are attached to the submittal. Additionally, the breeding of older dogs is dangerous to their health as is the breeding of a dog more than once a year. This is also established in the Code of Ethics of the breed clubs. An additional consideration is that the physical and emotional health of dogs in commercial kennels is far worse than the health of dogs who are with quality breeders. The dogs in commercial kennels should not be bred as often or for as long as a dog who resides with a quality breeder. And finally, no dog who has undergone two cesarean sections should be bred again. Cesarean sections cause damage to the internal organs of the dogs often causing the organs to grow together and creating massive hernias.

B. Section 21.41(e) Add this language.

PROPOSED LANGUAGE "(8) A complete reproductive record for every female dog, including every heat cycle, every breeding attempt, every pregnancy, and every litter including the date, number, and sexes of the puppies

C. The following language should be added to the definitions.

"Ambient temperature - the air temperature surrounding the animal."

"Humane society police officer - any natural person who is duly employed, either part time or full time, by a society or association for the prevention of cruelty to animals, to act as a police officer for a society or association for the prevention of cruelty to animals and who holds a current appointment under the applicable Pennsylvania statutes."