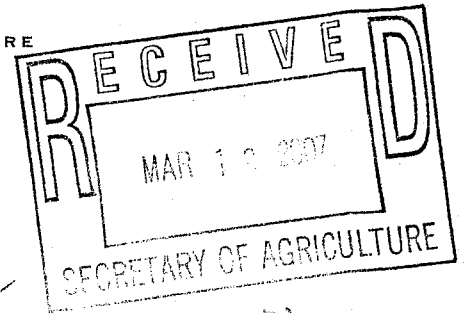




HUMANE SOCIETY OF BERKS COUNTY

2559 BERKS COUNTY'S LEADER IN ANIMAL WELFARE



*Jessie
for
response*

Hon. Dennis C. Wolff
Secretary of Agriculture
Department of Agriculture
2301 North Cameron Street
Harrisburg, PA 17110-9408

March 16, 2007

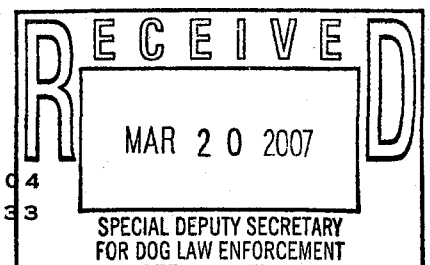
Dear Secretary Wolfe:

On behalf of the Humane Society of Berks County, thank you for your Department's effort to improve the wellbeing of dogs in Pennsylvania. I am writing to you regarding several concerns our organization has with portions of the proposed revisions to 7 PA. CODE CHS. 21, 23, 25 and 27. I look forward to reading the Department's response to my organization's concerns.

Because the proposed changes are intended to address regulatory problems associated with "puppy mills", we are supportive of the intent of the changes. Unfortunately, many of the specific provisions will result in significant negative consequences to our organization. These consequences will likely result in a decrease in our ability to perform our humane mission as effectively as we would like and lessen our effectiveness as the State's partner in Dog and Cruelty Law enforcement. The Humane Society of Berks County takes no general stand at this time on these proposed changes, nor makes any judgment on their effectiveness in curbing puppy mill abuses. We will, however, specifically address the provisions in the changes that we believe will negatively impact our agency directly. Our specific concerns will be listed by section and a summary provided at the end of this letter.

Section 21.15: Selective exemption based on grant fund acceptance: Department of Agriculture grants already carry certain procedural requirements that may result in some animal welfare agencies declining acceptance of the funds. However, these agencies may still provide dog control services through direct contract with municipalities or stray housing as part of their humane mission. By selectively exempting only those agencies which accept the grant funding, the proposed change may put animal welfare agencies in the position of having to accept grant funding it does not want in order to avoid expensive kennel retro-fitting and renovations. The required changes should not be contingent on providing Dog Control services to the State.

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Not providing an exemption to all animal welfare facilities providing surrender and stray holding services will result in unnecessary euthanasia or a refusal to accept some or all dogs. To allow only those accepting State grants to obtain exemptions carries the appearance of coercion of shelters to participate in the State Dog Control enforcement.

Section 21.22(c): Housing segregation: While sterilized animals are permitted to be exercised together regardless of sex, Section 21.22 prohibits them from being housed together except for the undefined reason of "welfare". These sections appear contradictory. Our shelter often receives companion dogs that may be best housed together. Will we be in compliance under "welfare" grounds?

Section 21.22(d): Puppy quarantine: This 14 day quarantine requirement will lead to the euthanasia of either litters of puppies, euthanasia of other dogs when space is short in our kennel and we are forced to choose between space for the most possible or space for the quarantine period, or a refusal to accept animals due to quarantine driven space restrictions. This quarantine appears arbitrary and unrelated to the actual health of the puppies, even if examined by a veterinarian.

Section 21.22(e): Adult quarantine: Many of the dogs entering our shelter have no health records available. This arbitrary and undetermined quarantine would also lead to the euthanasia of either the adult dogs, euthanasia of other dogs when space is short in our kennel and we are forced to choose between space for the most possible or space for the quarantine period, or a refusal to accept animals due to quarantine driven space restrictions. Given the variability of the time at which a vaccination becomes "effective," how will our agency know that the quarantine has been sufficient under the guidelines?

Section 21.23 (a, additional subsections): Space: In order to ensure compliance with the space requirements and still maintain our shelter's current holding capacity of dogs, we would need to expand our kennel facilities by at least 50%. Our facility's location does not allow for such an expansion, therefore, we would be forced to decrease the number of cage spaces, thus decreasing our holding capacity. This will result in the additional euthanasia of dogs when space is short in our kennel and a refusal to accept dogs due to the resulting space restrictions.

Additionally, the rules are confusing as to what space requirements apply to which agencies under what circumstances and exemptions.

Section 21.23 (ii, various subsections): Exercise: The exercise requirements and record keeping requirements set forth in this section will be burdensome and potentially dangerous. Our agency houses approximately 2,000 homeless and stray dogs per year, most for short durations (many for less than one full day, most for one to three weeks). Although our agency relies on volunteers to supplement our staff, the only way to ensure full compliance with the exercise provisions would require either additional hiring in the event that volunteer support cannot be assured or a decrease in the number of dogs housed in order to ensure the exercise requirements are met.

As these dogs are housed with the goal and intention of being short-term guests until either returned to their owner, adopted or euthanized, the exercise requirements that appear intended for dogs in a long-term or permanent breeding/kenneling situation are unreasonable.

Additionally, many dogs housed at our shelter are human or animal aggressive, under bite quarantine, or have contagious illnesses. Exercise of these dogs may pose a risk to the dog, the handler and other dogs.

Section 21.23 (ii, various subsections): Record Keeping: Many of the records required under the rules changes are already being kept in varying formats (paper and electronic) by our agency while others are not. Altering our existing record keeping to comply with the arbitrary guidelines set forth will be burdensome. Additionally, given the short-term housing nature of our facility, the level of record keeping for exercise verification seems unreasonable.

Section 21.24 (f.11.ii): Drains: In our shelter some of our drains are less than six inches yet are fully functional and numerous enough to provide adequate drainage. This arbitrary choice of drain size will result in extremely costly retro-fitting and renovation of our facility for no apparent reason. The rules also provide no "appeal" in the event that we feel the rules are inappropriate in our circumstance.

Section 21.24 (f.11.vii): Slope: Portions of our facility have shifted over time resulting in some sections having slope that does not meet the new requirements. The slope and our agency's kennel management practices are certainly sufficient to ensure proper dog safety and sanitation. Ensuring complete compliance with the letter of these rules changes would result in catastrophic expense and reconstruction of our facility. The rules also provide no "appeal" in the event that we feel the rules are inappropriate in our circumstance.

Section 21.25 (e.1): Heating: Where will the ambient temperature be taken to ensure 50 degree minimum? Our kennel has heated flooring so the temperature proximal to the dogs may be many degrees warmer than the ambient temperature at breast height for a person. Requiring a "universal" ambient temperature of 50 degree+ will result in significant expense to our agency. The rules also provide no "appeal" in the event that we feel the rules are inappropriate in our circumstance.

Section 21.25 (e.1): Cooling: Our facility is an indoor kennel with access to covered outdoor runs and does not have cooling climate control but does have excellent ventilation. Installing cooling climate control will be an enormous expense and require massive reconstruction of our facility. The rules also provide no "appeal" in the event that we feel the rules are inappropriate in our circumstance.

Section 21.26 (a.1): Ventilation: The Humane Society of Berks County's current kenneling facilities provide for excellent ventilation but as an indoor/covered outdoor facility, there is not a single "measurable" outflow point. How will air turnover be

accurately measured and how are we to be sure we are in compliance under the new regulations that could return wildly differing measurements based upon the measure location upon inspection? The rules also provide no "appeal" in the event that we feel the rules are inappropriate in our circumstance.

Section 21.26 (a.4): Ventilation of support buildings: Our shelter utilizes a shed for some non-perishable kennel supplies. Under the proposed rules changes it would appear we would be required to provide power and ventilation to this shed because of its "support" status. This will be expensive, burdensome, and unnecessary given the shed's actual use. The rules also provide no "appeal" in the event that we feel the rules are inappropriate in our circumstance.

Section 21.27 (a.1): Lighting: The Humane Society of Berks County's kennel facilities are currently well lit. However, we have never had the lighting level in foot candles established. The requirements would require us to either pay for testing to ensure compliance, purchase testing devices, or wait until our first inspection to find out if we are in compliance. This could result in an unintended inspection failure. The regulations are not clear about where the light levels will be tested. Will our facility be held to the light level in the darkest corner or will a "general" light level be taken? The rules also provide no "appeal" in the event that we feel the rules are inappropriate in our circumstance.

Section 21.27 (a.2.b): Electrical systems: The Humane Society of Berks County's kennels are attached to and flow into other portions of our facility. While we have covered, all weather sockets in the moisture prone kennel areas, at what point along a wall or hallway leading to another portion of our facility will it be determined that these sockets are no longer required? The rules also provide no "appeal" in the event that we feel the rules are inappropriate in our circumstance.

Section 21.29 (c.2): Sanitation: The rules changes and the sanitation section use the term sanitation throughout until this point. In 21.29 (c.2) the term *disinfect* is used. Disinfection is a significantly more specific cleanliness standard and is not a reality within a kennel setting. It is generally applied to veterinary or surgical areas. Achieving *disinfection* of kennel settings is virtually impossible and not necessary for the well being of dogs. *Sanitation* should be the appropriate standard of cleanliness.

Section 21.29 (c.7): Parasite control: This section states that "evidence of...pests...are indicative of an ineffective program...". This implies that evidence of fleas on dogs would be used as proof of non-compliance with the new rules. Of the 2,000 dogs the Humane Society of Berks County houses each year, 1,000 are strays of unknown origin. Our organization's assumption is that all have fleas and we treat with topical flea preventative (at enormous un-reimbursed expense). Despite this, fleas and other parasites and skin conditions do and will persist. This standard for non-compliance is unreasonable in our service and kennel setting. Additionally, the mosquito control rules make no provision for control measures "in the vicinity" of the kennels but off kennel property. Will the kennel be held responsible for mosquito control issues outside of its

operational control? The rules also provide no “appeal” in the event that we feel the rules are inappropriate in our circumstance.

Section 21.29 (c.7): Disinfectant use: The statement requiring veterinary approval for “disinfectants, pesticides, and disinfectant procedures” does not address the use of over the counter pesticides to control parasites, widely available kennel disinfectants, or even the most commonly used disinfectant, household bleach. Will our kennel managers be required to obtain specific, detailed veterinary approval for every one of these cases? If not, which cases? This section’s simplicity leads to an enormous amount of potential violation on our part.

Section 21.41 (e.1,2): Record keeping: Given the volume of dogs housed in the Humane Society of Berks County’s kennels, the fluidity of staff and volunteer service within our facility, the high level of care provided for all our animals, the amount of internal record keeping already performed, and the detailed protocols our organization utilizes, this additional tracking of water changes, cleaning, feeding, and exercise is burdensome and will *detract* from the level of care and time our staff and volunteers can spend with our dogs, not enhance it.

Section 21.42 (b): Accepting dogs from unlicensed kennels: The Humane Society of Berks County is an open door shelter. We accept *any* homeless or stray animal. It will not only be a virtual impossibility for our organization to be certain that a dog accepted did not come from an unlicensed kennel, but refusal to accept the dog would also fly in the face of our humane mission. Additionally, this rule appears to be in conflict with our role as a contracted animal control and cruelty enforcement agency, a role that might *require* accepting or seizing animals from unlicensed kennels.

Section 25.2 (1, 2, 3, 4): Dog disposition record: The Humane Society of Berks County currently utilizes a state-of-the-art computer tracking database and multiple checks and measures system that tracks every aspect of an animal’s association with our agency from entry to exit, and all medical treatment, humane transactions, and status changes during its stay and after, if it is adopted or owner claimed. All of these data is available electronically and can be output into any format, traditional (paper) or electronic. Will our agency be required to use outmoded paper forms, adding work and expense, when a far more effective, accurate, and detailed system is already in place? A provision should be made for circumstances such as ours.

Section 25.4 License of dogs before release: During certain portions of the year, County Treasurers routinely stop license sales. Will our agency be held non-compliant if licenses are withheld by the issuing office?

Summary: The rules changes are voluminous and are confusing and self-contradictory in places. The level of detail in many of the sections ensures that in the attempt to clarify the requirements, it is virtually certain that no kennel of any type or quality will actually be in compliance with the entirety of the rules as proposed; our kennels certainly will not be. That seems unreasonable, unfair, and financially burdensome for our agency which is

an industry leader in animal welfare programs and service and a partner in the State's Dog and Cruelty Law enforcement efforts. The proposed changes will require extensive, expensive, often arbitrary, and potentially *downgraded* enhancements in order to ensure compliance. No appeal from burdens process is established. No funding is provided for shelters that serve the State through acceptance of strays except the current Grant program that many shelters do not, or would prefer not to, participate in. The practical reality of the Humane Society of Berks County will be:

- Great expense and service disruption as we retrofit and renovate our facility to comply.
- The potential for *increased euthanasia* of stray and homeless dogs as a result of complying with many of these arbitrary rules changes.
- The potential for a *decrease* in the overall number of dogs served in order to comply with the rules changes.
- The potential that our agency will be forced to decide that it *cannot accept* some or all of the strays we currently house.
- The potential that we will have to *curtail our animal control and/or cruelty enforcement efforts* in order to comply with the rules changes.

These hard choices could force our agency to become a limited access shelter that is unable to help as many animals as it currently does, and the proposed changes will fly in the face of our efforts to do the most good for the most people and animals with the resources we have and at a level that meets or exceeds animal welfare industry standards. This potential outcome would appear to be antithetical to the intended consequences of the rules changes.

The Humane Society of Berks County strongly urges that the rules changes be modified to do one or more of the following:

- Exempt 501(c)3 animal welfare agencies from the rules changes.
- Exempt 501(c)3 animal welfare agencies that accept stray dogs and/or enforce PA 5511 (without requiring grant program participation).
- Provide State funding for retrofitting or renovations required under the rules changes that impact 501(c)3 animal welfare agencies that accept stray dogs and/or enforce PA 5511.
- Establish a panel empowered to waive revised rules requirements for 501(c)3 animal welfare agencies that accept stray dogs and/or enforce PA 5511.

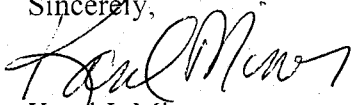
These rules are clearly aimed at the worst of the commercial dog breeding industry. However, they will damage our agency and it is likely that this damage will be widespread among animal welfare agencies. Unfortunately, the dialogue surrounding these changes has developed a strong element of accusation that anyone not supporting these changes in total is supporting puppy mill owners. That is unfair and untrue. The Humane Society of Berks County supports every effort to put an end to the scourge of puppy mills. These changes threaten not only to throw out the baby with the bath water but to drown it first.

Furthermore, as an agency that enforces the law, we certainly do not want to be in violation of the law. While there have been general assurances that these rules may not be aggressively enforced among animal welfare agencies, the reality is that as long as they *can* be enforced, eventually they *will*. That is a particular threat to agencies that are active on moving the animal welfare agenda forward in the face of potential political or administrative opposition. No agency should be faced with the decision of performing and promoting its mission or being potentially subject to selective regulatory scrutiny.

Please consider revising the proposed changes to specifically protect animal welfare organizations like ours, agencies that exist to save the very animals that are likely to be rescued through increased enforcement-- most of which will end up being housed at shelters like the Humane Society of Berks County during the course of kennel violation prosecutions.

Thank you for your time and hard work on behalf of the animals of Pennsylvania.

Sincerely,



Karel I. Minor
Executive Director

cc: Governor Edward Rendell
Mary Bender
Representative David Argall
Representative David Kessler
Representative Douglas Reichley
Representative Jim Cox
Representative Tim Seip
Representative Thomas Caltagirone
Representative Carl Mantz
Representative Sam Rohrer
Representative Dante Santoni
Senator Mike Folmer
Senator John Rafferty
Senator James Rhoades
Senator Michael O'Pake