

Comments on the Proposed Dog Law Regulations

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Jennifer Muller  
At Large Member of the Dog Law Advisory Board  
Additional Comments

INDEPENDENT REGULATORY  
REVIEW COMMISSION**Veterinary Care and Exemptions**

I have particular concerns about exemptions that veterinarians are able to make in the regulations. It appears to me that a long process of rulemaking is undertaken to benefit the animals. In the case of a good veterinarian, exemptions are not a problem. A less ethically minded veterinarian, on the other hand can allow for the rules to be circumvented without oversight, just by means of she or he being a veterinarian. This is not advisable, as in any profession there are a range of professionals with varying levels of ethics and competencies. Therefore, I would encourage that veterinarian exemptions be thoughtfully considered, and not be used as a means to circumvent important aspects of the rules that are essential to animal welfare.

In addition, the standard of care under which veterinarians operate varies greatly depending upon the types of animals that the veterinarian treats. In other words, a food animal vet operates under very different standards of care than does a companion animal veterinarian, when it comes to levels of anesthetic, restraint, diagnosis and treatment. For example, a line block (where lidocaine is applied to the skin to numb the incision site) is perfectly acceptable for a cow to enter the abdomen. An awake cow maybe tied to the side of a barn, a line block applied, and the abdomen entered even without further anesthesia. Such a practice to enter the abdomen in a dog, would not fall within the standard of care. A lab animal veterinarian operates under yet different standards than does a private practice veterinarian. In other words, a range of niches in the veterinary profession produce a range of acceptable procedures for animals, not all of which are equal. It is my hope that companion animal veterinarians are treating dogs in high volume breeding facilities. I'm not sure how this can be put into the rule, but the Department should be aware, that a standard of care for companion dogs should be applied to the treatment of dogs, regardless of the specialty of the attending veterinarian. If possible, the attending veterinarian should be a companion animal veterinarian.

Next, proper veterinary care should be mandated for dogs in kennels, and a requirement for treatment should be enforced. There are a number of tests and procedures that can benefit animals that are used for breeding. Routine blood work, deworming, physical exam, and antibiotic treatment when needed are the basics. Obviously, there are a host of other care options that may benefit a patient.

## Temperature

Temperature parameters are among the most important components of this rule. I support the ASPCA's recommendation that a bottom threshold temperature be set for providing a heat and shelter for all dogs. It is imperative to recognize that outdoor housing in temperatures below those allowed for indoor housing defeats the purpose of setting temperature standards and fails to ensure that adequate body heat can be maintained in all dogs. The wording "acclimated" is so vague as to make the temperature provisions unenforceable. I urge the department to follow the ASPCA's recommendations that all dogs be brought in at temperatures that fall below those set for indoor standards. This is likewise true for the upper threshold. Dogs shall not be kept at temperatures above 85F, indoor or out. This will require that dogs have access to temperature controlled shelter in when ambient outdoor temperatures fall or rise beyond those parameters. Humidity and wind chill also need to be taken into account.

For the welfare of puppies, temperatures above 70F are appropriate, but should be above 60F, according to Dr. Margret Casal, Assistant Professor of Medical Genetics at the University of Pennsylvania School of Veterinary Medicine Genetics service. "When puppies are cold, part of their immune system shuts down" Casal states "Being cold plus a compromised immune system is a recipe for sepsis after a bacterial infection" (Personal communication). Thus, there is a direct link between sepsis and hypothermia. Puppies require higher temperatures than do adult dogs. A bottom threshold of 50F is too low for puppies that have a high surface to volume ratio, and always require heat support. Ideally puppies should be provided with a heat lamp at the appropriate distance to thrive.

A temperature range of 65F-75F is most appropriate for all dogs. According to Shelter Medicine for Veterinarians and Staff where it states "Environmental temperatures should be kept as constant as possible. Humidity levels should be comfortable, and the temperature in rooms housing healthy dogs and cats should be 65-75F." (Dr. Miller, Shelter Medicine for Veterinarians and Staff, p. 104).

The ASPCA recommends that the bottom threshold temperature should be the same as the bottom indoor temperature. NJ statute requires that dogs kept in kennels are maintained between 55-85F. While scientific evidence supports that the temperature requirements should be set between 65-75F. Still the NJ standard are better than the proposed current rule. If adopted, I would encourage the adoption of the following language:

Facilities shall adhere to the requirement that non-Arctic dogs must be brought indoors when the ambient temperature falls below 55 degrees F. Arctic dogs must be brought indoors at 45 degrees F. The ambient indoor temperature shall not exceed 85 degrees F. Appropriate air circulation and ventilation must be provided and maintained. Arctic and brachycephalic dogs shall not be housed above 75 degrees F

Finally, the AWA requires that dogs be kept at temperatures between 40-85F. "These guidelines were not developed with shelters in mind and these extremes in temperature should be avoided." (Dr. Miller, 104). The low end of this threshold is extremely in appropriate for neonates that prefer temperatures above 70 F. Keeping dogs at temperatures at the extremes of 40 or 85 F put undue stress on animals and should not be allowed.

## 1. §21.1. Definitions.

p. 1/p.2 Attending Veterinarian vs. licensed veterinarian

Why is licensed vet and attending vet defined differently?

This brings to mind that an attending veterinarian shall have qualifications that make him or her suited to the role of attending veterinarian that go beyond licensure.

In veterinary medicine, while there is only one license and all DVMs or VMDs are legally allowed to practice any combination of mixed practice, different standards of care apply to different classes of animals. A cow and a dog (i.e. food animal as compared to small animal) are treated differently as it pertains to standards of care for the use of anesthetics, pain management, restraint, diagnostics and treatment etc. Anyone working on a dog in a kennel must work within the standard of care for dogs, or be vulnerable to complaint to the board of licensures. If possible, a companion animal veterinarian should be the attending veterinarian.

A definition of "Veterinarian Medical Exam" should be included.

Establishment—p.2 strike "train", strike "adopt" Some community members have expressed concern about the impact of these regulations on the adoption networks of non-profit organizations. It is also my understanding that trainers are not covered if they do not keep dogs overnight according to comments by Jessie Smith to the Ag. Committee.

Housing Facility p.3—strike "for any period of time." In the sentence "Any land, premises, shed, barn, building, house, trailer or other structure or area housing or intended to house dogs FOR ANY PERIOD OF TIME." It is my understanding that overnight stays are required for dogs to count in the 26 and that house guests do not count if visiting for short stays.

## 2. §21.4. Penalties

p. 6 fine of not less than \$100 and not more than \$500 for every day the kennel has operated and continues to operate. Seems very stiff. Risks scaring our non-profit foster homes.

p. 6 item iv- revocation, suspension or denial of a kennel license—A kennel license should be denied to anyone with a conviction of animal cruelty, even if that conviction is over 10 years old. Also applies to (E) on page 7

Item (vi) page 11- “timely payment” and “reasonable costs” are too vague and should be defined. “two written requests” a time frame should be added – over a set day period. A through search to find the owner should be made.

(iii) p. 12 Failure to register and restrain a dangerous dog. “Reasonable costs” should be further described. Two written requests should have a time frame and the shelter should have to make a thorough search to find the owner. A statement to the owner must be made that failure to reply will constitute abandonment and the dog maybe disposed of. Add provisions for indigence, handicap or incarceration.

Question: Can abandonment be presumed before the end of court proceedings?  
Please clarify.

(iv) add “unprovoked attack” p. 14 please define: “thereafter humanely killed” define. By a veterinarian/ licensed veterinary technician?

21.5-21.12 p. 18-19 Why are these sections reserved? When will we have the opportunity to review and comment on them? Looking them up, it appears that these sections have to do with spaying and neutering of shelter animals. If at all possible, a requirement that all dogs that are not intended for showing be spayed or neutered.

### **3. §21.14. Kennel Licensure Provisions**

P. 19 (1) As a technical matter, how can there be a date “BEFORE January 1 of each year”? In addition, when do applications become available, on what date, and how long will they take to be processed? Are applications going to be made available in the previous year? Does that mean that if you don’t renew you could be subject to the \$100-500 per day fine as stated in earlier sections? Provision and flex time should be made for renewals.

p. 19 (2) strike or clarify “and every location at which a kennel is kept or operated”

P. 21 (ii) strike “Each temporary home utilized by the establishment shall be treated as a separate kennel location. All temporary homes shall be subject to inspection by the department.” It is my understanding that each foster home is not subject to inspection, rather routine checks for tags can be made but that a search warrant would be needed to enter the premises. If inspection can be made of each foster home, it will devastate foster care networks aimed to rescue thousands of animals across the state. Please clarify or eliminate this language.

Item (b), Page 25, Prohibitions on dealing with unlicensed kennels. How does this provision impact animal shelters that accept dogs from collectors? There should be an exemption here for humane societies.

Item (c), Health Certificate Requirement. The requirement of a “health certificate” for any dog entering the Commonwealth from another state or country should be amended to read a health certificate from a duly licensed veterinarian. Please note, you can not give a rabies vaccine to puppies under 13 weeks of age.

Please also consider offering an exemption to non-profit rescues/animal shelters to the requirement to get a health certificate if they are moving dogs from a “high kill” facility of scant resources to a “low kill” facility of means, or into rescue.

#### **4. §21.15. Exemptions**

Exemptions to foster homes of non-profit organizations should be extended even if that home fosters more than 26 dogs in one calendar year. This is possible if homes are fostering multiple mother and puppies over the course of a year. There is a difference between having more than 26 dogs at your house at one time and having that many pass through your home over the course of a year, especially if many of those are mothers and puppies. The language that talks about the type of inspection that a foster home is subject to should be further clarified. All foster homes should be exempt from the structural provisions of the rule if they are fostering their animals in their primary residence.

I think that dogs held as evidence who tend to be at shelters for a very long time, should have exercise and increased cage space—sometimes these dogs are at the shelters for MONTHS to YEARS.

Dogs held within these establishments for 2 months or longer must adhere to the stated Exercise Requirements and be housed using the cage size requirements as outlined in section 21.23 of the Regulations. This should apply uniformly to all dogs at the facility.

Foster homes for non-profits and shelters should be exempt from the same provisions as hobby breeders. Further, those foster homes that foster litters of puppies and

mothers should also be exempt in the same manner that the Department determines is equitable for hobby breeders.

## 21.22 Housing

p.28 ([d] c ) Please see my notes at the top of the comment document on temperature.

In addition, I would not recommend allowing a veterinarian to decide if animals should be housed outdoors in low temperatures. Uniform standards for the welfare of the animals should apply. Strike “unless that practice is specifically approved by the attending veterinarian.”

## 5. §21.23. Space

I strongly support doubling the minimum cage space. Animals housed in too small a space develop behavioral abnormalities. I also acknowledge that group housing can be beneficial to the social enrichment of dogs. For each additional dog in a cage, the cage size should be increased an additional size, i.e., 2 dogs would require doubling the cage; 3 dogs would require tripling the cage, etc.

Stacking. Stacking should be eliminated as a method of housing dogs in kennels. It is difficult to visually observe dogs when stacked resulting in unattended illness or distress by a dog. If stacking cannot be avoided in the rules, then wire floors must be outlawed, and the bottom of the highest cage is no higher than five feet from the floor.

Item (iii), Page 32 –Large and small dogs should be exercised separately unless the dogs are known to one another and known to get along. Any weight selected is a bit arbitrary. But the thought is that small dogs shall be protected from larger dogs that can inflict injury upon them.

(e) (C), page 32 – Protection from the Weather –I think that there should be some protection from the weather in exercise areas, but this needs to be further defined, and not be too burdensome to create.

(E) Aggressive or anti-social dogs shall be exercised alone or with a limited social group known to have positive interactions. If animals are from the same household for example, and known to get along, they maybe exercised together.

Item (iii) (F), Page 33 – Replace this wording as follows: Females in heat shall be exercised separately from male dogs except her own puppies.

Item (iii) (G) – Replace the word “may” with shall.

(iv) the veterinarian must submit the exemption in writing to the department and state the date of recheck which should be in a reasonable time frame from the date of

diagnosis. The date of recheck should be within 2 weeks. Attending Veterinarian must reissue the exemption at the time of recheck if it still applies, and state date for next re-exam.

#### **21.24. Shelters, Housing Facilities and Primary Enclosures**

p. 34-- (b) Outdoor Housing Facilities – It is imperative to recognize that outdoor housing in temperatures below those allowed for indoor housing defeats the purpose of setting temperature standards and fails to ensure that adequate body heat can be maintained in all dogs. The wording “acclimated” is so vague as to make the temperature provisions unenforceable. I urge the department to follow the ASPCA’s recommendations that all dogs be brought in at temperatures that fall below those set for indoor standards. This is likewise true for the upper threshold. Dogs shall not be kept at temperatures above 85F, indoor or out. This will require that dogs have access to temperature controlled shelter in when ambient outdoor temperatures fall or rise beyond the parameters set for indoor housing. Neonates (young puppies) and small dogs have a larger surface to volume ratio, and require warmer temperatures. Humidity and wind chill also need to be taken into account. The correct temperature to kennel dogs is 65-75F. NJ requires 55-85F. Lower upper threshold temperatures are appropriate for brachycephalic and arctic breed dogs of 75F is appropriate.

p. 34 strike “that are not acclimated to temperatures prevalent in that area or region where they are being maintained.” The correct temperature for kennel dogs is 65-75F (Miller, 104). NJ Standards are 55-85F. Brachycephalic and arctic breed dogs must be housed no hotter than 75F. The temperature that the department sets for indoor housing must match the outdoor standard at which point the dogs are brought in/ given free access to a heated or cooled environment.

p 36 (1) further define “adequate” in the sentence “Provide dogs with ADEQUATE protection and shelter from the cold and heat.” Adequate here is too vague.

p. 36 (4) When you adopt temperature restrictions on outdoor housing, strike “and additional clean and dry bedding shall be required when the temperature is 35 degrees F or lower.” Since under our recommendations no dog will be outside under these conditions.

Page 38 (c) – Substitute this section with the statement: “Tethers shall not be permitted.” Animals on tethers are predisposed to neck and limb injury.

(d), Page 39 - Remove items (1) (2) (3) (4) (5). Require solid flooring that can be easily sanitized as it is better for the dogs’ feet and quality of life. Phase in over one year and require that all new cages, or replacement cages shall be constructed with solid floors.

Item (7), Page 40 - Remove dead animals from this sentence and address it separately.

Add new item: Dead animals shall be removed immediately upon discovery and documented within the required recordkeeping. Dead animals are a source of disease and pose a risk to other animals if left in cage.

Page 42 item (i) – Replace the sentence [Such kennels shall have adequate holding facilities to allow a dog to .... of the primary enclosure] with Dogs may not be inside the primary enclosure while the enclosure is being cleaned. Enclosure must be dried prior to returning the dog to its primary enclosure. Include this in the certification records. If dogs get wet in the process they must be dried.

### **21.25 Temperature Control**

Page 45 – 46 Heating. Please see my notes at the top of this comment document. The correct temperature to house a kennel dog is 65-75F (Miller, 104). Puppies housed in outdoor kennels should not be subjected to low ambient temperatures without risk to compromising their immune system (Dr. Casal, Assistant Professor of Genetics, University of Pennsylvania School of Veterinary Medicine, personal communications). The New Jersey Standards are 55-85F. Brachycephalic and Arctic dogs are sensitive to the heat, and will have more difficulty cooling themselves. In alignment with the ASPCA recommendation, the temperature at which dogs are regulated at for indoor kennels should align with the allowed outdoor temperature, before dogs are provided with heat or air conditioning.

(d) strike the slab temperature requirement.

**21.26 Ventilation**—See ASPCA recommendations. 6 turnovers is too few. 10-12 is more acceptable.

**21.27 Lighting**—I don't know what 10 foot candles is. And I doubt the wardens do either, nor do I believe they will have the equipment to enforce this. Can this language be improved upon? I would hope that the dog's living quarters were well lit.

**21.28 Dry, clean bedding is essential.** (d) add "dry."

**21.29 Sanitation section**—DO NOT HOSE DOWN THE CAGE WITH THE ANIMAL INSIDE!

**25.3** In alignment with the "No Kill" movement, more money should be provided for an adoption or transfer to rescue, than euthanasia.

#### References:

*Miller, Lila & Zawistowski Shelter Medicine for Veterinarians and Staff. Blackwell Publishing. Iowa: 2004.*



I'd like to draw the Department's attention to the following from the USDA website.



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# **Ensuring Adequate Veterinary Care: Roles and Responsibilities of Facility Owners and Attending Veterinarians**

March 1999  
Animal Care

Under the Animal Welfare Act, the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) requires that all persons who use animals in research or for exhibition, sell them at the wholesale level, or transport them in commerce, provide these animals with adequate veterinary care and animal husbandry. Toward this end, APHIS requires the owner of each licensed and registered facility to establish a formal program of veterinary care. Facility owners must also employ an attending veterinarian to oversee the care afforded the animals.

## **Essential Components of a Veterinary Care Program**

APHIS personnel assess each facility's veterinary care program to determine whether it contains the following elements:

- Appropriate facilities, personnel, equipment, and services to provide adequate veterinary care.
- Use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries.
- Availability of emergency, weekend, and holiday care for animals.
- Daily observation of all animals by employees to assess the animals' health and well-being.

- Direct and frequent communication between the facility and attending veterinarian on any veterinary care concerns.
- Adequate guidance and training of personnel who care for animals regarding handling, immobilization, anesthesia, analgesia, tranquilization, and euthanasia.
- Provisions for adequate preprocedural and postprocedural care in accordance with established veterinary medical and nursing procedures.

### **The Role of the Attending Veterinarian**

The attending veterinarian is responsible for reviewing the facility's veterinary care program at least once a year. Facilities must employ their veterinarians under the following terms:

- The facility must employ its veterinarian under formal arrangements on a full-time, part-time, or consulting basis. The facility owner must be able to prove employment of the veterinarian, either through a contract or other written documentation.
- If the veterinarian is part-time or consulting, the facility owner must prepare a written program of veterinary care. The owner must also schedule regular visits by the attending veterinarian at least once a year. The facility owner is solely responsible for scheduling these visits.
- The facility owner must give the veterinarian sufficient authority to ensure adequate veterinary care for the animals.

### **Specifics to Check For During a Veterinary Care Program Review**

When conducting a review of a facility's veterinary care program, the attending veterinarian should check for vaccinations, parasite-control programs, euthanasia methods, exercise programs for dogs, environmental enrichment programs for primates, and several other specific provisions. The checklist on this tech note provides a detailed list of these provisions for use in evaluating specific veterinary care programs.

### **Additional Information**

For more information, or if you have other questions about the veterinary care requirements under the Animal Welfare Act, contact your local APHIS Animal Care inspector or field veterinary medical officer, or:

Animal Care  
APHIS, USDA  
Unit 84  
4700 River Road

Riverdale, MD 20737

Telephone: (301) 734-7833

E-mail: [ace@usda.gov](mailto:ace@usda.gov)

Web page: <>

**Veterinary Care Checklist**

This checklist should be used when reviewing a facility's veterinary care program and kept on file at the facility for review by APHIS personnel.

Facility Name: \_\_\_\_\_

Date of Visit: \_\_\_\_\_

Review each item below with the facility owner. Place an "x" next to each item discussed and "N/A" next to those items that are not applicable.

\_\_\_\_ Vaccinations

\_\_\_\_ Parasite control program

\_\_\_\_ Emergency care

\_\_\_\_ Euthanasia methods

\_\_\_\_ Nutritive value of diets

\_\_\_\_ Handling of biologics and drugs

\_\_\_\_ Pest control and product safety

\_\_\_\_ Quarantine procedures

\_\_\_\_ Exercise program (dogs only)

\_\_\_\_ Environmental enrichment (primates only)

\_\_\_\_ Water quality (marine mammals only)

\_\_\_\_ Capture and restraint methods (wild or exotic animals only)

\_\_\_\_ General observations

overall facility condition

general animal husbandry practices

Comments and recommendations on overall health of animals and effectiveness of veterinary care program:

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Signature of Attending Veterinarian:

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