

COMMONWEALTH OF PENNSYLVANIA



GOVERNOR'S OFFICE OF GENERAL COUNSEL
DEPARTMENT OF AGRICULTURE
2301 N. Cameron Street • Room 201
Harrisburg, Pennsylvania 17110-9408

RECEIVED

MAY - 7 REC'D

INDEPENDENT REGULATORY
REVIEW COMMISSION

3:17 pm.

#2559

OFFICE OF CHIEF COUNSEL

Tel: 717-787-8744
Fax: 717-787-1270

May 6, 2008

Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17120


RE: NOTICE OF WITHDRAWAL PROPOSED REGULATION
Department of Agriculture
Bureau of Dog Law Enforcement
7 Pa. Code Chapters 21, 23, 25 and 27
Dog Law Enforcement Regulation
I.D. No. 2-152
Proposed Rulemaking: 36 *Pennsylvania Bulletin* 7596(December 16, 2006)

Dear Sir or Madam:

This is notice that the Department of Agriculture has withdrawn the proposed rulemaking which would have amended the Dog Law Enforcement regulations at 7 *Pennsylvania Code*, Chapters 21, 23, 25 and 27. This proposed regulation was published in the *Pennsylvania Bulletin*, Volume 36, Number 50, Page 7596, on December 16, 2006.

A notice of this withdraw has been sent to the Legislative Reference Bureau and will be published in the *Pennsylvania Bulletin* on May 17, 2008. Notice of this withdraw has also been sent to the majority and minority chairmen of the House and Senate Agriculture and Rural Affairs Committees.

Sincerely,


David C. Kennedy
Assistant Counsel

Enclosure

RECEIVED

MAY - 7 REC'D

INDEPENDENT REGULATORY
REVIEW COMMISSION

3:17 pm

NOTICE

DEPARTMENT OF AGRICULTURE

The Pennsylvania Department of Agriculture hereby withdraws the notice of proposed rulemaking, which would have amended the Dog Law Enforcement regulations at 7 *Pennsylvania Code*, Chapters 21, 23, 25 and 27. This proposed regulation was published in the Pennsylvania Bulletin, Volume 36, Number 50, Page 7596, on December 16, 2006.

Further information is available by contacting Jessie Smith, Special Deputy Secretary, Bureau of Dog Law Enforcement at (717) 214-3447.



Dennis C Wolff

Secretary

Regulatory Analysis Form		This space for use by IRRC RECEIVED 2006 DEC -6 AM 10:45 INDEPENDENT REGULATORY REVIEW COMMISSION IRRC Number: 2559	
(1) Agency Agriculture			
(2) I.D. Number (Governor's Office Use) 2-152			
(3) Short Title Proposed Amendments Chapters 21-27 Dog Law Regulations			
(4) PA Code Cite 7 Pa.Code §§ 21.1-27.13		(5) Agency Contacts & Telephone Numbers Primary Contact: Mary Y. Bender 787-3062 Secondary Contact:	
(6) Type of Rulemaking (check one) Proposed Rulemaking <input checked="" type="checkbox"/> XX Final Order Adopting Regulation Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached? No <input checked="" type="checkbox"/> XX Yes: By the Attorney General Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. The amendments add definitions and set forth more specific and stringent provisions related to kennel requirements and related enforcement. The intent of the amendments is to clarify numerous provisions of the Dog Law and thereby increase both the Department's ability to carry out the intent of the Dog Law, which is to protect the health, safety and welfare of dogs in Pennsylvania, and the awareness and understanding among the regulated community and the general public of the Department's authority under the Dog Law. Many of the provisions of the current regulations were last revised in January of 1996. In addition, the proposed regulation clarifies several sections pertaining to "dangerous dogs."			
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. Section 902 of the Act of December 7, 1982 (P.L. 784, No. 225) known and cited as the Dog Law (3 P.S. § 459-902).			

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Since the regulations were last promulgated in 1996, there has been growing public concern that the regulatory standards for operating kennels in Pennsylvania do not adequately protect the health, safety and welfare of dogs housed in kennels. In many cases, the standards were vague and subjective, making it difficult for the regulated community to consistently comply with and State Dog Wardens to enforce those provisions. It is necessary to further quantify provisions in existing regulation. In addition, new definitions are needed to address the changing nature of groups and organizations who keep, transfer and house dogs, including rescue and temporary home establishments, many of which did not exist in 1996.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

The regulations are designed to protect the health, safety and welfare of dogs, and their owners. In addition to protecting the interests of dogs, there is a certain amount of public health risk associated with unhealthy dogs in society.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The benefit of the regulation is two-fold. First, the enhanced and better quantified provisions provide the State Dog Wardens with better standards under which to enforce the regulation and provide kennel owners with a clearer understanding of the kennel requirements. Second, more stringent sanitation, housing and exercise or space standards will also benefit kennel dogs and their potential owners, since dogs housed and kept under these enhanced requirements will purportedly be better pets to their owners, with fewer health problems, lower veterinary expenses and reduced socialization problems to name a few.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

There are approximately 2,400 licensed breeding, boarding and non-profit kennels in Pennsylvania. Changes to the regulatory standards may adversely affect these licensed facilities through increased costs. These kennels may be required to renovate or expand their current housing facilities for dogs kept in the kennel. There will also be increased reporting requirements for licensed kennel owners. In addition, the Bureau will need to invest in additional equipment and training of wardens to measure and enforce the new requirements. Current rescue and other shelter establishments which are currently not licensed will need to come into compliance.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Section 207 of the Dog Law (3 P.S. § 459-207) requires all kennels to be licensed. Section 206 of the Dog Law states that any "establishment" that holds, sells or in anyway transfers 26 or more dogs in a calendar year is considered a kennel (3 P.S. § 459-206). Currently there are approximately 2,400 licensed kennels and an unknown number of kennels operating illegally that will be captured by the amendments to this regulation. In addition, the clarifications enumerated in this amended regulation will capture rescue groups and other dog-sheltering establishments which technically fell under the provisions of the Dog Law, but were not specifically captured by the current regulations.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

A meeting of the Dog Law Advisory board took place, where the proposed changes to the regulations were discussed. The Dog Law Advisory Board consists of the following stakeholders:

- The Secretary or his designee, who shall act as chairman
- A representative of animal research establishments
- A representative of a statewide veterinary medical association
- Two representatives of animal welfare organizations
- Three representatives of farm organizations, with one from each Statewide general farm organizations
- A representative of dog clubs
- A representative of commercial kennels
- A representative of pet store kennels
- A representative of sportsmen
- A representative of a national purebred canine pedigree registry
- A representative of lamb and wool growers
- A County Treasurer
- A representative of hunting-sporting dog organizations
- A representative of the police

Concerned citizens, including members of animal rights groups, and representatives of the House and Senate Committees attended the meeting and provided comments. The Bureau also consulted with State Dog Wardens and Warden Supervisors, who enforce the provisions of the regulations, as well as with members of a "Kennel Task Force" organized by the Lancaster County Commissioners, who have an interest in the regulations because of the large number of kennels in Lancaster County.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

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.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

There will be no impact to local governments.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The proposed amendments to the regulations will impose additional costs to the Commonwealth. The amendments to the regulations will require the Department to purchase additional equipment necessary for measuring lighting and ventilation and to commit an additional amount of time to kennel inspection and review of the required kennel records. It is estimated that the cost to the Department per warden will be \$15,000 in the first year, and \$5,000 per year through year 5 for the additional amount of time to perform kennel inspections and review of the required kennel records.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated		n/a	n/a	n/a	n/a	n/a
Local Government		n/a	n/a	n/a	n/a	n/a
State Government		n/a	n/a	n/a	n/a	n/a
Total Savings		n/a	n/a	n/a	n/a	n/a
COSTS:						
Regulated		*\$5-20,000	*\$5-20,000	*\$5-20,000	\$5,000	\$5,000
Local Government		n/a	n/a	n/a	n/a	n/a
State Government		**\$795,000	**\$265,000	**\$265,000	**\$265,000	**\$265,000
Total Costs		***	***	***	***	***
REVENUE LOSSES:		n/a	n/a	n/a	n/a	n/a
Regulated		n/a	n/a	n/a	n/a	n/a
Local Government		n/a	n/a	n/a	n/a	n/a
State Government		n/a	n/a	n/a	n/a	n/a
Total Revenue Losses		n/a	n/a	n/a	n/a	n/a

(20a) Explain how the cost estimates listed above were derived.

The costs to the regulated community costs are an estimate of the construction and other improvements necessary to expand and modify existing kennels, based on estimates received from the regulated community. The costs to the Department are based on past purchases of similar equipment.

*Estimated cost per existing kennel

**Estimated cost per warden

\$15,000 x 53 current wardens and supervisors = \$795,000 first year

5,000 x 53 current wardens and supervisors = \$265,000 per year through year 5

***Total costs can't be quantified to an exact number due to the variable costs that will be incurred by each licensed facility depending on existing facilities and amount of work needed to bring each facility up to the new compliance standards.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 Calendar year 02	FY -2 Calendar Year 03	FY -1 Calendar year 04	Current FY Calendar year 05
Bureau of Dog Enforcement – all expenditures	\$5.331 million	\$5.062 million	\$6.434 million	Not yet available

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The amendments to the regulations are intended to result in more stringent and consistent enforcement of the provisions of the Dog Law. The increased clarity provided by the amendments will create a more objective standard and thereby result in more even enforcement and more consistent court rulings. The amended provisions should create a level playing field for licensed kennels throughout the Commonwealth. In addition, the amendments set forth higher standards for sanitation, housing and space for dogs housed in kennels which should result in better conditions for dogs housed in kennels, thereby positively affecting the health, safety and welfare of dogs. Finally, the clarification regarding what constitutes an “establishment” under section 206 of the Dog Law, will allow the Department to effectively enforce the kennel licensure provisions of the Dog Law with regard to all persons selling, holding, bartering or in anyway transferring 26 or more dogs in one calendar year. This will again result in a more level playing field across the industry. It will allow the Department to license more establishments and thereby monitor and enforce the living conditions of dogs held in such establishments. The ultimate goal of the amendments set forth in this regulation is to allow the Department to more effectively carry out the purpose of the Dog Law and the intent of the General Assembly of this Commonwealth, which is to assure the health, safety and welfare of dogs and the general public. The Department believes these benefits outweigh any additional costs to the regulated community and the Department.

(22) Describe the non-regulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

The concerns raised regarding existing circumstances in kennels may only be addressed through regulatory alternatives.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

The Dog Law requires the Department to promulgate regulations regarding enforcement of the provisions of the Dog Law. The Department is provided certain discretion concerning interpretation and enforcement of the provisions of the Dog Law and its attendant regulations. However, the changes effectuated by this regulation are not the type of changes that the Department could have legally established through guidance documents, policy statements or enforcement techniques.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

Existing State regulations already differ from federal law regarding kennels. The federal Animal Welfare Act regulates and requires a federal license for wholesale sellers of puppies. Pennsylvania law differs, in that a kennel license is required for any person who keeps, sells, transfers 26 or more dogs a calendar year. In addition, the existing regulations regarding wire strand flooring are already more stringent than federal regulations. The Commonwealth is home to a myriad of different types of kennels, from large scale breeding operations to small scale hobby breeders, from boarding operations to Humane Societies, rescue groups and non-profit kennels. This diversity requires some of the provisions of Pennsylvania's regulations to differ from and be more stringent than federal regulations, which only need to provide standards for large scale wholesale breeding operations. In addition, the need to effectuate more consistent enforcement and court decisions throughout the Commonwealth has lead the Department to establish more objective and therefore, arguably more stringent standards. Another factor which creates a compelling interest to have Pennsylvania kennels adhere to stronger standards is the proliferation of large commercial kennels in Pennsylvania, which do not exist in many other states and the proliferation of new rescue groups bringing dogs into Pennsylvania from other States and countries.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Most other States regulate dog issues, including kennels, at the county and municipal level and do not regulate kennels at the State level. Therefore, licensing and registration of dog kennels, if there is any, is done at the local or county level. In states where there is no county or local regulation, the provisions of the Federal Animal Welfare Act only apply. While these regulations create stricter standards, those standards are not inconsistent with federal standards. In addition, Pennsylvania currently has a reputation for providing dogs, on the wholesale and retail level, at prices well below those charged by kennels in surrounding States. Furthermore, while the new regulations do impose some more stringent standards, for the most part they merely clarify and objectify the current standards. Finally, the clarified standards and other amendments to the regulations should result in a more level playing field within the industry here in the Commonwealth, more consistent court rulings and less negative press for the kennel industry.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

They will amend the current Dog Law regulations, but will have no affect on other regulations of the Department or any other Commonwealth agency.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Pennsylvania Dog law requires a public hearing on any proposed regulation. In addition, the regulations must go through the regulatory review process. The Department is proposing a 60 day public comment period, during which at least one formal public hearing will be held. The date and location will be determined, but it is planned to be held in conjunction with a meeting of the Dog law Advisory Board in Harrisburg.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

Kennel inspection forms may be modified to reflect new requirements. A copy of an existing kennel inspection form is attached.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

No special provisions have been developed. All persons falling within the regulated community must comply with the same standards.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

Publish as proposed 3/1/06, 60 day comment period, publish as final and effective by end of 2006. There will need to be a phase in date for some of the new space and exercise requirements of the regulations. That period will be determined through public comment and public hearings held in conjuncture with the promulgation of this regulation. In addition, any "establishment" which was not specifically captured by the old regulations, will be given a notice and time to apply for and receive a kennel license prior to any enforcement action being undertaken by the Department.

(31) Provide the schedule for continual review of the regulation.

The Department continually sets forth possible regulatory revisions. Most of these revisions are driven by comments from the general public, State dog wardens and the regulated community. The Department is normally prudent in setting forth revisions to the regulations and does not propose to revise the regulations based on every comment. Major revisions to the regulations occur about every 5 years.

CDL-1

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE
BUREAU**

(Pursuant to Commonwealth Documents Law)

RECEIVED

2006 DEC -6 AM 10:45

INDEPENDENT REGULATORY
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

2559

Copy below is hereby approved as to form and legality,
Attorney General

By: *Amy M. Elliott*
(Deputy Attorney General)

OCT 26 2006

DATE OF APPROVAL

! Check if applicable
Copy not approved. Objections attached.

Copy below is hereby certified to be true and
correct copy of a document issued, prescribed or
promulgated by:

Department of Agriculture

DOCUMENT/FISCAL NOTE NO. 2-152

DATE OF ADOPTION 10-13-06

BY: *D. Waloff*

TITLE Secretary

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

Copy below is hereby approved as to form and legality
Executive or Independent Agencies

BY: *Andrew C. Clark*
OCT 13 2006

DATE OF APPROVAL

(Deputy General Counsel)
(~~Chief Counsel - Independent Agency~~)
(~~Strike inapplicable title~~)

! Check if applicable. No Attorney General Approval or
objection within 30 days after submission.

NOTICE OF PROPOSED RULEMAKING

**Department of Agriculture
Bureau of Dog Law Enforcement
7 Pa. Code §§ 21.1-27.13
Proposed Amendments to Chapters 21-27 Dog Law Regulations**

**TITLE 7 PENNSYLVANIA CODE– Agriculture
DEPARTMENT OF AGRICULTURE
PART II: BUREAU OF DOG LAW ENFORCEMENT
CHAPTER 21. General Provisions; Kennels; Licensure; Dog-Caused damages
CHAPTER 23. Funding For Local Dog Control Programs
CHAPTER 25. Reimbursement For Humane Disposition Of Dogs And
Reimbursement For Losses
CHAPTER 27. Dangerous Dogs**

The Department of Agriculture ("Department"), under the specific authority conferred by section 902 of the act of December 7, 1982 (P.L. 784, No. 225) known and cited as the Dog Law (3 P.S. § 459-902), hereby proposes to amend the Department's regulations at Title 7 of the *Pennsylvania Code*, Chapters 21, 23, 25 and 27 (7 Pa.Code §§ 21.1.-27.13), which pertain to the Dog Law. Section 902 of the Dog Law, charges the Secretary with the duty of promulgating "...rules and regulations to carry out the provisions and intent of this act." (3 P.S. § 459-902). The Department hereby proposes to amend numerous sections of the current regulations in order to address changes in the industry, clarify provisions of the regulations which are vague or outdated and clarify enforcement powers and duties of the Department and the Secretary.

BACKGROUND

The amendments add definitions and set forth more specific and stringent provisions related to kennel requirements and related enforcement. The intent of the amendments are to clarify numerous provisions of the Dog Law and thereby increase both the Department's ability to carry out the intent of the Dog Law and the awareness and understanding among the regulated community and the general public of the Department's authority under and interpretation of the Dog Law. Many of the provisions of the current regulations were last revised in January of 1996.

The major features and amendments to the proposed regulations are summarized as follows:

SUMMARY OF MAJOR FEATURES

Section 21.1. Definitions.

New definitions have been added to clarify the kennel requirements set forth at section 206 of the Dog Law (3 P.S. § 459-206). Specifically, the regulations now define “Establishment” and “Temporary home.” In addition, the definitions of “Licensed veterinarian” and “Sanitize” have been amended. The definitions were added or revised to provide clarification. The necessity for such clarification is based on issues, comments and questions which have arisen with regard to the Department’s interpretation of various provisions of the Dog Law and the current regulations over the past several years.

Section 21.4. Penalties.

Language has been added to the Article II penalty provisions (associated with kennel licensure) which is intended to clarify the Secretary’s powers, duties and enforcement options related to the failure of a person to obtain a kennel license prior to operating a kennel, as required by section 207 of the Dog Law (3 P.S. § 459-207). Clarifying language was also added to the revocation, suspension and denial language of the regulations and the seizure provisions of the regulations, related to enforcement of section 211 of the Dog Law (3 P.S. § 459-211). Finally, clarifying language was added to the penalty provisions of the regulations associated with Article V and V-A of the Dog Law (related to dangerous dogs). This language is intended to establish the process to be followed during and after dangerous dog proceedings and clarify the timing and due

process which must be afforded prior to confiscation or euthanization or both of a dangerous dog.

Section 21.13. Contact information.

The Department added this section to the regulations to provide the general public and the regulated community with contact information to allow them easy access to the Bureau when questions or concerns arise. The Department hopes this will result in enhanced compliance with the Dog Law.

Section 21.14. Kennel licensure provisions.

The Department added this section which addresses the kennel licensure requirements found at sections 206 and 207 of the Dog Law (3 P.S. §§ 459-206 and 459-207). In addition, it provides more specifics with regard to the intent and enforcement of the kennel licensure provisions of the Dog Law and sets forth the substantive provisions of the regulations which relate to the new definitions of “Establishment” and “Temporary home” set forth in these regulations. It also, addresses the prohibition to operate set forth in section 207 of the Dog Law and provides for the powers of the Department with regard to enforcement of that section of the Dog Law. Furthermore, this section establishes more specific recordkeeping requirements for each category of kennel and class of kennel. Finally, it addresses and sets forth the prohibitions related to dealing with unlicensed kennels and reiterates and clarifies the requirement for health certificates for all dogs entering the Commonwealth from another State, Commonwealth or country. In general this new section provides clarification related to Article II provisions of the Dog Law and is intended to assure greater compliance with the existing provisions of the Dog

Law and enhance the Department's ability to carry out the intent of the Dog Law which is protection of the health, safety and welfare of dogs.

Section 21.15. Exemptions.

Language was added to assure that dog control facilities authorized to receive grants under the provisions of section 1002 of the Dog Law (3 P.S. §459-1002(a)) would be exempt from the new quarantine and space provisions of the regulations. These facilities perform a government service by taking stray and abandoned dogs from the Department and the general public. In addition, they accept and hold dogs seized from licensed and unlicensed kennels. Subjecting them to the quarantine and double space requirements of these proposed regulations would limit the space available to provide such services and limit the ability of these facilities to adopt such dogs.

Section 21.21. Dog quarters.

Language was added to this section to clarify the overall sanitation and housing requirements of the regulations and to address – in general – the amendments to later sections of the regulation related to sanitation and housing of dogs.

Section 21.22 Housing.

Amendments to this section of the regulations address problems and issues that have arisen with regard to dogs, both puppies and adults, being brought into a kennel from another kennel or establishment. The new language sets forth health requirements, such as an isolation time period for such dogs, and thereby addresses health problems related to new or varied strains of virus and bacteria being brought into the kennel or new or existing parasites that may accompany puppies or adult dogs not born at the particular establishment.

Section 21.23. Space.

This section contains new language which is intended to address the health and welfare of dogs housed in kennels and which makes the Department's regulations more consistent with Federal regulations set forth under the Animal Welfare Act. The new language addresses space requirements and sets forth the requirements of and for an exercise program for all dogs kept in a kennel.

Section 21.24. Shelter, housing facilities and primary enclosures.

Amendments to this section include new provisions which establish separate requirements for indoor and outdoor kennel facilities. The current regulations do not address the differences between indoor and outdoor kennels and the differences regarding the health, safety and welfare needs of the dogs housed in such kennels. The changes made to this section are based on situations encountered by the Department over the last several years and in many cases set forth provisions contained in the Federal Animal Welfare Act and in the Military Dog Training Manual. In addition, the revised regulations address, clarify and enhance sanitary and animal husbandry practices. They address and set forth more detailed requirements for outdoor kennels in areas such as drainage, construction and maintenance of primary enclosures, shade and shelter requirements, bedding, lighting, slope of ground, and run and footing materials for the dogs. They provide more detailed requirements for indoor kennels with regard to slope of floor and drainage, construction of kennels and primary enclosures, sanitation, storage of food and medical supplies and wash facilities.

Section 21.25. Temperature control.

This section is amended to provide more specific language regarding temperature control in indoor and outdoor kennels. Temperature ranges have been established. The purpose of these changes is to address concerns expressed by the Department's State dog wardens and District Justices regarding vagueness and a lack of clarity with regard to the current regulations.

Section 21.26. Ventilation in housing facilities.

Language has been added to this section to clarify and address concerns expressed by the Department's State dog wardens and District Justices regarding vagueness and a lack of clarity with regard to the current regulations. The new language provides specific ventilation, humidity and air movement requirements.

Section 21.27. Lighting and electrical systems.

This section contains amendments that now set forth specific lighting requirements for indoor and outdoor kennels and attached buildings. Once again the revisions are in response to concerns expressed by the Department's State dog wardens and District Justices regarding vagueness and a lack of clarity with regard to the current regulations.

Section 21.28. Food, water and bedding.

The amendments to this section establish more specific and more stringent food, water and bedding requirements. The amendments are aimed in part to address control of contagious diseases and to assure dogs housed in kennels have access to water at all times.

Section 21.29. Sanitation.

Amendments to this section set more specific sanitation requirements and controls. The intent, in part, is to address the control of contagious diseases within kennel facilities and to more effectively address sanitation issues and requirements in outdoor kennels. The amendments more specifically address the location of dogs during sanitation of their primary enclosure and address insect, parasite and general pest control.

Section 21.30. Condition of dog.

Amendments to this section were made for the purpose of addressing grammatical errors.

Section 21.41. General requirements.

This section addresses general requirements for kennel records. The Department amended this section to provide more specific provisions related to the amendments to the previous sections of these regulations. More specifically, they are more specific with regard to food, water and sanitation records, exercise records and injury and veterinary care records. The amendments also provide for unsworn falsification to authorities with regard to the records kept at kennels.

Section 21.42. Bills of sale.

The Department added subsection (b) to this section. Subsection (b) addresses the in-State and Out-of-State licensure provisions of the Dog Law. Subsection (b) notifies licensed kennel owners that it is a violation of the Dog Law to purchase, accept, sell on behalf of or transport a dog from a kennel required to be, but not licensed under the provisions of the Dog Law. It provides an exception where the Department provides the kennel owner with written permission to accept dogs from an unlicensed kennel. This is to allow the Department flexibility in closing unlicensed kennels. Furthermore, it should

be noted that this provision is not intended to and does not affect the ability of a licensed kennel to sell dogs it owns.

21.54. Dog and kennel license issuance date.

The Department made a revision to this section in order to clarify that the Department issues kennel licenses and affirms that kennel licenses are issued on a calendar year basis.

21.61. Conditions and limitations for payment.

Revisions to this section clarify the conditions under which payment will be made by the Department for dog caused damages. These revisions are necessary to add clarity to the existing regulations.

Section 21.62. Appointment of disinterested citizen.

This section has been deleted and replaced with an appeal process for the owner of the dog found to have caused damage. The Department will now make a determination of damages (under the amended version of section 21.63 (related to determination and appeal of damages)) and the owner of the dog causing the damages will have a right to dispute and appeal such determination. This removes the requirement that a citizen or other entity become involved in any dispute or appeal of a decision regarding determination of damages. The Department has the expertise to assess the value of livestock and poultry and to gather appropriate documentation of such value.

Section 21.63. Determination and appeal of damages.

This section mirrors and clarifies the provisions of the Dog Law related to an appeal of the damages assesses.

Section 21.64. Certification of payment of claims.

This section was added to set forth the requirement that the owner of the animal injured or killed has not already received reimbursement for the injuries sustained or the loss of the animal.

Section 21.65. Killing of dogs causing damages.

This section was added to clarify and address the provisions established by section 704 of the Dog Law (3 P.S. § 459-704). It sets forth the procedure for ordering the euthanization of the offending dog and provides the owner of the dog with appeal rights.

Section 21.66. Unlicensed dogs and forfeiture of right to reimbursement.

This section clarifies the provisions of the Dog Law set forth at section 705 (3 P.S. § 459-705).

Section 23.1. Dog law restricted account.

Amendments to this section clarify how Dog Law restricted account funds may be utilized by adding language already set forth at section 1001(b) of the Dog Law (3 P.S. § 459-1001(b)).

Section 23.3. Application procedures.

This section was deleted from the previous draft of this regulation, but has been reinstated based on input received.

Section 23.6. Stray dogs.

This section was amended to make it consistent with current provisions of the Dog Law, which required all dogs over 3 months of age to be licensed and changes the word “shelter” to “releasing agency” to be consistent with the provisions of the Dog Law.

Section 25.1. General.

Amendments to this section expand the Department's ability to reimburse properly licensed kennels for the holding and humane disposition of dogs. In addition, it encourages (and follows the trend within society and the industry) the adoption of dogs held in shelters by allowing for reimbursement for dogs that are adopted instead of euthanized. It also requires the releasing agency to assure the adopting person has secured a license for the dog to be adopted.

Section 25.2. Dog disposition record.

This section has been amended to set forth parameters of the dog disposition form, but not set forth that specific form in the regulation. This allows the Department some flexibility as changes occur. The Department still must develop and distribute the necessary forms.

Section 25.3. Claims for fees.

This section has been amended to set forth parameters of the claims form, but not set forth that specific form in the regulation. This allows the Department some flexibility as changes occur. The Department still must develop and distribute the necessary forms.

Section 25.4. License of dogs before release.

The amendments to this section bring the regulations into conformity with the requirements of the Dog Law. The Dog Law, as amended in 1996, requires all dog over 3 months of age to be licensed.

Section 27.5. Owner's application to register a dangerous dog.

We amended the provisions of this section to include the requirement that the registration application include a copy of the surety bond or a certificate of liability insurance in the proper amount required by the Dog Law.

Section 27.6. Processing of an application.

This section was amended by adding language to make it consistent with the revisions to section 27.5 of the regulations and to reiterate the requirement of the Dog Law that the appropriate fee accompany the application.

Section 27.7. General condition of registration.

The amendment to this section is intended to make it clear that failure to comply with the registration requirements for a dangerous dog will result in the Department taking the action prescribed by section 505-A of the Dog Law (3 P.S. § 459-505-A), which is confiscation of the dangerous dog.

Section 27.14. Verification of compliance with financial responsibility requirements.

This section was added to relate to the owner of a dangerous dog, that the Department will verify the information required in the application prior to the issuance of the registration.

FISCAL IMPACT

Commonwealth

The proposed amendments to the regulations will impose additional fiscal impacts upon the Commonwealth. The amendments to the regulations will require the Department to purchase additional equipment necessary for measuring lighting and ventilation and to commit an additional amount of time to kennel inspection and review of the required kennel records. It is estimated that the cost to the Department per warden

will be \$15,000 in the first year, and \$5,000 per year through year 5 for the additional amount of time to perform kennel inspections and review of the required kennel records.

Political Subdivisions

The proposed amendments to the regulations will impose no costs nor have a fiscal impact upon political subdivisions. The regulations do not impose any additional burden of enforcement or review on political subdivisions.

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 set forth in these regulations. Furthermore, establishments utilizing temporary homes will now have to comply with the kennel licensure and recordkeeping requirements of the Dog Law 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.

General Public

The proposed amendments to the regulations will impose no costs and have no fiscal impact on the general public.

PAPERWORK REQUIREMENTS

The proposed amendments to the regulations will not result in a substantial increase in paperwork. The Department will not have to develop new application forms or review procedures, but in some cases may want to amend current forms.

PUBLIC COMMENT PERIOD

Interested persons are invited to submit written comments regarding the proposed regulations ~~within 60 days following publication~~ in the *Pennsylvania Bulletin*.

REGULATORY REVIEW

In accordance with Section 5(a) and (f) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19), (71 P.S. §§ 745.1 – 745.15), as amended by Act 24 of June 25, 1997 (P.L. 252, No. 24) (the Act), the Department submitted a copy of the proposed regulation, on December 6, 2006, to the Legislative Reference Bureau for publication of notice of proposed rulemaking in the *Pennsylvania Bulletin*, and to the Independent Regulatory Review Commission (Commission). In accordance with Section 5(f) of the Act (71 P.S. § 745.5(f)) the Department will submit the proposed regulations and the required material to the Chairpersons of the House Agriculture and Rural Affairs Committee and the Senate Agriculture and Rural Affairs Committee (Committees) no later than the second Monday after the date by which both Committees designations have been published in the *Pennsylvania Bulletin*. In addition to submitting the proposed regulation, the Department has provided the Commission and will provide the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

If the Commission has an objection to any portion of the proposed regulation, it will notify the Department within 30 days after the close of the public comment period. Such notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior

to final publication of the regulation, by the Department, the General Assembly and the Governor of objections raised.

CONTACT PERSON

Further information is available by contacting the Department of Agriculture, Bureau of Dog Law Enforcement, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408; Attn: Mary Bender (717) 787-3062.

EFFECTIVE DATE

This proposed regulation is effective upon publication in the *Pennsylvania Bulletin*.

By the Department of Agriculture

DENNIS C WOLFF, SECRETARY

Annex "A"

7 Pennsylvania Code
Part II. Dog Law Enforcement Bureau
Chapter 21. General Provisions; Kennels; Licensure;
Dog-Caused Damages
Chapter 23. Funding For Local Dog Control Programs
Chapter 25. Reimbursement For Humane Disposition Of Dogs And
Reimbursement For Losses
Chapter 27. Dangerous Dogs

CHAPTER 21. GENERAL PROVISIONS; KENNELS; LICENSURE;
DOG-CAUSED DAMAGES

GENERAL PROVISIONS

§ 21.1. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

Account—The Dog Law Restricted Account under section 1001 of the act (3 P.S. § 459-1001).

Act—The Dog Law (3 P.S. §§ 459-101—459-1205).

Agent—A district justice or other person within the county authorized by the county treasurer or the Department to process and issue dog license certificates and tags, as set forth under section 200(a) of the act (3 P.S. § 459-200(a)).

Attending veterinarian—A person who has graduated from a veterinary school accredited by the American Veterinary Medical Association's Council on Education or has a Certificate issued by the American Veterinary Medical Association's Education Commission for Foreign Veterinary Graduates, and who is either a licensed doctor of veterinary medicine in accordance with the Veterinary Medicine Practice Act (63 P.S.

§§ 485.1—485.33) or the holder of a valid temporary permit to practice veterinary medicine issued under authority of that act, and who has received training or experience in the care and management of dogs, and who is familiar with the relevant aspects of the kennel or kennel procedures with respect to which that person renders an opinion.

Department—The Department of Agriculture of the Commonwealth.

Domestic fowl—Chickens, turkeys, ducks, geese and guinea fowl.

Employee of the Department—An employee of the Department who is assigned responsibility in regard to enforcement of the act, including a State dog warden.

Establishment- The premises including the home, homestead, place of business or operation of any individual or person, including a dealer, which shall include 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.

Temporary home- A place, other than a licensed kennel or veterinary office, including a personal home, land, property, premises or housing facility or any combination thereof where any individual, person, owner or keeper, keeps, maintains, breeds, harbors, boards or shelters a dog or dogs on behalf of another person, organization, business or operation for the purpose of later selling, giving away, adopting, exchanging or transferring such dog or dogs.

Housing facility—Any land, premises, shed, barn, building, house, trailer or other structure or area housing or intended to house dogs for any period of time.

Licensed veterinarian—A licensed doctor of veterinary medicine as defined by the Veterinary Medicine Practice Act (63 P.S. §§ 485.1-485.33).

Microchip—A passive transducer encapsulated in a biocompatible material activated by a 125-kilohertz scanner, or any similar device approved by the Department.

Primary conveyance—The main method of transportation used to convey dogs from origin to destination, such as a motor vehicle.

Primary enclosure—A structure used to immediately restrict a dog to a limited amount of space, such as a room, pen, run, cage, crate or compartment.

Rest board—A waterproof or water resistant platform that dogs may use to recline on, positioned off the floor of the kennel.

Sanitize—To make physically clean and to remove, neutralize and destroy, to a practical minimum, agents, vectors of disease, bacteria and all infective and deleterious elements injurious to the health of a dog.

Secretary—The Secretary of the Department or a person to whom authority has been delegated by the Secretary.

§ 21.2. Scope.

The standards for operation of all classes of kennels in this Commonwealth are detailed in this chapter. These standards are in addition to requirements for kennels detailed in the act. Each type of kennel and the restrictive licensing fee are set forth in section 206 of the act (3 P.S. § 459-206).

§ 21.3. Enforcement and compliance.

Unless otherwise stated, only employees of the Department shall be authorized to enforce this chapter. Noncompliance with any section of the act or of this chapter or the conviction for violation of any statute relating to cruelty to animals may result in prosecution, revocation of the kennel license or nonapproval of the kennel license application.

§ 21.4. Penalties.

The act establishes penalties for violations of the various articles of the act and this part. The Department may impose the following penalties individually or in combination. Section 903 of the act (3 P.S. § 459-903) provides the penalty for illegal or unlawful activities enumerated in the act or violations of the act for which specific criminal penalty provisions have not been enumerated. It may be applied in addition to civil penalties provided for in the act.

(1) *Article II penalty provisions.* Article II of the act (3 P.S. §§ 459-200—459-219) contains provisions regarding licensure of dogs and kennels and provides the following penalties:

(i) *Agent violation.* Consistent with section 200(j) of the act (3 P.S. § 459-200(j)), an agent who violates section 200 of the act commits a summary offense and upon conviction shall be sentenced to pay a fine of not less than \$300 nor more than \$500 and in addition may have his agency recalled at the discretion of the Secretary. Each day of violation or each illegal act constitutes a separate offense.

(ii) *Failure of an individual to comply with licensure provisions.*

Consistent with section 201(c) of the act (3 P.S. § 459-201(c)), an individual who violates section 201 of the act commits a summary offense and, upon conviction, shall be sentenced to pay a fine of not less than \$25 nor more than \$300 for each unlicensed dog.

(iii) *Failure of a kennel to comply with licensure provisions.* Consistent

with section 207(a.1) of the act (3 P.S. § 459-207(a.1)), it is unlawful for a kennel to operate without first obtaining a license.

Failure to obtain a kennel license prior to operating any establishment that keeps, harbors, boards, shelters, sells, gives away or in any way transfers a cumulative total of 26 or more dogs of any age in any one calendar year, may result in any or all of the following actions by the Secretary:

(A) The issuance of a citation for violation of the Dog Law as allowed under the Secretary's general enforcement powers set forth at sections 901 and 903 of the Dog Law (3 P.S. §§ 459-901(a) and 459-903).

(B) The issuance of a Notice of Violation and time period to comply, or an order or both, as allowed under the Secretary's general enforcement powers set forth at section 901 of the Dog Law (3 P.S. § 459-901(a)), followed by such administrative action as may be appropriate or required under the powers set forth at section 211 of the Dog Law (3 P.S. § 459-211). Where an order is

issued the Secretary may impose a fine of not less than \$100 and not more than \$500 for every day the kennel has operated and continues to operate in violation of the licensure provisions of the act.

(C) Filing of a suit in equity in the Commonwealth Court to enjoin the operation of any kennel that violates any of the provisions of the Dog Law or this part. The Secretary may seek the imposition of a fine of not less than \$100 nor more than \$500 for every day the kennel has operated in violation of the act or regulations, as set forth at section 207 of the Dog Law (3 P.S. § 459-207(a)).

[The Secretary may file suit in Commonwealth Court to enjoin the operation of a kennel that violates any of the provisions of the act or this part and may seek the imposition of a fine of not less than \$100 nor more than \$500 for every day the kennel has operated in violation of the act or regulations.]

- (iv) *Revocation, suspension or denial of a kennel license.* Consistent with the powers and authority established by section 211 of the act (3 P.S. § 459-211), the Secretary shall revoke a kennel license or out-of-state dealer license if a licensee is convicted of any violation of the Act of December 6, 1972, P.L. 1482 (No. 331 § 1) relating to cruelty to animals (18 Pa.C.S.A. § 5511). The secretary shall not issue a kennel license or out-of-state dealer license to a person

that has been convicted of a violation of the Act of December 6, 1972, P.L. 1482 (No. 331 § 1) relating to cruelty to animals (18 Pa.C.S.A. § 5511), within the last ten years. The Secretary may revoke, suspend or refuse to issue a kennel license or an out-of-State dealer license if the person holding or applying for a license has done any of the following:

(A) Made a material misstatement or misrepresentation in the license application.

(B) Made a material misstatement or misrepresentation to the Department or its personnel regarding a matter relevant to the license.

(C) Been convicted of any violation of the act.

(D) Failed to comply with any regulation promulgated under the act.

(E) Been convicted of any law relating to cruelty to animals and such conviction is more than ten years old, if the secretary finds that the crime was so heinous that the person could not yet be rehabilitated or there is evidence the person has not been rehabilitated, and granting a license would jeopardize the health, safety and welfare of the dogs.

(v) *Seizure of dogs.* Consistent with section 211(c) of the act (3 P.S. § 459-211(c)), the Department may seize and impound a dog[, and direct forfeiture of ownership of a dog for the following reasons]

The following conditions shall apply with regard to seizure of a dog.[:]

(A) Seizure. Upon revocation, suspension or denial of a kennel license or an out-of-State dealer license, the Department may seize and impound any dog in the possession, custody or care of the person whose license is revoked, suspended or denied if there are reasonable grounds to believe that the dog's health, safety or welfare is endangered. The person from whom the dog was seized and impounded shall pay for reasonable costs of transportation, care and feeding of the dog.

(B) Return of seized dog.

aa. If the person whose kennel license or out-of-state dealer license has been revoked, suspended or denied and whose dog has been seized and impounded provides the department with satisfactory evidence or assurances the dog will receive adequate care, which may include an inspection by a State dog warden or employee of the department of the premises and buildings in which the dog will be housed, a plan of care and kennel maintenance, a signed sworn letter from a licensed veterinarian attesting to oversee such care, or other such information related to care of the dog as the department may reasonably require, and

the person has paid all costs of transportation, care and feeding related to the seizure and impoundment of the dog, the department may allow the person to retrieve the seized and impounded dog.

bb. If the owner of a seized or impounded dog is someone other than the person from whom the dog was seized and impounded, the dog owner may retrieve his dog from impoundment upon payment of all costs of transportation, care and feeding related to the seizure and impoundment of the dog. The person from whom the dog was seized and impounded shall be responsible to reimburse the dog owner for the transportation, care and feeding costs.

[(B)C] The Department [will] shall not take physical possession or custody of [the] a dog housed in a kennel whose kennel license has been revoked, suspended or denied upon any one or more of the following findings:

aa. [when] [t]There are no reasonable grounds to support the belief that the health, safety or welfare of the dog is endangered.

bb. [or] [when] [t]The person whose license is revoked, suspended or denied has provided satisfactory evidence or assurances the dog will receive adequate care.

[(C) Upon proper notice and opportunity for an administrative hearing, as set forth in section 211(c)(5) of the act (3 P.S. § 459-211(c)(5)), the Secretary may direct the forfeiture of ownership of a dog which has been seized and impounded.]

(vi) Forfeiture of dog. Consistent with section 211(c) of the act (3 P.S. § 459-211(c)(4) and (5)), a dog seized and impounded may be forfeited or the Department may direct forfeiture of ownership of such dog for the following reasons and under the following conditions.

(A) Voluntary forfeiture. Ownership of the dog which has been seized and impounded may be forfeited upon the written request of the owner.

(B) Secretary directed forfeiture. The secretary may direct that ownership of a particular dog which has seized and impounded pursuant to the revocation, suspension or denial of a kennel license be forfeited. The secretary shall serve the owner of the affected dog with written notice of forfeiture. The notice shall indicate the ownership of the dog in question may be forfeited to some entity other than the department. Notice of forfeiture shall be served by personal service or by registered or certified mail, return receipt requested, to a responsible person at the kennel from which the dog was seized or the owner of the affected dog or a responsible person at the address of the owner. The notice shall specify an effective date of forfeiture which shall not be less than ten days from service

of the notice. The notice shall further inform the dog owner of his right to request an administrative hearing on the issue of forfeiture by delivering written request to the department prior to the date of forfeiture. A written hearing request shall act as a supersedeas of the forfeiture action. At the administrative hearing on the matter the department shall have the burden of proving that the affected dog owner did not adequately care for the subject dog, or that no satisfactory evidence or assurances have been given to the department that the subject dog will be adequately cared for if it is returned to the owner, or that the owner has abandoned the subject dog. Abandonment shall be found if an owner fails to make timely payment of reasonable costs of transportation, feeding, care and veterinary expenses of the seized and impounded dog after two written requests to do so have been served by personal service or registered or certified mail, return receipt requested, upon a responsible person at the kennel from which the dog was seized or the dog owner or a responsible person as the address of the dog owner.

- (2) *Article V and V-A penalty provisions.* Articles V and V-A of the act (3 P.S. §§ 459-501—459-507-A) contains provisions regarding offenses of dogs and provides the following penalties:

- (i) *Harboring a dangerous dog.* A person found guilty of harboring a dangerous dog, as set forth in section 502-A of the act (3 P.S. § 459-502-A), shall be guilty of a summary offense.
- (ii) *Control of dog during dangerous dog court proceedings.* A person that violates section 502-A(d) of the act, regarding disposition of a dog during court proceedings, shall be guilty of a summary offense and shall pay a fine of at least \$200.
- (iii) *Failure to register and restrain a dangerous dog.* [Consistent with section 505-A(a) of the act (3 P.S. § 459-505-A(a)), a person that fails to properly register a dangerous dog, secure and maintain the liability insurance coverage required under section 503-A of the act (3 P.S. § 450-503-A), maintain the dog in the proper enclosure or fails to have the dog under proper physical restraint when the dog is outside the enclosure or dwelling of the owner shall be guilty of a misdemeanor of the third degree. In addition, a] A State dog warden or a police officer shall immediately confiscate a dangerous dog upon the occurrence of any [of these violations] violation of the provisions of section 505-A(a) of the act (3 P.S. 459-505-A(a)). The dangerous dog shall be impounded, until the final outcome of any court proceedings. The reasonable costs of transportation, care and feeding of the impounded dog shall be paid by the owner of the dangerous dog. Abandonment shall be presumed if the owner of the dangerous dog fails to make timely

payment of the reasonable costs of transportation, care and feeding of the impounded dog after two written requests to do so have been served by personal service or registered or certified mail, return receipt requested upon the owner or a responsible person at the owner's last known address. Where a court of competent jurisdiction finds a person guilty of violating any of the provisions of 505-A(a) of the act, the owner of the dangerous dog shall be guilty of a misdemeanor of the third degree. Where the owner of the dangerous dog is found guilty of violating any of the provisions of section 505-A(a) of the act, the dangerous dog shall be forfeited to some entity other than the Department. In addition, the owner of the dangerous dog may at any time, by written request, forfeit the dangerous dog to some entity other than the Department or choose to have the dog humanely destroyed.

- (iv) Attacks by a dangerous dog. A State dog warden or a police officer shall immediately seize and impound a dangerous dog upon the occurrence of any violation of the provisions of section 505-A(b) of the act. Consistent with section 505-A(b) of the act, [when it is found] where a court of competent jurisdiction finds, that a dangerous dog, through the intentional, reckless or negligent conduct of the dog's owner, attacked a human or a domestic animal, or where the dog's owner provides a written admission of such conduct and specifically waives his due process rights, the

dog's owner shall be guilty of a misdemeanor of the second degree and the dangerous dog shall be immediately confiscated by a State dog warden or police officer, placed in quarantine for the proper length of time and thereafter humanely killed. The costs of quarantine and destruction shall be borne by the dog's owner.

- (v) *Attacks by a dangerous dog causing severe injury or death.* A State dog warden or a police officer shall immediately seize and impound a dangerous dog upon the occurrence of any violation of the provisions of section 505-A(c) of the act. Consistent with section 505-A(c) of the act, [when it is found] where a court of competent jurisdiction finds, that a dangerous dog, through the intentional, reckless or negligent conduct of the dog's owner, aggressively attacked and caused severe injury to or death of a human, or where the dog's owner provides a written admission of such conduct and waives his due process rights, the dog's owner shall be guilty of a misdemeanor of the first degree. The dangerous dog shall be immediately confiscated by a State dog warden or a police officer, placed in quarantine for the proper length of time and thereafter humanely killed. The costs of quarantine and destruction shall be borne by the dog's owner.

- (3) *Article VI penalty provisions.* Article VI of the act (3 P.S. §§ 459-601—459-603) contains provisions regarding injury to dogs and provides the following penalties:

- (i) *Poisoning of a dog.* Consistent with section 601(b) of the act (3 P.S. § 459-601(b)), a person convicted of placing poison or a harmful substance of any description in any place, on his own premises or elsewhere, where it may be easily found and eaten by a dog, shall be guilty of a summary offense.
- (ii) *Intentional poisoning of a dog.* Consistent with section 601(b.1) of the act, a person convicted of placing poison or a harmful substance of any description in any place, on his own premises or elsewhere, with the intent that the poison or substance be eaten by a dog, shall be guilty of a misdemeanor of the second degree and shall be sentenced to pay a fine of not less than \$1,000 nor more than \$2,000 or imprisonment for not more than 2 years, or both. A subsequent conviction under this subsection shall constitute a felony of the third degree.
- (iii) *Abandonment of a dog.* Consistent with section 601(c) of the act, a person convicted of abandoning or attempting to abandon a dog within this Commonwealth shall pay a fine of not less than \$300 dollars and not more than \$1,000, plus costs.
- (iv) *Taunting law enforcement dogs.* Consistent with section 602(a) of the act (3 P.S. § 459-602(a)), it is unlawful for a person to willfully and maliciously taunt, torment, tease, beat, kick or strike any dog, including a search and rescue or accelerant detection dog, used by any municipal, county or State police or sheriff's department or

agency, fire department or agency or handler under the supervision of the department or agency, in the performance of the functions or duties of the department or agency or to commit any of the stated acts in the course of interfering with a dog used by the department or agency or any member or supervised handler thereof in the performance of the functions or duties of the department or agency or the officer or member or supervised handler. A person convicted of violating any of the provisions of this subsection shall be guilty of a felony of the third degree.

- (v) *Torturing certain dogs.* Consistent with section 602(b) of the act, it is unlawful for a person to willfully and maliciously torture, mutilate, injure, disable, poison or kill any dog, including a search and rescue or accelerant detection dog used by any municipal, county or State police or sheriff's department or agency, fire department or agency or handler under the supervision of the department or agency, in the performance of the functions or duties of the department or agency or to commit any of the stated acts in the course of interfering with a dog used by the department or agency or any member or supervised handler thereof in the performance of the functions or duties of the department or agency or the officer or member or supervised handler. A person convicted of violating any of the provisions of this subsection shall be guilty of a felony of the third degree.

(vi) *Denial of facilities or service due to police dog use.* Consistent with section 602(c) of the act, it is unlawful for the proprietor, manager or employee of a theatre, hotel, motel, restaurant or other place of entertainment, amusement or accommodation to, either directly or indirectly, refuse, withhold from or deny, any of the accommodations, advantages, facilities or privileges of those places to a person due to the use of a working police dog used by any State or county or municipal police or sheriff's department or agency. A person convicted of violating any of the provisions of this subsection shall be guilty of a misdemeanor of the third degree.

(4) *Article VII penalty provisions.* Article VII of the act (3 P.S. §§ 459-701—459-706) contains provisions regarding dog caused damages. Section 704 of the act (3 P.S. § 459-704) provides that the owner or keeper of a dog found to be causing damages and which is the subject of an order from the Secretary shall have 10 days to comply with the order. Failure of the owner or keeper to comply with the order, upon summary conviction, shall result in a fine of not less than \$100 and not more than \$500.

(5) *Article IX penalty provisions.* Article IX of the act (3 P. S. §§ 459-901—459-907) contains general enforcement and penalty provisions and provides the following penalties:

(i) *Catch all criminal penalty provision.* Consistent with section 903 of the act (3 P.S. § 459-903), unless specifically provided for, a

person found to be in violation of any provision of Article II—
Article VIII of the act (3 P.S. §§ 459-201—459-802), or this
chapter shall be guilty of a summary offense for the first violation
and for a second and subsequent violation, of any provision, which
occurs within 1 year of sentencing for the first violation shall be
guilty of a misdemeanor of the third degree.

(ii) *Alteration of permanent identification.* Consistent with section 904
of the act (3 P.S. § 904), a person convicted of defacing or altering
any form of permanent identification of a dog shall be guilty of a
summary offense and upon conviction thereof shall be sentenced to
pay a fine of \$300 or to imprisonment for not less than 90 days, or
both.

(b) *Article IX-A penalty provisions.* Article IX-A of the act (3 P.S. §§ 459-
901-A—459-911-A) relates to the sterilization of dogs and cats. Failure to
comply with Article IX-A or the related regulations shall, consistent with
section 911-A of the act (3 P.S. § 459-911-A), constitute a summary
offense.

§ 21.5. [RESERVED].

§ 21.6. [RESERVED].

§ 21.7. [RESERVED].

§ 21.8. [RESERVED].

§ 21.9. [RESERVED].

§ 21.10. [RESERVED].

§ 21.11. [RESERVED].

§ 21.12. [RESERVED].

§ 21.13. Contact information.

The department may be contacted at the following locations:

The Department of Agriculture

Bureau of Dog Law Enforcement

2301 North Cameron Street, Room 102

Harrisburg, PA 17110-9408

Telephone Number: (717) 787-4833

§ 21.14. Kennel Licensure Provisions.

(a) General Provisions. The following constitute general requirements which shall be adhered to regarding licensure of kennels in the Commonwealth of Pennsylvania.

(1) Operation of a Kennel. Any person who keeps or operates a Class I, Class II, Class III, Class IV or Class V Kennel, Boarding Kennel Class I, Class II or Class III or a nonprofit kennel shall on or before January 1 of each year apply to the Department for a kennel license or kennel license renewal.

(2) License for each class and location. A separate and proper kennel license shall be required for each type of kennel and every location at which a kennel is kept or operated.

(3) Kennel license required. A kennel license shall be required for any establishment upon which a cumulative total of 26 or more dogs of any age in any one calendar year are kept, harbored, boarded, sheltered, sold, given away or in any way transferred. The Department, based upon the application, shall determine the appropriate licensure classification or classifications.

(i) Upon reaching the cumulative total of 26 or more dogs of any age in any one calendar year the establishment in question shall be required to apply for and obtain a kennel license. The establishment shall have kennel facilities that meet the regulatory requirements for all of the dogs currently on the premises or to be kept, harbored, boarded, sheltered, sold, given away or in any way transferred by the establishment, which ever number is larger.

(ii) An establishment that utilizes temporary homes and meets the threshold criteria of keeping, harboring, boarding, sheltering, selling, giving away or in any way transferring a cumulative total of 26 or more dogs of any age in any one calendar year shall obtain a kennel license, shall provide tags for the dogs in the temporary homes and shall maintain records meeting the criteria established at subsection 5 of this section. Such establishments shall be considered under the category established by subsection (5 (iii)(B)) of this chapter (relating to boarding kennel class I through boarding kennel class III and nonprofit kennel licensees). In addition, the records shall set forth the location of each temporary home at which establishment dogs are kept, harbored, boarded, sheltered, sold,

given away or in any way transferred, a description of each dog, a cumulative total of dogs housed at each temporary establishment, and the date each dog was transferred to the temporary home. 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.

(iii) A temporary home that keeps, harbors, boards, shelters, sells, gives away or in any way transfers a cumulative total of 26 or more dogs of any age in any one calendar year becomes a kennel and must meet the kennel licensure requirements of the Dog Law and this Chapter.

(iv) An establishment or temporary home that does not keep, harbor, board, shelter, sell, give away or in any way transfer a cumulative total of 26 or more dogs in any one calendar year, shall adhere to the individual licensure requirements set forth at sections 201-205 of the Dog Law (3 P.S. §§ 459-201-459-205) or each dog shall display the kennel tags of the licensed kennel for which the dogs are being kept as required in part (ii)

(4) Prohibition to operate. As set forth at section 207 of the Dog Law (3 P.S. § 459-207(a.1), it shall be unlawful to operate a kennel, as described under section 206 of the Dog Law (3 P.S. § 459-206) and further clarified and defined in this Chapter, without first obtaining a kennel license from the Department.

Failure to obtain a kennel license prior to operating any establishment that keeps,

harbors, boards, shelters, sells, gives away or in any way transfers a cumulative total of 26 or more dogs of any age in any one calendar year, may result in any or all of the following actions by the Secretary:

(i) The issuance of a citation for violation of the Dog Law as allowed under the Secretary's general enforcement powers set forth at sections 901 and 903 of the Dog Law (3 P.S. §§ 459-901(a) and 459-903).

(ii) The issuance of a Notice of Violation and time period to comply, or an order or both, as allowed under the Secretary's general enforcement powers set forth at section 901 of the Dog Law (3 P.S. § 459-901(a)), followed by such administrative action as may be appropriate or required under the powers set forth at section 211 of the Dog Law (3 P.S. § 459-211).

(iii) Filing of a suit in equity in the Commonwealth Court to enjoin the operation of any kennel that violates any of the provisions of the Dog Law or this part. The Secretary may seek the imposition of a fine of not less than \$100 nor more than \$500 for every day the kennel has operated in violation of the act or regulations, as set forth at section 207 of the Dog Law (3 P.S. § 459-207(a)).

(5) Kennel records. Every kennel shall keep, for a period of at least two years, a record of each dog at any time kept in the kennel. Such records shall be legible and shall be open to inspection and may be copied by any employee of the Department, Sate dog warden or police officer as defined by the Act. The records shall include the following information:

(i) The breed, color, markings, sex and age of each dog.

(ii) The date on which each dog entered the kennel.

(iii) From where the dog came, which records shall provide the following information:

(A) For Kennel Class I through Kennel Class V licensed kennels all of the following information:

(1) The name of the kennel and kennel owner from which the dog or dogs were acquired.

(2) The address of the kennel.

(3) The Pennsylvania kennel license number or Out-of-State dealer license number of the kennel from which the dog came.

(4) Where applicable the name and address of the individual breeder of the dog.

(5) Where applicable the name and address of the owner or keeper of the dog

(B) For Boarding Kennel Class I through Boarding Kennel Class III licensed kennels and Nonprofit Kennel licensees any of the following which is applicable:

(1) The name and address of the owner or keeper of the dog.

(2) The name, address and Pennsylvania kennel license number or Out-of-State dealer license number of the licensed kennel from which the dog came.

(3) If a stray dog found running at large or rescued dog, the name and principle address of the organization, agency or person that last owned the dog and that of the organization, agency or person delivering the dog to the kennel.

(iv) To whom the dog belongs at the time of transfer.

(v) For what purpose each dog is kept in the kennel.

(vi) The date on which each dog leaves the kennel.

(vii) How and to whom it is dispersed which record shall provide the following information:

(A) Where the dog is dispersed to another kennel:

(1) The name of the kennel and kennel owner to whom the dog was dispersed.

(2) The address of the kennel to whom the dog was dispersed.

(3) The Pennsylvania kennel license number or Out-of-State dealer license number of the kennel to which the dog is dispersed.

(B) Where the dog is dispersed to a private individual,

person, organization, establishment, temporary home or other entity, the name and address of that private individual, person, organization, establishment, temporary home or other entity.

(C) Whether the dog is spayed or neutered and whether an agreement to spay or neuter the dog has been entered into.

(D) The date of the dog's last vaccination, deworming or any other medical treatment and the medication administered. Any previous history of diseases treated for and any past veterinary protocol of vaccinations or medication administered to the dog.

(viii) The name, address and telephone number of the licensed doctor of veterinary medicine used by the kennel.

(b) Prohibitions on dealing with unlicensed kennels. It shall be a violation of the Act and this Chapter for any kennel to keep, harbor, board, shelter, sell, give away or in any way accept, deal or transfer any dog from a kennel or establishment operating without a license in violation of sections 206, 207 or 209 of the Act (3 P.S. §§ 459-206, 459-207 and 459-209), without the express written permission of the Department. In addition, it shall be a violation of the Act and this Chapter for any kennel to keep, harbor, board, shelter, sell, give away or in any way accept, deal or transfer any dog from a kennel that has had its license suspended or revoked, without the express written permission of the Department.

(c) Health certificate requirement. Any dog entering the Commonwealth from another State, Commonwealth or country shall have a health certificate. Any person, licensed kennel, establishment or temporary home accepting a dog from another State,

Commonwealth or country shall assure a health certificate accompanies each dog and copy and record such health certificate which shall become part of their records. In accordance with section 214 of the Dog Law (3 P.S. § 459-214), it shall be unlawful to transport any dog into this Commonwealth, except dogs temporarily in the Commonwealth as defined at section 212 of the Dog Law (3 P.S. § 459-212), without a certificate of health prepared by a licensed doctor of veterinary medicine. The health certificate or a copy thereof shall accompany such dog while in the Commonwealth. The health certificate shall state all of the following:

(i) That the dog is at least seven weeks of age.

(ii) That the dog shows no signs or symptoms of infectious or communicable disease.

(iii) That the dog did not originate within an area under quarantine for rabies.

(iv) That after reasonable investigation, the dog has not been exposed to rabies within 100 days of importation.

(v) That the dog has been vaccinated for rabies in accordance with the act of December 15, 1986 (P.L. 1610, No 181)(3 P.S. § 455.1 *et seq.*), known as the Rabies Prevention and Control in Domestic Animals and Wildlife Act. The health certificate shall show the vaccine manufacturer, the date of administration of the rabies vaccine and the rabies tag number.

§ 21.15. Exemptions.

Dog control facilities authorized to receive grants under the provisions of section 1002 of the Dog Law (3 P.S. §459-1002(a)) shall be exempt from the following provisions of this

regulation:

(a) Section 21.22 (d) and (e) related to quarantine and separation of puppies and adult dogs received from another kennel facility or acquired from another person.

(b) Section 21.23 (b) with regard to doubling of the minimum amount of floor space. Such facilities shall not be required to double the quotient arrived at after calculating the minimum amount of floor space.

KENNELS-PRIMARY ENCLOSURES

§ 21.21. Dog quarters.

(a) Indoor and outdoor housing facilities for dogs shall be maintained in a manner to protect the dogs from injury, insure sanitary conditions set forth in this regulation and shall be maintained in a manner complying with all other conditions required by this chapter and to contain the dogs.

(b) The interior building surfaces of housing facilities shall be constructed and maintained so that they are water resistant and may be readily sanitized. Outdoor facilities shall be constructed in a manner to allow them to be readily sanitized, to assure the dogs have a mud free area and to assure there is no standing or pooled water.

(c) Adequate drains or gutters or both shall be provided to rapidly eliminate excess water from both indoor and outdoor housing facilities and other areas such as outdoor runs and exercise areas.

(d) Entryways and exits shall be maintained so that, when the gate or enclosure is opened, the dog will have unfettered clearance out of the enclosure.

(e) Where the primary enclosures are stacked or set side by side, a tray, wall, partition or other device approved by the Department which does not allow for feces and urine to pass between primary enclosures or soil the primary enclosure of another dog, shall be placed under or between, or both, the primary enclosures. The tray, wall, partition or approved device shall be impermeable to water, removable and able to be easily sanitized.

§ 21.22. Housing.

(a) Dogs that display ferocious or aggressive behavior shall be kept [inaccessible to other dogs]in such a manner as to be unable to come in physical contact with other dogs.

(b) Dogs under quarantine shall be maintained separately from susceptible species of animals and humans according to conditions described in the quarantine notice.

[(c) Adult dogs shall be segregated by sex except for health, welfare or breeding reasons.]

[[d] c) Dogs that are not acclimated to the outdoor temperatures prevalent in the area or region where they are maintained, breeds of dogs that cannot tolerate the prevalent outdoor temperatures without stress or discomfort (such as short-haired breeds in cold climates), and sick, infirm, aged or young dogs may not be kept in outdoor facilities [unless that practice is specifically approved by the attending veterinarian].

(d) Puppies not born in the receiving kennel facility or establishment, that are brought into a kennel from another kennel facility or acquired from another person shall be quarantined from other dogs and puppies in the receiving kennel facility for a minimum period of 14 days or for such time period necessary to allow for treatment of

any disease, prevent the spread of parasites or new strains of bacteria or viruses and to allow the puppies to acclimate to the new kennel environment, which ever is longer. Each group of puppies arriving from another kennel facility, person or establishment shall be quarantined together and kept separate from other groups of puppies arriving at the receiving kennel facility or establishment from a different kennel facility, person or establishment and shall be kept separate from the current kennel population of the receiving kennel facility or establishment.

(e) Adult dogs entering a kennel facility or establishment, that are brought into a kennel from another kennel facility or acquired from another person or individual, that exhibit signs of parasites or disease or that have no record of vaccinations, shall be quarantined until such time as adequate veterinary care has been provided to arrest the parasites or disease and until proper vaccinations can be given and become effective or all of the above where applicable. A release from the treating licensed veterinarian shall be adequate to allow such dog to enter the kennel population.

§ 21.23. Space.

(a) Primary enclosures shall be constructed and maintained to provide sufficient space to allow each dog to turn about freely and to stand erect, sit and lie down in a comfortable, normal position. The dog shall be able to lie in a lateral recumbence (on its side or back) with legs fully extended, without head, tail, legs, back or feet touching any side of the enclosure.

(b) Each dog housed in a primary enclosure shall be provided with [a] twice the minimum amount of floor space set forth below. [, which] The minimum amount of floor space shall be calculated according to the following procedure:

(1) Measure the length of the dog, in inches, from the tip of its nose to the base of its tail.

(2) Add 6 inches to that number.

(3) Square that sum.

(4) Divide that product by 144.

(5) That quotient equals the minimum required floor space for that dog, in square feet.

Example: A dog measures 24 inches from the tip of its nose to the base of its tail (Step 1). Adding 6 inches to that number (Step 2) gives a sum of 30 inches. Squaring that sum (Step 3) gives a product of 900 square inches. Dividing that product by 144 (Step 4) gives a quotient of 6.25. 6.25 square feet is the minimum amount of floor space which must be provided to that particular dog.

(c) Each bitch with nursing puppies shall be provided with an additional amount of floor space, based on her breed and behavioral characteristics, and in accordance with generally accepted husbandry practices as determined by the attending veterinarian. If the additional amount of floor space for each nursing puppy is less than 5% of the minimum requirement for the bitch, the housing shall be approved by the attending veterinarian.

(d) The interior height of a primary enclosure shall be at least 6 inches higher than the head of the tallest dog in the primary enclosure when it is in normal standing position.

[(e) Subsections (b) and (c) do not apply if all of the following conditions are met:

- (1) The dog is located in a kennel that is licensed under the act solely as a pet shop-kennel Class I, II, III or IV.
- (2) The dog is being offered for sale on a retail basis, or has been sold and is awaiting physical transfer to its new owner.
- (3) The dog is maintained in a primary enclosure that keeps the dog on display to patrons of the pet shop-kennel during its normal business hours.
- (4) The primary enclosure meets one of the following conditions:
 - (i) Affords each dog sheltered therein at least 5 square feet for a dog weighing 25 pounds or less, 8 square feet for a dog weighing more than 25 pounds but not more than 45 pounds, and 12 square feet for a dog weighing more than 45 pounds.
 - (ii) Has been approved by the attending veterinarian, in advance and in writing, as being of adequate size to protect the health and well-being of the particular dog or dogs sheltered therein.]

(e) 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.

(ii) An exercise area shall meet the following criteria:

(A) Space per dog – Shall be consistent with subsection 24b.3 of this chapter (related to outdoor kennels)

(B) Fencing – Shall 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) Protection from the weather – The exercise area shall 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 such exercise.

(D) Type of materials utilized for floor – The same provisions set forth in subsection 24b.6 (related to outdoor kennels) of this chapter shall apply.

(E) Sanitation and maintenance – The same sanitation requirements set forth in subsections 24b.8 and 24b.9 (related to outdoor kennels) and the applicable provisions of subsection 29 of this chapter shall apply.

(iii) Dogs put in an exercise area shall be segregated in the following manner:

(A) Small dogs (35 pounds and less) shall be exercised together and may not be put in the same exercise area with medium or large dogs.

(B) Medium sized dogs (36 pounds but less than 60 pounds) shall be exercised together and may not be put in the same exercise area with small or large dogs.

(C) Large sized dogs (61 pounds but less than 90 pounds) shall be exercised together and may not be put in the same exercise area with small or medium dogs.

(D) Giant sized dogs (91 pounds and greater) shall be exercised together and may not be put in the same exercise area with small, medium or large dogs.

(E) Aggressive or anti-social dogs shall be exercised alone.

(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.

(G) Nursing bitches may be exercised separately with their puppies.

(iv) The Department may exempt a dog from exercise for a period of time, if a licensed veterinarian has determined the dog has an injury or other physical condition that would cause exercise to endanger the health, safety or welfare of the dog. Such determination shall be in writing, shall be for a time period limited to the amount of time medically necessary to recover from the injury or illness, state the specific medical condition and reason for such exemption and shall list the time period for the exemption.

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

(A) The breed, color, markings, sex, approximate weight and age of each dog or where 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 Pennsylvania.

§ 21.24. Shelter[s], housing facilities and primary enclosures.

(a) All [D]dogs shall be provided access to shelter which protects them against inclement weather and excessive temperatures (as set forth more specifically in section

25 of this chapter), preserves their body heat and keeps them dry. Housing facilities and primary enclosures for dogs shall be constructed so that they are structurally sound, must be kept in good repair at all times and must [to] provide for the health, safety, welfare and comfort of the animals.

(b) Outdoor housing facilities. Shelter shall be provided for dogs kept outdoors. Sufficient clean bedding material or other means of protection from the weather shall be provided. Dogs that are not acclimated to the temperatures prevalent in the area or region where they are being maintained, breeds of dogs that cannot tolerate the prevalent temperatures of the area without stress or discomfort (such as short-haired breeds in cold climate or cold climate breeds – such as huskies – in warm climates), and sick, infirmed, aged or young dogs, may not be kept in outdoor facilities. When a dog’s acclimation status is unknown, it may not be kept in an outdoor facility when the ambient temperature is less than 50 degrees Fahrenheit.

(b.1.) Dogs housed in outdoor facilities or outdoor primary enclosures shall be provided with one or more shelter structures that are accessible to each animal in each outdoor facility, and that are large enough to meet the space requirements of this chapter. In addition to the shelter structures at least one area of shade other than the dog box or primary enclosure itself shall be provided. The area of shade shall meet the following criteria:

(1.) Be constructed so as to be a permanent fixture. A tarp may not be considered a permanent fixture.

(2.) Be immediately outside the dog box or primary enclosure in order to assure the dog has a mud and water free area in which to stay dry before entering the dog box or primary enclosure.

(3.) Be constructed in such a manner as to allow for sufficient air movement to keep the dog comfortable in event of excessive heat and to provide all the dogs housed in that area protection from the direct rays of the sun.

(4.) Be as wide as the kennel run area and at least 4 feet in length or large enough to contain all the dogs in that kennel run area at the same time and provide them with a permanent area of shade and protection from inclement weather throughout the day, whichever is larger. It shall be large enough to allow each dog in the kennel run area to sit, stand and lie in a normal manner and to turn about freely. In addition it shall be large enough to allow all dogs in the kennel run area to avoid the elements – including direct sunshine and inclement weather.

(b.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 shall 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 shall be situated in such a manor as to assure drainage away from the primary enclosure and away from any adjacent primary enclosure and run associated with that primary enclosure.

(b.3.) The run associated with each dog box or primary enclosure of an outdoor facility shall be at least 5 times the length of the largest dog in that run and 2 times as wide as the length of the largest dog in that run , as measured from the tip of its nose to

the base of its tail, and allow each dog convenient access to the primary enclosure or dog box, permanent shade area and food [or] and water containers.

(b.4.) The dog box or primary enclosure for a dog housed in an outdoor facility shall have dry and clean bedding at all times in order to assure the dog can maintain its body heat and in order to provide sanitary conditions for the dog.

(b.5.) Where a dog is housed in an outdoor facility, the primary enclosure or dog box itself shall be raised off the ground to prevent moisture, constructed and situated in such a manner as to provide a draft free area (a dog door is recommended) and insure the dog can stay dry and maintain its body heat.

(b.6.) The primary enclosure or dog box shall contain a roof, four sides and a floor and must meet all of the following requirements:

(1) Provide the dogs with adequate protection and shelter from the cold and heat.

(2) Provide the dogs with protection from the direct rays of the sun and the direct effect of wind, rain or snow.

(3) Provide for a wind break and rain break at the entrance.

(4) Contain clean and dry bedding material at all times and additional clean and dry bedding shall be required when the temperature is 35 degrees Fahrenheit or lower.

(b.7.) Building surfaces in contact with dogs in outdoor housing facilities, including indoor or primary enclosure floor areas, outdoor floor areas when the floor area is not exposed to the direct sun, or are made of a hard material such as wire, wood, metal or concrete and all walls, boxes, houses, dens and other surfaces in contact with the dog

shall be impervious to moisture. Surfaces of outdoor housing facilities - including houses, primary enclosures, dens and shelters – that cannot be readily cleaned and sanitized, must be replaced when worn or soiled. Wood surfaces shall be painted with a non-toxic paint and in a light color so that it does not absorb heat.

(b.8.) Outdoor runs and exercise areas may be constructed of concrete, gravel or stone. If gravel or stone is utilized, it shall be constructed in layers so as to provide proper drainage and footing that will not cause injury to the dogs. The first layer of gravel or stone shall be a course layer of number 2, 3 or 4 crushed durable rock and the top layer of gravel or stone shall be a fine layer which shall fill in the courser layer of stone or gravel and result in an even surface. The first layer shall be of a thickness adequate to provide proper drainage (approximately 4-5 inches) and the top layer shall 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.

(b.9.) Outdoor facilities shall be fenced and shall be constructed in such a manner as to minimize or prevent vermin, animal, insect and pest infestation and other vectors of disease.

(b.10.) Outdoor facilities shall 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 shall be constructed in a manner 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 in a manner 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 the provisions of this chapter.

(b.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 in order to assure the health, safety and welfare of the dogs.

(c) If dogs are attached to [houses with] primary enclosures by means of a tether[s are used as primary enclosures for dogs kept outdoors,] the tether[s] used shall be placed or attached so that [they] the dog cannot become entangled with other objects or come into physical contact with other dogs in the housing facility, and to allow the dog to roam to the full range of the tether. The tether shall be of a type commonly used for the size dog involved and shall be attached to the dog by means of a well-fitted collar or body harness that will not cause trauma or injury to the dog. The tether shall be a minimum of 6 feet long or at least [three] 5 times the length of the dog as measured from the tip of its nose to the base of its tail, whichever is longer, and shall allow the dog convenient and unfettered access to the dog house, permanent shade area and food [or]

and water containers. Such facilities shall meet all of the requirements set forth in subsections (b), (b.1.), (b.2.), (b.4.), (b.5.), (b.6.), (b.7.) and (b.8.) of this section.

(d) A dog may be sheltered in a primary enclosure having metal strand flooring provided the following conditions are met:

- (1) The metal strand flooring is coated with a vinyl type coating.
- (2) The coated metal strand flooring shall be kept in good repair.
- (3) The coated metal strand flooring shall be made of mesh construction that does not allow the dog's feet to pass through any opening in the floor and does not otherwise cause injury to the dog.
- (4) The coated metal strand flooring shall be constructed of sufficient diameter (gauge) to provide a completely rigid floor area sufficient to support the weight of dogs housed in the enclosure so that the metal strand floor does not bend or sag from the weight of the dogs.
- (5) The dogs shall be provided with a draft free area that protects the dogs from inclement weather and is large enough to hold all the occupants of the primary enclosure at the same time comfortably.

(e) [Coated metal strand flooring shall be installed by June 29, 2001. Coated metal strand flooring shall be installed prior to the removal of a solid resting surface.] If a solid resting surface is provided, the solid resting surface shall be constructed of material that is impervious to water or moisture and shall be kept in a sanitary condition in accordance with § 21.29 (relating to sanitation).

(f) The following criteria apply to both indoor and outdoor facilities.

(1.) A dog may not be housed on a temporary or permanent basis in a drum or barrel dog house, regardless of the material of which the drum or barrel is constructed. Metal barrels, drums, cars, refrigerators, freezers or like materials may not be used as primary enclosures or shelter structures.

(2.) The interior surfaces of all primary enclosures must be free of rust, jagged edges and sharp points or any object which may cause harm or injury to the dog.

(3.) The floors and walls of indoor housing facilities, and any other surfaces in contact with the animals, shall be impervious to moisture. The ceilings of indoor housing facilities must be impervious to moisture or be replaceable (such as a suspended ceiling with replaceable panels).

(4.) Housing facilities and the systems installed therein and food and bedding storage areas must be constructed in a manner that minimizes vermin, insect and pest infestation and other vectors of disease.

(5.) Housing facilities and areas used to store food or bedding must be free of any accumulation of trash, waste, garbage or other discarded material.

(6.) The animal areas in housing facilities must be kept clean, neat and free of clutter, including trash, waste, garbage, equipment, furniture, and stored material. The area may contain materials actually used and necessary for cleaning the area and fixtures or equipment necessary for proper animal husbandry practices.

(7.) Animal waste including bodily fluids, food waste, soiled bedding, dead animals, garbage and water that is dirty and no longer potable must be

removed from all areas of the housing facility and disposed of on a daily basis in order to minimize or prevent contamination and disease risks to the dogs. Where water is removed, the operator must immediately provide new potable water to the dog.

(8.) Records shall be kept in accordance with the act and sections 14(a)(5) and 41 of this chapter and shall evidence, among the other provisions, the date and time of day the housing facility was:

i. Cleaned;

ii Sanitized;

iii. Each individual cage, dog box or primary enclosure was cleaned;

iv. Each food and water bowl was sanitized; and

v. The date and time new food and potable water was provided each dog.

(9.) The housing facility shall have and be equipped to provide potable water for [the] all the dogs' drinking needs and for all other animal husbandry requirements.

(10.) The housing facility shall have adequate heating, cooling, ventilation and lighting mechanisms, as set forth more specifically in sections 21.25, 21.26 and 21.27 of this chapter, and for carrying out all necessary animal husbandry requirements and to provide for the general health, safety and welfare of the dogs.

(11.) The housing facility including outdoor kennel housing shall be equipped with waste disposal and drainage systems that are constructed and

operated in a manner that allows for the rapid elimination of animal waste and water and insures the animals stay dry. The drainage system shall be properly constructed, installed and maintained.

(i) Where the kennel is an indoor kennel with no outside runs, a gutter and drain shall be provided for sluicing waste waters during kennel cleaning. Such kennels shall have adequate holding facilities to allow a dog to be outside its primary enclosure during the washing of that primary enclosure and until there has been adequate drying of the primary enclosure.

(ii) All floor or surface drains and gutters shall be at least 6-inches in diameter.

(iii) Where an indoor kennel has outside runs attached, drains or gutters shall be installed between the indoor and outdoor section of the kennel for sanitation and drainage purposes. Half round pipe shall be installed in these areas to permit the dog to walk through. The indoor kennel and the outdoor run shall be separated by a guillotine, swinging or sliding door or some other device or means approved by the department, to allow isolation of the dogs during cleaning operations.

(iv) Outdoor kennel runs shall be sloped to a gutter located immediately outside of the end fence of each run and shall meet the criteria established at sections 24(b.1-b.3 and b.6-b.9) of this chapter . Indoor kennels with outdoor runs shall also have indoor drains or gutters.

(v) All drains and gutters shall be sanitized at least once daily and shall be flushed immediately after cleaning with potable water to prevent sanitation problems.

(vi) Where a closed drainage system is used it shall be equipped with traps to prevent the backflow of gases and the backup of sewage into the housing facility. Drain traps shall be deep enough to prevent freezing of water in cold weather.

(vii) The floor or surface of the indoor or outdoor kennel shall be sloped, situated and constructed in a manner which assures the urine and feces are eliminated from the areas occupied by the dog or dogs housed in that enclosure and in a manner to assure the urine and feces do not wash into the area occupied by another dog. The kennel floor or surface shall be

sloped (at least 1/8-inch per foot) to the gutter or drain to allow for quick water drainage and drying.

(12.) Containers utilized to hold trash, medicine, chemicals, toxins or other substances within the housing facility and in any food storage or food preparation area must be leak proof and must have tightly fitting lids on them at all times, and be manufactured so as to not be accessible to or destructible by a dog.

(13.) Supplies of food and bedding shall be kept in a building or permanent structure which assures they are kept dry and prevents contamination and vectors of disease. Spoiled food or wet or moldy bedding shall be discarded and shall not be fed to the dogs or utilized.

(14.) Open supplies of food or bedding must be kept in leak proof containers with tightly fitting lids to prevent contamination, vermin infestation and spoilage.

(15.) Substances that are toxic to dogs, including those substances necessary for normal animal husbandry practices, may not be stored in food storage or preparation areas. Such substances may be stored in the animal areas only if they are contained in cabinets, containers or in some other secure manner, all of which are manufactured so as to not be accessible to or destructible by a dog and that prevents inadvertent or accidental contact with the dogs.

(16.) Washing facilities, which may include washrooms, basins, sinks or showers, shall be provided for animal caretakers, shall be readily accessible and, where dogs are housed in an indoor facility, shall be accessible in the housing

facility. Washing facilities shall be equipped with an adequate supply of potable water (both hot and cold), towels and soap or other disinfectant. Potable water is water which has been approved for human consumption. If water lines are not available, a water trailer and immersion heaters must be provided.

(17.) If another business is operated on the same premises as the establishment, that business shall be physically separated from the actual housing facilities for the dogs in a manner (such as a wall) that will not allow uncontrolled ingress or egress by the dogs or other animals.

(18.) Kennel facilities shall be cleaned and sanitized once every 24 hours in a manner consistent with the provisions of this chapter.

§ 21.25. Temperature control.

(a) The kennel temperature shall be maintained at a level to protect the health and comfort of the type of dogs housed.

(b) In outdoor and sheltered housing facilities a permanent area of [S]shade shall be provided, as set forth in subsection 24(b.1.) of this Chapter, to protect the dogs from the direct rays of the sun.

(c) Auxiliary temperature control and air movement from fans, blowers or air conditioners shall be provided when the ambient temperature is 85° F (29.5° C) or higher.

(d) Indoor kennels shall have a heating source sufficient to assure a slab temperature of not less than 35 degrees Fahrenheit and not more than 55 degrees Fahrenheit during heating season.

(e) Indoor kennels and the sheltered part of sheltered housing facilities shall be sufficiently heated and cooled to protect the dogs from temperature or humidity extremes and to provide for their health and well-being.

(1) Heating. The ambient temperature in the facility shall not fall below 50 degrees Fahrenheit for dogs not acclimated to lower temperatures, for those breeds that cannot tolerate lower temperatures without stress and discomfort (such as short haired breeds), and for sick, aged, young, or infirmed dogs.

(2) Cooling. The ambient temperature in the facility shall not rise above 85 degrees Fahrenheit.

§ 21.26. Ventilation in [indoor] housing facilities.

(a) Indoor and sheltered housing facilities. Indoor housing facilities and the sheltered part of sheltered housing facilities for dogs shall be sufficiently ventilated when dogs are present to minimize drafts, odors, ammonia levels and to prevent moisture condensation. Ventilation shall be provided by natural means such as [of] windows, doors, vents and building shell design or by mechanical means such as ventilators, air exchange fans, forced air reversible fans or air conditioners.

(1) Kennels shall be equipped and shall meet the minimum air flow required for control of moisture condensation under severe conditions, which is 0.8 to 1.0 cubic feet per minute per square foot of floor area.

(2) The ventilation system in the kennel building shall provide at least six air changes per hour.

(3) The kennel building shall include ground level ventilation to assure dry kennel run floors during cold weather.

(3) The ventilation system for latrines and support buildings shall be separate from the ventilation system for the kennel building. Kennel support buildings, such as supply buildings shall have a ventilation system that provides at least one air exchange per hour.

(4) The ventilation requirements may be achieved through design of the building shell and natural air flow or by means of auxiliary air movement systems. Where auxiliary air movement systems are required or utilized to achieve the required air exchanges, the kennel shall still have doors and windows which can be opened to allow air flow in the event of a system malfunction.

(b) Other requirements. In indoor, sheltered and outdoor facilities, [A]auxiliary ventilation and air movement from fans, blowers or air conditioners shall be provided when the ambient temperature is 85° F (29.5° C) or higher. The relative humidity shall be maintained at a level that ensures the health and well-being of the dog housed therein in accordance with generally accepted husbandry practices.

§ 21.27. Lighting [in indoor housing facilities] and electrical systems.

(a) Lighting. Lighting in the kennel building is required for safety and security. [Indoor] Kennel housing facilities [in kennels] shall have ample lighting by natural or artificial means. Lighting [in indoor housing facilities] shall be sufficient to allow observation of the physical condition of the dogs [so housed,] and to allow observation of the sanitary condition of the [indoor] housing facility.

(1) Dogs housed in [these] indoor and sheltered kennel facilities shall be provided a regular diurnal lighting cycle. The lighting shall be uniformly diffused throughout the animal facility. Primary enclosures shall be placed so as to protect

the dogs from excessive light. Lighting in the kennel building and area containing the primary enclosures shall be at least 10-foot candles. At least 20-foot candles of light shall be provided in all bathing, grooming and toilet areas and 70-foot candles of light shall be provided in support buildings, including food preparation and storage areas.

(2) Lighting shall be available for dogs housed in outdoor kennel facilities. The lighting shall be sufficient to allow observation of the physical condition of the dogs even at night. Primary enclosures shall be placed so as to protect the dogs from excessive light and direct rays of the sun.

(b) Electrical systems. Receptacle circuits in areas to be washed down or subjected to spraying shall be provided with ground fault circuit interrupters. All electrical sockets (inside and out) [will] shall be the all-weather type with a spring cover.

§ 21.28. Food, water and bedding. Contagious diseases, including infectious canine hepatitis, leptospirosis and parvovirus are spread through the urine of dogs and rats and stools, vomit and urine of dogs, therefore in order to protect the health, safety and welfare of dogs housed in kennels, the cleaning and sanitation requirements set forth in this section shall be followed.

(a) Dogs kept in kennels shall be fed at least once each day unless otherwise directed by a veterinarian. The food shall be free from contamination, mold [or]and disease, and shall be of sufficient quantity and nutritive value to maintain the health of the dogs. Any wet, moldy, soiled or inedible food shall be disposed of promptly – meaning within two hours of feeding - and feeding bowls shall be cleaned with detergent and hot water at least daily and always prior to the next feeding. Water bowls shall be

cleaned with detergent and hot water on at least a daily basis or whenever urine, stools or vomit are present in the bowl, whichever is more frequent.

(b) [If potable water is not accessible to the dogs in their primary enclosures, potable fluids shall be offered to the dogs at least 6 hours daily] Potable water shall be available to the dogs at all times unless otherwise directed by a veterinarian. The water shall be free of stools, urine, vomit and other contaminants at all times. The water in dog bowls shall not be frozen. The Department may require that a kennel licensee have samples of the water that it provides to dogs analyzed to confirm potability, and may require a licensee to submit the results of the water analysis to the Department. The analysis shall be conducted at the licensee's expense. The Department may also sample and analyze the water.

(c) Food and water receptacles shall be accessible to dogs kept in the kennel and shall be located to avoid contamination by excreta. The receptacles shall be durable, meaning a dog cannot destroy or ingest parts of the receptacle, and shall be kept clean and sanitized in accordance with the provisions of this section. Self-feeders and waterers may be used but shall be sanitized [regularly] on a daily basis to prevent mold[ing], deterioration, contamination or caking of feed.

(d) [If] [b]Bedding [is] used in primary enclosures, [it] shall be kept clean and maintained in that manner on a daily basis. Bedding shall be free of stools, urine, vomit and other contaminants.

§ 21.29. Sanitation. Contagious diseases, including infectious canine hepatitis, leptospirosis and parvovirus are spread through the urine, stools and vomit of dogs and rats. Therefore, in order to protect the health, safety and welfare of dogs housed in

kennels, the cleaning and sanitation requirements set forth in this section shall be followed.

(a) Kennels, including the kennel building, areas in which dogs are housed, all interior surfaces, the primary enclosure of each dog, outdoor runs associated with both indoor and outdoor kennels, and drains and gutters shall be sanitized and disinfected daily (every 24 hours), using only those disinfecting products approved by a licensed veterinarian. All areas of the kennel, including the kennel building, areas in which dogs are housed, the primary enclosure of each dog, drains, gutters, runs and outdoor exercise areas shall be kept in a state of good repair and outdoor runs and exercise areas shall be free of weeds. All areas of the kennel shall be cleaned daily or as often as possible to assure they are free of any accumulation of debris, excreta or disease hazard.

[(b) Primary enclosures for dogs shall be sanitized a minimum of once daily, and as often as is necessary to prevent an accumulation of debris or excreta or a disease hazard. A dog may not be placed in a primary enclosure previously occupied unless the enclosure has been sanitized.]

(b) A dog may not be placed in a primary enclosure previously occupied unless the enclosure has been sanitized and disinfected. The primary enclosure and runs associated with that primary enclosure shall be sanitized and disinfected whenever an animal is removed from that primary enclosure and prior to being occupied by another animal. Exercise areas must be sanitized and all stools removed prior to the next group of dogs being exercised in that area.

(c) Dogs shall be removed from their enclosures while the enclosure is being sanitized and washed down.

[(a)](d) Excreta shall be removed from the primary enclosure, including any floor area or ground surface beneath the primary enclosure, on at least a daily basis. Stools are a common source of infection and shall be removed from the runs as often as necessary. Before washing down concrete runs, stools shall be removed with a shovel to prevent them from splashing into adjacent runs, on the walls of the kennel, or on the dog. The method of disposing of stools depends on local conditions and the type of sewage system present. If stools must be carried from the area in cans, the cans shall be cleaned and disinfected [after each use] on a daily basis.

(e) One of the causes of bacterial skin infections and bacterial ear infections in kennels is the high humidity in the kennels. For this reason when cleaning or sanitizing the kennels animals shall be removed from their primary enclosure and runs prior to cleaning or sanitizing the primary enclosure or run. The runs and floor areas associated with the primary enclosure shall be squeegee dried and the primary enclosure shall be dried prior to putting the animal back in the run or primary enclosure

[(c)](f) The buildings and grounds of kennels, as well as the primary enclosures, runs, fencing and food and water receptacles shall be maintained, kept clean and in good repair to protect the animal from injury and to facilitate practices required by this chapter. [Kennels shall have an effective program that controls ingress by insects, ectoparasites and avian and mammalian pests. Evidence of insects, ectoparasites and avian and mammalian pests or conditions that would allow or encourage infestation in a kennel are indicative of an ineffective program and unsanitary environmental sanitation in the kennel.]The entire kennel area shall be free of refuse and garbage that could attract rats, vermin, insects and other vectors of disease.

(g) Kennels shall have an effective program that controls ingress by insects, ectoparasites and avian and mammalian pests (such as fleas, ticks, mites and intestinal parasites). Evidence of insects, ectoparasites and avian and mammalian pests or conditions that would allow or encourage infestation in a kennel are indicative of an ineffective program and unsanitary environmental sanitation in the kennel. Mosquito control measures shall be used in ditches and swampy areas in the vicinity of the kennels. Disinfectants, pesticides and disinfectant procedures must be used only with the approval of the veterinarian.

§ 21.30 Condition of dog.

A[n] State dog warden or any other employee of the Department [may] entering or inspecting a kennel or entering onto the premises of a kennel or a person or individual dog owner or keeper for the purpose of enforcing the provisions of the Act, shall visually observe the physical condition of [a] each dog sheltered at [a]the kennel or on the premises of the person or individual. A dog sheltered at a kennel shall be free of infectious and contagious diseases, and shall be in general good health. If a dog exhibits signs of an infectious or contagious disease, parasites or appears to be in poor health, the kennel owner shall [have] provide the State dog warden or employee of the Department with proof of adequate veterinary care for the dog. A State dog warden or employee of the Department may order a veterinary check on any dog that exhibits signs of an infectious or contagious disease, parasites or the appearance of poor health. Where a veterinary check is ordered, the kennel owner, person or individual who is the owner or keeper of the dog shall provide the Department, within 72 hours of such order, with proof

that the veterinary check has been carried out and with documentation concerning the veterinary recommendation or protocol for treatment of the dog.

KENNELS—RECORDS

§ 21.41. General requirements.

(a) Complete records shall be kept on dogs within a kennel or being transported in a primary conveyance as prescribed by section 207 of the act (3 P. S. § 459-207), and the records shall be kept at the kennel location or, when applicable, shall accompany dogs being transported.

(b) Kennels shall maintain records as required by section 207 of the act and subsection 14(a)(5) of this Chapter. Records shall be maintained on forms issued or approved by the Department.

(c) Records shall be provided to the Department and to State dog wardens upon request.

(d) All records shall be subject to Title 18, section 4904 (related to unsworn falsification to authorities).

(e) In addition to the records required under section 207 of the Act, every keeper of a kennel shall keep a record of the following for each dog housed in the facility:

1. Date, time, and detail of daily feedings, cleaning of kennel, and changing and refreshing potable water.

2. Date, time and detail of exercise activity of the dog
3. Date, time and detail of any medication administered to a dog.
4. Any accident or incident where the dog is injured.
5. Date and time of any veterinary care administered.
6. Records of veterinary care for each dog.
7. Any veterinary ordered or voluntary protocol for vaccination, medication or other recommendation for medical treatment of the dogs.

§ 21.42. Bills of sale.

(a). Bills of sale required in section 210 of the act (3 P. S. § 459-210) shall accompany dogs at the kennel location and when the dogs are being transported. It is the intent of this section that the bill of sale can be immediately produced when requested by an employee of the Department or police officer as defined by the act. Bills of sale shall contain the following information:

- (1) Previous owner of the dog.
- (2) Address of previous owner of the dog.
- (3) Date of sale or transferal.
- (4) Name and address of the purchaser of the dog.

Description of the dog (sex, age, breed, and identifying marks).

(b). It shall be a violation of the Act and this chapter for a kennel owner, operator, or agent to purchase, accept, sell on behalf of, or transport a dog from a kennel required to be, but not licensed under the provisions of section 207 or 209 of the Act (3 P.S. §§ 459-207 and 459-209) without written permission from the Department.

* * *

LICENSURE

§ 21.51. Lifetime dog license issuance.

* * *

§ 21.54. Dog and kennel license issuance date.

All classes of individual dog licenses[and kennel licenses] shall be issued by the County Treasurer beginning December 1 for the following calendar year. All classes of kennel licenses shall be issued by the Department beginning January 1 of the calendar year for which the kennel license is valid.

§ 21.55. [RESERVED].

* * *

DOG[-] OR COYOTE CAUSED DAMAGES

§ 21.61. Conditions and limitations for payments.

(a) For the purposes of administering Article VII of the Act (3 P.S. §§ 459-701-[459-705] 459-706), no claim for dog[-] or coyote caused damages will be investigated, nor will an application for reimbursement be approved by the Department unless the claimant [reports] files a written, signed complaint with [the loss to an employee of] the Department within 5 business days of the [occurrence] discovery of the damage or loss. The complaint must contain all the information required by the section of the Act corresponding to the claim (3 P.S. §§ 459-701(b), 459-701.1(b) or 459.706(b)).

(b) No payment will be made for a loss under this chapter unless the injured[,] or killed livestock or poultry or game bird[s] raised in captivity was confined in a field or other enclosure adequate for confinement of such animal at the time of the attack, the

damage was not caused by a dog owned or harbored by the owner of the damaged animal and the owner of the offending dog is unknown. The damaged animal must be [are] available to be inspected and appraised by the Department or in the case of a reimbursement claim for rabies the claimant can provide to the Department a certificate from a licensed doctor of veterinary medicine and a report from any laboratory approved by the Department to the effect that the animal was affected with rabies.

(c) No payment will be made by the Department for claims for livestock, poultry or domestic game birds raised in captivity if the Department finds [the claimant was found negligent in not confining] the animal[s] injured or killed [or birds] was not confined within a proper enclosure.

[§ 21.62. Appointment of disinterested citizen.

(a) Under section 701 of the Act (3 P.S. § 459-701), if either the owner of the dog or owner of the livestock or poultry do not accept the determination of the appraiser, the owner may request the appointment of a disinterested, qualified citizen to determine the amount of damage sustained. The citizen shall be agreeable to the owner of the dog, if known, owner of the livestock or poultry, and the Department.

(b) A disinterested, qualified citizen shall be knowledgeable as to the value of the type of animal killed or injured.] Reserved

§ 21.63. Determination and appeal of damages.

(a) An investigation and a determination of damages, if any, shall be made by the State dog warden as set forth in the Act (3 P.S. §§ 459-701(d)(e), 459-701.1(d)(e) or 459-706(d)(e)).

(b) Where the State dog warden dismisses a complaint, the complainant may appeal such dismissal of the complaint directly to the Department. Such appeal must be filed with the Department within 30 days of the issuance of the determination to dismiss the complaint. The complainant and the Department shall proceed as set forth in the Act (3 P.S. §§ 459-701(g), 459-701.1(g) or 459-706(g)).

(c) A complainant may appeal the amount of a damage award determined by the State dog warden under the Act (3 P.S. §§ 459-701(e)(1)(ii), 459-701.1(e)(1)(ii) or 459-706(e)(1)(ii)). Such appeal must be filed with the Department within 30 days of the issuance of the determination. In such case the complainant and the Department shall proceed to arbitration as set forth in the Act (3 P.S. §§ 459-701(f), 459-701.1(f) or 459-706(f)).

(d) A complainant may appeal the amount of a damage award determined by an arbitrator. Such appeal must be filed with the Department within 30 days of the issuance of the determination. The complainant and the Department shall proceed as set forth in the Act (3 P.S. §§ 459-701(g), 459-701.1(g) or 459-706(g)).

§ 21.64. Certification of payment of claims.

No payment shall be made for any claim which has already been paid by the claimant's insurance carrier. Before payment will be made by the Department the

claimant must complete and sign a form prepared by the Department, certifying under 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities, that he has not received payment for damages from any other person.

§ 21.65. Killing of dogs causing damages.

As set forth at section 704 of the Act (3 P.S. § 459-704), where the identity of the owner of the dog causing the damages has been established, the Secretary may order the owner of such dog to have the dog immediately euthanized. The owner shall have ten days to comply with the order of the Secretary. Failure to comply with the order of the Secretary may result in the Secretary authorizing the humane disposition of such dog wherever found. In addition, where the owner or keeper fails to comply with the order of the Secretary, the owner or keeper of the dog, upon summary conviction, shall be sentenced to pay of fine of not less the \$100 and not more than \$500. It shall be unlawful and a violation of the Act and this chapter for the owner or keeper of such dog, after notification by the Secretary, to allow to leave or to remove the dog from the premises while the dog is alive, unless the owner removes the dog to a State dog warden, veterinarian or animal shelter for euthanasia purposes. The owner of such dog shall still be liable for damages caused by the dog. The owner of the dog causing damage may appeal the order of the Secretary directly to the Department. Such appeal shall be filed within 10 days of receipt of the Secretary's order.

§ 21.66. Unlicensed dogs and forfeiture of right to reimbursement.

As established by section 705 of the Act (3 P.S. § 459-705), a person who owns or harbors an unlicensed dog, required to be licensed by the Act, shall forfeit any right to

be reimbursed by the Department for any damages to his livestock, poultry or game birds caused by dogs or coyotes.

CHAPTER 23. FUNDING FOR LOCAL DOG CONTROL PROGRAMS

* * *

§ 23.1. Dog Law Restricted Account.

Under section 1001 of the act (3 P.S. § 459-1001), the account was established which consists of all moneys paid into the State Treasury under the act. Moneys are appropriated from the account to make payments to counties and incorporated humane society organizations for designated purposes. Moneys paid into the account may be expended for allowable administrative expenses, damage claims, payments to counties, payments from surplus funds, promotional and educational activities and training as set forth at section 1001(b) of the act (3 P.S. § 459-1001(b)).

§ 23.3. Application procedures.

To obtain funding from the account a county, except counties of the first class, and an incorporated humane organization except those in cities of the first class, second class and second class A, shall submit an application for funding in the form of a proposal. The application will be reviewed by the Secretary and the applicant will be notified of the approval or denial, or requested to amend the application. An applicant receiving funds shall execute a grant agreement form provided by the Department.

* * *

§ 23.6. Stray dogs.

A grant recipient shall accept and cooperate in the detention of a dog apprehended while running at large, either licensed or unlicensed, and lawfully dispose of unlicensed stray dogs apprehended and delivered to the agency by an enforcement officer. In addition, the recipient shall make certain that an unlicensed stray dog [6] 3 months of age or over is licensed before being released from [the shelter] a releasing agency to its owner. If the stray dog is adopted by a new owner, the appropriate license fee and application completed by the new owner shall be left with the agency releasing the dog. It is the agency's responsibility to forward the fee and application to the County Treasurer's office within 5 working days.

* * *

**CHAPTER 25. REIMBURSEMENT FOR HUMANE DISPOSITION
OF DOGS AND REIMBURSEMENT FOR LOSSES**

* * *

§ 25.1. General.

In accordance with the act, the Department will pay \$5 per dog, or whatever greater amount as determined by the Secretary, subject to the availability of funds, for services rendered by a legally constituted law enforcement agency or others as the secretary may designate, maintaining a compound for the humane disposition of stray, unlicensed dogs apprehended running at large or the adoption of such dogs. Where a stray dog is adopted by a new owner, the appropriate license fee and application completed by the new owner shall be left with the agency releasing the dog. It is the agency's responsibility to forward the fee and application to the County Treasurer's office. No other fee will be paid to the agency for the care, adoption or disposal of the

dogs. [The secretary will include in notices prepared under § 23.4 (relating to guidelines and conditions), the annual amount of reimbursement to be provided.]

§ 25.2. Dog Disposition Record.

[Form ADLEB-4, Dog Disposition Record attached hereto as Exhibit A and made a part of this section shall be completed by the enforcement officer depositing the dog and shall be held on file by the agency maintaining the compound.] The Department will develop a “Dog Disposition Form” to be used by all enforcement officers. The department will disseminate the form to all applicable enforcement officers and it can be obtained by contacting the Department at the address or website set forth at § 21.13 of this chapter. The form shall be completed by the enforcement officer depositing the dog and shall be held on file by the agency maintaining the shelter or kennel where the dog is deposited. The form shall include the date of the apprehension and deposit of the dog, the enforcement officer’s signature, title and jurisdiction, a certification of the information, a description of the dogs markings, breed, approximate age and sex and a section for the shelter to fill out delineating whether the dog was humanely put to death, reclaimed by its owner or adopted by a new owner. If the dog was adopted by a new owner the Shelter shall enter the name and address of the new owner and the license number of the dog on the form.

[DOG LAW ENFORCEMENT BUREAU

EXHIBIT A

Pennsylvania Department of Agriculture
BUREAU OF DOG LAW ENFORCEMENT
Dog Disposition Record
MUST BE KEPT ON FILE AT SHELTER

Date

On this day, I, the undersigned, do hereby certify that the stray dog described below was apprehended while running at large in _____
_____ county and was delivered to the _____
shelter.

Description of dog:

Color and markings

Breed

Approximate age

Sex

Signature of Enforcement Officer

Official Title

Jurisdiction

FOR SHELTER USE ONLY

Disposition of dog (check one):

_____ Humanely put to death.

_____ New owner, as follows:

Name

Post Office Address

License No.]

§ 25.3. Claims for fees.

[Form ADLEB-2, Affidavit in Claim for Fees for Holding and Disposing of Unlicensed Dogs attached hereto as Exhibit B and made a part of this section] The Department shall develop a reimbursement form to be completed by a legally constituted law enforcement agency or other as the secretary may designate, maintaining a compound for the humane disposition or adoption of stray, unlicensed dogs apprehended running at large, that accepts, holds and humanely disposes of or adopts out a stray or unlicensed dog apprehended running at large. The reimbursement form shall be in the form of an affidavit and will include the name and address of the agency or shelter holding and humanely disposing or adopting the dog, the county in which the agency or shelter is located, the date of acquisition and disposal or adoption of each dog a sworn statement and signature lines for the claimant and the official accepting the reimbursement form. Reimbursement forms shall be submitted quarterly to the nearest district office of the Department within 10 days following the last day of March, June, September, and December. [These offices are located as follows] The location of the district offices and the counties they serve can be found on the Department's website set forth at § 21.13 of this chapter and are listed below:

* * *

[DOG LAW ENFORCEMENT BUREAU

EXHIBIT B

PENNSYLVANIA DEPARTMENT OF AGRICULTURE
BUREAU OF DOG LAW ENFORCEMENT
AFFIDAVIT IN CLAIM FOR FEES FOR HOLDING
AND HUMANELY DISPOSING OF STRAY DOGS
UNDER THE PROVISIONS OF THE "DOG LAW OF 1965"

Commonwealth of Pennsylvania }

} SS:

County of _____ }

Before me, the undersigned, a

_____ (Official Title)

in and for said County, personally
appeared _____,

(Name of Claimant)

a _____
whose post office ad-

dress is

(Include R.D. or Street No.)

who being duly sworn according to law doth depose and say that during the months of

_____, 19_____, he did hold and
humanely dispose of

_____ dog(s) in accordance with all provisions of
the Dog Law and

(Number)

desiring to secure the fees prescribed for such holding and humane disposing of, as
provided by regulations of the Pennsylvania Department of Agriculture, herewith
presents his claim: he further swears that the above were all stray dogs apprehended
running at large for which no other fee was paid for care or disposal of such dogs and that
records to substantiate this claim for fees are being maintained by him as prescribed by
Section 207 of the Dog Law.

Sworn to and subscribed before me, this

_____ day of _____, 19____

(Signature of Official)

(Signature of Claimant)

(Official Title)

My commission expires _____

Two (2) copies of this affidavit must be executed and forwarded to the DISTRICT OFFICE of the Pennsylvania Department of Agriculture wherein the claim originates. All affidavits must be submitted to the appropriate District Office by the tenth (10th) day of the month following the claim period specified above.]

§ 25.4. License of dogs before release.

A dog [6] 3 months of age or over not disposed of by being humanely put to death shall be licensed before being released from a shelter or a releasing agency.

* * *

CHAPTER 27. DANGEROUS DOGS

* * *

§ 27.5. Owner's application to register a dangerous dog.

(a) *Forms and fee.* An application to register a dangerous dog shall be made on a form furnished by and in a manner prescribed by the Department and shall be accompanied by the registration fee established in § 27.3(a) (relating to fees) and a copy

of the surety bond or a valid certificate of liability insurance in the amount of \$50,000 as required by the financial responsibility requirements established at section 503-A(a)(2) of the act (3 P.S. § 459-503-A(a)(2)) and § 27.7(b) of this chapter.

§ 27.6. Processing of an application.

(a) Upon receipt of an application to register a dangerous dog [and] the registration fee [in] required by §§ 27.3(a) (relating to fees) and 27.5(a) (relating to owner's application to register a dangerous dog) and a copy of the surety bond or valid certificate of insurance assuring compliance with the financial responsibility requirements of the act and this chapter, the Department will review the application for completeness and accuracy.

(b) The Department will issue the applicant a certification of registration within 30 days of the following:

(1) The receipt of a complete and accurate application, or receipt of additional information necessary to complete or correct a previously submitted application.

(2) The receipt of [a] the fee required by § 27.3(a) (relating to fees) and 27.5(a) (relating to owner's application to register a dangerous dog).

(3) The [applicant's] receipt of the required documentation and verification of compliance with § 27.7 (relating to general conditions of registration), including a copy of the surety bond or valid certificate of insurance assuring compliance with the financial responsibility requirements of the act and this chapter and verification from the insurer that such surety bond or liability coverage relates to the dangerous dog and contains a provision naming the Secretary as an additional insured.

§ 27.7. General conditions of registration.

(c) If the owner of a dangerous dog no longer complies with this section, the Department [may] shall revoke the registration of the dangerous dog and shall confiscate the dangerous dog as required under section 505-A of the act (3 P.S. § 459-505-A).

§ 27.14. Verification of compliance with financial responsibility requirements.

The Department will contact the insurer listed on the surety bond or policy of liability insurance to verify the surety bond or liability insurance policy covers personal injuries inflicted by the dangerous dog and names the secretary as an additional insured for the purpose of notification by the insurer of cancellation, termination or expiration of the surety bond or liability insurance policy as required by section 503-A(a)(2) of the act (3 P.S. § 459-503-A(a)(2)) and § 27.7(b) of this chapter. The Department will not issue a certificate of registration until such information is verified.

COMMONWEALTH OF PENNSYLVANIA



GOVERNOR'S OFFICE OF GENERAL COUNSEL
DEPARTMENT OF AGRICULTURE
2301 N. Cameron Street • Room 201
Harrisburg, Pennsylvania 17110-9408

OFFICE OF CHIEF COUNSEL

Tel: 717-787-8744
Fax: 717-787-1270

December 6, 2006

Independent Regulatory Review Commission
333 Market Street, 14TH Floor
Harrisburg, PA 17120

RE: NOTICE OF PROPOSED REGULATION
Department of Agriculture
Bureau of Dog Law Enforcement
7 Pa. Code §§ 21.1-27.13
Proposed Amendments to Chapters 21-27 Dog Law Regulation
I.D. No. 2-152

Dear Sir or Madam:

Please find enclosed a copy of the above-referenced notice of proposed rulemaking (Preamble and Annex "A"), together with a copy of the appropriate Regulatory Analysis Form. This material was delivered to the Legislative Reference Bureau on this date, and the notice of proposed rulemaking will be published in the **December 16, 2006** edition of the *Pennsylvania Bulletin*. The public comment period with respect to this notice of proposed rulemaking is for a period of 60-days and will close on **February 13, 2007**.

The enclosed material is submitted to you in accordance with the requirements of § 5(a) of the Regulatory Review Act (Act) (71 P.S. § 745.5(a)). In accordance with Section 5(f) of the Act (71 P.S. § 745.5(f)) the Department will submit the proposed regulations and the required material to the Chairpersons of the House Agriculture and Rural Affairs Committee and the Senate Agriculture and Rural Affairs Committee, no later than the second Monday after the date by which both Committees designations have been published in the *Pennsylvania Bulletin*. The Department will provide your office with a copy of the transmittal sheet which displays the delivery of the proposed regulation to the Committees.

The Department of Agriculture will provide you with any assistance you require to facilitate a thorough review of this proposed regulation.

Sincerely,

A handwritten signature in cursive script that reads "David C. Kennedy".

David C. Kennedy
Assistant Counsel

Enclosures

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

RECEIVED

I.D. NUMBER: 2-152 2006 DEC -6 AM 10:45
 SUBJECT: PROPOSED AMENDMENTS TO CHAPTERS 21-27
 DOG LAW REGULATIONS INDEPENDENT REGULATORY
REVIEW COMMISSION
 AGENCY: DEPARTMENT OF AGRICULTURE

TYPE OF REGULATION

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
_____	_____	HOUSE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
_____	_____	SENATE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
12-6-06	<i>A. Melvett</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL (for Final Omitted only)
12-6-06	<i>C. Lee-Brown</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)