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**From:** Helen Ebersole, President, United Against Puppy Mills  
**To:** Independent Regulatory Review Commission  
**Date:** Thursday, August 19, 2010  
**Subject:** Comments on Amendment to Final Form Rulemaking-(I.D. No. 2-170, IRRC No. 2785; Commercial Kennel Canine Health Regulation)

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**Thank you Mr. Chairman and Commissioners,**

**My name is Helen Ebersole and I'm here today on behalf of United Against Puppy Mills, Pennsylvania's largest *not-for profit advocacy group addressing kennel issues* --- the same group responsible for presenting the Rendell administration with 30,000 signatures from our members and residents requesting a revamping of the Dog Law in 2006.**

**Clearly no one here is entirely satisfied with the regulations drafted by the Bureau, however UAPM is not here to object to the entire package but, instead, to the two specific sections relating to flooring and exercise.**

**We believe that these specific provisions exceed the scope of the Dog Law and as such we respectfully request that the Commission disapprove the final form regulations and send it back to the Canine Health Board to be amended consistent with these comments.**

**The Dept. of Agriculture's comments on flooring for Class C kennels state "[t]his section of the final-form regulation approves solid flooring, which has been permissible for all types of kennels although not specifically addressed in law or regulation" but then acknowledges "[t]he Act itself imposes the flooring restrictions".**

**The Bureau continued: ...[A]bout half of the compliant commercial kennels now have whelping pens that have solid flooring and have flooring meeting the adult**

***standards of the Dog Law, that comprises at least 50% of the primary enclosure".***  
The 2008 Dog Law makes clear that Class C kennels cannot use "***metal strand whether or not it is coated***" for flooring and even slatted flooring can have spaces no more than 1/2 inch between them with slats must be at least 3.5 inches wide and "***running the length or the width of the floor, but not both.***"

The Canine Health Board in June, 2010, reiterated this when they unanimously rejected a proposal to allow Class C kennels to use wire manufactured "***hog flooring***". The Board also rejected use of plastic flooring that has "***paw-and-claw-grabbing***" holes. 3 P.S. Sec. 459-207(i)(3).

There is simply no authority to allow nursing dogs in Class C kennels to live in primary enclosures containing any percentage of wire flooring.

This proposed regulation is a direct violation of the Dog Law.

In an attempt to satisfy the provision of Sec. 459-207(i)(3) the proposed regulation presumes that up to one third of the cage would be largely occupied by a "whelping box" with solid flooring and that up to 50% of the total flooring of the primary enclosure itself would consist of solid flooring.

Unfortunately, there is no requirement in any PA statute or regulation that dogs in Class C kennels be provided with a whelping box – the place where pregnant dogs normally deliver and nurse their puppies.

We question why the Department or the Bureau would assume kennels to have whelping boxes without a requirement to do so and the idea that Class C kennels will provide whelping boxes is quite simply a convenient myth used to justify a regulation that violates the Dog Law's prohibition of wire flooring in the Class C kennels.

The legislature was well aware that there would be pregnant and nursing mothers in the Class C kennels as that is the purpose of these kennels – to

**produce puppies.**

**Furthermore, the legislature did not create any exception that would allow any part of the flooring in C Class kennels to be wire.**

**The indication that any portion of an enclosure housing a pregnant or nursing mother is but a concept completely engineered by the authors of these albeit well-meaning regulations and are in direct conflict with the law.**

**The rationale offered by the Bureau for this deviation is to facilitate cleanliness.**

**The law already provides for the option of slatted flooring and also requires the floor, whether solid or slatted, to allow drainage of fluids. Sec. 459-207(i)(3). There are also extensive requirements for regular daily – or more - cleaning.**

**The Bureau also overlooked the fact that mothers have instinctively cleaned up after their puppies as they have for millennia making sanitation concerns for the puppies an unfounded issue**

**It is not for the Department or the Bureau to rewrite any portion of this carefully considered Act that was two years in the making with input from all stakeholders.**

**Finally, there is no mention in the proposed regulations of unfettered access to exercise for nursing mothers in Class C kennels. Unfettered access to exercise is after all required under the Act.**

**UAPM has carefully considered all of these factors and has prepared alternative language to replace the following:**

**(e) Nursing mothers. Primary enclosures, including whelping boxes, housing bitches with nursing litters or housing dams or foster dams with puppies under 12 weeks of age shall be constructed so that at least fifty**

percent (50%) of the flooring of the primary enclosure shall comply with the standards established by section 207(T)(3) of the Dog Law 3 P.S. Sec. 459-207 (i)(3)

**In the interest of time, rather than reading our proposal, we would be happy to share a copy of this language for consideration by the Commission and the Canine Health Board.**

#### CONCLUSION

**We are very appreciative of Governor Rendell for his interest in helping the dogs and for the tireless effort of his staff. Now, at least 111 kennels in Pennsylvania far surpass what the majority of kennels across the nation have insofar as protections. However, the regulations pertaining to the flooring and exercise contradict the express language of the Act 119 of 2008, the Dog Law.**

**For these reasons we respectfully request that the Commission disapprove the proposed regulations until said language is amended consistent with these comments.**

**On behalf of United Against Puppy Mills, thank you for granting us this opportunity to present our position.**

**I would be happy to answer questions.**

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*Working Together to Break the Chain of Cruelty*

**PROPOSED LANGUAGE FOR CANINE HEALTH BOARD STANDARDS FOR COMMERCIAL KENNELS  
FLOORING IN PRIMARY ENCLOSURES OF CLASS C KENNELS FOR PREGNANT & NURSING MOTHERS**

(e) Nursing mothers. (1) Primary enclosures housing dogs with nursing litters or housing dams or foster dams with puppies regardless of age, shall each contain a whelping box with a solid floor and shall also be constructed so that the floor of the primary enclosure (a) is strong enough so that it does not sag or bend between the structural supports, (b) shall not be able to be destroyed through digging or chewing by the dogs housed in the primary enclosure, (c) shall not permit the feet of any dog housed in the primary enclosure to pass through any opening, (d) shall not be metal strand whether or not it is coated, (e) shall allow for moderate drainage of fluids, (f) shall not be sloped more than 0.25 inches per foot, and (g) if slatted, shall be flat with each slat level with the one next to it and no less than 3.5 inches in width, with spaces that are no more than 0.5 inch in width and which spaces between the slats run the length or the width of the floor, but not both. 3 P.S. Sec. 459-207(i)(3).

(2) Primary enclosures described in (e)(1) must be cleaned of excreta, feces, hair, dirt, debris and food waste at least daily or more often, if necessary, to prevent an accumulation of excreta, feces, hair, dirt, debris and food waste to prevent soiling of dogs contained in the primary enclosures and to reduce disease hazards, insects, pests and odors. 3 P.S. 459-207(h)(14)

(3) Primary enclosures described in (e)(1) must also be sanitized at least once every two weeks using one of the following methods and more often, if necessary to prevent an accumulation of excreta, feces, hair, dirt, debris, food waste and other disease hazards: (a) live steam under pressure, (b) washing with water with a temperature of at least 180 degrees F and soap or detergent, as with a mechanical cage washer, (c) washing all soiled surfaces with appropriate detergent solutions and disinfectant or by using a combination detergent or disinfection product that accomplishes the same purpose with a thorough cleaning of the surfaces to remove excreta, feces, hair, dirt, debris and food waste so as to remove all organic material and mineral buildup and to provide sanitization followed by a clean water rinse, or, (d) in the event none of the foregoing methods described in (e)(3)(a), (b) or (c) can be used to sanitize primary enclosures, primary enclosures must be made sanitary by removing the contaminated material as necessary to prevent odors, diseases, pests, insects and vermin infestation. 3 P.S. 459-207(h)(14)

(4) Primary enclosure described in (e)(1) shall have an entryway that will allow the nursing mother unfettered clearance out of the primary enclosure to an exercise area that is twice the size of the primary enclosure unless an alternative means of allowing clearance from a primary enclosure to the exercise area has been approved by the Canine Health Board or a veterinarian has documented in writing that it is inappropriate for the dog to exercise because of the dog's health, condition or well-being, and which determination shall be reviewed at least every 30 days by the veterinarian and updated as necessary. Records of determinations shall be maintained by the kennel. 3 P.S. Sec. 459-207(i)(4)-(6)