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INDEPENDENT REGULATORY  
REVIEW COMMISSION

Dear IRRC:

I am a member of the Governor's Dog Law Advisory Board and I am writing to support the proposed regulations. Others have argued that the Canine Health Board exceeded its statutory authority by requiring that the ventilation result in temperatures not exceeding 86 degrees. However, the statute states that the ambient temperature must not rise above 85 degrees F when dogs are present, unless the requirements of paragraph 7 are met.

Paragraph 7 gives the board the authority to provide that the housing facilities for dogs are "sufficiently ventilated at all times when dogs are present to provide for their health and well being" The dog's health and well being is jeopardized when the temperature exceeds 85F, due to the risk of heat stroke and death. The statute furthermore states "The Canine Health Board shall determine the auxiliary ventilation to be provided if the ambient air temperature is 85 degrees F or higher" They acted within their authority to specify the type of auxiliary ventilation as a form of mechanical ventilation capable of reducing air temperature not to exceed 86 degrees. This protects the well being of the dog, and is within their charge to select the form of auxiliary ventilation to be utilized. It follows from the statement "that the ambient temperatures may not rise above 85 F when dogs are present unless the requirements of paragraph (7) are met," that dogs may not be present if a form of mechanical ventilation capable of reducing air temperature to no more than 86F is not utilized as required by the regulation.

The board was charged with choosing the form of auxiliary ventilation to be used when the temperature exceeds 85 degrees. They chose a form of mechanical ventilation capable of reducing air temperature. They were well within their authority to do so. There are some forms of auxiliary ventilation that do not reduce air temperature (ceiling fans), and others that do (tunnel ventilation, HVAC). A performance standard of ventilation is temperature modification, and some forms of ventilation can achieve this while others do not. The board stated that the ventilation chosen must meet the temperature performance standard of 86F, by means of the ventilation system chosen.

The board was charged to protect the health and well being of the dogs in the heat, and was well within their authority to select a form of mechanical ventilation capable of reducing air temperature back down to the maximum temperature where dogs would not be at risk of heat stroke or death. This was their charge, and they successfully met it. Furthermore, while the temporary guidelines were written by the Canine Health Board, it

is worth noting that these standards are promulgated by the Department of Agriculture who certainly has the authority to set this requirement.

In addition, federal AWA standards do not allow dogs to be in temperatures in excess of 85 degrees for longer than 4 hours. As a matter of practicality, the board was right to not choose a 4 hour window where wardens would have to stay at one kennel for four hours. This is a practical impossibility that would render the law unenforceable. However, it is well known that the federal AWA standards are meant as minimum standards, and States are encouraged to set more stringent requirements. Dr. Lila Miller her book Shelter Medicine for Veterinarians and Staff states that “These [AWA] guidelines were not developed with shelters in mind and these extremes in temperature should be avoided” (Dr. Miller, 104). Rather she states that the correct range in temperature for housing dogs is 65-75F. “Environmental temperatures should be kept as constant as possible. Humidity levels should be comfortable, and the temperature in rooms housing healthy dogs and cats should be 65-75F” (Miller, 104). Temperature maximums are particularly important for brachycephalic dogs and arctic breeds who would be at particular risk of heat stroke even at temperatures less than 85F, but for all dogs 85 is a maximum value above which their health and well being is in jeopardy, the charge the board was given to protect.

In addition, the AVMA policy Companion Animal Care Guidelines ([http://www.avma.org/issues/policy/companion\\_animal\\_care.asp](http://www.avma.org/issues/policy/companion_animal_care.asp)) states “Generally for dogs and cats, the ambient temperature should be kept above 60 degrees Fahrenheit (15.5 degrees Celsius), and below 80 degrees Fahrenheit (26.6 degrees Celsius)...Ten to fifteen room air changes per hour are generally considered adequate ventilation for animal facilities. Room air should not be recirculated unless it has been properly treated. If recirculating systems or other energy-recovery devices are used, these systems must be adequately maintained.” If the regulations contemplate allowing recirculated air, these guidelines should be followed. The air must be filtered, and systems maintained. The PVMA has argued against aspects of this rulemaking, but the regulations are in line with the PVMA’s national organization (American Veterinary Medical Association’s) publicized guidelines referenced above.

Additionally, the list of illnesses referenced in the proposed regulation is an appropriate performance standard for ventilation because the dogs are subject to increase illnesses when ventilation is inadequate, and disease transmission and stress in dogs increases. Shelters with inadequate air changes experience higher levels of respiratory and other illness. Therefore, I support the use of this list of health complications in dogs to monitor the adequacy of the ventilation.

Furthermore, I support the solid flooring. Many dogs have come from breeding facilities having never set foot on solid ground. Some even have difficulty walking on solid ground. Non-solid surfaces for dogs are unnatural for dogs and risk injury to the feet. In addition, I support that the surface not be metal, as metal surfaces would heat and cool excessively. The rule should also contain a temperature requirement for the floor that it not be too hot or too cold. A floor temperature of 50-85 F should be set to match the

ambient air temperature, or more conservatively 65-75 F to protect the health and well being of the dogs. Tenderfoot flooring is a form of covered wire, and is prohibited in the statute. It is also not a flat surface and I have concerns about the long term effects of the dog's standing on this rounded surface. In addition the spaces in the tenderfoot flooring will allow some dog's feet to pass through the openings which is strictly prohibited by the statute. Therefore this flooring and other similar open flooring systems should not be considered adequate.

Finally, windows should be present and operable. PA building code requires that windows are 8% of the floor space, and is a reasonable level. Natural light is important to the dog's well being. The board was well within their authority to set natural light standards, since it is only the diurnal aspect that is either natural or artificial. This does not excluded that natural light is required and important for the well being of the dogs. The board was within their charge to specify lighting ranges to include a mixture of natural and artificial light to protect their well being. The statute states "Lighting must be uniformly diffused throughout housing facilities and provide sufficient illumination to aid in maintaining good housekeeping practices, adequate cleaning and observation of animals at any time and for the well-being of the animals." Since it was the charge of the Canine Health Board to set the appropriate lighting ranges they acted within their authority to require natural and artificial light as a means of protecting their well being. Again, it is important to note that while these standards are set by the Board they are promulgated by the Department of Agriculture which clearly has the needed authority to set these levels, were there any question of authority. Nevertheless, as previously stated, the board acted within their authority to protect the well being of the dogs.

It is important that the windows must be operable in case of a mechanical malfunction. Even a back up generator will not provide the certainty that operable windows provide for ventilation in an emergency.

The amount of shade should be to allow all the dogs to use it simultaneously. This was as written in the temporary guidelines, but weakened when the regulation was promulgated. In addition the provision that there be no open flames was stricken from the temporary guidelines when promulgated. This is an important provision in terms of the safety of the dogs that should be reinserted into the final regulation. The board also required that the dogs not having exercise outdoors (by reason of a waiver from the department) be provided with a view of the external environment, to provide for their well being. This was stricken prior to promulgation of the temporary guidelines, and should be added back into the final rule. I further believe that the dogs must be protected from excessive wind from the source of the fan. This should be added.

Furthermore the definitions section appears to be a new addition from the temporary guidelines to the proposed regulations, and should be reviewed.

Finally, some have argued that there a scientific basis does not exist for these standards, but the Canine Health Board consulted with numerous engineers, shelter medicine

specialists and agricultural experts. They provided an exhaustive list of references that speak to the scientific basis upon which these standards were developed.

Thank you for consideration of my comments.

Sincerely,

Marsha R. Perelman