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**From:** Brownfield, Jill [jbrownfiel@state.pa.us] on behalf of AG, CHBcomments [CHBComments@state.pa.us]  
**Sent:** Tuesday, October 27, 2009 4:55 PM  
**To:** dhain@pahouse.net; IRRRC; kebersole@pasen.gov; Kennedy, David C. (AG); Kerry Golden; MULLER, JENNIFER; Smith, Jessie L; Thall, Gregory (GC); wgevans@pasenate.com  
**Subject:** FW: Regulations Comments for Canine Health Board  
**Attachments:** Regulations\_Support\_102609.doc

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**From:** thomas\_g\_hickey@vanguard.com [mailto:thomas\_g\_hickey@vanguard.com]  
**Sent:** Tuesday, October 27, 2009 2:30 PM  
**To:** AG, CHBcomments  
**Cc:** thickey1@comcast.net  
**Subject:** Regulations Comments for Canine Health Board

2009 OCT 29 AM 9:44  
INDEPENDENT REGULATORY  
REVIEW COMMISSION  
RECEIVED

Attached are comments supporting the Canine Health Board's proposed regulations:

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October 26, 2009

Canine Health Board  
PA Department of Agriculture  
Bureau of Dog Law Enforcement  
2301 Cameron Street, Room 102  
Harrisburg, PA 17117

Re: Proposed Rulemaking – Canine Health Board

**Sent via email to: [jbrownfield@state.pa.us](mailto:jbrownfield@state.pa.us)**

To Whom It May Concern:

I am a member of the Governor's Dog Law Advisory Board as well as Chairman of DogPAC, an animal-advocacy and political action committee in Pennsylvania.

and I am writing to support the proposed regulations. Others have argued that the Canine Health Board (CHB) 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 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 CHB 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). 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 CHB, it is worth noting that these standards are promulgated by the Department of Agriculture who certainly has the authority to set this requirement.

Additionally, federal Animal Welfare Act (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 list of illnesses 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. I support the use of this list of health complications in dogs to monitor the adequacy of the ventilation.

Furthermore, I wholeheartedly support the solid flooring requirements. 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 board should consider 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 on which the dog's foot may rest, and will allow for the passage of some dogs feet through the openings. Therefore it is strictly prohibited by the statute.

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 dogs well-being. The board was well within their authority to set natural light standards, since the law only stipulates that that the diurnal aspect be either natural or artificial. The board was within their charge to specify lighting ranges to include 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.” Natural light is needed to

provide for the well being of the dogs. It was within the authority of the Canine Health Board to set the appropriate lighting ranges and also well within their authority to require natural and artificial light as a means of protecting the dog's well-being. It is important that the windows 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 requirement to provide shade from sunlight is also very appropriate when dog's are outside. In addition the provision that heating sources cannot have open flames needs to be added back into the regulations to protect dog's from fires. It is important to note that for many hours each day there are not people around to monitor the kennels and open flames are a potential disaster waiting to happen. This is an critical provision in terms of the safety of the dogs that should be reinserted into the proposed. 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.

Thank you for consideration of my comments.

Sincerely,

/tgh

Thomas G. Hickey, Sr.  
Member, PA Dog Law Advisory Board  
DogPAC Chairman

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