

RULES AND REGULATIONS

Title 7—AGRICULTURE

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 21]

General Provisions; Kennels; Licensure; Dog-Caused Damages

The Department of Agriculture (Department) amends Chapter 21 (relating to general provisions; kennels; licensure; dog-caused damages) as set forth in Annex A. These amendments are adopted under the authority of sections 206 and 902 of the Dog Law (act) (3 P. S. §§ 459-206 and 459-902) which, respectively, direct the Department to be the issuing agency for kennel licenses and delegate to the Department the power to adopt regulations necessary to implement the act.

Chapter 21 addresses the sanitation, housing, recordkeeping and other requirements attendant to kennel licensure. These amendments are intended to facilitate enforcement of the act by providing kennel licensees a clearer picture of what is expected of them. The amendments draw language from kennel regulations promulgated by the United States Department of Agriculture (USDA) at 9 CFR Chapter 1, Subchapter A, Part 3, which contain more specific language regarding housing and sanitation requirements for kennels.

Comments

Notice of proposed rulemaking was published at 24 Pa.B. 4205 (August 20, 1994), and provided for a 30-day public comment period.

Comments were received from four members of the Dog Law Advisory Board (Board), representing the Federated Humane Societies of Pennsylvania, the research community, the Pennsylvania Veterinary Medical Association and the Pennsylvania Federation of Dog Clubs, Inc. The Pennsylvania Legislative Animal Network (PLAN), the Erie Humane Society, the Society for the Prevention of Cruelty to Animals (SPCA), the Pet Industry Joint Advisory Council (PIJAC), two pet shop owners, three sporting dog groups, the Caernarvon Township Board of Supervisors (Lancaster County) and several other private individuals also offered comments. In addition, comments were received from the Independent Regulatory Review Commission (IRRC), the House Committee on Agriculture and Rural Affairs (House Committee) and three other Legislators.

The Pennsylvania Veterinary Medical Association, PLAN, the Pennsylvania Federation of Dog Clubs, the Federated Humane Societies of Pennsylvania, Senator Stewart J. Greenleaf, the SPCA and two other commentators offered general comments endorsing the proposed amendments.

In the course of its review of the proposed version of these amendments, the Office of Attorney General recommended that the term "attending veterinarian" be clearly defined at § 21.1 (relating to definitions). The Department inadvertently excluded this definition from the proposed amendments, but has included it in these final-form regulations.

After the Department submitted the proposed versions of these amendments to the Legislative Reference Bureau (LRB), the LRB made numerous editorial revisions to the text of the proposal before publishing it in the

Pennsylvania Bulletin. The revisions which the Department accepts are included in Annex A.

The House Committee noted that § 21.23 (relating to space) had been modified by deleting any reference to dog runs, and requested that the Department explain the space requirements that will be applicable to dog runs.

Section 21.23 sets forth the minimum space requirements for primary enclosures. By definition, at § 21.1, the term "primary enclosure" includes a "run." The space requirements for primary enclosures and runs, therefore, are identical. The Department deleted the reference to runs that had previously appeared at § 21.23(b) in order to clarify that the minimum space requirements in § 21.23 are applicable to all types of primary enclosures and that no particular type of primary enclosure is regarded differently than any other.

Section 21.23 had based the minimum space requirements for a primary enclosure upon the weight of the dog housed therein. That section has now been amended to base minimum space requirements upon the shape and size of the dog. The Pennsylvania Federation of Dog Clubs, Inc., offered its approval of this approach, noting that a 50 pound Basset Hound would not need as much space as a 50 pound Dalmatian.

The Erie Humane Society suggested that the section differentiate between short-term and long-term housing of dogs, and impose different minimum space requirements with respect to each. The Pennsylvania Federation of Dog Clubs, Inc., on the other hand, commented that dogs sheltered on a short-term basis require the same minimum space as dogs sheltered on a long-term basis.

In assessing the appropriate minimum space requirements for dogs, the Department does not believe it is necessary (or particularly enforceable) to differentiate between dogs that are sheltered on a short-term basis or a long-term basis. The basic minimum space necessary to protect a dog's health and well-being remains a constant.

Senator Roger A. Madigan, PIJAC and two pet shop owners offered comments against the space requirements in the proposal at § 21.23. In summary, these comments were based upon assertions that: 1) pet shop operators would be forced to incur substantial costs in rebuilding dog display cages and other primary enclosures to meet the new space requirements; 2) pet shop operators would have to display fewer dogs to the public and would lose business as a result; 3) the dogs housed in primary enclosures at pet shops are likely to be so housed for only short periods of time before sale; and 4) the space requirements set forth in the original proposal were adequate to protect the health of dogs housed at pet shops.

The SPCA and another commentator offered their support of the space requirements set forth in § 21.23 of the proposal.

The Department gave careful consideration to these comments, and concludes that an exception should be drawn to allow dogs which are kept on display and offered for sale to the public at licensed pet shop-kennels to be sheltered in primary enclosures that meet the minimum space requirements which preceded those set forth in this order. To this end, § 21.23(e) has been added.

In summary, subsection (e) is applicable only to dogs that are kept on display to the public and offered for sale

at licensed pet shop-kennels. A dog that is kept under these circumstances need not be kept in a primary enclosure that meets the minimum space requirements in § 21.23(b) and (c), as long as the primary enclosure either meets the minimum space requirements in subsection (e)(4)(i) or has been approved by the attending veterinarian in accordance with subsection (e)(4)(ii).

A dog that is not kept on display to the public, but is located at a licensed pet shop-kennel, is not subject to the exception in subsection (e).

The Department believes that proposed § 21.23 would have had an unreasonable adverse economic impact upon the pet shop industry. This is particularly so in light of the fact that pet shops have a built-in interest in making sure that dogs that are displayed for sale to the public are kept in primary enclosures that afford them adequate space. A pet shop risks a loss of business if potential customers believe that dogs that are displayed for sale to the public are not afforded adequate space to ensure their health and well-being. For these reasons, the Department agrees that the addition of § 21.23(e) is a reasonable accommodation of the pet shop industry's concerns.

IRRC recommended that the Department meet with PIJAC to find common ground which adequately addresses both the concerns of PIJAC and the goals of the proposed amendments' proponents.

Although the Department declines to implement this recommendation, it does so with the belief that the addition of subsection (e) has addressed PIJAC's primary concern by allowing the owner of a licensed pet shop-kennel to house dogs that are displayed for sale to the public in primary enclosures that meet the same minimum space requirements as were imposed upon them prior to this regulatory amendment, or that have been approved by the pet shop-kennel's attending veterinarian. In addition, a new representative of dog dealers has been appointed to the Board. That representative, who has been a pet shop owner for over 20 years, and the other members of the Board considered and approved this notice of final rulemaking at the Board's January 12, 1995, meeting.

PLAN suggested that § 21.24(a) (relating to shelters) be amended to add the requirements that housing facilities for dogs be constructed so as to preserve the body heat of any dog sheltered within. This language is also found in the Cruelty to Animals provisions of the Crimes Code, at 18 Pa.C.S. § 5511 (relating to cruelty to animals). Both Senator Greenleaf and IRRC supported PLAN's suggestion, although IRRC also recommended that the Department review the USDA kennel regulations at 9 CFR 3.2—3.4 (relating to indoor housing facilities, sheltered housing facilities and outdoor housing facilities, respectively) to determine whether these final-form regulations fully address the need to protect dogs from temperature extremes.

The Department accepts PLAN's suggestion, and has amended § 21.24(a) accordingly. The Department also reviewed the USDA kennel regulations in accordance with IRRC's recommendation and has determined that no greater depth of detail is necessary in order to protect dogs from temperature extremes. These final-form regulations incorporate the language from the USDA kennel regulations which the Department believes will enhance the clarity and enforceability of these amendments and protect the health and well-being of dogs sheltered at licensed kennels without establishing regulatory standards that fail to allow for reasonable variations based

upon the size, construction, location and other unique circumstances of an individual kennel.

Proposed § 21.24(c) would have required a licensed kennel that keeps dogs tethered outdoors and sheltered in dog houses to erect a fence at least 6 feet high around the dogs. In the Preamble which was published with the proposal, the Department stated that it would reevaluate this fencing requirement during the regulatory promulgation process, and that it may yet elect to delete this fencing requirement from the final version of the regulation.

The Department has, in fact, elected to delete this fencing requirement from § 21.24(c) of these final-form regulations.

The House Committee, Representative Sheila Miller and three representatives of hunting dog organizations offered comments in opposition to the proposed fencing requirement. IRRC, the Pennsylvania Veterinary Medical Association and three members of the Board offered comments in support of the proposed fencing requirement. At the January 12, 1995, meeting of the Board, though, the three members who had originally supported the proposed fencing requirement voted their endorsement of these final-form regulations.

The expense of erecting the required 6 foot fence was the primary objection to this proposed requirement. Commentators also noted that hunting dogs are the most common type of dog that would be affected by the proposed fencing requirement, and that it made questionable sense to protect kenneled hunting dogs from exposure to rabid animals or attacking animals when these dogs are exposed to the same dangers each time that they are released to pursue game animals in the wild. In addition, commentators observed that under the Rabies Prevention and Control in Domestic Animals and Wildlife Act (3 P. S. §§ 455.1—455.12) all dogs, including hunting dogs that are tethered outdoors at licensed kennels, are required to be vaccinated against rabies. It was also pointed out that, regardless of any vaccination requirement, dog owners have an economic interest in protecting their dogs from rabies and from attacks by other animals.

IRRC stated that it considers dogs that are involved in hunting foxes and raccoons to be a public health concern since they may become infected with rabies. The Department's Bureau of Animal Industry confirms that in the 3 most recent years for which annual rabies statistics have been compiled (1992, 1993 and 1994), there have been only two reported incidents of rabies in dogs. During those same 3 years, 51 rabid foxes and 536 rabid raccoons were reported. In both cases when rabid dogs were reported, the dogs were unlicensed strays. One was a pit bull and the other a mixed-breed. No statistical information is available to confirm whether the rabid dogs reported to the Department were wild dogs, dogs kept at licensed kennels or individually licensed dogs. Based on the statistical evidence available, the Department believes that Statewide rabies vaccination efforts have been effective with respect to dogs, and that there is no significant public health benefit that would be derived from the proposed fencing requirements.

On balance, the Department agrees that the fencing requirement in proposed § 21.24(c) should be deleted. That section has been amended accordingly.

Several comments were received with respect to rest boards, which are referenced at § 21.24(d). That subsection was originally applicable only to outdoor wire-floored primary enclosures. This order makes the subsection

applicable to indoor wire-floored primary enclosures, as well. In proposed form, this subsection would require wire-floored primary enclosures to either contain a rest board or have a solid floor covering at least 25% of the primary enclosure's total floor space.

One commentator expressed general opposition to allowing wire flooring in a primary enclosure. The commentator stated that dogs sheltered in wire-floored primary enclosures risk injury or disfigurement of their paws, and suggested that pet shops (which commonly use wire-floored primary enclosures) be prohibited from selling dogs. The Erie Humane Society recommended that the minimum percentage of solid floor space in a wire-floored primary enclosure that does not have a draft free place for resting off the wire floor be increased from 25% to 75%. IRRC suggested that the Department consider language from the USDA kennel regulation at 9 CFR 3.6(a)(2)(x), which requires that a primary enclosure contain a solid resting place large enough to comfortably hold its occupants.

The Department agrees that the language of proposed § 21.24(d) should be amended to adequately address the need for a solid resting surface. Since this subsection now addresses both indoor and outdoor wire-floored primary enclosures, and since indoor wire-floored primary enclosures are often smaller than their outdoor counterparts, a solid resting surface comprising 25% of an indoor wire-floored primary enclosure's floor space might meet the requirement of proposed subsection (d) without affording a dog adequate resting space.

For this reason the Department implemented IRRC's suggestion, and has revised subsection (d) of these final-form regulations to require solid resting surfaces that are large enough to hold the occupants of the wire-floored primary enclosure comfortably. This standard appears in the USDA kennel regulations at 9 CFR 3.6(a)(2)(x).

In further response to the comments received with respect to this subsection, the Department has added language to § 21.24(d) to require that flooring in a wire-floored primary enclosure be constructed so as to prevent the feet of a dog sheltered therein from passing through any opening in the floor. This new language, which was drafted with the assistance of the Board, should help prevent injury to dogs sheltered in these primary enclosures.

Proposed § 21.28 (relating to food, water and bedding) required that potable fluids be offered to kenneled dogs for at least two 1-hour periods each day. The Erie Humane Society offered the suggestion that this section be amended to require that water be made available to kenneled dogs at all times or at least 10 hours a day. The commentator offered two reasons in support of its suggestion: 1) it would be hard for the Department to prove that a kennel owner had not provided water for at least two 1-hour periods in a given day; and 2) if the two 1-hour periods were consecutive, a dog might go without water for 22-consecutive hours.

IRRC agreed with the Erie Humane Society's comment, and suggested that the Department borrow language from the USDA kennel regulations at 9 CFR 3.6(a)(2)(viii) and 3.10.

The Department accepts these comments to the extent that it has amended § 21.28(b) to require that potable fluids be offered to kenneled dogs for at least 6 hours each day, and to allow these 6 hours to be consecutive or staggered throughout the day.

The Department believes, though, that any standard that it sets with respect to the availability of potable fluids for kenneled dogs—be it the original standard, the proposed standard, the final-form standard or the USDA standard—will be difficult to enforce in that it might require 24-hour observation of a kennel in order to prosecute for a violation of that standard. The Department believes that there is merit to the Erie Humane Society's observation that the standard set forth in proposed § 21.28(b) might have resulted in a dog being deprived of water for too long a period (up to 22 hours); and bases its amendment of § 21.28(b) upon this observation. The Department notes that subsection (b) now imposes a stricter standard than does its counterpart in the USDA kennel regulations, at 9 CFR 3.10.

The Erie Humane Society suggested that § 21.32 (relating to food and water) be amended to require that dogs being transported be offered fresh water for 10 minutes at intervals of no greater than 3 hours, and that dogs under 6 months of age be offered fresh water for 10 minutes at intervals of no greater than 2 hours. The Department consulted with the Board on this subject. That Board agreed that § 21.32(b) should be amended to allow dogs in transport more frequent access to water, but felt that 6-hour and 4-hour intervals were adequate. Subsection (b) has been amended accordingly.

The Erie Humane Society also recommended that § 21.33 (relating to care in transit) be amended to require that dogs in transit be visually observed every 2 hours (rather than every 4 hours) in temperatures below 10° F or above 80° F.

The Department declines to implement this recommendation, in the belief that the current 4-hour observation interval is adequate.

The Erie Humane Society also suggested that § 21.51 (relating to lifetime dog license issuance) be amended to allow dogs with lifetime licenses to be identified by implanted microchips.

Although the Department believes that implanted microchips may one day be the means through which licensed dogs are commonly identified, section 201(b) of the act (3 P. S. § 459-201(b)) does not currently allow a dog with a lifetime license to be identified by any method of identification other than a tattoo. In addition, most, if not all, the enforcement authorities lack the equipment that would be necessary to read microchip implants in dogs. For these reasons, the Department declines to implement this suggestion.

Caernarvon Township, in Lancaster County, and IRRC requested that local zoning approval be made a prerequisite to the issuance of a kennel license by the Department.

The Department rejects this suggestion. The act does not provide a basis upon which the Department can refrain from issuing a kennel license once the conditions of licensure are met. A person seeking to operate a licensed kennel in this Commonwealth must obtain a kennel license and comply with local zoning. The Department views these as two distinct requirements, and is disinclined to entangle them.

In preparing these final-form regulations, the Department has come to the belief that it would be beneficial to all persons affected by these amendments if they were afforded a reasonable period within which to come into compliance. This order specifies that these final-form regulations will not become effective until 90 days after publication in the *Pennsylvania Bulletin* (April 12, 1996).

During that 90-day period, personnel from the Bureau of Dog Law Enforcement will endeavor to educate affected kennel licensees on their new responsibilities.

Fiscal Impact

Commonwealth

These amendments will impose no costs and have no fiscal impact upon the Commonwealth.

Political Subdivisions

These amendments will impose no costs and have no fiscal impact upon political subdivisions.

Private Sector

These amendments may impose additional costs upon the private sector. In particular, kennel license holders may incur costs in bringing their facilities into compliance with the sanitation, space and environmental requirements imposed by these amendments.

General Public

These amendments may impose some additional costs upon that portion of the general public which conducts business with licensed kennel operators. Costs incurred in bringing a kennel into compliance with these amendments may be passed along to its customers.

Paperwork Requirements

These amendments are not expected to result in an appreciable increase in paperwork.

Contact Person

Further information is available by contacting the Department of Agriculture, Attention: Richard Hess, Director, Bureau of Dog Law Enforcement, 2301 North Cameron Street, Harrisburg, PA 17110-9408.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 5, 1994, the Department submitted a copy of the notice of proposed rulemaking published at 24 Pa.B. 4205, to IRRC and to the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received, as well as other documentation.

In preparing these final-form regulations, the Department has considered the comments received from IRRC, the Committees and the public.

These final-form regulations were approved by the Committees on October 16, 1995, and were approved by IRRC on October 19, 1995, in accordance with section 5(c) of the Regulatory Review Act.

Findings

The Department finds that:

(1) Public notice of intention to amend the regulations encompassed by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and that the comments received were considered.

(3) The modifications that were made to these amendments in response to comments received do not enlarge that purpose of the proposed amendments published at 24 Pa.B. 4205.

(4) The adoption of the amendments in the manner provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department of Agriculture, 7 Pa. Code Chapter 21, are amended by amending §§ 21.1, 21.2, 21.4, 21.21—21.24, 21.26—21.29, 21.31, 21.32 and 21.41 and by adding § 21.30 to read as set forth in Annex A.

(b) The Secretary of Agriculture shall submit this order and Annex A to the Office of General Counsel and to the Office of Attorney General for approval as required by law.

(c) The Secretary of Agriculture shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect April 12, 1996.

CHARLES C. BROSIUS,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 25 Pa.B. 4741 (November 4, 1995).)

Fiscal Note: Fiscal Note 2-90 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 7. AGRICULTURE

PART II. DOG LAW ENFORCEMENT BUREAU 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).

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.

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

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 and destroy, to a practical minimum, agents injurious to the health of a dog.

Secretary—The Secretary of the Department.

§ 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).

§ 21.4. Penalties.

A person found in violation of any provision of this chapter shall be guilty of one of the following:

- (1) A summary offense for the first and second convictions under this chapter or the act within a 1-year period.
- (2) A misdemeanor of the third degree for a third or subsequent violation under this chapter or the act within 1 year of conviction for the first and second violations.

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 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.

(c) Adequate drains shall be provided to rapidly eliminate excess water from housing facilities.

§ 21.22. Housing.

(a) Dogs that display ferocious or aggressive behavior shall be kept inaccessible to 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) 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.

§ 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.

(b) Each dog housed in a primary enclosure shall be provided with a minimum amount of floor space, which 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.

§ 21.24. Shelters.

(a) Dogs shall be provided access to shelter which protects them against inclement weather, preserves their body heat and keeps them dry. Housing facilities for dogs shall be constructed to provide for the health and comfort of the animals.

(b) Shelter shall be provided for dogs kept outdoors. Sufficient clean bedding material or other means of protection from the weather shall be provided.

(c) If dog houses with tethers are used as primary enclosures for dogs kept outdoors, the tethers used shall be placed or attached so that they 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 that will not cause trauma or injury to the dog. The tether shall be at least three times the length of the dog as measured from the tip of its nose to the base of its tail and allow the dog convenient access to the dog house and food or water container.

(d) A dog may be sheltered in a primary enclosure having wire flooring if the wire flooring is kept in good repair, is of mesh or slatted 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. A dog being housed in a primary enclosure with wire flooring shall be provided with a draft free solid resting surface that, in the aggregate, is large enough to hold all the occupants of the primary enclosure at the same time comfortably.

(e) 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.

§ 21.26. Ventilation in indoor housing facilities.

Indoor housing facilities for dogs shall be sufficiently ventilated when dogs are present to minimize drafts, odors, ammonia levels and moisture condensation. Ventilation shall be provided by means of windows, doors, vents or air conditioners. Auxiliary ventilation 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.

Indoor 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. Dogs housed in these facilities shall be provided a regular diurnal lighting cycle.

§ 21.28. Food, water and bedding.

(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 or disease, and shall be of sufficient quantity and nutritive value to maintain the health of the dogs.

(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 unless otherwise directed by a veterinarian. 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 and shall be kept clean. Self-feeders and waterers may be used but shall be sanitized regularly to prevent molding, deterioration or caking of feed.

(d) If bedding is used in primary enclosures, it shall be kept clean.

§ 21.29. Sanitation.

(a) Excreta shall be removed from the primary enclosure, including any floor area or ground surface beneath the primary enclosure, on a daily basis.

(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.

(c) The buildings and grounds of kennels 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.

§ 21.30. Condition of dog.

An employe of the Department may visually observe the physical condition of a dog sheltered at a kennel. 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 poor health, the kennel owner shall have proof of adequate veterinary care for the dog.

KENNELS—PRIMARY CONVEYANCES

§ 21.31. General requirements.

(a) The animal cargo space of primary conveyances used in transporting dogs shall be constructed to ensure the health, safety and comfort of the dogs contained therein and shall be constructed and maintained in a manner to prevent the ingress of engine exhaust fumes and gases from the primary conveyance during the transportation.

(b) The animal cargo space of a primary conveyance shall be large enough to ensure that each dog contained in the primary enclosure has enough space to turn about normally while standing, to stand and sit erect, and to lie in a natural position.

(c) A dog may not be placed in an animal cargo space that does not have adequate ventilation for each dog contained therein, and the primary enclosures shall be positioned in a manner so each dog has access to sufficient air for normal breathing. Unless the primary enclosure is permanently affixed to the conveyance, there shall be ventilation openings on two opposing walls of the primary enclosure. These openings shall be at least 16% of the surface area of each wall, and the total combined surface area of the ventilation openings shall be at least 14% of the total combined surface area of the walls of the primary enclosure. At least 1/3 of the ventilation area shall be located on the upper half of the primary enclosure.

(d) Primary enclosures used to transport dogs shall have a solid bottom to prevent leakage in shipment and

shall be cleaned and sanitized in a manner prescribed in § 21.29 (relating to sanitation).

(e) Primary enclosures used to transport dogs shall contain clean, absorbent bedding material, which is safe and nontoxic.

(f) Puppies—dogs 7 weeks of age or under—shall be separated from adult dogs, other than their dams, when being transported.

(g) The number of dogs in a primary enclosure shall be limited to assure each dog sufficient space to turn about freely, to stand erect and to lie down in a natural position.

§ 21.32. Food and water.

(a) Dogs being transported shall be fed at least once in every 24-hour period. Dogs under 6 months of age shall be fed at least once every 12 hours.

(b) Dogs being transported shall be offered fresh water for at least 10-consecutive minutes at intervals of no more

than 6 hours. Dogs under 6 months of age shall be offered fresh water for at least 10 consecutive minutes at intervals of no more than 4 hours.

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. Records shall be maintained on forms issued or approved by the Department.

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