Committee Recommendations	Justification or Comparison to HB 1451	Proposed Action
Administrative Rules		
91.1. Authority.		***Adopt without change:*** These rules are adopted under the authority of the Texas Occupations Code, Chapter 51 and Chapter 802.
91.10. Definitions. Numbers 1-10 No Change. (14) **Positive Physical Contact**—Petting, stroking, or other touching which is beneficial to the well-being of the animal. Numbers 15- 17 No change. Number 18 (third party inspector) Delete. Number 19 No Change. (20) **Wire or Wire Mesh**--Any metal, alloy or other material which allows a free air flow through the material when used as, or constructed to be used, as flooring ~~or walls or ceilings~~ for any structure required by this chapter. The strands of metal, alloy or other material must be completely encased in thick bonded vinyl ~~with a plastic or rubberized~~ coating ~~and~~ designed so the animal's paws are unable to extend through, or become caught in~~,~~ the openings ~~floor~~.	***Minor modification:*** The exclusive use of vinyl appears too restrictive precluding the use of other functionally equivalent material.	***Adopt with change:*** (20) **Wire or Wire Mesh**--Any metal, alloy or other material which allows a free air flow through the material when used as, or constructed to be used, as flooring ~~or walls or ceilings~~ for any structure required by this chapter. The strands of metal, alloy or other material must be completely encased in thick bonded vinyl, **plastic or rubberized** coating ~~and~~ designed so the animal's paws are unable to extend through, or become caught in~~,~~ the openings ~~floor~~.
91.20. Applicability.		***Adopt without change:*** (a) This chapter does not affect the applicability of any other law, rule, order, ordinance, or other legal requirement of the federal government, this state, or a political subdivision of this state. (b) This chapter does not prevent a municipality or county from prohibiting or further regulating by order or ordinance the possession, breeding, or selling of dogs or cats. (c) This chapter does not apply to an animal regulated under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).
91.21. License Required--Presumptions		***Adopt without change:*** For purposes of this chapter, each adult intact female animal possessed by a person engaged in the business of breeding animals for direct or indirect sale or for exchange in return for consideration is presumed to be used for breeding purposes unless the person establishes to the satisfaction of the department, based on the person's breeding records or other evidence reasonably acceptable to the department, that the animal is not used for breeding.

91.22. License Required--Dog or Cat Breeder.		***Adopt without change:*** (a) A person required to obtain a breeder's license under this chapter may not act as, offer to act as, or represent that the person is a licensed dog or cat breeder in this state unless the person holds a license under this chapter for each facility that the person owns or operates in this state. (b) A license for a single facility may cover more than one building on the same premises. (c) For purposes of this section, each noncontiguous premise or physical location is a separate facility and must obtain a license under this chapter, unless the noncontiguous premise or physical location is within 300 feet of each other.
91.23. License Requirements--Dog or Cat Breeder. To be eligible for a Dog or Cat Breeders license, an applicant must:Sections 1-4 No Change.Section (5) successfully pass a facility prelicense inspection conducted by a department approved inspector or if applicable provide the department with a copy of the appropriate ~~valid~~ Class A or Class B animal dealers license issued under the Animal Welfare Act (7 U.S.A. Section 2131 et seq.) together with a signed statement certifying that the facility meets the requirements of this chapter ~~number~~; and Section 6 No Change	***Minor modification:*** Conform to HB 1451 Occupations Code 802.102(e) The department may not require a prelicense inspection of a facility for an applicant who: (1) holds a current Class A animal dealers license issued under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.); and (2) submits to the department:	***Adopt with change:*** (5) successfully pass a facility prelicense inspection conducted by a department approved inspector or if applicable provide the department with a copy of the appropriate ~~valid~~ Class A ~~or Class B~~ animal dealers license issued under the Animal Welfare Act (7 U.S.A. Section 2131 et seq.) together with a signed statement certifying that the facility meets the requirements of this chapter ~~number~~;
91.24. License Requirements--Dog or Cat Breeders License Renewal.		***Adopt without change:*** (a) To renew a breeder license, an applicant must: (1) submit a completed application on a department approved form; (2) provide a valid state sales tax identification number ~~or exemption certificate number~~; (3) provide the name, and address of each controlling person; (4) successfully pass a criminal background check for each applicant or controlling person; (5) be in compliance with all Commission Orders directed to applicant or a controlling person; and (6) pay the fee required under <*>91.80. (b) To renew and maintain continuous licensure, the renewal requirements under this section must be completed prior to the expiration of the license. A late renewal--the licensee will have an unlicensed period from the expiration date of the expired license to the issuance date of the renewed license. During the unlicensed period,

		a person may not perform any functions of a breeder that requires a license under this chapter. (c) Non-receipt of a license renewal notice from the department does not exempt a person from any requirements of this chapter.
91.25. License Approval and Issuance.		***Adopt without change:*** (a) The department shall deny issuance of a license to, or refuse to renew the license of, a person if the person or a controlling person of the dog or cat breeder has pled guilty to, been convicted of, or received deferred adjudication for animal cruelty or neglect in this state or any other jurisdiction in the five years preceding the person's initial or renewal application for a license. (b) The department may deny issuance of a license to, refuse to renew the license held by a person who: (1) fails to meet the requirements of this chapter and rules adopted under this chapter; (2) has had a similar license issued by a federal, state, or local authority denied, revoked, or suspended; (3) has falsified any material information requested by the department; (4) has failed to meet a standard adopted by rule under this chapter; or (5) has failed to comply with any corrective action required under an inspection report in the time provided by the report.
91.27. License or Registration--Notice of Proposed Denial, Opportunity to Comply.		***Adopt without change:*** (a) If the department recommends denial of an application for a license or registration under this chapter, the department shall send written notice of the decision to the applicant at the address shown on the application by certified mail, return receipt requested. (b) The notice must state the reason for the department's decision. (c) The notice may state that the decision is temporary pending compliance by the applicant. If the decision is temporary and the applicant complies with this chapter not later than the 14th day after the date the applicant receives the notice, the department may approve the application.
91.28. Department Notifications to Licensee or Registrant.		***Adopt without change:*** Unless otherwise provided for by statute or this chapter,

		the department may send notice of department proposed actions and decisions through email sent to the last email address designated by the licensee or registrant.
91.29. License or Registration--Term.		***Adopt without change:*** A license or registration issued by the department is valid only for the named on the license or registration; applies only to the single facility, agency, department or person named on the license or registration; is nontransferable and is valid for 12 months from the date of issuance.
91.30. Exemptions.(a) This section applies only to an animal ~~dog~~ bred with the intent that it be used primarily for: (1) herding livestock, as defined by <*>1.003, Agriculture Code, or other agricultural uses; (2) hunting, including tracking, chasing, pointing, flushing, or retrieving game; or (3) competing in field trials, hunting tests, or similar organized performance events. (b) This chapter does not apply to a person to the extent the person breeds an animal ~~dog~~ described by subsection (a) for personal use. A person described by this subsection may conduct direct or indirect sales or exchanges in return for consideration of an animal ~~dog~~ described by subsection (a). (c) Notwithstanding subsection (b), a person described by subsection (b) may be subject to the requirements of this chapter based on the person's activities with respect to animals other than animals ~~dogs~~ that are bred and used as described by this section. (d) Animals ~~Dogs~~ described by subsection (a) may not be counted for purposes of determining the number of adult intact female animals possessed by a person as described by <*>91.10(8). (e) For purposes of this section an animal ~~dog~~ is presumed to count under <*>91.10(8) unless a person submits evidence acceptable to the department demonstrating the animal ~~dog~~ meets an exemption described in (a), including but not limited to: (1) evidence of agriculture activity or business operations using an animal ~~dog~~ described by this section. (2) entry registration forms or receipts issued by an entity sponsoring, conducting or organizing competitive events. (f) All evidence submitted under this section must uniquely and conclusively identify and relate to the specific animal ~~dog~~ or an animal ~~dog~~ for which an exemption is requested.	***Minor modification:*** Conform to HB 1451 ~~91.30. Exemptions~~ Sec. 802.005. EXEMPTION FOR CERTAIN PERSONS WHO BREED SPECIAL PURPOSE DOGS. (a) This section applies only to ~~an animal~~ a dog bred with the intent that it be used primarily for: (1) herding livestock, as defined by Section 1.003, Agriculture Code, or other agricultural uses; (2) hunting, including tracking, chasing, pointing, flushing, or retrieving game; or (3) competing in field trials, hunting tests, or similar organized performance events. (b) This chapter does not apply to a person to the extent the person breeds to ~~an animal~~ dogs described by Subsection (a) for personal use. A person described by this subsection may conduct direct or indirect sales or exchanges in return for consideration of ~~an animal~~ dogs described by Subsection (a). (c) Notwithstanding Subsection (b), a person described by Subsection (b) may be subject to the requirements of this chapter based on the person's activities with respect to animals other than ~~an animal~~ dogs that are bred and used as described by this section. (d) ~~Animal~~ Dogs described by Subsection (a) may not be counted for purposes of determining the number of adult intact female animals possessed by a person as described by Section 802.002(8).	***Adopt with change:*** **91.30. Exemptions.**(a) This section applies only to **a~~n~~ ~~animal~~ dog** bred with the intent that it be used primarily for: (1) herding livestock, as defined by <*>1.003, Agriculture Code, or other agricultural uses; (2) hunting, including tracking, chasing, pointing, flushing, or retrieving game; or (3) competing in field trials, hunting tests, or similar organized performance events. (b) This chapter does not apply to a person to the extent the person breeds **a~~n animal~~ dog** described by subsection (a) for personal use. A person described by this subsection may conduct direct or indirect sales or exchanges in return for consideration of **a~~n animal~~ dog** described by subsection (a). (c) Notwithstanding subsection (b), a person described by subsection (b) may be subject to the requirements of this chapter based on the person's activities with respect to animals other than **a~~n animal~~ dog** that are bred and used as described by this section. (d) **~~Animals~~ Dogs** described by subsection (a) may not be counted for purposes of determining the number of adult intact female animals possessed by a person as described by <*>91.10(8). ***Delete subsections (e) and (f) to clarify the exemptions are self executing.*** ~~**(e) For purposes of this section an animal dog is presumed to count under <*>91.10(8) unless a person submits evidence acceptable to the department demonstrating the animal dog meets an exemption described in (a), including but not limited to: (1) evidence of agriculture activity or business operations using an**~~

		~~animal dog described by this section. (2) entry registration forms or receipts issued by an entity sponsoring, conducting or organizing competitive events. (f) All evidence submitted under this section must uniquely and conclusively identify and relate to the specific animal dog or an animal dog for which an exemption is requested.~~
~~91.40. Inspector Registration Requirements~~		***Adopt without change:*** ~~(a) An applicant seeking an inspector registration must:~~ ~~(1) be a state agency, local law enforcement agency, fire department, or~~ ~~(2) be an employee of an agency or department identified in subsection (1);~~ ~~(3) submit a completed application on a department-approved form; and~~ ~~(4) pay the fee required under <*>91.80.~~ ~~(b) An applicant seeking an inspector registration under subsection (a)(1) must:~~ ~~(1) submit the names of persons who will perform inspections on behalf of the registrant; and~~ ~~(2) submit proof that each person named in subsection (b)(1) successfully completed training required by <*>91.60.~~ ~~(c) An applicant seeking an inspector registration under subsection (a)(2) must:~~ ~~(1) submit proof of current employment;~~ ~~(2) successfully complete training required by <*>91.60; and~~ ~~(3) successfully pass a criminal background check.~~
~~91.41. Inspector Registration Renewal Requirements~~		***Adopt without change:*** ~~(a) To renew an inspector registration, an applicant must:~~ ~~(1) be a state agency, local law enforcement agency, fire department, or~~ ~~(2) be an employee of an agency or department identified in paragraph (1);~~ ~~(3) submit a completed application on a department-approved form; and~~ ~~(4) pay the fee required under <*>91.80.~~ ~~(b) An applicant seeking renewal under subsection (a)(2) must:~~ ~~(1) submit proof of employment; and~~ ~~(2) successfully pass a criminal background check.~~

		~~(c) To renew and maintain continuous registration, the renewal requirements under this section must be completed prior to the expiration of the registration. A late renewal means the inspector will have an unregistered period from the expiration date of the expired registration to the issuance date of the renewed registration. During the unregistered period, a person may not perform the functions of an inspector under this chapter.~~ ~~(d) Non-receipt of a registration renewal notice from the department does not exempt a person from any requirements of this chapter~~
91.50. Inspections--Prelicense. (a) No Change. (b) The department may not issue a license to a breeder until the department receives a prelicense inspection report from the inspector in a format approved by the department certifying that the facility meets the requirements for a license. Subsections (c) and (d) No Change.	***Minor clarification***	***Adopt with change:*** (b) The department may not issue a license to a breeder until the department receives a prelicense inspection report from the inspector in a format approved by the department certifying that the facility meets the **prelicense inspection** requirements for a license.
91.51. Inspections--Prelicense Exemption. The department may not require a prelicense inspection of a facility for an applicant who: (1) holds a current Class A or Class B animal dealers license issued under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.); and (2) No Change.	***Minor modification:*** Conform to statute 802.102(e) The department may not require a prelicense inspection of a facility for an applicant who: (1) holds a current Class A animal dealers license issued under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.); and (2) submits to the department:	***Adopt with change:*** **91.51. Inspections--Prelicense Exemption.** The department may not require a prelicense inspection of a facility for an applicant who: (1) holds a current Class A ~~**or Class B**~~ animal dealers license issued under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.); and (2) ***No Change***
91.52. Inspections--Periodic.		***Adopt without change:*** (a) Each facility of a licensed breeder shall be inspected at least once in every 18-month period. (b) The inspection must be conducted during the facility's normal business hours, and the licensed breeder or a representative of the licensed breeder must be given a reasonable opportunity to be present during the inspection. (c) If necessary to adequately perform the inspection, the department or third-party inspector may determine it is appropriate to not provide advance notice to the licensed breeder or a representative of the licensed breeder before arriving at the facility. The licensed breeder or its representative shall, on request of an inspector, assist the inspector in performing the inspection.

		(d) An inspector may not enter or access any portion of a private residence of a licensed breeder except as necessary to access animals or other property relevant to the care of the animals. (e) The inspector may request that relevant documents or records be provided for inspection. (f) The inspector shall submit an inspection report to the department not later than the 10th day after the date of the inspection on a form prescribed by the department and provide a copy of the report to the licensed breeder or its representative. (g) Based on the results of the periodic inspection, a licensed facility may be moved to an out-of-cycle inspection provide for in <*>91.51. The department will notify the owner of the facility, in writing, if the facility becomes subject to out-of-cycle inspection and the scheduled frequency of inspections. (h) The licensee, manager, or representative must, upon request, make available to the inspector all records and other documents required by these rules. (i) On completion of the periodic inspection and ~~on a form approved by the department,~~ while ~~the inspector is~~ at the facility, the inspector shall leave ~~proof of inspection~~ with the licensee or representative of licensee a preliminary report on a form approved by the department listing the items ~~rule sections~~ not meeting the requirements of this chapter. The preliminary report ~~proof of inspection~~ required by this section is in addition to the completed report required by this chapter and does not affect the validity of the completed detailed report. (j) The inspection report will identify violations that must be corrected by the licensee. The report will also indicate the corrective actions required to address the violations. (k) The department may assess administrative penalties and/or administrative sanctions for violations disclosed during inspections under this chapter.
91.53. Out-of-Cycle Inspections. (a) – (c) No Change. (d) Facilities subject to out-of-cycle inspections may be scheduled for inspection based on the following risk criteria and inspection frequency: Tier | Criteria | Total Inspection Frequency	***Minor modification:*** Simply structure to reduce internal and external program costs Delete Tier 1	***Adopt with change:*** **91.53. Out-of-Cycle Inspections.** (a) – (c) No Change. (d) Facilities subject to out-of-cycle inspections may be scheduled for inspection based on the following risk criteria and inspection frequency: Tier | Criteria | Total Inspection

		(includes both periodic and out-of-cycle inspections)
Tier 1	Violation of the rules related to records required by this chapter.	At least once each year
Tier 2	A serious or repeated violation relating to sanitation violations or failure to timely remedy violations documented during periodic inspections, investigations or commission orders.	At least twice each year
Tier 3	Repeated or serious violations related to shelter, food, water, and medical treatment or examinations.	At least four times each year

Subsection (e) – (g) No Change.

(h) Facilities on a Tier 1 out-of-cycle inspection schedule that have one inspection with no violations, or Tier 2 out-of-cycle inspection schedule that have two inspections with no violations, or Tier 3 out-of-cycle inspection schedule that have three inspections with no violations may be moved to a less frequent out-of-cycle inspection schedule or returned to a periodic schedule of inspections. The department will notify the licensee, in writing, if there is a change in the facility's out-of-cycle schedule or if the facility is returned to a periodic inspection schedule.

		Frequency (includes both periodic and out-of-cycle inspections)
~~Tier 1~~	~~Serious Violation of the rules related to records required by this chapter.~~	~~At least once each year~~
Tier 1 ~~2~~	A serious or repeated violation relating to sanitation ~~violations~~ or failure to timely remedy violations documented during periodic inspections, investigations or commission orders.	~~At least t~~Twice each year
Tier 2 ~~3~~	Repeated or serious violations related to shelter, food, water, and medical treatment or examinations.	~~At least f~~Four times each year

Subsection (e) – (g) No Change.

(h) Facilities **on a** ~~**Tier 1 out-of-cycle inspection schedule that have one inspection with no violations, or**~~ Tier **1**~~**2**~~ out-of-cycle inspection schedule that have two inspections with no violations**, or Tier 2**~~**3**~~ **out-of-cycle inspection schedule that have three inspections with no violations** may be moved to a less frequent out-of-cycle inspection schedule or returned to a periodic schedule of inspections. The department will notify the licensee, in writing, if there is a change in the facility's out-of-cycle schedule or if the facility is returned to a periodic inspection schedule

91.54. Corrective Actions Following Periodic or Out-of-Cycle Inspections.		***Adopt without change:*** (a) When corrective actions to achieve compliance are required: (1) the department shall provide the licensee a list of required corrective actions; and (2) ~~within 15 calendar days after receiving the list of required corrective actions,~~ the licensee shall complete all corrective actions and provide written verification of the corrective actions to the department according to the following schedule;~~.~~ (A) violations affecting an animal's health shall be corrected immediately; or (B) after consultation with the licensee or licensee's representative, violations related to housing facilities must be corrected within a reasonable time as determined by the inspector based on a totality of the circumstances. (3) The department may grant an extension, consistent with established procedures, if satisfactory evidence is presented showing that the time period specified is inadequate to perform the necessary corrections. (b) The department may assess administrative penalties and/or administrative sanctions for violations or for failure to timely complete corrective actions or timely provide written verification of the completion of corrections to the department.
91.55. Responsibilities of the Department--Directory. (a) The department shall maintain a directory of licensed breeders registered under this chapter, including the licensee's business name, license number, and license expiration date.	***Minor modification:*** Conform to HB 1451 and provide the department with flexibility to balance the disclosure of sensitive and private information consistent with other regulatory programs.	***Adopt with change:*** **91.55. Responsibilities of the Department--Directory.** (a) The department shall maintain a directory of licensed breeders registered under this chapter. ~~**including the licensee's business name, license number, and license expiration date.**~~
91.56. Responsibilities of the Department--Disciplinary Database.		***Adopt without change:*** (a) The department shall maintain a database of dog or cat breeders who have been subject to disciplinary action or sanctions. (b) The department shall make the information maintained in the database available to the public.
91.57. Responsibilities of the Department--Consumer Interest Information.		***Adopt without change:*** (a) The department shall prepare information of consumer interest describing: (1) the functions performed by the department under this chapter; and

		(2) the rights of a consumer affected by this chapter. (b) The information must describe the procedure by which a consumer complaint is filed with and resolved by the department. (c) The department shall make the information available to the public.
91.58. Responsibilities of the Department--Donations, Disbursements and Reporting.		***Adopt without change:*** (a) The executive director shall develop procedures for the acceptance, conversion, and deposit of all donations offered by individuals, clubs, organizations, and all other sources. (b) Conversion of donations of real or personal property into United States currency shall be accomplished by the executive director or designee. (c) Donations received shall be deposited in a dedicated training and enforcement account in the general revenue fund to the credit of general revenue subject to exemption from the application of <*>403.095, Government Code. (d) The executive director shall approve in writing all disbursements from the training and information account. (e) A disbursement under this subsection may include but is not limited to promotional costs to enhance the fund. (f) All donations may be used for these purposes unless otherwise specifically prohibited by the donor. (g) All disbursements from the accounts will be by check signed by the director. (h) The commission will be furnished a quarterly report detailing all deposits into and expenditures from the fund.
91.59. Responsibilities of the Department--Reporting Violations; Eligibility of Applicant.		***Adopt without change:*** (a) The department shall establish an online complaint reporting system for reporting violations of this chapter, including unlicensed activity by persons required to obtain a license under this chapter. (b) The online reporting system shall provide an option designed to protect from disclosure the identity of persons electing to provide information anonymously. (c) A person shall be eligible to receive a reward if information submitted online or in writing to the department leads to the issuance of a final order by the commission finding unlicensed activity under this chapter. (d) A person providing information under this section may be identified either by name, address and telephone

		number or may request an anonymous code number which shall be used in lieu of person's name in all subsequent transactions. (e) Information provided by a person under this section shall be independently verified and substantiated by department inspectors or investigators.
91.60. Responsibilities of the Department--Payment of Rewards.		***Adopt without change:*** (a) The amount of reward granted to eligible applicants may not exceed $1,000 and shall be determined on a case by case basis by the executive director. (b) In the event two or more eligible applicants furnish information pertaining to unlicensed activity, the reward may be divided among the eligible applicants in an amount determined by the executive director. (c) A reward under this section must be authorized by the executive director in writing stating the public purpose served by the payment. (d) A decision by the executive director to pay or otherwise allocate reward payments is within the sole discretion of the executive director and this chapter in no way provides an independent right to such payments, if any. (e) If the commission issues a final order finding unlicensed activity by a person named in the complaint submitted under this section, the department shall issue payment to the person or persons providing the information as soon thereafter as is practical.
~~**91.61. Responsibilities of the Department--Inspector Training.**~~		***Adopt without change:*** ~~The department shall prepare and schedule training for applicants for inspector registration and notify registered inspectors of the availability of continuing education to ensure compliance with this chapter and rules adopted under this chapter.~~
~~**91.62. Responsibilities of the Department--Inspector Identification.**~~		***Adopt without change:*** ~~The department shall issue photo identification to each inspector registered under <*>91.40 Of this chapter.~~
91.65. Advisory Committee.		***Adopt without change:*** (a) The commission shall establish an advisory committee to advise the commission and make recommendations on matters related to the administration and enforcement of this chapter, including licensing fees and standards. (b) The advisory committee consists of nine members appointed by the presiding officer of the commission with

		the approval of the commission as follows: (1) two members who are licensed breeders; (2) two members who are veterinarians; (3) two members who represent animal welfare organizations each of which has an office based in this state; (4) two members who represent the public; and (5) one member who is an animal control officer as defined in <*>829.001, Health and Safety Code. (c) Members of the advisory committee serve staggered four-year terms. The terms of four or five members expire on February 1 of each odd-numbered year. If a vacancy occurs during a member's term, the presiding officer of the commission, with the approval of the commission, shall appoint a replacement member to serve for the remainder of the unexpired term. (d) The presiding officer of the commission shall designate one member of the advisory committee to serve as presiding officer of the advisory committee for a two-year term. A member may serve more than one term as presiding officer. (e) The advisory committee shall meet annually and at the call of the presiding officer of the advisory committee, the presiding officer of the commission, or the executive director of the department. (f) Except for the members described by subsection (b)(1), a person may not be a member of the advisory committee if the person or a member of the person's household: (1) is required to be licensed under this chapter; (2) is an officer, employee, or paid consultant of an entity required to be licensed under this chapter; (3) owns or controls, either directly or indirectly, more than a 10 percent interest in an entity required to be licensed under this chapter; or (4) is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of an entity required to be licensed under this chapter. (g) The presiding officer of the commission may remove from the advisory committee a member who is ineligible for membership under subsection (f). (h) A member may not receive compensation for service on

		the advisory committee. Subject to the department's budget and any limitation provided by the General Appropriations Act, a committee member may receive reimbursement for the actual and necessary expenses incurred while performing advisory committee duties. (i) A decision of the advisory committee is effective only on a majority vote of the members present. (j) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee or to the appointment of the committee's presiding officer.
91.66. Responsibilities of Inspectors--Inspections, ~~Investigations, and Reports of Animal Cruelty~~.		***Adopt without change:*** (a) An inspector ~~or investigation~~ must conduct inspections during the facility's normal business hours, and the licensed breeder or a representative of the licensed breeder must be given a reasonable opportunity to be present during the inspection. (b) If an inspector determines it is not appropriate to provide advance notice to the licensed breeder or a representative of the licensed breeder before arriving at the facility, the inspection report must describe the reasons supporting the determination. (c) In conducting an inspection ~~or investigation~~ under this section, an inspector may not enter or access any portion of a private residence of a licensed breeder except as necessary to access animals or other property relevant to the care of the animals. ~~This subsection does not apply to the investigation of unlicensed activity.~~ (d) An inspector may request that relevant documents or records be provided for inspection. (e) Inspectors must submit inspection reports to the department not later than the 10th day after the date of the inspection on a form and manners prescribed by the department and provide a copy of the report to the licensed breeder or its representative. (f) An inspector may not perform an inspection authorized by <*>91.52 and <*>91.53 unless assigned or requested by the department. (g) Inspections must be conducted in accordance with: (1) the training procedures and protocols approved by the department; or (2) if good cause exist to deviate from the established procedures and protocols or if no procedure or protocol

		exist for the issues presented during the inspection ~~or investigation~~, the inspection report must contain a explanation of the issues presented and procedures followed.
91.67. Responsibilities of Inspectors--Investigations.		***Adopt without change:*** On receipt of a complaint alleging a violation of this chapter or a rule adopted under this chapter, the department shall investigate the alleged violation.
91.68. Responsibilities of Inspectors—Reports of Animal Cruelty.		***Adopt without change:*** A person conducting an inspection under or an investigation under this chapter shall notify the appropriate local law enforcement agency not later than 24 hours after discovering evidence of animal cruelty or neglect during the inspection or investigation.
91.71. Responsibilities of Licensee--Advertising.		***Adopt without change:*** (a) A licensed breeder may not engage in false, misleading, or deceptive advertising. (b) Each advertisement must conspicuously include the facility license number in font clearly distinguishable from the background. (c) For purposes of this section, a website and any offer to sell is considered advertising.
91.72. Responsibilities of Licensee--Display of Breeders License.		***Adopt without change:*** A licensed breeder shall prominently display at the breeder's facility, in an area readily accessible to the public, a copy of the department issued breeders license.
91.73. Responsibilities of Licensee--Onsite Availability of Law and Rules. A licensed breeder must maintain at each of the breeder's facilities a printed and current copy of Texas Occupations Code, Chapter 802 and rules adopted by the department regulating licensed breeders; or by electronic link in a manner prescribed by the department	***Clarification***	***Adopt with change:*** A licensed breeder must maintain at each of the breeder's facilities a printed and current copy of Texas Occupations Code, Chapter 802 and rules adopted by the **commission** ~~**department**~~ regulating licensed breeders; or ~~**by**~~ electronically ~~**link**~~ in a manner prescribed by the department
91.74. Responsibilities of Licensee--Mandatory Contract Provisions.		***Adopt without change:*** A licensed breeder must include in each contract for the sale or transfer of an animal: (1) the license number; and (2) the following statement: "Dog and cat breeders are regulated by the Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599, www.license.state.tx.us" or a similar statement adopted by commission rule that

		includes the department's name, mailing address, telephone numbers, and Internet website address.
91.75. Responsibilities of Licensee--Change in License Information.		***Adopt without change:*** A licensed breeder must notify the department in writing not later than the 10th day after the date any change occurs in the address, name, management, or controlling person of the business or operation.
91.76. Responsibilities of Licensee--Annual Inventory.		***Adopt without change:*** (a) Not later than February 1 of each year, a licensed breeder shall submit to the department, on a form prescribed by the department, an accounting of all animals held at the facility at any time during the preceding calendar year. (b) The licensed breeder shall keep copies of the items described by subsection (a) at the licensed breeder's facility and shall make them available on request to the department or a third-party inspector designated by the department. (c) A licensed breeder that has more than one facility shall: (1) keep separate records for each facility; and (2) submit a separate accounting of animals for each facility.
91.77. Responsibilities of Licensee--Animal Records Content, Availability and Retention Period.		***Adopt without change:*** (a) A licensed breeder shall maintain, at the licensed facility where the animal is kept, a separate record for each animal in the breeder's facility documenting the animal's care. (1) Records required by this section must be maintained for at least (2~~5~~) two ~~five~~ years and must include: (A) the date on which the animal dog enters the facility or operation; (B) the person from whom the animal dog was purchased or obtained, including the name, address and phone number of such person, and license or registration number if applicable; (C) a description of each animal, including the species, color, breed, sex, date of birth (if not known, the approximate age) and weight; (D) any tattoo, microchip, or other identification number carried by or appearing on the dog; (E) for breeding females: (i) breeding dates;

		(ii) whelping or queening dates; (iii) number of puppies or kittens per litter; and (iv) sire or tom for each litter. (F) ~~Records required by this section are in addition to records related to preventative and therapeutic veterinary care provided each dog.~~ The disposition of each dog with date of disposition. (b~~G~~) ~~The disposition of each dog with date of disposition~~. Records required by this section are in addition to records related to preventative and therapeutic veterinary care provided each dog. (c~~b~~) The licensed breeder shall make the animal records available on request to the department or a third-party inspector designated by the department. (d~~c~~) Records required by this chapter shall be kept at the licensed facility where the animal was last housed for two years from the date the last entry in the records or the date the animal is no longer housed at the facility, whichever is later. (e~~d~~) When an animal subject to this chapter is transferred from one licensed facility to another licensed facility, a copy of records related to that animal and required by this chapter must be transferred contemporaneously with the transferred animal.
91.78. Responsibilities of Licensee--Inspections.		***Adopt without change:*** The licensed breeder or its representative shall, on request of an inspector, assist the inspector in performing the inspection.
91.80. Fees. (a) Application Fees (1) Dog or Cat Breeder License (11-25 Intact Female Animals): (A) Prelicense Inspection Fee--$175.00 per facility. (B) Original Application--$475.00. (C) Renewal--$475.00. (D) Periodic and Out-of-Cycle Inspections--$175.00. (E) Duplicate License--$25.00. (2) Dog or Cat Breeder License (26-or more 60 Intact Female Animals): (A) Prelicense Inspection Fee --$350.00 per facility. (B) Original Application-- $ 950.00. (C) Renewal--$950.00. (D) Periodic and Out-of-Cycle Inspections--$350.00.	***Major modification consistent with the Advisory Committee recommendations:*** Fee reductions responsive to the concerns expressed by the Advisory Committee and repeated in public comments.	***Adopt with change:*** **91.80. Fees.** (a) Application Fees (1) Dog or Cat Breeder License (11-25 Intact Female Animals): ~~**(A) Prelicense Inspection Fee--$175.00 per facility.**~~ (A~~B~~) Original Application--$300.00 ~~475.00~~. (B~~C~~) Renewal--300.00 ~~475.00~~. **(C~~D~~) Periodic and Out-of-Cycle Inspections--$150.00.** ~~**(E) Duplicate License--$25.00.**~~ (2) Dog or Cat Breeder License (26-or more ~~60~~ Intact Female Animals): ~~**(A) Prelicense Inspection Fee--$350.00 per facility.**~~ (A~~B~~) Original Application-- $500.00 ~~950.00~~.

(E) Duplicate License--$25.00. (3) Dog or Cat Breeder License (61or more Intact Female Animals): (A) Prelicense Inspection Fee--$700.00 per facility. (B) Original Application--$1,900.00. (C) Renewal--$1,900.00. (D) Periodic and Out-of-Cycle Inspections--$700.00. (E) Duplicate License $25.00. (b) Revised/Duplicate License/Certificate/Permit/Registration--$25.00. (c) Late renewals fees for licenses under this chapter are provided under <*>60.83 of this title (relating to Late Renewal Fees). (d) All fees are nonrefundable except as provided for by commission rules or statute.		(B~~C~~) Renewal--$500.00 ~~950.00~~. ~~(D) Periodic and Out-of-Cycle Inspections--$350.00.~~ ~~(E) Duplicate License--$25.00.~~ ~~(3) Dog or Cat Breeder License (61or more Intact Female Animals):~~ ~~(A) Prelicense Inspection Fee--$700.00 per facility.~~ ~~(B) Original Application--$1,900.00.~~ ~~(C) Renewal--$1,900.00.~~ ~~(D) Periodic and Out-of-Cycle Inspections--$700.00.~~ ~~(E) Duplicate License $25.00.~~ (b) Revised/Duplicate License/Certificate/Permit/Registration--$25.00. (c) Late renewals fees for licenses under this chapter are provided under <*>60.83 of this title (relating to Late Renewal Fees). (d) All fees are nonrefundable except as provided for by commission rules or statute.
91.90. Administrative Sanctions and Penalties.		***Adopt without change:*** A person that violates Texas Occupations Code, Chapter 802, a rule, or an order of the executive director or commission will be subject to administrative sanctions and/or administrative penalties under Texas Occupations Code, Chapters 51 and 802 and applicable agency rules.
91.91. Enforcement Authority.		***Adopt without change:*** The enforcement authority granted under Texas Occupations Code, Chapters 51 and 802 and any associated rules may be used to enforce Texas Occupations Code, Chapter 802 and this chapter.
91.92. License Revocation and Suspension.		***Adopt without change:*** (a) The department shall revoke a license if, after the license is issued, the person or a controlling person of the dog or cat breeder pleads guilty to, is convicted of, or receives deferred adjudication for animal cruelty or neglect in this state or any other jurisdiction. (b) The department may or revoke or suspend a license held by a person who: (1) fails to meet the requirements of this chapter and rules adopted under this chapter; (2) has had a similar license issued by a federal, state, or local authority denied, revoked, or suspended; (3) has falsified any material information requested by the department;

		(4) has failed to meet a standard adopted by rule under this chapter; or (5) has failed to comply with any corrective action required under an inspection report in the time provided by the report.
Licensed Breeder Standards		
91.100. Standards of Care--Housing Generally.	**Committee Recommendations Compared to Federal Regulations**	***Adopt without change:*** (a) Structure; construction. Housing facilities for dogs and cats must be designed and constructed so that they are structurally sound. They must be kept in good repair, and they must protect the animals from injury, contain the animals securely, and restrict other animals from entering. (b) Condition and site. Housing facilities and areas used for storing animal food or bedding must be free of any accumulation of trash, waste material, junk, weeds, and other discarded materials. Animal areas inside of housing facilities must be kept neat and free of clutter, including equipment, furniture, and stored material, but may contain materials actually used and necessary for cleaning the area, and fixtures or equipment necessary for proper husbandry practices ~~and research needs~~. Housing facilities must be physically separated from any other business. If a housing facility is located on the same premises as another business, it must be physically separated from the other business so that animals the size of dogs, skunks, and raccoons are prevented from entering it. (c) Surfaces-- (1) General requirements. The surfaces of housing facilities--including houses, dens, and other furniture-type fixtures and objects within the facility--must be constructed in a manner and made of materials that allow them to be readily cleaned and sanitized, or removed or replaced when worn or soiled. Interior surfaces and any surfaces that come in contact with dogs or cats must: (A) Be free of excessive rust that prevents the required cleaning and sanitization, or that affects the structural strength of the surface; and (B) Be free of jagged edges or sharp points that might injure the animals. (2) Maintenance and replacement of surfaces. All surfaces must be maintained on a regular basis. Surfaces of housing

		facilities--including houses, dens, and other furniture-type fixtures and objects within the facility--that cannot be readily cleaned and sanitized, must be replaced when worn or soiled. (3) Cleaning. Hard surfaces with which the dogs or cats come in contact must be spot-cleaned daily and sanitized in accordance with <*>91.109(b) to prevent accumulation of excreta and reduce disease hazards. Floors made of dirt, absorbent bedding, sand, gravel, concrete, grass, or other similar material must be raked or spot-cleaned with sufficient frequency to ensure all animals the freedom to avoid contact with excreta. Contaminated material must be replaced whenever this raking and spot-cleaning is not sufficient to prevent or eliminate odors, insects, pests, or vermin infestation. All other surfaces of housing facilities must be cleaned and sanitized when necessary to satisfy generally accepted husbandry standards and practices. Sanitization may be done using any of the methods provided in <*> 91.109(b)(3) for primary enclosures. (d) Water and electric power. The housing facility must have reliable electric power adequate for heating, cooling, ventilation, and lighting, and for carrying out other husbandry requirements in accordance with the regulations in this chapter. The housing facility must provide adequate running potable water for the dogs' and cats' drinking needs, for cleaning, and for carrying out other husbandry requirements. (e) Storage. Supplies of food and bedding must be stored in a manner that protects the supplies from spoilage, contamination, and vermin infestation. The supplies must be stored off the floor and away from the walls, to allow cleaning underneath and around the supplies. Foods requiring refrigeration must be stored accordingly, and all food must be stored in a manner that prevents contamination and deterioration of its nutritive value. All open supplies of food and bedding must be kept in leakproof containers with tightly fitting lids to prevent contamination and spoilage. Only food and bedding that is currently being used may be kept in the animal areas. Substances that are toxic to the dogs or cats but are required for normal husbandry practices must not be stored in food storage and preparation areas, but may be

		stored in cabinets in the animal areas. (f) Drainage and waste disposal. Housing facility operators must provide for regular and frequent collection, removal, and disposal of animal and food wastes, bedding, debris, garbage, water, other fluids and wastes, and dead animals, in a manner that minimizes contamination and disease risks. Housing facilities must be equipped with disposal facilities and drainage systems that are constructed and operated so that animal waste and water are rapidly eliminated and animals stay dry. Disposal and drainage systems must minimize vermin and pest infestation, insects, odors, and disease hazards. All drains must be properly constructed, installed, and maintained. If closed drainage systems are used, they must be equipped with traps and prevent the backflow of gases and the backup of sewage onto the floor. If the facility uses sump or settlement ponds, or other similar systems for drainage and animal waste disposal, the system must be located far enough away from the animal area of the housing facility to prevent odors, diseases, pests, and vermin infestation. Standing puddles of water in animal enclosures must be drained or mopped up so that the animals stay dry. Trash containers in housing facilities and in food storage and food preparation areas must be leakproof and must have tightly fitted lids on them at all times. Dead animals, animal parts, and animal waste must not be kept in food storage or food preparation areas, food freezers, food refrigerators, or animal areas. (g) Washrooms and sinks. Washing facilities such as washrooms, basins, sinks, or showers must be provided for animal caretakers and must be readily accessible.
91.101. Standards of Care--Indoor Housing Facilities. (a) Heating, cooling, ventilation, and temperature. Dogs and cats shall be kept from extreme temperatures so as to maintain their health and render their environment comfortable when climatic conditions pose a threat to a dog's or cat's health or well-being taking into consideration such factors as the dog's or cat's age, breed, overall health status, and acclamation. Appropriate measures must be taken to alienate the impact of those conditions. Adequate ventilation shall be provided to minimize odors, drafts, ammonia levels, excessive humidity levels, and to prevent	~~**§ 3.2 Indoor housing facilities.**~~ ~~(a) Heating, cooling, and temperature. Indoor housing facilities for dogs and cats must be sufficiently heated and cooled when necessary to protect the dogs and cats from temperature or humidity extremes and to provide for their health and well-being. When dogs or cats are present, the ambient temperature in the facility must not fall below 50 °F (10 °C) for dogs and cats not acclimated to lower temperatures, for those breeds that cannot~~	***Adopt Federal Regulation with change:*** **91.101. Standards of Care--Indoor Housing Facilities.** (a) Heating, cooling, and temperature. Indoor housing facilities for dogs and cats must be sufficiently heated and cooled when necessary to protect the dogs and cats from temperature or humidity extremes and to provide for their health and well-being. When dogs or cats are present, the ambient temperature in the facility must not fall below 50 °F (10 °C) for dogs and cats not acclimated to lower temperatures, for those breeds that cannot tolerate lower temperatures without stress or discomfort (such as short-

the condensation of moisture while allowing for circulation of fresh air into the housing facility. (b) Lighting. Indoor housing facilities for dogs and cats must be lighted well enough to permit routine inspection and cleaning of the facility, and observation of the dogs and cats. Animal areas must be provided a regular diurnal lighting cycle of either natural or artificial light. Lighting must be uniformly diffused throughout animal facilities and provide sufficient illumination to aid in maintaining good housekeeping practices, adequate cleaning, adequate inspection of animals, and for the well-being of the animals. Primary enclosures must be placed so as to protect the dogs and cats from excessive light. (c) Interior surfaces. The floors and walls of indoor housing facilities, and any other surfaces in contact with the animals, must be impervious to moisture. The ceilings of indoor housing facilities must be impervious to moisture or be replaceable (e.g., a suspended ceiling with replaceable panels).	~~tolerate lower temperatures without stress or discomfort (such as short-haired breeds), and for sick, aged, young, or infirm dogs and cats, except as approved by the attending veterinarian. Dry bedding, solid resting boards, or other methods of conserving body heat must be provided when temperatures are below 50 °F (10 °C). The ambient temperature must not fall below 45 °F (7.2 °C) for more than 4 consecutive hours when dogs or cats are present, and must not rise above 85 °F (29.5 °C) for more than 4 consecutive hours when dogs or cats are present. The preceding requirements are in addition to, not in place of, all other requirements pertaining to climatic conditions in parts 2 and 3 of this chapter.~~ ~~(b) Ventilation. Indoor housing facilities for dogs and cats must be sufficiently ventilated at all times when dogs or cats are present to provide for their health and well-being, and to minimize odors, drafts, ammonia levels, and moisture condensation. Ventilation must be provided by windows, vents, fans, or air conditioning. Auxiliary ventilation, such as fans, blowers, or air conditioning must be provided when the ambient temperature is 85 °F (29.5 °C) or higher. The relative humidity must be maintained at a level that ensures the health and well-being of the dogs or cats housed therein, in accordance with the directions of the attending veterinarian and generally accepted professional and husbandry practices.~~ (c)**91.101. Standards of Care--Indoor Housing Facilities.** (a) Heating, cooling, ventilation, and temperature. Dogs and cats shall be kept from extreme temperatures so as to maintain their health and render their environment comfortable when climatic conditions pose a threat to a dog's or cat's health or well-being	haired breeds), and for sick, aged, young, or infirm dogs and cats, except as approved by ~~the attending~~ a veterinarian. Dry bedding, solid resting boards, or other methods of conserving body heat must be provided when temperatures are below 50 °F (10 °C). The ambient temperature must not fall below 45 °F (7.2 °C) for more than 4 2 consecutive hours when dogs or cats are present, and must not rise above 85 °F (29.5 °C) for more than 4 2 consecutive hours when dogs or cats are present. ~~The preceding requirements are in addition to, not in place of, all other requirements pertaining to climatic conditions in parts 2 and 3 of this chapter.~~ (b) Ventilation. Indoor housing facilities for dogs and cats must be sufficiently ventilated at all times when dogs or cats are present to provide for their health and well-being, and to minimize odors, drafts, ammonia levels, and moisture condensation. Ventilation must be provided by windows, vents, fans, or air conditioning. Auxiliary ventilation, such as fans, blowers, or air conditioning must be provided when the ambient temperature is 85 °F (29.5 °C) or higher. The relative humidity must be maintained at a level that ensures the health and well-being of the dogs or cats housed therein, in accordance with the directions of the ~~attending~~ a veterinarian and generally accepted professional and husbandry practices. ***Subsection (b) and (c) No Change.***

	taking into consideration such factors as the dog's or cat's age, breed, overall health status, and acclamation. Appropriate measures must be taken to alienate the impact of those conditions. Adequate ventilation shall be provided to minimize odors, drafts, ammonia levels, excessive humidity levels, and to prevent the condensation of moisture while allowing for circulation of fresh air into the housing facility. ***Subsection (b) and (c) No Change***	
91.102. Standards of Care--Sheltered Housing Facilities. (a) Heating, cooling, ventilation, and temperature. Dogs and cats shall be kept from extreme temperatures so as to maintain their health and render their environment comfortable when climatic conditions pose a threat to a dog's or cat's health or well-being taking into consideration such factors as the dog's or cat's age, breed, overall health status, and acclamation. Appropriate measures must be taken to alienate the impact of those conditions. Adequate ventilation shall be provided to minimize odors, drafts, ammonia levels, excessive humidity levels, and to prevent the condensation of moisture while allowing for circulation of fresh air into the housing facility. (b) Lighting. Sheltered housing facilities for dogs and cats must be lighted well enough to permit routine inspection and cleaning of the facility, and observation of the dogs and cats. Animal areas must be provided a regular diurnal lighting cycle of either natural or artificial light. Lighting must be uniformly diffused throughout animal facilities and provide sufficient illumination to aid in maintaining good housekeeping practices, adequate cleaning, adequate inspection of animals, and for the well-being of the animals. Primary enclosures must be placed so as to protect the dogs and cats from excessive light. (c) Shelter from the elements. Dogs and cats must be provided with adequate shelter from the elements at all times to protect their health and well-being. The shelter structures must be large enough to allow each animal to sit, stand, and lie without its body being in contact with at least one side of the shelter walls in a normal manner and to turn about freely.	~~§ 3.3~~ **91.102. Standards of Care--Sheltered** ~~housing facilities~~**Housing Facilities.** ~~(a) Heating, cooling, and temperature. The sheltered part of sheltered housing facilities for dogs and cats must be sufficiently heated and cooled when necessary to protect the dogs and cats from temperature or humidity extremes and to provide for their health and well-being. The ambient temperature in the sheltered part of the facility must not fall below 50 °F (10 °C) for dogs and cats 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 infirm dogs or cats, except as approved by the attending veterinarian. Dry bedding, solid resting boards, or other methods of conserving body heat must be provided when temperatures are below 50 °F (10 °C). The ambient temperature must not fall below 45 °F (7.2 °C) for more than 4 consecutive hours when dogs or cats are present, and must not rise above 85 °F (29.5 °C) for more than 4 consecutive hours when dogs or cats are present. The preceding requirements are in addition to, not in place of, all other requirements pertaining to climatic conditions in parts 2 and 3 of this chapter.~~ ~~(b) Ventilation. The enclosed or sheltered part~~	***Adopt Federal Regulation with change:*** **91.102. Standards of Care--Sheltered Housing Facilities.** (a) Heating, cooling, and temperature. The sheltered part of sheltered housing facilities for dogs and cats must be sufficiently heated and cooled when necessary to protect the dogs and cats from temperature or humidity extremes and to provide for their health and well-being. The ambient temperature in the sheltered part of the facility must not fall below 50 °F (10 °C) for dogs and cats 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 infirm dogs or cats, except as approved by ~~the attending~~ a veterinarian. Dry bedding, solid resting boards, or other methods of conserving body heat must be provided when temperatures are below 50 °F (10 °C). The ambient temperature must not fall below 45 °F (7.2 °C) for more than **2** **4** consecutive hours when dogs or cats are present, and must not rise above 85 °F (29.5 °C) for more than **2** **4** consecutive hours when dogs or cats are present. ~~**The preceding requirements are in addition to, not in place of, all other requirements pertaining to climatic conditions in parts 2 and 3 of this chapter.**~~ (b) Ventilation. The enclosed or sheltered part of sheltered housing facilities for dogs and cats must be sufficiently ventilated when dogs or cats are present to provide for their health and well-being, and to minimize odors, drafts, ammonia levels, and moisture condensation. Ventilation must be provided by windows, doors, vents, fans, or air conditioning. Auxiliary ventilation, such as fans, blowers, or air-conditioning, must be provided when the ambient

(d) Surfaces. (1) The following areas in sheltered housing facilities must be impervious to moisture: (A) Indoor floor areas in contact with the animals; provided that floor surfaces may consist of flooring that is 100 percent wire or wire mesh or slatted material until September 1, 2015, when all flooring must consist of flooring material that is not less that 50 percent solid flooring, exclusive of receptacles. (B) Outdoor floor areas in contact with the animals, when the floor areas are not exposed to the direct sun, or are made of a hard material such as wire, wood, metal, or concrete; and (C) All walls, boxes, houses, dens, and other surfaces in contact with the animals. (2) Outside floor areas in contact with the animals and exposed to the direct sun may consist of compacted earth, absorbent bedding, sand, concrete, gravel, or grass.	~~of sheltered housing facilities for dogs and cats must be sufficiently ventilated when dogs or cats are present to provide for their health and well-being, and to minimize odors, drafts, ammonia levels, and moisture condensation. Ventilation must be provided by windows, doors, vents, fans, or air conditioning. Auxiliary ventilation, such as fans, blowers, or air-conditioning, must be provided when the ambient temperature is 85 °F (29.5 °C) or higher.~~ ~~(c)~~ (a) Heating, cooling, ventilation, and temperature. Dogs and cats shall be kept from extreme temperatures so as to maintain their health and render their environment comfortable when climatic conditions pose a threat to a dog's or cat's health or well-being taking into consideration such factors as the dog's or cat's age, breed, overall health status, and acclamation. Appropriate measures must be taken to alienate the impact of those conditions. Adequate ventilation shall be provided to minimize odors, drafts, ammonia levels, excessive humidity levels, and to prevent the condensation of moisture while allowing for circulation of fresh air into the housing facility. (b) Lighting. Sheltered housing facilities for dogs and cats must be lighted well enough to permit routine inspection and cleaning of the facility, and observation of the dogs and cats. Animal areas must be provided a regular diurnal lighting cycle of either natural or artificial light. Lighting must be uniformly diffused throughout animal facilities and provide sufficient illumination to aid in maintaining good housekeeping practices, adequate cleaning, adequate inspection of animals, and for the well-being of the animals. Primary enclosures must be placed so as to protect the dogs and cats from excessive light. (~~d~~ c) Shelter from the elements. Dogs and cats	temperature is 85 °F (29.5 °C) or higher. Adopt (b) and (c) No change Adopt (d)(1) with major change to conform to federal regulations (d) Surfaces. (1)The following areas in sheltered housing facilities must

	must be provided with adequate shelter from the elements at all times to protect their health and well-being. The shelter structures must be large enough to allow each animal to sit, stand, and lie without its body being in contact with at least one side of the shelter walls in a normal manner and to turn about freely. (~~e~~d) Surfaces. (1) The following areas in sheltered housing facilities must be impervious to moisture: (~~i~~A) Indoor floor areas in contact with the animals; provided that floor surfaces may consist of flooring that is 100 percent wire or wire mesh or slatted material until September 1, 2015 when all flooring must consist of flooring material that is not less that 50 percent solid flooring, exclusive of receptacles. (~~ii~~B) Outdoor floor areas in contact with the animals, when the floor areas are not exposed to the direct sun, or are made of a hard material such as wire, wood, metal, or concrete; and (C) All walls, boxes, houses, dens, and other surfaces in contact with the animals. (2) Outside floor areas in contact with the animals and exposed to the direct sun may consist of compacted earth, absorbent bedding, sand, concrete, gravel, or grass.	be impervious to moisture: (A) Indoor floor areas in contact with the animals~~;~~ ~~provided that floor surfaces~~ may consist of flooring that is ~~100 percent~~ wire or wire mesh or slatted material ~~until September 1, 2015, when all flooring must consist of flooring material that is not less that 50 percent solid flooring, exclusive of receptacles~~. ***Adopt (d)(1)(B) and (C) without change.***
91.103. Standards of Care--Outdoor Housing Facilities.		***Adopt without change:*** (a) Restrictions. (1) The following categories of dogs or cats must not be kept in outdoor facilities, unless that practice is specifically approved by the attending veterinarian and documented by the attending veterinarian in the medical records related to each dog or cat to which the exemption applies: (A) Dogs or cats that are not acclimated to the temperatures prevalent in the area or region where they are maintained; (B) Breeds of dogs or cats that cannot tolerate the prevalent temperatures of the area without stress or discomfort (such as short-haired breeds in cold climates);

		and (C) Sick, infirm, aged or young dogs or cats. (2) When their acclimation status is unknown, dogs and cats must not be kept in outdoor facilities when the temperature is less than 50°F (10°C). (b) Shelter from the elements. Outdoor facilities for dogs or cats must include one or more shelter structures that are accessible to each animal in each outdoor facility, and that are large enough to allow each animal in the shelter structure to sit, stand, and lie without its body being in contact with at least one side of the shelter walls in a normal manner, and to turn about freely. In addition to the shelter structures, one or more separate outside areas of shade must be provided, large enough to contain all the animals at one time and protect them from the direct rays of the sun. Shelters in outdoor facilities for dogs or cats must contain a roof, four sides, and a floor, and must: (1) provide the dogs and cats with adequate protection and shelter from the cold and heat; (2) provide the dogs and cats with protection from the direct rays of the sun and the direct effect of wind, rain, or snow; (3) be provided with a wind break and rain break at the entrance; and (4) contain clean, dry, bedding material if the ambient temperature is below 50 °F (10 °C). Additional clean, dry bedding is required when the temperature is 35 °F (1.7 °C) or lower. (c) Construction. Building surfaces in contact with animals in outdoor housing facilities must be impervious to moisture. Metal barrels, cars, refrigerators or freezers, and the like must not be used as shelter structures. The floors of outdoor housing facilities may be of compacted earth, absorbent bedding, sand, gravel, concrete, or grass, and must be replaced if there are any prevalent odors, diseases, insects, pests, or vermin. All surfaces must be maintained on a regular basis. Surfaces of outdoor housing facilities--including houses, dens, etc.--that cannot be readily cleaned and sanitized, must be replaced when worn or soiled.

91.104. Standards of Care--Primary Enclosure. Sections (1) – (2) No Change. (3) Additional requirements for dogs-- (A) Space --Before September 1, 2015. (i) Each dog housed in a primary enclosure (including weaned puppies) must be provided a minimum amount of floor space, calculated as follows: Find the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; then divide the product by 144. The calculation is: (length of dog in inches + 6) x (length of dog in inches + 6) = required floor space in square inches. Required floor space in inches/144 = required floor space in square feet. (ii) Each bitch with nursing puppies must 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 percent of the minimum requirement for the bitch, such housing must be approved by the attending veterinarian and documented in the medical records related to each dog. (iii) The interior height of a primary enclosure must be at least 6 inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position. (B) Space – After September 1, 2015. (i) Each dog housed in a primary enclosure (including weaned puppies) must be provided a minimum amount of floor space, calculated as follows: Find the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; then divide the product by 144 then multiply that result by 2. The calculation is: (length of dog in inches + 6) x (length of dog in inches + 6) = required floor space in square inches. Required floor space in inches/144 x 2 = required floor space in square feet. (ii) Each bitch with nursing puppies must 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 percent of the minimum requirement for the bitch, such housing must be	~~§ 3.6~~ 91.104. Standards of Care--**Primary ~~enclosures~~ Enclosure.** Primary enclosures for dogs and cats must meet the following minimum requirements: (~~a~~1) General requirements. (~~1~~A) Primary enclosures must be designed and constructed of suitable materials so that they are structurally sound. The primary enclosures must be kept in good repair and shall not be placed on top of another primary enclosure unless an impervious barrier designed to prevent the transfer of fluid or animal waste separates the two primary enclosures. (~~2~~B) Primary enclosures must be constructed and maintained so that they: (i) Have no sharp points or edges that could injure the dogs and cats; (ii) Protect the dogs and cats from injury; (iii) Contain the dogs and cats securely; (iv) Keep other animals from entering the enclosure; (v) Enable the dogs and cats to remain dry and clean; (vi) Provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to all the dogs and cats; (vii) Provide sufficient shade to shelter all the dogs and cats housed in the primary enclosure at one time; (viii) Provide all the dogs and cats with easy and convenient access to clean food and water; (ix) Enable all surfaces in contact with the dogs and cats to be readily cleaned and sanitized in accordance with § 3.11(b)<*>91.109(b), or be replaceable when worn or soiled; (x) Have floors that are constructed in a manner that protects the dogs' and cats' feet and legs from injury, and that, if of mesh or slatted construction, do not allow the dogs' and cats' feet to pass through any openings in	***Adopt with major changes:*** **91.104. Standards of Care--Primary Enclosure.** Primary enclosures for dogs and cats must meet the following minimum requirements: (1) General requirements. (A) Primary enclosures must be designed and constructed of suitable materials so that they are structurally sound. The primary enclosures must be kept in good repair and shall not be placed on top of another primary enclosure unless an impervious barrier designed to prevent the transfer of fluid or animal waste separates the two primary enclosures. (B) Primary enclosures must be constructed and maintained so that they: (i) Have no sharp points or edges that could injure the dogs and cats; (ii) Protect the dogs and cats from injury; (iii) Contain the dogs and cats securely; (iv) Keep other animals from entering the enclosure; (v) Enable the dogs and cats to remain dry and clean; (vi) Provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to all the dogs and cats; (vii) Provide sufficient shade to shelter all the dogs and cats housed in the primary enclosure at one time; (viii) Provide all the dogs and cats with easy and convenient access to clean food and water; (ix) Enable all surfaces in contact with the dogs and cats to be readily cleaned and sanitized in accordance with § 3.11(b)<*>91.109(b), or be replaceable when worn or soiled; (x) Have floors that are constructed in a manner that protects the dogs' and cats' feet and legs from injury, and that, if of mesh or slatted construction, do not allow the dogs' and cats' feet to pass through any openings in the floor; (xi) Provide sufficient space to allow each dog and cat to turn about freely, to stand, sit, and lie without its body being in contact with at least one side of the shelter walls in a comfortable, normal position, and to walk in a normal manner; and (2) Additional requirements for cats.

approved by the attending veterinarian documented by the attending veterinarian in the medical records related to each dog. (iii) The interior height of a primary enclosure must be at least 12 inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position. Subsections (C) – (E) No Change.	the floor; (xi) Provide sufficient space to allow each dog and cat to turn about freely, to stand, sit, and lie without its body being in contact with at least one side of the shelter walls in a comfortable, normal position, and to walk in a normal manner; and ~~(xii) Primary enclosures constructed on or after February 20, 1998 and floors replaced on or after that date, must comply with the requirements in this paragraph (a)(2). On or after January 21, 2000, all primary enclosures must be in compliance with the requirements in this paragraph (a)(2). If the suspended floor of a primary enclosure is constructed of metal strands, the strands must either be greater than 1/8 of an inch in diameter (9 gauge) or coated with a material such as plastic or fiberglass. The suspended floor of any primary enclosure must be strong enough so that the floor does not sag or bend between the structural supports.~~ ~~(b) Additional requirements for cats.~~ ~~(1~~(2) Additional requirements for cats. (A) Space. Each cat, including weaned kittens, that is housed in any primary enclosure must be provided minimum vertical space and floor space ~~as follows:~~in accordance with this chapter. ~~(i) Prior to February 15, 1994 each cat housed in any primary enclosure shall be provided a minimum of 2 1/2 square feet of floor space;~~ ~~(ii) On and after February 15, 1994:~~ ~~(A~~(B) Each primary enclosure housing cats must be at least 24 in. high (60.96 cm); (~~B~~C) Cats up to and including 8.8 lbs (4 kg) must be provided with at least 3.0 ft (0.28 ; (~~C~~D) Cats over 8.8 lbs (4 kg) must be provided with at least 4.0 ft² (0.37 m²); (~~iii~~ E) Each queen with nursing kittens must be provided with an additional amount of floor	(A) Space. Each cat, including weaned kittens, that is housed in any primary enclosure must be provided minimum vertical space and floor space in accordance with this chapter. (B) Each primary enclosure housing cats must be at least 24 in. high (60.96 cm); (C) Cats up to and including 8.8 lbs (4 kg) must be provided with at least 3.0 ft² (0.28 m²); (D) Cats over 8.8 lbs (4 kg) must be provided with at least 4.0 ft² (0.37 m²); (E) Each queen with nursing kittens must be provided with an additional amount of floor space, based on her breed and behavioral characteristics, and in accordance with generally accepted husbandry practices. If the additional amount of floor space for each nursing kitten is equivalent to less than 5 percent of the minimum requirement for the queen, such housing must be approved by the attending veterinarian. (F) The minimum floor space required by this section is exclusive of any food or water pans. The litter pan may be considered part of the floor space if properly cleaned and sanitized. (G) Compatibility. All cats housed in the same primary enclosure must be compatible, as determined by observation. Not more than 12 adult nonconditioned cats may be housed in the same primary enclosure. Queens in heat may not be housed in the same primary enclosure with sexually mature males, except for breeding. Except when maintained in breeding colonies, queens with litters may not be housed in the same primary enclosure with other adult cats, and kittens under 6 months of age may not be housed in the same primary enclosure with adult cats, **other than the dam or foster dam**. Cats with a vicious or aggressive disposition must be housed separately. (H) Litter. In all primary enclosures, a receptacle containing sufficient clean litter must be provided to contain excreta and body wastes. (I) Resting surfaces. Each primary enclosure housing cats must contain a resting surface or surfaces that, in the aggregate, are large enough to hold all the occupants of the primary enclosure at the same time comfortably. The

	space, based on her breed and behavioral characteristics, and in accordance with generally accepted husbandry practices. If the additional amount of floor space for each nursing kitten is equivalent to less than 5 percent of the minimum requirement for the queen, such housing must be approved by the attending veterinarian~~in the case of a research facility, and, in the case of dealers and exhibitors, such housing must be approved by the Administrator; and~~ (~~iv~~ F) The minimum floor space required by this section is exclusive of any food or water pans. The litter pan may be considered part of the floor space if properly cleaned and sanitized. (G) Compatibility. All cats housed in the same primary enclosure must be compatible, as determined by observation. Not more than 12 adult nonconditioned cats may be housed in the same primary enclosure. Queens in heat may not be housed in the same primary enclosure with sexually mature males, except for breeding. Except when maintained in breeding colonies, queens with litters may not be housed in the same primary enclosure with other adult cats, and kittens under 4 ~~6~~ months of age may not be housed in the same primary enclosure with adult cats, ~~other than the dam or foster dam.,~~. Cats with a vicious or aggressive disposition must be housed separately. (~~3~~ H) Litter. In all primary enclosures, a receptacle containing sufficient clean litter must be provided to contain excreta and body wastes. (4 I) Resting surfaces. Each primary enclosure housing cats must contain a resting surface or surfaces that, in the aggregate, are large enough to hold all the occupants of the primary enclosure at the same time comfortably. The resting surfaces must be	resting surfaces must be elevated, impervious to moisture, and be able to be easily cleaned and sanitized, or easily replaced when soiled or worn. Low resting surfaces that do not allow the space under them to be comfortably occupied by the animal will be counted as part of the floor space.

	elevated, impervious to moisture, and be able to be easily cleaned and sanitized, or easily replaced when soiled or worn. Low resting surfaces that do not allow the space under them to be comfortably occupied by the animal will be counted as part of the floor space. ~~(5) Cats in mobile or traveling shows or acts. Cats that are part of a mobile or traveling show or act may be kept, while the show or act is traveling from one temporary location to another, in transport containers that comply with all requirements of § 3.14§ 3.14(a)(6) of this subpart. When the show or act is not traveling, the cats must be placed in primary enclosures that meet the minimum requirements of this section.~~ ~~(c) Additional requirements for dogs--~~ ~~(1~~(3) Additional requirements for dogs-- (A) Space --Before September 1, 2012. (i) Each dog housed in a primary enclosure (including weaned puppies) must be provided a minimum amount of floor space, calculated as follows: Find the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; then divide the product by 144. The calculation is: (length of dog in inches + 6) x (length of dog in inches + 6) = required floor space in square inches. Required floor space in inches/144 = required floor space in square feet. (ii) Each bitch with nursing puppies must 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 percent of the minimum requirement for the bitch, such housing must be approved by the attending	(3) Additional requirements for dogs-- (A) Space~~--Before September 1, 2012.~~ (i) Each dog housed in a primary enclosure (including weaned puppies) must be provided a minimum amount of floor space, calculated as follows: Find the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; then divide the product by 144. The calculation is: (length of dog in inches + 6) x (length of dog in inches + 6) = required floor space in square inches. Required floor space in inches/144 = required floor space in square feet. (ii) Each bitch with nursing puppies must 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 percent of the minimum requirement for the bitch, such housing must be approved by a ~~the attending~~ veterinarian and documented in the medical records related to each dog. (iii) The interior height of a primary enclosure must be at least 6 inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position. ~~(B) Space – After September 1, 2015.~~ ~~(i) Each dog housed in a primary enclosure (including weaned puppies) must be provided a minimum amount of floor space, calculated as follows: Find the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; then divide the product by 144 then~~

	veterinarian ~~in the case of a research facility, and, in the case of dealers and exhibitors, such housing must be approved by the Administrator~~and documented in the medical records related to each dog. (iii) The interior height of a primary enclosure must be at least 6 inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position~~: *Provided* That, prior to February 15, 1994, each dog must be able to stand in a comfortable normal position.~~ ~~(~~2(B) Space – After September 1, 2015. (i) Each dog housed in a primary enclosure (including weaned puppies) must be provided a minimum amount of floor space, calculated as follows: Find the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; then divide the product by 144 then multiply that result by 2. The calculation is: (length of dog in inches + 6) x (length of dog in inches + 6) = required floor space in square inches. Required floor space in inches/144 x 2 = required floor space in square feet. (ii) Each bitch with nursing puppies must 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 percent of the minimum requirement for the bitch, such housing must be approved by the attending veterinarian documented by the attending veterinarian in the medical records related to each dog. (iii) The interior height of a primary enclosure must be at least 12 inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position.	~~**multiply that result by 2. The calculation is: (length of dog in inches + 6) x (length of dog in inches + 6) = required floor space in square inches. Required floor space in inches/144 x 2 = required floor space in square feet.**~~ ~~**(ii) Each bitch with nursing puppies must 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 percent of the minimum requirement for the bitch, such housing must be approved by the attending veterinarian documented by the attending veterinarian in the medical records related to each dog.**~~ ~~**(iii) The interior height of a primary enclosure must be at least 12 inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position.**~~ (C) Compatibility. All dogs housed in the same primary enclosure must be compatible, as determined by observation. Not more than 12 adult nonconditioned dogs may be housed in the same primary enclosure. Bitches in heat may not be housed in the same primary enclosure with sexually mature males, except for breeding. Except when maintained in breeding colonies, bitches with litters may not be housed in the same primary enclosure with other adult dogs, and puppies under 6 months of age may not be housed in the same primary enclosure with adult dogs, **other than the dam or foster dam**. Dogs with a vicious or aggressive disposition must be housed separately. (D) Prohibited means of primary enclosure. Permanent tethering of dogs is prohibited for use as primary enclosure. Temporary tethering of dogs is prohibited for use as primary enclosure. (E) Prohibited stacking of primary enclosure. Primary enclosures may not be stacked above three vertical levels.

	(C) Compatibility. All dogs housed in the same primary enclosure must be compatible, as determined by observation. Not more than 12 adult nonconditioned dogs may be housed in the same primary enclosure. Bitches in heat may not be housed in the same primary enclosure with sexually mature males, except for breeding. Except when maintained in breeding colonies, bitches with litters may not be housed in the same primary enclosure with other adult dogs, and puppies under ~~4~~ 6 months of age may not be housed in the same primary enclosure with adult dogs~~, other than the dam or foster dam~~. Dogs with a vicious or aggressive disposition must be housed separately. ~~(3) Dogs in mobile or traveling shows or acts. Dogs that are part of a mobile or traveling show or act may be kept, while the show or act is traveling from one temporary location to another, in transport containers that comply with all requirements of § 3.14 of this subpart other than the marking requirements in § 3.14(a)(6) of this subpart. When the show or act is not traveling, the dogs must be placed in primary enclosures that meet the minimum requirements of this section.~~ ~~(4~~ ~~D~~) Prohibited means of primary enclosure. Permanent tethering of dogs is prohibited for use as primary enclosure. Temporary tethering of dogs is prohibited for use as primary enclosure ~~unless approval is obtained from APHIS~~. ~~(d) Innovative primary enclosures not precisely meeting the floor area and height requirements provided in paragraphs (b)(1) and (c)(1) of this section, but that provide the dogs or cats with a sufficient volume of space and the opportunity to express species-typical behavior, may be used at research facilities when approved by the Committee, and by dealers and exhibitors when approved by the~~	

	~~Administrator.~~(E) Prohibited stacking of primary enclosure. Primary enclosures may not be stacked above three vertical levels.	
91.105. Standards of Care--Compatible Grouping.		***Adopt without change:*** Dogs and cats that are housed in the same primary enclosure must be compatible, with the following restrictions: (1) Females in heat (estrus) may not be housed in the same primary enclosure with males, except for breeding purposes; (2) Any dog or cat exhibiting a vicious or overly aggressive disposition must be housed separately; (3) Puppies or kittens 6 months of age or less may not be housed in the same primary enclosure with adult dogs or cats other than their dams or foster dams, except when permanently maintained in breeding colonies; (4) Dogs or cats may not be housed in the same primary enclosure with any other species of animals, unless they are compatible; and (5) Dogs and cats that have or are suspected of having a contagious disease must be isolated from healthy animals in the colony, as directed by the attending veterinarian. When an entire group or room of dogs and cats is known to have or believed to be exposed to an infectious agent, the group may be kept intact during the process of diagnosis, treatment, and control.
91.106. Standards of Care--Exercise for Dogs. A licensee must develop, document, and follow an appropriate plan to provide dogs with the opportunity for daily exercise. In addition, the plan must be approved by the attending veterinarian and documented by the attending veterinarian in the medical related to each dog. The plan must include written standard procedures to be followed in providing the opportunity for exercise. (a) Dogs housed in groups. Dogs over 12 weeks of age housed, held, or maintained in groups do not require additional opportunity for daily exercise if they are maintained in cages, pens, or runs that provide in total at least 300 percent of the required space for each dog if maintained separately. Such animals may be maintained in compatible groups, unless: (1) In the opinion of the attending veterinarian, such housing		***Adopt with minor change:*** **91.106. Standards of Care--Exercise for Dogs.** A licensee must develop, document, and follow an appropriate plan to provide dogs with the opportunity for daily exercise. In addition, the plan must be approved by the attending veterinarian and documented by ~~the attending~~ a veterinarian in the medical records related to each dog. The plan must include written standard procedures to be followed in providing the opportunity for exercise. (a) Dogs housed in groups. Dogs over 12 weeks of age housed, held, or maintained in groups do not require additional opportunity for daily exercise if they are maintained in cages, pens, or runs that provide in total at least 300 percent of the required space for each dog if maintained separately. Such animals may be maintained in

would adversely affect the health or well-being of the dog(s); or (2) Any dog exhibits aggressive or vicious behavior. (c) Methods and period of providing exercise opportunity. (1) The frequency, method, and duration of the opportunity for exercise of a dog 12 weeks of age or older shall be the at least one hour each day unless a lesser frequency, method, and duration is determined by the attending veterinarian and documented by the attending veterinarian in the medical record related to each dog. (2) A licensed breeder must provide positive physical contact with humans that encourage exercise through play or other similar activities. If a dog is housed, held, or maintained at a facility without sensory contact with another dog, it must be provided with positive physical contact with humans at least daily. The positive physical contact required by this section may be concurrent with the required opportunity for daily exercise required in subsection (a). (3) The opportunity for exercise required by this chapter may be provided in a number of ways, such as: (i) Group housing in cages, pens or runs that provide at least 300 percent of the required space for each dog if maintained separately under the minimum floor space requirements of <*>91.104(3)(A); (ii) Maintaining individually housed dogs in cages, pens, or runs that provide at least three times the minimum floor space required by <*>91.104(3)(A); (iii) Providing access to a run or open area that provides at least three times the minimum floor space required by <*>91.104(3)(A); provides adequate protection against harsh weather, including exposure to the sun; and has flooring with adequate drainage which may include natural turf or soil at the frequency and duration prescribed by the attending veterinarian; or (iv) Other similar activities approved by the attending veterinarian and documented by the attending veterinarian in the medical records related to each dog. (4) Forced exercise methods or devices such as swimming, treadmills, or carousel-type devices are unacceptable for meeting the exercise requirements of this section. (d) Exemptions. (1) If, in the opinion of the attending veterinarian, it is		compatible groups, unless: (1) In the opinion of ~~the attending~~ a veterinarian, such housing would adversely affect the health or well-being of the dog(s); or (2) Any dog exhibits aggressive or vicious behavior. (b) Methods and period of providing exercise opportunity. (1) The frequency, method, and duration of the opportunity for exercise of a dog 12 weeks of age or older shall be the at least one hour each day unless a lesser frequency, method, and duration is determined by the attending veterinarian and documented by ~~the attending~~ a veterinarian in the medical record related to each dog. (2) A licensed breeder must provide positive physical contact with humans that encourage exercise through play or other similar activities. If a dog is housed, held, or maintained at a facility without sensory contact with another dog, it must be provided with positive physical contact with humans at least daily. The positive physical contact required by this section may be concurrent with the required opportunity for daily exercise required in subsection (a). (3) The opportunity for exercise required by this chapter may be provided in a number of ways, such as: (i) Group housing in cages, pens or runs that provide at least 300 percent of the required space for each dog if maintained separately under the minimum floor space requirements of § 3.6(c)(1)<*>91.104(3)(A); (ii) Maintaining individually housed dogs in cages, pens, or runs that provide at least three times the minimum floor space required by § 3.6(c)(1)<*>91.104(3)(A); (iii) Providing access to a run or open area that provides at least three times the minimum floor space required by <*>91.104(3)(A); provides adequate protection against harsh weather, including exposure to the sun; and has flooring with adequate drainage which may include natural turf or soil at the frequency and duration prescribed by the attending veterinarian; or (iv) Other similar activities approved by ~~the attending~~ a veterinarian and documented by ~~the attending~~ a veterinarian in the medical records related to each dog. (4) Forced exercise methods or devices such as swimming, treadmills, or carousel-type devices are unacceptable for

inappropriate for certain dogs to exercise because of their health, condition, or well-being, the licensed breeder may be exempted from meeting the requirements of this section for those dogs. Such exemption must be documented by the attending veterinarian and, unless the basis for exemption is a permanent condition, must be reviewed at least every 30 days by the attending veterinarian. (2) Records of any exemptions must be maintained separately for each dog and made available to the department inspector or registered inspector upon request.		meeting the exercise requirements of this section. (d) Exemptions. (1) If, in the opinion of the attending veterinarian, it is inappropriate for certain dogs to exercise because of their health, condition, or well-being, the licensed breeder may be exempted from meeting the requirements of this section for those dogs. Such exemption must be documented by the attending veterinarian and, unless the basis for exemption is a permanent condition, must be reviewed at least every 30 days by the attending veterinarian. (2) Records of any exemptions must be maintained separately for each dog and made available to the department inspector ~~or registered inspector~~ upon request
91.107. Standards of Care--Feeding.		***Adopt without change:*** (a) Dogs and cats must be fed at least once each day, except as otherwise might be required to provide adequate veterinary care. The food must be uncontaminated, wholesome, palatable, and of sufficient quantity and nutritive value to maintain the normal condition and weight of the animal. The diet must be appropriate for the individual animal's age and condition. (b) Food receptacles must be used for dogs and cats, must be readily accessible to all dogs and cats, and must be located so as to minimize contamination by excreta and pests, and be protected from rain, sleet and snow. Feeding pans must either be made of a durable material that can be easily cleaned and sanitized or be disposable. If the food receptacles are not disposable they must be kept clean and must be sanitized in accordance with <*>91.109(b) of this chapter. Sanitization is achieved by using one of the methods described in <*>91.109(b)(3). If the food receptacles are disposable, they must be discarded after one use. Self-feeders may be used for the feeding of dry food. If self-feeders are used they must be kept clean and must be sanitized in accordance with <*>91.109(b). Measures must be taken to ensure that there is no molding, deterioration, and caking of feed.
91.108. Standards of Care--Watering.		***Adopt without change:*** If potable water is not continually available to the dogs and cats, it must be offered to the dogs and cats as often as

		necessary to ensure their health and well-being, but not less than twice daily for at least 1 hour each time, unless restricted by the attending veterinarian. Water receptacles must be kept clean and sanitized in accordance with <*>91.109(b), and before being used to water a different dog or cat or social grouping of dogs or cats.
91.109. Standards of Care--Cleaning, Sanitization, Housekeeping, and Pest Control.		***Adopt without change:*** (a) Cleaning of primary enclosures. Excreta and food waste must be removed from primary enclosures daily, and from under primary enclosures as often as necessary to prevent an excessive accumulation of feces and food waste, to prevent soiling of the dogs or cats contained in the primary enclosures, and to reduce disease hazards, insects, pests and odors. When steam or water is used to clean the primary enclosure, whether by hosing, flushing, or other methods, dogs and cats must be removed, unless the enclosure is large enough to ensure the animals would not be harmed, wetted, or distressed in the process. Standing water must be removed from the primary enclosure and animals in other primary enclosures must be protected from being contaminated with water and other wastes during the cleaning. The pans under primary enclosures with wire or mesh type floors and the ground areas under raised runs with wire or mesh or slatted floors must be cleaned as often as necessary to prevent accumulation of feces and food waste and to reduce disease hazards pests, insects and odors. (b) Sanitization of primary enclosures and food and water receptacles. (1) Used primary enclosures and food and water receptacles must be cleaned and sanitized in accordance with this section before they can be used to house, feed, or water another dog or cat, or social grouping of dogs or cats. (2) Used primary enclosures and food and water receptacles for dogs and cats must be sanitized at least once every 2 weeks using one of the methods prescribed in paragraph (b)(3), and more often if necessary to prevent an accumulation of dirt, debris, food waste, excreta, and other disease hazards. (3) Hard surfaces of primary enclosures and food and water receptacles must be sanitized using one of the

		following methods: (i) Live steam under pressure; (ii) Washing with hot water (at least 180 °F (82.2 °C)) and soap or detergent, as with a mechanical cage washer; or (iii) Washing all soiled surfaces with appropriate detergent solutions and disinfectants, or by using a combination detergent/disinfectant product that accomplishes the same purpose, with a thorough cleaning of the surfaces to remove organic material, so as to remove all organic material and mineral buildup, and to provide sanitization followed by a clean water rinse. (4) Pens, runs, and outdoor housing areas using material that cannot be sanitized using the methods provided in paragraph (b)(3), such as gravel, sand, grass, earth, or absorbent bedding, must be sanitized by removing the contaminated material as necessary to prevent odors, diseases, pests, insects, and vermin infestation. (c) Housekeeping for premises. Premises where housing facilities are located, including buildings and surrounding grounds, must be kept clean and in good repair to protect the animals from injury, to facilitate the husbandry practices required in this chapter, and to reduce or eliminate breeding and living areas for rodents and other pests and vermin. Premises must be kept free of accumulations of trash, junk, waste products, and discarded matter. Weeds, grasses, and bushes must be controlled so as to facilitate cleaning of the premises and pest control, and to protect the health and well-being of the animals. (d) Pest control. An effective program for the control of insects, external parasites affecting dogs and cats, and birds and mammals that are pests, must be established and maintained so as to promote the health and well-being of the animals and reduce contamination by pests in animal areas.
91.110. Standards of Care--Onsite Personnel.		***Adopt without change:*** (a) Each licensed facility must have enough employees onsite to carry out the level of husbandry practices and care required in this chapter. The employees who provide for husbandry and care, or handle animals, must be supervised by an individual who has the knowledge,

		background, and experience in proper husbandry and care of dogs and cats to supervise others. The employer must be certain that the supervisor and other employees can perform to these standards. (b) Each employee of a licensed facility whose duties or responsibilities include the handling of or caring for a dog or cat shall have the appropriate training documented by the licensee; to include at the minimum subject matter covering basic animal care and handling, prevention of infectious disease, and kennel sanitization.
91.111. Standards of Care--Grooming.		***Adopt without change:*** A licensed breeder shall provide basic grooming to each animal as needed to prevent soiling and matting of the fur, curled or splayed toenails, and other conditions that can hamper an animal's ability to maintain health and cleanliness.
91.112. Standards of Care--Veterinary Care. (a) Annual hands on examination. A licensed breeder shall have each animal used for breeding examined by a veterinarian at least once in every twelve month period . The annual examination required by this section must be hands on by the veterinarian and documented by the attending veterinarian in the medical records related to each animal. (b) Euthanasia and surgical procedures. Only a veterinarian shall be allowed to euthanize an animal or perform a surgical procedure such as caesarian birth, debarking, tail docking, ear cropping and declawing.	***Conform to HB 1451:*** Occupations Code 802.201(b) The standards adopted under this section must: (11) prohibit a person from euthanizing an adult animal or performing a surgical birth of an animal unless the person is a veterinarian;	***Adopt with change:*** **91.112. Standards of Care--Veterinary Care.** (a) Annual ~~hands on~~ examination. A licensed breeder shall have each animal used for breeding examined by a veterinarian at least once in every twelve month period . The annual examination required by this section must be conducted in accordance with practices established under the Veterinarian Practices Act ~~hands on by the veterinarian~~ and documented by ~~the attending~~ a veterinarian in the medical records related to each animal. (b) Euthanasia and surgical procedures. Only a veterinarian shall be allowed to euthanize an animal or perform a surgical ~~procedure such as caesarian~~ birth~~,~~ ~~debarking, tail docking, ear cropping and declawing~~.
91.113. Standards of Care--Sales and Transfers. A licensed breeder shall not sell, trade, or give away an animal before the animal is at least eight weeks of age and two pounds or twelve weeks of age and has been weaned.	***Conform to HB 1431:*** Occupations Code 802.201(b) The standards adopted under this section must: (13) prohibit a dog or cat breeder from selling, trading, or giving away an animal before the animal is eight weeks of age.	***Adopt with minor change:*** **91.113. Standards of Care--Sales and Transfers.** A licensed breeder shall not sell, trade, or give away an animal before the animal is at least eight weeks of age ~~and two pounds or twelve weeks of age and has been weaned~~.
91.200. Transportation Standards--Food and Water Requirements.		***Adopt without change:*** (a) Each dog and cat that is 16 weeks of age or more must be offered food at least once every 24 hours. Puppies and kittens less than 16 weeks of age must be offered food at least once every 12 hours. Each dog and cat must be offered potable water at least once every 12 hours. Each

		dog and cat must be offered food and potable water within 4 hours before being transported in commerce. (b) A licensed breeder offering any dog or cat to a carrier or intermediate handler for transportation in commerce must securely attach to the outside of the primary enclosure used for transporting the dog or cat, written instructions for the in-transit food and water requirements for a 24-hour period for the dogs and cats contained in the enclosure. The instructions must be attached in a manner that makes them easily noticed and read. (c) Food and water receptacles must be securely attached inside the primary enclosure and placed so that the receptacles can be filled from outside the enclosure without opening the door. Food and water containers must be designed, constructed, and installed so that a dog or cat cannot leave the primary enclosure through the food or water opening.
91.201. Transportation Standards--Mobile or Traveling Facilities. (a) Heating, cooling, ventilation, and temperature. Mobile or traveling housing facilities for dogs and cats must be kept from extreme temperatures so as to maintain their health and render their environment comfortable when climatic conditions pose a threat to a dog's or cat's health or well-being taking into consideration such factors as the dog's or cat's age, breed, overall health status, and acclamation. Appropriate measures must be taken to alleviate the impact of those conditions. Adequate ventilation shall be provided to minimize odors, drafts, ammonia levels, excessive humidity levels, and to prevent the condensation of moisture while allowing for circulation of fresh air into the mobile or traveling facility. Subsection (b) No Change	**91.201. Transportation Standards--Mobile or Traveling Facilities.** (a) Heating, cooling, ventilation, and temperature. Mobile or traveling housing facilities for dogs and cats must be kept from extreme temperatures so as to maintain their health and render their environment comfortable when climatic conditions pose a threat to a dog's or cat's health or well-being taking into consideration such factors as the dog's or cat's age, breed, overall health status, and acclamation. Appropriate measures must be taken to alleviate the impact of those conditions. Adequate ventilation shall be provided to minimize odors, drafts, ammonia levels, excessive humidity levels, and to prevent the condensation of moisture while allowing for circulation of fresh air into the mobile or traveling facility. (b) Lighting. Mobile or traveling housing facilities for dogs and cats must be lighted well enough to permit proper cleaning and inspection of the facility, and observation of the dogs and cats. Animal areas must be provided a regular diurnal lighting cycle of	***Adopt with major changes:*** **91.201. Transportation Standards--Mobile or Traveling Facilities.** (a) Heating, cooling, ~~ventilation,~~ and temperature. Mobile or traveling housing facilities for dogs and cats must be sufficiently heated and cooled when necessary to protect the dogs and cats ~~kept~~ from temperature or humidity extremes and to provide for ~~extreme temperatures so as to maintain~~ their health and well-being. The ambient temperature in the mobile or traveling housing facility must not fall below 50 °F (10 °C) for dogs and cats not acclimated to lower temperatures, for those breeds that cannot tolerate lower temperatures without stress or discomfort (such as short-haired breeds), and for sick, aged, young, or infirm dogs and cats. Dry bedding, solid resting boards, or other methods of conserving body heat must be provided when temperatures are below 50 °F (10 °C). The ambient temperature must not fall below 45 °F (7.2 °C) for more than 2 consecutive hours when dogs or cats are present, and must not exceed 85 °F (29.5 °C) for more than 2 consecutive hours when dogs or cats are present. ~~The preceding requirements are in addition to, not in place of, all other requirements pertaining to render their environment comfortable when climatic conditions in parts 2 and 3 of this chapter.~~

	either natural or artificial light. Lighting must be uniformly diffused throughout animal facilities and provide sufficient illumination to aid in maintaining good housekeeping practices, adequate cleaning, adequate inspection of animals, and for the well-being of the animals.	(b) Ventilation. Mobile or traveling housing facilities for dogs and cats must be sufficiently ventilated at all times when dogs or cats are present to provide for the ~~pose a threat to a dog's or cat's~~ health and well-being of the animals, and ~~or well-being taking into consideration such factors as the dog's or cat's age, breed, overall health status, and acclamation. Appropriate measures must be taken to alleviate the impact of those conditions. Adequate ventilation shall be provided~~ to minimize odors, drafts, ammonia levels, moisture, ~~excessive humidity levels, and to prevent the~~ condensation, and exhaust fumes. Ventilation must be provided by means of windows, doors, vents, fans, or ~~of moisture while allowing for circulation of fresh~~ air conditioning. Auxiliary ventilation, such as fans, blowers, or air conditioning, must be provided when the ambient temperature within the animal housing area is 85 °F (29.5 °C) or higher ~~into the mobile or traveling facility~~. ***Subsection (c) No change.***
91.202. Transportation Standards--Primary Enclosure Used to Transport Live Dogs and Cats.		***Adopt without change:*** Licensees must not transport or deliver for transport in commerce a dog or cat unless the following requirements are met: (a) Construction of primary enclosures. The dog or cat must be contained in a primary enclosure such as a compartment, transport cage, carton, or crate. Primary enclosures used to transport dogs and cats must be constructed so that: (1) The primary enclosure is strong enough to contain the dogs and cats securely and comfortably and to withstand the normal rigors of transportation; (2) The interior of the primary enclosure has no sharp points or edges and no protrusions that could injure the animal contained in it; (3) The dog or cat is at all times securely contained within the enclosure and cannot put any part of its body outside the enclosure in a way that could result in injury to itself, to handlers, or to persons or animals nearby; (4) The dog or cat can be easily and quickly removed from the enclosure in an emergency; (5) Unless the enclosure is permanently affixed to the

		conveyance, adequate devices such as handles or handholds are provided on its exterior, and enable the enclosure to be lifted without tilting it, and ensure that anyone handling the enclosure will not come into physical contact with the animal contained inside; (6) Unless the enclosure is permanently affixed to the conveyance, it is clearly marked on top and on one or more sides with the words "Live Animals," in letters at least 1 inch (2.5 cm.) high, and with arrows or other markings to indicate the correct upright position of the primary enclosure; (7) Any material, treatment, paint, preservative, or other chemical used in or on the enclosure is nontoxic to the animal and not harmful to the health or well-being of the animal; (8) Proper ventilation is provided to the animal in accordance with paragraph (c); and (9) The primary enclosure has a solid, leak-proof bottom or a removable, leak-proof collection tray under a slatted or mesh floor that prevents seepage of waste products, such as excreta and body fluids, outside of the enclosure. If a slatted or mesh floor is used in the enclosure, it must be designed and constructed so that the animal cannot put any part of its body between the slats or through the holes in the mesh. Unless the dogs and cats are on raised slatted floors or raised floors made of mesh, the primary enclosure must contain enough previously unused litter to absorb and cover excreta. The litter must be of a suitably absorbent material that is safe and nontoxic to the dogs and cats. (b) Cleaning of primary enclosures. A primary enclosure used to hold or transport dogs or cats in commerce must be cleaned and sanitized before each use in accordance with the methods provided in <*>91.109(b)(3). If the dogs or cats are in transit for more than 24 hours, the enclosures must be cleaned and any litter replaced, or other methods, such as moving the animals to another enclosure, must be utilized to prevent the soiling of the dogs or cats by body wastes. If it becomes necessary to remove the dog or cat from the enclosure in order to clean, or to move the dog or cat to another enclosure, this procedure must be completed in a way that safeguards the

		dog or cat from injury and prevents escape. (c) Ventilation. (1) Unless the primary enclosure is permanently affixed to the conveyance, there must be: (i) Ventilation openings located on two opposing walls of the primary enclosure and the openings must be at least 16 percent of the surface area of each such wall, and the total combined surface area of the ventilation openings must be at least 14 percent of the total combined surface area of all the walls of the primary enclosure; or (ii) Ventilation openings on three walls of the primary enclosure, and the openings on each of the two opposing walls must be at least 8 percent of the total surface area of the two walls, and the ventilation openings on the third wall of the primary enclosure must be at least 50 percent of the total surface area of that wall, and the total combined surface area of the ventilation openings must be at least 14 percent of the total combined surface area of all the walls of the primary enclosure; or (iii) Ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each of the four walls must be at least 8 percent of the total surface area of each such wall, and the total combined surface area of the openings must be at least 14 percent of total combined surface area of all the walls of the primary enclosure; and (iv) At least one-third of the ventilation area must be located on the upper half of the primary enclosure. (2) Unless the primary enclosure is permanently affixed to the conveyance, projecting rims or similar devices must be located on the exterior of each enclosure wall having a ventilation opening, in order to prevent obstruction of the openings. The projecting rims or similar devices must be large enough to provide a minimum air circulation space of 0.75 in. (1.9 cm) between the primary enclosure and anything the enclosure is placed against. (3) If a primary enclosure is permanently affixed to the primary conveyance so that there is only a front ventilation opening for the enclosure, the primary enclosure must be affixed to the primary conveyance in such a way that the front ventilation opening cannot be blocked, and the front ventilation opening must open directly to an unobstructed

		aisle or passageway inside the conveyance. The ventilation opening must be at least 90 percent of the total area of the front wall of the enclosure, and must be covered with bars, wire mesh, or smooth expanded metal having air spaces. (d) Compatibility. (1) Live dogs or cats transported in the same primary enclosure must be of the same species and be maintained in compatible groups, except that dogs and cats that are private pets, are of comparable size, and are compatible, may be transported in the same primary enclosure. (2) Puppies or kittens 6 months of age or less may not be transported in the same primary enclosure with adult dogs or cats other than their dams. (3) Dogs or cats that are overly aggressive or exhibit a vicious disposition must be transported individually in a primary enclosure. (4) Any female dog or cat in heat (estrus) may not be transported in the same primary enclosure with any male dog or cat. (e) Space and placement. (1) Primary enclosures used to transport live dogs and cats must be large enough to ensure that each animal 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. (2) Primary enclosures used to transport dogs and cats must be positioned in the primary conveyance so as to provide protection from the elements. (f) Transportation by air. (1) No more than one live dog or cat, 6 months of age or older, may be transported in the same primary enclosure when shipped via air carrier. (2) No more than one live puppy, 8 weeks to 6 months of age, and weighing over 20 lbs (9 kg), may be transported in a primary enclosure when shipped via air carrier. (3) No more than two live puppies or kittens, 8 weeks to 6 months of age, that are of comparable size, and weighing 20 lbs (9 kg) or less each, may be transported in the same primary enclosure when shipped via air carrier. (4) Weaned live puppies or kittens less than 8 weeks of age and of comparable size, or puppies or kittens that are less than 8 weeks of age that are littermates and are

		accompanied by their dam, may be transported in the same primary enclosure when shipped to research facilities, including Federal research facilities. (g) Transportation by surface vehicle or privately owned aircraft. (1) No more than four live dogs or cats, 8 weeks of age or older, that are of comparable size, may be transported in the same primary enclosure when shipped by surface vehicle (including ground and water transportation) or privately owned aircraft, and only if all other requirements of this section are met. (2) Weaned live puppies or kittens less than 8 weeks of age and of comparable size, or puppies or kittens that are less than 8 weeks of age that are littermates and are accompanied by their dam, may be transported in the same primary enclosure when shipped to research facilities, including Federal research facilities, and only if all other requirements in this section are met. (h) Accompanying documents and records. Shipping documents that must accompany shipments of dogs and cats may be held by the operator of the primary conveyance, for surface transportation only, or must be securely attached in a readily accessible manner to the outside of any primary enclosure that is part of the shipment, in a manner that allows them to be detached for examination and securely reattached, such as in a pocket or sleeve. Instructions for administration of drugs, medication, and other special care must be attached to each primary enclosure in a manner that makes them easy to notice, to detach for examination, and to reattach securely. Food and water instructions must be attached must be securely attached to the outside of the primary enclosure in a manner that makes it easily noticed and legible. (i) A licensed breeder transporting animals regulated under this chapter using commercial transportation a shipper holding a licensed issued by the federal regulatory agency.