

Arthur Coccodrilli, Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

2559

INDEPENDENT REGULATORY REVIEW COMMISSION
RECEIVED
MAY 16 2007

RECEIVED

March 13, 2007

Dear Chairman Coccodrilli,

I am writing in response to the Dog Laws Act 225, the proposed amendments to the Pennsylvania dog law regulations, that was issued on December 16, 2006. I believe that inhumane, substandard, and unlicensed kennels should not be tolerated, but I do not agree that most of the proposed regulatory changes are needed, or would necessarily have a beneficial outcome if adopted. In general, these regulatory proposals are *extremely* onerous, impractical, excessively burdensome and costly, unenforceable, and/or will not improve the quality of life for the dogs in these kennels. Furthermore, if they are adopted, they will surely put nearly all kennels out of existence in PA.

For these same reasons, I am also against HB 445, and HB365, which were referred to committee in February, 2007. There are quite a few things in the proposed regulations which are not of any value to a dog's health, some which would actually be detrimental, and some that are questionable. Most of the proposal, as well as HB 445 and HB 365, should be stricken. The current dog law is comprehensive and adequate.

The proposed new regulations are not only massive and onerous, but also seem to be written in such a way as to be impossible to be complied with. If kennels are indeed eliminated from PA, the revenue, not only in lost puppy sales and state sales taxes, but also in lost revenue from the loss of shows, trials, and other dog activities, will reach into the millions, and probably even the hundreds of millions, of dollars. Many businesses would be affected, besides the kennels themselves, including feed companies, housing and supply businesses, motels, restaurants, gasoline stations, banks, the list of affected businesses is lengthy.

Amish and Mennonite kennels, who may depend on the income generated from their dog sales, might be forced to sell their farms and move to other states. Many only raise dogs now because they can not make a living farming in this state and in this current economy. That might cause a massive exodus, with the attending sales of these particular farms, which would doubtless be sold to developers, who could then massively expand the housing developments that are being seen in the south and eastern parts of the state now. This could trigger major new infrastructure problems in these areas, such as overcrowded roads, overcrowded schools, under funded townships, and water shortages due to major influx of population. Also, possible environmental issues, caused by the loss of undeveloped areas, could be triggered by a massive exodus of many farmers in a given area. Does this seem far-fetched? It should not, as it is happening in many areas of the state right now, as people are moving up from Baltimore and Washington, DC. By keeping these farms intact, many acres of undeveloped land will be retained for Pennsylvanians.

The Department has been receiving letters of protest to the proposed changes, and has asked for people to be specific in their objections. But let us consider, these proposals are massive, expanding Dog Law from about 16 pages to 67 pages long, although the font and spacing on the proposed regulations are larger, which would make it less than 67 pages if the font and spacing were the same. However, these regulation changes were written by legally trained people. So, to ask the public, who, by and large, are not legally trained, to specify which particular items they object to, is asking perhaps more than can be skillfully provided, as a non-legally trained person will not be able to interpret all the nuances of the law, nor will they realize the full implications and interactions of various areas in the regulations, nor how different articles and sections will impact on each other, and impact those being regulated. We would hope that this is not being used to accommodate the objectors by eliminating a few minor changes, while keeping the rest of these excessively burdensome, unnecessary and onerous regulation changes, which will still put kennels out of existence in PA.

However, in an effort to respond in the manner which the Department has requested, which is to be specific, a number, but not all, of the problems will be addressed below, starting at the beginning:

Terms:

"Establishment", and "Temporary Home" – These terms are too broad and the way they are written would pull in many people and businesses which are not currently required to be licensed, including rescues, co-ownership homes, motels, dog show sites like the Farm Show building, nursing homes, etc. Because these

Entities could not meet all the kennel requirements, nor would most want to, many, like motels, would stop accepting dogs, which would create undue hardship for tourists and others who routinely travel with their dogs. Furthermore, dog shows and other dog activities would come to an end, thereby reducing the income that comes into PA by millions of dollars.

"Sanitize" – states, "To make physically clean and to remove, neutralize and destroy, to a practical minimum, agents, *vectors of disease, bacteria and all infective and deleterious elements* injurious to the health of a dog." [Italics added.] This is too broad, and at the same time, too subjective. For instance, the air can be a "vector" for disease and bacteria to spread, as with people, one person sneezes and the cold spreads through the air. How would a kennel owner be able to "make physically clean and to remove, neutralize and destroy, to a practical minimum, agents, *vectors of disease*", if that vector was the air? Or, what exactly is a "deleterious element", and what would prevent that term from being subjectively interpreted during an inspection? With this wording, it would be impossible to meet the legal requirements, unless the dogs were maintained in a laboratory environment. The current wording is sufficient.

Section 21.4 (1) (iii) (C) – states, "Filing of a suit in equity in the Commonwealth Court to enjoin the operation of any kennel that violates *any* of the provisions of the Dog Law or this part." [Italics added.] Under these proposed regulations, this would legally mean that if someone, say, missed writing down when they sanitized a water bowl one day, or some other trivial detail, and was inspected, legally they could be shut down! This one word change could be used to shut down all kennels in PA.

Section 21.14 (a) (3) (i) – states, "The establishment shall have kennel facilities that meet the regulatory requirements for *all* of the dogs currently on the premises *or to be kept, harbored, boarded, sheltered, sold, given away or in any way transferred* by the establishment, *which ever number is larger*." [Italics added.] That would put just about every kennel out of business, because the facility would have to hold ALL the dogs that would pass through in a given year. Most kennels have puppies pass through during the year, or if it's a boarding kennel, not all the dogs are there at the same time. The same applies to shelters, and since motels and the Farm Show building would now be required to get a kennel license, it would apply to them, too. This is undue burden.

Section 21.14 (a) (5) (iii) (A) – Kennel records – the way this is worded, it does not allow a kennel to obtain a dog from an individual, because the kennel must have, "*all* of the following information: (1) The name of the kennel and kennel owner from which the dog or dogs were acquired.", etc. [Italics added.] Additional information is required, but nowhere does it make allowances for a dog to come from an individual, and since it says that a kennel owner must have "*all*" of that information, if the kennel owner would not have that information, since the dog would have come from an individual, the kennel would be in violation, and since the above words added "*any*", they would be shut down, cited and fined! It has to be illegal to not allow one legal citizen to purchase a legal item (dog) from another legal citizen.

Furthermore, these excessive records, as listed in Section 21.14 (a) (5) (iii) (A) (1) (2) (3) (4) (5); (B) (1) (2) (3); Section 21.14 (a) (5) (iv); (v); (vi); (vii) (A) (1) (2) (3); (B); (C); (D); (viii) – are administratively burdensome. The current records as required by current Dog Law are adequate and comprehensive.

Section 21.14 © – states, "**Any person**, licensed kennel, establishment or temporary home accepting a dog from another State, Commonwealth or country shall assure a health certificate accompanies each dog..." [Italics and bold added.] Then, several lines later, it states, "The health certificate or a copy thereof shall accompany such dog while in the Commonwealth. The health certificate shall state all of the following:

"rabies within 100 days of importation." Therefore, that would eliminate all out of state puppies under the age then follows a list of which (iv) – states, "That after reasonable investigation, the dog has not been exposed to of 100 days of age, which is 14 ½ weeks, or almost 3 ½ months old, because they are not 100 days old. It is impossible for a dog that is not at least 100 days old to have not been exposed to rabies for 100 days! This actually might create a beneficial situation for PA breeding kennels, as their puppies would be the only young puppies that would be obtainable for any PA citizen to legally purchase. However, it could also lead to a black market, as most pet owners wish to purchase their puppies prior to 14 ½ weeks of age, and they would probably drive out of state to do so.

Section 21.15 Exemptions. (a) and (b) – This is discrimination against all other entities that do not fit into these parameters. If it is necessary for the health and well being of dogs that all the other licensed dog entities must comply with quarantine and floor space changes, then do the needs of dogs change when they are at these dog control facilities? If the needs of dogs are consistent no matter where they are, which would seem evident, then this discrimination should not be tolerated, as it would place the dogs in a situation that the state has deemed inadequate for their health and well being. Treat everyone the same.

Section 21.21 (c) – states, "Adequate drains or gutters or both shall be provided to rapidly eliminate excess water from both indoor and outdoor housing facilities and other areas such as outdoor runs and exercise areas." It is impossible, impractical and not financially feasible to install drains or gutters in a field, large run or yard. This would create severe financial hardship and create undue burden for kennels who utilize large outdoor areas.

Section 21.23 (a) – states, "The dog shall be able to lie in a lateral recumbence (on its side or back) with legs fully extended, without head, tail, legs, back or feet touching any side of the enclosure." As has been stated by others, this is describing either an unconscious or a dead dog, as they do not lie with their legs straight out, nor their tail fully straight out, in any other situation, normally. If the size of the primary enclosure is already detailed, then to have to state that a dog's tail, sticking straight out, should not touch anything, is unnecessary, and also is discriminatory to certain kennels because some breeds of dogs have very long tails, while others have tails that are docked. The kennels that raise long-tailed breeds would need larger enclosures than kennels that raise the same size dogs, but which have short or docked tails. In a breed like a Doberman, for example, the difference could amount to as much as nearly two feet in length difference, as docked tails vs. undocked.

Furthermore, this additional sentence could lead to kennels cutting the tails off of all their breeding stock, just because they could not afford to increase their cage size to accommodate long tailed dogs, if the primary enclosure size was already legally adequate, otherwise. This would result in the lowering of the quality of life for dogs who would be used to having their tails long. This sentence should be stricken.

Section 21.23 (e) – states, "...Dogs shall be observed and supervised during exercise..." The problem with this is, first of all, the kennel owner can be doing something else, like cleaning, while the dogs are exercising. So, this is taking away from the time that the kennel owner can provide other care for the dogs. This creates undue burden. The second problem is, some dogs will not do their 'business', nor will they go exercise, if a person is standing there watching them. They just hang around, watching you. So, this negates the idea of the exercise. This would lower the quality of life for the dog.

Also, what about dogs that have an outdoor run, with space requirements that exceed the minimum area already? Would they still need to have to be taken out and placed in a different outdoor exercise area, when they can self-exercise already? This would create undue burden on the kennel owner, and also an additional stress on the dog, in some cases.

Section 21.23 (e) (B) – states, "Fencing – Shall be adequate to prevent dogs from escaping from the exercise area and shall be kept in good repair and free of *rust*, jagged edges or *other defects* which could cause injury to the dogs." [Italics added.] The problem with the word, "rust" is, that all outdoor fencing wire gets some rust within a matter of a couple of years, with weather, pollution and environmental effects. If male dogs urinate on wire, which they do, it can soon become rusty. However, the existence of surface rust does

not cause harm to the dog, because this section is discussing vertical fencing, with which the dog makes little contact. To force the kennel owner to replace vertical fencing which had some rust would create undue financial burden, as fencing would need to be replaced every several years. If the runs were large, or yards or fields were used, the cost would run into thousands and thousands of dollars just for the fencing, not to mention the labor to replace hundreds and hundreds of feet of fencing.

"Other defects" – this is too subjective. What are "other defects"? This could be interpreted almost any way, and could then be used to cite, fine and shut down a kennel.

Section 21.23 (e) (ii) (C) – states, "The exercise area shall be equipped in a manner to allow dogs to be exercised even during inclement weather and to protect the dogs from becoming wet, matted or muddy during such exercise." This would force the elimination of fields, large runs and yards, because it would be prohibitively costly to build a roof to cover an exercise area of that size. Therefore, the kennel owner would be forced to utilize small exercise areas, because they would have to be roofed over. This would lower the quality of life for the dog, as it would no longer be able to run flat out in large areas to exercise.

Section 21.23 (e) (iii) – This section prescribes the separation of sizes of dogs for exercise purposes. While good judgment should be used when exercising dogs of varying sizes, this is overly prescriptive in that various size dogs are often exercised together, and indeed, often live happily together. Furthermore, this size breakdown would make it illegal to exercise large breed mothers with their weaned puppies. This would place undue burden on kennels who choose to keep a puppy, and would lower the quality of life for the dogs, as they often enjoy being with their mother/offspring.

Section 21.23 (e) (v) – states, "Daily records shall be kept for each dog in the kennel..." It further states many specifics including a complete description of the dog, and details of the dog's exercise. This is administratively burdensome, and serves no useful purpose, nor does it increase the quality of life for the dog. Indeed, it would reduce the quality of life for the dog, because the kennel owner would be too busy writing all that down, rather than taking care of the dogs. It would also create undue financial burden, because the kennel owner would probably have to hire someone full time just to do the records. Just this requirement alone would put many kennels out of business.

Section 21.24 (b.1) (4) – regarding shade states, "Be as wide as the kennel run area and at least 4 feet in length or large enough to contain all the dogs in that kennel run area at the same time and provide them with a permanent area of shade and protection from inclement weather throughout the day, *whichever is larger*." [Italics added.] If the kennel runs are very wide, or if a field or yard is utilized, then the cost to build a permanent shade structure the entire width, which could be in excess of 100 feet or more, would be cost prohibitive. This would either force the elimination of such large kennel runs, thereby reducing the quality of life for the dogs, or put the kennel out of business. This creates undue burden.

Section 21.24 (b.2) states, "Dogs housed in outdoor facilities shall be provided with a flat and level surface for housing and for exercise. Outdoor facilities and exercise areas shall have a slope of at least 1/8 inch per foot to provide drainage, but may not be placed on a slope of more than 6 inches per 10 feet." These two sentences contradict each other. The first states, "flat and level", while the second sentence describes required slope. This would eliminate large runs and fields or yards, because they might have areas that varied from those prescribed by law. This is overly prescriptive.

It continues, "The slope shall be situated in such a manner <misspelled – 'manner'> as to assure drainage away from the primary enclosure and away from any adjacent primary enclosure and run associated with that primary enclosure." The problem here, and with the previous sentence, is that this is overly prescriptive, in that large runs or fields, which were adjacent, might have various slopes, or flat areas, that would go in different directions, and would therefore be out of compliance.

Also, it would be impossible to have more than 2 adjacent runs on any kennel property, because the way this is worded, "and away from any adjacent primary enclosure and run associated with that primary enclosure," [Italics added.] legally would mean that you could place two runs on a hilltop, with the dividing fence

between them at the top of the hill, so that each run would drain away from the other run. But, you could not have any other adjacent runs, because if they were on the same property, they would all end up draining toward one or the other of the two runs in existence. The only way to maybe fulfill that would be if a property had a series of hills, and each run was situated on its own hill top, with the fences not going all the way to the bottom of each hill. But, even that would not legally fulfill this regulation. This is overly prescriptive.

Section 21.24 (b.3) states, "The run associated with each dog box or primary enclosure of an outdoor facility shall be at least 5 times the length of the largest dog in that run and 2 times as wide as the length of the largest dog in that run, ..." Why this particular shape? Perhaps a kennel run can be laid out in a different shape. Also, this size is arbitrary, and not based on scientific size studies. This is overly prescriptive.

Section 21.24 (b.7) states, "...Surfaces of outdoor housing facilities – including houses, primary enclosures, dens and shelters – that cannot be readily cleaned and sanitized, must be replaced when worn or soiled." That means that legally, when a dog house gets some dirt on it, it must be replaced because it would be considered "soiled". This creates undue burden. "Worn" is too subjective and open to interpretation.

Section 21.24 (b.8) states, in referring to outdoor runs and exercise areas, "...Pulverized stone, sand, sawdust or any other material that cannot be readily hosed down and sanitized or that may cause respiratory or digestive problems for the dogs may not be utilized." This eliminates yards, large runs and fields, because they can not be hosed down or sanitized.

Section 21.24 (b.10) states, "... The outdoor facility and drainage system shall be constructed in a manner to insure the animals stay dry and are not subjected to wet, muddy or unsanitary conditions. Outdoor facilities shall be cleaned of all feces and sanitized in a manner to wash away urine, and kill all parasites, fungus and other disease causing elements. The facilities shall be cleaned and sanitized every 24 hours and in a manner consistent with the provisions of this chapter." Once again, this overly prescriptive verbiage would eliminate all large runs, yards, and fields because it is not possible to sanitize them, nor to wash them, nor to be able to kill fungus, etc. in a yard or field. Also, sometimes it rains or snows, or there is dew, and the animals would get wet. These natural settings would, according to these regulations, be considered unsanitary and not legal. It would, therefore, be illegal to allow the dogs to live on any natural surface, because it would not be sanitizable. This would lower the quality of life for the dogs, and it also creates undue hardship, as it eliminates large natural areas for the dogs. Furthermore, if large natural areas were to be sanitized, it would doubtless be a violation of EPA regulations. Therefore, state law would force kennel owners to be in violation of federal law.

Section 21.24 (b.11) states, "Outdoor facilities, including runs and exercise areas shall be kept free of grass and weeds..." This creates undue hardship, as it eliminates yards, fields, large runs, and other natural areas. It is also not in the best interest of dogs, as grass is a natural surface, which is good for the development of dogs' feet and legs.

This section further states, "Where pesticides are used, the owners shall consult a licensed veterinarian with regard to the proper pesticides to use in order to assure the health, safety and welfare of the dogs." This is overly prescriptive, as a kennel owner should not have to consult a vet every time a wormer or parasitide medication is needed.

Section 21.24 (f) (2) states, "The interior surfaces of all primary enclosures must be *free of rust, jagged edges and sharp points or any object which may cause harm or injury to the dog.*" [Italics added.] Regarding rust, as previously with fencing, rust may appear on any metal surface, and sometimes quickly. "Free of rust" would legally mean that if an inspector finds a small amount of rust, the kennel could be shut down. This creates undue burden. The wording, "any object which may cause harm or injury" is too subjective and open to interpretation.

Section 21.24 (f) (2) states, "The floors and walls of indoor housing facilities, and *any other surfaces* in contact with the animal, shall be impervious to moisture." [Italics added.] This would eliminate all homes, as

homes are not impervious to moisture. It would also, technically, eliminate bedding, because bedding, by its very nature, is not impervious to moisture. This creates undue burden, and also lowers the quality of life for the dog.

It further states, "The ceilings of indoor housing facilities must be impervious to moisture or be replaceable (such as a suspended ceiling with replaceable panels.)" This would eliminate many houses or facilities, unless the drywall ceilings were covered with waterproof material. This creates undue burden.

Section 21.24 (f) (8) This section says that records must be kept of every time anything regarding the dog's living environment was cleaned and sanitized, and each time the dog was fed and watered. This section alone would put many kennels out of existence because no one has that much time to devote to needless paperwork which does nothing to improve the life of the animal. This creates undue burden.

Section 21.24 (f) (9) states, "The housing facility shall have and be equipped to provide potable water for all the dogs' drinking needs and for all other animal husbandry requirements." Does that mean that legally there would have to be running water? What about outdoor housing areas? If so, this would eliminate many kennels, because it would be impossible, and very costly, to supply many outdoor kennel areas with running water. This is overly prescriptive.

Section 21.24 (f) (10) states, "The housing facility shall have adequate heating, cooling, ventilation and lighting mechanisms, ..." Under Definitions, Section 21.1, the term "Housing facility" says, "Any land, premises, shed, barn, building, house, trailer or other structure or area housing or intended to house dogs for any period of time." Therefore, legally, even outdoor dog houses would need to be fitted with heating, cooling, ventilation and lighting. This creates undue burden and would put any kennel with outdoor housing out of business.

Section 21.24 (f) (11) states, "The housing facility including outdoor kennel housing shall be equipped with waste disposal and drainage systems that are constructed and operated in manner that allows for the rapid elimination of animal waste and water and insures the animals stay dry." Once again, this would eliminate yards, large runs, and fields, because waste disposal and drainage systems can not be cost effectively installed. This would create undue burden. Also, it would prevent the dogs from being allowed to go out to exercise in any but totally dry weather, thereby reducing the quality of life for the dog.

Section 21.24 (f) (11) (i) states, "Where the kennel is an indoor kennel with no outside runs, a gutter and drain shall be provided for sluicing waste waters during kennel cleaning." This would totally eliminate homes, as they are not outfitted with gutter and drain systems. Other kennels may not be constructed in a manner to accommodate gutters or drains, and this would put them out of business. This creates undue burden.

Section 21.24 (f) (11) (ii) states, "All floor or surface drains and gutters shall be at least 6-inches in diameter." This one sentence, alone, would eliminate nearly all kennels in PA, as industry standard is 4 inch, and to have to tear up flooring to increase drain size is cost prohibitive, and in some instances this conversion would be detrimental to the structural integrity of the kennel building. Furthermore, a 4 inch drain will move debris better than a 6 inch drain, as less water is needed to create force for movement. This creates undue burden.

Section 21.24 (f) (11) (iv) states, "Outdoor kennel runs shall be sloped to a gutter located immediately outside of the end fence of each run and meet the criteria established at sections 24(b.1-b.3 and b.6-b.9) of this chapter." This would again eliminate yards, large runs and fields, as they may not have a slope, and it would not be possible, nor practical, to install gutters in such areas. It continues, "Indoor kennels with outdoor runs shall also have indoor drains or gutters." This would again eliminate homes, or anywhere else that a drain or gutter system was not installable. This creates undue burden.

Section 21.24 (f) (11) (vii) states, "The floor or surface of the indoor or outdoor kennel shall be sloped, situated and constructed in a manner which assures that urine and feces are eliminated from the areas occupied by the dog..." It continues, "The kennel floor or surface shall be sloped (at least 1/8-inch per foot)

to the gutter or drain to allow for quick water drainage and drying." Once again, this eliminates homes or any facility which does not have a sloped floor or gutters or drains. Undue burden.

Section 21.24 (f) (12) states, "Containers utilized to hold trash, medicine, chemicals, toxins or other substances within the housing facility and in any food storage or food preparation area must be leak proof and must have tightly fitting lids on them at all times, and be manufactured so as to not be accessible to or destructible by a dog." This means that nothing plastic can be used, because that is destructible by a dog. All containers would have to be heavy gauge metal. Legally, all these containers would have to be kept in a separate room, to assure that they were not "accessible" by a dog. This is undue burden.

Section 21.24 (f) (14) states, "Open supplies of food or bedding must be kept in leak proof containers with tightly fitting lids to prevent contamination, vermin infestation and spoilage." Bedding might not be able to be stored this way, depending on the kind, like straw if it is used for outdoor housing. There are no leak proof containers with tightly fitting lids made for straw bales. Furthermore, if you put this kind of bedding, which might have a slight amount of residual moisture in it, in a tightly lidded container, it is liable to get mold on it, making it undesirable for dogs. This causes undue burden.

Section 21.25 (c) states, "Auxiliary temperature control and air movement from fans, blowers or air conditioners shall be provided when the ambient temperature is 85° F (29.5° C) or higher." Is this for just indoor facilities, like in the current dog law, or outdoor ones, as well? If for outdoor kennels, that would put many out of business.

Section 21.25 (d) states, "Indoor kennels shall have a heating source sufficient to assure a slab temperature of not less than 35 degrees Fahrenheit and not more than 55 degrees Fahrenheit during heating season." This is contrary to dog health, because 55° F is not warm enough for whelping and for puppies. Also, this would eliminate homes, because they are not kept that cold. Perhaps this is a typo? However, some breeds of dogs would enjoy a temperature of less than 35° F.

Section 21.25 (e) (2) states, "Cooling. The ambient temperature in the facility shall not rise above 85 degrees Fahrenheit." This would put many kennels out of business, because the temperature in PA often rises above 85° F in the summer, and this sentence would require the installation of air conditioners in all kennels. This would be very cost prohibitive for indoor kennels, and impossible to do in outdoor kennels, and is an undue burden.

Section 21.26 (a) (1) and (2) regarding specific air flow, are overly prescriptive and therefore create undue burden.

Section 21.26 (a) (3) (3) states, "The ventilation system for latrines and support buildings shall be separate from the ventilation system for the kennel building." If a current bathroom, or feed room, or whatever, is in the kennel building, it would have to be totally ripped out and rebuilt somewhere else, if it was not possible to create a separate ventilation system for it. This creates undue burden.

Section 21.26 (b) states, "Other requirements. In indoor, sheltered and outdoor facilities, auxiliary ventilation and air movement from fans, blowers or air conditions shall be provided when the ambient temperature is 85° F (29.5° C) or higher." This same requirement, as in Section 21.25 (e) (2), would put many kennels out of business, because it impossible to provide these kinds of ventilation systems in an outdoor setting.

Section 21.27 (a) (2) states, "Lighting shall be available for dogs housed in outdoor kennel facilities. The lighting shall be sufficient to allow observation of the physical condition of the dogs even at night." This would mean that floodlights or a street light type set-up would be needed in outdoor kennel housing, which would be excessively expensive to install and utilize, if it was even possible to do so. This creates undue burden.

It continues, "Primary enclosures shall be placed so as to protect the dogs from excessive light and direct rays of the sun." Does this mean in indoor housing or in outdoor housing? If outdoor, this would be very difficult, and indeed, not even desirable, to not allow the dogs to have any direct sun. Some direct sun is desirable for good health.

Section 21.28 (b) states, "The water shall be free of stools, urine, vomit and other contaminants at *all* times." [Italics added.] It is not possible to hover over all the bowls of all the dogs to make sure that this never happens. Legally, if an inspector found one water bowl in this condition, even if it had just happened, the kennel would be in violation. This is undue burden.

Section 21.28 (c) states, "Self-feeders and waterers may be used but shall be sanitized on a daily basis to prevent molding, deterioration, contamination or caking of feed." Between 25 to 50 pounds of dry feed are held by self-feeders, which normally last for several days. It would require excessive labor to sanitize these every day. This creates undue burden. The current wording is adequate.

Section 21.28 (d) states, "Bedding used in primary enclosures, shall be kept clean and maintained in that manner on a daily basis." This could be interpreted to mean that clean bedding must be provided, or bedding must be changed, every day. This would create excessive expense and excessive labor to do that. This creates undue burden.

Section 21.29 (a) states, "Kennels, including the kennel building areas in which dogs are housed, all interior surfaces, the primary enclosure of each dog, outdoor runs associated with both indoor and outdoor kennels, and drains and gutters shall be sanitized and disinfected daily (every 24 hours), using only those disinfecting products approved by a licensed veterinarian." This one sentence alone would close down practically every kennel, because no one would have the time, nor the money to pay help, to do this. As has been pointed out by others, this is not even done in hospitals or nursing homes, or even in most laboratories, except possibly biosecurity labs. To require this of private citizens, for the purpose of raising animals, creates severe undue burden.

Section 21.29 (b) states, "A dog may not be placed in a primary enclosure previously occupied unless the enclosure has been sanitized and disinfected. The primary enclosure and runs associated with that primary enclosure shall be sanitized and disinfected whenever an animal is removed from that primary enclosure and prior to being occupied by another animal. Exercise areas must be sanitized and all stools removed prior to the next group of dogs being exercised in that area." This would eliminate large runs, yards and fields, because it is impossible to sanitize and disinfect natural areas. This would lower the quality of life for the dogs, and create undue burden.

Section 21.29 (c) states, "Dogs shall be removed from their enclosures while the enclosure is being sanitized and washed down." While the intent is to be lauded, the wording here would eliminate in-home housing, and outdoor natural areas, because they can not be washed down. This creates undue burden.

Section 21.29 (g) states, "... Disinfectants, pesticides and disinfectant procedures must be used only with the approval of the veterinarian." This legally means that unless the veterinarian approved it, the kennel owner would not be allowed to use bleach, which is available at any supermarket and can be purchased even by minors. The same would hold true for flea products, and wormers. This is discrimination, and also creates undue burden.

Section 21.41 (b) (d) (e) - are administratively burdensome. These excessive records would probably put many kennels out of business, because extra personnel would be needed just to keep the records. The current records as required by current Dog Law are adequate and comprehensive.

These are only some of the problems in the proposed regulations, but these are some of the major ones. Once again, these are being respectfully submitted as the **Department** requested specific comment letters.

The Department stated in their overview of the proposed regulation changes, that they thought that it would cost between \$5,000 to \$20,000 for existing kennels to meet the new standards. First, it is onerous and burdensome to expect a private individual citizen to be able to come up with even that amount of money to change their pre-existing legal business, which meets current law, to which he/she now must meet changes to an existing law, where the need for such does not exist.

Furthermore, based on current construction prices, the estimate of the Department is *drastically* underestimated. When questioned about exactly that, at the Dec. 13th meeting, and again at the March 6th meeting, the Department admitted that the cost estimate was not based on actual construction bids or figures, but rather someone's guess. When contractors are currently charging in excess of \$30 an hour, if you can even get a contractor, and construction materials are at a high cost due to rising fuel costs and environmental aspects, construction costs have skyrocketed. At the very most, \$5,000 would only cover the cost of two workers for two weeks, with no material fees.

We, personally, just in the last two years, spent over \$40,000 on a new 13 run kennel room, with indoor/outdoor runs, but since it only has 4 inch drains, it would not come into compliance with the proposed regulations. Furthermore, we had radiant hot water heat installed in the concrete, since it is good for the dogs. However, we would have to tear up the concrete to change the drains to the specified 6 inch size, which would ruin the heating system. Therefore, we would then have to install a new heating system. These cost thousands of dollars. Partitions would have to be torn out and reinstalled to allow for the changing of the drain system, and moving the partitions, alone, would cost in excess of \$5,000 just for labor and new bolts, etc, based on initial installation cost.

The full bathroom that we installed, which includes a tub with a shower, and a deep, stainless steel, wash sink just for the dogs, would have to be ripped out and moved, rebuilt and replumbed, as it shares the same ventilation system, which would make it out of compliance with Section 21.26 (a) (3). That would probably cost in excess of \$25,000, because concrete flooring would have to be broken up to find the water and sewer lines, which would then have to be re-laid in another area of concrete flooring that would also have to be broken up, then reconcreted, if that was all even possible to do without structurally damaging the rest of the building. Which is doubtful. Just these two aspects would put our kennel out of existence. And, that's not even addressing all the other overly prescriptive and excessively burdensome changes and requirements.

Furthermore, we also have large outdoor runs, some in excess of 200 feet long, fields, and yards for our dogs, and they heartily enjoy running and playing at will. Many of the proposed changes would cause us to have to eliminate these large areas, thus lowering our dogs' quality of life. It should not be the effect of law to do such.

The proposed regulations are 67 pages long, and HB 445 is 61 pages long, and they contain many, many regulation changes which would be impossible for anyone to meet, unless they had about half a million dollars to build and staff a kennel to spec. If HB 445 would also become law, then kennel owners would have no more than 15 days to come into compliance with all the new proposed regulations, which would be impossible to do. This would result in huge fines, as specified repeatedly in HB 445, seizure of animals, citations, civil penalties and liens on their property, all as specified in HB 445. The issue created by this proposal is our rights as citizens of this state to own property, and our rights to be afforded due process guaranteed by the provisions of our state's constitution. The vagueness and massive fines and penalties of this proposal cause great concern that the rights of citizens will be omitted by the bias opinion of those who will hear the citizens' side of the story.

If kennels in PA are shut down, several things will happen. First, the availability of puppies will decline, so the price will go up. People will go elsewhere, like the internet, for their dogs, which will drive income from the state, not only due to loss of taxable puppy sale income, but also loss of income from breeders who show and train their dogs in PA. As stated above, associated businesses will also suffer much financial loss. This will add up to millions of dollars of lost revenue for PA, and for PA businesses.

It is our understanding that this fact is being born out in states like Massachusetts, where there is such a shortage of puppies available from breeders, that the shelters there are buying and importing puppies from states to the south that do not have anti-breeder laws, and also they are importing them from *Puerto Rico*!!!! It has been reported that one shelter, alone, imports 400 to 800 puppies per month!! They have evidently pretty much eliminated dog breeders in their area, but the silent majority still wants pets.

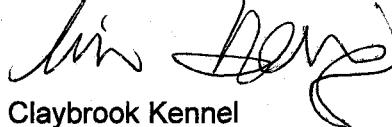
Some of those who oppose the regulation changes have said that smaller kennels should not have to comply, implying that larger ones should. However, size alone does not dictate how dogs are raised, nor the purpose of the kennel. We have a kennel, but we do not wholesale, nor broker, nor do we raise our dogs on wire flooring. We also do not make any money on our dogs, but we do have a large number of dogs, due to the fact that we maintain the only self-sustaining colony of a rare breed of dogs, in the world. We have had clients from as far away as California, Florida, Maine, and everywhere in-between. People have come here from as far away as Canada, France, Germany, and the Czech Republic for our dogs. Our dogs, and offspring of our dogs, are also in Switzerland, Austria, Slovakia and the Netherlands. I also started an international club, and a registry, and through my registry, got our rare breed accepted in the Czech Republic as a national breed, there. We have a fair number of dogs, as one must to maintain genetic variability to prevent inbreeding depression. And, we are inspected, both by the state and by AKC, and have always passed all our inspections, under three different state inspectors, and at least 4 different AKC inspectors, for years. Now, if these proposed regulations pass, they will put our kennel out of existence.

We have many, many repeat clients through our 25 + years of breeding and showing, and our clients also give us references, too. Just recently we got a request from an environmental researcher with a PhD, from Scotland, who now works for Penn State. He got two dogs from us several years ago, and now I've had to tell him that in a few months, we might be out of dogs.

For all the above reasons, with the exception of the proposed regulation changes for coyote damages, and tethering, and possibly for dangerous dogs, these proposed regulation changes, as well as HB 445 and HB 365, should be scrapped. The current PA dog law is very comprehensive and detailed. So much so, that Santorum based his PAWS bill on PA's regulations. PA does not need more dog laws.

Once again, these suggestions and this letter are being respectfully submitted as the Department requested specific comments. Thank you for the opportunity to comment.

Sincerely,



Claybrook Kennel
5730 Olde Scotland Rd.
Shippensburg, PA 17257