

Comments
Of
Walt Peechatka, Senior Consultant
Versant Strategies
114 Pine Street
Harrisburg, PA 17101
To
Pennsylvania Independent Regulatory Review Commission
August 19, 2010

Thank you for providing an opportunity to provide a few comments regarding the issue before you today.

In the interest of full disclosure I want you to know that during my 30-year career in state government I served four years as the Deputy Secretary of Agriculture for Regulatory Programs in the Department of Agriculture and also served as Acting Secretary for several months. In those positions I had the administrative and supervisory responsibility for the Bureau of Dog Law Enforcement and the four other regulatory bureaus in the Department.

My comments today reflect the position of the Pennsylvania Professional Dog Breeders Association as well as the position of our firm, Versant Strategies, and the firm's collective experience of many decades of service in the executive and legislative branches of Commonwealth government.

We believe that the Commonwealth of Pennsylvania and the Department of Agriculture find themselves at a fork in the road with significant and contrasting impacts as the Commonwealth chooses which fork in the road to pursue. At this important fork in the road the Commonwealth has two choices. It can choose the path of legal, reasonable, and appropriate rulemaking or it can choose the path of onerous rules and regulations coupled with its increased omnipresence in legal, but overly regulated, businesses of the Commonwealth. The rulemaking before you today, if adopted, will start the Commonwealth down the latter path with very uncertain results.

This rulemaking is a classic case of government overreach. Implementing the requirements of Act 119 of 2008 to date has resulted in the loss of nearly two-thirds of the commercial kennels in the Commonwealth. If this rulemaking is approved, as currently drafted, it will sound the death knell of the remainder of this industry.

In my formal written comments to this Commission I detailed numerous examples of problems associated with this rulemaking. Examples are: 1) provisions in the rules and regulations which exceed the Department's authority in the Act, 2) the proposed use of monitoring devices in the kennels to monitor temperature and humidity between inspections, 3) shortcomings in the enabling statute which require the Department to do by policy what should be done by rules and regulations, and 4) serious shortcomings in the Department's economic impact analysis, to name a few.

The proposed approach to monitoring performance by installing devices in the kennels places the Commonwealth in the position of daily intrusion in the operations of an important agricultural business. If that happens in dog kennels, how soon will it happen in other agricultural businesses and after that in other regulatory programs administered by other agencies including the Departments of Environmental Protection, Labor and Industry, and Health. We believe that choosing this path of daily intrusion in a private business is a very risky one and should not be taken lightly.

We submit that there are sufficient and appropriate reasons to return this rulemaking to the Department of Agriculture and we ask for your serious consideration of this request on behalf of what is now a significantly beleaguered industry, the commercial dog breeders of Pennsylvania.