

RULES AND REGULATIONS

Title 12—COMMERCE, TRADE AND LOCAL GOVERNMENT

DEPARTMENT OF COMMUNITY
AND ECONOMIC DEVELOPMENT

[12 PA. CODE CH. 33]

Commercial Motion Picture Sales Tax Exemption Certificate Form

The Department of Community and Economic Development (Department), under the authority of section 204(54) of the Tax Reform Code of 1971 (TRC) (72 P. S. § 7204(54)), adopts Chapter 33 (relating to commercial motion picture sales tax exemption certificate). The purpose of the final-form regulation is to prescribe a Pennsylvania Exemption Certificate (FORM REV-1220) as the form to be used by producers of commercial motion pictures, who are qualified to take advantage of the Pennsylvania Sales and Use Tax exemption provided by section 204(54) of the TRC.

Introduction

Section 204(54) of the TRC exempts from the tax imposed by section 202 of the TRC (72 P. S. § 7202) (Pennsylvania Sales and Use Tax) the "sale at retail to or use by a producer of commercial motion pictures of any tangible personal property directly used in the production of a feature-length commercial motion picture distributed to a national audience: Provided, however, that the production of any motion picture for which the property will be used does not violate any Federal or State law; and, Provided further, that the purchaser shall furnish to the vendor a certificate substantially in the form as the Department of Community and Economic Development may, by regulation, prescribe, stating that the sale is exempt from tax pursuant to this clause." Before qualified producers of commercial motion pictures can take advantage of the tax exemption, they must know what form of certificate to use. Under section 204(54) of the TRC, only the Department may prescribe the type of certificate to be used.

The Department received only one comment to the proposed regulation. The comment came from the Independent Regulatory Review Commission (IRRC) and dealt with the Department's inconsistent use of the terms "exemption" and "exclusion." Because the use of these terms affects the burden of proof, IRRC recommended that only one term be used and recommended the sole use of the word "exemption," because use of that term places the burden of proof on the taxpayer claiming the exemption, rather than the Commonwealth. The Department welcomed the comment and has implemented it in the final regulation.

Analysis

Section 33.1 (relating to form required) prescribes the type of certificate to be furnished by a qualified producer of commercial motion pictures to a vendor to comply with the statutory exemption from the Pennsylvania Sales and Use Tax.

Fiscal Impact

The final-form regulation has no fiscal impact on the Commonwealth, political subdivisions or the public.

Paperwork

Because the certificate to be used by qualified producers of commercial motion pictures is a Pennsylvania Exemption Certificate (FORM REV-1220) which is already in use, the final-form regulation imposes no new or different paperwork requirements.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the notice of proposed rulemaking, published at 28 Pa.B. 1530 (March 18, 1998) to IRRC, the Chairpersons of the House Commerce and Economic Development Committee and the Senate Community and Economic Development Committee for review and comment.

In compliance with section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received, as well as other documentation. In preparing this final-form regulation, the Department has considered the comments received from IRRC, the Committees and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), this final-form regulation was deemed approved by the House and Senate Committees on May 1, 2000. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 11, 2000, and approved the final-form regulation.

Effective Date/Sunset Date

This final-form regulation will become effective upon final publication in the *Pennsylvania Bulletin* and shall apply retroactively to May 7, 1997. This final-form regulation will expire when section 204(54) of the TRC no longer requires the Department to prescribe the type of certificate to be used under this section.

Contact Person

For an explanation of this final-form regulation, contact Jill Busch, Deputy Chief Counsel, Department of Community and Economic Development, 524 Forum Building, Harrisburg, PA 17120, (717) 720-7314.

Findings

The Department finds that:

(1) Public notice of intention to adopt this regulation has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202).

(2) That the regulation is necessary and appropriate.

Order

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

(a) The regulations of the Department, 12 Pa. Code, are amended by adding § 33.1 to read as set forth in Annex A.

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

(c) This order shall take effect upon publication in the *Pennsylvania Bulletin* and apply retroactively to May 7, 1997.

SAMUEL MCCULLOUGH,
Secretary

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 30 Pa.B. 2688 (May 27, 2000).)

Fiscal Note: Fiscal Note 4-67 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT

PART I. GENERAL ADMINISTRATION

Subpart E. COMMERCIAL MOTION PICTURE SALES TAX EXEMPTION CERTIFICATE

CHAPTER 33. COMMERCIAL MOTION PICTURE SALES TAX EXEMPTION CERTIFICATE

Sec.
33.1. Form required.

§ 33.1. Form required.

Producers of motion pictures, who are qualified to take advantage of the Pennsylvania Sales and Use Tax exemption provided by section 204(54) of the Tax Reform Code of 1971 (72 P.S. § 7204(54)), shall use a Pennsylvania Exemption Certificate (FORM REV-1220).

[Pa.B. Doc. No. 00-1035. Filed for public inspection June 16, 2000, 9:00 a.m.]

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 93]

Stream Redesignations, Buck Hill Creek, et al.

The Environmental Quality Board (Board) by this order amends §§ 93.9c, 93.9f, 93.9l, 93.9p and 93.9t to read as set forth in Annex A.

This order was adopted by the Board at its meeting of April 18, 2000.

A. Effective Date

These amendments are effective upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

B. Contact Persons

For further information, contact Edward R. Brezina, Chief, Division of Water Quality Assessment and Standards, Bureau of Watershed Conservation, 10th Floor, Rachel Carson State Office Building, P. O. Box 8555, 400 Market Street, Harrisburg, PA 17105-8555, (717) 787-9637 or William J. Gerlach, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available electronically through the Depart-

ment of Environmental Protection's (Department) Web site (<http://www.dep.state.pa.us>).

C. Statutory and Regulatory Authority

This final-form rulemaking is being made under the authority of the following acts: sections 5(b)(1) and 402 of The Clean Streams Law (act) (35 P.S. §§ 691.5(b)(1) and 691.402); and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20), which grant to the Board the authority to develop and adopt rules and regulations to implement the act. In addition, the Federal regulation in 40 CFR 131.32 sets forth certain requirements for portions of the Commonwealth's antidegradation program.

D. Background of the Amendments

This Commonwealth's water quality standards, which are set forth in Chapter 93 (relating to water quality standards), implement the provisions of sections 5 and 402 of the act and section 303 of the Federal Clean Water Act (33 U.S.C.A. § 1313). Water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements (such as treatment requirements and effluent limits) on individual sources of pollution.

The Department considers candidates for High Quality (HQ) or Exceptional Value (EV) Waters designation in its ongoing review of water quality standards. In general, HQ and EV waters shall be maintained at their existing quality, and wastewater treatment requirements shall ensure the attainment of designated and existing uses. The Department may identify candidates during routine waterbody investigations. Requests for consideration may also be initiated by other agencies, such as the Fish and Boat Commission (Commission). In addition, organizations, businesses or individuals may submit a rulemaking petition to the Board.

These streams were evaluated in response to a petition, as well as requests from the Commission and Department staff as follows:

Petition: Buck Hill Creek (Buck Hill Conservation Foundation).

Commission: Sinnemahoning Portage Creek and Cowley Run; South Branch Oswayo Creek; and Swamp Creek.

Department: Owl Creek and Roaring Run.

Aquatic surveys were conducted by the Department's Bureau of Watershed Conservation. The physical, chemical and biological characteristics and other information on these waterbodies were evaluated to determine the appropriateness of the current and requested designations using applicable regulatory criteria and definitions. Based upon the data collected in these surveys, the Board has made the designations set forth in Annex A.

Copies of the Department's stream evaluation reports for these waterbodies are available from Edward R. Brezina whose address and telephone number are listed in Section B of this Preamble.

E. Summary of Comments and Responses on the Proposed Rulemaking

The Board approved the proposed rulemaking on January 20, 1998, and it was published at 28 Pa.B 1635 (April 4, 1998) with provision for a 60-day public comment period that closed on June 3, 1998. Comments were received from a total of 34 commentators and the Independent Regulatory Review Commission (IRRC).

Thirty-one of the public comments were in support of the proposed redesignation of the upper portion of Buck Hill Creek. These comments were provided by the general public, the Brodhead Watershed Association, the Buck Hill Falls Company, the Monroe County Conservation District and Concerned Citizens of Barrett Township.

IRRC commented that the Department relies on the selection criteria in the "Special Protection Waters Implementation Handbook" to arrive at stream reclassifications and that the handbook is only a guidance document. They stated that the proposed redesignations should more appropriately cite statutes and regulations. The Pennsylvania Coal Association, the Pennsylvania Builders Association and IRRC indicated that the proposed redesignations were premature because the Department's antidegradation regulation was undergoing revision. Those revisions have been completed, with Board approval on May 19, 1999, and publication at 29 Pa.B. 3720 (July 17, 1999). The "biological test" used as the basis for the recommended redesignation of some streams in this package has been incorporated into the antidegradation regulation in § 93.4b(a)(2) and (b)(1)(v) (relating to qualifying as high quality or exceptional value waters).

The Pennsylvania Builders Association and IRRC noted that two stations on Buck Hill Creek did not achieve the score necessary to qualify for EV and questioned the recommendation that the entire segment be redesignated as EV. The Department's recommendations for Buck Hill Creek were revised; segments with stations not scoring 92% or greater in comparison to the EV reference were not recommended for redesignation as EV. Because of the uniqueness of the resource, and the absence of an appropriate reference for a Glaciated Pocono Plateau stream emanating from wetlands, the Board found the segment except for the headwaters from the source of Buck Hill Creek to the Barrett/Coolbaugh Township Border to be worthy of EV protection as a "surface water of exceptional ecological significance" under the regulatory criteria in § 93.4b(b)(2).

The Builders Association also commented that the Buck Hill Creek report described the results from grab water samples as generally better than criteria. The proposed redesignation was not based on water chemistry. It was based on a biological test comparing its community to that in an EV reference stream. The indigenous benthic macroinvertebrates are a good indicator of long-term water quality because these organisms have limited mobility and many have relatively long aquatic life stages. Water samples for chemical analysis were collected to provide a "snapshot" of water quality conditions, but the data are not intended to be a basis for the recommended redesignation.

The Pennsylvania Coal Association expressed concern that the "Exceptional Value" designation is being misused as a weapon to delay or halt economic development. The Department evaluates candidate streams using the same protocols regardless of the reason for a redesignation request. Streams must meet the regulatory criteria to be proposed for redesignation to HQ or EV.

Other comments were received regarding Sinnemahoning Portage Creek and Dunbar Creek. Two commentators expressed concern with the reference streams used. Dunbar Creek has been removed from the regulatory package in response to the comment. Another comment questioned how Sinnemahoning Portage Creek can be EV with elevated levels of copper and aluminum at one station. In response, chemical data are not used as the

basis for redesignation. Moreover, not all of the metals were in a bioavailable form. Finally, one time chemical grab samples do not represent long-term stream conditions. The macroinvertebrate biology used as basis for redesignation to EV does reflect the long-term condition of the stream.

F. *Summary of Changes to the Proposed Rulemaking*

There have been three revisions since the proposed rulemaking was approved by the Board in January 1998. First, the proposed redesignation of Trout Run (Westmoreland County) has been removed from this package and will be considered as a separate final-form rulemaking. Second, the proposed redesignation of portions of Dunbar Creek (Fayette County) has been removed to allow for reevaluation. One of the reference stations used in the Dunbar Creek study was not designated EV.

The third change consists of revisions to the recommended redesignation of the upper portion of Buck Hill Creek. At proposed rulemaking, the Buck Hill Creek basin from the source to Margaret's Falls (River Mile 1.73) was recommended for redesignation as EV even though two stations in that reach did not score at least 92% in comparison to the EV reference. The Board has classified the uppermost reaches as an EV stream based on its "surface water of exceptional ecological significance" and not on the biological (92%) reference criteria; the stream segments from UNT 05028 to UNT 05026, and Giscom Creek to mouth, retain their HQ-CWF designation. The Buck Hill Creek redesignation now includes a combination of HQ and EV segments.

G. *Benefits, Costs and Compliance*

Executive Order 1996-1 requires a cost/benefit analysis of the amendments.

1. *Benefits*—Overall, the citizens of this Commonwealth will benefit from these recommended changes because they will reflect the appropriate designated use and maintain the most appropriate degree of protection for each stream in accordance with the existing use of the stream.

2. *Compliance Costs*—Generally, the changes should have no fiscal impact on, or create additional compliance costs for the Commonwealth or its political subdivisions. The streams are already protected at their existing use; therefore, the designated use changes will have no impact on treatment requirements. No costs will be imposed directly upon local governments by this recommendation. Political subdivisions that add a new sewage treatment plant or expand an existing plant in these basins may experience changes in cost as noted in the following discussion of impacts on the private sector.

Persons conducting or proposing activities or projects that result in new or expanded discharges to streams must comply with the regulatory requirements relating to designated and existing uses. These persons could be adversely affected if they expand a discharge or add a new discharge point since they may need to provide a higher level of treatment to meet the designated and existing uses of the stream. These increased costs may take the form of higher engineering, construction or operating costs for wastewater treatment facilities. Treatment costs are site-specific and depend upon the size of the discharge in relation to the size of the stream and many other factors. It is therefore not possible to precisely predict the actual change in costs. The stream redesignation involves no economic impacts; any potential

economic impacts would primarily involve the potential for higher treatment costs for new or expanded discharges to streams that are upgraded.

3. *Compliance Assistance Plan*—The regulatory revisions have been developed as part of an established program that has been implemented by the Department since the early 1980s. The revisions are consistent with and based on existing Department regulations. The revisions extend additional protection to selected waterbodies that exhibit exceptional water quality and are consistent with antidegradation requirements established by the Federal Clean Water Act and the act. All surface waters in this Commonwealth are afforded a minimum level of protection through compliance with the water quality standards, which prevent pollution and protect existing water uses.

The amendments will be implemented through the National Pollutant Discharge Elimination System (NPDES) permitting program since the stream use designation is a major basis for determining allowable stream discharge effluent limitations. These permit conditions are established to assure water quality criteria are achieved and designated and existing uses are protected. New and expanded dischargers with water quality based effluent limitations are required to provide effluent treatment according to the water quality criteria associated with existing uses and designated water uses.

4. *Paperwork Requirements*—The regulatory revisions should have no direct paperwork impact on the Commonwealth, local governments and political subdivisions, or the private sector. These regulatory revisions are based on existing Department regulations and simply mirror the existing use protection that is already in place for these streams. There may be some indirect paperwork requirements for new or expanding dischargers to streams upgraded to HQ or EV. For example, NPDES general permits are not currently available for new or expanded discharges to these streams. Thus, an individual permit and its associated additional paperwork would be required. Additionally, paperwork associated with demonstrating social and economic justification (SEJ), and the nonfeasibility of nondischarge alternatives, may be required for new or expanded discharges to certain HQ Waters.

H. *Pollution Prevention*

The antidegradation program is a major pollution prevention tool because its objective is to prevent degradation by maintaining and protecting existing water quality and existing uses. Although the antidegradation program does not prohibit new or expanded wastewater discharges, nondischarge alternatives are encouraged and required, when environmentally sound and cost effective. Nondischarge alternatives, when implemented, remove impacts to surface water and reduce the overall level of pollution to the environment by remediation of the effluent through the soil.

I. *Sunset Review*

These final-form regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

J. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 23, 1998, the Department

submitted a copy of the notice of proposed rulemaking, published at 28 Pa.B. 1635, to IRRC and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received, as well as other documentation. In preparing these final-form regulations, the Department has considered all comments received from IRRC and the public. The Committees did not provide comments on the proposed rulemaking.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), these final-form regulations were deemed approved by the House and Senate Committees on May 22, 2000. IRRC met on May 25, 2000, and approved the amendments in accordance with section 5.1(e) of the Regulatory Review Act.

K. *Findings*

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law, and all comments were considered.
- (3) These final-form regulations do not enlarge the purpose of the proposal published at 28 Pa.B. 1635.
- (4) These final-form regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this Preamble.
- (5) These regulatory amendments do not contain any standards or requirements that exceed requirements of the companion Federal regulations.

L. *Order*

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapter 93, are amended by amending §§ 93.9c, 93.9f, 93.9i, 93.9p and 93.9t to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval and review as to legality and form, as required by law.

(c) The Chairperson shall submit this order and Annex A to IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau, as required by law.

(e) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

JAMES M. SEIF,
Chairperson

(Editor's Note: The proposal to amend § 93.9v, included in the proposed rulemaking at 28 Pa.B. 1635, has been withdrawn by the Board. For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 2965 (June 10, 2000). For the

text of a Senate Resolution relating to the proposal to redesignate Trout Run, see 30 Pa.B. 3026 (June 17, 2000).)

Fiscal Note: 7-333A. No fiscal impact; (8) recommends adoption. This final-form rulemaking was previously published as 7-333. This has now been split into 7-333A, which designates water uses and water quality criteria in various streams in Monroe, Lebanon, Berks, Montgomery, Cameron and Somerset Counties; and 7-333B which designates water uses and water quality criteria for Trout Run in Westmoreland County. This fiscal note applies to 7-333A.

Annex A
TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION
Subpart C. PROTECTION OF NATURAL RESOURCES
ARTICLE II. WATER RESOURCES
CHAPTER 93. WATER QUALITY STANDARDS
§ 93.9c. Drainage List C.

Delaware River Basin in Pennsylvania

Delaware River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		* * * * *		
3-Buck Hill Creek	Basin, Source to Unnamed Tributary (UNT) 05028 (RM 2.16)	Monroe	EV	None
4-Unnamed Tributary 05028 to Buck Hill Creek	Basin	Monroe	HQ-CWF	None
3-Buck Hill Creek	Basin, UNT 05028 to UNT 05026 (RM 1.88)	Monroe	HQ-CWF	None
4-Unnamed Tributary 05026 to Buck Hill Creek	Basin	Monroe	HQ-CWF	None
3-Buck Hill Creek	Basin, UNT 05026 to Griscom Creek	Monroe	EV	None
4-Griscom Creek	Basin	Monroe	HQ-CWF	None
3-Buck Hill Creek	Basin, Griscom Creek to Mouth	Monroe	HQ-CWF	None
		* * * * *		

§ 93.9f. Drainage List F.

Delaware River Basin in Pennsylvania

Schuylkill River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		* * * * *		
4-Unnamed Tributaries to Tulpehockon Creek	Basins, T 560 to Tailwaters of Blue Marsh Reservoir	Berks	TSF	None
4-Owl Creek	Basin	Lebanon	WWF	None
		* * * * *		
4-Swamp Creek	Basin, Source to Dam in Bechtelsville (RM 15.5)	Berks	HQ-CWF, MF	None
4-Swamp Creek	Basin, Dam in Bechtelsville to Route 100 Bridge	Berks	CWF, MF	None
4-Swamp Creek	Basin, Route 100 Bridge to Mouth	Montgomery	TSF, MF	None
		* * * * *		

§ 93.9l. Drainage List L.

Susquehanna River Basin in Pennsylvania
West Branch Susquehanna River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		* * * * *		
5-Sinnemahoning Portage Creek	Basin, Source to Cowley Run	Cameron	EV	None
6-Cowley Run	Basin	Cameron	EV	None
5-Sinnemahoning Portage Creek	Basin, Cowley Run to Mouth	Cameron	CWF	None
		* * * * *		

§ 93.9p. Drainage List P.

Ohio River Basin in Pennsylvania
Allegheny River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		* * * * *		
4-South Branch Oswayo Creek	Basin	Potter	EV	None
		* * * * *		

§ 93.9t. Drainage List T.

Ohio River Basin in Pennsylvania
Kiskiminetas River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		* * * * *		
7-Roaring Run	Basin, Source to Boswell Municipal Authority Dam	Somerset	EV	None
		* * * * *		

[Pa.B. Doc. No. 00-1036. Filed for public inspection June 16, 2000, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF NURSING [49 PA. CODE CH. 21]

Fees

The State Board of Nursing (Board) amends §§ 21.5, 21.147 and 21.253 (relating to fees) to read as set forth in Annex A, by revising those fees which are not related to license renewals but rather to applications and specific services to accurately reflect the cost of processing applications and providing services.

A. Effective Date

The amendments will be effective upon publication in the *Pennsylvania Bulletin*.

B. Statutory Authority

Section 11.2(a) and (d) of The Professional Nursing Law (63 P.S. § 221.2(a) and (d)), and section 17.5(a) of the Practical Nurse Law (63 P.S. § 667.5(a)), require the Board to set fees by regulation. The same provisions require the Board to increase fees to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures.

C. Background and Purpose

General operating expenses of the Board are funded through biennial license renewal fees. Expenses related to processing individual applications or providing certain services directly to individual licensees or applicants are excluded from general operating revenues and are funded through fees in which the cost of providing the service forms the basis for the fee. The fee is charged to the person requesting the service.

A recent systems audit of the operations of the Board within the Bureau of Professional and Occupational Af-

fairs (Bureau) determined that the current fees did not reflect the actual cost of processing applications and performing the services. The amendments update the fees to accurately reflect the cost of processing the applications and providing the services. A detailed explanation of the background of these fees as well as a description of the fees was published at 29 Pa.B. 2299 (May 1, 1999).

D. Summary of Comments and Responses on Proposed Rulemaking

Notice of proposed rulemaking was published at 29 Pa.B. 2299. Publication was followed by a 30-day public comment period. The Board did not receive comments from the general public. Following the close of the public comment period, the Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). The following is the Board's response to those comments.

1. Certification Fee

The HPLC questioned under what circumstances the Board certifies an examination score. Both the HPLC and IRRC requested an explanation of the difference between the administrative overhead costs for certification of scores and the administrative overhead costs for other services.

The certification of a score is made at the request of a licensee when the licensee is seeking to obtain licensure in another state based upon a license in this Commonwealth which was issued on the basis of a uniform National or regional examination which was taken in this Commonwealth. Generally, the state of original license is the only source of the score of the licensee, as testing agencies do not maintain this information. The licensing laws of many states include provisions that licensure by reciprocity or endorsement based on a license in another state will be granted only if the board or agency determines that the qualifications are the same or substantially similar. Many state agencies have interpreted this provision to require that licensees have attained a score equal to or exceeding the passing rate in that jurisdiction at the time of original licensure. For this reason, these states require that the Board and other licensing boards certify the examination score the applicant achieved on the licensure examination.

The difference between the verification and certification fees is the amount of time required to produce the document requested by the licensee. States request different information when making a determination as to whether to grant licensure based on reciprocity or endorsement from another state. The Bureau has been able to create two documents from its records that will meet all of the needs of the requesting state. The licensee, when the applicant applies to the other state, receives information as to what documentation and form is acceptable in the requesting state. The Bureau then advises the licensee of the type of document the Bureau can provide and the fee. In the case of a "verification," the staff produces the requested documentation by a letter, usually computer-generated, which contains the license number, date of original issuance and current expiration date, and status of the license. The letters are printed from the Bureau's central computer records and sent to the Board staff responsible for handling the licensee's application. The letters are sealed, folded and mailed in accordance with the directions of the requestor. The Bureau estimates the average time to prepare this document to be 5 minutes. The Bureau uses the term "certification fee" to describe the fee for a request for a document, again

generally to support reciprocity or endorsement applications to other states, territories or countries, or for employment or training in another state. A certification document contains information specific to the individual requestor. It may include dates or locations where examinations were taken, or scores achieved or hours and location of training. The information is entered onto a document which is usually supplied by the requestor. The average time to prepare a certification is 45 minutes. This is because a number of resources, such as files, microfilm and rosters must be retrieved and consulted to provide the information requested. The Board staff then seals and issues this document.

2. Administrative Overhead

IRRC requested that the Bureau and the Board thoroughly examine their cost allocation methodology for administrative overhead and itemize the overhead cost to be recouped by the fees. IRRC commented that although the Bureau's method was reasonable, there is no indication that the fees will recover the actual overhead cost because there is no relationship to the service covered by the fees and because the costs are based upon past expenditures rather than projected expenditures. IRRC expressed the view that there is no certainty that the projected revenues of the new fees will meet or exceed projected expenditures as required under the Board's enabling statutes. The HPLC requested an explanation regarding why the proposed fees are rounded up and are not the actual cost of services as estimated by the board.

In computing overhead charges, the Board and the Bureau include expenses resulting from service of support staff operations, equipment, technology initiatives or upgrades, leased office space and other sources not directly attributable to a specific board. Once determined, the Bureau's total administrative charge is apportioned to each board based upon that board's share of the total active licensee population. In turn, the Board's administrative charge is divided by the number of active licensees to calculate a "per application" charge which is added to direct personnel cost to establish the cost of processing. The administrative charge is consistently applied to every application regardless of how much time the staff spends processing the application.

This method of calculating administrative overhead to be apportioned to fees for services was first included in the biennial reconciliation of fees and expenses conducted in 1988-89. In accordance with the regulatory review, the method was approved by the Senate and House Standing Committees and IRRC as reasonable and consistent with the legislative intent of statutory provisions which require the Board to establish fees which meet or exceed expenses.

IRRC suggested that within each board, the administrative charge should be determined by the amount of time required to process each application. For example, an application requiring 1/2 hour of processing time would pay one-half as much overhead charge as an application requiring 1 hour of processing time. The Bureau concurs with IRRC that by adopting this methodology, the Bureau and the Board would more nearly and accurately accomplish their objective of setting fees that cover the cost of the service. Therefore, in accordance with IRRC's suggestions, the Bureau conducted a test to compare the resulting overhead charges obtained by applying IRRC's suggested time factor versus the current method. This review of a licensing board's operation showed that approximately 25% of staff time was devoted to providing services described in the regulations. The

current method recouped 22% to 28% of the administrative overhead charges versus the 25% recouped using a ratio-based time factor. However, when the time factor is combined with the licensing population for each board, the resulting fees vary widely even though different licensees may receive the same services. For example, using the time-factor method to issue a verification of licensure would cost \$34.58 for a landscape architect as compared with a cost of \$10.18 for a cosmetologist. Conversely, under the Bureau method the administrative overhead charge of \$9.76 represents the cost of processing a verification application for all licensees in the Bureau. Also, the Bureau found that employing a time factor in the computation of administrative overhead would result in a different amount of overhead charge being made for each fee proposed.

With regard to IRRC's suggestions concerning projected versus actual expenses, the licensing boards noted that the computation of projected expenditures based on amounts actually expended has been the basis for biennial reconciliations for the past 10 years. During these five biennial cycles, the experience of both the licensing boards and the Bureau has been that using established and verifiable data, which can be substantiated by collective bargaining agreements, pay scales and cost benefit factors, provides a reliable basis for fees. Also, the fees are kept at a minimum for licensees, but appear adequate to sustain the operations of the boards over an extended period. Similarly, accounting, recordkeeping and swift processing of applications, renewals and other fees were the primary basis for "rounding up" the actual costs to establish a fee. This rounding up process has in effect resulted in the necessary but minimal cushion or surplus to accommodate unexpected needs and expenditures.

For these reasons, the Board has not made changes in the method by which they allocate administrative expenditures and the resulting fees will remain as proposed.

3. *Other Comments*

The HPLC requested an explanation as to what Board costs are reflected in the fees in which a component of the fee is apportioned for Board meeting time to review or vote on the applications, or both. The application fees for services which require the attention of the Board, and for which the cost is excluded from the general operating expenses of the Board, include this apportioned cost. For example, before a new nursing education program is approved, the program is thoroughly reviewed by the Board, and representatives of the program appear before the Board to answer the Board's questions. The cost for the Board to review new nursing education programs is apportioned only to those who apply for program approval and benefit from the service. This cost is not borne by the general licensee population because they are not using the service and do not benefit. The cost apportioned as Board review equals the cost for the Board to review the application for the specified amount of time.

The HPLC noted that the aggregate biennial increase in cost to the licensees and the corresponding increase in biennial revenue to the Board would be \$1,204,345. The HPLC requested justification for the increase. The aggregate increase reflects both the increase in Board costs to provide each of the services and the estimated number of licensees who use will the services. The current fees are outdated and no longer cover the costs of providing the specified services. Some fees have not been increased for 13 years, and most have not been increased for 9 years. In the last 6 years, the number of licensees has increased by 26,200. As noted in proposed rulemaking, the fees for

license applications by endorsement, CRNP certification and certification of scores have not been revised since 1987. Fees for out-of-State graduate license applications, temporary practice permits, new nursing program approval applications, and challenge of the RN and PN examinations have not been revised since 1991, and the fee for reactivating a license after 5 years of inactivity was last revised in 1993. The new fees for license restoration after a sanction, applications for extending a temporary practice permit, certification of scores and certification of license history reflect the actual cost of providing these services. Details of the Board's analysis of the cost of each fee are attached to the Regulatory Review Analyses Form, which is available upon request.

The application fees are charged only to those who the request the specified service. The fees charged reflect the costs to the Board. The Board estimates that 15,686 individuals will use the specified services annually. The average increase in cost to each individual who requests a service will be \$38.39. If those requesting services were not charged with the cost of providing the services, then the cost to provide these services to individuals would be borne by the entire licensee population to raise the fees to meet expenditures as required by statute; however, the general licensee population would receive no benefit from services provided to those individuals. In FY 98-99, there were 257,986 nurses licensed by the Board. If the general licensee population subsidized the application fees, an increase in the biennial renewal fees of \$4.67 would result. The aggregate increase represents not only an increase in the cost to the Board to provide the service, but also includes the estimated number of individuals who will request the services. For example, if no one used the Board's services, the increased cost to the Board would be \$0.00, the increased cost to the licensees would be \$0.00, and the aggregate increase in revenue to the Board would be \$0.00. If twice the number of people used the services as projected, the increased costs and corresponding revenue would also double, but the average increase to each individual would remain the same. The estimated 15,686 individuals who ask for and benefit from the requested services will pay the fees, not the general licensee population.

The Board believes that this rulemaking will not put the Commonwealth at a competitive disadvantage with other states. Other states (New York, New Jersey, Maryland, Ohio and Delaware) seem to anticipate and include the costs of many of these services in their license renewal fees. As a result, their renewal fees range from \$35 to \$100 and are significantly higher than the Commonwealth's which range from \$16 to \$24. Details of the Board's analysis are in the Regulatory Analysis Form, which is available upon request.

E. *Compliance with Executive Order 1996-1, Regulatory Review and Promulgation*

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and the regulated population under Executive Order 1996-1, Regulatory Review and Promulgation. The final-form regulations address a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

F. *Fiscal Impact and Paperwork Requirements*

These final-form regulations will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The fees will have a modest fiscal impact on those members of the private sector who apply for services from

the Board. The amendments will not impose additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

G. *Sunset Date*

The Board continuously monitors the effectiveness of its regulations. Therefore, no sunset date has been set.

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted a copy of the notice of proposed rulemaking, published at 29 Pa.B. 2299, to IRRC and to the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

In compliance with section 5(c) of the Regulatory Review Act, the Board also provided IRRC and the Committees with copies of comments received, as well as other documentation. In preparing these final-form regulations, the Board has considered all comments received from the Committees, IRRC and the public.

These final-form regulations were approved by the HPLC on April 18, 2000, and deemed approved by the SCP/PLC on April 27, 2000. IRRC met on May 11, 2000, and approved the final-form regulations in accordance with section 5.1(e) of the Regulatory Review Act (71 P. S. § 745.5a(e)).

I. *Contact Person*

Further information may be obtained by contacting Ann Steffanic, Administrative Assistant, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7200.

J. *Findings*

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

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

(3) These amendments do not enlarge the purpose of proposed rulemaking published at 29 Pa.B. 2299.

(4) These amendments are necessary and appropriate for administration and enforcement of the authorizing acts identified in Part B of this preamble.

K. *Order*

The Board, acting under its authorizing statutes, orders that:

(1) The regulations of the Board, 49 Pa. Code Chapter 21, are amended by amending §§ 21.5, 21.147 and 21.253 to read as set forth in Annex A.

(2) The Board shall submit this order and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.

(3) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(4) This order shall take effect on publication in the *Pennsylvania Bulletin*.

SUSANNE M. KELLY, BSN, RN,
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 2688 (May 27, 2000).)

Fiscal Note: Fiscal Note 16A-5112 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 21. STATE BOARD OF NURSING

Subchapter A. REGISTERED NURSES

FEES

§ 21.5. Fees.

(a) The following fees are charged by the Board:

Examination and licensure	\$35
Reexamination	\$30
Licensure by endorsement	\$100
Temporary permit	\$35
Extension of temporary permit	\$60
Application for approval of new nursing program .	\$475
Fee for review and challenge of RN exams	\$170
Application fee for out-of-State graduates	\$100
Biennial renewal of license	\$21
Verification of licensure	\$15
Reactivation of license (after 5 years or longer) ...	\$50
Restoration after suspension or revocation	\$50
Certification of scores	\$25
Certification of license history	\$40

(b) In addition to the examination and licensure fee of \$35 prescribed in subsection (a), which is payable directly to the Board, a candidate for the registered nurse licensing examination shall also pay a fee of \$40 to the National Council of the State Boards of Nursing to cover costs associated with the preparation and administration of the registered nurse licensing examination. Effective April 1994, or upon implementation of the computer adaptive examination, the fee paid directly to the National Council of the State Boards of Nursing or its designated agent is \$88.

Subchapter B. PRACTICAL NURSES

FEES

§ 21.147. Fees.

(a) The following fees are charged by the Board:

Examination and licensure	\$35
Reexamination	\$30
Licensure by endorsement	\$100
Temporary permit	\$35
Extension of temporary permit	\$60
Application for approval of new nursing program .	\$475
Fee for review and challenge of PN exams	\$170
Application fee for out-of-State graduates	\$100
Biennial renewal of license	\$16

Verification of licensure	\$15
Reactivation of license (after 5 years or longer) ...	\$50
Restoration after suspension or revocation	\$50
Certification of scores	\$25
Certification of license history	\$40

(b) In addition to the examination and licensure fee of \$35 prescribed in subsection (a), which is payable directly to the Board, a candidate for the practical nurse licensing examination shall also pay a fee of \$40 to the National Council of the State Boards of Nursing to cover costs associated with the preparation and administration of the practical nurse licensing examination. Effective April 1994, or upon implementation of the computer adapted examination, the fee paid directly to the National Council of the State Boards of Nursing or its designated agent is \$88.

Subchapter C. CERTIFIED REGISTERED NURSE PRACTITIONERS

FEES

§ 21.253. Fees.

The following fees are charged by the Board:

Certification	\$100
Biennial renewal of certification	\$26
Verification of certification	\$15

[Pa.B. Doc. No. 00-1037. Filed for public inspection June 16, 2000, 9:00 a.m.]

STATE BOARD OF VETERINARY MEDICINE

[49 PA. CODE CH. 31]

Fees

The State Board of Veterinary Medicine (Board) amends § 31.41 (relating to schedule of fees), pertaining to fees for verification and certification of licensure records to read as set forth in Annex A.

A. Effective Date

The amendments will be effective upon publication in the *Pennsylvania Bulletin*.

B. Statutory Authority

The Board is authorized to set fees by regulation under section 13(a) of the Veterinary Medicine Practice Act (63 P. S. § 485.13(a)).

C. Purpose

The statutory provisions require that the Board increase fees to meet or exceed projected expenditures. Biennial renewal fees support general administrative and enforcement costs. Fees for various services provided directly to applicants or licensees are based upon the actual charge of providing the service requested.

The fees in this rulemaking represent the cost of providing an official sealed document of Board records. By this amendment, the cost of providing the service will be apportioned to users.

This rulemaking results from a recent systems audit of the existing fees for services of the State boards within the Bureau of Professional and Occupational Affairs (Bureau). The audit determined that the current service fees for the State boards subject to this rulemaking were

adequate to cover their cost, with the exception of fees charged for verification and certification of license records.

D. Summary of Comments and Responses to Proposed Rulemaking

Notice of proposed rulemaking was published at 29 Pa.B. 1897 (April 10, 1999). No public comments were received. The Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). No public comments were received. The following is the Board's response to those comments.

Certification and Verification Fee

The HPLC questioned under what circumstances the Board "certifies" an examination score. The HPLC and IRRC also requested an explanation of the difference between a verification and certification and an explanation of what accounts for the differential in fees.

The certification of a score is made at the request of a licensee when the licensee is seeking to obtain licensure in another state based upon licensure in this Commonwealth which was issued on the basis of a uniform National or regional examination which was taken in this Commonwealth. Generally, the state of original licensure is the only source of the score of the licensee as testing agencies do not maintain this information. The licensure laws of many states include provisions that licensure by reciprocity or endorsement based on licensure in another state will be granted only if the board or agency determines that the qualifications are the same or substantially similar. Many state agencies have interpreted this provision to require that licensees have attained a score equal to or exceeding the passing rate in that jurisdiction at the time of original licensure. For this reason, these states require that the Board and other State boards of the Commonwealth certify the examination score the applicant achieved on the licensure examination.

As noted in proposed rulemaking, the difference between the verification and certification fees is the amount of time required to produce the document requested by the licensee. States request different information when making a determination as to whether to grant licensure based on reciprocity or endorsement from another state. The Bureau has been able to create two documents from its records that will meet all of the needs of the requesting state. The licensee, when the licensee applies to the other state, receives information as to what documentation and form is acceptable in the requesting state. The Bureau then advises the licensee of the type of document the Bureau can provide and the fee. In the case of a verification, the staff produces the requested documentation by a letter, usually computer generated, which contains the license number, date of original issuance and current expiration date and status of the license. The letters are printed from the Bureau's central computer records and sent to the State boards' staff responsible for handling the licensee's application. The letters are sealed, folded and mailed in accordance with the directions of the requestor. The Bureau estimates the average time to prepare this document to be 5 minutes. The Bureau uses the term "certification fee" to describe the fee for a request for a document, again generally to support reciprocity or endorsement applications to other states, territories or countries, or for employment of training in another state. A certification document contains information specific to the individual requestor. It may include dates or location where examinations were taken, or

scores achieved or hours and location of training. The information is entered onto a document which is usually supplied by the requestor. The average time to prepare a certification is 45 minutes. This is because a number of resources, such as files, microfilm and rosters must be retrieved and consulted to provide the information requested. The Board staff then seals and issues this document.

Administrative Overhead

IRRC requested that the Bureau and the State boards: (1) itemize the overhead cost to be recouped by the fees; and (2) reexamine the method that is used to determine the administrative overhead factor for each fee.

IRRC commented that although the Bureau's method was reasonable, there was no assurance that the fees would recover the actual overhead cost because the charge was not related to the service, and because the charge was based on the actual rather than the projected expenditures. IRRC also commented that there was no certainty that the projected revenues would meet or exceed projected expenditures, as required under the State boards' enabling statutes.

In computing overhead charges the State boards and the Bureau, include expenses resulting from service of support staff operations, equipment, technology initiatives or upgrades, leased office space and other sources not directly attributable to a specific State board. Once determined, the Bureau's total administrative charge is apportioned to each State board based upon that board's share of the total active licensee population. In turn, the State boards' administrative charge is divided by the number of active licensees to calculate a per application charge which is added to direct personnel cost to establish the cost of processing. The administrative charge is consistently applied to every application regardless of how much time the staff spends processing the application.

This method of calculating administrative overhead to be apportioned to fees for services was first included in the biennial reconciliation of fees and expenses conducted in 1988-89. In accordance with the regulatory review, the method was approved by the Senate and House Standing Committees and IRRC as reasonable and consistent with the legislative intent of statutory provisions which require the Board to establish fees which meet or exceed expenses.

IRRC suggested that within each State board, the administrative charge should be determined by the amount of time required to process each application. For example, an application requiring 1/2 hour of processing time would pay one-half as much overhead charge as an application requiring one hour of processing time. The Bureau concurs with IRRC that by adopting this methodology, the Bureau and the State boards would more nearly and accurately accomplish their objective of setting fees that cover the cost of the service. Therefore, in accordance with IRRC's suggestions, the Bureau conducted a test to compare the resulting overhead of charge obtained by applying IRRC suggested time factor versus the current method. This review of a State Board's operation showed that approximately 25% of staff time was devoted to providing services described in the regulations. The current method recouped 22% to 28% of the administrative overhead charges versus the 25% recouped using a ratio-based time factor. However, when the time factor is combined with the licensing population for each State board, the resulting fees vary widely even though

different licensees may receive the same services. For example, using the time-factor method to issue a verification of licensure would cost \$34.58 for a landscape architect as compared with a cost of \$10.18 for a cosmetologist. Conversely, under the Bureau method the administrative overhead charge of \$9.76 represents the cost of processing a verification application for all licensees in the Bureau. Also, the Bureau found that employing a time factor in the computation of administrative overhead would result in a different amount of overhead charge being made for each fee proposed.

With regard to IRRC's suggestions concerning projected versus actual expenses, the State boards noted that the computation of projected expenditures based on amounts actually expended has been the basis for biennial reconciliations for the past 10 years. During these five biennial cycles, the experience of both the boards and the Bureau has been that established and verifiable data which can be substantiated by collective bargaining agreements, pay scales and cost benefit factors, help provide a reliable basis for fees. Also, the fees are kept at a minimum for licensees, but appear adequate to sustain the operations of the State boards over an extended period. Similarly, accounting, recordkeeping and swift processing of applications, renewals and other fees were the primary basis for rounding up the actual costs to establish a fee. This rounding up process has in effect resulted in the necessary but minimal cushion or surplus to accommodate unexpected needs and expenditures.

For these reasons, the State boards have not made changes in the method by which they allocate administrative expenditures and the resulting fees will remain as proposed. Additionally, the HPLC requested further information on fees of other states which are comparable in response to Regulatory Analysis Item 25. This has been added to the analysis and is available to the public on request.

The HPLC also requested with respect to Bureau fees generally that additional information be provided on the Regulatory Analysis Form filed with the Committees and IRRC. This information concerned comparable fees of other states (Item 25). Additional information has been provided and a copy of the Regulatory Analysis Form is available to the public upon request.

E. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 29, 1999, the Board submitted a copy of this proposed rulemaking, to IRRC and the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee.

In compliance with section 5(c) of the Regulatory Review Act, the Board also provide additional documentation. In preparing the final-form regulation, the Board considered the comments from the Committees and IRRC.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on April 17, 2000, this final-form rulemaking was deemed approved by the House and Senate Committee. Under section 5.1(e) of the Regulatory Review Act, IRRC met on April 27, 2000, and approved the final-form regulation under section 5(e) of the Regulatory Review Act.

F. Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the final-form regulation the Board considered the least restrictive alternative to regulate costs for services for certification or verification of licensure.

G. Fiscal Impact and Paperwork Requirements

The rulemaking will have no fiscal impact on the Commonwealth or its political subdivisions. The fees will have a modest fiscal impact on those members of the private sector who request certification or verification services from the Board. The amendment will impose no additional paperwork requirement upon the Commonwealth, political subdivisions or the private sector.

H. Sunset Date

The Board continuously monitors the cost effectiveness of the regulation. Therefore, no sunset date has been assigned.

I. Contact Persons

Interested persons may receive more information by writing the State Board of Veterinary Medicine, Robert Kline, Board Administrator, P. O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The Board finds that:

- (1) Public notice of proposed rulemaking was given as required by sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202).
(2) A public comment period was provided as required by law.
(3) The amendment does not enlarge the scope of proposed rulemaking at 29 Pa.B. 1897.
(4) The amendment is necessary and appropriate to administer and enforce the Board's enabling statute.

Order

The Board, acting under the authority of its enabling statute, orders that:

- (a) The regulations of the Board, 49 Pa. Code Chapter 31, are amended by amending § 31.41 to read as set forth in Annex A.
(b) The Board shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General as required by law.
(c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
(d) This order shall take effect on publication in the Pennsylvania Bulletin.

(Editor's Note: An amendment affecting § 31.41, which is being amended in this document, appeared at 30 Pa.B. 2583 (May 27, 2000) and will be codified in MTS 309, August 2000.)

BRIAN V. HARPSTER, V.M.D., Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 2430 (May 13, 2000).)

Fiscal Note: Fiscal Note 16A-578 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 31. STATE BOARD OF VETERINARY MEDICINE

FEES

§ 31.41. Schedule of fees.

An applicant for a license, certificate or service shall submit a payment at the time of the request under the following fee schedule:

Veterinarians:

Table with 2 columns: Fee description and Amount. Includes Application to original, reactivated, reissued or reciprocal license (\$35), North American Veterinary Licensing Examination (\$325), Application for continuing education program approval (\$35), Verification of licensure (\$15), Certification of scores or hours (\$25), Temporary permit (\$55), Biennial renewal (\$105), Late renewal fee per month or part of month (\$5).

Animal health technicians:

Table with 2 columns: Fee description and Amount. Includes Application for certification (\$35), Veterinary Technical National Examination (VTNE) (Effective January 1996) (\$125), Application for continuing education program approval (\$35), Verification of certification (\$15), Certification of scores or hours (\$25), Biennial renewal (\$30), Late renewal fee per month or part of month (\$5).

[Pa.B. Doc. No. 00-1038. Filed for public inspection June 16, 2000, 9:00 a.m.]

STATE BOARD OF DENTISTRY

[49 PA. CODE CH. 33]

Verification/Certification Fees

The State Board of Dentistry amends § 33.3 (relating to fees), pertaining to fees for verification and certification of licensure records to read as set forth in Annex A.

A. Effective Date

The amendments will be effective upon publication in the Pennsylvania Bulletin.

B. Statutory Authority

The Board is authorized to set fees by regulation under section 4(b) of the Dental Law (63 P. S. § 123(b)).

C. Purpose

The statutory provisions require that the Board increase fees to meet or exceed projected expenditures. Biennial renewal fees support general administrative and enforcement costs. Fees for various services provided directly to applicants or licensees are based upon the actual charge of providing the service requested.

The fees in this rulemaking represent the cost of providing an official sealed document of Board records. By this amendment, the cost of providing the service will be apportioned to users.

This rulemaking results from a recent systems audit of the existing fees for services of the State boards within the Bureau of Professional and Occupational Affairs (Bureau). The audit determined that the current service fees for the State boards subject to this rulemaking were adequate to cover their cost, with the exception of fees charged for verification and certification of license records.

D. Summary of Comments and Responses to Proposed Rulemaking

Notice of proposed rulemaking was published at 29 Pa.B. 1895 (April 10, 1999). No public comments were received. The Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). No public comments were received. The following is the Board's response to those comments.

Certification and Verification Fee

The HPLC questioned under what circumstances the Board "certifies" an examination score. The HPLC and IRRC also requested an explanation of the difference between a verification and certification and an explanation of what accounts for the differential in fees.

The certification of a score is made at the request of a licensee when the licensee is seeking to obtain licensure in another state based upon licensure in this Commonwealth which was issued on the basis of a uniform National or regional examination which was taken in this Commonwealth. Generally, the state of original licensure is the only source of the score of the licensee as testing agencies do not maintain this information. The licensure laws of many states include provisions that licensure by reciprocity or endorsement based on licensure in another state will be granted only if the board or agency determines that the qualifications are the same or substantially similar. Many state agencies have interpreted this provision to require that licensees have attained a score equal to or exceeding the passing rate in that jurisdiction at the time of original licensure. For this reason, these states require that the Board and other State boards of the Commonwealth certify the examination score the applicant achieved on the licensure examination.

As noted in proposed rulemaking, the difference between the verification and certification fees is the amount of time required to produce the document requested by the licensee. States request different information when making a determination as to whether to grant licensure based on reciprocity or endorsement from another state. The Bureau has been able to create two documents from its records that will meet all of the needs of the requesting state. The licensee, when the licensee applies to the other state, receives information as to what documentation and form is acceptable in the requesting state. The Bureau then advises the licensee of the type of document the Bureau can provide and the fee. In the case of a verification, the staff produces the requested documentation by a letter, usually computer generated, which contains the license number, date of original issuance and current expiration date and status of the license. The letters are printed from the Bureau's central computer records and sent to the State boards' staff responsible for handling the licensee's application. The letters are sealed, folded and mailed in accordance with the directions of the

requestor. The Bureau estimates the average time to prepare this document to be 5 minutes. The Bureau uses the term "certification fee" to describe the fee for a request for a document, again generally to support reciprocity or endorsement applications to other states, territories or countries, or for employment of training in another state. A certification document contains information specific to the individual requestor. It may include dates or location where examinations were taken, or scores achieved or hours and location of training. The information is entered onto a document which is usually supplied by the requestor. The average time to prepare a certification is 45 minutes. This is because a number of resources, such as files, microfilm and rosters must be retrieved and consulted to provide the information requested. The Board staff then seals and issues this document.

Administrative Overhead

IRRC requested that the Bureau and the State boards: (1) itemize the overhead cost to be recouped by the fees; and (2) reexamine the method that is used to determine the administrative overhead factor for each fee.

IRRC commented that although the Bureau's method was reasonable, there was no assurance that the fees would recover the actual overhead cost because the charge was not related to the service, and because the charge was based on the actual rather than the projected expenditures. IRRC also commented that there was no certainty that the projected revenues would meet or exceed projected expenditures, as required under the State boards' enabling statutes.

In computing overhead charges, the State boards and the Bureau, include expenses resulting from service of support staff operations, equipment, technology initiatives or upgrades, leased office space and other sources not directly attributable to a specific State board. Once determined, the Bureau's total administrative charge is apportioned to each State board based upon that board's share of the total active licensee population. In turn, the State boards' administrative charge is divided by the number of active licensees to calculate a per application charge which is added to direct personnel cost to establish the cost of processing. The administrative charge is consistently applied to every application regardless of how much time the staff spends processing the application.

This method of calculating administrative overhead to be apportioned to fees for services was first included in the biennial reconciliation of fees and expenses conducted in 1988-89. In accordance with the regulatory review, the method was approved by the Senate and House Standing Committees and IRRC as reasonable and consistent with the legislative intent of statutory provisions which require the Board to establish fees which meet or exceed expenses.

IRRC suggested that within each State board, the administrative charge should be determined by the amount of time required to process each application. For example, an application requiring 1/2 hour of processing time would pay one-half as much overhead charge as an application requiring one hour of processing time. The Bureau concurs with IRRC that by adopting this methodology, the Bureau and the State boards would more nearly and accurately accomplish their objective of setting fees that cover the cost of the service. Therefore, in accordance with IRRC's suggestions, the Bureau conducted a test to compare the resulting overhead of charge

obtained by applying IRRC suggested time factor versus the current method. This review of a State Board's operation showed that approximately 25% of staff time was devoted to providing services described in the regulations. The current method recouped 22% to 28% of the administrative overhead charges versus the 25% recouped using a ratio-based time factor. However, when the time factor is combined with the licensing population for each State board, the resulting fees vary widely even though different licensees may receive the same services. For example, using the time-factor method to issue a verification of licensure would cost \$34.58 for a landscape architect as compared with a cost of \$10.18 for a cosmetologist. Conversely, under the Bureau method the administrative overhead charge of \$9.76 represents the cost of processing a verification application for all licensees in the Bureau. Also, the Bureau found that employing a time factor in the computation of administrative overhead would result in a different amount of overhead charge being made for each fee proposed.

With regard to IRRC's suggestions concerning projected versus actual expenses, the State boards noted that the computation of projected expenditures based on amounts actually expended has been the basis for biennial reconciliations for the past 10 years. During these five biennial cycles, the experience of both the boards and the Bureau has been that established and verifiable data which can be substantiated by collective bargaining agreements, pay scales and cost benefit factors, help provide a reliable basis for fees. Also, the fees are kept at a minimum for licensees, but appear adequate to sustain the operations of the State boards over an extended period. Similarly, accounting, recordkeeping and swift processing of applications, renewals and other fees were the primary basis for rounding up the actual costs to establish a fee. This rounding up process has in effect resulted in the necessary but minimal cushion or surplus to accommodate unexpected needs and expenditures.

For these reasons, the State boards have not made changes in the method by which they allocate administrative expenditures and the resulting fees will remain as proposed. Additionally, the HPLC requested further information on fees of other states which are comparable in response to Regulatory Analysis Item 25. This has been added to the analysis and is available to the public on request.

The HPLC also requested with respect to Bureau fees generally that additional information be provided on the Regulatory Analysis Form filed with the Committees and IRRC. This information concerned comparable fees of other states (Item 25). Additional information has been provided and a copy of the Regulatory Analysis Form is available to the public upon request.

E. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 29, 1999, the Board submitted a copy of the proposed rulemaking, to IRRC and the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee.

In compliance with section 5(c) of the Regulatory Review Act, the Board also provide additional documentation. In preparing the final-form regulation, the Board considered the comments from the Committees and IRRC.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on April 17, 2000, this final-form rulemaking was deemed approved by the House and Senate Committee. Under section 5.1(e) of the Regulatory

Review Act, IRRC met on April 27, 2000, and deemed approved this final-form rulemaking under section 5(e) of the Regulatory Review Act.

F. *Compliance with Executive Order 1996-1*

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the final-form regulation, Board considered the least restrictive alternative to regulate costs for services for certification or verification of licensure.

G. *Fiscal Impact and Paperwork Requirements*

The rulemaking will have no fiscal impact on the Commonwealth or its political subdivisions. The fees will have a modest fiscal impact on those members of the private sector who request certification or verification services from the Board. The amendment will impose no additional paperwork requirement upon the Commonwealth, political subdivisions or the private sector.

H. *Sunset Date*

The Board continuously monitors the cost effectiveness of the regulation. Therefore, no sunset date has been assigned.

I. *Contact Persons*

Interested persons may receive more information by writing the State Board of Dentistry, June Barner, Board Administrator, P. O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given as required by sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202).

(2) A public comment period was provided as required by law.

(3) The amendment does not enlarge the scope of proposed rulemaking at 29 Pa.B. 1895.

(4) The amendment is necessary and appropriate to administer and enforce the Board's enabling statute.

Order

The Board, acting under the authority of its enabling statutes, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 33, are amended by amending § 33.3 to read as set forth in Annex A.

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

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

(d) This order shall take effect on publication in the *Pennsylvania Bulletin*.

NORBERT O. GANNON, D.D.S.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 2430 (May 13, 2000).)

Fiscal Note: Fiscal Note 16A-469 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 33. STATE BOARD OF DENTISTRY

Subchapter A. General Provisions

§ 33.3. Fees.

Following is the schedule of fees charged by the Board:

Application fee—dentists, dental hygienists and expanded function dental assistants.....	\$20
Criteria approval application fee—dentists, dental hygienists and expanded function dental assistants.....	\$35
Fictitious name registration fee.....	\$35
Verification of license, permit or registration fee—dentists, dental hygienists and expanded function dental assistants.....	\$15
Certification of scores, permit or registration fee—dentists, dental hygienists and expanded function dental assistants.....	\$25
Biennial renewal fee—dentists.....	\$100
Biennial renewal fee—dental hygienists.....	\$40
Biennial renewal fee—expanded function dental assistants.....	\$25
Biennial renewal fee—unrestricted or restricted anesthesia permit.....	\$25
Temporary permit—expanded dental assistants.....	\$15

[Pa.B. Doc. No. 00-1039. Filed for public inspection June 16, 2000, 9:00 a.m.]

STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

[49 PA. CODE CH. 47]

Verification and Certification Fees

The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) amends § 47.4 (relating to licensure fees) pertaining to fees for verification and certification of licensure records to read as set forth in Annex A.

A. Effective Date

The amendments will be effective upon publication in the *Pennsylvania Bulletin*.

B. Statutory Authority

The Board is authorized to set fees by regulation under section 18(c) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P.S. § 1918(c)).

C. Purpose

The statutory provisions require that the Board increase fees to meet or exceed projected expenditures. Biennial renewal fees support general administrative and enforcement costs. Fees for various services provided directly to applicants or licensees are based upon the actual charge of providing the service requested.

The fees in this rulemaking represent the cost of providing an official sealed document of Board records. By this amendment, the cost of providing the service will be apportioned to users.

This rulemaking results from a recent systems audit of the existing fees for services of the State boards within the Bureau of Professional and Occupational Affairs (Bureau). The audit determined that the current service fees for the State boards subject to this rulemaking were adequate to cover their cost, with the exception of fees charged for verification and certification of license records.

D. Summary of Comments and Responses to Proposed Rulemaking

Notice of proposed rulemaking was published at 29 Pa.B. 1897 (April 10, 1999). No public comments were received. The Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). No public comments were received. The following is the Board's response to those comments.

Certification and Verification Fee

The HPLC questioned under what circumstances the Board "certifies" an examination score. The HPLC and IRRC also requested an explanation of the difference between a verification and certification and an explanation of what accounts for the differential in fees.

The certification of a score is made at the request of a licensee when the licensee is seeking to obtain licensure in another state based upon licensure in this Commonwealth which was issued on the basis of a uniform National or regional examination which was taken in this Commonwealth. Generally, the state of original licensure is the only source of the score of the licensee as testing agencies do not maintain this information. The licensure laws of many states include provisions that licensure by reciprocity or endorsement based on licensure in another state will be granted only if the board or agency determines that the qualification are the same or substantially similar. Many state agencies have interpreted this provision to require that licensees have attained a score equal to or exceeding the passing rate in that jurisdiction at the time of original licensure. For this reason, these states require that the Board and other State boards of this Commonwealth certify the examination score the applicant achieved on the licensure examination.

As noted in proposed rulemaking, the difference between the verification and certification fees is the amount of time required to produce the document requested by the licensee. States request different information when making a determination as to whether to grant licensure based on reciprocity or endorsement from another state. The Bureau has been able to create two documents from its records that will meet all of the needs of the requesting state. The licensee, when the licensee applies to the other state, receives information as to what documentation and form is acceptable in the requesting state. The Bureau then advises the licensee of the type of document the Bureau can provide and the fee. In the case of a verification, the staff produces the requested documentation by a letter, usually computer generated, which contains the license number, date of original issuance and current expiration date and status of the license. The letters are printed from the Bureau's central computer records and sent to the State boards' staff responsible for handling the licensees application. The letters are sealed, folded and mailed in accordance with the directions of the

requestor. The Bureau estimates the average time to prepare this document to be 5 minutes. The Bureau uses the term "certification fee" to describe the fee for a request for a document, again generally to support reciprocity or endorsement applications to other states, territories or countries, or for employment of training in another state. A certification document contains information specific to the individual requestor. It may include dates or location where examinations were taken, or scores achieved or hours and location of training. The information is entered onto a document which is usually supplied by the requestor. The average time to prepare a certification is 45 minutes. This is because a number of resources, such as files, microfilm and rosters must be retrieved and consulted to provide the information requested. The Board staff then seals and issues this document.

Administrative Overhead

IRRC requested that the Bureau and the State boards: (1) itemize the overhead cost to be recouped by the fees; and (2) reexamine the method that is used to determine the administrative overhead factor for each fee.

IRRC commented that although the Bureau's method was reasonable, there was no assurance that the fees would recover the actual overhead cost because the charge was not related to the service, and because the charge was based on the actual rather than the projected expenditures. IRRC also commented that there was no certainty that the projected revenues would meet or exceed projected expenditures, as required under the State boards' enabling statutes.

In computing overhead charges the State boards and the Bureau include expenses resulting from service of support staff operations, equipment, technology initiatives or upgrades, leased office space and other sources not directly attributable to a specific State board. Once determined, the Bureau's total administrative charge is apportioned to each State board based upon that board's share of the total active licensee population. In turn, the State boards administrative charge is divided by the number of active licensees to calculate a per application charge which is added to direct personnel cost to establish the cost of processing. The administrative charge is consistently applied to every application regardless of how much time the staff spends processing the application.

This method of calculating administrative overhead to be apportioned to fees for services was first included in the biennial reconciliation of fees and expenses conducted in 1988-89. In accordance with the regulatory review, the method was approved by the Senate and House Standing Committees and IRRC as reasonable and consistent with the legislative intent of statutory provisions which require the Board to establish fees which meet or exceed expenses.

IRRC suggested that within each State board, the administrative charge should be determined by the amount of time required to process each application. For example, an application requiring 1/2 hour of processing time would pay one-half as much overhead charge as an application requiring one hour of processing time. The Bureau concurs with IRRC that by adopting this methodology, the Bureau and the State boards would more nearly and accurately accomplish their objective of setting fees that cover the cost of the service. Therefore, in accordance with IRRC's suggestions, the Bureau conducted a test to compare the resulting overhead of charge

obtained by applying IRRC suggested time factor versus the current method. This review of a State board's operation showed that approximately 25% of staff time was devoted to providing services described in the regulations. The current method recouped 22% to 28% of the administrative overhead charges versus the 25% recouped using a ratio-based time factor. However, when the time factor is combined with the licensing population for each State board, the resulting fees vary widely even though different licensees may receive the same services. For example, using the time-factor method to issue a verification of licensure would cost \$34.58 for a landscape architect as compared with a cost of \$10.18 for a cosmetologist. Conversely, under the Bureau method the administrative overhead charge of \$9.76 represents the cost of processing a verification application for all licensees in the Bureau. Also, the Bureau found that employing a time factor in the computation of administrative overhead would result in a different amount of overhead charge being made for each fee proposed.

With regard to IRRC's suggestions concerning projected versus actual expenses, the State boards noted that the computation of projected expenditures based on amounts actually expended has been the basis for biennial reconciliations for the past 10 years. During these five biennial cycles, the experience of both the Boards and the Bureau has been that established and verifiable data which can be substantiated by collective bargaining agreements, pay scales and cost benefit factors, help provide a reliable basis for fees. Also, the fees are kept at a minimum for licensees, but appear adequate to sustain the operations of the State boards over an extended period. Similarly, accounting, recordkeeping and swift processing of applications, renewals and other fees were the primary basis for rounding up the actual costs to establish a fee. This rounding up process has in effect resulted in the necessary but minimal cushion or surplus to accommodate unexpected needs and expenditures.

For these reasons, the State boards have not made changes in the method by which they allocate administrative expenditures and the resulting fees will remain as proposed. Additionally, the HPLC requested further information on fees of other states which are comparable in response to Regulatory Analysis Item 25. This has been added to the analysis and is available to the public on request.

The HPLC also requested with respect to Bureau fees generally that additional information be provided on the Regulatory Analysis Form filed with the Committees and IRRC. This information concerned comparable fees of other states (Item 25). Additional information has been provided and a copy of the Regulatory Analysis Form is available to the public upon request.

E. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 29, 1999, the Board submitted a copy of this proposed rulemaking, to IRRC and the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee.

In compliance with section 5(c) of the Regulatory Review Act, the Board also provide additional documentation. In preparing the final-form regulation, the Board considered the comments from the Committees and IRRC.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on April 17, 2000, this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regula-

tory Review Act, IRRC met on April 27, 2000, and deemed approved the final-form regulation under section 5(e) of the Regulatory Review Act.

F. Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the final-form regulations, the Board considered the least restrictive alternative to regulate costs for services for certification or verification of licensure.

G. Fiscal Impact and Paperwork Requirements

The rulemaking will have no fiscal impact on the Commonwealth or its political subdivisions. The fees will have a modest fiscal impact on those members of the private sector who request certification or verification services from the Board. The amendment will impose no additional paperwork requirement upon the Commonwealth, political subdivisions or the private sector.

H. Sunset Date

The Board continuously monitors the cost effectiveness of the regulation. Therefore, no sunset date has been assigned.

I. Contact Persons

Interested persons may receive more information by writing the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, Clara Flinchum, Board Administrator, P. O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The Board finds that:

- (1) Public notice of proposed rulemaking was given as required by sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202).
- (2) A public comment period was provided as required by law.
- (3) The amendment does not enlarge the scope of proposed rulemaking at 29 Pa.B. 1897.
- (4) The amendment is necessary and appropriate to administer and enforce the Board's enabling statutes.

Order

The Board, acting under the authority of its enabling statute, orders that:

- (a) The regulations of the Board, 49 Pa. Code Chapter 47, are amended by amending § 47.4 to read as set forth in Annex A.
- (b) The Board shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General as required by law.
- (c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (d) This order shall take effect on publication in the *Pennsylvania Bulletin*.

MANUEL J. MANOLIOS,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 2430 (May 13, 2000).)

Fiscal Note: Fiscal Note 16A-693 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 47. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

GENERAL PROVISIONS

§ 47.4. Licensure fees.

(a) The fee schedule for licensure as a licensed social worker or for a provisional license shall be as follows:

- (1) Application fee for licensure and original license issuance as a licensed social worker \$15
- (2) Biennial renewal for a licensed social worker \$45
- (3) One-time assessment fee for a licensed social worker licensed during the 1988 to 1991 licensure cycle \$30
- (4) Application fee for provisional license and provisional license issuance \$25
- (5) Verification of licensure \$15
- (6) Certification of license, scores or hours . . . \$25

(b) Applicants who were issued licenses prior to June 24, 1989, and who have not paid the appropriate fee in subsection (a) are required to remit the fee within 30 days of receipt of notice from the Board to maintain active licensure status. Failure to remit the required fee within that time will result in the license being placed on inactive status. A licensee holding oneself out as a "licensed social worker" while the license is on an inactive status may be subject to disciplinary proceedings before the Board.

[Pa.B. Doc. No. 00-1040. Filed for public inspection June 16, 2000, 9:00 a.m.]

Title 67—TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 179]

Notice of Waiver of 67 Pa. Code § 179.11(a)(1)

This notice pertains to the use of antisway devices on certain modular housing undercarriages or mobile homes under 67 Pa. Code § 179.11(a)(1). On November 23, 1999, the Pennsylvania Manufactured Housing Association (PMHA) filed an administrative action with the Department of Transportation (Department) under 1 Pa. Code § 35.18 requesting waiver or repeal of certain portions of 67 Pa. Code § 179.11. The matter was captioned as "In re: Pennsylvania Manufactured Housing Association, Request for Waiver or Repeal of Certain Portions of 67 Pa. Code § 179.11" and was docketed at No. 038 A.D. 1999 in the Department's administrative docket. In its action, PMHA asserted that the regulation, which requires that in certain circumstances the towing hitch mechanism of a modular housing undercarriage or mobile home be equipped with antisway devices, was not in conformity with the Vehicle Code and an unreasonable burden upon vehicle operators, without offering any ap-

preciable safety value. At the scheduled hearing, the Department entered into a stipulation of agreement, which is being published under the Order dated May 30, 2000, by the Department of Transportation Hearing Officer, and filed on June 2, 2000.

In the instant action, PMHA has filed an administrative action under 1 Pa. Code § 35.18 requesting waiver or repeal of certain portions of 67 Pa. Code § 179.11. The applicable regulation, in relevant part states:

§ 179.11. Special vehicle—load restrictions.

(a) *Movement of mobile homes, modular housing units and undercarriages.* A mobile home, modular housing unit or modular housing undercarriage that does not exceed 80 feet in body length, 14 feet in width—except as authorized in paragraph (3)—and 14 feet, 6 inches, in height may be transported upon the highway subject to the following requirements:

(1) The towing hitch mechanism of a modular housing undercarriage or mobile home shall be equipped with two antisway devices whenever the total width exceeds 13 feet, unless operating on a highway section having a posted speed below 40 miles per hour. A modular housing undercarriage or mobile home which has at least four tandem axles with brakes on each wheel may operate on any highway without antisway devices.

* * * * *

PMHA has explained to the Department that due to the present configuration and weight of most power units, the

regulation places an unreasonable burden upon vehicle operators, without offering any appreciable safety value. The Department has considered the petition and although it does not agree that the burden is unreasonable, it concurs that the intent of the regulation can be met without the requirement of antisway devices, provided that the power units meet certain standards.

Accordingly, under its regulatory authority, the Department waives the requirements of 67 Pa. Code § 179.11(a)(1) in those instances when a modular housing undercarriage or mobile home is towed by a power unit, which employs a hitching device, which when used in a combination of vehicles, is designed, constructed and installed in a manner that the towed modular housing undercarriage or mobile home does not shift or swerve more than 6 inches to either side of the path of the power unit while the power unit is moving in a straight line on a level, smoothed paved surface.

Questions, suggestions or comments may be directed to Barbara A. Darkes, Assistant Counsel in Charge, Motor Vehicle Section, Office of Chief Counsel, Department of Transportation, 3rd Floor, Riverfront Office Center, Harrisburg, PA 17104-2516, (717) 787-2830, Telefax: (717) 705-1122.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 00-1041. Filed for public inspection June 16, 2000, 9:00 a.m.]
