

RULES AND REGULATIONS

Title 28—HEALTH AND SAFETY

DEPARTMENT OF HEALTH

[28 PA. CODE CH. 6]

Drugs Which May be Used by Certain Optometrists

The Department of Health (Department) adopts amendments to § 6.1 (relating to approved drugs).

A. Purpose of the Amendment

Under section 2 of the Optometric Practice and Licensure Act (act) (63 P.S. § 244.2), optometrists may use pharmaceutical agents for diagnostic purposes, and for certain therapeutic purposes, only as approved by the Secretary. The pharmaceutical agents, and the purposes for which they may be used by optometrists, are set forth in § 6.1. The drugs included on the list must be approved by the Secretary. The State Board of Optometry (Board) requested that the Secretary approve certain additional therapeutic drugs. In its request to the Secretary, the Board identified the drugs by brand name and generic name, which are shown with the generic name in parentheses. Currently, the regulations identify drugs only by the generic name. The added drugs will also be listed by the generic name only. The Secretary approved a request from the Board to add antibacterial agent Quixin (levofloxacin); oral analgesic Ultram (tramadol); and topical analgesics Alamast (pemirolast potassium), Emadine (emedastine difumarate), Optivar (azelastine hydrochloride) and Zaditor (ketotifen fumerate) to the list of approved drugs. Antibacterial agents destroy bacteria. Analgesic drugs are used as pain relievers.

The Board also requested that certain oral antibiotics, Cipro (ciprofloxacin), Lenezolid (zyvox) and Levaquin (levofloxacin), be added to the list. The Secretary did not approve the request to add these agents. As broad-spectrum oral antibiotics, ciprofloxacin, zyvox and levofloxacin should be limited to treating resistant or serious infections only. Further, the Federal Food and Drug Administration (FDA) has expressed concerns about inappropriate use of antibiotics leading to increase in resistant organisms. The FDA has recommended that alternatives should be considered before initiating treatment with these antibiotics in the outpatient setting.

Using broad-spectrum antibiotics also creates a higher risk of certain side effects, such as the development of pseudomembranous colitis and superinfections. Also, due to the pharmacological profile of these antibiotics, it is advisable that periodic assessment of organ system functions, including renal, hepatic and hematopoietic functions, be done during prolonged therapy.

For these reasons, the antibiotics rejected for inclusion in the list of drugs that optometrists may use in their practice should only be prescribed by a licensed health professional with extended pharmacological, diagnostic and treatment education.

B. Summary

The Department has not changed the proposed rulemaking. Section 6.1 is amended by adding the following drugs to the approved drugs listed in subsection (b):

1. Levofloxacin.
2. Tramadol.
3. Pemirolast potassium.
4. Emedastine difumarate.
5. Azelastine hydrochloride.
6. Ketotifen fumerate.

The Department received two comments, one from the Pennsylvania College of Optometry and one from the Pennsylvania Optometric Association (POA). Both comments supported the proposed rulemaking. The POA requested copies of the final-form regulation and comment and response documents.

C. Affected Persons

Optometrists will be able to use, administer and prescribe additional drugs and their patients will be able to receive them for therapeutic purposes. The patients will benefit in that they will have a wider range of agents available to them, thus potentially enhancing their care and treatment.

D. Fiscal Impact

This final-form rulemaking has no measurable fiscal impact on the Commonwealth, local government, the private sector or the general public. The final-form rulemaking merely enhances the availability of therapeutic agents to patients of certain optometrists.

E. Paperwork Requirements

The addition of these drugs to the list of approved drugs under the act will not result in additional costs or paperwork.

F. Effective Date/Sunset Date

The amendment will become effective immediately upon publication as final-form rulemaking. The final-form regulation will continually be monitored and updated as needed. There is no sunset date.

G. Statutory Authority

The amendment to the list of drugs which certain optometrists may use in the course of their practice is made under section 2 of the act, which defines the "practice of optometry" to include the administration and prescription of legend and nonlegend drugs as approved by the Secretary for treatment. Treatment may include the prescription or administration of drugs for therapeutic purposes. The amendment is also authorized under section 2102 of The Administrative Code of 1929 (71 P.S. § 532(g)), which provides the Department with general authority to adopt its regulations.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 30, 2002, the Department submitted a copy of the notice of proposed rulemaking published at 32 Pa.B. 796 (February 9, 2002) to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Health and Human Services Committee and the Senate Public Health and Welfare 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 all comments received, as well as other documentation. In compliance with section 5.1(a)

of the Regulatory Review Act (71 P. S. § 745a(a)), the Department submitted a copy of the final-form regulation to IRRC and the Committees on May 14, 2002. In addition, the Department provided IRRC and the Committees with a copy of the Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

This final-form regulation was deemed approved by the House Health and Human Services Committee and the Senate Public Health Welfare Committee on June 3, 2002. The amendment was deemed approved by IRRC under section 5(g) of the Regulatory Review Act effective June 4, 2002. The Office of Attorney General approved the final-form regulation on June 17, 2002.

I. Contact Person

Questions regarding this final-form may be submitted to John C. Hair, Director, Bureau of Community Program Licensure and Certification, Department of Health, 132 Kline Plaza, Suite A, Harrisburg, PA 17104, (717) 783-8665. Persons with a disability may submit questions regarding the regulations by using V/TT (717) 783-6514 for speech or hearing, or both, impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT]. Persons who require an alternative format of this document should contact John Hair so that necessary arrangements may be made.

J. Findings

The Department finds that:

- (1) Public notice of intention to amend the regulation adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law.
- (3) The adoption of the final-form regulation is necessary and appropriate.

K. Order

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

- (a) The regulations of the Department, 28 Pa. Code Chapter 6, are amended by amending § 6.1 to read as set forth at 32 Pa.B. 796.
- (b) The Secretary of Health shall submit this order and 32 Pa.B. 769 to the Office of General Counsel and the Office of Attorney General for approval as required by law.
- (c) The Secretary of Health shall submit this order, 32 Pa.B. 769 and a Regulatory Analysis Form to IRRC, the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare for their review and action as required by law.
- (d) The Secretary of Health shall certify this order and 32 Pa.B. 769 and deposit them with the Legislative Reference Bureau as required by law.
- (e) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

ROBERT S. ZIMMERMAN, Jr.,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 32 Pa.B. 3183 (June 29, 2002).)

Fiscal Note: Fiscal Note 10-167 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 02-1247. Filed for public inspection July 19, 2002, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

[49 PA. CODE CH. 19]

General Revisions

The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) adopts amendments to §§ 19.2, 19.4, 19.11, 19.12, 19.15—19.18 and 19.21—19.23 to read as set forth in Annex A.

Statutory Authority

The final-form regulations are authorized under section 4 of the Board of Vehicles Act (act) (63 P. S. § 818.4).

Background and Purpose

Notice of proposed rulemaking was published at 31 Pa.B. 2691 (May 26, 2001). Publication was followed by a 30-day public comment period during which the Board received no comments from the general public. On July 16, 2001, the House Professional Licensure Committee (HPLC) and on July 26, 2001, the Independent Regulatory Review Commission (IRRC) sent comments and suggestions to the Board. The major underlying purpose of the amendments is to make the Board's regulations consistent with changes made to the act by the act of April 19, 1996 (P. L. 104, No. 27) (Act 27).

Summary of Comments and Responses to Proposed Rulemaking

The HPLC made the following comments and suggestions: (1) noted that the proposed draft for the renumbering of the paragraphs of § 19.22 (relating to investigation) resulted in having two paragraphs numbered "1" for the first paragraph; (2) questioned why a subsection (a) was necessary for § 19.23 (relating to vehicle shows, off-premise sales and exhibitions); (3) recommended that sections that were to be wholly deleted be marked as "Reserved"; and (4) recommended that the Board add the phrase "in addition to those acts enumerated in the Board of Vehicles Act" to § 19.22 to put licensees on notice that there are prohibited acts enumerated in the act in addition to those set forth in the regulation.

The Board agrees with all the proffered suggestions and changed § 19.22 to avoid having two paragraphs numbered "1"; omitted the subsection designation in § 19.23; marked deleted sections as reserved; and added the suggested phrase to § 19.22.

IRRC made the following comments and suggestions: (1) suggested the Board add a reference to section 2 of the act (63 P. S. § 818.2) to § 19.2 (relating to definitions); (2) suggested that the definition of the term "Department"

should be deleted from the definitions because it is not found in the regulation; (3) suggested adding language and a reference to the regulation relating the term "interest in vehicles" to the statutory definition of "dealer"; (4) suggested the Board use the term "salesperson" rather than "vehicle salesperson" and "vehicle" rather than "motor vehicle" for consistency with Act 27; (5) suggested that the phrase "unless the Act provides otherwise" in § 19.18(a)(3)(i) (relating to established place of business for dealers) should specifically reference the provision of the act which supercedes the regulation or the regulation should include the provision of the act; and (6) agreed with the HPLC that the Board should reference the statutory provisions in the act to give a licensee more complete notice of all prohibited actions.

In response to IRRC's suggestions, the Board added a reference to section 2 of the act in § 19.2; clarified the relationship between the definition of "dealer" in the act and the term "interest in vehicles" in the regulation; deleted the definition of "Department" as it is not used in the regulations; made alterations to consistently use the term "vehicle" rather than "motor vehicle," the term "salesperson" rather than "vehicle salesperson," as well as the term "dealer" rather than "vehicle dealer" and specified which provision of the act was referenced by § 19.18(a)(3)(i). In addition, the Board changed references to "factory" and "distributor" rather than the term "manufacturer" to be consistent with the statute.

Fiscal Impact and Paperwork Requirements

The final-form amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The final-form amendments will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Compliance with Executive Order 1996-1

The Board sent the proposed amendments to dealer and vehicle auction organizations as required under Executive Order 1996-1, "Regulatory Review and Promulgation." In addition, the Board considered the impact the final-form amendments would have on the regulated community and on public safety and welfare. The Board finds that final-form amendments address a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 14, 2001, the Board submitted a copy of the notice of proposed rulemaking published at 31 Pa.B. 2691, to IRRC and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and the HPLC for review and comment.

Publication of the notice of proposed rulemaking was followed by a 30-day public comment period during which the Board received no written comments from the public. In preparing the final-form rulemaking, the Board has considered the comments received from IRRC and the HPLC. The SCP/PLC did not submit comments.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on June 11, 2002, this final-form rulemaking was deemed approved by the HSCP/PLC and HPLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 13, 2002, and approved the final-form rulemaking.

Additional Information

Further information may be obtained by contacting Teresa Woodall, Administrative Assistant, State Board of Vehicle Manufacturers, Dealers and Salespersons, P. O. Box 2649, Harrisburg, PA 17105-2649 or from the Department of State website, www.state.pa.us.

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, 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) The amendments do not enlarge the purpose of proposed rulemaking published at 31 Pa.B. 2691.

(4) The amendments are necessary and appropriate for administering and enforcing the authorizing acts identified in Part B of this Preamble.

Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 19, are amended by amending §§ 19.2, 19.4, 19.11, 19.12, 19.17, 19.18, 19.22 and 19.23; and by deleting §§ 19.15, 19.16 and 19.21 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and the 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 immediately upon publication in the *Pennsylvania Bulletin*.

EDWARD J. CERNIC, Jr.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 3183 (June 29, 2002).)

Fiscal Note: Fiscal Note 16A-602 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 19. STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

GENERAL PROVISIONS

§ 19.2. Definitions.

In addition to the terms defined in section 2 of the act (63 P. S. § 818.2), the following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Board of Vehicles Act (63 P. S. § 818.1—818.37).

Board—The State Board of Vehicle Manufacturers, Dealers and Salespersons.

Dealer's interest in vehicles—A dealer's interest in vehicles, as the term is used in section 2 of the act, does not include the lease of a vehicle.

Engaging in the occupation of vehicle salesperson—The display, demonstration, offer for sale or retail sale of any vehicle not owned by that person.

§ 19.4. Fees.

The following is the schedule of fees charged by the Board:

Salesperson license application	\$25
Factory representative or distributor representative license application	25
Manufacturer license application	30
Factory or distributor branch license application	30
Distributor license application	30
Dealer license application	65
Auction license application	65
Dealer branch lot license application	65
Salesperson change of employer transfer application	25
Business name or post office address change	30
Business physical location change	60
Verification of licensure	15
Reinspection after failure	45
Certification of license history	25
Biennial renewal—salesperson license	35
Biennial renewal—vehicle representative license	35
Biennial renewal—manufacturer license	100
Biennial renewal—manufacturer branch license	70
Biennial renewal—distributor license	70
Biennial renewal—dealer license	70
Biennial renewal—auction license	70
Biennial renewal—dealer branch license	70

SALESPERSON'S LICENSE

§ 19.11. License.

It is unlawful for a person, except as provided in this chapter, to engage in the occupation of salesperson within this Commonwealth unless the person has secured a license as required under the act.

§ 19.12. Application for license.

(a) Application for license as a salesperson shall be made in writing to the Board, signed by the applicant, designating the business name and address of the dealer then employing the applicant or into whose employ the applicant is then about to enter. Applications shall be made upon a form of application prepared by the Board which shall include the recommendation of his employer or prospective employer certifying that the applicant is honest, trustworthy, truthful and of good repute and recommending that a license be granted. In the case of an applicant who is himself a dealer, an officer of a corporation which is a dealer or a member of a partnership which is a dealer, a representative of a bank or sales finance company which has personal knowledge concerning the reputation and fitness of the applicant, shall

complete affidavit No. 4 on transfer form or No. 18 on the original application. The form of application shall contain other information, as the Board requires.

(b) A person, resident or nonresident, who, in whole or in part, sells, distributes or exchanges vehicles to dealers within this Commonwealth, is required to be licensed in this Commonwealth as a distributor or dealer.

§ 19.15. (Reserved).

§ 19.16. (Reserved).

DEALERSHIP LICENSE

§ 19.17. Separate business identity for dealers.

Every licensed dealership shall have a business identity separate from other businesses owned or operated by the dealer.

§ 19.18. Established place of business for dealers.

A licensed dealer shall maintain an established place of business that meets the following criteria:

* * * * *

(3) *Display area.* The dealership shall have a display area—whether indoors, outdoors or partly indoors and partly outdoors—where the public is permitted and invited in the regular course of business to inspect or test drive the vehicles that are being offered for sale, purchase or exchange by the dealership. The display area may not include areas of the dealership premises on which are placed vehicles that are wrecked or damaged, that are awaiting reconditioning or preparation for sale, purchase or exchange, that are being serviced or repaired, that are part of general inventory, or that are otherwise not being offered for sale, purchase or exchange to the public. The display area shall meet the following requirements:

(i) *Size.* The display area of a dealership that buys, sells or exchanges vehicles shall be large enough for the display of at least five vehicles—with doors opened—of the kind that are bought, sold or exchanged by the dealership. The display area of a dealership that buys, sells or exchanges recreational vehicles, manufactured housing and mobile homes shall have a display area of at least 5,000 square feet, unless exempted by section 5(e)(3) or (4) of the act (63 P. S. § 815.5(e)(3)).

(ii) *Grading and surfacing.* An outdoor display area shall be properly graded. The outdoor display area of a dealership that buys, sells or exchanges vehicles shall be surfaced with concrete, asphalt, slag, brick, stone, aggregate, gravel, cinder or similar material.

(iii) *Separation from adjacent parking areas.* An outdoor display area shall be separated from the parking areas of adjacent businesses and residences by grass strips, ropes and pennants, painted lines or some other conspicuous means of separation.

(iv) *Lighting.* If a dealership with an outdoor display area intends to be open during evening hours, the display area shall be lighted adequately.

(4) *Repairs and ancillary services.* A dealership that buys, sells or exchanges mobile homes or manufactured housing shall do one of the following:

(i) Provide transportation, installation and repair services to its customers.

(ii) Make available to its customers a list of persons or companies who provide transportation, installation and repair services.

(5) *Telephone.* The dealership shall have a single business line telephone, located within the permanent enclosed building, that is used for the dealership. The telephone number shall be listed under the dealership's licensed name.

(6) *Sign.* The dealership shall exhibit a sign, either permanently affixed to the building or erected in the outdoor display area, that shows the licensed name of the dealership and that is visible to the public.

(7) *Land-use ordinances.* The dealership shall be in full compliance with applicable building codes, zoning ordinances and other land-use ordinances.

(8) *Fire-safety requirements.* A dealership that is located in Pittsburgh, Philadelphia or Scranton shall possess a certificate of compliance with fire-safety requirements issued by the appropriate fire-safety authority of that city. A dealership that is located somewhere other than in Pittsburgh, Philadelphia or Scranton shall possess a Certificate of Occupancy issued by the Department of Labor and Industry under the act of April 27, 1927 (P. L. 465, No. 299) (35 P. S. §§ 1221—1235), known as the Fire and Panic Act.

(9) *Posting of business hours.* The dealership shall post its regular business hours in a conspicuous place for the visiting public.

POWERS AND DUTIES OF THE BOARD

§ 19.21. (Reserved).

§ 19.22. *Investigation.*

The Board will investigate on its own initiative or upon the verified complaint in writing of a person, allegations of the wrongful act of a licensee of the act and will have the power to suspend or revoke licenses issued by the Board if, after notice and hearing, the person charged is found guilty of committing or attempting to commit the following acts, in addition to those acts enumerated in the act:

(1) Has required a purchaser of a new vehicle, as a condition of sale and delivery of the vehicle, to also purchase special features, appliances, accessories or equipment not desired or requested by the purchaser.

(2) Has willfully failed or refused to perform a written agreement with a retail buyer involving the sale of a vehicle.

(3) Has used the words "lease" or "leasing" in a dealer's trade name.

(4) Has with intent to sell or in any way dispose of vehicles, or with intent to increase the volume of sales of vehicles or to induce the public in any manner to enter into an obligation relating thereto, or to acquire title thereto or an interest therein, made, published, disseminated, or caused, directly or indirectly, the same to be made, published, disseminated, circulated or placed before the public, in a newspaper or other publication in the form of a book, notice, handbill, poster, sign, bill circular, pamphlet or letter, or over a radio or television station or other medium of wireless communication, or in another way, similar or dissimilar to the foregoing, an advertisement, announcement, or statement, of any sort regarding the vehicles so offered to the public or concerning the quantity, quality, value, merit, use, present or former price, cost, reason for price, motive for sale or concerning the method of pricing, or the possession of rewards, prizes or distinctions conferred, regarding the vehicles which advertisement contains an assertion, representation, or statement of fact which is untrue, deceptive or mislead-

ing, and which is known, or which by the exercise of reasonable care should be known, to be untrue, deceptive or misleading.

(5) Has advertised a vehicle for sale, in a manner indicating that the sale is being made by a private party or household not engaged in the vehicle business, unless that advertisement shall affirmatively and unmistakably indicate and state that the seller is a dealer or salesperson and not a private party.

(6) Has advertised misrepresenting the true nature of the business by the use of the words "manufacturer," "importer" or "wholesaler" or has represented that he is selling at wholesale in any form of sale or advertising unless the dealer is actually selling at wholesale for the purpose of resale, or unless the dealer is in fact advertising true wholesale prices.

(7) Has misrepresented the true nature of the business by the use of the words "sale at wholesale", "sales at wholesale," "wholesale sale," "wholesale prices" or words of similar import containing the word "wholesale" unless vehicles listed or sold under the claims are sales to a purchaser for the purpose of resale.

(8) Has advertised a vehicle for sale and then has refused to show, demonstrate or sell the vehicle offered in accordance with the terms of the offer, subject to prior sale.

(9) Has used the word "new" in the trade name, in the advertising, or on the checks or business stationery of a dealer who engages only in the sale, purchase or exchange of used vehicles.

(10) Has used the words "broker" or "brokering" in the trade name, in the advertising, or on the checks or business stationery of a dealer or auction.

§ 19.23. *Vehicle shows, off-premise sales and exhibitions.*

A vehicle show, off-premise sale or exhibition may not last for more than 14-consecutive days. To preclude the operation of an unlicensed branch location, a dealer may not participate in any show or combination of shows at a given location for more than 15 days in any period of 30 days, for more than 30 days in any period of 3 months or for more than 60 days in any period of 12 months.

[Pa.B. Doc. No. 02-1248. Filed for public inspection July 19, 2002, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 53 AND 93]

Access Areas and Marinas; Registration and Titling of Boats

The Fish and Boat Commission (Commission) by this order amends Chapters 53 and 93 (relating to Commission property; and registration and numbering). The Commission is publishing these final-form amendments under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

A. *Effective Date*

The amendments will go into effect upon publication of an order adopting the final-form amendments in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on the final-form amendments, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This final-form rulemaking is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

C. Statutory Authority

The final-form amendment to § 53.12a (relating to access areas and marinas) is published under the statutory authority of section 741 of the code (relating to control of property). The final-form amendment to § 93.14 (relating to proof of ownership for initial registration) is published under the statutory authority of section 5122 of the code (relating to registrations, licenses, permits, plates and statistics). The amendments to §§ 93.113—93.116 are published under the statutory authority of section 5325 of the code (relating to rules and regulations).

D. Purpose and Background

The final-form amendments are designed to update, modify and improve the Commission's regulations pertaining to its property and the registration and titling of boats. The specific purpose of the amendments is described in more detail under the summary of changes.

E. Summary of Changes

(1) *Section 53.12a.* The Commission's regional law enforcement offices from time to time receive complaints from boaters that anglers are blocking boat launch areas (docks, in particular). Although § 53.12a provides that the Executive Director may impose additional restrictions on the use of Commission access areas and marinas and that these restrictions will be effective when posted at the site, the Commission believes that it would be desirable to have a regulation in place that expressly states that boats have the right-of-way over fishing from boat launch areas and that it is unlawful to fish from boat launch areas when posted. Accordingly, the Commission has amended this section as proposed.

(2) *Section 93.14.* With the continued popularity of canoes and kayaks, sales of these boats have been strong. Also, because of their relatively small size and low cost, they are readily available from many distribution outlets besides traditional boat dealers. These other outlets include sporting goods and discount type retail stores.

In part because these nontraditional outlets are not familiar with documentation requirements, purchasers frequently are not provided with the manufacturer's certificate of origin (MCO). Under the Commission's regulations, the original MCO is required for the initial registration of a boat. This requirement for nonpowered boats, such as canoes and kayaks, sold from retail establishments is causing significant delays in registration, imposing unreasonable "paper chase" requirements on applicants and raising frustration and customer service issues.

Accordingly, the Commission has amended this section, as proposed, to eliminate the MCO requirement for boats that are registered voluntarily under section 5303 of the code (relating to voluntary and special registrations) where the boat has a retail value of less than \$2,000. The Commission also has reorganized this section as proposed.

(3) *Sections 93.113—93.116.* On July 1, 2001, revised 13 Pa.C.S. Division 9 (relating to secured transactions) went into effect in this Commonwealth. Also going into effect

on July 1, 2001, were amendments to sections 5323 and 5327 of the code (relating to content and effect of certificate of title; and fees). These amendments were made so that the code conforms with the revised Division 9. Changes to the Commission's titling regulations that pertain to security interests also were required so that these regulations conform with the revised Division 9. Accordingly, the Commission has amended §§ 93.113—93.116 as proposed.

F. Paperwork

The final-form amendments will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The final-form amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The final-form amendments will impose no new costs on the private sector or the general public.

H. Public Involvement

A notice of proposed rulemaking was published at 32 Pa.B. 1217 (March 2, 2002). The Commission did not receive any public comments concerning these proposals.

Findings

The Commission finds that:

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

(2) A public comment period was provided, and no comments were received.

(3) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapters 53 and 93, are amended by amending §§ 53.12a, 93.14 and 93.113—93.116 to read as set forth at 32 Pa.B. 1217.

(b) The Executive Director will submit this order and 32 Pa.B. 1217 to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and 32 Pa.B. 1217 and deposit the same with the Legislative Reference Bureau as required by law.

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

PETER A. COLANGELO,
Executive Director

Fiscal Note: 48A-124. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 02-1249. Filed for public inspection July 19, 2002, 9:00 a.m.]