

# RULES AND REGULATIONS

## Title 7—AGRICULTURE

### DEPARTMENT OF AGRICULTURE

#### [7 PA. CODE CH. 21]

#### Lifetime Licensure

The Department of Agriculture (Department), under the authority of the Dog Law (act) (3 P. S. §§ 459-101—459-1205), amends Chapter 21 (relating to general provisions; kennels; licensure; dog-caused damages) to read as set forth in Annex A.

#### *Authority*

The Department has the power and authority to amend and adopt these regulations. This authority includes:

(1) The general duty to implement the policy of the act set forth in section 101 of the act (3 P. S. § 459-101), which states this is an act "... relating to dogs, regulating the keeping of dogs; providing for the licensing of dogs ... providing for the abandonment of animals" and "providing for ... liability of the owner of keeper of dogs for such damages." The Department has a duty to assure the proper and humane licensure of dogs, to allow for the proper identification of dogs and a means by which a person may obtain reimbursement for certain dog-caused damages.

(2) The specific authority conferred by section 201 of the act (3 P. S. § 459-201) grants the Department the power to promulgate regulations regarding the lifetime licensure of dogs.

(3) The specific authority to impose and enforce penalty provisions of the act set forth in Articles II—IX of the act (3 P. S. §§ 459-201—459-911-A).

#### *Need for the Regulations*

The current lifetime licensure regulations in Chapter 21 became effective October 12, 1985. The act was amended and the amendments became effective December 11, 1996. The amendments to the act included amendments to the licenses, tags and kennels provisions in Article II of the act (3 P. S. §§ 459-200—459-219), which contain the lifetime license provisions at section 201(b) of the act. The lifetime licensure provisions of the current regulations require that a dog be tattooed with a number assigned by the county treasurer. While these regulations were consistent with the requirements set forth by the Legislature, those requirements were changed by the 1996 amendments to the act. The act now allows for the lifetime licensure of dogs through the implantation of a microchip. The amendments to the lifetime licensure regulations will allow the use of a microchip as an alternative to the tattoo identification. The regulations must be amended to set forth the procedure for obtaining a lifetime license when a microchip is implanted in the dog. The Department also amended the tattoo provisions to clarify the lifetime licensure process. The amendments to § 21.51 (relating to lifetime dog license issuance) required the Department to revise § 21.1 (relating to definitions).

Additionally, the Department amended §§ 21.4, 21.52 and 21.57 (related to penalties; recordkeeping for lifetime dog licenses; and kennel tags) to make them consistent with the act and the amended regulations. The amendments to § 21.4 were necessary to make it consistent

with the same penalty provision in section 903 of the act (3 P. S. § 459-903), which had been amended. The Department originally proposed to repeal the section of the regulations relating to penalties because the penalties were set forth in the act. However, after receiving numerous comments from the regulated community requesting that all the penalty provisions set forth in the act be consolidated in the regulations, the Department decided to reiterate and consolidate the penalty provisions. This will accommodate the regulated community and the courts by providing an easy reference to penalty provisions that apply to specific areas of the act. It will also aid the Department in enforcement of the act and the regulations.

Section 21.53 (relating to transfer of lifetime dog licenses) was amended to clarify the process required when the ownership of a dog with a lifetime license is transferred or the dog is moved to a new address.

#### *Comments*

Notice of proposed rulemaking was published at 32 Pa.B. 66 (January 5, 2002) and provided for a 30-day public comment period. Under section 902 of the act (3 P. S. § 459-902), the Department held a public hearing on December 14, 2000, with regard to the proposed rulemaking. Notice of the public hearing was published at 30 Pa.B. 5543 (October 28, 2000). In addition, members of the Dog Law Advisory Board (Board) and other known interested parties, such as those who regularly attend public meetings of the Board, were notified by regular mail. An official record of the public hearing is available for public inspection.

The Department received numerous comments regarding the proposed rulemaking and made extensive revisions to the proposed rulemaking based on those comments. The Department decided to distribute the revised regulations to all commentators for their review prior to submitting the revised regulations into the final-form rulemaking process. The Department received additional comments and those comments are included in this section of the Preamble.

Comments were received from the Independent Regulatory Review Commission (IRRC), the Honorable Raymond Bunt, Jr., Majority Chairperson, Agriculture and Rural Affairs Committee; the Honorable Peter J. Daley, Minority Chairperson, Agriculture and Rural Affairs Committee; Virginia S. Richardson, President, Pennsylvania Association of County Treasurers (PACT); Dotsie Keith, Legislative Chairperson, Pennsylvania Federation of Dog Clubs (PFDC), Incorporated; Johnna L. Seeton, Chairperson, Pennsylvania Legislative Animal Network (PLAN); Anne Irwin, President, Federated Human Societies of Pennsylvania and Executive Director of Bucks County Society for the Prevention of Cruelty to Animals (BCSPCA); Jeff Steed, DVM (Dog Law Board Member) Manheim Pike Veterinary Hospital, Incorporated (MPVH); James R. Rummel, VMD, President, Pennsylvania Veterinary Medical Association (PVMA); Hannis Stoddard III, DVM, President and Founder, Avid Identification Systems Incorporated. The Department thanks all of those who commented on these regulations. The comments were insightful and helped the Department clarify the regulations and develop regulations that meet the parameters of the act and fit the needs of the regulated community.

*Comments Received**Category**A. Economic and Fiscal Impact**IRRC*

1. IRRC commented concerning question #18 on the Regulatory Analysis Form. IRRC commented, the Department stated this rulemaking will not impose any compliance costs on local governments. However, county treasurers assert they will incur costs for updating computer programs to accommodate both the lifetime license number and the microchip number. IRRC stated the Department should include an analysis of the costs for counties to update their computer programs when it submits the final-form regulation.

2. IRRC pointed out that subsection (d)(3) of the proposed rulemaking refers to a 50¢ issuance fee, while section 200(b) of the act (3 P. S. § 459-200(b)) authorizes a \$1 fee. IRRC has asked the Department to remedy this inconsistency in the final-form rulemaking.

*PACT*

1. PACT commented that because the microchip number and the lifetime license number will be two different numbers, their computer programs would need to be modified. PACT believes these expenses should be the responsibility of the Department.

2. PACT commented that § 21.51(d)(3) states "The 50¢ issuance fee shall be retained by the county treasurer for his service in forwarding the refund." The issuance fee set by the act is now \$1. PACT asked if the Department intended to decrease the county treasurer's fee?

*Response*

In response to the previous concerns regarding the cost associated with recording both the lifetime license tag number and the microchip number, in the Regulatory Analysis Form submitted with the final-form rulemaking the Department will include an analysis of the need and cost for counties to upgrade their computer programs to comply with the recordkeeping requirements of the proposed rulemaking. In addition, the Department does not believe any extensive upgrading of county treasurers' systems will be necessary. Under section 200(e) of the act, the Department is responsible for supplying the forms on which the dog license records are kept. The Department will work with the county treasurers to devise a form, which will not require an extensive upgrade of their computer systems. The format could be as simple as requiring the county treasurer to differentiate the two numbers by placing a dash or slash between them. With regard to the county treasurers' assertion that any expenses involved with the upgrade should be the responsibility of the Department, the act, specifically in sections 1001(b) and 1002(b) (3 P. S. §§ 459-1001(b) and 459-1002(b)), sets forth the parameters for expenditure of funds from the Dog Law Restricted Account. Any compensation would have to fit into one of the criteria delineated in those sections of the act.

With regard to concerns expressed by IRRC and PACT about the level of compensation for county treasurers and agents, set forth in § 21.51(d), this was an oversight on the part of the Department when amending the current regulations. The language set forth in the proposed rulemaking is the same language that appears in the current regulations. The 1996 amendments to the act changed the level of compensation for processing of dog licenses to \$1. The Department has added language

throughout the final-form regulations referring to the "appropriate fees, as set forth at sections 201 and 200(b) of the Act." This should address PACT's concern and make the compensation level for county treasurers and agents processing dog licenses consistent with those set forth in section 200(b) of the act.

*B. Application and Issuance Process—Clarity, Consistency with Statute**IRRC*

1. IRRC agreed with several commentators that the procedure set forth in the proposed rulemaking is too complicated with regard to the issuance of lifetime licenses for microchipped dogs. IRRC further agrees the process should be more streamlined and concurs with other commentators' suggestions that the dog owner should be able to have a microchip implanted in his dog prior to obtaining a lifetime license number and tag from the county treasurer or agent. Commentators suggest the owner could have a microchip implanted in the dog and then take a microchip verification or certificate to the office of the county treasurer or agent, at which point, the microchip identification number could be recorded and the lifetime license and tag issued.

2. IRRC suggested subsections (b)(2) and (7) and (c)(1) of the proposed rulemaking should be amended to clarify that the lifetime license number will be assigned by the county treasurer. In instances where a microchip is used as the permanent means of identification, the county treasurer will record the microchip number, as well as the assigned lifetime license number, on the license certificate.

3. IRRC suggested subsection (c) of the proposed rulemaking should be amended to address the process to be followed by: (1) dog owners who had their dog microchipped before the effective date of the regulation; and (2) new dog owners of previously microchipped dogs. The final-form rulemaking should address the process for these parties to obtain lifetime dog licenses.

4. IRRC believed subsection (c)(3) is confusing. IRRC suggested the sentence "... person implanting the microchip shall record the identifying number of the microchip on the tattoo/microchip license certificate" should be amended to clarify the intent of this provision.

5. IRRC commented that subsection (d)(1) contains a requirement that the lifetime license applicant must remit the "appropriate fee," set forth in act, to the county treasurer or agent. IRRC believed this paragraph should also contain a cross-reference to the fees established in section 201(b) of the act.

6. IRRC questioned whether the reference to "microchip-license number" in subsection (d)(2) of the proposed rulemaking should be changed to "lifetime license number."

7. IRRC commented that in subsection (e), the phrase "... with the county treasurer's copy behind filed in sequence", was confusing and requested that the Department clarify this phrase in the final-form rulemaking.

*PFDC*

1. The PFDC pointed out the Department appears to assume the current method and procedures being utilized for the lifetime licensure of dogs concerning tattoos as the means of permanent identification of dogs can be utilized for microchips. The PFDC stated microchips already have a manufacturer's number embedded in them and therefore it is impossible for a county treasurer to assign a

number for the microchip itself. The PFDC suggests it will be necessary to "... rewrite these rules and regulations to reflect the two different methods, tattooing and micro chipping ..."

2. The PFDC suggested—with regard to the process for microchipping—"... the county treasurer would have to have a system whereby the dog would be assigned a state or county number that would appear on both the paper work and the license tag itself and then the microchip number would also appear on the paper work in order to identify the dog by cross referencing the two numbers."

*PLAN*

1. PLAN commented that microchips are already numbered when they are manufactured and therefore the number assigned by a county treasurer or an agent for a lifetime license—where a microchip will be used as the permanent means of identification—must be linked to the implanted microchip number to allow the two different numbers to be cross-referenced. PLAN stated, "[T]hus, a dog with a lifetime microchip-license will carry two numbers for identification. The same dog will wear two tags, one with the lifetime license number, and the other with the actual microchip number. ..."

2. PLAN commented that provisions must be added to the regulations to allow for the processing of dogs that already have microchips implanted. PLAN suggested proof of microchipping should be mandatory before an application for a lifetime license can be issued and the process initiated.

3. PLAN requested the addition of the word "altered" to the identifying license certificate so the applicant or county treasurer can check a box as to whether the dog has been spayed or neutered (second sentence of old § 21.51(b)). PLAN wanted to assure applicants and county treasurers identify the dog properly as an "intact" male or female or a "spayed, neutered or altered" male or female.

*BCSPCA*

1. The BCSPCA pointed out that microchips are already numbered when they are manufactured and therefore the number assigned by a county treasurer or an agent for a lifetime license—where a microchip will be used as the permanent means of identification—must be linked to the implanted microchip number to allow the two different numbers to be cross-referenced. The number on the lifetime tag issued by the county treasurer will be different from the number on the microchip.

2. The BCSPCA stated, "[B]ecause of how microchips are manufactured and distributed there will need to be some differences between how lifetime licenses are issued for microchips and how they are issued for tattoos."

3. The BCSPCA commented that provisions must be added to the regulations to allow for the processing of dogs that already have microchips implanted. The BCSPCA suggested that owners of dog, already having microchips implanted, should be able to present proof of microchipping, "... either in the form of the original paperwork from the vet or animal shelter, showing the chip number and manufacturer, or in the form of a verification from a vet or animal shelter that the animal is microchipped ..." and identifying the microchip number and manufacturer.

*MPVH, Jeff Steed, D.V.M. (Dog Law Advisory Board Member)*

1. The MPVH commented that the regulations, as written, might accomplish the intended results. However,

the MPVH agreed with other commentators who stated the proposed regulations are confusing and more complicated than necessary. The MPVH's biggest concern was the confusion arising over the assignment of a microchip-license number. The microchip number is different from the lifetime license number that will be issued by the county treasurer. The MPVH felt the two different numbers are easily confused as the regulations currently read and that the Department needs to make it clear they are two different numbers. The MPVH suggested the language of the final-form regulations should be worded more clearly to reflect the fact that a microchip already has a unique encoded I.D. number and therefore the number assigned by a county treasurer or an agent for a lifetime license—where a microchip will be used as the permanent means of identification—will be different from the microchip number. The number on the lifetime tag issued by the county treasurer will be different from the number on the microchip. The MPVH suggested the county treasurer or agent and the Department should keep a record of both numbers and use the lifetime license number to cross reference the microchip number and visa-versa.

2. The MPVH commented that the procedure for obtaining a lifetime license when a microchip will be used as the means of permanent identification, should be simplified. The MPVH suggests the owner of the dog should be allowed to obtain a certificate or verification that a microchip has been implanted in the dog. The certificate or verification would set forth the unique I.D. number of the microchip. The dog owner could then take the certificate or verification of microchipping to the county treasurer or agent and apply for a lifetime license. This would also address the problem where dogs were microchipped prior to the regulations being promulgated.

3. The MPVH stated the Commonwealth database must include the unique microchip I.D. number and its associated lifetime license number for the process to work as intended.

*PVMA*

1. The PVMA commented that the regulations presented several points of confusion. The first point of confusion was the incorrect assumption—brought about by the current wording of the regulations—that the "microchip number" must be preassigned by the county treasurer or agent and have the two digit county code placed in front of it. The PVMA pointed out that each microchip has a unique, unalterable number. The PVMA would like the Department to clarify the language, in the final-form regulation, to reflect the fact that a distinct number, separate from the microchip number, will be issued by the county treasurer or agent and two separate numbers—the microchip number and the lifetime license number issued by the county treasurer or agent will be recorded. These numbers will cross-reference one another. The PVMA suggests a possible language change to address the confusing the issue. The PVMA stated that using the term "microchip number" instead of the term "microchip identification number" might simplify and clarify the regulations.

2. The PVMA commented that the Department should clarify the procedure for issuing a lifetime license where the dog has previously had a microchip implanted. The PVMA believed the Department should clearly state that, in this case, the dog owner could present verification of microchipping, such as a receipt from the veterinarian that implanted the microchip, to the county treasurer or agent.

3. The PVMA would like the Department to include a provision that would allow the application for the lifetime license to be completed after the microchip was implanted instead of requiring the dog owner to complete the lifetime license application prior to the implantation of a microchip.

*Honorable Raymond Bunt, Jr., Majority Chairperson,  
Agriculture and Rural Affairs Committee*

1. The Honorable Raymond Bunt, Jr. agreed with other commentators that amendments must be made to the language of the proposed rulemaking to clearly identify the process of assigning a lifetime license number to a dog that has been or will be permanently identified with a microchip.

*Response*

Although the substantive content and intent of the proposed rulemaking has not changed, the Department, based on the numerous comments regarding clarity of the proposed rulemaking, has done an extensive revision to the structure of the proposed regulation. The revisions include breaking § 21.51 of the final-form regulation down into various new subsections to add clarity to the application process and adding language and new subsections to § 21.53 of the final-form rulemaking to clarify the process to be followed when a dog with a lifetime license is transferred to a new owner or relocated outside the county in which the lifetime license was issued.

Section 21.51 of the final-form rulemaking includes separate subsections setting forth the licensure procedure to be followed when using a tattoo as the means of permanent identification versus the licensure procedure to be followed when using a microchip as the means of permanent identification. In addition, the duties of the license applicant and the county treasurer or agent have, for the most part, been set forth in separate subsections. Furthermore, § 21.51 of the final-form rulemaking allows an owner to have a microchip implanted in his dog prior to obtaining an application for a lifetime license. A dog owner may have a microchip implanted and then take a microchip verification form or certificate to the office of the county treasurer or agent, at which point, the microchip identification number will be recorded and the lifetime license and tag issued. The final-form rulemaking makes a clear distinction between the microchip number, which will be recorded by the county treasurer and the lifetime license number, which will be assigned by the county treasurer. The county treasurer will then record both numbers for its records. The two numbers will act as a cross-reference to allow the dog to be identified by either number. The Department also established a separate subsection addressing the procedure to be followed by the owner of a dog which had a microchip implanted prior to these regulations taking effect.

There were other comments submitted regarding § 21.51, which the Department considered but which did not result in revisions to the final-form rulemaking. One comment concerned the issuance of two tags for dogs receiving a lifetime license. Contrary to the statement by the commentator that the dog will wear two tags, the dog will only wear one tag—the lifetime license number issued by the county treasurer or agent. The microchip number will be recorded by the county treasurer or agent and will act as a cross-reference to the lifetime license number assigned by the county treasurer. Requiring a second tag would add an additional unnecessary cost and would not give the dog any additional protection. The microchip is implanted in the dog and where necessary to

identify the dog—such as where the dog has lost its collar with the lifetime license tag number on it—the microchip number can be ascertained by scanning the dog. Another commentator suggested the Department should make verification of implantation of a microchip mandatory prior to the initiation of the application process. The Department will not require that a dog be microchipped before an application for a lifetime license can be issued and the process initiated. Most commentators wanted more flexibility in the process. The process set forth in the final-form rulemaking allows the dog owner to obtain an application prior to or after a microchip is implanted in the dog. However, the final-form regulation does require proof of microchipping prior to the county treasurer or agent actually issuing the lifetime license and tag number. Another commentator suggested the addition of the word “altered” to the identifying license certificate to be issued, so that the applicant or county treasurer can check a box as to whether the dog has been spayed or neutered. The commentator wanted to ensure applicants and county treasurers identify the dog properly as an “intact” male or female or a “spayed, neutered or altered” male or female. The application for a dog license or lifetime dog license already requires this type of information. The information is necessary to determine the proper cost of the license and becomes part of the records of the county treasurer or agent.

*C. Transfer of Lifetime Dog Licenses—Further Define to Add Clarity*

*IRRC*

1. IRRC commented that § 21.53 does not specify a time period within which an owner must notify the county that issued the lifetime license of a change in address or ownership of the dog.

2. IRRC commented that the regulation is unclear as to what information is necessary for the owner to provide to the county treasurer or agent as part of the transfer application.

3. IRRC commented that section 205(a) of the act (3 P. S. § 459-205(a)) specifies a \$1 fee for transfer of a license. IRRC suggested the \$1 fee should be cross-referenced or set forth in this section of the rulemaking.

4. IRRC commented that the regulation is silent with regard to the process to be utilized by a dog owner moving to this Commonwealth from another state with a dog that has already been tattooed or implanted with a microchip in the former state of residence.

*PACT*

PACT commented that the Department should add a provision to the regulation which would delineate the lifetime licensing procedure for a person moving in from another state who already has his dog microchipped. The concern is the Department would require a new microchip to be implanted in the dog.

*BCSPCA*

The BCSPCA commented that adding more specific language to § 21.53 would help to clarify the current regulations. The BCSPCA suggested the Department should address how much time the owner of a dog has to contact the county treasurer or agent after a change in address or a change in ownership of the dog, what information needs to be provided by the dog owner in each case and the fee for the transfer.

*Honorable Raymond Bunt, Jr., Majority Chairperson, Agriculture and Rural Affairs Committee*

Representative Bunt commented that he agreed with the comment submitted by the BCSPCA regarding § 21.53. Representative Bunt stated, “Sections 205(a) and (b) of the law do establish fees for license transfer. If no fee is proposed for recording a new residence for a lifetime license owner, then perhaps that could be stated in the regulation.”

*Response*

In response to comments received concerning the process to be followed when a dog with a lifetime license is transferred to another owner or permanently relocated to another county, the Department added language to § 21.53 of the final-form rulemaking and broke that section down into separate subsections addressing ownership transfers and residence changes within a county and ownership transfers and residence changes to places outside the county in which the lifetime license was issued. The new language and separate subsections in § 21.53 of the final-form rulemaking clarify the process to be followed in each case.

The Department added language to the final-form rulemaking to address comments concerning the lack of a specific time limit, in the act or the proposed regulation, within which the dog owner, transferee, or both, must notify the county treasurer or agent of a transfer of ownership or change of address. The Department believes, to assure protection of the dog and the general public, it is reasonable to require a dog owner or transferee, or both, to notify the county treasurer or agent and complete the necessary process either immediately prior to or within 10 days after the actual transfer of ownership or change of address takes place. In addition, the final-form regulation clarifies the type of information the dog owner or transferee, or both, must submit.

With regard to transfer fees that must be paid, section 205 of the act clearly establishes those fees and the final-form regulation restates the \$1 transfer fee. Section 205(b) of the act makes it clear that even where a dog is moved to a new county and a new license and tag must be issued, the fee is still \$1. Therefore, the Department cannot change the fee or require payment of an additional fee through regulation.

The Department received comments regarding clarifying the lifetime license process to be followed by a person moving into this Commonwealth from another state. The commentators were concerned that if a person owned a dog that already had a microchip implanted, the person would have to have another microchip implanted in the dog. The Department believes the changes made to § 21.51 of the final-form rulemaking, which address the lifetime license process to be followed when a dog already has a microchip implanted, address this issue. With regard to the issue of a dog owner moving into this Commonwealth from another state and obtaining a Commonwealth lifetime license, that person would merely follow the same process as any Commonwealth resident wishing to purchase a Commonwealth lifetime license. There are no provisions in the act that provide for the transfer of an out-of-State license. A dog license issued in another state is not valid for a dog permanently transferred into this Commonwealth.

*D. Penalties—Clarity*

*IRRC*

IRRC commented on the Department’s proposed deletion of § 21.4. IRRC commented this provision contains

the penalties for violations of this chapter. IRRC suggested for clarity, that even though the penalties are set forth in the act, the Department should consider replacing the content of the penalty section with a cross-reference to the section relating to penalties contained in section 201(c) of the act.

*PLAN*

PLAN commented that it strongly opposes the proposed deletion of § 21.4. PLAN notes the Department originally intended to amend the language of the penalty provision set forth in § 21.4 so that the language of the regulation mirrored the language in section 903 of the act. PLAN believed that having the penalties included in the regulations will clarify the regulations for judges, kennel owners and all those who read them.

*BCSPCA*

The BCSPCA commented that it opposes the proposed deletion of § 21.4. The BCSPCA stated, “[W]e believe raising the level of offense to misdemeanor of the third degree for a third or subsequent violation under this act within 1 year of conviction for the first and second violations is both reasonable and necessary. Summary penalties are clearly not meaningful or effective if they do not deter someone from committing a third or subsequent offense less than a year after being convicted for a similar offense.”

*Response*

In response to the comments submitted regarding the Department’s proposed deletion of the one penalty provision contained in the current regulations, the Department has decided to amend the “penalty” provisions, in § 21.4, to include all penalties set forth in the act. The current regulations contain only one penalty provision. That penalty provision is a restatement of the penalty in section 903 of the act. However, the act itself contains numerous penalty provisions. Some of the provisions relate to a specific article of the act and other penalty provisions apply to the entire act. In addition, because of amendments to the act—specifically to section 903 of the act—the penalty provision set forth in the current regulations was not consistent with the penalty provision in section 903 of the act. Therefore, the Department felt the regulations, were potentially confusing. The Department, in the proposed regulations, was attempting to eliminate the potential problems and confusion arising from providing only one penalty in the regulations when the act provides for numerous penalties. The Department, wishing to avoid redundancy, decided to eliminate any reference to penalties in the regulations and simply allow the act to control. However, based upon the response of the regulated community’s and the regulated community’s desire to have the penalties actually set forth in the regulations, the Department has included all of the penalty provisions delineated in the act in the final-form rulemaking. In addition, to add further clarity, the Department has broken the penalty provisions down by article and subject matter.

*E. Recordkeeping for Lifetime Dog Licenses—Need and Clarity*

*IRRC*

1. IRRC commented that some of the language contained in § 21.52 was redundant. IRRC stated that this section repeats the language contained in § 21.51(e) of the proposed rulemaking. IRRC suggested the Department should eliminate one of the repetitious provisions.

2. IRRC pointed out that while the recordkeeping provisions of the proposed regulations required the county

treasurer or agent to retain records for 20 years, there is no provision regarding how long the Department is going to retain lifetime dog licenses.

*Response*

In the final-form rulemaking, the Department has corrected the redundant language contained in §§ 21.51(e) and 21.52 of the proposed rulemaking.

With regard to IRRC's comment concerning the length of time the Department will retain lifetime license records, the Department will maintain the records for the same amount of time as the county treasurers' or agents' (that is, 20 years). Because regulations are not intended to regulate the actions of the regulated body, the Department does not believe it is necessary to promulgate a specific provision within the regulation setting forth the time period for retention of records by the Department.

*F. Definitions—Need*

*IRRC*

IRRC commented that the addition of the term "releasing agency" to the definitions section of the proposed rulemaking is unnecessary because the term does not appear elsewhere in the proposed rulemaking. IRRC suggests the term should be deleted from the final-form rulemaking.

*PLAN*

PLAN commented that the addition of the term "releasing agency" is not necessary because the term does not appear elsewhere in the proposed rulemaking.

*Response*

In response to the comments regarding the definition of "releasing agency," the Department has removed the definition from the final-form rulemaking.

*G. Requiring Scanners*

*Honorable Peter J. Daley, Minority Chairperson, Agriculture and Rural Affairs Committee*

1. Representative Daley commented that the proposed regulation does not require pet shelters that might receive stray animals to have a scanning device to detect microchips. Representative Daley was concerned, unless the Department requires shelters to have scanning devices or requires scanning of dogs prior to euthanasia, a dog owner could lose a pet at a shelter that fails to scan the dog prior to euthanasia. Representative Daley states, "... there clearly is an implied promise of security for one's pet when a microchip license is purchased, and that promise will fail if there is not widespread distribution of the microchip wands." In addition, Representative Daley realized a regulatory requirement could impose a cost on shelters if the scanning devices were not provided free of charge. Therefore, Representative Daley suggested the final-form rulemaking should require shelters to have scanning devices so long as they are available at no cost to the shelter.

Representative Daley's comment received two responses; one from the veterinary industry and one from the microchip industry.

The first response came from the PVMA. The PVMA responded that it shares the "... desire to encourage the scanning of all animals prior to admitting them into a shelter, before they are adopted and prior to euthanasia." However, the PVMA stated that while it would strongly support a statute (or statutory provision) requiring the scanning of an animal before it is euthanized, it does not believe the lifetime licensure regulation should be delayed

in its implementation while awaiting the writing and approval process for a mandatory scanning regulation. In addition, the PVMA addressed the issue of the cost of scanning devices for shelters. The PVMA informed the Department that 5 years ago it entered into a contract with the AVID Microchip Company (AVID). Among other things, the contract allowed the PVMA to distribute the AVID microchip scanners free of charge to any legitimate animal control facility that made a formal request. The PVMA further states that AVID has assured the PVMA it intends to continue to honor the contract with the PVMA and will provide scanners free of charge to facilities that do not presently have a scanner. The PVMA suggest the Department contact the PFHS and ask the PFHS to poll its members. The PVMA would be willing to provide the necessary information to permit this facility to qualify for a complimentary reader.

The second response came from AVID. AVID stated it has been its policy to provide scanning devices free of charge to facilities that process stray and lost animals. AVID has a contract with the PVMA to provide scanning devices free of charge to animal shelters and humane organizations throughout this Commonwealth. AVID has two requirements that must be met in order for it to continue to provide scanning devices free of charge in this Commonwealth. First, because having a scanning device does not assure a shelter or stray animal facility will utilize the device and because the Commonwealth has no law requiring animals to be scanned prior to admission, adoption or euthanasia, the facility receiving the free scanning device must enter into a written agreement with AVID promising it will scan animals prior to admission and prior to adoption or euthanasia. The second requirement is that AVID must be able to continue to generate sales of microchips to Pennsylvania veterinarians and shelters. AVID would support legislation requiring the scanning of all animals prior to admission to shelters or other animal control facilities and prior to adoption or euthanasia.

*Response*

The Department, after much discussion and consideration of the comment related to requiring the use of scanning devices in the final-form regulation, has decided the mandatory use of scanning devices absent an agreement with the industry to provide scanners free of charge to all facilities that accept, hold and euthanize or adopt dogs, has the potential of imposing undue costs and expenses on that industry. While the Department believes the intent of the comment is laudable, also believes the topic is one that requires additional discussions and assurances before it is implemented. As pointed out by the PVMA, many persons in the industry have eagerly anticipated the promulgation of this regulation and there is a need to move it forward as soon as possible. In addition, many facilities accepting, holding, euthanizing and adopting dogs already have scanners. Furthermore, the mandatory requirement of possessing a scanning device, absent a law requiring the scanning of every dog prior to euthanasia and appropriate recordkeeping requirements, will not ensure the intent of the comment is met. The Department and the industry is very willing to endorse and encourage every facility accepting, holding and euthanizing or adopting dogs to possess a scanner and to scan every dog received by that facility prior to it being euthanized or adopted.

H. *Miscellaneous*

*Honorable Raymond Bunt, Jr., Majority Chairperson, Agriculture and Rural Affairs Committee*

Representative Bunt commented that the “Background” section of the Preamble to the proposed rulemaking contained two references to the implantation of a microchip as a “more humane” method of identification. Representative Bunt opined these references are not accurate and infer that tattooing is inhumane. Representative Bunt strongly encouraged the Department to remove these references to the humane treatment of dogs in the final-form preamble.

*PACT*

PACT commented that the first sentence of § 21.51(c) states, “[T]he owner shall arrange to have the dog tattooed or a microchip implanted at the owner’s expense with the number assigned by the county treasurer in the manner prescribed by subsection (b).” PACT interprets the amendments made by the proposed regulations to delete § 21.51(b).

*Response*

The Department agrees with Representative Bunt’s comment and has removed the language “more humane” from the preamble of the final-form rulemaking.

The amendments set forth in the proposed rulemaking do not have the effect of deleting § 21.51(b). In addition, the modification of the regulation in its final-form makes this point of contention mute.

*Additional Comments Received After Department Revisions to the Regulations and Reissuance to First Round Commentators*

Because of extensive revisions made to the regulations as a result of the comments received during the proposed stage of rulemaking the Department—after making revisions based on those comments and prior to submitting the revised regulation for final rulemaking—reissued the revised regulation to all persons who commented during the proposed stage of rulemaking for additional comments on the revised draft. The Department received additional comments from IRRC, the PFDC, PLAN and PACT. The comments received were section specific and therefore are set forth in that manner as follows.

*Category*

A. *Section 21.4 Penalties.*

*IRRC*

1. IRRC questioned whether it was necessary to “. . . reiterate the penalty provisions of the Act in the regulations, rather than just cross-referencing the penalty provisions?”

*Response*

For clarity and based on comments received during the proposed stage of rulemaking and discussions with commentators, the Department feels that consolidating and delineating the actual penalties in the regulations is necessary. Establishing the penalties in the regulations and consolidating the penalties under the various articles of the act assists the regulated community, the district justices and the Bureau and streamlines compliance and adjudicatory matters by not requiring those persons to cross-reference the act and by clarifying which penalties pertain to violations of the provisions of each article. The need for this is made even more evident by PLAN’s comment regarding this regulation. PLAN states, “[W]hat

a super job the Department has done with the penalty section. That’s one of the most comprehensive penalty sections on the books! Thank you for organizing all those references in such a concise manner.”

B. *Section 21.51 Lifetime Dog License Issuance.*

*Issue 1: 10 Day Time Limit for Tattooing of a Dog*

*IRRC*

1. IRRC commented that it believed the 10-day time period requirement set forth in subsections (d)(7) and (9) and (g)(2) was not enough time to allow a dog owner to get a dog tattooed and return the verification form to the county treasurer or agent. It noted the proposed version of the regulations gave a dog owner 60 days, plus an additional 30 days to reapply if the 60-day time frame was not met.

*PFDC*

2. The PFDC commented that the 10-day time period requirement set forth in the revised regulations is “. . . much too short a time period, especially if the dog owner is doing it by mail.” The PFDC suggested that a more reasonable time period would be 30 days and suggested the time period for having a dog either tattooed or microchipped should be the same.

*PACT*

3. PACT commented that the 10-day time period requirement set forth in the revised regulations “. . . should be changed to read 30 to 60 days.” It pointed out that the busy schedule of most people today only allow them to carry out these duties on the weekend or their days off.

*Response*

The Department agrees with these comments and has changed the time period in the final-form regulation to 30 days. The Department originally reduced the time period from the 60 days, plus an addition 30 days to reapply, to make the recordkeeping and tracking of the license applications easier for the county treasurers and agents and to assure the process was completed in a timely manner, thereby better protecting the health and safety of the dog. It is imperative that the licensure process be completed in a timely manner because an unlicensed dog, which has escaped its owner or has been found running at large, has no identification for purposes of contacting the owner and may be euthanized by a shelter within 48 hours of arrival at the shelter. Therefore, after reviewing the comments the Department agrees a 30-day time period is more appropriate and reasonable.

*Issue 2: Violation for Not Tattooing or Microchipping the Dog Within the Time Period Set Forth in the Regulations.*

*IRRC*

1. IRRC commented on the language in subsection (d)(9) regarding a violation of the act for not complying with the 10-day tattooing provision. IRRC questioned what provision of the act would be violated if a person did not meet the time frame set forth in the regulations regarding the tattooing of a dog. In addition, IRRC pointed out there was no similar provision contained in the microchip sections of the rulemaking.

*Response*

The act, in section 201, requires “. . . the owner of any dog, three months of age or older . . . shall apply to the county treasurer in his respective county or an agent . . . for a license for such dog.” Thus all dogs 3 months of age or older must be licensed. Section 200(b) of the act

regarding lifetime licenses requires the same licensure, except a lifetime license holder will not be required to renew a license on an annual basis. The regulations provide a timeline for completion of the licensure process (application to permanent identification and actual tag and license issuance). An applicant that violates this requirement does not have his dog properly licensed and therefore violates the licensure provisions of the act. The Department in response to comments regarding the reasonableness of the timeline has changed the time period to complete the process from 10 days to 30 days. In addition, the Department has set forth the same timeline in the microchip sections of the regulations for completion of the lifetime licensure process regarding the implantation of a microchip.

*Issue 3: Clarification of the reference to implantation of a microchip as opposed to scanning of the microchip.*

*IRRC*

1. IRRC questioned whether the reference in the last sentence in subsection (f)(3) to "the person implanting the microchip number" should be changed to "the person scanning the microchip number," since that subsection addresses dogs that were previously microchipped.

*Response*

The Department agrees that the language of the sentence should be changed. In the final-form rulemaking, the Department has replaced all references to "implanted" or "implanting" in this subsection with the words "scanned" or "scanning."

*Issue 4: Typo in subsection (g)(2).*

*IRRC*

IRRC pointed out an apparent typo in subsection (g)(2). It stated the word "fees" should be changed to "fee."

*Response*

The Department corrected this typographical error in the final-form rulemaking.

*Issue 5: Redundancy relating to subsections (f) and (g).*

*IRRC*

IRRC stated that subsections (f) and (g) appear to repeat the same information and inquired as to whether these two subsections could be combined into one subsection.

*Response*

Subsection (f) sets forth the procedures for owners of previously microchipped dogs to follow when applying for a lifetime license. Subsection (g) sets forth the process and procedures the county treasurers or agents must follow when issuing a lifetime license. Subsection (g) sets forth the procedures the county treasurers and agents must follow when the means of permanent identification is a tattoo, microchip or previously microchipped dog. While some of the language may appear repetitive, the Department feels it is necessary to separate the procedures of the dog owner and the county treasurers and agents for clarity. In fact, this is a change to the proposed regulations and was implemented because of comments stating the proposed regulations were confusing because there was not a clear distinction between the duties and responsibilities and processes of the dog owner and the county treasurers and agents. Therefore, the Department believes the two subsections are necessary and should not be combined.

*Issue 6: Limiting the Persons Who May Apply a Permanent Means of Identification.*

*PFDC*

1. The PFDC stated that the act contains no reference to who may apply the permanent means of identification. The PFDC objected to the Department limiting the application of a tattoo or microchip to veterinarians or a person approved by the Department. The concern of the PFDC was that this language could impose a severe restriction on breeders with regard to where a breeder could go to have a dog tattooed or microchipped.

*PACT*

PACT commented with regard to the language in the regulations requiring a tattoo or microchip to be applied by a licensed veterinarian or other person approved by the Department. PACT commented that to properly enforce this requirement the Department would have to provide PACT with both a list of people approved by the Department to tattoo dogs and those approved to implant microchips in dogs.

*Response*

It is not the intent of the Department to limit or restrict the persons available to breeders to either tattoo or implant a microchip in a dog as a means of permanent identification. The act provides that the Department is responsible for assuring the health and safety of dogs. The provisions requiring the permanent identification to be applied by a veterinarian or other person approved by the Department were intended to protect the dog from injury and unnecessary stress and to provide veracity. The Department has made two changes to the wording of the final-form regulations in response. First, the Department, after consulting with veterinarians at the Department, determined that the application of a tattoo should be limited to a licensed veterinarian. The tattoo must be applied to the right inner thigh of the hind leg of the dog. To effectuate this the dog must be laid on its side, the thigh held in the air and the tattoo applied. Dogs often object to the procedure while awake and could be harmed in the process. Therefore, it was the opinion of the veterinarians that dogs should, in most situations where a tattoo is being applied, be anesthetized or at the very least be in a controlled atmosphere where anesthesia is an available option and the proper techniques and controls can and will be used during the tattooing process. Second, the Department changed the wording of the microchip sections to read "a licensed veterinarian or a licensed kennel owner." The fact that the person applying the microchip must be licensed adds veracity and integrity to the process and addresses the PACT concern regarding knowledge of who is approved by the Department to apply a tattoo or microchip. Persons holding a license have an incentive to perform in a manner that will not jeopardize the license and the Department can provide a list of licensed kennels to PACT. In addition, the wording is less restrictive on breeders, because it clarifies who is approved to perform applications and most breeders are licensed kennels and therefore could apply microchips to their own dogs and others. Also, breeders have a veterinarian they rely on for the health care needs of their dogs; therefore, a breeder that prefers to have their dogs tattooed as the permanent means of identification can utilize the services of their veterinarian.



*Issue 7: Addition of the Word "Altered" to the Identifying License Certificates, Forms and Anywhere the Regulations Require Information About the Breed, Date of Birth, Sex, Color and Markings of the Dog.*

PLAN

PLAN commented the word "altered" should be added to the identifying license certificates, forms and anywhere the regulations require information about the breed, date of birth, sex, color and markings of the dog. PLAN states this will "... facilitate information concerning dogs, especially females, who are not returned to their owners and are offered for adoption. The Department is aware of many female dogs who have had needless surgery because their guardians did not know they had been spayed."

Response

The Department has added the phrase "and whether the dog has been spayed or neutered" to all of the provisions of § 21.51 that refer to information about the breed, date of birth, sex, color and markings of the dog. The Department will make the necessary changes to the appropriate forms.

*Issue 8: Allowing Agents to Sell Lifetime Licenses.*

PACT

PACT commented that the regulations mention "appropriate agent" in many different places. PACT did not agree with its "sub agents" selling lifetime dog licenses. PACT suggested the agents may hand out the application for a lifetime license, but the county treasurer must issue the number and keep all the lifetime records.

Response

The act does not distinguish, with regard to the role of agents, between the sale of annual dog licenses and the sale of lifetime dog licenses. Section 201(b) of the act relating to the sale of lifetime licenses, states, "[T]he owner of a dog three months of age or older which has been permanently identified may apply to the county treasurer of his respective county or an agent under Section 200(a), on a form prescribed by the department for a lifetime license for a dog (3 P. S. §§ 459-200(a) and 459-201(b))." The role of the agent would remain the same as that set forth in Article II of the act. Nothing in the regulation can or does alter or change that authority or role of the agent. These amended regulations do not alter the meaning of language already set forth in the lifetime licensure regulations currently in place. The lifetime licensure regulations currently in place in § 21.51 allow the county treasurer or an agent to accept lifetime dog license applications, assign tattoo numbers, complete the tattoo certificate and collect the appropriate fees. The county treasurer still keeps the records and makes the appropriate reports to the Department, just as under the current regulations.

*Issue 9: Allowing Dog Owners to Obtain and Complete a Lifetime License Application by Mail.*

PACT commented it is not in favor of allowing the dog owner to apply by mail. PACT questioned "[W]ho is going to pay the postage on the mail?"

Response

The act, in section 200(b), addresses compensation to county treasurers. Section 200(b) of the act states in part, "[F]or services rendered in collecting and paying over dog license fees, agents . . . may collect and retain a sum of \$1 for each dog license sold, which amount shall be full compensation for services rendered by them under this

act. The compensation shall . . . cover, among other things, the cost of processing and issuing dog licenses, postage, mailing . . ." Therefore, any postage fee should be covered by the \$1 compensation allowed by the act. However, it should be noted that the Department, at its discretion, has in the past helped the county treasurers "promote" license sales by supplying the county treasurers with postage paid return envelopes to mail the license and tag back to the dog owner. The Department will continue to assist the county treasurers in any manner allowed by the act and within its budgetary limits; however, the compensation and postage issue is already addressed by the act and cannot be changed by regulation.

*Issue 10: Requirement that the Verification of Tattoo Form Set Forth Certain Information.*

PACT

PACT commented that the requirement that the verification of tattoo form set forth the exact number tattooed on the dog, identify the dog by breed and delineate the dog's date of birth, sex, color and markings may be too onerous and confusing for dog owners. PACT stated, "[S]ome people cannot remember the age of their dog and unless the dog is registered people probably will not know the dog's date of birth. They might know the age."

Response

The purpose of this information is to allow for better identification of the dog. The act does not allow for the transfer of tags or licenses between dogs. The date of birth helps the Department to determine the age of the dog. The Department needs to have this information, including the date of birth, to assure the dog wearing the tag is the actual dog licensed. The Department will agree to only requiring the age, as that is what is required by section 201(b) of the act. Changes have been made to all sections of the regulations which used to require the "date of birth" of the dog.

*Issue 11: Holding of Issuance Fee By County Treasurer Where Dog Owner Fails to Comply With the Provisions of the Regulations.*

PACT

PACT commented with regard to § 21.51(d)(9) of the rulemaking. That section states, in part, that a dog owner who fails to have the dog tattooed and return the completed verification of tattoo form within 30 days shall be in violation of the licensure provisions of the act and the regulations and the lifetime license shall be void. It instructs the county treasurer or agent to return the lifetime license fee to the dog owner and record and report the noncompliance to the Department. PACT believed the county treasurer should retain the issuance fee for the services rendered as in § 21.51(g)(2) and (g)(3).

Response

The Department believes the provisions set forth in § 21.51(g)(2) and (3) are adequate and do not need to be repeated in § 21.51(d)(9). However, this is a small change and would add some clarity for PACT. Therefore, the Department has added the language regarding retention of the issuance fee to § 21.51(d)(9).

*Issue 12: Allowing the Lifetime License Application to be Obtained and Completed Either Prior to or After Implantation of a Microchip.*

PACT

1. PACT commented that allowing the dog owner to obtain a lifetime license application after implantation of

a microchip in the dog might lead dog owners to believe the mere implantation of the microchip is the license and meets the licensure requirements of the act. It believed more discussion was necessary on this issue.

*Response*

The Department amended the proposed regulations to allow dog owners to obtain a lifetime license application after the implantation of a microchip because of comments and concerns expressed by the general public and IRRC during the proposed stage of rulemaking. The regulations now address the process to be utilized when the dog has already been microchipped prior to the dog owner obtaining an application for a lifetime license and prior to the effective date of these regulations. While the Department agrees that some dog owners may become confused, the Department believes most dog owners realize the microchip is not the actual license. In addition, a dog owner must have his dog microchipped by a licensed veterinarian or a licensed kennel owner and he must fill out a verification of microchip form. The form will include further instructions and a disclaimer that it does not constitute a lifetime license. Furthermore, the veterinarians and the kennel owners are knowledgeable with regard to the provisions of the act and the regulations and will be able to inform the dog owner that the verification form must be taken to the county treasurer or agent to receive a lifetime license. Therefore, the Department believes dog owners should be allowed to have the dog microchipped prior to obtaining a lifetime license. This process provides the most flexibility and thereby encourages license sales.

*Issue 13: Recording and Transmittal of Voided Lifetime License Numbers.*

*PACT*

PACT commented that it believes it should be allowed to inform the Department of any voided lifetime license numbers at the same time it files its monthly reports.

*Response*

The Department agrees that the county treasurers may transmit any lifetime licenses they voided during the previous month at the same time they file their monthly reports. The regulations allow for this by stating in § 21.51(d)(9) and (e)(9) that, "[T]he issuing county treasurer or agent shall return the lifetime license fee to the dog owner and record and report the noncompliance to the Department as set forth at § 21.52." Section 21.52 relates to recordkeeping and states, "[T]he county treasurer or agent shall record each lifetime license issued or voided. The county treasurer or agent shall mail or electronically transmit a monthly record of lifetime licenses information to the Department." The Department felt the best way to further clarify this would be to add language to § 21.51(g)(2) and (3) that is identical to § 21.51(d)(9) and (e)(9). The Department has done this in the final-form rulemaking.

*Issue 14: Tracking and Recording Microchip Numbers.*

*PACT*

PACT questioned, "Who is going to track and keep the records of the Microchip numbers?"

*Response*

As set forth in the regulations, the county treasurers and agents are responsible for cross-referencing the microchip number that corresponds with the lifetime license number issued for that dog. The microchip number and the lifetime license number are recorded and cross-

referenced at the time the lifetime license is given to the dog owner. That information shall then be transmitted to the Department. Therefore, the county treasurers and the Department will have a database that delineates the lifetime license number issued to a particular dog and the corresponding microchip number. If a microchipped dog is found running at large and without a tag, the dog and the dog's owner could still be identified through the microchip number. The cross-reference should not require any additional paperwork or computer problems for the Department or the county treasurers because cross-referencing the numbers can be as simple as placing the two numbers side by side with a dash or slash between them.

*C. Section 21.53 transfers of lifetime dog licenses.*

*Issue 1: Change of Address or Ownership or Change of Ownership or Possession. Repetition of Information in subsections (a) and (b).*

*IRRC*

1. IRRC commented that § 21.53(a)(1) addressed the change of address or ownership and § 21.53(b)(1) addressed change of ownership or possession. IRRC questioned if there was a difference.

2. IRRC commented § 21.53(a) and (b) appear to repeat the same information and questioned whether the two could be combined into one subsection.

*Response*

In response to IRRC's first comment, the Department intended to address only the transfer of ownership in § 21.53(b)(1) and the Department has changed the language of § 21.53(b)(1) to reflect that intent.

In response to IRRC's second comment concerning combining the two sections, the Department was seeking to clarify the issues surrounding the duties and requirements of dog owners and the process dog owners and county treasurers and agents must follow when a dog owner changes his address or transfers ownership of the dog to another person. The process is generally outlined in section 205 of the act. Section 21.53(a) of act sets forth the general duties of the dog owner and the county treasurer or agent in specific situations. Section 21.53(b) details the transfer process that must be followed to comply with the transfer requirements of the act and the regulations. The Department believes this provides the clarity the general public and IRRC were seeking in their comments during the proposed stage of rulemaking. Therefore, the Department disagrees with combining these two sections.

*Issue 2: Time Period for a Dog Owner to Notify the County Treasurer of a Change of Address or Ownership.*

*IRRC*

IRRC commented that § 21.53(a)(1) and (2) give the dog owner 10 days to notify the county treasurer of a change of address or ownership. IRRC questioned how the Department determined 10 days was the appropriate time period and stated, "it seems too short?"

*Response*

In arriving at the 10-day time period for notification, the Department considered the health and safety of the dogs as well as the onerous nature of the notification process detailed in the regulations. The health and safety issue for the dog, where there is a transfer of address or ownership, is that the records of the current or new county will not reflect the proper address or owner of the dog if that dog becomes lost or is found running at large after the transfer of address or ownership has occurred.

This could result in the dog not being returned to its proper owner and in some cases in the eventual euthanizing of the dog. On the other hand, the notification process is simple and straightforward with regard to the dog owner. In addition, there is nothing that prevents the dog owner from notifying the county treasurers in advance of a transfer of address or ownership. Therefore, the Department believes the 10-day notification time period is appropriate and essential to the health and safety of the dog.

*Issue 3: Process for Transferring a Lifetime License Number Where the Dog Being Transferred Has a Tattoo as a Permanent Means of Identification.*

*IRRC*

IRRC commented that § 21.53(b)(2) states that when ownership is transferred to a person outside the issuing county, a new lifetime licensed number will be issued and the original license number will be voided. IRRC questioned how this process will work when the dog in question has a tattoo as the permanent means of identification and therefore, the tattoo number is the same as the original lifetime license number as required under § 21.51(d)(4). The same question applied to § 21.53(b)(4) relating to change of residence to another county.

*Response*

In response to this comment and in an effort to solve the dilemma presented by this comment, the Department amended the language of § 21.53(b)(2) and (4) as well as the language of § 21.53(c). The Department felt the only plausible solution to the problem was to amend the language of the subsections to require the county to which the dog was transferred to record and cross-reference the old tattoo number to the new lifetime license number issued by that county, just as the county would cross-reference an existing microchip number and a new lifetime license number. The language of § 21.53(b)(2) and (4) and (c) has been changed to effectuate this process.

*Issue 4: Typographical Error.*

*IRRC*

IRRC commented that § 21.53(b)(2) contains a typographical error. It questioned whether the word "on" in a certain sentence was intended to be "one."

*Response*

The word "on" was intended to be "one." The Department made the correction to the final-form rulemaking.

*D. Section 21.57. Kennel Tags.*

*Issue 1: Typographical Error.*

*IRRC*

IRRC commented the word "dog" should appear between the words "State" and "warden."

*Response*

The Department made this change to the final-form rulemaking.

*Fiscal Impact*

*Commonwealth*

This final-form rulemaking will impose minimal costs and have minimal fiscal impact upon the Commonwealth. This final-form rulemaking will not increase or decrease the regulatory workload. The Department will have to organize a databank to maintain a record of lifetime license holders.

*Political Subdivisions*

This final-form rulemaking will impose minimal costs and have a minimal fiscal impact upon political subdivisions. The recording of both the lifetime license number and the microchip number is necessary to carry out the intent of the act and should not require the county treasurers to change their computer programs. Additionally, the county treasurers currently transmit a monthly record of all dog licenses sold, including lifetime licenses sold, therefore the requirement to transmit a record of lifetime licenses sold or voided will not impose an additional burden on the county treasurers. The county treasurers already keep a record of lifetime licenses for 15 years; the proposed amendments extend this requirement to 20 years. The expanded provisions of § 21.53 simply clarify language and duties already set forth at section 205 of the act.

*Private Sector*

This final-form rulemaking will impose no additional costs on private sector organizations or individuals. Purchasing a lifetime license is voluntary and the regulations endeavor to streamline and provide as much flexibility to the process as is possible.

*General Public*

This final-form rulemaking will impose no additional costs and have no fiscal impact on the general public. Dog owners that wish to have a lifetime license are already required to have the dog tattooed. This final-form rulemaking allows the use of a microchip as an alternative form of identification.

*Paperwork Requirements*

This final-form rulemaking will not result in an appreciable increase in paperwork. The Department will be required to maintain a databank of lifetime license holders, will have to amend some of its current forms and will have to design an additional verification of tattoo and microchip form.

*Contact Person*

Further information is available by contacting Rick Burd, Department of Agriculture, Bureau of Dog Law Enforcement, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4833.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.15(a)), the Department submitted a copy of the notice of proposed rulemaking published at 32 Pa.B. 66, to IRRC and to the Chairpersons of the House Agricultural and Rural Affairs Committee and the Senate Agricultural and Rural Affairs 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 rulemaking, 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)), on November 11, 2002, this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 21, 2002, and approved this final-form rulemaking.

*Findings*

The Department finds the that:

(1) Public notice of its intention to adopt the regulations encompassed 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 in 1 Pa.Code §§ 7.1 and 7.2.

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

(3) The modifications that were made to these regulations in response to comments received do not enlarge the purpose of the proposed regulations published at 32 Pa.B. 66.

(4) A public hearing was held as required by section 902 of the act. Notice of the public hearing was published at 30 Pa.B. 5543 (October 28, 2000).

(5) The modifications that were made to these regulations in response to testimony presented at the public hearing do not enlarge the purpose of the proposed regulations published at 32 Pa.B. 66.

(6) The adoption of this final-form rulemaking in the manner provided in this order is necessary and appropriate for the administration of the authorizing statute.

*Order*

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

(a) The regulations of the Department, 7 Pa. Code Chapter 21, are amended by amending §§ 21.1, 21.4, 21.51—21.53 and 21.57; and by deleting § 21.55 to read as set forth in Annex A.

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

(c) The Secretary of Agriculture 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 upon publication in the *Pennsylvania Bulletin*.

DENNIS C. WOLFE,  
*Acting Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 6016 (December 7, 2002).)*

**Fiscal Note:** Fiscal Note 2-135 remains valid for the final adoption of the subject regulations.

**Annex A****TITLE 7. AGRICULTURE****PART II. DOG LAW ENFORCEMENT BUREAU****CHAPTER 21. GENERAL PROVISIONS; KENNELS;  
LICENSURE; DOG-CAUSED DAMAGES****GENERAL PROVISIONS****§ 21.1. Definitions.**

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

*Account*—The Dog Law Restricted Account under section 1001 of the act (3 P. S. § 459-1001).

*Act*—The Dog Law (3 P. S. §§ 459-101—459-1205).

*Agent*—A district justice or other person within the county authorized by the county treasurer or the Department to process and issue dog license certificates and tags, as set forth under section 200(a) of the act (3 P. S. § 459-200(a)).

*Attending veterinarian*—A person who has graduated from a veterinary school accredited by the American Veterinary Medical Association's Council on Education or has a Certificate issued by the American Veterinary Medical Association's Education Commission for Foreign Veterinary Graduates, and who is either a licensed doctor of veterinary medicine in accordance with the Veterinary Medicine Practice Act (63 P. S. §§ 485.1—485.33) or the holder of a valid temporary permit to practice veterinary medicine issued under authority of that act, and who has received training or experience in the care and management of dogs, and who is familiar with the relevant aspects of the kennel or kennel procedures with respect to which that person renders an opinion.

*Department*—The Department of Agriculture of the Commonwealth.

*Domestic fowl*—Chickens, turkeys, ducks, geese and guinea fowl.

*Employee of the Department*—An employee of the Department who is assigned responsibility in regard to enforcement of the act, including a State dog warden.

*Housing facility*—Any land, premises, shed, barn, building, trailer or other structure or area housing or intended to house dogs.

*Licensed veterinarian*—A licensed doctor of veterinary medicine as defined in section 901-A of the act (3 P. S. § 459-901-A).

*Microchip*—A passive transducer encapsulated in a biocompatible material activated by a 125-kilohertz scanner, or any similar device approved by the Department.

*Primary conveyance*—The main method of transportation used to convey dogs from origin to destination, such as a motor vehicle.

*Primary enclosure*—A structure used to immediately restrict a dog to a limited amount of space, such as a room, pen, run, cage, crate or compartment.

*Rest board*—A waterproof or water resistant platform that dogs may use to recline on, positioned off the floor of the kennel.

*Sanitize*—To make physically clean and to remove and destroy, to a practical minimum, agents injurious to the health of a dog.

*Secretary*—The Secretary of the Department or a person to whom authority has been delegated by the Secretary.

**§ 21.4. Penalties.**

The act establishes penalties for violations of the various articles of the act and this part. The Department may impose the following penalties individually or in combination. Section 903 of the act (3 P. S. § 459-903) provides the penalty for illegal or unlawful activities enumerated in the act or violations of the act for which specific criminal penalty provisions have not been enumerated. It may be applied in addition to civil penalties provided for in the act.

(1) *Article II penalty provisions.* Article II of the act (3 P. S. §§ 459-200—459-219) contains provisions regarding licensure of dogs and kennels and provides the following penalties:

(i) *Agent violation.* Consistent with section 200(j) of the act (3 P. S. § 459-200(j)), an agent who violates section 200 of the act commits a summary offense and upon conviction shall be sentenced to pay a fine of not less than \$300 nor more than \$500 and in addition may have his agency recalled at the discretion of the Secretary. Each day of violation or each illegal act constitutes a separate offense.

(ii) *Failure of an individual to comply with licensure provisions.* Consistent with section 201(c) of the act (3 P. S. § 459-201(c)), an individual who violates section 201 of the act commits a summary offense and, upon conviction, shall be sentenced to pay a fine of not less than \$25 nor more than \$300 for each unlicensed dog.

(iii) *Failure of a kennel to comply with licensure provisions.* Consistent with section 207(a.1) of the act (3 P. S. § 459-207(a.1)), it is unlawful for a kennel to operate without first obtaining a license. The Secretary may file suit in Commonwealth Court to enjoin the operation of a kennel that violates any of the provisions of the act or this part and may seek the imposition of a fine of not less than \$100 nor more than \$500 for every day the kennel has operated in violation of the act or regulations.

(iv) *Revocation, suspension or denial of a kennel license.* Consistent with section 211 of the act (3 P. S. § 459-211), the Secretary may revoke, suspend or refuse to issue a kennel license or an out-of-State dealer license if the person holding or applying for a license has done any of the following:

- (A) Made a material misstatement or misrepresentation in the license application.
- (B) Made a material misstatement or misrepresentation to the Department or its personnel regarding a matter relevant to the license.
- (C) Been convicted of any violation of the act.
- (D) Failed to comply with any regulation promulgated under the act.
- (E) Been convicted of any law relating to cruelty to animals.

(v) *Seizure of dogs.* Consistent with section 211(c) of the act (3 P. S. § 459-211(c)), the Department may seize and impound, and direct forfeiture of ownership of a dog for the following reasons:

(A) Upon revocation, suspension or denial of a kennel license or an out-of-State dealer license, the Department may seize and impound any dog in the possession, custody or care of the person whose license is revoked, suspended or denied if there are reasonable grounds to believe that the dog's health, safety or welfare is endangered. The person from whom the dog was seized and impounded shall pay for reasonable costs of transportation, care and feeding of the dog.

(B) The Department will not take physical possession or custody of the dog when there are no reasonable grounds to support the belief that the health, safety or welfare of the dog is endangered or when the person whose license is revoked, suspended or denied has provided satisfactory evidence or assurances the dog will receive adequate care.

(C) Upon proper notice and opportunity for an administrative hearing, as set forth in section 211(c)(5) of the act (3 P. S. § 459-211(c)(5)), the Secretary may direct the forfeiture of ownership of a dog which has been seized and impounded.

(2) *Article V and V-A penalty provisions.* Articles V and V-A of the act (3 P. S. §§ 459-501—459-507-A) contains provisions regarding offenses of dogs and provides the following penalties:

(i) *Harboring a dangerous dog.* A person found guilty of harboring a dangerous dog, as set forth in section 502-A of the act (3 P. S. § 459-502-A), shall be guilty of a summary offense.

(ii) *Control of dog during dangerous dog court proceedings.* A person that violates section 502-A(d) of the act, regarding disposition of a dog during court proceedings, shall be guilty of a summary offense and shall pay a fine of at least \$200.

(iii) *Failure to register and restrain a dangerous dog.* Consistent with section 505-A(a) of the act (3 P. S. § 459-505-A(a)), a person that fails to properly register a dangerous dog, secure and maintain the liability insurance coverage required under section 503-A of the act (3 P. S. § 450-503-A), maintain the dog in the proper enclosure or fails to have the dog under proper physical restraint when the dog is outside the enclosure or dwelling of the owner shall be guilty of a misdemeanor of the third degree. In addition, a State dog warden or a police officer shall immediately confiscate a dangerous dog upon the occurrence of any of these violations.

(iv) *Attacks by a dangerous dog.* Consistent with section 505-A(b) of the act, when it is found that a dangerous dog, through the intentional, reckless or negligent conduct of the dog's owner, attacked a human or a domestic animal, the dog's owner shall be guilty of a misdemeanor of the second degree and the dangerous dog shall be immediately confiscated by a State dog warden or police officer, placed in quarantine for the proper length of time and thereafter humanely killed. The costs of quarantine and destruction shall be borne by the dog's owner.

(v) *Attacks by a dangerous dog causing severe injury or death.* Consistent with section 505-A(c) of the act, when it is found that a dangerous dog, through the intentional, reckless or negligent conduct of the dog's owner, aggressively attacked and caused severe injury to or death of a human, the dog's owner shall be guilty of a misdemeanor of the first degree. The dangerous dog shall be immediately confiscated by a State dog warden or a police officer, placed in quarantine for the proper length of time and thereafter humanely killed. The costs of quarantine and destruction shall be borne by the dog's owner.

(3) *Article VI penalty provisions.* Article VI of the act (3 P. S. §§ 459-601—459-603) contains provisions regarding injury to dogs and provides the following penalties:

(i) *Poisoning of a dog.* Consistent with section 601(b) of the act (3 P. S. § 459-601(b)), a person convicted of placing poison or a harmful substance of any description in any place, on his own premises or elsewhere, where it may be easily found and eaten by a dog, shall be guilty of a summary offense.

(ii) *Intentional poisoning of a dog.* Consistent with section 601(b.1) of the act, a person convicted of placing poison or a harmful substance of any description in any place, on his own premises or elsewhere, with the intent that the poison or substance be eaten by a dog, shall be guilty of a misdemeanor of the second degree and shall be sentenced to pay a fine of not less than \$1,000 nor more than \$2,000 or imprisonment for not more than 2 years, or both. A subsequent conviction under this subsection shall constitute a felony of the third degree.

(iii) *Abandonment of a dog.* Consistent with section 601(c) of the act, a person convicted of abandoning or

attempting to abandon a dog within this Commonwealth shall pay a fine of not less than \$300 dollars and not more than \$1,000, plus costs.

(iv) *Taunting law enforcement dogs.* Consistent with section 602(a) of the act (3 P. S. § 459-602(a)), it is unlawful for a person to willfully and maliciously taunt, torment, tease, beat, kick or strike any dog, including a search and rescue or accelerant detection dog, used by any municipal, county or State police or sheriff's department or agency, fire department or agency or handler under the supervision of the department or agency, in the performance of the functions or duties of the department or agency or to commit any of the stated acts in the course of interfering with a dog used by the department or agency or any member or supervised handler thereof in the performance of the functions or duties of the department or agency or the officer or member or supervised handler. A person convicted of violating any of the provisions of this subsection shall be guilty of a felony of the third degree.

(v) *Torturing certain dogs.* Consistent with section 602(b) of the act, it is unlawful for a person to willfully and maliciously torture, mutilate, injure, disable, poison or kill any dog, including a search and rescue or accelerant detection dog used by any municipal, county or State police or sheriff's department or agency, fire department or agency or handler under the supervision of the department or agency, in the performance of the functions or duties of the department or agency or to commit any of the stated acts in the course of interfering with a dog used by the department or agency or any member or supervised handler thereof in the performance of the functions or duties of the department or agency or the officer or member or supervised handler. A person convicted of violating any of the provisions of this subsection shall be guilty of a felony of the third degree.

(vi) *Denial of facilities or service due to police dog use.* Consistent with section 602(c) of the act, it is unlawful for the proprietor, manager or employee of a theatre, hotel, motel, restaurant or other place of entertainment, amusement or accommodation to, either directly or indirectly, refuse, withhold from or deny, any of the accommodations, advantages, facilities or privileges of those places to a person due to the use of a working police dog used by any State or county or municipal police or sheriff's department or agency. A person convicted of violating any of the provisions of this subsection shall be guilty of a misdemeanor of the third degree.

(4) *Article VII penalty provisions.* Article VII of the act (3 P. S. §§ 459-701—459-706) contains provisions regarding dog caused damages. Section 704 of the act (3 P. S. § 459-704) provides that the owner or keeper of a dog found to be causing damages and which is the subject of an order from the Secretary shall have 10 days to comply with the order. Failure of the owner or keeper to comply with the order, upon summary conviction, shall result in a fine of not less than \$100 and not more than \$500.

(5) *Article IX penalty provisions.* Article IX of the act (3 P. S. §§ 459-901—459-907) contains general enforcement and penalty provisions and provides the following penalties:

(i) *Catch all criminal penalty provision.* Consistent with section 903 of the act (3 P. S. § 459-903), unless specifically provided for, a person found to be in violation of any provision of Article II—Article VIII of the act (3 P. S. §§ 459-201—459-802), or this chapter shall be guilty of a summary offense for the first violation and for a

second and subsequent violation, of any provision, which occurs within 1 year of sentencing for the first violation shall be guilty of a misdemeanor of the third degree.

(ii) *Alteration of permanent identification.* Consistent with section 904 of the act (3 P. S. § 904), a person convicted of defacing or altering any form of permanent identification of a dog shall be guilty of a summary offense and upon conviction thereof shall be sentenced to pay a fine of \$300 or to imprisonment for not less than 90 days, or both.

(b) *Article IX-A penalty provisions.* Article IX-A of the act (3 P. S. §§ 459-901-A—459-911-A) relates to the sterilization of dogs and cats. Failure to comply with Article IX-A or the related regulations shall, consistent with section 911-A of the act (3 P. S. § 459-911-A), constitute a summary offense.

## LICENSURE

### § 21.51. Lifetime dog license issuance.

(a) *Eligibility.* The owner of a dog 3 months of age or older may apply to the county treasurer or agent, on a form prescribed by the Department for a lifetime license.

(b) *Lifetime license requirement.* A lifetime license shall consist of the following:

(1) A lifetime license number issued by the county treasurer or agent and a tag bearing that lifetime license number.

(2) A tattoo or microchip permanently identifying the dog.

(c) *Permanent identification requirement.* A person applying for a lifetime license shall choose either a tattoo or the implantation of a microchip as the means of permanent identification for the dog. The person applying for a lifetime license is responsible for having the dog tattooed or a microchip implanted to permanently identify the dog.

(d) *Tattoo as permanent identification.* If the applicant chooses to have the dog tattooed as a means of permanent identification, the following rules and procedures apply:

(1) Prior to having the dog tattooed, the dog owner shall obtain and complete a lifetime license application from the county treasurer or agent of his respective county. The dog owner shall obtain and complete the lifetime license application in person or by mail and shall return the completed lifetime license application to the county treasurer or agent. The dog owner shall include the appropriate fees, set forth on the lifetime license application and in sections 200(b) and 201(b) of the act (3 P. S. §§ 459-200(b) and 459-201(b)), with the completed lifetime license application.

(2) Upon receipt of a completed lifetime license application the county treasurer or agent shall follow the procedures in subsection (g). If the lifetime license application is determined to be complete, the county treasurer or agent shall issue a lifetime license number as set forth in subsection (g) and issue a verification of tattoo form, prescribed by the Department.

(3) Upon receiving the lifetime license number and verification of tattoo form issued by the county treasurer or agent, the dog owner shall have the dog tattooed in accordance with this chapter.

(4) The tattoo number applied to the dog shall be the same number as the lifetime license number issued by the county treasurer or agent.

(5) The tattoo shall be applied by a licensed veterinarian and shall be on the right hind leg on the inner part of

the upper thigh of the dog. The dog owner may have the letters "PA" tattooed on the dog immediately preceding the tattoo number.

(6) The dog owner and the veterinarian applying the tattoo shall complete, date and sign the verification of tattoo form for the dog receiving the tattoo and return it to the county treasurer or agent that issued the lifetime license number and tag. The verification of tattoo form shall set forth the exact number tattooed on the dog, identify the dog by breed and delineate the dog's age, sex, color and markings and whether the dog has been spayed or neutered. In addition, it shall contain the name, address and phone number of the dog's owner and the name, business address and phone number of the veterinarian applying the tattoo. The veterinarian shall set forth his veterinary practice license number on the form.

(7) The dog owner shall have 30 days from receipt of a lifetime license number and verification of tattoo form to have the dog tattooed and return the verification of tattoo form to the county treasurer or agent that issued the lifetime license number.

(8) Upon receiving the completed verification of tattoo form, the county treasurer or agent shall issue the lifetime license and tag to the dog owner.

(9) A dog owner who fails to have the dog tattooed and return the completed verification of tattoo form to the issuing county treasurer or agent within 30 days after receiving a lifetime license number and verification of tattoo form shall be in violation of the licensure provisions of the act and this chapter and subject to the penalties prescribed therein. In addition, the lifetime license number and tag shall be void. The issuing county treasurer or agent shall return the lifetime license fee to the dog owner and record and report the noncompliance to the Department as set forth in § 21.52 (relating to recordkeeping for lifetime dog licenses. The issuing county treasurer and, if applicable, the agent shall retain the applicable issuance fees, set forth in section 200(b) of the act.

(e) *Microchip as permanent identification.* If the applicant chooses to have a microchip implanted in the dog as a means of permanent identification, the following rules and procedures apply:

(1) The dog owner shall have a microchip implanted in the dog by a licensed veterinarian or a licensed kennel owner. The microchip implanted shall be of a type consistent with the definition of "microchip" in § 21.1 (relating to definitions) and shall be implanted in accordance with the manufacturer's specifications.

(2) The dog owner shall obtain and complete both a lifetime license application and a verification of microchip form prescribed by the Department.

(3) The dog owner shall obtain a lifetime license application from the county treasurer or agent of his respective county. The dog owner may obtain the lifetime license application in person or by mail.

(4) The lifetime license application may be obtained and completed either prior to or after implantation of a microchip in the dog. The application and a verification of microchip form shall be completed and signed prior to the issuance of a lifetime license and tag. The final packet submitted by the dog owner to the county treasurer or agent shall contain the properly completed lifetime license application and verification of microchip form and the appropriate fees, set forth on the lifetime license application and in sections 200(b) and 201(b) of the act.

(5) If the dog owner obtains a lifetime license application prior to having a microchip implanted in the dog, the dog owner may request and the county treasurer or agent shall issue a verification of microchip form along with the lifetime license application. If the dog owner has not yet applied for a lifetime license prior to implantation of the microchip, the licensed veterinarian or kennel owner implanting the microchip shall supply the verification of microchip form. A licensed veterinarian or kennel owner shall obtain the verification form from the Department.

(6) The dog owner and the person implanting the microchip shall complete, date and sign the verification of microchip form for the dog in which the microchip is implanted. The completed verification of microchip form shall set forth the identifying number of the microchip implanted, identify the dog by breed and delineate the dog's age, sex, color and markings and whether the dog has been spayed or neutered. In addition, it shall contain the name, address and phone number of the dog's owner and the name, business address and phone number of the person implanting the microchip. If a veterinarian implants the microchip, the veterinarian shall set forth his veterinary practice license number.

(7) The dog owner shall complete the lifetime license application and take or mail the completed lifetime license application and verification of microchip form to the county treasurer or agent of his respective county.

(8) Upon receiving a properly completed lifetime license application and verification of microchip form, as well as the appropriate fees, as set forth on the lifetime license application and in sections 200(b) and 201(b) of the act, the county treasurer or agent shall issue a lifetime license number and tag as set forth in subsection (g).

(9) A dog owner who fails to have the dog microchipped and return the completed verification of microchip form to the issuing county treasurer or agent within 30 days after receiving a lifetime license number and verification of microchip form shall be in violation of the licensure provisions of the act and this chapter and subject to the penalties prescribed therein. In addition, the lifetime license number and tag shall be void. The issuing county treasurer or agent shall return the lifetime license fee to the dog owner and record and report the noncompliance to the Department as set forth in § 21.52. The issuing county treasurer and, if applicable, the agent shall retain the applicable issuance fees, set forth in section 200(b) of the act.

(f) *Dog previously microchipped.* If a person has already had a microchip implanted in his dog and seeks to obtain a lifetime license for the dog, the applicant is not required to have a new microchip implanted in the dog as a means of permanent identification. Instead the applicant shall:

(1) Obtain and complete both a lifetime license application and a verification of microchip form prescribed by the Department. The lifetime license application may be obtained and completed either prior or subsequent to having the dog scanned for a microchip as set forth in this subsection. The verification of microchip form shall be filled out at the same time the dog is scanned.

(2) Have a licensed veterinarian or kennel owner, scan the dog to assure the microchip has been properly implanted and to obtain the identifying number of the microchip.

(3) The dog owner and the licensed veterinarian or kennel owner shall complete, date and sign the verification of microchip form for the dog in which the microchip

was scanned. The verification of microchip form shall set forth the identifying number of the microchip scanned, identify the dog by breed and delineate the dog's age, sex, color and markings and whether the dog has been spayed or neutered. In addition, it shall contain the name, address and phone number of the dog's owner and the name, business address and phone number of the person scanning the microchip number. If a veterinarian is involved, the veterinarian shall set forth his veterinary practice license number on the verification of microchip form.

(4) The dog owner or licensed veterinarian or kennel owner may obtain a verification of microchip form.

(i) The dog owner may obtain a verification of microchip form, along with a lifetime license application, from the county treasurer or agent in his respective county of residence prior to scanning of the dog for an existing microchip. If the dog owner has not yet applied for a lifetime license, the licensed veterinarian or kennel owner shall supply the verification of microchip form.

(ii) A licensed veterinarian or kennel owner shall obtain verification of microchip forms from the Department.

(5) The dog owner shall deliver to the county treasurer or agent, in person or by mail, the properly completed lifetime license application and verification of microchip form and the appropriate fees, as set forth on the lifetime license application and in sections 200(b) and 201(b) of the act.

(6) Upon receiving a properly completed lifetime license application and verification of microchip form, as well as the appropriate fees, as set forth on the lifetime license application and in sections 200(b) and 201(b) of the act, the county treasurer or agent shall issue a lifetime license number and tag as set forth in subsection (g).

(g) *County treasurer or agent procedure for issuance of lifetime license.*

(1) *General.*

(i) *One lifetime license per lifetime license application.* A lifetime license application shall be completed for each dog for which a lifetime license is requested. The county treasurer or agent shall issue only one lifetime license and tag for each properly completed lifetime license application. The county treasurer or agent shall collect the applicable fees, as set forth on the lifetime license application and in sections 200(b) and 201(b) of the act, for the lifetime license before issuing the lifetime license and tag.

(ii) *Assignment of lifetime license number.* The lifetime license shall list a number. The county treasurer or agent shall assign a lifetime license number for each dog for which a properly completed lifetime license application has been submitted and approved. The county treasurer or agent shall issue the lifetime license number on the lifetime license certificate and tag. The number shall be at least six digits with the first two digits designating the county. For example, Adams County number shall begin with 01; York County, with 67. The county number shall be followed by at least four digits assigned by the county treasurer or his agent. For example, the lifetime license number assigned by York County for the first dog licensed would be 670001.

(2) *Tattoo procedure.* If the dog owner intends to tattoo the dog as the means of permanent identification the dog owner shall complete a lifetime license application and pay the applicable fees, as set forth on the lifetime license application and in sections 200(b) and 201(b) of the act,

prior to the county treasurer or agent issuing a lifetime license and tag. The county treasurer or agent, upon receipt of a properly completed lifetime license application and the applicable fees, shall complete the lifetime license from information on the lifetime license application. The county treasurer or agent shall assign a lifetime license number as set forth in paragraph (1)(ii) and shall issue a verification of tattoo form, prescribed by the Department, to the dog owner. The dog owner shall have 30 days from receipt of a lifetime license number and verification of tattoo form to have the dog tattooed and return a completed verification of tattoo form to the issuing county treasurer or agent. If the dog owner fails to return the verification of tattoo form within the 30 day time period, the issuing county treasurer or agent shall void the lifetime license, refund the lifetime license fee, record and designate the lifetime license number as void and report the noncompliance to the Department as set forth in § 21.52. The issuing county treasurer and, if applicable, the agent shall retain the applicable issuance fees, set forth in section 200(b) of the act. The lifetime license number may not be reissued to future applicants other than the original applicant.

(3) *Microchip procedure.* If the dog owner intends to use a microchip as the means of permanent identification, the dog owner may have a microchip implanted in the dog prior to completing an application for a lifetime license. The dog owner shall complete a lifetime license application and verification of microchip form and pay the applicable fees, set forth on the lifetime license application and in sections 200(b) and 201(b) of the act, prior to the county treasurer or agent issuing the lifetime license and tag. The county treasurer or agent shall, upon request of the dog owner, issue a lifetime license application and a verification of microchip form. Upon receiving a completed lifetime license application, verification of microchip form and the applicable fees, the county treasurer or agent shall complete the lifetime license from information on the lifetime license application and verification of microchip form, assign a lifetime license number as set forth in paragraph (1)(ii) and issue the lifetime license and tag. The county treasurer or agent may not issue a lifetime license and tag until the dog owner has properly completed both the lifetime license application and the verification of microchip form. The county treasurer or agent shall record both the lifetime license number issued and the microchip number set forth on the verification of microchip form. The dog owner shall have 30 days from receipt of a verification of microchip form to have a microchip implanted in the dog or have a currently microchipped dog scanned and return a completed verification of microchip form to the issuing county treasurer or agent. If the dog owner fails to return the verification of microchip form within the 30 day time period, the issuing county treasurer or agent shall void the lifetime license, refund the lifetime license fee, record and designate the lifetime license number as void and report the noncompliance to the Department as set forth in § 21.52. The issuing county treasurer and, if applicable, the agent shall retain the applicable issuance fees, set forth in section 200(b) of the act. The lifetime license number may not be reissued to future applicants other than the original applicant.

#### **§ 21.52. Recordkeeping for lifetime dog licenses.**

The county treasurer or agent shall record each lifetime license issued or voided. The county treasurer or agent shall mail or electronically transmit a monthly record of lifetime licenses information to the Department. The



county treasurer or agent shall keep a record of all lifetime dog licenses issued or voided for 20 years.

**§ 21.53. Transfer of lifetime dog licenses.**

(a) *General.*

(1) *Change of address or ownership within the issuing county.* The issuance of a new lifetime license and tag is not required when transferring a lifetime dog license to a new owner within the same county or when the owner changes his residence within the same county. If the change of address or transfer of possession or ownership of the dog is within the county where the lifetime license was issued and is permanent, the dog owner shall notify the county treasurer or agent of the change of address or ownership. The notice shall be given either prior to or within 10 days of the actual change of address or transfer of ownership of the dog. The county treasurer or agent shall record, in accordance with § 21.52 (relating to recordkeeping for lifetime dog licenses), the change of address or transfer of ownership or both. The issuing county treasurer or agent may charge and retain \$1 for recording the change of address or transfer.

(2) *Change of address or ownership outside the issuing county.* If the change of residence or transfer of ownership or possession of the dog is permanent and outside the county in which the lifetime license was issued the transfer or change in residence shall be recorded by the dog owner with the issuing county treasurer or agent and by the county treasurer or agent in the county to which the dog is being moved or transferred. The notice shall be given by the dog owner either prior to or within 10 days of the actual change of address or transfer of ownership of the dog. The county treasurer or agent that issued the original lifetime license may charge and retain \$1 for the transfer. The county treasurer or agent issuing the new lifetime license in the county to which the dog is moved shall, upon payment of a \$1 fee by the dog owner, issue a new lifetime license number and tag for that county and record the lifetime license number and cross-reference it to the existing tattoo or microchip number in accordance with this section and § 21.52.

(3) *Temporary change of address or possession.* When the possession of a dog is temporarily transferred for the purpose of hunting game, or for breeding, boarding and training, trial or show in this Commonwealth, neither notice nor a new lifetime license, or the transfer of a lifetime license already secured, is required.

(b) *Transfer process and information required.*

(1) *Transfer of ownership within the issuing county.* Whenever the ownership of a dog is permanently transferred from one person to another within the same county, the lifetime license of the dog shall be transferred. The dog owner shall apply to the issuing county treasurer or agent. The application shall be accompanied by a bill of sale or affidavit from the dog owner stating that ownership of the dog is to be transferred. The bill of sale or affidavit shall set forth the breed, sex, age, color and markings of the dog being transferred, the lifetime license number and microchip or tattoo number of the dog, year of issuance of the lifetime license, and the name, address and telephone number of the person transferring ownership of the dog and the person to which ownership of the dog is being transferred.

(2) *Transfer of ownership outside the issuing county.* Whenever the ownership of a dog is permanently transferred from one person to another outside the issuing county, the lifetime license number of the dog shall be voided in the issuing county and a new lifetime license

number and tag issued by the county treasurer or agent in the county to which the dog is moved. The dog owner shall apply to the issuing county treasurer or agent. The application shall be accompanied by a bill of sale or affidavit from the dog owner stating that ownership of the dog is to be transferred. The bill of sale or affidavit shall set forth the breed, sex, age, color and markings of the dog being transferred, the lifetime license number and microchip or tattoo number of the dog, the year of issuance of the lifetime license, and the name, address and telephone number of the person transferring ownership of the dog and the person to which ownership of the dog is being transferred. Upon receiving the application the issuing county treasurer or agent shall certify the lifetime license to the county treasurer or agent in the county to which the dog is being moved and shall void the lifetime license number originally issued. The original lifetime license number may not be reissued to future applicants. The county treasurer or agent in the county to which the dog is being moved, upon receiving certification from the county treasurer or agent of the issuing county and payment of a fee of \$1 from the owner of the dog, shall issue a new lifetime license number and tag, for that county. The new lifetime license number and tag shall be issued in the manner set forth in § 21.51(g) (relating to lifetime dog license issuance) except that if the dog has been permanently identified by means of a tattoo, the existing tattoo number of the dog shall be cross referenced to the new lifetime license number issued.

(3) *Change of residence within the same county.* Whenever, the owner of a dog with a lifetime license changes residence within the county which issued the lifetime license, the dog owner shall apply to the issuing county treasurer or agent. The application shall be accompanied by an affidavit from the dog owner stating the dog will be moved to a new residence and setting forth the address of the new residence. The affidavit shall identify the breed, sex, age, color and markings of the dog and the lifetime license number and microchip or tattoo number.

(4) *Change of residence to another county.* Whenever a dog licensed in one county is permanently moved to another county, the dog owner shall apply to the county treasurer or agent where the dog license was issued. The application shall set forth the name and address of the dog owner and the address of the residence to which the dog will be moved. Upon receiving the application the issuing county treasurer or agent shall certify the lifetime license to the county treasurer or agent in the county to which the dog is being moved and shall void the lifetime license number originally issued. The original lifetime license number may not be reissued to future applicants. The county treasurer or agent in the county to which the dog is being moved, upon receiving certification from the county treasurer or agent of the issuing county and payment of a \$1 fee from the owner of the dog, shall issue a new lifetime license number and tag, for that county. The new lifetime license number and tag shall be issued in the manner set forth in § 21.51(g) except that if the dog has been permanently identified by means of a tattoo, the existing tattoo number of the dog shall be cross referenced to the new lifetime license number issued.

(c) *Recordkeeping and reporting.* The issuing county treasurer or agent shall record the transfer of ownership or change in residence and where applicable the voiding of the lifetime license number. The county treasurer or agent in the county to which a dog is being transferred shall, upon receipt of the proper certification of transfer from the county treasurer or agent of the issuing county

and payment of a \$1 fee from the owner of the dog, issue a new lifetime license number and tag, for that county and record the new lifetime license number issued and the cross-referenced tattoo or microchip number of the dog, in the manner set forth in this section and § 21.52. The county treasurer or agent in both counties shall mail or electronically transmit a record of the transfer or change in residence, and if applicable, the new lifetime license number issued and cross-referenced tattoo or microchip number of the dog to the Department. Both county treasurers and agents shall keep a record of the transfer or change in residence for 20 years.

**§ 21.55. (Reserved).**

**§ 21.57. Kennel tags.**

The Department will issue a maximum of ten kennel tags to a kennel owner or operator unless the State dog warden for the county recommends that a higher quantity is required.

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## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

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

[49 PA. CODE CH. 49]

#### Exemption from Licensure Examination

The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) amends § 49.15 (relating to exemption from licensure examination) to read as set forth in Annex A. The final-omitted rulemaking authorizes a professional counselor license to be issued without examination to an applicant who demonstrates that he holds the Master Addiction Counselor Credential from the National Association of Alcoholism and Drug Abuse Counselors (NAADAC) and has passed the examination for Master Addiction Counselors (MAC) given by NAADAC.

#### *Background and Need for Final-Omitted Rulemaking*

A final-omitted rulemaking published at 32 Pa.B. 1197 (March 2, 2002) implemented the act of December 21, 1998 (P. L. 1017, No. 136). Section 49.15 states that a license will be issued without examination to applicants who, among other requirements, are certified as addiction counselors by various credentialing agencies.

The NAADAC has informed the Board that recognition of its MAC credential was inadvertently omitted from the recognized credentials utilized by the Board for purposes of exemption from professional counseling licensure examinations. The Board has determined that it had intended to include the NAADAC credentials for purposes of licensure examination exemption for professional counselors. During the rulemaking process at 32 Pa.B. 1197, the Board consulted with addiction specialists in this Commonwealth, including the NAADAC. The Board had determined to include this group in its list of recognized

credentials. However, the Board inadvertently omitted the NAADAC from the list. This final-omitted rulemaking will correct that omission.

Public notice of intention to amend § 49.15 under procedures specified in sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) (CDL) has been omitted as authorized under section 204(3) of the CDL (45 P. S. § 1204(3)), because the Board finds that these procedures are, under the circumstances, unnecessary. The deadline for filing an application for license by exemption is February 19, 2003. Accordingly, recognition of NAADAC for purposes of licensure by exemption must be perfected as quickly as possible. Public comment is unnecessary because comment had already been received in response to the proposed rulemaking published at 31 Pa.B. 1571 (March 24, 2001).

#### *Statutory Authority*

This final-omitted rulemaking is authorized by section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (act) (63 P. S. § 1906(2)).

#### *Fiscal Impact and Paperwork Requirements*

The final-omitted rulemaking will have no fiscal impact on the Commonwealth or its political subdivisions, nor will it impose any additional paperwork requirements.

#### *Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on January 29, 2003, the Board submitted copies of this final-omitted rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and the House Professional Licensure Committee (HPLC). On the same date, the final-omitted rulemaking was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(d) of the Regulatory Review Act, this final-omitted rulemaking was approved by the HPLC on February 11, 2003, and deemed approved by the SCP/PLC on February 11, 2003. Under section 5.1(e) of the Regulatory Review Act, on February 27, 2003, IRRC met and approved this final-omitted rulemaking. A copy of the material is available to the public upon request.

#### *Additional Information*

Interested persons are invited to submit inquiries regarding this final-omitted rulemaking to Board Administrator, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-1389.

#### *Findings*

The Board finds that:

(1) Public notice of intention to amend the regulation as adopted by this order under the procedures specified in sections 201 and 202 of the CDL has been omitted under the authority contained in section 204(3) of the CDL, because the Board has, for good cause, found that the procedure specified in sections 201 and 202 of the CDL is, in this circumstance, unnecessary.

(2) The amendment of the regulations of the Board in the manner provided in this order is necessary and appropriate for the administration of its authorizing statute.

*Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 49, are amended by amending § 49.15 to read as set forth in Annex A.

(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 as to legality as required by law.

(c) The Chairperson of 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 become effective immediately upon publication in the *Pennsylvania Bulletin*.

THOMAS F. MATTA, Ph.D.,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 33 Pa.B. 1423 (March 15, 2002).)*

**Fiscal Note:** 16A-696. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 49. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF PROFESSIONAL COUNSELORS**

**LICENSE**

**§ 49.15. Exemption from licensure examination.**

A license will be issued without examination to an applicant who meets the following requirements. The applicant shall have:

(1) Satisfied the general requirements for licensure of § 49.12 (relating to general qualifications for licensure).

(2) Submitted an application provided by the Board and accompanied by the required fee.

(3) Submitted an application by February 19, 2002. *(Editor's Note: The act of February 13, 2002 (P. L. 83, No. 4) extended the deadline for the filing of an application by 1 year.)*

(4) Demonstrated proof of practice of professional counseling for at least 5 of the 7 years immediately prior to the date of application for license.

(5) Have successfully met one of the following educational requirements:

(i) Holds a doctoral degree in professional counseling from an accredited educational institution.

(ii) Holds a doctoral degree in a field closely related to the practice of professional counseling from an accredited educational institution.

(iii) Holds a master's degree of at least 48 semester hours or 72 quarter hours in professional counseling or a

field closely related to the practice of professional counseling from an accredited educational institution.

(iv) Holds a master's degree of less than 48 semester hours or 72 quarter hours but not less than 36 semester hours or 54 quarter hours in professional counseling or a field closely related to the practice of professional counseling and has within the past 10 years completed sufficient continuing education satisfactory to the Board to equal the number of hours needed to achieve a total of 48 semester hours or 72 quarter hours at a ratio of 15 continuing education hours equaling 1 semester hour. Continuing education satisfactory to the Board shall meet the following requirements:

(A) Master's level difficulty.

(B) Excludes courses in office management or practice building.

(C) Any course approved by NBCC, CRC, CBMT, AATA, ADTA, the Pennsylvania Certification Board (PCB) or NADT, or which is approved for continuing education credit for licensed psychologists or licensed social workers, and which does not include a course in office management or practice building.

(6) Demonstrated holding one of the following:

(i) The National Certified Counselor (CC) certification from NBCC and having passed the National Counselor Examination given by the NBCC.

(ii) CRC certification from the CRCC and having passed the CRC Examination given by the CRCC.

(iii) The Registered Art Therapist (ATR) certification from the ATCB and having passed the Board Certification Examination given by the ATCB.

(iv) The Academy of Dance Therapists Registered (ADTR) certification from the ADTA and having passed the National Counselor Examination given by the NBCC.

(v) The Music Therapist-Board Certified certification from CBMT and having passed the Board Certification Examination given by the CBMT.

(vi) The Registered Drama Therapist (RDT) certification from NADT and having passed the National Counselor Examination given by NBCC.

(vii) The Certified Clinical Mental Health Counselor (CCMHC) certification from the Academy of Certified Clinical Mental Health Counselors (ACCMHC) and having passed the credentialing examination given by ACCMHC.

(viii) The Nationally Certified Psychologist (NCP) certification from the NAMP, and having passed the Practice Exam of Psychological Knowledge given by NAMP.

(ix) The Certified Addictions Counselor Credential (CAC) from PCB, and having passed the Advanced Alcohol and Other Drug Abuse Counselor Examination given by the IC & RC/AODA.

(x) The Master's Addictions Counselor Credential from NBCC, and having passed the Examination for Master's Addictions Counselors given by NBCC.

(xi) The Master Addiction Counselor credential from the National Association of Alcoholism and Drug Abuse Counselors (NAADAC) and having passed the examination for Master Addiction Counselors given by NAADAC.

[Pa.B. Doc. No. 03-442. Filed for public inspection March 14, 2003, 9:00 a.m.]

## Title 58—RECREATION

### FISH AND BOAT COMMISSION

#### [58 PA. CODE CHS. 51, 91 AND 93]

#### Issuing Agents; Boating Safety Education Certificates

The Fish and Boat Commission (Commission) amends Chapters 51, 91 and 93 (relating to administrative provisions; general provisions; and boat registration and numbering). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

##### A. *Effective Date*

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

##### B. *Contact Person*

For further information on the final-form rulemaking, 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*

Section 51.10 (relating to representation as issuing agent) is published under the authority of sections 2711(c) and 5304(d.1) of the code (relating to issuing agents; and issuing agents). The amendment to § 51.35 (relating to operation of issuing agency) is published under the authority of section 2711 of the code. The amendment to § 91.6 (relating to Boating Safety Education Certificates) is published under the statutory authority of section 5123 of the code (relating to general boating regulations). The amendment to § 93.13 (relating to issuing agents) is published under the statutory authority of section 5304(d.1) of the code.

##### D. *Purpose and Background*

The final-form rulemaking is designed to update, modify and improve the Commission's regulations pertaining to issuing agents and Boating Safety Education Certificates. The specific purpose of the final-form rulemaking is described in more detail under the summary of changes.

##### E. *Summary of Changes*

(1) *Sections 51.10 and 93.13.* Several regions of the Commission's Bureau of Law Enforcement reported that there had been problems with issuing agents for temporary boat registrations and notaries who are not Commission agents giving the public the impression that they have the ability to renew boat registrations. Accordingly, the Commission amended these sections as proposed.

(2) *Section 51.35.* Section 2711 of the code provides that the Commission may establish administrative fees for fishing license issuing agents. This section further provides that county treasurers and issuing agents active on or before January 1, 2000, shall be exempt from payment of administrative fees established by the Commission. Accordingly, the Commission amended its regulations to require new fishing license issuing agents to pay a one-time, nonrefundable fee of \$100 to help offset the Commission's costs. Last year, the Commission adopted a similar amendment requiring new issuing agents for

temporary boat registrations to pay a one-time, nonrefundable fee of \$100. The Commission amended § 51.35 as proposed.

(3) *Section 91.6.* One of the Commission's waterways conservation officers recently reported that he encountered an individual who was in possession of a Boating Safety Education Certificate that belonged to another person. This individual had not taken any boating course and had borrowed his cousin's certificate while operating a personal watercraft. The officer recognized the personal watercraft and the name on the certificate as someone he had cited a week earlier. The Commission suspects that this occurrence was not an isolated one.

Section 2705 of the code (relating to improper license use and false application) provides that a person may not alter, borrow, lend or transfer a license authorized under the code or give any false or misleading information to an issuing agent or to the Commission, its officers or agents in an application for a license. However, this provision speaks in terms of licenses and does not extend to Boating Safety Education Certificates. Accordingly, the Commission amended § 91.6, as proposed, to address this loophole.

##### F. *Paperwork*

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

##### G. *Fiscal Impact*

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The amendment to § 51.35 will impose a one-time, nonrefundable fee of \$100 on new issuing agents only. The Commission anticipates that it will receive applications from approximately 30 new issuing agents each year. The final-form rulemaking will impose no new costs on the general public.

##### H. *Public Involvement*

A notice of proposed rulemaking was published at 32 Pa.B. 4726 (September 28, 2002). The Commission did not receive any public comments regarding the proposed rulemaking.

##### *Findings*

The Commission finds that:

(1) Public notice of intention to adopt the amendments 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 51, 91 and 93, are amended by adding § 51.10 and by amending §§ 51.35, 91.6 and 93.13 to read as set forth at 32 Pa.B. 4726.

(b) The Executive Director will submit this order and 32 Pa.B. 4726 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. 4726 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*.

PETER A. COLANGELO,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48A-132 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 03-443. Filed for public inspection March 14, 2003, 9:00 a.m.]

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