

STATEMENTS OF POLICY

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

[49 PA. CODE CH. 43b]

Schedule of Civil Penalties—Veterinarians and Veterinary Technicians

The Commissioner of Professional and Occupational Affairs (Commissioner) adds § 43b.21 (relating to schedule of civil penalties—veterinarians and veterinary technicians—statement of policy) to read as set forth in Annex A. This section establishes a civil penalty schedule for violations of the Veterinary Medicine Practice Act (63 P. S. §§ 485.1—485.35) and the regulations of the State Board of Veterinary Medicine (Board).

Section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (Act 48) (63 P. S. § 2205(a)) authorizes the Commissioner, after consultation with the licensing boards and commissions in the Bureau of Professional and Occupational Affairs (Bureau), to adopt a schedule of civil penalties for: (1) operating without a current, registered, unsuspended and unrevoked license, registration, certificate or permit; and (2) violating a provision of an act or regulation of a licensing board or commission within the Bureau regarding the conduct or operation of a business or facility licensed by the licensing board or commission. Under section 5(a) of Act 48, the Commissioner may adopt the schedule of penalties by publishing the schedule in the *Pennsylvania Bulletin* as a statement of policy and within 2 years thereafter promulgating the schedule as a regulation.

The Commissioner previously adopted civil penalty schedules under section 5(a) of Act 48 for many of the licensing boards and commissions within the Bureau. These schedules, as well as guidelines and procedures for their implementation, have been codified as regulations, in accordance with Act 48, in Chapter 43b (relating to Commissioner of Professional and Occupational Affairs). Act 48 authorizes agents of the Bureau to issue citations and impose civil penalties under schedules adopted by the Commissioner in consultation with the Bureau's boards and commissions. Act 48 citations streamline the disciplinary process by eliminating the need for formal orders to show cause, answers, adjudications and orders, and

consent agreements. At the same time, licensees who receive an Act 48 citation retain their due process right of appeal prior to the imposition of discipline. The use of Act 48 citations has increased steadily since 1996, when the program was first implemented, and they have become an important part of the Bureau's enforcement efforts, with approximately 30% of sanctions imposed by the boards and commissions being accomplished through the Act 48 citation process.

The Commissioner recently consulted with the Board regarding the adoption of a schedule of civil penalties for violation of certain provisions of the Veterinary Medicine Practice Act and the regulations of the Board that would appear to lend themselves to the Act 48 summary procedures such as advertising violations, failure to display a license and practicing as a veterinarian or veterinary technician on an expired license or certificate. Prior to adoption of the civil penalty schedule, the Commissioner's representative consulted with the Board, who then approved the civil penalty schedule set forth in Annex A at a regular public meeting of the Board held on February 27, 2007.

The civil penalties set forth in Annex A are effective upon publication in the *Pennsylvania Bulletin* and apply to acts, omissions or violations occurring on and after the date of publication.

BASIL L. MERENDA,
Commissioner

(*Editor's Note:* Title 49 of the *Pennsylvania Code* is amended by adding a statement of policy in § 43b.21 to read as set forth in Annex A.)

Fiscal Note: 16-39. 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 43b. COMMISSIONER OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS SCHEDULE OF CIVIL PENALTIES, GUIDELINES FOR IMPOSITION OF CIVIL PENALTIES AND PROCEDURES FOR APPEAL

§ 43b.21. Schedule of civil penalties—veterinarians and veterinary technicians—statement of policy.

STATE BOARD OF VETERINARY MEDICINE

| <i>Violation under 63 P. S.</i> | <i>Violation under 49 Pa. Code Chapter 31</i> | <i>Title/Description</i> | <i>Civil Penalty</i> |
|---------------------------------|---|---|---|
| Section 485.17 | N/A | Failure to display current license. | Each offense—\$100 |
| Section 485.21(1) | § 31.21 Principle 5(c) | Improper advertising of emergency services. | First offense—\$250 Second offense—\$1,000 Subsequent offense— formal action |

| <i>Violation under 63 P. S.</i> | <i>Violation under 49 Pa. Code Chapter 31</i> | <i>Title/Description</i> | <i>Civil Penalty</i> |
|---------------------------------|---|--|---|
| Sections 485.9(a) and 485.21(1) | § 31.13 | Practicing veterinary medicine on an expired license. | 0—6 months—warning 6—24 months—\$500 24—48 months—\$1,000 More than 48 months— formal prosecution |
| Section 485.21(1) | § 31.36 | Practicing as a veterinary technician on an expired certificate. | 0—6 months—warning 6—24 months—\$250 24—48 months—\$500 More than 48 months— formal action |

[Pa.B. Doc. No. 07-1008. Filed for public inspection June 8, 2007, 9:00 a.m.]

STATE CONSERVATION COMMISSION

[25 PA. CODE CH. 83]

Nutrient Management Rules and Regulations

The State Conservation Commission (SCC) is proposing to amend Chapter 83, Subchapter B, Conservation District Fund Allocation Program—Statement of Policy (CDFAP SOP).

In July 2006, Senate Bill 1224 was signed into law creating authorization for a new Conservation District Fund. This legislation amended the existing Conservation District Law and directed the State Conservation Commission (SCC), in cooperation with the Department of Environmental Protection (DEP) and the Pennsylvania Department of Agriculture (PDA), to create a new special nonlapsing fund (The Conservation District Fund). Under this legislation, the SCC was specifically authorized to establish procedures for advanced payments to county conservation districts and to provide funding for activities necessary to meet the requirements of the Conservation District Law.

The SCC's CDFAP SOP guides the distribution of specific funds from DEP and PDA for transfer to county conservation districts. It is the vehicle through which the SCC disburses funds to districts for conservation district manager's cost-share, technical assistance cost-share, administrative assistance and other special project funds.

The SCC intends to amend its current published CDFAP SOP to incorporate changes necessary to implement the provisions of the Conservation District Fund legislation.

Contact Persons

For further information contact Karl G. Brown, Executive Secretary, State Conservation Commission, 2301 N. Cameron St., Room 407, Harrisburg, PA 17110, (717) 787-8821. Persons with a disability may use the AT&T Relay Service, (800) 654-5988 (voice users).

Proposed Statement of Policy

Copies of the proposed statement of policy may be obtained from Amy Smith, State Conservation Commission, 2301 N. Cameron St., Room 407, Harrisburg, PA 17110, (717) 787-8821, or by e-mail at ra-scc@state.pa.us. This proposal is also available electronically through the Department of Environmental Protection's website at www.depweb.state.pa.us, (Select: "Public Participation, Proposals Open for Comment, 2007").

Summary of Amendments

General Provisions

§ 83.31. Purpose.

The Commission proposes numerous additions to better describe the purpose of the CDFAP SOP and the new nonlapsing "Conservation District Fund." The Commission proposes to delete the list of program funding priorities.

§ 83.32. Definitions.

The Commission proposes adding definitions for the Agricultural Conservation Technical Assistance Program, Agricultural Area Security Law, Conservation District Management Staff, Cooperating Organization, Erosion and Sediment Control Program, National Pollutant Discharge Elimination System Permitting Program and the PDA. The Commission also proposes adding "and engineer" to the "Conservation district technician" definition.

§ 83.33. Eligible expenses.

This is a new section consolidating eligible expenses from the existing CDFAP SOP sections. Additional salary-related expenses that may be reimbursed are also proposed in this section.

§ 83.34. Application procedures.

This is a new section consolidating application procedures from existing CDFAP SOP sections.

§ 83.35. Procedures for allocating funds.

This is a new section describing how funds will generally be allocated to conservation districts and general restrictions that may be imposed based on the intent of the funding.

§ 83.36. Procedures for advance payments.

This is a new section describing how advance payments to conservation districts for manager and technical cost-share and administrative assistance will be determined.

§ 83.37. Reimbursement requirements and procedures.

This is a new section consolidating reimbursement requirements and procedures from existing CDFAP SOP sections. This section also defines what reports and documents are required by the Commission and the due date for each. Sanctions for missing a due date are also defined in this section.

§ 83.38. Reporting requirements.

This is a new section consolidating reporting requirements from existing CDFAP SOP sections. This section also requires the conservation district to use the Conser-

vation District E-commerce System for submission of forms and reports to the greatest extent possible.

§ 83.39. Record retention requirements.

This is a new section consolidating record retention requirements from existing CDFAP SOP sections and adding the following:

(b) Any conservation district receiving funds under any program element under this subchapter shall maintain in accordance with generally accepted accounting principles all books, records, receipts, financial statements, and other documents pertaining to any program element or special project under this program. These records shall be retained a minimum of 3 years, commencing at the end of the fiscal year of funding. The records shall be made available to the Commission, PDA, DEP, or their agents upon request.

Conservation District Management Cost Share Program

§ 83.41. General requirements.

The Commission proposes to delete the local funding requirement for the manager's cost share program and delete the duplicate information that is proposed for consolidation in the *General Provisions* section.

§ 83.42. Application procedures.

The Commission proposes to delete the duplicate information that is proposed for consolidation in the *General Provisions* section.

§ 83.43. Reporting requirements.

The Commission proposes to delete the duplicate information that is proposed for consolidation in the *General Provisions* section.

§ 83.44. Reimbursement procedures.

The Commission proposes to delete the duplicate information that is proposed for consolidation in the *General Provisions* section.

§ 83.45. Procedures for allocating funds.

The Commission proposes to delete the duplicate information that is proposed for consolidation in the *General Provisions* section.

The Commission proposes to use current and anticipated salary and salary related costs to determine the conservation district management staff's cost-share. Currently the salary and salary related costs from the previous fiscal year are used.

§ 83.46. Record retention requirements.

The Commission proposes to delete the duplicate information that is proposed for consolidation in the *General Provisions* section.

Administrative Assistance Funding Program

§ 83.51. General requirements and eligibility.

The Commission proposes to delete the duplicate information that is proposed for consolidation in the *General Provisions* section.

The Commission proposes to add the ability to compensate conservation districts for the administrative work they provide to their local agricultural land preservation boards without the need for a special projects agreement.

§ 83.52. Procedures for allocating funds.

The Commission proposes to delete the duplicate information that is proposed for consolidation in the *General Provisions* section.

The Commission proposes moving subsections (a) and (b) from § 83.53 and including them in this section as paragraphs (1) and (3) and adding a paragraph (2).

(c) Contingent on the availability of funds, the Commission, at its discretion, also has the option to reimburse conservation districts for:

(1) Extraordinary travel and administrative expenses in excess of the initial administrative assistance grant.

(2) Additional eligible expenses in providing administrative support, or other services to a county, state or Federal program where the conservation district accepts administrative responsibility and program implementation activities.

(3) The Commission may also reimburse a district for the travel expenses of a district for the travel expenses of a district director, associate director or staff person to attend a meeting or conference at the request of the Commission.

§ 83.53. Application procedures for reimbursement.

The Commission proposes to delete the duplicate information that is proposed for § 83.52 and add new language.

§ 83.54. Reimbursement procedures.

The Commission proposes to add the ability to reimburse for extraordinary travel and administrative expenses twice a year at the Commission's discretion.

§ 83.55. Reporting procedures.

The Commission proposes to add the current reporting requirement of the annual financial audit to the SOP. The Commission also proposes that a conservation district accepting funds for administrative activities of programs other than general conservation district programs or fulfillment of requirements of the act and this subchapter shall provide a quarterly report of activities and accomplishments that have resulted from the expenditure of these funds as required by the Commission or guidelines established for that program.

Technical Assistance Cost Share Program

§ 83.61. General requirements.

There are numerous additions proposed to this section describing the Agricultural Conservation Technical Assistance Cost Share Program and the cost share for agricultural technicians and engineers.

The Commission also proposes language to better describe the certifications that will be recognized for conservation district technicians and the deletion of the local funding requirement for the district technician and engineer cost share program.

§ 83.62. Application procedures.

The Commission proposes to delete the duplicate information that is proposed for consolidation in the *General Provisions* section.

§ 83.63. Reporting requirements.

The Commission proposes to delete the duplicate information that is proposed for consolidation in the *General Provisions* section.

§ 83.64. Procedures for allocating funds.

The Commission proposes to use current and anticipated salary and salary-related costs to determine the conservation district technician and engineer's cost-share. Currently the salary and salary-related costs from the previous fiscal year are used.

§ 83.65. Reimbursement procedures.

The Commission proposes to delete the duplicate information that is proposed for consolidation in the *General Provisions* section.

§ 83.66. Special requirements.

The Commission proposes to delete the duplicate information that is proposed for consolidation in the *General Provisions* section.

Special Projects Funding Program*§ 83.73. Procedures for allocating funds.*

The Commission proposes to delete the reference to maintaining a reserve fund for special projects. Due to the creation of the nonlapsing Conservation District Fund, there is no longer a need for this ability.

§ 83.74. Reporting requirements.

The Commission proposes to delete the duplicate information that is proposed for consolidation in the *General Provisions* section.

Forfeiture and Special Provisions*§ 83.81. Forfeiture.*

The Commission proposes consolidation of language and additional language to clarify how funds will be handled in case of forfeiture.

§ 83.82. Special provisions.

The Commission proposes to expand its ability to delegate its authority to additional Commonwealth departments and staff.

Written Comments:

Written comments, suggestions or objections regarding the proposed amendments may be sent to Karl G. Brown, Executive Secretary, State Conservation Commission, 2301 N. Cameron St., Room 407, Harrisburg, PA 17110. Comments submitted by facsimile will not be accepted; however, the Commission will accept comments submitted by e-mail. Electronic comments may be submitted to ra-scc@state.pa.us. A subject heading of the proposal and return name and address must be included in each e-mail transmission. Comments must be received by July 9, 2007.

Public Meetings and Public Hearings:

No public meetings or public hearings are scheduled for this proposed statement of policy.

KATHLEEN A. MCGINTY,
Chairperson

[Pa.B. Doc. No. 07-1009. Filed for public inspection June 8, 2007, 9:00 a.m.]