

# RULES AND REGULATIONS

## Title 22—EDUCATION

### STATE BOARD OF EDUCATION

#### [ 22 PA. CODE CHS. 11 AND 12 ]

#### Student Attendance and Student Rights and Responsibilities

The State Board of Education (Board) amends Chapters 11 and 12 (relating to student attendance; and student rights and responsibilities) to read as set forth in Annex A in this final-omitted rulemaking.

##### *Statutory Authority*

The Board is acting under the authority of sections 2603-B(a) and 2604-B(b)(2)(v) of the Public School Code of 1949 (24 P.S. §§ 26-2603-B(a) and 26-2604-B(b)(2)(v)).

##### *Background*

Section 1326 of the Public School Code of 1949 (24 P.S. § 13-1326) sets forth a definition for “compulsory school age” that establishes the ages during which attendance in school is required for children. Prior to the academic year commencing after August 27, 2019, the definition of “compulsory school age” required children to enter school no later than age 8 and to remain in school until the student reached at least age 17, unless the child had earned a certificate of graduation from high school. In the act of June 28, 2019 (P.L. 117, No. 16) (Act 16 of 2019), the General Assembly amended the definition of “compulsory school age” to lower the age by which attendance in school is required from age 8 to age 6 and to raise the age for compulsory attendance in school from 17 to 18, unless the child had earned a certificate of graduation from high school. Amendments to compulsory attendance requirements enacted by Act 16 of 2019 took effect with the academic year commencing after August 27, 2019.

##### *Need for the Rule*

Provisions of the Board’s regulations in §§ 11.13, 12.1(b) and 12.6(e) (relating to compulsory school age; free education and attendance; and exclusions from school) address requirements pertaining to compulsory school attendance. However, language in these provisions was not updated following the adoption of Act 16 of 2019 and continues to reference the ages for compulsory school attendance that were in effect prior to the General Assembly acting to amend the ages for compulsory attendance in Act 16. This final-omitted rulemaking is necessary to conform provisions in the Board’s regulations that address requirements related to compulsory attendance with the current definition of “compulsory school age” in section 1326 of the Public School Code of 1949. At the same time, the Board also is acting to correct a typographical error in the text of § 12.1(b)(4) as it is currently published.

##### *Provisions of the Final-Omitted Rulemaking*

This final-omitted rulemaking amends the following provisions in Chapters 11 and 12:

##### § 11.13. *Compulsory school age*

The Board is amending § 11.13 to reflect amendments to the definition of “compulsory school age” enacted by Act

16 of 2019 that lowered the age at which attendance in school is required from age 8 to age 6 and increased the age through which compulsory attendance is required from age 17 to age 18, unless a student has graduated from high school. Technical amendments to this section update references to the ages for compulsory school attendance to be consistent with the current ages for compulsory attendance established in section 1326 of the Public School Code of 1949.

##### § 12.1(b). *Free education and attendance*

The Board is making technical amendments to § 12.1(b) to conform references to the ages for compulsory attendance with the current definition for “compulsory school age” established in section 1326 of the Public School Code of 1949.

##### § 12.1(b)(4). *Free education and attendance*

The Board is making a technical amendment to § 12.1(b)(4) to correct a typographical error in the spelling of the word “eligible” in the text of the regulation as it is currently published.

##### § 12.6(e). *Exclusions from school*

The Board is making a technical amendment to § 12.6(e) to conform a reference to the age for compulsory attendance with the current definition for “compulsory school age” established in section 1326 of the Public School Code of 1949.

##### *Affected Parties*

This final-omitted rulemaking will affect this Commonwealth’s 1.7 million public school students and their parents or guardians, as well as this Commonwealth’s 124,000 classroom teachers and 8,192 school administrators, by creating consistency between a term as defined in statute and referenced in related regulations.

##### *Cost and Paperwork Estimates*

This final-omitted rulemaking will not impose any costs or additional administrative requirements on students, their parents, educators or school entities. This final-omitted rulemaking contains technical amendments that make related provisions in Chapters 11 and 12 consistent with statutory requirements that are already in effect. Thus, this final-omitted rulemaking will not alter the current practice of public school entities or current requirements for parents to have their children enter and continue in school.

##### *Effective Date*

This final-omitted rulemaking will take effect upon notice or publication in the *Pennsylvania Bulletin*.

##### *Sunset Date*

The Board will review the effectiveness of Chapters 11 and 12 every 4 years in accordance with the Board’s policy and practice respecting all of its regulations. Thus, no sunset date is necessary.

*Contact Person*

Persons who require additional information about this final-omitted rulemaking may submit inquiries to Karen Molchanow, Executive Director, State Board of Education, 333 Market Street, 1st Floor, Harrisburg, PA 17126, ra-stateboardofed@pa.gov.

*Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on August 22, 2022, the Board submitted a copy of the final-omitted regulation and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Education and the Senate Committee on Education. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732-204(b)).

Under section 5.1(e) and (j.2) of the Regulatory Review Act (71 P.S. § 745.5a(e) and (j.2)), on October 19, 2022, the final-omitted rulemaking was deemed approved by the House and Senate Education Committees. IRRC met on October 20, 2022 and approved the final omitted rulemaking. The Office of Attorney General approved the final-omitted rulemaking on September 20, 2022.

*Findings*

The Board finds that:

(1) Notice of proposed rulemaking is impracticable, unnecessary and contrary to the public interest under section 204(3) of the Commonwealth Documents Law (45 P.S. § 1204(3)) and the regulations thereunder, 1 Pa. Code § 7.4(3) (relating to omission of notice of proposed rulemaking).

(2) The amendment of the regulations in the manner provided in this order is necessary and appropriate for administration of the Public School Code of 1949 (24 P.S. §§ 1-101—27-2702).

*Order*

Acting under the authority of the Public School Code of 1949, the Board orders that:

(a) The regulations of the Board, 22 Pa. Code Chapters 11 and 12, are amended by amending §§ 11.13, 12.1 and 12.6 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Executive Director of the Board shall submit a copy of this final-omitted rulemaking to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form as required by law.

(c) The Executive Director of the Board shall submit this final-omitted rulemaking to IRRC and the House Education and Senate Education Committees as required by law.

(d) The Executive Director of the Board shall certify this final-omitted rulemaking, as approved for legality and form, and deposit it with the Legislative Reference Bureau as required by law.

(e) This final-omitted regulation shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

KAREN MOLCHANOW,  
*Executive Director*

(*Editor's Note:* See 52 Pa.B. 6941 (November 5, 2022) for IRRC's approval order.)

**Fiscal Note:** 6-352. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 22. EDUCATION**

**PART I. STATE BOARD OF EDUCATION**

**Subpart A. MISCELLANEOUS PROVISIONS**

**CHAPTER 11. STUDENT ATTENDANCE**

**ADMISSION TO PUBLIC SCHOOLS**

**§ 11.13. Compulsory school age.**

Except as otherwise provided by law, compulsory school age refers to the period of a child's life from the time the child enters school (which may be no later than at the age of 6 years), until the age of 18 or graduation from a high school, whichever occurs first.

**CHAPTER 12. STUDENTS AND STUDENT SERVICES**

**STUDENT RIGHTS AND RESPONSIBILITIES**

**§ 12.1. Free education and attendance.**

(a) All persons residing in this Commonwealth between the ages of 6 and 21 years are entitled to a free and full education in the Commonwealth's public schools.

(b) Parents or guardians of all children between the ages of 6 and 18 are required by the compulsory attendance law to ensure that their children attend an approved educational institution, unless legally excused. Students who have not graduated may not be asked to leave school merely because they have reached 18 years of age if they are fulfilling their responsibilities as students. A student may not be excluded from the public schools or from extracurricular activities because:

- (1) The student is married.
- (2) The student is pregnant.
- (3) The student has a disability as identified by Chapter 15 (relating to protected handicapped students).
- (4) The student is an eligible student identified under Chapter 14 (relating to special education services and programs).

**§ 12.6. Exclusions from school.**

\* \* \* \* \*

(e) Students who are under 18 years of age are still subject to the compulsory school attendance law even though expelled and shall be provided an education.

(1) The initial responsibility for providing the required education rests with the student's parents or guardian, through placement in another school, tutorial or correspondence study, or another educational program approved by the district's superintendent.

(2) Within 30 days of action by the governing board, the parents or guardians shall submit to the school district written evidence that the required education is being provided as described in paragraph (1) or that they are unable to do so. If the parents or guardians are unable to provide the required education, the school entity shall, within 10 days of receipt of the notification, make provision for the student's education. A student with a disability shall be provided educational services as required by the Individuals With Disabilities Education Act (20 U.S.C.A. §§ 1400—1482).

(3) If the approved educational program is not complied with, the school entity may take action in accordance with 42 Pa.C.S. Chapter 63 (relating to the Juvenile Act)

to ensure that the child will receive a proper education. See § 12.1(b) (relating to free education and attendance).

[Pa.B. Doc. No. 22-1687. Filed for public inspection November 4, 2022, 9:00 a.m.]

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE BOARD OF COSMETOLOGY

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

#### Fees

The State Board of Cosmetology (Board) and the Acting Commissioner of the Bureau of Professional and Occupational Affairs (Acting Commissioner) amend § 7.2 (relating to fees) to read as set forth in Annex A.

#### *Effective Date*

This final-form rulemaking will be effective upon notice or publication in the *Pennsylvania Bulletin*. The initial graduated increase for application fees will be implemented on the date of publication of this final-form rulemaking in the *Pennsylvania Bulletin* and then on July 1, 2024. The increased biennial renewal fees will be effective on the date of publication of this final-form rulemaking in the *Pennsylvania Bulletin*, which the Board anticipates will increase the biennial renewal fees beginning with the February 1, 2023—January 31, 2025, renewal period. This fee increase will impact licenses that expire on January 31, 2023, and licenses that expire on January 31, 2024. The increased biennial renewal fees will increase again on July 1, 2024, which will increase the biennial renewal fees beginning with the February 1, 2025—January 31, 2027, renewal period. This fee increase will impact licenses that expire on January 31, 2025, and also licenses that expire on January 31, 2026, and thereafter.

#### *Statutory Authority*

Under section 16(a) of the Cosmetology Law (act) (63 P.S. § 522(a)), the Board shall, by regulation, fix fees for: cosmetology salon owners, teachers, cosmetologists, nail technicians, nail technology salons, estheticians, esthetician salons, natural hair braiders, natural hair braiding salons, students and cosmetology schools and registration fees for apprentices. Section 16(a) also provides authority to fix fees for the biennial renewal of cosmetology salon owners, school instructors, cosmetologists, nail technicians, estheticians, natural hair braiders, cosmetology schools, nail technology salons, esthetician salons and natural hair braiding salons.

Additionally, under section 16(c) of the act, all fees required under this act shall be fixed by the Board by regulation and shall be subject to the Regulatory Review Act (71 P.S. §§ 745.1—745.14). “If the revenues raised by fees, fines and civil penalties imposed pursuant to this act are not sufficient to meet expenditures over a two-year period, the board shall increase those fees by regulation so that the projected revenues will meet or exceed projected expenditures.” Section 16(d) of the act provides, “If the Bureau of Professional and Occupational Affairs determines that the fees established by the board pursuant to subsection (c) of this section are inadequate to meet the minimum enforcement efforts required by this act, then the bureau, after consultation with the Board

and subject to the “Regulatory Review Act,” shall increase the fees by regulation in an amount that adequate revenues are raised to meet the required enforcement effort.”

The Acting Commissioner is appointed by the Governor and has a number of powers and duties. Specifically, under section 810(a)(7) of The Administrative Code of 1929 (71 P.S. § 279.1(a)(7)), the Acting Commissioner has the power and duty, “[u]nless otherwise provided by law, to fix the fees to be charged by the several professional and occupational examining boards within the department.”

#### *Background and Purpose of Amendment*

This final-form rulemaking increases application fees to reflect updated costs of processing applications and increases the Board’s biennial renewal fees to ensure its revenue meets or exceeds the Board’s current and projected expenses. This final-form rulemaking increases the following application fees on a graduated basis: cosmetologist, nail technician, esthetician, natural hair braider, cosmetology teacher, limited practice teacher (nail technician teacher, esthetician teacher and natural hair braider teacher) cosmetology salon, limited practice salon (nail technician salon, esthetician salon and natural hair braider salon) cosmetology school, licensure by reciprocity and registration of cosmetology apprentice. Approximately 11,029 applicants will be impacted annually by the increased application fees.

The Board is also implementing graduated biennial renewal fee increases for the following licenses, certificates and registrations: cosmetologist, nail technician, esthetician, natural hair braider, cosmetology teacher, limited practice teacher (nail technician teacher, esthetician teacher, and natural hair braider teacher) cosmetology salon, limited practice salon (nail technician salon, esthetician salon and natural hair braider salon) and cosmetology school. There are approximately 125,467 individuals who possess current licenses, certificates and registrations issued by the Board who are required to pay more to renew their licenses, certifications or registrations. Licensees under the Board have different renewal periods; some renew in the 2023—2025 biennial renewal period and others renew in the 2025—2027 renewal period.

In addition, this final-form rulemaking increases other miscellaneous fees including, approval of cosmetology school supervisor application, change in cosmetology salon or limited practice salon (inspection required), change in cosmetology salon or limited practice salon (no inspection required), change in cosmetology school (inspection required), change in cosmetology school (no inspection required), reinspection of cosmetology salon or limited practice salon or cosmetology school, certification of student or apprentice training hours and verification of license, registration, permit or approval.

Under section 16 of the act, the Board is required to support its operations from the revenue it generates from fees, fines and civil penalties. The act further provides that the Board shall increase fees when expenditures outpace revenue. The majority of general operating expenses of the Board are borne by the licensee population through revenue generated by the biennial renewal of licenses. A small percentage of its revenue comes from application fees, fines and civil penalties. Board expenses are the result of direct charges, timesheet-based charges and licensee-based charges. On an annual basis, the Board reviews its fiscal status and receives an annual

report from the Department of State's Bureau of Finance and Operations (BFO) regarding the Board's income and expenses.

The Board receives an annual report from the Department of State's BFO regarding the Board's income and expenses. The Board's revenue and expenses for Fiscal Years (FY) 2018-2019 and 2019-2020 and the projected revenue and expenses through FY 2021-2022, and FY 2022-2023, are as follows: during FY 2018-2019, the Board received revenue of \$5,257,912.96 and incurred expenses of \$5,171,879.74, and ended with a deficit of \$1,674,126.54, during FY 2019-2020, the Board received revenue of \$4,942,576.49 and incurred expenses of \$5,409,577.32, and ended with a deficit of \$2,140,868.37, during FY 2020-2021, the Board received revenue of \$5,256,402.78 and incurred expenses of \$5.36 million, and ended with a deficit of \$2,244,724.59, and for combined FYs 2021-2022 and 2022-2023, the Board is expected to generate revenue of \$10,616,000, incur expenses of \$11,093,000, and end with a deficit of \$2,721,724.59.

Based on the information presented by the BFO, the revenues generated by fees, fines and civil penalties imposed in accordance with the provisions of the act are not sufficient to meet expenditures over a 2-year period.

*Description of Amendments*

The Board amends § 7.2 to set forth graduated fee schedules for application fees, biennial renewal fees and other fees. The Board also deletes the existing fee schedule and adds a new graduated fee schedule. Subsection (a) lists the graduated schedule of fees for applications for licensure, certification and registration with corresponding fees and effective dates. The Board adds subsection (b), which lists the graduated schedule of fees and corresponding effective dates for biennial license renewal. The Board also adds subsection (c), which lists other fees not associated with a profession or type of facility.

Under subsection (a), application fees increase on a graduated level for the licenses and registrations of cosmetologists, nail technicians, estheticians, natural hair braiders, cosmetology teachers, limited practice teacher (nail technician teacher, esthetician teacher and natural hair braider teacher) cosmetology salon, limited practice salon (nail technician salon, esthetician salon and natural hair braider salon) cosmetology school, licensure by reciprocity and registration of cosmetology apprentices. The application fees are increased on a graduated basis so that the application fees collected during each biennium reflect the anticipated costs of processing applications for that biennium. These fees are designed to cover the cost to process applications and are borne by individual applicants.

Under subsection (b), biennial renewal fees also increase on a graduated basis for cosmetologist, nail technician, esthetician, natural hair braider, cosmetology teacher, limited practice teacher (nail technician teacher, esthetician teacher and natural hair braider teacher) cosmetology salon, limited practice salon (nail technician salon, esthetician salon and natural hair braider salon) and cosmetology school.

Other miscellaneous application fees are listed under subsection (c), including approval of cosmetology school supervisor application, change in cosmetology salon or limited practice salon (inspection required), change in cosmetology salon or limited practice salon (no inspection required), change in cosmetology school (inspection required), change in cosmetology school (no inspection

required), reinspection of cosmetology salon or limited practice salon or cosmetology school, certification of student or apprentice training hours and verification of license, registration, permit or approval. These fees increase on a graduated schedule on the date of publication of this final-form rulemaking in the *Pennsylvania Bulletin*, and July 1, 2024.

The new fee structure is projected to produce biennial revenues of \$12,863,000 in FYs 2022-2023 through 2023-2024, which will allow the Board to meet or exceed its projected expenditures of \$11.260 million and reduce its deficit. The biennial revenues of \$14.792 million in FYs 2024-2025 through 2025-2026 will allow the Board to meet or exceed its projected expenditures of \$11.598 million which will eliminate the Board's deficit.

*Comments to the Proposed Rulemaking*

The Board published a notice of proposed rulemaking at 52 Pa.B. 2588 (April 30, 2022), for 30 days of public comment. The Board did not receive any public comments relating to the proposed rulemaking. The Independent Regulatory Review Commission (IRRC) reviewed the proposed rulemaking and informed the Board that it had no objections, comments, or recommendation to offer on the proposed rulemaking. The Board did not receive any comments from the House Professional Licensure Committee (HPLC) or the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) as part of their review of proposed rulemaking under the Regulatory Review Act.

*Fiscal Impact and Paperwork Requirements*

The amendments increase application and biennial renewal fees on a graduated basis. The applicants, licensees and registrants are required to comply with the regulation. The fees may be paid by applicants, licensees or registrants or may be paid by their employers, should their employers choose to pay these fees. This final-form rulemaking should have no other fiscal impact on the private sector, the general public or political subdivisions of the Commonwealth.

Approximately 11,029 applicants are impacted by the increased application fees. Specifically, the number of applicants effected are as follows: 4,000 cosmetologists, 925 nail technicians, 1,350 estheticians, 15 natural hair braiders, 155 cosmetology teachers, 1,325 cosmetology salons, 10 cosmetology schools, 2 nail technician teachers, 8 esthetician teachers, 1 natural hair braider teacher, 140 nail technician salons, 160 esthetician salons, 5 natural hair braider salons, 578 licensures by reciprocity and 20 cosmetology apprentices.

Based on the graduated application fee increases, the total economic impact per fiscal year is as follows:

FY 2022-2023:	\$182,483
FY 2023-2024:	\$182,483
FY 2024-2025:	\$ 23,094
FY 2025-2026:	\$ 23,094
Total:	\$411,154

Approximately 125,467 licensees are impacted by the increased biennial renewal fees. Specifically, the number of licensees effected are as follows: 14,809 nail technicians, 8,602 estheticians, 77,854 cosmetologists, 54 natural hair braiders, 7,324 cosmetology teachers, 11,930 cosmetology salons, 158 cosmetology schools, 15 nail technician teachers, 41 esthetician teachers, 3 natural hair braider teachers, 2,306 nail technician salons, 2,359 esthetician salons and 12 natural hair braider salons who possess current licenses and registrations issued by the

Board who are required to pay more to renew their licenses and registrations. Current licensed individuals are affected as follows:

Based on the previous biennial renewal fee increases, the economic impact is as follows:

FY 2022-2023:	\$963,735
FY 2023-2024:	\$918,270
FY 2024-2025:	\$963,735
FY 2025-2026:	\$918,270
Total:	\$3,764,010

Thus, the total economic impact to applicants, licensees, registrants or employers, if employers choose to pay application or licensing fees, is \$4,175,164. This amount reflects the economic impact that will occur as a result of the fee increases.

This final-form rulemaking requires the Board to revise its printed and online application forms. The amendments will not create additional paperwork for the regulated community or for the private sector.

#### *Sunset Date*

The Board continuously monitors the effectiveness of its regulations. Therefore, no sunset date has been assigned. Additionally, the BFO provides the Board with an annual report detailing the Board's financial condition. In this way, the Board continuously monitors the adequacy of its fee schedule.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 14, 2022, the Board submitted a copy of this proposed rulemaking published at 52 Pa.B. 2588 and a copy of a Regulatory Analysis Form to IRRC and to the Chairpersons of HPLC and SCP/PLC for review and comment. A copy of this material is available to the public upon request.

Under section 5(c) of the Regulatory Review Act, the Board shall submit to IRRC, the HPLC and the SCP/PLC copies of the comments received during the public comment period, as well as other documents when requested. No public comments were received. The Board also received no comments from the HPLC, SCP/PLC or IRRC.

Under section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)), on August 10, 2022, the Board delivered this final-form rulemaking to IRRC, the HPLC and the SCP/PLC. Under section 5.1(j.2) of the Regulatory Review Act, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC on September 14, 2022. Under section 5.1(e) of the Regulatory Review Act, IRRC met on September 15, 2022, and approved the final-form rulemaking.

#### *Additional Information*

Additional information may be obtained by writing to Valerie Eaton, Board Administrator, Bureau of Professional and Occupational Affairs, State Board of Cosmetology, P.O. Box 2649, Harrisburg, PA 17105-2649, St-COSMETOLOGY@pa.gov.

#### *Findings*

The State Board of Cosmetology and the Acting Commissioner find that:

(1) Public notice of intention to adopt a regulation at 49 Pa. Code Chapter 7, was given under sections 201 and 202 of the Act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to as the Commonwealth Documents Law and the regulations promulgated under those sections at 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

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

(3) This final-form rulemaking does not include any amendments that would enlarge the scope of the proposed rulemaking published at 52 Pa.B. 2588.

(4) This final-form rulemaking is necessary and appropriate for the regulation of the practice of cosmetology in this Commonwealth.

#### *Order*

The Board therefore orders that:

(A) The regulations of the State Board of Cosmetologists, 49 Pa. Code, Chapter 7, are amended by amending § 7.2 to read as set forth in Annex A.

(B) The Board shall submit a copy of this final-form rulemaking to the Office of the Attorney General and the Office of General Counsel for approval as required by law.

(C) The Board shall submit this final-form rulemaking to IRRC, the HPLC and the SCP/PLC as required by law.

(D) The Board shall certify this final-form rulemaking and shall deposit it with the Legislative Reference Bureau as required by law.

(E) The final-form rulemaking shall take effect immediately upon notice or publication in the *Pennsylvania Bulletin*.

TAMMY O'NEILL,  
*Chairperson*

ARION R. CLAGGETT,  
*Acting Commissioner*

*(Editor's Note: See 52 Pa.B. 6282 (October 1, 2022) for IRRC's approval order.)*

**Fiscal Note:** Fiscal Note 16A-4520 remains valid for the final adoption of the subject regulation.

#### **Annex A**

### **TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

#### **PART I. DEPARTMENT OF STATE**

#### **Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

#### **CHAPTER 7. STATE BOARD OF COSMETOLOGY**

#### **GENERAL PROVISIONS**

#### **§ 7.2. Fees.**

(a) An applicant for initial application and registration shall pay the following fees:

	<i>Effective November 5, 2022</i>	<i>Effective July 1, 2024</i>
Cosmetologist	\$25	\$26
Nail technician	\$25	\$26
Esthetician	\$25	\$26
Natural hair braider	\$25	\$26
Cosmetology teacher or limited practice teacher	\$25	\$26
Cosmetology salon or limited practice salon	\$135	\$142
Cosmetology school license	\$220	\$231
Licensure by reciprocity	\$85	\$89
Registration of cosmetology apprentice	\$75	\$79

(b) An applicant for biennial renewal shall pay the following fees:

	<i>Effective November 5, 2022</i>	<i>Effective July 1, 2024</i>
Nail technician	\$82	\$97
Esthetician	\$82	\$97
Cosmetologist	\$82	\$97
Natural hair braider	\$82	\$97
Cosmetology teacher or limited practice teacher	\$120	\$135
Cosmetology salon or limited practice salon	\$129	\$144
Cosmetology school license	\$300	\$315

(c) An applicant for other miscellaneous applications shall pay the following fees:

	<i>Effective November 5, 2022</i>	<i>Effective July 1, 2024</i>
Approval of cosmetology school supervisor application	\$31	\$32
Change in cosmetology salon or limited practice salon (inspection required)	\$100	\$105
Change in cosmetology salon or limited practice salon (no inspection required)	\$43	\$45
Change in cosmetology school (inspection required)	\$125	\$131
Change in cosmetology school (no inspection required)	\$69	\$72
Reinspection of cosmetology salon or limited practice salon or cosmetology school	\$87	\$91
Certification of student or apprentice training hours	\$56	\$58
Verification of license, registration, permit or approval	\$20	\$21

[Pa.B. Doc. No. 22-1688. Filed for public inspection November 4, 2022, 9:00 a.m.]

## **Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS**

### **STATE BOARD OF DENTISTRY [ 49 PA. CODE CH. 33 ]**

#### **Fees**

The State Board of Dentistry (Board) amends § 33.3 (relating to fees) and deletes § 33.339 to read as set forth in Annex A.

#### *Effective Date*

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*. The initial increase for application fees will be implemented immediately upon publication of this final-form rulemaking in the *Pennsylvania Bulletin*. Thereafter, the subsequent graduated increases for application fees will be implemented on

a 2-Fiscal-Year (FY) basis. The initial renewal fee increases will be implemented for the April 1, 2023—March 31, 2025, biennial renewal. The second and third renewal fee increases will be implemented for the April 1, 2025—March 31, 2027, and April 1, 2027—March 31, 2029, biennial renewals and thereafter.

#### *Statutory Authority*

Section 3(o) of The Dental Law (act) (63 P.S. § 122(o)), authorizes the Board to adopt, promulgate and enforce such rules and regulations as may be deemed necessary by the Board and proper to carry into effect the powers conferred by the act. Section 4(b) of the act (63 P.S. § 123(b)) requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties imposed under the act are not sufficient to meet expenditures over a 2-year period. Section 4(a) of the act provides that the fee for an applicant for examination and licensure to practice dentistry or as a dental hygienist or certification

for an expanded function dental assistant (EFDA) in this Commonwealth shall be fixed by the Board by regulation. In terms of application fees for licensure and certification by criteria approval, section 3(f) of the act, authorizes fees for applicants who have licenses from other states, territories or Canada. Section 11.2(a)(2), (4) and (6) of the act (63 P.S. § 130c(a)(2), (4) and (6)) requires the Board to establish anesthesia permit fees. Section 11.11(a)(7) of the act (63 P.S. § 130l(a)(7)) gives the Board authority to impose an application fee for a restricted faculty applicant in the same amount as is prescribed by the Board for licensure to practice dentistry.

Under section 3(g.1) of the act, one of the Board's duties is "[t]o receive and record all filings of the names and fictitious names of providers of dental services. . ." Another duty of the Board under section 3(b) of the act, is to ". . .determine the acceptability and to approve and disapprove institutions and colleges of this State and of other states and countries for the education of students desiring. . .to be certified as expanded function dental assistants." Under the authority of sections 3(o) and 4(b) of the act, the Board is increasing the fees for fictitious names for dental facilities and EFDA educational programs.

Regarding biennial renewal fees, section 3(j) of the act empowers the Board "[t]o provide for, regulate, and require biennial renewals of all persons licensed or certified in accordance with provisions of this act. . .[and] to require, as a condition precedent to such biennial renewal, the payment of such biennial renewal fee as shall be fixed by regulation of the board." Additionally, under section 11.11(d) of the act, to renew a restricted faculty license, a licensee must pay a biennial renewal fee in the same amount as the fee prescribed by the Board for renewal of licensure to practice dentistry.

#### *Background and Need for Amendment*

This final-form rulemaking increases application fees to reflect updated costs of processing applications and increases all the Board's biennial renewal fees to ensure its revenue meets or exceeds the Board's current and projected expenses. This final-form rulemaking increases the following application fees under § 33.3 on a graduated basis: dentist, dental facility fictitious name, dental hygienist, expanded function dental assistant, anesthesia (unrestricted), anesthesia (restricted I), anesthesia (restricted II), dental hygienist local anesthesia, public health dental hygienist practitioner, expanded function dental assistant education program, restricted faculty license, criteria approval (dentists), criteria approval (dental hygienists) and criteria approval (expanded function dental assistants). Approximately 1,984 applicants will be impacted annually by the increased application fees.

The Board is also implementing graduated biennial renewal fee increases for the following licenses, certificates, registrations and permits under § 33.3: dentist, dental hygienist, EFDA, anesthesia (unrestricted), anesthesia (restricted I), anesthesia (restricted II), dental hygienist local anesthesia, public health dental hygienist practitioner, expanded function dental assistant education program and restricted faculty license. There are approximately 30,917 individuals who possess current licenses, certificates and registrations issued by the Board who will be required to pay more to renew their licenses, certifications, registrations or permits.

Under section 4(b) of the act, the Board is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In addition, the

act provides that the Board shall increase fees if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period. The Board raises the majority of its revenue through biennial renewal fees. A small percentage of its revenue comes from application fees, fines and civil penalties. The Board receives an annual report from the Department of State's Bureau of Finance and Operations (BFO) regarding the Board's income and expenses.

The BFO data demonstrates that the Board's revenue is insufficient to meet expenditures over a 2-year period resulting in a projected deficit of approximately \$2.6 million by the end of FY 2022-2023—FY 2023-2024, and a projected deficit of approximately \$5.7 million following FY 2024-2025—FY 2025-2026. It is therefore necessary for the Board to raise fees to meet or exceed projected expenditures, in compliance with section 4(b) of the act.

For the Board to meet or exceed projected expenditures with the delayed implementation date, the BFO recommended increased application fees that are reflective of actual costs to process applications in each biennium, and an 18% renewal fee increase for each renewal cycle beginning with the April 1, 2023—March 31, 2025, biennial renewal and continuing through the April 1, 2025—March 31, 2027, biennial renewal period and concluding following the April 1, 2027—March 31, 2029, biennial renewal period. The last time the Board approved a renewal fee increase was in July of 2012, which was effective for the April 2015 renewal period.

In consideration of the comments received in response to the proposed rulemaking regarding the timing of the biennial renewal fee increases, the Board voted to delay the implementation of the biennial fee increase until the April 1, 2023—March 31, 2025, biennial renewal. In March 2022, representatives from the BFO met with the Board and provided summaries of the Board's revenue and expenses through FY 2027-2028. Based upon the financial information that the BFO presented to the Board on March 11, 2022, the Board adopted the new schedule of fees set forth in accompanying Annex A. The increased fees are projected to produce sufficient revenue to meet expenditures, while reducing budget deficits, over 3 biennial renewal periods. In FY 2022-2023 through FY 2023-2024, with the fee increase, the Board's revenue of approximately \$5.1 million will be sufficient to meet its expenditures of approximately \$4.9 million and reduce the deficit. In FY 2024-2025 through FY 2025-2026, the Board's revenue of approximately \$5.93 million will be sufficient to meet its expenditures of approximately \$5.07 million and reduce the deficit. In FY 2026-2027 through FY 2027-2028, the Board's revenue of approximately \$6.9 million will be sufficient to meet its expenditures of approximately \$5.23 million and also eliminate the deficit. By the end of FY 2027-2028, the Board will have a positive balance of \$682,193. Thus, this final-form fee structure will allow the Board to meet expenditures over a 2-year period as required by section 4(b) of the act and will put the Board back on firm financial ground without creating a significant surplus of funds.

#### *Summary and Responses to Comments*

Notice of the proposed rulemaking was published at 50 Pa.B. 6356 (November 14, 2020). Publication was followed by a 30-day public comment period during which the Board received four public comments. Two of the public comments were from dentists. The Board also received a comment from the Pennsylvania Dental Association (PDA) and the Pennsylvania Academy of General Dentistry (PAGD). In addition, the Independent Regulatory

Review Commission (IRRC) submitted comments. The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and the House Professional Licensure Committee (HPLC) did not submit comments.

#### *Timing of fee increase*

The Board originally planned for this final-form rulemaking to be effective in time for the 2021 biennial renewal period. Two dentists questioned the timing of the fee increase. They commented that the dental community was negatively impacted financially by the novel coronavirus (COVID-19) pandemic, specifically with the costs associated with keeping their practices safe for patients and team members. One dentist pointed out that the dental community was barely starting to bounce back from the ongoing COVID-19 pandemic, indicating that a fee increase for the 2021 renewal period was poorly timed and gave minimal financial notice to the dental community.

PDA commented that while it appreciates the need for the Board to forecast expenditures and budget prudently, PDA urged the Board to reconsider increasing fees at a time when many dentists and their teams were dealing with significant financial hardship due to the COVID-19 pandemic. PDA asked the Board to consider the acute situation that many dentists and their staff were facing by considering the latest data from the American Dental Association's Health Policy Institute (HPI), including, the fact that it took until mid-June of 2020 for patient volume in the majority of dental practices to bounce back to 75% of pre-COVID levels. According to PDA, patient volume in dental practices was estimated at 76% as patients were hesitant to seek medical and dental care until the vaccine was readily available to the public. Additionally, dentists were not able to schedule as many patients as usual due to the current Centers for Disease Control and Prevention guidelines. HPI also found that staffing in dental offices was at 90% of pre-pandemic levels, which left a significant amount of dental team members who were unemployed and would have difficulty in paying higher fees. Finally, HPI data suggested that dental practices were absorbing exorbitant costs for personal protection equipment, a cost PDA anticipated would likely rise as dental suppliers struggle to meet demand. Ultimately, PDA requested that the Board consider the needs of the dental community at this critical juncture and delay implementing fee increases until the dental community recovers from the devastating impact of COVID-19 and resumes practicing at pre-COVID-19 pandemic levels.

PAGD questioned whether implementing fee increases in time for the 2021 biennial renewal period would give licensees sufficient advance notice. PAGD recommended that the Board implement the fee increases for the 2023 biennial renewal period due to the COVID-19 pandemic. PAGD also expressed concern about the impact of fee increases on dental practices that are small businesses. In particular, PAGD was concerned that dental practices that require staff to pay their own licensing fees may find it more difficult to recruit and hire staff if licensing fees are increased. These businesses, however, have the option to pay the licensing fee of staff and to increase the service fees charged to consumers.

IRRC agreed with the commentators' concerns and commented that a fee increase during the height of the COVID-19 pandemic was not reasonable. IRRC commented that the second wave of the COVID-19 pandemic created unprecedented financial and operational challenges for the dental community. IRRC recommended that the Board withdraw the proposed rulemaking and submit

it at a later date to allow additional time for the regulated community to review and comment on the proposal. In the alternative, IRRC asked the Board to explain how the Board would implement this final-form rulemaking if it was not finalized prior to the April 1, 2021, renewal cycle.

In response to the comments relating to the impact of the COVID-19 pandemic on the dental community, the Board reconsidered the implementation date of the fee increase and agreed with IRRC and the commentators that the timing of the fee increase, given the COVID-19 pandemic, could have an unintended negative impact upon the dental community during a time of great uncertainty. Thus, at its January 15, 2021, meeting, the Board voted to delay the implementation of the graduated application fee increases until the date of publication of this final-form rulemaking in the *Pennsylvania Bulletin*, which the Board anticipated would occur in the summer of 2022. The Board also voted to delay the implementation of the biennial renewal increases until the April 1, 2023—March 31, 2025, biennial renewal period, as recommended by PAGD.

In response to IRRC's question as to how the Board would implement the renewal fee if the regulation was not finalized prior to the April 1, 2021, renewal cycle, the Board amended the implementation dates, as noted previously, so that the renewal fee increases will be effective in 2023 instead of 2021. Delaying the implementation dates provided additional time for the dental community to navigate and recover from the impact of the COVID-19 pandemic and provided additional time to implement the biennial renewal fees.

#### *General opposition to the fee increase*

The Board received two comments from individual dentists expressing general opposition to the fee increases, asserting that the amount of the increases are excessive and arbitrary. They also questioned the basis of the fee increases, requesting a complete financial report and questioned the 18% increase in biennial renewal fees. PAGD respects the financial pressures that are shouldered by the Board and the deficits that must be addressed but asserted that the increases are excessive and arbitrary and requested greater transparency regarding the basis for the increases. PAGD specifically asked for an explanation for the increased expenses between FYs 2012-2013 and 2018-2019. IRRC reiterated these comments and also asked the Board to address the adverse economic impacts that commentators asserted.

In response to the comments of general opposition to the proposed fee increases, the Board begins by noting that section 4(b) of the act requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties imposed under the act are not sufficient to meet expenditures over a 2-year period. The BFO data demonstrates that the Board's revenue is insufficient to meet expected expenditures over a 2-year period resulting in a projected deficit of approximately \$2.67 million by the end of FY 2022-2023—FY 2023-2024, a projected deficit of approximately \$5.7 million following FY 2024-2025—FY 2025-2026 and a projected deficit of approximately \$6.7 million dollars at the conclusion of FY 2026-2027—FY 2027-2028. Based on this data, the law mandates the Board to increase fees by regulation to meet or exceed projected expenditures. While the Board delayed the implementation of fee increases due to the extreme circumstances surrounding the pandemic, in addition to a concern that there was insufficient time to implement a



fee increase for the April 1, 2021—March 31, 2023, renewal cycle, the Board is not able to make an exception to the law which mandates an increase in fees by regulation when revenue fails to meet expenditures over a 2-year period. The appropriate mechanism for an exception to the law is through the legislature.

Regarding the basis for the fee increases, the majority of the Board's costs are personnel-related, and much of those costs are not within the Board's control. Staff are generally employees of the Commonwealth, most of whom are civil service personnel, and many are union positions. For these employees, the Board is bound by the negotiated contract. Personnel costs associated with investigation and enforcement depend largely on the number of complaints received that need to be investigated and the number of those matters that result in disciplinary action. The Board has no control over the number of complaints that are filed against licensees and unlicensed individuals, nor may they control which matters are or are not prosecuted.

The proposed application fee increases occur on a graduated basis so that the application fees collected during each biennium reflect the anticipated costs of processing applications for that biennium. These fees are designed to cover the cost to process applications and are borne by individual applicants. Actual cost calculations for application fees are based upon the following formula:

$$\begin{array}{r} \text{number of minutes to perform the function} \\ \times \\ \text{pay rate for the classification of the personnel performing} \\ \text{the function} \\ + \\ \text{a proportionate share of administrative overhead} \end{array}$$

The application fees are based on time study reports created within the Bureau of Professional and Occupational Affairs (Bureau) giving each step in the process and the amount of time it takes to process one application. That amount is multiplied by the anticipated application requests for 1 year (times two since the increases are biennial). Increases which will be effective immediately and then again on July 1, 2025, and July 1, 2027, are calculated at an approximately 9.5% increase as pay increases for staff that process applications are 2.5% in July and 2.25% in January or 4.75% annually (9.5% biennially) and the fee is almost entirely dependent upon personnel-related costs.

Regarding the basis of the biennial renewal fees for dentists, dental hygienists, EFDAs, anesthesia-unrestricted permits, anesthesia-restricted I permits, anesthesia-restricted II permits, dental hygienist local anesthesia permits, public health dental hygiene practitioners, EFDA education program approval and restricted faculty licenses, the fees will increase on a graduated basis by 18% for each renewal cycle beginning with the April 1, 2023—March 31, 2025, biennial renewal period and continuing through the April 1, 2027—March 31, 2029, biennial renewal period. The Board adopted the 18% graduated increase because, as the calculations show in the answer to Question 10 of the Regulatory Analysis Form, the graduated fees will generate adequate revenue to meet its expenses during each biennium; FY 2022-2023 through FY 2023-2024, FY 2024-2025 through FY 2025-2026, and FY 2026-2027 through FY 2027-2028. By the end of FY 2027-2028, the budget deficit will be eliminated, and the Board will have a positive balance of \$682,193.

On an annual basis, during a public meeting where stakeholders are present, the Board reviews its fiscal

status and receives an annual report from the BFO regarding the Board's income and expenses. A copy of the BFO report is posted to the Board's web site. In response to the request for additional information regarding the Board's financial needs, including the dramatic rise in expenses of major cost centers in the preceding 6 years, specifically in FY 2012-2013, and FY 2018-2019, the Board provided an explanation of page 3 of the BFO report (included as Attachment A) which contains the Board's Expense and Revenue History Comparison for FY 2012-2013 through FY 2020-2021. There was a dramatic increase in expenses between FY 2014-2015 to FY 2015-2016, for legal prosecution. The reason for the dramatic increase in FY 2015-2016, is that the prosecution division began implementing a practice wherein all practice-related complaints would receive expert review. The prosecution division determined that public protection necessitated expert review to secure successful prosecution of licensees who pose a risk to the community. Based on the success of this plan of action, the prosecution division continues to utilize expert review for most practice-related complaints. In addition, prior to FY 2015-2016, expenses for Board Counsel and the Professional Compliance Office (PCO) were included under the Cost Center for Legal Administration. These expenses also include other legal administrative costs, such as renting of office space, phones, legal administrative staff, printing copiers, furniture and the like. In FY 2015-2016, Board Counsel became its own Cost Center and expenses related to PCO went under Legal Prosecution Cost Center. This explains the dramatic decrease in expenses for Legal Administration in FY 2015-2016, and gives further explanation to the dramatic increase in expenses for Legal Prosecution in FY 2015-2016. Additionally, it explains why the Cost Center for Board Counsel shows expenses totaling \$0.00 until FY 2015-2016.

Over the last few fiscal years, the Board has had some sizable increases to expenses for a variety of reasons. One of the largest financial impacts for the Board was the incorporation of The Pennsylvania Justice Network (JNET), due in part to the enactment of the act of February 15, 2018 (P.L. 14, No. 6) (Act 6 of 2018), which requires mandatory self-reporting of criminal convictions. The Board uses JNET to identify criminal convictions of licensees and to verify compliance with Act 6 of 2018's mandatory reporting requirement. Initially, the Board was one of three boards under the Bureau that incorporated JNET criminal notifications into their business processes. Across the three boards, there was a sizable 27.5% average increase in the number of complaints being processed and opened for prosecution. With the additional complaints, increased expenses due to higher prosecutions, investigations, expert witness usage, and hearings resulted. Since incorporation of JNET, expenses have been relatively steady in all of these cost categories. More than likely, this new level of legal workload is one that will be part of the financial picture for the Board going forward.

In addition to the legal increases, all 29 boards and commissions under the Bureau have undergone an information technology transformation upgrade with the incorporation of the Pennsylvania Licensing System (PALS). Expenses associated with PALS, including the initial build as well as ongoing maintenance, are proportionately spread across all entities based on licensee population to effectively share costs per licensee. While the initial build is in the past, it has contributed to higher administrative expenses for all boards and commissions during the last few fiscal years. Due to PALS' high functioning database

with enhanced features over the Department's previous License 2000 platform, maintenance for this system requires a larger financial commitment from all boards and commissions than the previous system.

When considering the proposed fee increase, the Board conducted a comparison of application fees and renewal fees charged by surrounding states. The Board found that even by comparing the highest fee increases, the Commonwealth's application fees and renewal fees are still among the lowest or are in line with fees charged in surrounding states.

The Board is empathetic to all the concerns put forth by commentators, including adverse economic impact during the COVID-19 pandemic. The Board has delayed the implementation of these fee increases to avoid additional adverse fiscal impact to the dental community during the height of the COVID-19 pandemic. The Board, however, is dutybound to ensure that the Board remains fiscally sound so that it may carry out the mandates of the General Assembly set forth in the act in furtherance of public health and safety. Increasing fees is critical to sustain the operations of the Board. The Board is statutorily obligated to increase fees by regulation when revenues raised by fees, fines and civil penalties under the act are insufficient to meet expenditures over a 2-year period. The Board meets this criterion, and thus, is required to increase its fees.

*IRRC Additional Comments*

IRRC reiterated the concerns of the commentators, including the timing of the proposed rulemaking and the basis for the Board's financial needs. IRRC asked the Board to consider withdrawing the proposed rulemaking and resubmitting it at a later date. As discussed previously, the Board amended the proposed rulemaking and delayed the implementation of the fee increases until 2023. The Board believes that delaying the fee increases has allowed the dental community to recover economically; dental offices are open and patient volume has increased significantly since the proposed rulemaking was published in November of 2020. In March of 2022, HPI released the results of a National study (Economic Outlook and Emerging Issues in Dentistry: *Insights from Data from March 2022*) which showed that dental patient appointment schedules have risen to approximately 88% of full capacity; this represents the highest patient volume levels since the beginning of the COVID-19 pandemic. The most common reason for dental patient schedules not being 100% full was patient cancellations.

IRRC also asked the Board to revise the preamble and the Regulatory Analysis Form to include statutory authority citations for all fees contained in § 33.3. The Board adds the citations in this final-form rulemaking preamble and RAF.

*Description of Amendments to this Final-Form Rulemaking*

This final-form rulemaking changes the implementation dates of the graduated application fee increases in § 33.3(a) and the graduated renewal fee increases in subsection (b). The application fee increases in subsection (a) are implemented immediately upon publication of this final-form rulemaking in the *Pennsylvania Bulletin*, with subsequent graduated fee increases on July 1, 2025, and July 1, 2027. The biennial renewal fees will increase by 18% on a graduated basis over 3 renewal cycles. The initial fee increases will impact the renewal fees for the April 1, 2023—March 31, 2025, biennial renewal, with the second fee increase occurring for the April 1, 2025—

March 31, 2027, biennial renewal and the third fee increase occurring for the April 1, 2027—March 31, 2029, biennial renewal period. The Board also amends the third graduated biennial renewal increase in subsection (b) by adding "and thereafter." The term "thereafter" is added to clarify that the final fee increase for the 2027—2029 renewal period would remain the fee for all biennial renewal years thereafter, unless or until there is a new fee increase or decrease.

*Fiscal Impact*

The amendments will increase the application fees and biennial renewal fees for all license, certification and permit types issued by the Board. The Board receives approximately 1,984 applications annually from its various licensee types. There are currently 30,917 licensees and permit holders who will be impacted by the fee increase. Existing licensees will be required to pay 18% higher renewal fees every 2 years beginning in the April 1, 2023—March 31, 2025, biennial renewal period and continuing through the April 1, 2027—March 31, 2029, biennial renewal period.

As set forth as follows, the graduated increase will impact applicants and licensees as follows:

*Dentists*

The Board receives approximately 465 dentist applications per year. The graduated application fee increases impact applying dentists as follows: FYs 2022-2023, and 2023-2024, the application fee for dentist applicants increases by \$35, followed by an increase of \$25 in FYs 2024-2025, and 2025-2026, and an increase of \$22 in FYs 2026-2027, and 2027-2028.

There are approximately 10,224 dentists who must renew biennially. In FY 2022-2023, dentists will pay an additional \$47 to renew their license, followed by an increase of \$56 to renew their license in FY 2024-2025, and an additional \$66 to renew their license in FY 2026-2027.

*Dental facility (fictitious name)*

The Board receives approximately 75 dental facility (fictitious name) applications per year. The graduated application fee increases will impact applying dental facilities as follows: FYs 2022-2023, and 2023-2024, the application fee for a dental facility (fictitious name) increases by \$30, followed by an increase of \$6 in FYs 2024-2025, and 2025-2026, and an increase of \$7 in FYs 2026-2027, and 2027-2028.

Dental facilities are not required to renew the fictitious name registration with the Board; therefore, the initial application fee is the only fiscal impact to dental facilities.

*Dental hygienist*

The Board receives approximately 400 dental hygienist applications per year. The graduated application fee increases will impact applying dental hygienists as follows: FYs 2022-2023, and 2023-2024, the application fee for dental hygienist applicants increases by \$65, followed by an increase of \$14 in FYs 2024-2025, and 2025-2026, and an increase of \$14 in FYs 2026-2027, and 2027-2028.

There are approximately 9,578 dental hygienists who must renew biennially. In FY 2022-2023, dental hygienists will pay an additional \$8 to renew their license, followed by an increase of \$9 to renew their license in FY 2024-2025, and an additional \$11 to renew their license in FY 2026-2027.

*EFDA*

The Board receives approximately 275 EFDA applications per year. The graduated application fee increases will impact applying EFDAs as follows: FYs 2022-2023, and 2023-2024, the application fee for EFDA applicants increases by \$35, followed by an increase of \$10 in FYs 2024-2025, and 2025-2026, and an increase of \$12 in FYs 2026-2027, and 2027-2028.

There are approximately 2,931 EFDAs who must renew biennially. In FY 2022-2023, EFDAs will pay an additional \$5 to renew their license, followed by an increase of \$6 to renew their license in FY 2024-2025, and an additional \$7 to renew their license in FY 2026-2027.

*Anesthesia—unrestricted permit*

The Board receives approximately 30 anesthesia unrestricted permit applications per year. The graduated application fee increases will impact applicants applying for an anesthesia—unrestricted permit as follows: FYs 2022-2023, and 2023-2024, the application fee for an anesthesia—unrestricted permit increases by \$50, followed by an increase of \$15 in FYs 2024-2025, and 2025-2026, and an increase of \$15 in FYs 2026-2027, and 2027-2028.

There are approximately 405 anesthesia—unrestricted permit holders who must renew biennially. In FY 2022-2023, anesthesia—unrestricted permit holders will pay an additional \$38 to renew their permit, followed by an increase of \$45 to renew their permit in FY 2024-2025, and an additional \$53 to renew their permit in FY 2026-2027.

*Anesthesia—restricted I permit*

The Board receives approximately 25 anesthesia—restricted I permit applications per year. The graduated application fee increases will impact applicants applying for an anesthesia—restricted I permit as follows: FYs 2022-2023, and 2023-2024, the application fee for an anesthesia—restricted I permit increases by \$50, followed by an increase of \$15 in FYs 2024-2025, and 2025-2026, and an increase of \$15 in FYs 2026-2027, and 2027-2028.

There are approximately 204 anesthesia—restricted I permit holders who must renew biennially. In FY 2022-2023, anesthesia—restricted I permit holders will pay an additional \$38 to renew their permit, followed by an increase of \$45 to renew their permit in FY 2024-2025, and an additional \$53 to renew their permit in FY 2026-2027.

*Anesthesia—restricted II permit*

The Board receives approximately 175 anesthesia—restricted II permit applications per year. The graduated application fee increases will impact applicants applying for an anesthesia—restricted II permit as follows: FYs 2023-2023, and 2023-2024, the application fee for an anesthesia—restricted II permit increases by \$50, followed by an increase of \$6 in FYs 2024-2025, and 2025-2026, and an increase of \$7 in FYs 2026-2027, and 2027-2028.

There are approximately 2,467 anesthesia—restricted II permit holders who must renew biennially. In FY 2022-2023, anesthesia—restricted II permit holders will pay an additional \$10 to renew their permit, followed by an increase of \$11 to renew their permit in FY 2024-2025, and an additional \$13 to renew their permit in FY 2026-2027.

*Dental hygienist local anesthesia permit*

The Board receives approximately 425 dental hygienist local anesthesia permit applications per year. The graduated application fee increases will impact applicants applying for a dental hygienist local anesthesia permit as follows: FYs 2022-2023, and 2023-2024, the application fee for a dental hygienist local anesthesia permit increases by \$30, followed by an increase of \$5 in FYs 2024-2025, and 2025-2026, and an increase of \$5 in FYs 2026-2027, and 2027-2028.

There are approximately 4,150 dental hygienist local anesthesia permit holders who must renew biennially. In FY 2022-2023, dental hygienist local anesthesia permit holders will pay an additional \$8 to renew their permit, followed by an increase of \$9 to renew their permit in FY 2024-2025, and an additional \$11 to renew their permit in FY 2026-2027.

*Public health dental hygiene practitioners*

The Board receives approximately 95 public health dental hygiene practitioner applications per year. The graduated application fee increases will impact applying public health dental hygiene practitioners as follows: FYs 2022-2023, and 2023-2024, the application fee for a public health dental hygiene practitioner increases by \$60, followed by an increase of \$8 in FYs 2024-2025, and 2025-2026, and an increase of \$7 in FYs 2026-2027, and 2027-2028.

There are approximately 926 public health dental hygiene practitioners who must renew biennially. In FY 2022-2023, public health dental hygiene practitioners will pay an additional \$8 to renew their license, followed by an increase of \$9 to renew their license in FY 2024-2025, and an additional \$11 to renew their license in FY 2026-2027.

*EFDA education program*

The Board receives approximately two EFDA education program applications per year. The graduated application fee increases will impact applicants for EFDA education programs as follows: FYs 2022-2023, and 2023-2024, the application fee for an EFDA education program increases by \$115, followed by an increase of \$30 in FYs 2024-2025, and 2025-2026, and an increase of \$33 in FYs 2026-2027, and 2027-2028.

There are approximately seven EFDA education programs that must renew biennially. In FY 2022-2023, EFDA education programs will pay an additional \$18 to renew their license, followed by an increase of \$21 to renew their license in FY 2024-2025, and an additional \$25 to renew their license in FY 2026-2027.

*Restricted faculty license holders*

The Board receives approximately five restricted faculty license applications per year. The graduated application fee increases will impact applicants for a restricted faculty license as follows: FYs 2022-2023, and 2023-2024, the application fee for a restricted faculty license increases by \$35, followed by an increase of \$25 in FYs 2024-2025, and 2025-2026, and an increase of \$22 in FYs 2026-2027, and 2027-2028.

There are approximately 25 restricted faculty license holders who must renew biennially. In FY 2022-2023, restricted faculty license holders will pay an additional \$47 to renew their license, followed by an increase of \$56 to renew their license in FY 2024-2025, and an additional \$66 to renew their license in FY 2026-2027.

*Dental license by criteria approval*

The Board receives approximately six dental license by criteria approval applications per year. The graduated application fee increases will impact applicants for dental license by criteria approval as follows: In FYs 2022-2023, and 2023-2024, the application fee for a dental license by criteria approval increases by \$35, followed by an increase of \$25 in FYs 2024-2025, and 2025-2026, and an increase of \$22 in FYs 2026-2027, and 2027-2028.

*Dental hygienist applications by criteria approval*

The Board receives approximately three dental hygienist license by criteria approval applications per year. The graduated application fee increases will impact applicants for dental hygienist license by criteria approval as follows: FYs 2022-2023, and 2023-2024, the application fee for a dental hygienist license by criteria approval increases by \$65, followed by an increase of \$14 in FYs 2024-2025, and 2025-2026, and an increase of \$14 in FYs 2026-2027, and 2027-2028.

*EFDA applications by criteria approval*

The Board receives approximately three EFDA license by criteria approval applications per year. The graduated application fee increases will impact applicants for EFDA license by criteria approval as follows: FYs 2022-2023, and 2023-2024, the application fee for an EFDA by criteria approval increases by \$65, followed by an increase of \$14 in FYs 2024-2025, and 2025-2026, and an increase of \$14 in FYs 2026-2027, and 2027-2028.

*Total economic impact to applicants and licensee/permit holders*

Based upon the graduated application fee increases, the total economic impact to all applicants per fiscal year is as follows:

FY 2022-2023:	\$85,105
FY 2023-2024:	\$85,105
FY 2024-2025:	\$25,604
FY 2025-2026:	\$25,604
FY 2026-2027:	\$24,887
FY 2027-2028:	\$24,887
Total:	\$271,192

Based upon the biennial renewal fee increases, the economic impact to all licensee/permit holders is as follows:

FY 2022-2023:	\$661,528
FY 2024-2025:	\$778,105
FY 2026-2027:	\$922,668
Total:	\$2,362,301

This final-form rulemaking should have no other fiscal impact on the private sector, the general public or political subdivisions of the Commonwealth.

*Paperwork Requirements*

This final-form rulemaking will require the Board to alter its online application and renewal forms to reflect the new fees; however, the amendments will not create additional paperwork for the regulated community or for the private sector.

*Sunset Date*

The Board continuously monitors the effectiveness of its regulations. Therefore, no sunset date has been assigned. Additionally, the BFO provides the Board with an annual report detailing the Board's financial condition. In this way, the Board continuously monitors the adequacy of its fee schedule.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act, 71 P.S. § 745.5(a), on October 29, 2020, the Board submitted a notice of proposed rulemaking, published at 50 Pa.B. 6356, to IRRC and the Chairpersons of the HPLC and SCP/PLC for review and comment. Publication was followed by a 30-day public comment period during which the Board received four public comments.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from the IRRC and the public. The HPLC and the SCP/PLC did not submit comments.

Under section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)), on July 7, 2022, the Board delivered this final-form rulemaking to IRRC, the HPLC and the SCP/PLC. Under section 5.1(g)(3) and (j.2) of the Regulatory Review Act (71 P.S. § 745.5a(g)(3) and (j.2)), on September 14, 2022, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on September 15, 2022 and approved the final-form rulemaking.

*Additional Information*

Additional information may be obtained by writing to Christina Townley, Board Administrator, State Board of Dentistry, P.O. Box 2649, Harrisburg, PA 17105-2649, ST-DENTISTRY@pa.gov.

*Findings*

The State Board of Dentistry finds that:

(1) Public notice was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to as the Commonwealth Documents Law and the regulations promulgated thereunder 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law and all comments were considered in drafting this final-form rulemaking.

(3) The amendments to this final-form rulemaking do not enlarge the original purpose for the proposed regulation published at 50 Pa.B. 6356.

(4) These amendments to the regulations of the State Board of Dentistry are necessary and appropriate for the regulation of the practice of dentistry in the Commonwealth.

*Order*

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

(A) The regulations of the State Board of Dentistry at 49 Pa. Code Chapter 33, are amended by amending § 33.3 and deleting § 33.339 to read as set forth in Annex A.

(B) The Board shall submit this final-form rulemaking to the Office of the Attorney General and the Office of General Counsel for approval as required by law.

(C) The Board shall submit this final-form rulemaking to IRRC, the HPLC and the SCP/PLC as required by law.

(D) The Board shall certify this final-form rulemaking and shall deposit it with the Legislative Reference Bureau as required by law.

(E) This final-form rulemaking shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

SHAWN M. CASEY, DMD,  
*Chairperson*

(*Editor's Note:* See 52 Pa.B. 6282 (October 1, 2022) for IRRC's approval order.)

**Fiscal Note:** Fiscal Note 16A-4634 remains valid for the final adoption of the subject regulations.

**Annex A**  
**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**  
**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 33. STATE BOARD OF DENTISTRY**

**Subchapter A. GENERAL PROVISIONS**

**§ 33.3. Fees.**

Following is the schedule of fees charged by the Board:

(a) *Application fees*

	<i>Effective November 5, 2022</i>	<i>Effective July 1, 2025</i>	<i>Effective July 1, 2027</i>
Dentist	\$235	\$260	\$282
Dental facility fictitious name	\$65	\$71	\$78
Dental hygienist	\$140	\$154	\$168
Expanded function dental assistant	\$110	\$120	\$132
Anesthesia—unrestricted	\$150	\$165	\$180
Anesthesia—restricted I	\$150	\$165	\$180
Anesthesia—restricted II	\$65	\$71	\$78
Dental hygienist local anesthesia	\$50	\$55	\$60
Public health dental hygienist practitioner	\$80	\$88	\$95
Expanded function dental assistant education program	\$315	\$345	\$378
Restricted faculty license	\$235	\$260	\$282
Criteria approval—dentists	\$235	\$260	\$282
Criteria approval—dental hygienists	\$140	\$154	\$168
Criteria approval—expanded function dental assistants	\$140	\$154	\$168

(b) *Biennial renewal fees*

Following is the schedule of biennial renewal fees charged by the Board:

	<i>April 1, 2023— March 31, 2025 biennial renewal</i>	<i>April 1, 2025— March 31, 2027 biennial renewal</i>	<i>April 1, 2027— March 31, 2029 biennial renewal and thereafter</i>
Dentist	\$310	\$366	\$432
Dental Hygienist	\$50	\$59	\$70
Expanded Function Dental Assistant	\$31	\$37	\$44
Anesthesia—unrestricted	\$248	\$293	\$346
Anesthesia—restricted I	\$248	\$293	\$346
Anesthesia—restricted II	\$63	\$74	\$87
Dental hygienist local anesthesia	\$50	\$59	\$70
Public health dental hygienist practitioner	\$50	\$59	\$70
Expanded Function Dental Assistant Education Program	\$118	\$139	\$164
Restricted faculty license	\$310	\$366	\$432

(c) *Miscellaneous fees*

Verification of license, permit or registration fee—dentists, dental hygienists and expanded function dental assistants..... \$15

Subchapter E. ADMINISTRATION OF GENERAL ANESTHESIA, DEEP SEDATION,  
CONSCIOUS SEDATION AND NITROUS OXIDE/OXYGEN ANALGESIA

§ 33.339. [ Reserved ].

[Pa.B. Doc. No. 22-1689. Filed for public inspection November 4, 2022, 9:00 a.m.]

**Title 58—RECREATION**

**GAME COMMISSION**

**[ 58 PA. CODE CH. 131 ]**

**Preliminary Provisions; Definitions**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its September 24, 2022, meeting amends § 131.2 (relating to definitions) to permit muzzleloading firearms that allow a cartridge of loose or pelletized black powder or black powder substitute to be loaded from the breech, while the projectile remains loaded from the muzzle to be used as a muzzleloading firearm.

This final-form rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

The authority for this final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 52 Pa.B. 5653 (September 3, 2022).

*1. Purpose and Authority*

As the nature of its name implies, a muzzleloading firearm is by definition “a firearm designed” to have its loose ammunition components “loaded . . . from the muzzle. . . .” In this instance, the ammunition components refer to the combination of the loose or pelletized black powder or black powder substitute and the projectile or projectiles. Recent developments in the firearms industry have generated muzzleloading firearms that can accommodate the loading of a captured powder charge similar to a cartridge, casing or shell that is loaded from the breech, with the projectile or projectiles remaining to be loaded from the muzzle. Current regulations specifically prohibit muzzleloaders that accept cartridge ammunition. However, this restriction was originally intended to restrict modern firearms that are loaded by a cartridge or casing that contains both the powder and the projectile. The Commission does not intend or desire for this restriction to apply to the previously-described muzzleloaders. The Commission amends § 131.2 to permit muzzleloading firearms that allow a cartridge of loose or pelletized black powder or black powder substitute to be loaded from the breech, while the projectile remains loaded from the muzzle to be used as a muzzleloading firearm.

Section 2102(d) of the code (relating to regulations) authorizes the Commission to “. . . promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used.” The amendments to § 131.2 are adopted under this authority.

*2. Regulatory Requirements*

This final-form rulemaking amends § 131.2 to permit muzzleloading firearms that allow a cartridge of loose or pelletized black powder or black powder substitute to be

loaded from the breech, while the projectile remains loaded from the muzzle, to be used as a muzzleloading firearm.

*3. Persons Affected*

Persons who utilize muzzleloaders that utilize a charge cartridge, casing or shell that is loaded from the breech and the projectile or projectiles remaining to be loaded from the muzzle within this Commonwealth will be affected by this final-form rulemaking.

*4. Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

*5. Cost and Paperwork Requirements*

This final-form rulemaking should not result in any additional cost or paperwork.

*6. Effective Date*

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

*7. Contact Person*

For further information regarding this final-form rulemaking, contact Jason L. DeCoskey, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

*Findings*

The Commission finds that:

(1) Public notice of intention to adopt the administrative 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), referred to as the Commonwealth Documents Law and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

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

*Order*

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 131, are amended by amending § 131.2 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Executive Director of the Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon publication in the *Pennsylvania Bulletin*.

BRYAN J. BURHANS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-484 remains valid for the final adoption of the subject regulation.

**Annex A**  
**TITLE 58. RECREATION**  
**PART III. GAME COMMISSION**  
**CHAPTER 131. PRELIMINARY PROVISIONS**

**§ 131.2. Definitions.**

In addition to the definitions contained in section 102 of the act (relating to definitions), the following words and terms, when used in this part or in the act, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

*Muzzleloading firearm—*

(i) A firearm designed and manufactured to be loaded with loose ammunition components (projectile and propellant charge) from the muzzle or forward, open end of the firearm's barrel.

(ii) The term includes full or partial breech-loading rifles and handguns that fire loose ammunition components comparable to a muzzleloading firearm.

(iii) The term does not authorize a firearm that accepts cartridge ammunition that contains both the projectile and propellant charge.

\* \* \* \* \*

[Pa.B. Doc. No. 22-1690. Filed for public inspection November 4, 2022, 9:00 a.m.]

## Title 58—RECREATION

### GAME COMMISSION

#### [ 58 PA. CODE CHS. 131 AND 135 ]

#### Preliminary Provisions; Definitions; Lands and Buildings; Shooting Ranges

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its September 24, 2022, meeting amends §§ 131.2 and 135.181 (relating to definitions; and rifle and handgun ranges) and deletes § 135.182 to eliminate the outdated and unnecessary text unique to State Game Lands No. 176 (SGL 176) and replaces it with new Statewide shotgun range regulations for both clay bird ranges and shotgun patterning ranges in § 135.182a (relating to shotgun ranges).

This final-form rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

The authority for this final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 52 Pa.B. 5653 (September 3, 2022).

#### 1. *Purpose and Authority*

The Commission manages the use and operation of the shooting ranges located on SGL 176, in part, under the provisions of § 135.182. The Commission manages the use and operation of the remainder of its 33 shooting ranges located on State game lands across this Commonwealth under the various provisions of § 135.181. The Commission reviewed this split regulatory structure and determined that the days and hours of operation and range reservation periods unique to the shooting ranges at SGL 176 are no longer necessary.

The deletion of the text in § 135.182 that is unique to SGL 176 will revert the management of the use and operation of the shooting ranges at this location entirely to the general provisions of § 135.181 which have State-wide application. This will result in a number of changes that are largely beneficial to users of the SGL 176 shooting ranges. As it relates to the deletion of paragraph (1), users will see an expansion in open shooting days to now include Mondays and Tuesdays but will also see hours of operation on Sundays restricted to 12 p.m. to sunset, except those specifically designated as being open from 8 a.m. to sunset. While certainly a change to the regulatory text, the Commission does not believe that a change will be observed by users of the shooting ranges at SGL 176, as the Commission itself has not followed these unique days and hours of operation language for approximately 8 years. As it relates to the deletion of paragraph (2), users will see the calendar window of opportunity for groups or organizations to reserve a range reduced from year-round to January 1 through October 1.

In replacement of the previously addressed deletion of text, the Commission adds § 135.182a to insert new shotgun range regulations that will be specific to the unique needs of these types of ranges not properly addressed by other existing regulations. The Commission currently only has a few ranges designated specifically as shotgun ranges. However, the Commission intends to establish more ranges soon as a result of their increasing popularity and use. The new regulation sets forth the types of firearms, ammunition and targets that may be used on shotgun ranges. The new regulation also establishes the standards for use of these shotgun ranges to help ensure that users of the ranges, as well as other persons and property in the vicinity of these ranges, are protected from harm or injury. These changes will also protect the significant investment the Commission has put into constructing the current and future facilities. The Commission amends §§ 131.2 and 135.181 and deletes § 135.182 to eliminate the outdated and unnecessary text unique to SGL 176 and replaces it with § 135.182a regarding new Statewide shotgun range regulations for both clay bird ranges and shotgun patterning ranges.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands or waters owned, leased or otherwise controlled by the commission shall be under the sole control of the director, and the commission shall promulgate regulations consistent with the purpose of this title for its use and protection as necessary to properly manage these lands or waters." The amendments to §§ 131.2 and 135.181, deletion of § 135.182 and addition of § 135.182a are adopted under this authority.

#### 2. *Regulatory Requirements*

This final-form rulemaking amends §§ 131.2 and 135.181 and deletes § 135.182 to eliminate the outdated and unnecessary text unique to SGL 176 and replaces it by adding § 135.182a regarding new Statewide shotgun range regulations for both clay bird ranges and shotgun patterning ranges.

#### 3. *Persons Affected*

Persons who utilize the shooting ranges located on SGL 176 will be affected by this final-form rulemaking.

#### 4. *Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

5. *Cost and Paperwork Requirements*

This final-form rulemaking should not result in any additional cost or paperwork.

6. *Effective Date*

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding this final-form rulemaking, contact Jason L. DeCoskey, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

*Findings*

The Commission finds that:

(1) Public notice of intention to adopt the administrative 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), referred to as the Commonwealth Documents Law and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

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

*Order*

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 131 and 135, are amended by amending §§ 131.2 and 135.181, adding § 135.182a and deleting § 135.182 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Executive Director of the Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon publication in the *Pennsylvania Bulletin*.

BRYAN J. BURHANS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-485 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 131. PRELIMINARY PROVISIONS**

**§ 131.2. Definitions.**

In addition to the definitions contained in section 102 of the act (relating to definitions), the following words and terms, when used in this part or in the act, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

*Broadhead*—A fixed or mechanical tip affixed to the fore end of an arrow or bolt having sharpened cutting edges consisting of metal or naturally occurring stone.

*Clay bird range*—An area where saucer-shaped targets, usually made of baked clay or limestone, are launched and targeted by a shooter using a firearm that discharges multiple projectile ammunition.

*Closed season*—Periods of the calendar year and hours during which it is unlawful to take game or wildlife.

\* \* \* \* \*

*Game Commission officer*—A wildlife conservation officer.

*Handgun range*—An area where paper targets are placed on or affixed to a stationary backer and targeted by a shooter using a handgun that discharges single projectile ammunition.

*Import*—To bring or have transported into this Commonwealth.

\* \* \* \* \*

*Meat or animal products*—For the purpose of section 2361(a)(13) of the act (relating to unlawful acts concerning taking of furbearers), meat or animal products include artificial representation or facsimiles.

*Multiple projectile ammunition*—Cartridge or shell ammunition that is loaded with shot pellets or multiple loose projectiles designed to spread or scatter upon discharge from a firearm.

*Muzzleloading firearm*—

(i) A firearm designed and manufactured to be loaded with loose ammunition components (projectile and propellant charge) from the muzzle or forward, open end of the firearm's barrel.

\* \* \* \* \*

*Regular small game hunting season*—The designated period of time when resident small game species may be hunted and taken.

*Rifle range*—An area where paper targets are placed on or affixed to a stationary backer and targeted by a shooter using a firearm that discharges single projectile ammunition.

*Shotgun patterning range*—An area where paper targets are placed on or affixed to a stationary backer and targeted by a shooter using a firearm that discharges multiple projectile ammunition.

*Shotgun range*—A firearms range designated by the Commission as a clay bird range or shotgun patterning range.

*Single projectile ammunition*—A cartridge or shell ammunition that is loaded with a single projectile designed to remain intact upon discharge from a firearm.

*Special firearms deer season*—Any firearms deer season, except muzzleloader season, that precedes the regular firearms deer season.

\* \* \* \* \*

**CHAPTER 135. LANDS AND BUILDINGS**

**Subchapter J. Shooting Ranges**

**§ 135.181. Rifle and handgun ranges.**

(a) *General provisions.* In addition to § 135.2 (relating to unlawful actions), the following pertain to lands under Commission ownership, lease or jurisdiction designated as rifle or handgun ranges:

\* \* \* \* \*



§ 135.182. [ Reserved ].

§ 135.182a. Shotgun ranges.

(a) *Shotgun ranges.* In addition to § 135.2 (relating to unlawful actions) the following pertain to lands under Commission ownership, lease or jurisdiction designated as shotgun ranges:

(1) Shotgun ranges are open for use from 8 a.m., prevailing time, until sunset Monday through Saturday and from 12 p.m. to sunset Sunday, unless posted otherwise by the Commission.

(2) A person using a shotgun range is responsible for keeping the area clean and free of debris, and may not discard, deposit, leave or throw litter, except in approved refuse containers. Range users shall remove all targets from range backboards, if applicable, and collect used cartridge casings or shotshell hulls when their shooting is completed and prior to leaving the range.

(3) The Commission is not responsible for anyone injured on a shotgun range. An individual using a shotgun range does so at their own risk and assumes all responsibility for injuries to a person or property caused by or to them.

(4) When more than one person is using a shotgun range, a range officer shall be designated.

(5) A person under 16 years of age may not use a shotgun range unless they are properly accompanied and supervised by a person 18 years of age or older.

(6) The Commission or any designated local representative may close a shotgun range by posting appropriate signs to that effect. A person may not use a shotgun range during a period when the range is designated as closed.

(b) *Prohibited acts.* At a shotgun range located on land under Commission ownership, lease or jurisdiction, except when authorized by the appropriate regional director or a designee, it is unlawful to:

(1) Discharge a firearm from any location other than an established shooting station or shooting location on the designated firing line.

(2) Discharge a firearm on a shotgun patterning range at any target other than a paper target placed on a stationary target backboard mounted by the Commission.

(3) Discharge armor piercing, incendiary, explosive, tracer or single projectile ammunition.

(4) Be intoxicated, use or possess an intoxicating beverage or controlled substance.

(5) Discharge an automatic firearm.

(6) Load or discharge a firearm that contains more than three rounds of multiple projectile ammunition.

(7) Target or shoot at clay birds anywhere on the range except areas designated by the director by signs stating that clay bird shooting is permitted.

(8) Load or discharge a firearm or use a range facility for any reason without possessing a valid Pennsylvania hunting or furtaker license or a Commission-issued range permit signed by its holder. This prohibition does not apply to persons 15 years of age or younger or up to one person accompanying another person in possession of a valid Pennsylvania hunting or furtaker license or a Commission-issued range permit.

(9) Operate, manipulate or discharge a firearm in negligent disregard for the safety of other persons present at or nearby the range. This prohibition is specifically intended to include loading a firearm, operating or manipulating a loaded firearm, or discharging a firearm anywhere on a shotgun range while another person is downrange of the firing line.

(10) Use or discharge any single projectile ammunition.

(11) Use or discharge multiple projectile ammunition on a clay bird range that is larger than # 4 lead, # 2 steel or # 4 of any other composition or alloys of nontoxic shot approved by the Director of the United States Fish and Wildlife Service or an authorized representative under 50 CFR 20.134 (relating to approval of nontoxic shot types and shot coatings).

(12) Throw, target or shoot clay birds on a clay bird range that are composed of any substance other than baked clay, limestone or other biodegradable material.

(13) Throw clay birds on a clay bird range from any location other than the designated firing line.

(14) Use the range in violation of any other requirement of this section or posted signage.

[Pa.B. Doc. No. 22-1691. Filed for public inspection November 4, 2022, 9:00 a.m.]