

# PROPOSED RULEMAKING

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

[25 PA. CODE CHS. 91, 97 AND 101]

### Wastewater Management; Advance Notice of Final Rulemaking

The Department of Environmental Protection (Department) is soliciting comments on changes it recommends to be made to the proposed amendments, which were published as proposed rulemaking at 27 Pa.B. 4343 (August 23, 1997). The Department is also holding one public hearing for the purpose of accepting comments from the public.

The draft final regulations are designed, in part, to supplement the Department's implementation of its "Final Strategy for Meeting Federal Requirements for Controlling Water Quality Impacts of Concentrated Animal Feeding Operations" (the CAFO Strategy). Notice of this strategy was published at 29 Pa.B. 1439 (March 13, 1999). In response to the implementation of this strategy and following the Department's review of other related information, including public comments on the proposed rulemaking, the Department has prepared a draft final regulations for public comment. The draft final regulation contain significant changes in four major areas. Sections 91.6, 91.11 and 91.34 have been revised to provide guidance on pollution prevention measures. The freeboard requirements for waste impoundments in § 91.35 have been revised to reflect the CAFO Strategy. The agricultural operation pollution control and prevention provisions of § 91.36 have also been revised to reflect the CAFO Strategy. And finally, regulatory language is being proposed to replace guidance outlined in proposed § 91.37 relating to private projects.

While there is no legal requirement to provide an opportunity to comment upon the Department's recommendations for final rulemaking, the Department believes further discussion would serve the public interest in this instance.

A copy of the draft final regulations is available from Mary Miller at the Department of Environmental Protection, Bureau of Water Quality Protection, (717) 787-8184. Written comments on the draft final regulations must be received by May 26, 1999; no telefax comments will be accepted. Comments or requests for copies should be addressed or delivered to Milton Lauch, Chief, Division of Wastewater Management, Bureau of Water Quality Protection, P. O. Box 8774, 10th Floor, Rachel Carson State Office Building, Harrisburg, PA 17105-8774. The draft final regulations are also available electronically through the DEP Web site (<http://www.dep.state.pa.us>). Comments may be transmitted electronically to [RegComments@A1.dep.state.pa.us](mailto:RegComments@A1.dep.state.pa.us), and must also be received by May 26, 1999. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgement of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

A public hearing on the draft final regulations will be held at 6:30 p.m. on May 25, 1999, at the Southcentral

Regional Office of the Department of Environmental Protection, which is located at 909 Elmerton Avenue, Harrisburg, PA.

Persons wishing to present testimony at the hearings are requested to contact Mary Miller at (717) 787-8184 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson at the time of the hearing. Each organization is limited to designating one witness to present testimony on its behalf.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Mary Miller at (717) 787-8184 or the Pennsylvania AT&T Relay Service at (800) 654-5984 to discuss how the Department may accommodate their needs.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 99-657. Filed for public inspection April 23, 1999, 9:00 a.m.]

## STATE BOARD OF PSYCHOLOGY

[49 PA. CODE CH. 41]

### Application Fees

The State Board of Psychology (Board) proposes to amend § 41.12 (relating to fees) by revising certain application fees to read as set forth in Annex A.

#### A. Effective Date

The proposed amendment will be effective upon publication of the final-form regulation in the *Pennsylvania Bulletin*.

#### B. Statutory Authority

The proposed amendment is authorized under section 3.3(d) of the Professional Psychologists Practice Act (act) (63 P. S. § 1203.3(d)).

#### C. Background and Purpose

The act requires the Board to set fees by regulation so that revenues meet or exceed expenditures over a biennial period. General operating expenses of the Board are funded through biennial license renewal fees. Expenses related to applications or services which are provided directly to individual licensees or applicants are excluded from general operating revenues and are funded through fees in which the cost of providing the service forms the basis for the fee.

In a recent systems audit of the operations of the Board within the Bureau of Professional and Occupational Affairs, the fees for services to licensees and applicants were analyzed to determine if the fees reflected the actual cost of providing the services. Actual cost calculations are based upon the following formula:

number of minutes to perform the function  
 ×  
 pay rate for the classification of personnel performing the function  
 +  
 a proportionate share of administrative overhead

The analysis determined that the fees for five services do not accurately reflect the actual cost of providing those services: reapplication following a first examination failure; reapplication following subsequent examination failure; verification of license; certification of examination scores and experience; and, fictitious and corporate name registration. The first reapplication fee and certification of scores/license have not been revised since 1987, while the subsequent reapplication fee was last revised in 1990. No fee is in place for verification of licensure or for registration of a corporate or fictitious name. The application fee following a second or subsequent examination failure exceeded the actual cost of providing the service.

Sections 41.26 and 41.27 (relating to professional corporations; and fictitious names) require the Board to review and approve articles of incorporation and registry statements for proposed corporations and fictitious name registrations in accordance with § 41.61 (relating to Code of Ethics). This review process involves Board staff, including the Administrator, as well as the entire Board.

In this proposal, fees for the services identified previously would be adjusted to allocate costs to those who use the service or make application. The Board would continue to apportion enforcement and operating costs to the general licensing population by means of its license renewal fee through the biennial reconciliation of revenue and expenditures.

*D. Compliance with Executive Order 1996-1*

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the proposed amendment the Board considered the least restrictive alternative to regulate costs for services requested by licensees and applicants.

*E. Fiscal Impact and Paperwork Requirements*

The proposed amendment will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The fees will have a modest fiscal impact on those members of the private sector who apply for services from the Board. The proposed amendment will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

*F. Sunset Date*

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

*G. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 12, 1999, the Board submitted a copy of proposed amendment to the Independent Regulatory Review Commission (IRRC) and the Chairperson of

the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. In addition to submitting the proposed amendment, the Board has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendment, it will notify the Board within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the amendments, by the Board, the General Assembly and the Governor, of objections raised.

*H. Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Melissa M. Wilson, Administrative Assistant, State Board of Psychology, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking. Please reference No. 16A-636 (Application Fees), when submitting comments.

YVONNE E. KEAIRNS, Ph.D.,  
 Chairperson

**Fiscal Note:** 16A-636. No fiscal impact; recommends adoption.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 41. STATE BOARD OF PSYCHOLOGY LICENSES**

**§ 41.12. Fees.**

The schedule of fees charged by the Board is as follows:

	* * * * *	
Reapplication fee—first time examination failure.....		\$[ 15 ]20
Reapplication fee—subsequent examination failure .....		\$[ 105 ]90
	* * * * *	
Certification fee .....		\$[ 15 ]25
<b>Verification fee</b> .....		<b>\$15</b>
	* * * * *	
<b>Fictitious/corporate name registration</b> .....		<b>\$80</b>

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