

**Fiscal Note:** 14-NOT-1371. (1) General Fund; (2) Implementing Year 2018-19 is \$2,000,000; (3) 1st Succeeding Year 2019-20 through 5th Succeeding Year 2023-24 are \$0; (4) 2017-18 Program—\$477,690,000; 2016-17 Program—\$450,970,000; 2015-16 Program—\$392,918,000; (7) Medical Assistance—Fee-for-Service; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 19-1820. Filed for public inspection December 6, 2019, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Application for Lease of Right-of-Way

Under 67 Pa. Code § 495.4(d) (relating to application procedure), an application to lease Department of Transportation (Department) excess land has been submitted to the Department by Delaware River WaterFront Corp., 121 North Columbus Boulevard, Philadelphia, PA 19106 seeking to lease highway right-of-way located at North Front, Allen and Laurel Streets, Philadelphia, PA 19123, Philadelphia County, approximately 61,904 ± square feet/hectares, adjacent to SR 0095, LR1000 Section B6RW, for purposes of parking.

Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions or objections regarding the approval of this application to Kenneth M. McClain, PE, District Executive, Engineering District 6.0, 7000 Geerdes Boulevard, King of Prussia, PA 19406-1525.

Questions regarding this application or the proposed use may be directed to Barbara DiCianno, Right-of-Way Administrator, 7000 Geerdes Boulevard, King of Prussia, PA 19406, (610) 205-6504.

LESLIE S. RICHARDS,  
*Secretary*

[Pa.B. Doc. No. 19-1821. Filed for public inspection December 6, 2019, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10 a.m., Thursday, November 21, 2019, and announced the following:

#### *Actions Taken—Regulations Approved:*

State Board of Veterinary Medicine # 16A-5727: Certified Veterinary Technicians and Veterinary Assistants (amends 49 Pa. Code Chapter 31)

Pennsylvania Public Utility # 57-323: Assumption of Commission Jurisdiction Over Pole Attachments from the Federal Communications Commission (amends 52 Pa. Code by adding Chapter 77)

### Approval Order

Public Meeting Held  
November 21, 2019

*Commissioners Voting:* George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; W. Russell Faber; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*State Board of Veterinary Medicine  
Certified Veterinary Technicians and Veterinary Assistants  
Regulation No. 16A-5727 (# 3221)*

On November 7, 2018, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Veterinary Medicine (Board). This rulemaking amends 49 Pa. Code Chapter 31. The proposed regulation was published in the November 24, 2018 *Pennsylvania Bulletin* with a public comment period ending on December 24, 2018. The final-form regulation was submitted to the Commission on October 10, 2019.

This rulemaking removes the 10-year bar on certification or automatic renewal for certified veterinary technicians who have been convicted of a felony under the Controlled Substance, Drug, Device and Cosmetic Act. It also amends, updates and clarifies rules related to examination, rules of conduct and reactivation of a license.

We have determined this regulation is consistent with the statutory authority of the Board (63 P.S. §§ 485.5 and 485.11) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

### Approval Order

Public Meeting Held  
November 21, 2019

*Commissioners Voting:* George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; W. Russell Faber; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*Pennsylvania Public Utility Commission  
Assumption of Commission Jurisdiction  
Over Pole Attachments from the  
Federal Communications Commission  
Regulation No. 57-323 (# 3214)*

On September 13, 2018, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Public Utility Commission (PUC). This rulemaking amends 52 Pa. Code by adding Chapter 77. The proposed regulation was published in the September 29, 2018 *Pennsylvania Bulletin* with a public comment period ending on November 28, 2018. The final-form regulation was submitted to the Commission on October 21, 2019.

This final-form rulemaking exercises reverse-preemption of the Federal Communication Commission regulation of utility pole attachments pursuant to 47 U.S.C. § 224.

We have determined this regulation is consistent with the statutory authority of the PUC (66 Pa.C.S. §§ 313, 314, 501, 701, 1301 and 1501) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

GEORGE D. BEDWICK,  
*Chairperson*

[Pa.B. Doc. No. 19-1822. Filed for public inspection December 6, 2019, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
47-20	Milk Marketing Board Transactions Between Dealers and Producers; Payment 49 Pa.B. 5455 (September 21, 2019)	10/21/19	11/20/19

#### **Milk Marketing Board Regulation # 47-20 (IRRC # 3243)**

#### **Transactions Between Dealers and Producers; Payment**

**November 20, 2019**

We submit for your consideration the following comments on the proposed rulemaking published in the September 21, 2019 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (RRA) (71 P.S. § 745.5b). Section 5.1(a) of the RRA (71 P.S. § 745.5a(a)) directs the Milk Marketing Board (Board) to respond to all comments received from us or any other source.

#### **Section 143.15. Cooperative communication of over-order premium.—Clarity; Need for the regulation.**

Subsection (b) states,

For the purpose of this section, “the specific amount of the Pennsylvania Milk Marketing Board over-order premium being paid” shall be calculated monthly by each cooperative by dividing the total over-order premium paid to the cooperative by the total cooperative member pounds marketed.

As written, the proposed regulation would result in a listing on each cooperative member’s statement of the average over-order premium paid to the entire cooperative for a given month.

In the Preamble, the Board explains the purpose of the proposed regulation as the following:

The Board mandates, by way of official general order, an over-order premium be paid to producers in this Commonwealth based on milk produced, processed and sold in this Commonwealth. The Board requires milk dealers to provide a line item on monthly statements to producers that shows the amount of over-order premium being paid. The [Milk Marketing Act] defines cooperatives as “producers,” so coopera-

tives are told how much over-order premium they are paid. However, there is no similar requirement that cooperatives provide a line item on monthly statements to their members that shows the amount of over-order premium the members are paid. This regulation would require cooperatives to provide a line item on monthly statements to their members disclosing the amount of over-order premium being paid.

Rep. John Lawrence, whose efforts prompted the regulation, comments that the intent of the regulation is “to ensure transparency and disclosure of state[-]mandated premiums to all Pennsylvania dairy farmers.” To meet this need, Rep. Lawrence recommends that the regulation be amended to require monthly statements to show the amount of over-order premium paid to each individual member. A statement by the Board in the Preamble seems to support Rep. Lawrence’s perspective: “Because they lack information, many cooperative members are skeptical and even distrustful of the Commonwealth and Board, as well as the cooperatives, when discussing their income. They do not understand how the system is benefitting them in any way and believe they are not, in fact, receiving what they are entitled to receive.”

The Board responds, in part, to Question # 10 of the Regulatory Analysis Form which asks why the regulation is needed, that “the majority of those 4,500 producers do not have a line item currently on their statements detailing the amount of over-order premium they are being paid. Those producers, approximately 4,200—4,300, who do not have the line item are the intended beneficiaries of this regulation.”

Based on the comment from Rep. Lawrence and the Board’s explanations, we question whether the proposed regulation truly addresses the concerns of the cooperative members and the need stated by the Board. We ask the Board either to amend the final regulation to require monthly statements to show the amount of over-order