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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

March 7, 2002

Honorable Samuel E. Hayes, Jr., Secretary
Department of Agriculture
211 Agriculture Building
2301 North Cameron Street
Harrisburg, PA 17110

Re: Regulation #2-135 (IRRC #2241)
Department of Agriculture
Dog Licensure

Dear Secretary Hayes:

Enclosed are our Comments. They will soon be available on our website at www.irrc.state.pa.us.

Our Comments list objections and suggestions for consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you would like to discuss these Comments, please contact my office at 783-5417.

Sincerely,

A handwritten signature in black ink that reads "Robert E. Nyce". The signature is fluid and cursive.

Robert E. Nyce
Executive Director
evp
Enclosure

cc: Honorable Raymond Bunt, Jr., Majority Chairman, House Agriculture and Rural Affairs Committee
Honorable Peter J. Daley, II, Democratic Chairman, House Agriculture and Rural Affairs Committee
Honorable Mike Waugh, Chairman, Senate Agriculture and Rural Affairs Committee
Honorable Michael A. O'Pake, Minority Chairman, Senate Agriculture and Rural Affairs Committee

Comments of the Independent Regulatory Review Commission

on

Department of Agriculture Regulation No. 2-135

Dog Licensure

March 7, 2002

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which have not been met. The Department of Agriculture (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by February 4, 2004, the regulation will be deemed withdrawn.

1. Fiscal impact of the regulation on county treasurers. – Economic and fiscal impact.

In response to Question #18 on the Regulatory Analysis Form, the Department states that this regulation will not impose any compliance costs on local governments. However, county treasurers assert that they will incur costs for updating their computer programs to accommodate both the license number and the microchip number. The Department should include an analysis of the costs for counties to update their computer programs when it submits the final-form regulation.

2. Process for applying for a lifetime dog license. – Reasonableness.

As written, the proposed regulation requires a dog owner to apply for a lifetime license prior to having a dog microchipped. After the microchip is installed, the person installing the chip records the microchip number on the license application, and the dog owner returns the completed paperwork to the county treasurer's office. The lifetime license is then issued.

Commentators have noted that this procedure is overly complicated for dogs which are microchipped. After a dog is microchipped, the owner could simply bring the microchip certificate to the county treasurer's office, at which point, the microchip identification number could be recorded and the lifetime license could be issued.

We agree with the commentators that the proposed process appears to be unnecessarily complicated. The Department should consider adopting a more streamlined process for granting a lifetime license for microchipped dogs.

3. Section 21.1. Definitions. – Need.

This section defines the term "releasing agency." However, this term is not used elsewhere in Chapter 21. Therefore, it appears that the definition of this term is unnecessary and should be deleted.

4. Section 21.4. Penalties. – Clarity.

The Department is proposing to delete this section which contains the penalties for the violation of this chapter. In the Preamble, the Department indicates, “there is no need to repeat the penalties in the regulation.” For clarity, rather than eliminate the penalty section in its entirety, the Department should consider replacing the content of this section with a cross-reference to the section relating to penalties contained in the Dog Law at 3 P.S. § 459-201(c).

5. Section 21.51. Lifetime dog license issuance. – Consistency with the statute; Reasonableness; Clarity.

Subsection (b)

Paragraphs (b)(2) and (b)(7) require the county treasurer to “assign” or “issue” the microchip license number. Paragraph (c)(1) also refers to the microchip license number “assigned” by the treasurer. Commentators have noted that the microchip number is pre-programmed into the chip by the manufacturer, and cannot be “assigned” by the county treasurer.

In the final-form regulation, Paragraphs (b)(2), (b)(7) and (c)(1) should be amended to clarify that the lifetime license number will be assigned by the county treasurer. In instances where microchipping is used, the county treasurer will record the microchip number, as well as the license number, on the license certificate.

Subsection (c)

This subsection addresses the dog owner’s responsibilities for obtaining a lifetime dog license. However, this subsection does not specifically address the process to be followed for owners who had their dogs microchipped before the effective date of this regulation, or for new owners of previously microchipped dogs. The final-form regulation should specify the process for these parties to obtain lifetime dog licenses.

Paragraph (c)(3) states that the “person implanting the microchip shall record the identifying number on the microchip on the tattoo/microchip license certificate.” This sentence is confusing. It appears that the intent is to require the microchip number to be recorded on the license certificate. The final-form regulation should be revised to make the intent of this provision clearer.

Subsection (d)

Paragraph (d)(1) states that the county treasurer will issue the lifetime license and tag “upon receipt of the properly completed tattoo/microchip certificate....” Prior to obtaining a lifetime license, the dog owner must also remit the appropriate fee set forth in the Dog Law. For clarity, this subsection should contain a cross-reference to the fees established in 3 P.S. § 459-201(b).

In Paragraph (d)(2), should the reference to the “microchip-license number” be changed to “lifetime license number”?

Paragraph (d)(3) refers to a 50-cent issuance fee. However, Section 200(b) of the Dog Law (3 P.S. § 459-200(b)) authorizes a \$1 fee. In the final-form regulation, the fee referenced in Paragraph (d)(3) should be consistent with the Dog Law.

Subsection (e)

In this subsection, the phrase “with the county treasurer’s copy behind filed in sequence” is confusing. The Department should clarify this phrase in the final-form regulation.

6. Section 21.52. Recordkeeping for lifetime dog licenses. - Need; Clarity.

This section repeats the requirement in Section 21.51(e) that “the county treasurer or an agent shall mail or electronically transmit a monthly record of lifetime licenses information to the Department.” The Department should eliminate one of the repetitious provisions.

The regulation provides that the counties are to retain the records for 20 years. How long is the Department going to retain records for lifetime dog licenses?

7. Section 21.53. Transfer of lifetime dog licenses. - Clarity.

This section provides the issuance of a new license or tag is not required when transferring a lifetime dog license. We have four concerns.

First, the regulation does not specify a period of time within which an owner must notify the county that issued the lifetime license after a change of address or change of ownership.

Second, the regulation is unclear as to what information is necessary for the owner to provide as part of the transfer application.

Third, Section 205(a) of the Dog Law (3 P.S. § 459-205(a) specifies a \$1 fee for transferring a license. This fee is neither included nor cross-referenced in the regulation.

Finally, the regulation is silent regarding the applicability of the transfer process for a dog owner moving to Pennsylvania from another state with a dog that has already been tattooed or implanted with a microchip in the former state of residence.

Clarity would be improved if this information were included in the final-form regulation.