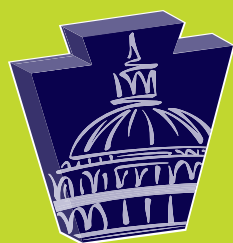


2007 ANNUAL REPORT



**IRRC**

Independent Regulatory Review Commission



**IRRC**

Independent Regulatory Review Commission

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# Mission & Vision Statement

## **MISSION:**

To assist the Governor and General Assembly in creating a beneficial regulatory balance.

## **VISION:**

The Commission will increase communication with and availability to agencies, the General Assembly and the regulatory public to achieve a streamlined and effective review process. We will achieve this in a spirit of cooperation through review of proposed and existing regulations, assistance to agencies with document drafting and availability to our clients through meetings, seminars and workshops intended to resolve particular issues encountered by specific audiences.

# Chairman's Message

On behalf of my fellow Commissioners and the staff of the Independent Regulatory Review Commission (IRRC), I am pleased to present our annual report for 2007.

This report bears special significance in that it marks the Commission's first 25 years of operation in service to the citizens of the Commonwealth and my first year as its Chairman. At first glance, the work of this Commission appears straightforward. We review the regulations proposed by the various agencies of the Commonwealth and approve those that are in the public interest. However, upon further examination, the daily operations of the Commission are quite challenging.

The role of the Commission is firmly rooted in the Regulatory Review Act (RRA) but has been clearly defined by the responsibilities we have to the administration, the legislature and the regulated public in trying to achieve the most beneficial regulatory balance. To accomplish this, the Commission provides a forum in which proposed regulations benefit from the considered input of all affected parties.

Our own comments and actions are based solely upon the statutory criteria set forth in the RRA and they provide a remarkable basis upon which to assess the impact of a regulation. Our public meetings provide a venue where agencies, the legislature and the general public can discuss the merits of regulations before they go into effect. They ultimately provide the General Assembly with an opportunity to fully consider if a regulation suitably reflects the intention of underlying legislation.

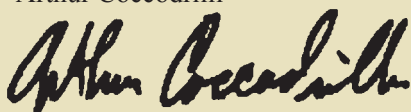
A growing part of our responsibilities also includes adjusting to the demands of the administration, the legislature and the regulated public. To that end, we have expanded our outreach capacity to allow us to provide informative sessions on the regulatory process, training on regulatory drafting skills and seminars to help the regulated public better understand how they can effectively participate in the regulatory process. We are a routine fixture at public meetings and seminars on upcoming regulations. We participate in site visits to help us better understand the underlying issues driving new regulations. All of this helps ensure that we, as a Commission, are not an advocate for a specific point of view; rather, we are an advocate for the process that generates the final regulation.

We also recognize that a growing part of our responsibilities is to provide accurate and timely information about regulations and the approval process to interested members of the public and state government. We are constantly updating and revising our database of information and our website to provide this information in a format that individuals can either access in person, by mail or with just a few clicks on the internet.

To my colleagues, thank you for your confidence in electing me as your Chairman. I will do my best to carry on the fine traditions of my predecessors. And in closing my first Chairman's message I want to thank all of the participants in the regulatory process. Your attendance at public meetings, your letters regarding regulations, your interest and conviction contribute each day toward helping the Commonwealth be a progressive, prosperous and healthy place to live and work.

I look forward to more success in 2008.

Arthur Coccodrilli

  
Chairman



# Commissioners, Executive Director & Chief Counsel

The Independent Regulatory Review Commission consists of five commissioners - one appointed by the governor, one by the President Pro Tempore of the Senate, one by the speaker of the House of Representatives, one by the Minority Leader of the Senate and one by the Minority Leader of the House of Representatives. A commissioner may not be a commonwealth employee or hold an elected or appointed position in Pennsylvania Government.

## Chairman

Arthur Coccodrilli was appointed to the Commission in 1996 by The Honorable Robert J. Mellow, Senate Democratic Floor Leader, and reappointed in February 2000, February 2003 and February 2006. He was elected Chairman in December 2006. He is partner in the Snyder Granite Company and resides in Peckville, PA. He earned his BA in Political Science from Widener University.



ARTHUR COCCODRILLI  
CHAIRMAN

## Commissioners

Alvin C. Bush was appointed to the Commission in 1997 by The Honorable Robert Jubelirer, President Pro Tempore of the Senate, and reappointed in July 2000, October 2003 and November 2006; elected Vice Chairman in January 1998; reelected in January 2000, January 2002, and January 2004; ascended to Chairman in May 2006 and elected Vice Chairman in January 2007.

He is a former member of the House of Representatives; District 84, Lycoming County. He is Chairman Emeritus, Pennsylvania College of Technology; Chairman Emeritus, Our Towns 2010; Member, Williamsport Lycoming Foundation Advisory Board; Member, Williamsport Community Arts Board and a newspaper columnist and resides in Williamsport, PA. He earned his BS from the University of North Carolina.



ALVIN C. BUSH  
VICE CHAIRMAN

# Commissioners, Executive Director & Chief Counsel

## Commissioners

David J. DeVries was appointed to the Commission in June of 2006 by The Honorable Edward G. Rendell, Governor. He most recently served as Executive Deputy General Counsel in the Governor's Office of General Counsel and previously as Chief Deputy Attorney General for Legal Review with the Office of Attorney General. He earned his BA from Lafayette College, his MA from Pennsylvania State University, and his JD from Ohio State University College of Law. He resides in Camp Hill, PA.



DAVID J. DEVRIES, ESQ.  
COMMISSIONER

Nancy Sabol Frantz was appointed to the Commission in December of 2007 by The Honorable Samuel H. Smith, House Republican Floor Leader.

She is a partner in White and Williams LLP and resides in Bala Cynwyd, PA. She earned her BS from Pennsylvania State University and her JD from Villanova University School of Law.



NANCY SABOL FRANTZ, ESQ.  
COMMISSIONER

John F. Mizner was appointed to the Commission in 1995 by The Honorable Thomas J. Ridge, Governor, and appointed in June 2005 by The Honorable John M. Perzel, Speaker of the House.

He is currently with Conner, Riley, Friedman & Weichler and resides in Erie, PA. He earned his BA from St. Vincent College and his JD from the University of Pittsburgh School of Law.



JOHN F. MIZNER, ESQ.  
COMMISSIONER

# Commissioners, Executive Director & Chief Counsel

## Commissioners

David M. Barasch was appointed to the Commission in July 2006 by The Honorable H. William DeWeese, House Democratic Leader. He resigned his Commission in July 2007 to accept his current position as Executive Deputy Secretary at the Pennsylvania Department of Revenue.



DAVID M. BARASCH, ESQ.  
COMMISSIONER

## Executive Director

Kim Kaufman was appointed to the Commission in May 2005. Kim has 17 prior years of experience in state government working for the Department of Community and Economic Development, and served as the Executive Director of the Pennsylvania Economic Development Financing Authority (PEDFA) and the Pennsylvania Industrial Development Authority (PIDA). He also previously worked for P. Joseph Lehman Consulting Engineer and CENTECH – University of Pittsburgh, Johnstown Campus.

He earned his BA in Government and MS in Public Administration from Shippensburg State College.

He resides in Dillsburg, PA and is married to the former Terri Docherty and has one son, John.



KIM KAUFMAN  
EXECUTIVE DIRECTOR

## Chief Counsel

Leslie A. Lewis Johnson was appointed as the Commission's Chief Counsel in July 2007; she was previously hired as Deputy Chief Counsel in 2006. Prior to 2006, Leslie had 14 years of experience with the Pennsylvania State System of Higher Education, where she served as legal counsel to Cheyney, East Stroudsburg, Kutztown and West Chester Universities. She was also an associate with the law firm of McNees Wallace & Nurick, LLC.

She earned her BA in Economics from Spelman College and her JD from the University of Pennsylvania Law School.



LESLIE LEWIS JOHNSON  
CHIEF COUNSEL



# Personnel

## Administration Section



Left to Right: Kathy Cooper, Administrative Assistant; Heather Wimbush Emery, Assistant Counsel; Kristine M. Shomper, Director for Administration/Comptroller; Leslie A. Lewis Johnson, Chief Counsel; Cheryl A. Yohn, Administrative Associate; Kim Kaufman, Executive Director

## Regulatory Review Section



Left to Right: John H. Jewett, Regulatory Analyst; Michael J. Stephens, Regulatory Analyst; Michael A. Totino, Regulatory Analyst; Fiona E. Wilmarth, Director of Regulatory Review; Scott R. Schalles, Regulatory Analyst; Wanda B. Gelnett, Administrative Assistant; James M. Smith, Regulatory Analyst

# Personnel

## Outreach & Regulatory Services Section



Left to Right: Sarah E. Miller, Regulatory Services Analyst;  
Stephen F. Hoffman, Research Technician;  
Mary Lou Harris, Director of Outreach and Regulatory Services

## Legal Section



Left to Right: Leslie A. Lewis Johnson, Chief Counsel;  
Heather Wimbush Emery, Assistant Counsel

# Year in Review

Regulations considered by IRRC in 2007 covered a broad spectrum of issues. Our reviews included regulations on odor management certification programs, hazardous waste, preneed funeral arrangements, county correctional institutions and pharmacy sales of hypodermic needles and syringes. In 2007, IRRC reviewed 114 proposed, final and final-omitted regulations. To carry out our activities our fiscal year appropriation in 06-07 and 07-08 was \$2,050,000.

In the fall of 2007, we welcomed Nancy Sabol Frantz as a Commissioner. Ms. Frantz was appointed to fulfill the vacancy of David Barasch who resigned his appointment to accept a position elsewhere in state government.

IRRC also experienced staff changes during 2007. We said a sad goodbye to our Chief Counsel Mary Wyatte. We wish Mary the best in her retirement from the Commonwealth. Leslie Lewis Johnson was promoted to Chief Counsel, and we welcomed Heather Wimbush Emery as Assistant Counsel. Before her service to IRRC, Heather served as Assistant General Counsel for the Governor's Office of General Counsel. Michael Totino joined IRRC as an Analyst in the spring. Michael has prior experience in State Government with both the Pennsylvania Department of Education and the Pennsylvania State Board of Education.



IRRC Legislative Seminar

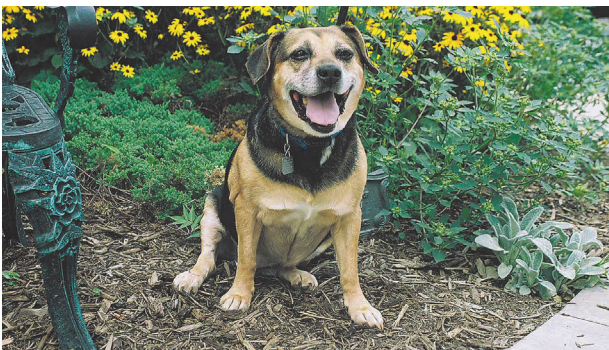
IRRC continued to do courtesy reviews of draft proposals. This process allows us to provide early feedback to the promulgating agency that can ultimately enhance the clarity and accuracy of the formal proposed regulation. In total, we conducted 16 reviews of draft regulations this year. Of those drafts that IRRC reviewed in the past two years, 11 have been subsequently submitted as proposed or final-omitted regulations.



Robert Soper, President and CEO of Mohegan Sun at Pocono Downs, and Analyst Scott Schalles at Pocono Downs for a site visit

In 2007, we gave a variety of presentation and seminars tailored to specific audiences on the regulatory review process. Through these presentations, we spoke with over 400 people about IRRC and effective participation in the regulatory review process.

We encourage you to check our website for useful documents and information. You can find copies of Commission comments on regulations, our docket of proposed and final regulations currently under review, and upcoming public meeting dates and agendas. In addition to Commission comments, you are now able to view all comments IRRC has received on any given regulation. Announcements about regulatory review process seminars that we are holding during the year and all IRRC publications are also available on the website. We have revised and updated our process manual, The Regulatory Review Process in Pennsylvania, which contains a comprehensive explanation of the regulatory review process. We published our inaugural newsletter Common Ground in August. We plan to publish this newsletter biannually.



The Department of Agriculture's Dog Law Enforcement Regulation

# Year in Review



Executive Director Kim Kaufman speaks at Shippensburg University

If you are interested in commenting on a regulation, our contact information is on the back cover of this publication and on our website. As part of our ongoing efforts to reduce paper use, we encourage email communication. Comments can be sent to us at [irrc@irrc.state.pa.us](mailto:irrc@irrc.state.pa.us). Since our process is bound by strict timeframes, please be mindful of the statutory deadlines that are listed on our docket. Please be aware that any comments on a regulation are a matter of public record.

We appreciate constructive criticism. This applies to our seminars, our website and public meeting format. We welcome your suggestions for improving any of these items.



The Staff of the Independent Regulatory Review Commission

# Year in Review



Chris Doane and Peter Salvatore of the Insurance Department speak at an IRRC Public Meeting



IRRC Commissioners and Staff visit the Gaming Control Board's Bureau of Gaming Laboratory Operations

# Frequently Asked Questions

## **What is the function of the Independent Regulatory Review Commission?**

The Commission reviews proposed and final regulations from Pennsylvania state agencies for consistency with the criteria contained in the Regulatory Review Act. The criteria include the statutory authority for the agency to promulgate the regulation, consistency with the statute which the regulation implements, the economic and fiscal impact of the regulation, and the reasonableness of the regulation.

## **What regulations does the Commission review?**

The Commission reviews regulations from all Pennsylvania state agencies, except regulations from the Senate, the House of Representatives, the Pennsylvania Fish and Boat Commission, the Pennsylvania Game Commission, or any court or political subdivision.

## **How are Commissioners chosen for service?**

There are five members of the Commission, each of whom is appointed by a different appointing authority—the Governor, the President Pro Tempore of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives. A Commissioner may not be a Commonwealth employee or hold an elected or appointed position in state government. To see a current list of Commissioners, visit our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us).

## **What are the standing committees of the General Assembly?**

Both the House of Representatives and the Senate form committees of its members to oversee specific subject and policy matters. One of the functions of a standing committee includes the review of regulations. (For example, the House and Senate Transportation committees review PennDOT regulations.) The committee assignments and schedules can be found on the General Assembly's website.

## **Where can I find proposed regulations?**

The Legislative Reference Bureau publishes all proposed regulations in the *Pennsylvania Bulletin* ([www.pabulletin.com](http://www.pabulletin.com)). The publication contains a preamble which explains the proposal, as well as the address where public comments may be sent. Regulations are also available from the agency proposing the regulation or on our recently revised website.

## **What is the difference between the proposed rulemaking stage and the final-form rulemaking stage?**

During the proposed rulemaking stage the public, the standing committees, and the Commission may submit comments on an agency's proposal. This stage allows individuals to provide the agency with suggestions on how the regulation may be improved. During the final-form stage, the committees and the Commission may vote to approve or disapprove the final regulation. Members of the public are also provided the opportunity to comment on the final regulation at the Commission's public meeting.

## **Is there a time period for an agency to return a proposed regulation as a final-form regulation?**

Yes. The agency has up to two years from the close of the public comment period to submit a final-form regulation. If the agency fails to meet this deadline, the regulation is considered withdrawn, and the review process is concluded.

# Frequently Asked Questions

## **What is tolling?**

Tolling allows an agency to request a 30-day “hold” in the process to make changes to a final regulation after it has been submitted to the Commission and committees. The agency may make only those changes recommended by the Commission and/or committees. Tolling may only occur prior to the expiration of the standing committees’ 20-day review period. Review of the regulation will resume when the agency delivers to the Commission and the committees, within the 30-day tolling period, either the revised regulation or written notification that the regulation will not be revised. If the agency does not meet this 30-day deadline, the regulation is deemed withdrawn.

## **How will I know if an agency submitted a final-form regulation to the Commission and the committees?**

All individuals who submit comments on a proposed regulation will receive notice from the agency on how it can obtain information on the final version. When the agency submits the final-form regulation to the Commission and the committees, it must also send a copy of the final-form regulation or a summary of its changes to those who requested information.

## **Is it possible to provide comments on a final regulation?**

Yes. The Commission will review comments on a final regulation up to 48 hours prior to the Commission’s public meeting. Comments received after this time will be embargoed until the public meeting, unless those comments were submitted at the request of the Commission. If you wish to provide comments on a final regulation, you should contact the Commission office (or visit our recently revised website to learn the date of the public meeting when the regulation will be considered).

## **What is the best manner to provide written comments to the Commission on a final regulation?**

The Commission accepts written comments on final regulations by first class mail, fax or email. The Commission’s mailing address is: 333 Market Street, 14th Floor, Harrisburg, PA 17101; the fax number is (717) 783-2664 and the email is: [irrc@irrc.state.pa.us](mailto:irrc@irrc.state.pa.us). All comments should be received at least 48 hours prior to the Commission’s public meeting.

## **What is a Regulatory Analysis Form and where can I find it?**

The Regulatory Analysis Form, or RAF, is an informational form that accompanies all regulations submitted to the Commission and committees. The RAF identifies the pertinent background information the agency is required to provide under Section 5(a) of the Regulatory Review Act. (See template on website.)

# Proposed Regulations

The following chart lists the proposed regulations that the Commission received during the year 2007.

Of the 64 proposed regulations received in 2007, 7 have already been delivered in final-form stage as of December 31, 2007. Regulations submitted as proposed before January 1, 2007, which then moved to the final-form stage before December 31, 2007, are listed in the Final Regulations section, beginning on page 27.

There are two ways that proposed regulations may be withdrawn from the review process. The first is by operation of law. Pursuant to Section 5.1(a) of the Regulatory Review Act, an agency has two years from the date of the close of the public comment period to submit the regulation in final-form. If the agency does not submit the final-form regulation within the two-year window, it is deemed withdrawn. The second is by agency action. At anytime during the two-year window, the promulgating agency may withdraw a proposed regulation. In the year 2007, two regulations were deemed withdrawn and none were withdrawn by the agency (WPA).

The Commission submitted comments on 39 of the 64 proposed regulations received in 2007. For the remaining 25 regulations, 12 did not conflict with the criteria for review contained in the Regulatory Review Act, and comments were not submitted. Comments are due in 2008 for 13 of these regulations.

The chart is organized by agency and includes the department code and regulation number, the title of the regulation, the Commission's internal regulation number, a brief description of the regulation, and the date the Commission filed comments with the agency.

#### **Footnotes for the following chart:**

**NONE** Commission did not submit comments.

\* **Final-form regulation delivered in 2007.**

**OPEN** Regulation received with action due in 2008.



# Proposed Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## DEPARTMENT OF AGRICULTURE

12/06/06	#2-152	Dog Law Enforcement	#2559	4/16/07
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Establishes specific kennel requirements to advance implementation of the Dog Law and increased protection of dog health, safety and welfare.

02/13/07	#2-154	Deletion of Outdated Regulations	#2592	NONE*
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Deletes four unneeded chapters relating to Johne's disease, the certified apple program, fiscal aid for stem rust control and quarantine provisions.

06/13/07	#2-102	Amusement Rides and Attractions Erected Permanently or Temporarily at Carnivals, Fairs and Amusement Parks	#2616	8/22/07
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Updates the regulations on amusement rides and attractions and conforms the regulations to national industry standards.

10/15/07	#2-155	Odor Management Certification Program	#2647	12/26/07
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Establishes training and certification criteria for odor management specialists.

## DEPARTMENT OF BANKING

07/05/07	#3-43	Proper Conduct of Lending and Brokering in the Mortgage Loan Business	#2620	09/19/07
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Establishes proper conduct for licensees dealing with lending or brokering to individuals or entities.

## DEPARTMENT OF CORRECTIONS

02/01/07	#19-9	State Intermediate Punishment	#2590	04/18/07
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Implements a program to reduce recidivism by providing intense drug and alcohol treatment to certain defendants convicted of drug-related offenses.

# Proposed Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## DEPARTMENT OF EDUCATION

11/28/07	#6-308	Charter School and Cyber Charter School Services and Programs for Children with Disabilities	#2653	OPEN
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Aligns Chapter 711, pertaining to Charter Schools and Cyber Charter Schools, with the federal Individuals with Disabilities Education Act, related federal regulations and applicable provisions of Pennsylvania statutes.

### State Board of Education

11/08/06	#6-303	Certification of Professional Personnel	#2583	01/25/07
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Amends teaching certificates for professional personnel in public schools.

06/19/07	#6-306	Special Education Services and Programs	#2618	08/29/07
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Aligns Chapter 14 with the federal Individuals with Disabilities Education Act, related federal regulations, and applicable provisions of Pennsylvania statute, court decisions and settlement agreements.

08/23/07	#6-307	Special Education for Gifted Students	#2635	11/08/07
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Amends existing regulations pertaining to gifted education programs of school districts.

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Environmental Quality Board

11/02/06	#7-402	Radiological Health	#2582	NONE
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Corrects references to federal rules and clarifies or modifies provisions related to civil penalties, definitions, healing arts screening requirements and attestation requirements for radon services.

11/17/06	#7-403	Water Resources Planning	#2585	02/01/07
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Specifies who is required to register, keep records and report information regarding withdrawals of water and the information that is reported to DEP.

12/07/06	#7-406	Notification of Proximity to Airports	#2587	02/21/07*
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Amends the definition of airport to include military airports and requires notification if a waste transfer facility will be opened or expanded within 6 miles of an airport.

# Proposed Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## DEPARTMENT OF ENVIRONMENTAL PROTECTION (CONT.)

### Environmental Quality Board (cont.)

03/09/07	#7-408	Permit Streamlining	#2598	06/25/07
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Revises plan approval requirements for air cleaning devices and air contamination sources.

04/17/07	#7-411	Clean Air Interstate Rule	#2607	08/01/07
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Incorporates by reference the CAIR NOx Annual Trading Program, the CAIR NOx Ozone Season Trading Program and the CAIR SO2 Trading Program, with some exceptions.

04/27/07	#7-410	Stream Redesignations, Big Brook, et al.	#2611	NONE
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Updates and revises designations for 11 stream segments across the state, including one upgrade to "Exceptional Value."

06/21/07	#7-409	Hazardous Waste Regulations	#2619	10/12/07
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Updates existing hazardous waste regulations and streamlines manifest system.

08/16/07	#7-414	Coal Mines	#2632	10/31/07
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Extensive rewrite of surface mining regulations including incorporation of standards by reference of the U.S. Department of Labor, Mine Safety and Health Administration.

08/16/07	#7-412	Safe Drinking Water – General Update	#2633	10/31/07
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Updates existing regulations to match federal requirements and improve reporting methods.

08/29/07	#7-416	Consumer Products	#2636	OPEN
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Expands current regulation of Volatile Organic Compounds to include 11 additional categories of consumer products to help meet National Ambient Air Quality Standards for ozone.

09/11/07	#7-407	Safe Drinking Water Public Notification Revisions	#2637	12/21/07
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Establishes new systems, standards, procedures and requirements for improving public notification in response to emergencies or contaminations involving public water supplies.

# Proposed Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## DEPARTMENT OF ENVIRONMENTAL PROTECTION (CONT.)

### Environmental Quality Board (cont.)

12/21/07	#7-422	Diesel Vehicle Idling; and Auxiliary Power Systems	#2658	OPEN
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Establishes idling restrictions for diesel-powered vehicles and power systems.

12/21/07	#7-421	Triennial Review of Water Quality Standards	#2659	OPEN
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Triennial update of water quality standards for the Commonwealth.

### State Conservation Commission

08/22/07	#7-418	Facility Odor Management	#2634	11/30/07
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Adds Chapter 83 to regulate odor management at certain facilities and agricultural operations.

## DEPARTMENT OF HEALTH

08/06/07	#10-184	Home Care Agencies and Home Care Registries	#2623	10/10/07
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Sets minimum standards for the operation and licensure of home care agencies and home care registries as required by Act 69 of 2006.

11/29/07	#10-186	Confidentiality of Patient Records and Information	#2654	OPEN
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Expands the amount of information treatment providers may release to other entities and clarifies the rules relating to confidentiality and disclosure of patient-identifying information.

## DEPARTMENT OF PUBLIC WELFARE

04/11/07	#14-508	Clinical Laboratory Improvement Amendments	#2606	NONE
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Updates existing regulations to be consistent with federal law and regulations, and adopts by reference the federal Clinical Laboratory Improvement Amendments of 1988.

11/29/07	#14-510	Payment for Burial and Cremation	#2655	OPEN
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Codifies a Notice of Rule Change (NORC) published at 30 Pa.B. 2957 on June 10, 2000.

# Proposed Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## DEPARTMENT OF REVENUE

02/21/07	#15-436	Pennsylvania Gaming Cash Flow Management	#2596	05/02/07*
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Establishes procedures for the administration and distribution of all net slot machine revenue under the Pennsylvania Race Horse Development and Gaming Act.

## DEPARTMENT OF STATE

### Bureau of Professional and Occupational Affairs

04/18/07	#16-38	Schedule of Civil Penalties – Nurses	#2609	NONE
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Converts an existing statement of policy dealing with the schedule of civil penalties for nurses into a regulation. It also adds another violation to this table, based on a recent act.

### State Architects Licensure Board

08/15/07	#16A-419	Requirements for Examination Eligibility	#2629	10/24/07
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Amends the regulation as it relates to eligibility and passing of the Architect Registration Examination (ARE).

### State Athletic Commission

09/26/07	#16-37	Communicable Disease Testing	#2641	NONE
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Amends existing regulations to permit communicable disease testing to take place up to six months prior to the annual license application.

### State Board of Chiropractic

08/15/07	#16A-4314	Reactivation of Lapsed License	#2626	10/24/07
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Amends current regulations with regard to reactivation of a license that has been inactive for at least five years by making the process more simple, while still assuring that the licensee is competent to practice.

### State Board of Cosmetology

08/15/07	#16A-4514	General Revisions	#2628	10/24/07
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Amends the existing regulation to implement changes made to the Cosmetology Law, as well as to generally update the regulations.

### State Board of Examiners of Nursing Home Administrators

03/28/07	#16A-627	Administrator-In-Training Program	#2600	06/06/07
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Creates an administrator-in-training program for Nursing Home Administrator candidates that have a bachelor's and/or master's degree.

# Proposed Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## DEPARTMENT OF STATE (CONT.)

### State Board of Funeral Directors

04/11/07	#16A-4813	Forms Review	#2604	NONE
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Clarifies existing language to state that the Board will disapprove any form statement of funeral goods and services or preneed contracts if the form would lead to a violation of the Funeral Director Law or Board regulations.

04/11/07	#16A-4817	Renewal Fee	#2605	06/20/07
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Increases the biennial renewal fee.

08/15/07	#16A-4815	Preneed Funeral Arrangements	#2627	10/24/07
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Sets forth procedures and requirements for managing preneed funds and contracts and allowing customers to transfer contracts and funds.

09/19/07	#16A-4816	Preneed Activities of Unlicensed Employee	#2639	11/28/07
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Establishes requirements, procedures and standards for the activities of unlicensed employees in assisting funeral directors with preneed business.

### State Board of Medicine

08/15/07	#16A-4923	Expert Witness	#2630	10/24/07
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Establishes qualifications consistent with the Medical Care Availability and Reduction of Error Act (40 P.S. § 1303.512) regarding experts testifying in proceedings before the Board.

12/05/07	#16A-4926	Nurse Midwife Prescriptive Authority	#2656	OPEN
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Establishes prescriptive authority for licensed midwives working in collaboration with medical doctors.

### State Board of Nursing

02/21/07	#16A-5128	Continuing Education Fee for Certified Registered Nurse Practitioners	#2595	NONE
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Adds a fee necessary to cover the costs associated with the approval of a CRNP continuing education course that is not on the preapproved list.

04/18/07	#16A-5130	Continuing Education for Professional Nurses	#2608	06/28/07
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Implements standards and requirements for 30 hours of continuing education as established by Act 58 of 2006.

# Proposed Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## DEPARTMENT OF STATE (CONT.)

### State Board of Nursing (cont.)

08/15/07	#16A-5131	Faculty Requirements for Nursing Education Programs	#2631	10/24/07
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Amends existing regulations to provide flexibility in staffing education programs to expand educational opportunities and enrollment.

### State Board of Osteopathic Medicine

10/10/07	#16A-5318	Prescriptive Privileges for Physician Assistants	#2644	12/19/07
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Permits physician assistants practicing under the direction of an osteopathic physician to prescribe drugs.

### State Board of Pharmacy

02/21/07	#16A-5415	Supplies and Equipment	#2593	NONE
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Deletes unnecessary and outdated provisions from existing regulations.

08/15/07	#16A-5418	Sales of Hypodermic Needles and Syringes	#2625	10/24/07
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Permits a pharmacist to sell up to 30 hypodermic needles and syringes to persons 18 years of age or older without a prescription.

09/19/07	#16A-5416	Revisions Regarding Current Pharmacy Practice	#2640	11/28/07
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Amends 49 Pa. Code Chapter 27 to remove outdated language to bring the regulation up to date with current practices in the industry.

### State Board of Social Workers, Marriage/Family Therapists and Professional Counselors

09/19/07	#16A-6915	Biennial Renewal Fees	#2638	11/28/07
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Raises the Board's biennial renewal fees from \$45 to \$75 to cover the Board's operational costs.

### State Board of Vehicle Manufacturers, Dealers and Salespersons

12/05/06	#16A-6010	Biennial Renewal Fees	#2586	NONE
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Increases biennial license renewal fees.

### State Board of Veterinary Medicine

02/21/07	#16A-5721	Professional Conduct	#2594	05/02/07
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Revises and updates standards of conduct and adds prohibitions for "unprofessional conduct," including verbal abuse and harassment.

# Proposed Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## DEPARTMENT OF STATE (CONT.)

### State Real Estate Commission

03/28/07	#16A-5614	Consumer Notice	#2599	NONE
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Amends disclosure requirements and streamlines the prescribed content for the "Consumer Notice."

## DEPARTMENT OF TRANSPORTATION

11/13/06	#18-408	Roadside Rest Area	#2584	01/25/07
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Updates and clarifies conditions and activities not permitted at roadside rest areas and facilities.

## INSURANCE DEPARTMENT

03/02/07	#11-234	Preparation and Filing of Forms for Approval (Fire and Casualty)	#2597	NONE
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Rescinds obsolete and unnecessary regulations pertaining to the preparation and filing of forms.

## PENNSYLVANIA GAMING CONTROL BOARD

10/25/06	#125-49	Accounting and Internal Controls; Slot Computer Systems; Commencement of Slot Operations	#2581	02/01/07*
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Establishes accounting and internal control requirements for slot machine licensees and deletes interim regulations.

12/19/06	#125-53	General Rules of Practice	#2588	03/07/07*
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Establishes general rules of practice and procedure that would be applicable in hearings before the Pennsylvania Gaming Control Board.

01/17/07	#125-54	Compulsive and Problem Gambling; Self Exclusion	#2589	03/28/07*
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Establishes requirements for the Board's compulsive and problem gambling program and the self-exclusion program.



# Proposed Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## PENNSYLVANIA GAMING CONTROL BOARD (CONT.)

03/28/07	#125-57	Person Required to be Excluded; Underage Gaming	#2601	06/06/07*
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Establishes provisions related to the exclusion of certain persons from licensed facilities and prohibition related to underage gaming.

04/26/07	#125-61	General Revisions; Applications; Licensed Entity Representatives; Manufacturer Licenses; Supplier Licenses; Horsemen's Organizations; Labor Organizations; Junket Enterprises; Management Companies	#2610	07/11/07*
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Establishes licensure requirements for licensed entity representatives, manufacturers, suppliers, horsemen's organizations, labor organizations, junket enterprises and management companies.

05/09/07	#125-56	Practice and Procedure	#2612	07/18/07*
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Converts its temporary regulations to permanent regulations which relate to general rules for filing pleadings with the Board.

06/01/07	#125-64	Manufacturer Designee; Principal Licenses; Employees; Vendor Certification and Registration; Slot Machine Licenses	#2614	08/15/07*
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Establishes licensure requirements for manufacturer designees, principal licenses, employees, vendors and slot machine licenses.

10/12/07	#125-71	Bureau of Investigation and Enforcement; and Slot Machine Testing and Control	#2645	NONE
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Amends existing regulations to be more consistent with the Act and subsequently adopted regulations. It also removes obsolete language.

10/15/07	#125-72	General Provisions; and Applications	#2646	12/26/07
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Establishes rules pertaining to advertising by slot machine, manufacturer and junket licensees and creates a process for dealing with abandoned applications.

11/28/07	#125-74	Vendor Certification and Registration	#2652	OPEN
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Revises existing regulations to allow vendors to submit applications independently to the Board.

# Proposed Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## PENNSYLVANIA LIQUOR CONTROL BOARD

05/17/07	#54-63	License Application and Management Contracts	#2613	09/19/07
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Amends various sections of the Board's existing regulations and adds two subchapters pertaining to management contracts and tax clearance.

12/06/07	#54-64	Licenses; Promotions	#2657	OPEN
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Several amendments related to the points system, appointment of managers, license transfers upon death, safekeeping of licenses and tasting events in stores.

12/28/07	#54-60	Responsible Alcohol Management Program	#2660	OPEN
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Establishes the Responsible Alcohol Management Program (RAMP).

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

09/27/06	#57-248	Inspection and Maintenance Standards for the Electric Distribution Companies	#2571	05/16/07
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Establishes specific minimum inspection, maintenance, repair and replacement requirements for infrastructure (poles, wires, conduits and other fixtures).

09/27/06	#57-252	Implementation of the Alternative Energy Portfolio Standards Act of 2004	#2569	01/12/07
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Establishes standards for electric distribution companies and electric generation suppliers to comply with the mandate to increase reliance on alternative energy systems.

02/15/07	#57-251	Provisions of Bundled Service Package Plans at a Single Monthly Rate by Local Exchange Carriers	#2591	05/02/07
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Eliminates the need for administrative review and approval of a waiver from separate billing requirements.

10/18/07	#57-255	Retail Electricity Choice Activity Reports	#2648	OPEN
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Requires electric distribution companies and electric generation suppliers to report information by customer group relating to sales activity.

11/01/07	#57-258	Electronic Filing	#2649	OPEN
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Amends procedural regulations to accommodate electronic filing of certain documents without also filing paper copies.

# Proposed Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## PENNSYLVANIA PUBLIC UTILITY COMMISSION (CONT.)

11/21/07	#57-256	Implementation of the Public Utility Confidential Security Information Disclosure Protection Act	#2651	OPEN
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Implements CSI Act (Act 156 of 2006) by establishing requirements and procedures for handling confidential security information of public utilities.

## PENNSYLVANIA STATE POLICE

### Municipal Police Officers' Education and Training Commission

07/10/06	#17-73	Administration of the Training Program	#2555	NONE*
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Amends existing provisions to be consistent with current medical practice by allowing physician's assistants and certified nurse practitioners to perform required physicals.

## PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

07/06/07	#43-10	Formalization and Clarification of Current Practices	#2621	09/19/07
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Amends the rules in Chapter 201 as they relate to practice and procedure before the Board.

## STATE EMPLOYEES' RETIREMENT BOARD

07/24/07	#31-6	Special Rules of Administrative Practice and Procedure	#2622	NONE
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Provides an exception to the applicability of general rules and extends the period to appeal a Board decision from 10 to 30 days.

# Final Regulations

The following chart lists the 45 final-form and 8 final-omitted regulations submitted to the Commission in the year 2007.

The regulations are listed by agency and include the department code and regulation number, the title of the regulation, the Commission's internal regulation number, a brief description of the regulation, the date received and/or resubmitted, the date the Commission filed comments with the agency, and the Commission's final action code and date. We have marked "N/A" in the Comments Filed column for final-omitted regulations and "None" for final-form regulations on which we did not comment during the proposed stage.

Following is an explanation of the action codes in this section:

**APP Approved** - The final regulation was approved upon initial consideration.

**ABL Approved by Law** - The final regulation was deemed approved because the Commission did not submit any comments on the proposed regulation, the regulation was not modified from its proposed form and the designated standing committees did not disapprove the final regulation.

**AAT Approved After Tolling** – The final regulation was tolled, resubmitted and approved.

**OPEN** Regulation received with action due in 2008.

**TIE TIE** - IRRC Vote ends in a Tie and Fails to Act on Final - Section 5.1(e).

**TOL Tolled** – A temporary timeout to stop the running of time lines.

**WPA Withdrawn Prior to Action** - A regulation submitted as a proposed, final-form or final-omitted, but withdrawn prior to Commission action. A withdrawn proposed regulation may be submitted as a new proposed or final-omitted at any time. A withdrawn final-form may be submitted as a new final-form within two years after the close of the public comment period on the proposed form. A withdrawn final-omitted may be resubmitted as a new final-omitted at any time.

**W2Y Withdrawn Under Section 5.1(a)** - A regulation submitted as proposed, but not delivered in final-form within two years of the close of the public comment period.

# Final Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## COUNTY PROBATION AND PAROLE OFFICERS' FIREMAN EDUCATION AND TRAINING COMMISSION

10/18/07	#41-18	County Probation and Parole Officers' Firearm Education and Training Commission	#2576	12/27/06	11/26/07 WPA
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Establishes procedures for county probation and parole officers to be certified to carry a firearm.

## DEPARTMENT OF AGRICULTURE

06/13/07	#2-154	Deletion of Outdated Regulations	#2592	NONE	07/18/07 ABL
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Deletes four unneeded chapters relating to John's disease, the certified apple program, fiscal aid for stem rust control and quarantine provisions.

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

02/28/07	#4-85	Industrial Housing and Components	#2554	NONE	04/04/07 ABL
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Amends existing regulations to bring the energy efficiency requirements up to par with the PA Construction Code Act & reduces the number of inspections by the Department.

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Environmental Quality Board

03/06/07	#7-399	Nonattainment New Source Review	#2535	08/30/06	04/05/07 APP
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Comprehensive revision retaining provisions more stringent than federal regulations.

07/27/07	#7-395	Administration of the Storage Tank and Spill Prevention Act	#2532	07/31/06	09/20/07 APP
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Makes comprehensive and minor editorial changes to existing regulations on the administration of the storage tank and spill prevention program.

08/13/07	#7-415	Alternative Fuels Incentive Grant Program (AFIG) Regulation	#2624	N/A	09/20/07 APP
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Deletes 4 Pa. Code Chapter 311 in its entirety consistent with its abrogation by Act 178 of 2004.

12/13/07	#7-406	Notification of Proximity to Airports	#2587	02/21/07	OPEN
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Amends the definition of airport to include military airports and requires notification if a waste transfer facility will be opened or expanded within 6 miles of an airport.

# Final Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## DEPARTMENT OF EDUCATION

### State Board of Education

07/17/07	#6-303	Certification of Professional Personnel	#2583	01/25/07	08/16/07 APP
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Amends teaching certificates for professional personnel in public schools.

10/31/07	#6-302	Foreign Corporation Standards	#2548	08/30/06	12/06/07 APP
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Establishes the requirements for the operation of post-secondary degree-granting institutions in the Commonwealth that are chartered in another state or country.

12/04/07	#6-295	Academic Standards and Assessment	#2499	01/04/06	OPEN
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Updates academic standards regarding instruction, graduation, strategic planning and assessment.

## DEPARTMENT OF GENERAL SERVICES

10/01/07	#8-12	Death Benefits for Survivors of Emergency and Law Enforcement Personnel	#2643	N/A	11/01/07 APP
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Updates and revises existing regulations to implement legislative changes to statute providing death benefits for emergency and law enforcement personnel families and survivors.

## DEPARTMENT OF HEALTH

09/17/07	#10-182	Sexual Assault Victim Emergency Services	#2577	12/20/06	10/18/07 APP
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Establishes requirements for hospitals that provide sexual assault emergency services.

## DEPARTMENT OF LABOR AND INDUSTRY

05/21/07	#12-67	General Provisions	#2484	09/07/05	06/21/07 APP
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Updates and clarifies existing regulations that govern the administration of the Workers' Compensation Act and related procedures.

03/23/07	#12-68	Qualifications for Vocational Experts	#2485	09/07/05	05/03/07 APP
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Amends the minimum qualifications for vocational experts and establishes ethical rules and financial interest disclosure standards.

# Final Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## DEPARTMENT OF PUBLIC WELFARE

02/16/07	#14-490	Special MA Eligibility Provisions	#2449	01/26/05	03/15/07 APP
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Provides medical assistance to eligible women who were screened for, diagnosed with and found to need treatment for breast or cervical cancer or a precancerous condition of the breast or cervix.

02/16/07	#14-491	Home Health Agency Services	#2452	02/09/05	03/15/07 APP
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Removes current requirement that Home Health Agency Services recipients must be homebound.

06/05/07	#14-511	Inpatient Hospital Services	#2615	N/A	07/19/07 APP
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Limits DPW's payment of Medicare cost-sharing for inpatient hospital services in the same manner as DPW's payment for all other services.

07/19/05	#14-493	Nursing Facility Services; Preadmission Requirements and Civil Rights Compliance for Nursing Facilities	#2488	09/28/05	08/29/07 W2Y
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Requires a nursing facility to have applicants evaluated for the need for nursing facility services prior to admission.

## DEPARTMENT OF REVENUE

05/25/07	#15-436	Pennsylvania Gaming Cash Flow Management	#2596	05/02/07	06/21/07 APP
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Establishes procedures for the administration and distribution of all net slot machine revenue under the Pennsylvania Race Horse Development and Gaming Act.

10/01/07	#15-429	Realty Transfer Tax Amendments	#2503	01/04/06	11/01/07 TIE
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Addresses numerous legislative changes and brings regulatory provisions into conformity with departmental policy.

## DEPARTMENT OF STATE

### State Board of Accountancy

03/30/07	#16A-559	Revision of and Deletion of Existing Regulations	#2465	05/04/05	05/03/07 APP
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Revises regulations to be consistent with CPA Law and deletes obsolete provisions.

# Final Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## DEPARTMENT OF STATE (CONT.)

### State Board of Certified Real Estate Appraisers

05/03/07	#16A-7014	Federally Mandated Education Criteria	#2537	07/26/06	06/07/07 APP
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General revisions including updates to comply with Federal requirements, updates to education requirements and changes to improve clarity of the regulation.

### State Board of Funeral Directors

03/05/07	#16A-4814	Unprofessional Conduct	#2459	04/13/05	04/05/07 APP
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Provides additional grounds of misconduct in the Funeral Director profession.

### State Board of Medicine

02/05/07	#16A-4919	Registration and Practice of Acupuncturists	#2455	04/13/05	03/01/07 APP
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Amends current regulations relating to the registration and practice of acupuncturists.

05/03/07	#16A-4915	Athletic Trainers	#2527	05/17/06	06/07/07 APP
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Provides for certification of athletic trainers and establishes procedures for certification and protocols for practice.

### State Board of Occupational Therapy Education and Licensure

06/07/07	#16A-676	Orders	#2567	NONE	07/19/07 APP
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Delineates the standards and requirements for both written and oral orders.

### State Board of Social Workers, Marriage/Family Therapists and Professional Counselors

11/07/07	#16A-699	Licensure Technical Amendments	#2493	12/07/05	12/20/07 APP
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Updates provisions related to graduates of social work programs.

### State Board of Veterinary Medicine

05/03/07	#16A-5716	Certified Veterinary Technician Specialist	#2530	05/17/06	06/07/07 APP
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Amends the code of ethics for certified veterinary technicians to prohibit making "a false, deceptive or misleading statement or claim".

05/03/07	#16A-5719	Recordkeeping	#2565	11/29/06	06/07/07 APP
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Amends existing regulations to further specify the requirements for veterinary medical records made by the Board's licensees.



# Final Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## DEPARTMENT OF STATE (CONT.)

### State Board of Vehicle Manufacturers, Dealers and Salespersons

03/30/07	#16A-6010	Biennial Renewal Fees	#2586	NONE	05/02/07 ABL
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Increases biennial license renewal fees.

### State Real Estate Commission

03/30/07	#16A-5617	Consumer Notice – Commercial Property Exception	#2602	N/A	05/03/07 APP
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Incorporates a statutory exception - disclosure requirements do not apply to brokers in “commercial property sale or lease transactions” when the buyer/tenant is a business or company and not an individual.

## DEPARTMENT OF TRANSPORTATION

02/01/07	#18-398	Driver's License Examination	#2450	02/02/05	03/01/07 APP
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Implements Act 76 of 2004 by adding chiropractors to the list of providers who may conduct physical examinations for drivers' licenses.

02/05/07	#18-407	Prequalification of Bidders	#2553	NONE	02/28/07 ABL
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Deletes the prequalification requirement for Rest Area Structures and Buildings to attract a greater number of bidders.

04/27/07	#18-404	Flashing or Revolving Lights on Emergency and Authorized Vehicles	#2510	02/16/06	06/07/07 APP
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Updates requirements and standards for flashing or revolving lights.

06/25/07	#18-402	School Bus Drivers	#2482	07/27/05	06/25/07 WPA 08/02/07 APP
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Implements Act 76 of 2004 by adding chiropractors to the list of providers who may conduct physical examinations for school bus drivers.

04/05/05	#18-401	Administrative Practice and Procedure	#2474	06/15/05	05/16/07 W2Y
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Makes revisions and clarifications to the Department's provisions relating to administrative practice and procedure.

# Final Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## INSURANCE DEPARTMENT

09/28/07	#11-155	Objections and Procedure for Hearings on Reports of Examination	#2642	N/A	11/01/07 APP
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Deletes Chapter 58 because Act 177 of 1992 superseded it with specific statutory procedures to challenge the Department's examination reports.

11/02/07	#11-239	Fees and Collection Procedures	#2650	N/A	11/28/07 WPA
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Increases the gallon fee on all regulated substances entering an underground storage tank from \$.011 to \$.02 per gallon.

## MILK MARKETING BOARD

09/14/07	#47-12	Refrigeration Equipment; Records and Reports	#2564	11/22/06	10/18/07 APP
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Provides a method to allow milk dealers to sell or lease refrigeration equipment to wholesale customers through a charge added to the minimum milk prices.

## OFFICE OF THE VICTIM ADVOCATE

04/09/07	#41-20	Domestic and Sexual Violence Victim Address Confidentiality Program	#2603	N/A	05/17/07 APP
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Establishes standards and procedures for the Domestic and Sexual Violence Address Confidentiality Program.

## PENNSYLVANIA GAMING CONTROL BOARD

04/10/07	#125-45	General and Operative Provisions; Board Procedures	#2561	11/09/06	05/01/07 TOL 05/17/07 AAT
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Implements Chapter 401 (Preliminary Provisions), Chapter 403 (Board Operations and Organization), Chapter 405 (Bureau of Investigation and Enforcement) and Chapter 407 (Public Access to Board Files).

05/01/07	#125-48	Slot Machine Testing and Control; Possession of Slot Machines	#2572	12/27/06	06/07/07 APP
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Creates testing and approval requirements for slot machines and related equipment as well as provisions governing the possession of those slot machines.

02/28/07	#125-46	Recordkeeping and Fees	#2562	11/09/06	04/05/07 APP
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Implements Chapter 451 (Recordkeeping Requirements) and Chapter 471 (Filing Fees).

# Final Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## PENNSYLVANIA GAMING CONTROL BOARD (CONT.)

02/28/07	#125-47	Diversity	#2563	11/09/06	04/05/07 APP
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Implements Chapter 481(Diversity).

05/17/07	#125-49	Accounting and Internal Controls; Slot Computer Systems; Commencement of Slot Operations	#2581	02/01/07	06/21/07 APP
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Establishes accounting and internal control requirements for slot machine licensees and deletes interim regulations.

08/08/07	#125-54	Compulsive and Problem Gambling; Self Exclusion	#2589	03/28/07	07/17/07 WPA 09/20/07 APP
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Establishes requirements for the Board's compulsive and problem gambling program and the self-exclusion program.

08/08/07	#125-57	Persons Required to be Excluded; Underage Gaming	#2601	06/06/07	07/17/07 WPA 09/20/07 APP
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Establishes provisions related to the exclusion of certain persons from licensed facilities and prohibition related to underage gaming.

06/05/07	#125-53	General Rules of Practice	#2588	03/07/07	07/19/07 APP
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Establishes general rules of practice and procedure that would be applicable in hearings before the Pennsylvania Gaming Control Board.

08/08/07	#125-61	General Revisions; Applications; Licensed Entity Representatives; Manufacturer Licenses; Supplier Licenses; Horsemen's Organizations; Labor Organizations; Junket Enterprises; Management Companies	#2610	07/11/07	09/20/07 APP
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Establishes licensure requirements for licensed entity representatives, manufacturers, suppliers, horsemen's organizations, labor organizations, junket enterprises and management companies.

08/08/07	#125-56	Practice and Procedure	#2612	07/18/07	09/20/07 APP
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Converts its temporary regulations to permanent regulations which relate to general rules for filing pleadings with the Board.

# Final Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## **PENNSYLVANIA GAMING CONTROL BOARD (CONT.)**

09/12/07	#125-64	Manufacturer Designees; Principal Licenses; Employees; Vendor Certification and Registration; Slot Machine Licenses	#2614	08/15/07	10/18/07 APP
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Establishes licensure requirements for manufacturer designees, principal licenses, employees, vendors and slot machine licenses.

## **PENNSYLVANIA PUBLIC UTILITY COMMISSION**

05/24/07	#57-237	Provisions of Default Service	#2463	07/27/05	07/19/07 APP
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Defines the obligation of electric distribution companies to serve retail customers at the conclusion of their respective transition periods.

10/18/07	#57-239	Regulation of Interexchange Carriers and Services	#2512	03/02/06	12/06/07 APP
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Implements the provisions of Act 183 of 2004 related to interexchange telecommunications carriers.

## **PENNSYLVANIA STATE POLICE**

### **Municipal Police Officers' Education and Training Commission**

08/31/07	#17-73	Administration of the Training Program	#2555	NONE	10/17/07 ABL
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Amends existing provisions to be consistent with current medical practice by allowing physician's assistants and certified nurse practitioners to perform required physicals.

## **TREASURY DEPARTMENT**

06/13/07	#64-4	Review of Administrative Decisions	#2617	N/A	07/19/07 APP
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Updates the Department's existing regulations for conducting hearings on petitions for review.

The Commission, with one minor break, has been in existence for 25 years. The idea for regulatory review began in the late 1970s and early 1980s. During these years, there were growing concerns with excessive and unnecessary regulations. There was little, if any, thought given to the potential costs of a regulation, the increased administrative burden that it may impose on the Commonwealth, or whether it would have an adverse effect upon the regulated community. Many expressed dismay about the limited to non-existent oversight of the rulemaking process. In response to these concerns, the legislature introduced different proposals calling for the review of regulations.

## **Bipartisan Compromise**

Legislation to create the Commission was first introduced in 1980. However, the Regulatory Review Act (Act) did not become law until 1982. The original Senate bill would have established a lone, independent commission to review regulations. The House of Representatives amended the bill to include review by designated House and Senate committees.

The 1982 Act was a compromise that called for a two-tiered review of proposed regulations by an independent commission and legislative committees. To guide the new Commission in its review, the Act set forth 13 criteria for determining whether a regulation was in the public interest. These criteria included statutory authority, legislative intent, fiscal impact, protection of small businesses, clarity and need for the regulation.

The Act also included a “one-house veto” of proposed regulations. If the Commission disapproved a regulation, either chamber of the General Assembly—the House or the Senate—could permanently bar the regulation by passing a resolution.

## **Lights Briefly Go Out**

The original Act was an experiment in state government. Like many experiments, it had a deadline. The Act contained a termination date of December 31, 1985. Legislation to renew the Act was moving through the General Assembly late in 1985, but it did not pass before the end of the year. In January 1986, the Commission was out of business. This interval was brief and a new bill extending the Act was signed into law on February 21, 1986. The statute also amended the review criteria to place a greater emphasis on statutory authority and legislative intent.

## **Major Change – Expanding Process to Include both Proposed and Final Regulations**

In 1988 and 1989, the General Assembly, and the late Governor Robert P. Casey, Sr. and his Administration debated the future of the Act and Commission. Action was necessary to retain the Commission because it had entered into its final six months before termination under the Sunset Act in January 1989. After vetoing two earlier bills, on June 30, 1989, the Governor signed a new bill amending the Act and extending the life of the Commission.

The new legislation included four significant changes. First, it required review of both the proposed and final versions of a regulation. This was a momentous shift since the original Act did not address the fact that agencies could substantially amend a proposed regulation before it was published as a final rule.

# History

Second, the “one-house veto” was eliminated. Both the House and Senate would need to pass a concurrent resolution permanently barring a regulation and present it to the Governor to sign or veto.

Third, the 13 original criteria were combined into six criteria. In addition, new criteria were added on the protection of the public health, safety and welfare, and effect on natural resources.

Fourth, strict limits were placed on the process. For example, the Commission could no longer repeatedly disapprove a regulation, send it back to the agency and postpone its implementation.

## **Court Challenge**

Within six months of their enactment, the state judiciary confirmed the need for the 1989 amendments to the Act. Judicial review began with an August 1989 lawsuit filed in Commonwealth Court by the Department of Environment Resources (DER) regarding a DER regulation. A few months before the lawsuit, the Commission voted to disapprove the regulation. After the Commission’s vote and as it simultaneously debated amendments to the Act, the Senate passed a resolution that barred the DER regulation from implementation via the “one-house veto” provisions of the original Act.

In December 1989, Commonwealth Court ruled that this version of the Act was unconstitutional. The primary concern for the court was the “one-house veto.” This decision was appealed to the Pennsylvania Supreme Court. In September 1992, the Supreme Court ruled that the case was moot because the 1989 changes to the Act cured the constitutional defects.

## **The Most Recent Changes to the Act**

In 1997 and 2002, the Act was again amended. One of the changes in 1997 allowed agencies to toll the review of their final regulations. During the tolling period, an agency could make modifications recommended by a House or Senate Committee or the Commission. The amendments in 2002 provided greater flexibility to the agencies and House and Senate Committees in their review of regulations and added the new criterion of promulgating regulations to the compliance with the Act and its regulations.

## **Years of Review and Consensus Building**

In over two decades of operation, the regulatory review process has progressed and adapted to meet new challenges. The Commission serves two primary functions. First, it acts as a forum where agencies, legislators, and members of the general public and regulated communities can work together to build partnerships. By encouraging partnerships, the Commission assists these groups in building consensus to promote effective public policy, and to reduce “red tape” and the costs of regulations. Second, the Commission serves as a critical and independent eye that reviews regulations and offers constructive input to agencies. This facilitates approval by the oversight bodies, as well as compliance by the regulated entities.





INDEPENDENT REGULATORY REVIEW COMMISSION  
333 Market Street, 14th Floor  
Harrisburg, PA 17101

(717) 783-5417 • fax: (717) 783-2664  
e-mail: [irrc@irrc.state.pa.us](mailto:irrc@irrc.state.pa.us) • website: [www.irrc.state.pa.us](http://www.irrc.state.pa.us)