



# 2009 ANNUAL REPORT



# *Table of Contents*

<b>Mission and Vision Statement.....</b>	<b>1</b>
<b>History .....</b>	<b>2</b>
<b>Chairman’s Message.....</b>	<b>3</b>
<b>Commissioners, Executive Director &amp; Chief Counsel .....</b>	<b>4</b>
<b>Personnel .....</b>	<b>8</b>
<b>Year in Review .....</b>	<b>11</b>
<b>Frequently Asked Questions.....</b>	<b>16</b>
<b>Regulations</b>	
<b>Proposed.....</b>	<b>21</b>
<b>Final.....</b>	<b>34</b>

# *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.**

# *History*

The Commission serves two primary functions. First, it acts as a forum where agencies, legislators, and members of the general public and regulated communities work together to build partnerships. By encouraging partnerships, the Commission assists these groups in building consensus to promote effective public policy, reduce red tape and ensure reasonable compliance costs. Second, the Commission serves as a critical and independent eye that reviews regulations and offers constructive input to promulgating agencies. This facilitates approval by the Office of Attorney General, as well as compliance by the regulated entities.

In pursuit of these goals, the General Assembly passed the Regulatory Review Act (Act) in 1982. The Act called for a two-tiered review of proposed regulations by the newly-created Commission and the legislative standing committees. To guide the Commission in its determination of whether new regulations serve the public interest, the Act set forth thirteen criteria, including statutory authority, legislative intent, fiscal impact, protection of small businesses, clarity and necessity of the regulation.

Because the original Act included a sunset date of January 1989, legislative action was necessary to sustain the Commission. On June 30, 1989, Governor Robert P. Casey signed a new bill amending the Act and extending the life of the Commission indefinitely. The new Act included several changes. Significantly, it consolidated the original 13 criteria into six and added two new criteria: the protection of the public health, safety and welfare, and effect on natural resources.

The General Assembly has continued to refine the Act to better serve the citizens of the Commonwealth. In 1997, an amendment allowed an agency to toll the review of a final regulation so it could make modifications recommended by a standing committee or the Commission. In 2002, amendments provided greater flexibility to the agencies and standing committees in their review of regulations and added the new criterion of promulgating regulations in compliance with the Act and Commission regulations.

As the Commission continues to pursue its mission to assist with the development and maintenance of a beneficial regulatory balance, it remains poised to adapt to meet the changing needs of the state and the regulated public.

# *Chairman's Message*

*On behalf of my fellow Commissioners and the entire staff of the Independent Regulatory Review Commission, I am pleased to present this report on the activities of 2009.*

*When you look through this year's report I would encourage you to remember that each regulation you see affects a distinct segment of Pennsylvania's citizens. In some cases, the number of affected parties is comparatively small. In other cases the regulation affects all the citizens of the state either directly or indirectly. As you might expect, many people comment on these regulations and these comments often assist both the staff and the Commissioners understand the potential effect of these regulations as well as possible alternatives that may achieve the same desired result.*

*Part of the Commission's responsibility is to provide a clearinghouse for regulatory information and this includes the many comments we receive. You can find these comments on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us).*

*Another important facet of the Commission's role is the public meeting where I and the other Commissioners consider the regulations submitted before this Commission. It is at this time when the public and the agency share a forum to discuss the regulation and the regulated community indicates their support or opposition to the regulation. It is also an opportunity for Commissioners to go beyond the comments we have received from the public and the information we have received from the agency proposing the regulation and actively engage in questioning the presenters about their views and proposals.*

*Often, this give and take process helps Commissioners form their decision as to whether a regulation is, on balance, in the public interest. And while ultimately the Commission cannot stop the regulation (a responsibility reserved to the Legislature) we have often been able to use this forum as a means of improving the regulation to a point where it is acceptable to the majority of parties.*

*An independent commission that reviews and comments on regulations and provides a forum for the public, while serving as a clearinghouse for information is a model that is particularly unique to Pennsylvania, and one whose results are proudly presented in the following pages.*



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, February 2006 and March 2009. He was elected Chairman in December 2006 and reelected in April 2009.

He is a 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

George Bedwick was appointed to the Commission in January of 2009 by the Honorable Keith R. McCall, Speaker of the House, and elected Vice-Chair of the Commission in April 2009.

He is retired from the Pennsylvania House of Representatives where he served in positions that included Legislative Director for the Majority Leader and Legislative Counsel to the Minority and Majority Whip. He is also a former board member of the Pennsylvania Industrial Development Authority. He earned his BA from Kings College and his JD from Dickinson School of Law and he resides in Harrisburg, PA.



**GEORGE BEDWICK  
VICE CHAIRMAN**

S. David Fineman was appointed to the Commission in May of 2009 by The Honorable Edward G. Rendell, Governor. He is a senior partner in the firm of Fineman, Krekstein & Harris. Former public service includes appointment as one of nine Governors of the U.S. Postal Service and Chairman of the Board of Governors, membership on the Industry Policy Committee advising the U.S. Secretary of Commerce, and service as a member of the Philadelphia Planning Commission.

He earned his BA from American University and his JD from George Washington University with honors. He resides in Philadelphia, PA.



**S. DAVID FINEMAN, ESQ.  
COMMISSIONER**

# *Commissioners, Executive Director & Chief Counsel*

## Commissioners

Silvan B. Lutkewitte, III was appointed to the Commission in August of 2009 by the Honorable Samuel H. Smith, House Republican Floor Leader.

He is President and Chief Executive Officer of Targepeutics, Inc. and resides in Hershey, PA. He earned his BS from Villanova University.



**SILVAN B. LUTKEWITTE, III  
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, and appointed in February 2009 by the Honorable Joseph B. Scarnati, III, President Pro Tempore of the Senate.

He practices law in Erie, PA 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**

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 December 2006. He resigned his commission in January 2009.

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

Nancy Sabol Frantz was appointed to the Commission in December of 2007 by The Honorable Samuel H. Smith, House Republican Floor Leader. She resigned her position on August 20, 2009.

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**

Karen A. Miller was appointed to the Commission in April 2008 by The Honorable Edward G. Rendell, Governor. She resigned her commission on May 8, 2009. Previous government positions include service as the Secretary's Representative, Mid-Atlantic Region for the U.S. Department of Housing and Urban Development, as Secretary of Community Affairs for the Commonwealth of Pennsylvania, and as Mayor of the City of Reading.

She earned her BA from Indiana University (Bloomington) and is a graduate of Harvard University's Program for Senior Executives in State and Local Government. She resides in Reading, PA.



**KAREN A. MILLER  
COMMISSIONER**

# *Commissioners, Executive Director & Chief Counsel*

## Executive Director

Kim Kaufman was appointed as the Executive Director in May of 2005. Prior to his appointment, he held a variety of positions both inside and outside of state government. He has extensive experience in economic development, including the creation or operation of government-based lending programs, micro-lending, loan guarantee and industrial revenue bond financing programs. He also has several years of experience in job retraining and the placement of displaced workers.

He has a Bachelor's Degree in Government and a Master's Degree in Public Administration from Shippensburg State College.



**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 A. LEWIS JOHNSON**  
**CHIEF COUNSEL**

# Personnel

## Administration Section

The Administrative Section provides both fiscal and personnel support to the Commissioners and IRRC staff.



**Left to Right:** Cheryl A. Yohn, Administrative Associate;  
Kristine M. Shomper, Director for Administration/Comptroller; Kathy Cooper, Administrative Assistant.

## Regulatory Review Section

IRRC's regulatory review analysts are charged with the task of researching and analyzing proposed and final regulations by applying a specific set of criteria. Their primary objective is to assist the Commissioners with the development of formal comments. Those comments are ultimately delivered to the promulgating agency, presented to the standing committees in the House and Senate, and published in the *Pennsylvania Bulletin*.

Regulatory analysts carry out their duties through extensive independent research, which includes analysis of the original statute that has prompted regulations. The concerns of the regulated community are assessed through both public comments and on-site visits. Analysts meet with those parties and individuals that will be affected by the regulation in order to gauge the impact that the regulation will have. Analysts also meet with agencies, public organizations, legislators, and legislative staff.



**Left to Right, First Row:** Michael A. Totino; Regulatory Analyst; Wanda B. Gelnett, Administrative Assistant; John H. Jewett, Regulatory Analyst  
**Second Row:** Scott R. Schalles, Regulatory Analyst; Michael J. Stephens, Regulatory Analyst; James M. Smith, Regulatory Analyst; Fiona E. Wilmarth, Director of Regulatory Review (not pictured).

# Personnel

## Outreach and Regulatory Services Section

The Outreach and Regulatory Services Section was created in October 2005 to strengthen IRRC's communication with state agencies, legislators and staff, the press, and the general public. The Commission recognized a greater need for customer-based philosophy and activity. Outreach was established in order to address these needs.

The Outreach Section fulfills their responsibilities through a number of services. It serves as the press contact for the Commission, conducts courtesy reviews of forthcoming proposed regulations, and conducts seminars and workshops that are tailored to meet the specific needs of the audience. Outreach attends meetings and engages in correspondence with individual legislators and agencies. This interaction is intended to keep both legislators and agencies abreast of general activities and issues that may be important to them. This section also performs continuing management and development of the IRRC official website.



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

# Year in Review

## Public Meetings

In 2009 IRRC held 17 Public Meetings and reviewed approximately 60 final-form regulations. IRRC Commissioners voted to approve 47 of the final-form regulations and filed Disapproval Orders for six regulations including the following, Pennsylvania Gaming Control Board, Slot Machine Licensing; Pennsylvania Gaming Control Board, Rules of Practice and Procedures; Pennsylvania Gaming Control Board, Smoking in Licensed Facilities; State Board of Funeral Directors, Preneed Funeral Arrangements; State Board of Funeral Directors, Preneed Activities of Unlicensed Employee; and the State Board of Osteopathic Medicine, Prescriptive Privileges for Physician Assistants. The remaining 12 final-form regulations met the criteria of the Regulatory Review Act and were Deemed Approved by IRRC.



*Robert Mulle, Chief Deputy Attorney General and Attorney General Tom Corbett*



*Dr. James Barker, Superintendent of the School District of the City of Erie, Joseph Torsella, Chairman of the State Board of Education, and Dr. Gerald Zahorchak, Secretary of Education.*

Over 500 members of the public, general assembly and promulgating agencies attended and participated in IRRC Public Meetings during 2009. IRRC Commissioners rely on public input both during the proposed public comment period and during Public Meetings to help them effectively evaluate the direct impact a regulation will have on the regulated community.

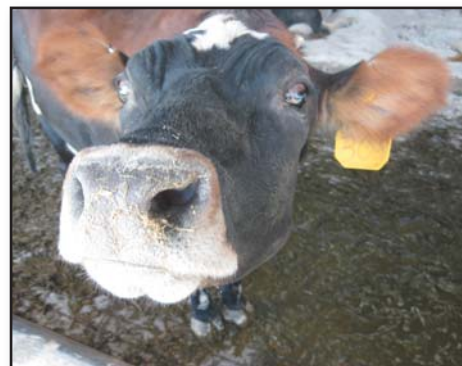
## Site Visits



*Apple Valley Creamery, East Berlin*

IRRC uses a number of different resources to review regulations including various agency and legislative meetings where the regulation is being discussed and comments received directly from the regulated community in support of or in opposition to, a regulation.

IRRC staff is knowledgeable in a number of areas but there are regulations where site visits constitute an important part of our due diligence in considering a regulation. These site visits are



*Dutchway Dairy, Myerstown*

not only helpful in allowing IRRC staff to better understand a topic area, but they allow the public to better understand that IRRC encourages their input as an integral part of the regulatory process.

# Year in Review

The Department of Agriculture published revisions to its Milk Sanitation regulations this past fall. The proposed regulation consolidates and updates the Department's regulations to handle the regulation of Raw Milk that is sold to the public. To better understand the revisions and the impact this regulation would have on 8,500 Pennsylvania dairy farmers, raw milk facilities, manufacturers and milk processing plants,



*Mine Reclamation near Frackville*

## IRRC staff visited:

- Department of Agriculture Milk Laboratory
- Harrisburg Dairies
- Land O'Lakes
- Apple Valley Creamery
- The Family Cow
- Wakefield Dairy
- Dutchway Dairy
- Fertile Valley Farm

**Beneficial Use of Coal Ash** The Department of Environmental Protection has been beneficially using coal ash for activities such as mine reclamation for 20 years. Under the proposed rulemaking submitted to IRRC this fall, coal ash can be used at coal mining activity sites and at abandoned coal surface mine sites as a structural fill, a soil substitute or an additive.

In September of 2009 IRRC staff toured several beneficial use coal ash sites around Frackville with staff from the Department of Environmental Protection. This field trip was valuable to understand the vast extent of the waste coal problem in Pennsylvania, the process that is being used to burn waste coal, the nature of the ash and how sites can be reclaimed.

## IRRC Seminars



*Sarah Miller*

IRRC continues to provide educational seminars on the regulatory review process for members of the regulated community, legislators and agency staff. In February 2009, IRRC held a seminar tailored to legislators and legislative staff. The House Professional Licensure Committee, the House Agriculture and Rural Affairs Committee and the House Gaming Oversight Committee invited IRRC to give presentations to the full Committees.

# Year in Review

IRRC was invited and pleased to participate in the following organizations' educational programs:

- Pennsylvania Coalition of Nurse Practitioners
- Pennsylvania Association of Resources
- Pennsylvania Community Providers Association Government Relations Institute
- National Conference of State Legislators – Annual Meeting
- Governor's Advisory Commission on African American Affairs
- Department of Public Welfare – Psychiatric Rehabilitation Services Workgroup
- State Board of Massage Therapy

## Regulatory Drafting Seminars

IRRC was also pleased to offer three Regulatory Drafting Seminars in cooperation with the Office of General Counsel and the Legislative Reference Bureau. Over 130 agency personnel were invited to participate in these joint drafting seminars.



*Jennifer Whare, Office of General Counsel,  
Department of Public Welfare*

IRRC continues to participate in The Harrisburg Internship Semester (THIS) program. THIS places top college students from the 14 Pennsylvania State System of Higher Education institutions in internships with various government offices and agencies in the state capitol.



*Kristina Lilac*

This year IRRC was fortunate to host interns both in the spring and fall semesters. Kristina Lilac, a Government major from Millersville University, served as our intern during the spring and William McLaughlin, a political science major from Kutztown University, was our intern during the fall term. Agency competition to obtain an intern through this program is quite keen and we have been fortunate to be a regular participant in the program.



*William McLaughlin*



# *Year in Review*

To carry out our activities our fiscal year appropriation in 08-09 was \$2,123,000 and \$1,697,000 for 09-10.



*IRRC Public Meeting*



*Chairman Coccodrilli and Vice Chairman Bush*

# *Year in Review*



*IRRC Staff*

# *Frequently Asked Questions*

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

IRRC reviews proposed and final-form 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 happens to my comment after IRRC receives it?**

The Regulatory Review Act requires IRRC to maintain in our regulation files every comment received during the public comment period. Anyone may review our regulation files by accessing our website, coming to our office during normal business hours, or requesting a hard copy of a particular document or file via e-mail, fax or first-class mail. Our regulation files are publicly accessible for at least four years from the date the regulation is promulgated.

Please be aware that the Act does not allow IRRC to alter your comment in any way, even by redacting any personal information that might appear in your letter.

## **🗳️ What regulations does IRRC review?**

IRRC 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, political subdivision, municipal or local authority.

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

There are five members of the Commission, each of whom is appointed by a different appointing authority. The appointing authorities are 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 commissioners' page on our 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 IRRC may submit comments on an agency's proposal. The proposed rulemaking stage allows individuals to provide the agency with suggestions on how the regulation may be improved. During the final-form stage, the standing committees and IRRC may vote to approve or disapprove the final-form regulation in its entirety. Members of the public are also provided the opportunity to comment on the final-form regulation at IRRC's public meeting.

# *Frequently Asked Questions*

## **🗳 How does IRRC determine whether a regulation is in the public interest?**

The criteria specified in the Regulatory Review Act (71 P.S. § 745.5b) are the foundation of IRRC's review of regulations. These criteria are included in IRRC's comments on a proposed regulation and must be considered by IRRC's Commissioners in determining whether a final-form regulation is in the public interest. The criteria include:

- Whether the agency has statutory authority to implement the regulation
- Whether the regulation is consistent with the legislative intent
- Economic and fiscal impact on the public and private sector
- Protection of the public health, safety and welfare
- Clarity, feasibility and reasonableness of the regulation
- Whether the regulation represents a policy decision requiring legislative review
- Comments, objections or recommendations of a standing committee
- Compliance with the Regulatory Review Act and IRRC regulations

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

Proposed regulations are available on our website. They are also available from the agency proposing the regulation, or by visiting the Pennsylvania Bulletin website [www.pabulletin.com](http://www.pabulletin.com). The Legislative Reference Bureau publishes all proposed regulations in the Pennsylvania Bulletin. The publication of the proposed regulation contains a preamble which explains the regulation, as well as the address where public comments may be sent. Generally, the public comment period lasts for 30 days.

## **🗳 How do I submit comments on a proposed regulation?**

You should comment to the agency during the public comment period specified in the proposed regulation's Preamble. This accomplishes several things. First, your comment will be part of the public record and must be forwarded by the agency to the standing committees and IRRC. Second, the agency must provide a written response to your comment in its submittal of the final-form regulation. Third, the agency will ask you if you want notice of the final-form regulation submittal. Finally, it gives IRRC the opportunity to review your comment in relation to our statutory criteria.

## **🗳 What is the best manner to provide written comments to IRRC?**

IRRC accepts written comments on regulations by first-class mail, fax or email. Emailed comments should be addressed to [irrc@irrc.state.pa.us](mailto:irrc@irrc.state.pa.us).

The Commission's mailing address is:  
333 Market Street,  
14th Floor,  
Harrisburg, PA 17101;

Fax number: (717) 783-2664.

Comments on final-form regulations should be received at least 48 hours prior to IRRC's public meeting. Be aware that comments are posted on our website.

# *Frequently Asked Questions*

## **👉 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 IRRC and standing committees. The RAF identifies the pertinent background information the agency is required to provide under Section 5(a) of the Regulatory Review Act, including statutory authority, estimates of costs or savings, recordkeeping requirements and affected groups. The agency must also acknowledge whether the requirements imposed by the regulation are more stringent than those established under federal standards. Although the RAF is not published in the Pennsylvania Bulletin with the proposed or final-form regulation, the document is available from the agency and is included on our website with each submitted regulation. An example of the RAF can be downloaded on our website.

## **👉 Is IRRC required to include all public comments in its comments on a regulation?**

No. IRRC comments when it finds a proposed regulation is inconsistent with the criteria in the Regulatory Review Act based on legislative comment, public comment or its own review and research of the regulation. IRRC is not required to comment if a commentator does not clearly demonstrate a conflict with the criteria, or if IRRC disagrees with the commentator's issue. It should be noted that the agency must respond to all comments in the final-form submittal as required by the Regulatory Review Act.

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

All individuals who submit comments on a proposed regulation will receive notice from the agency on how they can obtain information on the final-form regulation. When the agency submits the final-form regulation to IRRC and the standing committees, it must also send a copy of the final-form regulation or a summary of changes to the regulation to those who requested information. Additionally, you can subscribe to IRRC's website and automatically receive notice of documents received or submitted by IRRC.

## **👉 Can IRRC amend a final-form regulation?**

No. IRRC may only vote to either approve or disapprove a final-form regulation as submitted by the agency.

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

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

# *Frequently Asked Questions*

## **What is the 48-hour blackout period?**

The Regulatory Review Act provides for a blackout period before IRRC's public meeting. Unsolicited comments relating to the substance of a regulation on IRRC's current public meeting agenda will be embargoed during the 48 hours before the start of the meeting. The blackout does not apply to communication between IRRC and agency staff or Members of the General Assembly and legislative staff. IRRC may also request information from outside sources.

## **Can the Commission disapprove parts of a final-form regulation?**

No. IRRC must either approve or disapprove a regulation in its entirety.

## **Do I need to register to speak at an IRRC public meeting?**

It is not required that members of the public register to speak at an IRRC public meeting. However, it is recommended that you contact the office to indicate your intent to speak.

## **What happens after IRRC approves a final-form regulation?**

IRRC will issue an order notifying the promulgating agency, the standing committees and the Legislative Reference Bureau of its approval. In most circumstances, the promulgating agency will then submit the approved regulation to the Office of the Attorney General for legal review. After the Attorney General approves the regulation, the agency will submit it to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin. The regulation becomes effective on the date it is published.

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

Both the House of Representatives and the Senate form standing committees of their members to oversee specific subjects, policy matters and agencies. One of the functions of a standing committee includes the review of regulations. (For example, the House and Senate Transportation committees review Penn DOT regulations.) The standing committee assignments and schedules can be found on the General Assembly's website [www.legis.state.pa.us](http://www.legis.state.pa.us).

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

Yes. The agency has 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.

## **What happens when IRRC disapproves a final-form regulation?**

IRRC will issue a disapproval order to the agency indicating the reasons for disapproval. The agency has three options after an initial disapproval. The agency may:

- 1) withdraw the regulation;
- 2) resubmit the regulation with revisions within 40 days of receipt of IRRC's disapproval order;
- or,
- 3) submit the regulation without revisions to IRRC and the standing committees.

# *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-form regulation after it has been submitted to IRRC and standing committees. The agency may make only those changes recommended by the Commission and/or standing 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 standing 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.

## **🗑️ What is sine die?**

“Sine die” is a Latin phrase meaning “without day.” In Pennsylvania, it signifies final-form adjournment of a two-year legislative session.

## **🗑️ How does sine die affect proposed regulations?**

Sine die has no effect on the viability of proposed regulations. They expire only if the promulgating agency does not submit the final-form regulation within two years of the close of the public comment period.

Sine die does affect delivery rules for proposed regulations. Agencies may deliver proposed regulations to IRRC and the Legislative Reference Bureau in the period between sine die and the opening of the next legislative session; however, the Regulatory Review Act requires them to wait until a specified time period in the new legislative session to deliver proposed regulations to the standing committees.

## **🗑️ How does sine die affect final-form regulations?**

Sine die has no effect on the viability of pending final-form regulations. However, it does affect delivery rules for final-form regulations. Agencies may not deliver final-form regulations to IRRC and the standing committees in the period between sine die and the opening of the next legislative session. Instead, the Regulatory Review Act requires them to wait until a specified time period in the new legislative session to deliver final-form regulations to the reviewing entities.

## **🗑️ What happens if sine die interrupts the standing committees’ review of a final-form or final-omitted regulation?**

The Regulatory Review Act provides that the standing committees shall have at least 20 days to consider final-form and final-omitted regulations. If sine die occurs before the 20 day period has lapsed, the promulgating agency must redeliver the regulation to the standing committees at a specified time in the new legislative session. The standing committees will then have no fewer than ten days to complete their review of the final-form or final-omitted regulation.

# *Proposed Regulations*

The following chart lists the proposed regulations that the Commission received during 2009 along with regulations that were received in 2008 but acted on in 2009.

Of the 67 proposed regulations received in 2009 and the eight regulations that were received in 2008 with action in 2009, 26 have already been delivered as final-form regulations as of December 31, 2009. They are noted with an asterisk and are listed in the Final Regulations section, beginning on page 33.

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 2009, one regulation was deemed withdrawn (W2Y) and one was withdrawn by the agency (WPA).

The Commission submitted comments on 54 of the 75 proposed regulations listed on the chart (excluding the regulation that was deemed withdrawn). For the remaining 21 regulations, nine did not conflict with the criteria for review contained in the Regulatory Review Act and comments were not submitted, and comments are due in 2010 for 12 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.

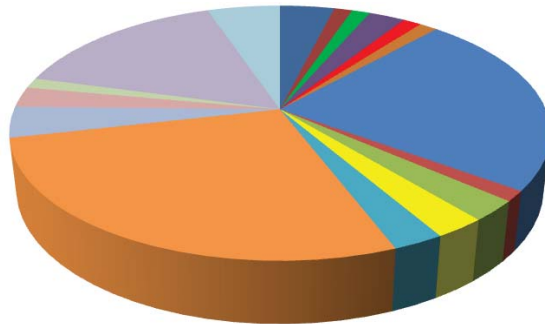
Footnotes for the following chart:

- NONE** Commission did not submit comments.
- \*** Final-form regulation delivered in 2009.
- \*\*** When the Environmental Quality Board delivered the final-form regulation on 10/02/09, they combined proposed regulations #2734, #2735, and #2736 into one regulation. The new regulation number is #2797 (see Page 37).
- OPEN** Regulation received in 2009 with action due in 2010.
- 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.



# Proposed Regulations

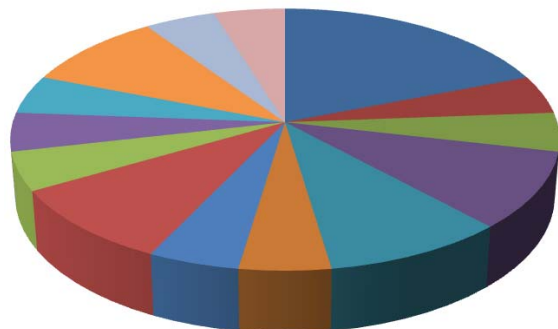
## 2009 Proposed Regulations



- Agriculture - 3
- Banking - 1
- Community and Economic Development - 1
- State Board of Education - 2
- Coal & Clay Mine Subsidence Insurance Board - 1
- Environmental Hearing Board - 1
- Environmental Quality Board - 18
- General Services - 1
- Labor and Industry - 2
- Public Welfare - 2
- Revenue - 2
- State (see chart below for breakout) - 21
- Transportation - 3
- Insurance - 2
- Commission on Crime and Delinquency - 1
- Gaming Control Board - 12
- Public Utility Commission - 4

## Department of State

- State - 4
- State Board of Accountancy - 1
- State Board of Certified Real Estate Appraisers - 1
- State Board of Chiropractic - 2
- State Board of Dentistry - 2
- State Board of Examiners of Nursing Home Administrators - 1
- State Board of Funeral Directors - 1
- State Board of Nursing - 2
- State Board of Physical Therapy - 1
- State Board of Podiatry - 1
- State Board of Psychology - 1
- State Board of Veterinary Medicine - 2
- State Registration Board for Professional Engineers, Land Surveyors and Geologists - 1
- State Real Estate Commission - 1



# Proposed Regulations

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

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07/21/09	#2-160	Milk Sanitation	#2777	10/30/09
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Updates milk sanitation regulations to reflect developments in food science and technology and align the regulations with federal regulatory standards.

09/01/09	#2-170	Canine Health Board Standards for Commercial Kennels	#2785	11/30/09
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Establishes standards for commercial kennel operations.

09/15/09	#2-149	Pesticides	#2793	11/25/09
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Clarifies and updates existing regulations.

## DEPARTMENT OF BANKING

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05/27/09	#3-44	Mortgage Licensee Education	#2766	NONE 09/18/09 WPA
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Implements pre-licensure education, testing and continuing education requirements under the Mortgage Act.

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

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07/20/09	#4-91	Industrialized Housing	#2776	09/30/09
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Clarifies the Department's and third parties' roles in monitoring the production of industrialized housing, eliminates redundant requirements, updates definitions, and addresses documentation to identify approved manufacturers.

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

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### Coal and Clay Mine Subsidence Insurance Board

12/10/08	#7-424	Mine Subsidence Fund	#2737	02/19/09*
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Updates existing regulations and adds new regulations pertaining to the Coal and Clay Mine Subsidence Insurance Fund.

# Proposed Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## DEPARTMENT OF ENVIRONMENTAL PROTECTION *continued*

### Environmental Hearing Board

10/28/08	#106-9	Practice and Procedure	#2732	01/07/09*
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Amends existing regulations to provide more specific guidance on practice and procedure before the Environmental Hearing Board.

### Environmental Quality Board

11/19/08	#7-425	Safe Drinking Water (Groundwater Rule)	#2734	01/28/09**
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Amends existing Safe Drinking Water regulations regarding identification of ground water systems that are susceptible to contamination; treatment requirements; and notification to the public.

11/24/08	#7-426	Long-Term 2 Enhanced Surface Water Treatment Rule; (Safe Drinking Water)	#2735	02/19/09**
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Amends existing Safe Drinking Water regulations to further protect public health against cryptosporidium and other microbial pathogens in drinking water.

11/24/08	#7-427	Safe Drinking Water (Stage 2 Disinfectants and Disinfection Byproducts Rule)	#2736	02/19/09**
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Amends existing regulations to reduce disease incidence associated with the disinfection byproducts that form when public water systems add disinfectants.

02/04/09	#7-431	Oil and Gas Wells	#2742	04/15/09*
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Increases fees for oil and gas well permits.

02/27/09	#7-432	Administration of the Storage Tank and Spill Prevention Program	#2753	05/13/09*
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Amends an existing chapter to establish new comprehensive training requirements for three classes of underground storage tanks.

03/20/09	#7-428	Adhesives, Sealants, Primers and Solvents	#2755	07/08/09
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Adds volatile organic compound emission limits for 37 categories of products that are currently unregulated in Pennsylvania and adds requirements for preparation and clean up solvents.

06/05/09	#7-434	Environmental Laboratory Accreditation	#2770	08/19/09
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Amends existing regulations governing environmental laboratory accreditation to improve clarity and update fees.

# *Proposed Regulations*

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## **DEPARTMENT OF ENVIRONMENTAL PROTECTION *continued***

### **Environmental Quality Board *continued***

06/05/09	#7-436	Blue Eye Run, et al. (Water Quality Network (WQN) Package); Stream Redesignations	#2771	NONE
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Updates water quality designations for seven streams or stream segments.

06/30/09	#7-433	Administration of the Water and Wastewater Systems Operators' Certification Program	#2774	10/09/09
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Establishes a new chapter to implement provisions of the Water and Wastewater Systems Operators' Certification Act.

08/18/09	#7-440	Erosion and Sediment Control and Stormwater Management	#2783	12/30/09
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Updates existing erosion and sediment control regulations relating to agricultural planning, stormwater management, buffer provisions and a permit-by-rule option.

09/09/09	#7-437	Lead and Copper Rule Short Term Revisions	#2790	11/25/09
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Amends the lead and copper provisions of the existing Safe Drinking Water regulations to incorporate federal requirements.

10/06/09	#7-441	Air Quality Fee Schedules	#2800	OPEN
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Amends existing fee schedules and adds a new chapter relating to testing, auditing and monitoring fees.

10/06/09	#7-447	Flat Wood Paneling Surface Coating Processes	#2801	OPEN
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Limits emission of volatile organic compounds from the use and application of inks, coatings and adhesives, and the use of cleaning materials in flat wood paneling surface coating processes.

10/06/09	#7-444	Outdoor Wood-Fired Boilers	#2802	OPEN
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Adds requirements for outdoor wood-fired boilers.

10/28/09	#7-445	Hazardous Waste Management System; Proposed Exclusion for Identification and Listing of Hazardous Waste	#2805	OPEN
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Amends an existing hazardous waste delisting.

# Proposed Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## DEPARTMENT OF ENVIRONMENTAL PROTECTION *continued*

### Environmental Quality Board *continued*

10/28/09	#7-446	Wastewater Treatment Requirements	#2806	OPEN
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Establishes effluent limits for sources of wastewaters containing high concentrations of total dissolved solids.

10/28/09	#7-448	Paper, Film and Foil Surface Coating Processes	#2807	OPEN
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Amends existing regulations to limit volatile organic compound emissions from the use and application of coatings and cleaning materials in paper, film and foil surface coating processes.

10/28/09	#7-442	Beneficial Use of Coal Ash	#2808	OPEN
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Establishes the standards, procedures and requirements that apply to the beneficial use of coal ash.

## DEPARTMENT OF GENERAL SERVICES

09/29/09	#8-14	State Metrology Laboratory Fee Schedule	#2796	12/09/09
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Amends the schedule of fees for metrology laboratory calibration, type evaluation and other services.

## DEPARTMENT OF LABOR AND INDUSTRY

04/20/09	#12-85	Workers' Compensation; Individual Self-Insurance	#2758	07/01/09
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Updates and clarifies existing regulations governing the administration of self-insurance for individual employers under the Workers' Compensation Act.

07/09/09	#12-76	Propane and Liquefied Petroleum Gas	#2775	09/23/09
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Implements provisions of the Propane and Liquefied Petroleum Gas Act and regulates the storage, transfer, sale and use of liquefied petroleum gas.

# Proposed Regulations

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

02/12/09	#14-515	Food Stamp Discretionary Provisions	#2749	NONE*
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Revises existing regulations relating to intentional program isolation disqualification to conform to federal regulations.

07/21/09	#14-516	Nonpublic and County Nursing Facilities	#2778	NONE
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Amends the payment methodology for Medical Assistance nursing facility services; streamlines and simplifies rate-setting for non-public facilities; and eliminates obsolete provisions.

## DEPARTMENT OF REVENUE

02/20/09	#15-445	Amended Report – Corporation Taxes	#2750	05/06/09
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Establishes procedures for filing amended corporate tax reports.

02/20/09	#15-446	Clothing	#2751	NONE
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Amends rules pertaining to the taxability of clothing.

## DEPARTMENT OF STATE

04/22/09	#16-47	Schedule of Civil Penalties - Funeral Directors and Funeral Establishments	#2761	07/01/09
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Amends the schedule of civil penalties to include failure to complete the required amount of mandatory continuing education.

04/22/09	#16-43	Schedule of Civil Penalties - Engineers, Land Surveyors and Geologists	#2764	07/01/09
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Amends the schedule of civil penalties to include failure to complete the required amount of mandatory continuing education.

09/11/09	#16-44	Schedule of Civil Penalties – Chiropractors	#2791	11/25/09
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Amends the schedule of civil penalties to include failure to complete the required amount of continuing education and practicing on a lapsed license.

10/06/09	#16-50	Biennial Filing Fee	#2799	12/16/09
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Increases the biennial registration fee for individuals and entities required to be registered under the Lobbying Disclosure Act from \$100 to \$200.

# Proposed Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## DEPARTMENT OF STATE *continued*

### State Board of Accountancy

04/22/09	#16A-5512	Biennial Renewal Fees	#2759	07/01/09*
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Increases the biennial license renewal fees for certified public accountants, public accountants and public accounting firms and increases the biennial renewal fees for continuing education program sponsors.

### State Board of Certified Real Estate Appraisers

09/09/09	#16A-7015	Appraiser Trainees; Initial and Continuing Education; Supervised Experience; Practice Standards	#2789	11/18/09
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Establishes requirements for licensure of appraiser trainees; revises initial and continuing education and supervised experience requirements for appraisers and evaluators; and revises appraiser practice standards.

### State Board of Chiropractic

02/11/09	#16A-4317	Needle Acupuncture	#2746	04/22/09*
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Amends existing regulations to remove the prohibition against advertising or practicing needle acupuncture for licensees who are registered to do so by the State Board of Medicine or State Board of Osteopathic Medicine.

09/11/09	#16A-4318	Continuing Education Violations	#2792	11/25/09
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Allows a licensee who has not completed the required amount of continuing education to renew his or her license subject to being issued a citation and making up the credits within six months.

### State Board of Dentistry

9/16/09	#16A-4620	Clinical Examinations	#2794	11/25/09
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Permits applicants for licensure by examination to pass any one of five clinical examinations administered by a regional testing agency.

9/16/09	#16A-4616	EFDA Program Approval	#2795	12/09/09
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Establishes standards for the education of expanded function dental assistants.

### State Board of Examiners of Nursing Home Administrators

02/11/09	#16A-6212	Continuing Education	#2747	04/22/09
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Updates and clarifies existing continuing education requirements.

# *Proposed Regulations*

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## **DEPARTMENT OF STATE *continued***

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### **State Board of Funeral Directors**

04/22/09	#16A-4818	Continuing Education Enforcement	#2760	07/01/09
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Updates and clarifies continuing education requirements.

### **State Board of Nursing**

10/24/08	#16A-5124	Certified Registered Nurse Practitioners; General Provisions	#2729	01/07/09*
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Updates existing regulations to reflect statutory revisions affecting the practice of certified registered nurse practitioners.

12/07/09	#16A-5136	Biennial Renewal Fees	#2809	OPEN
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Increases biennial renewal fees for licensed practical nurses, professional nurses, certified registered nurse practitioners and licensed dietitian nutritionists.

### **State Board of Physical Therapy**

09/02/09	#16A-6513	Continuing Education Providers	#2786	11/18/09
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Amends provisions relating to approval of continuing education courses and sponsors of continuing education.

### **State Board of Podiatry**

12/09/09	#16A-4410	Continuing Education	#2811	OPEN
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Increases the biennial continuing education requirements for podiatrists.

### **State Board of Psychology**

04/22/09	#16A-6315	Qualifications	#2763	07/01/09
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Updates the examination, education and experience requirements for licensed psychologists.

### **State Board of Veterinary Medicine**

09/02/09	#16A-5722	Responsibility to Clients and Patients	#2787	11/18/09
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Updates the Rules of Professional Conduct for veterinarians.

09/02/09	#16A-5723	Biennial Renewal Fees	#2788	11/18/09
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Establishes an incremental biennial renewal fee increase for veterinarians and veterinary technicians over the next five biennial renewal periods.



# Proposed Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## DEPARTMENT OF STATE *continued*

### State Registration Board for Professional Engineers, Land Surveyors and Geologists

04/22/09	#16A-4710	Continuing Education	#2762	07/01/09
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Establishes continuing education requirements for licensed engineers, land surveyors and geologists.

### State Real Estate Commission

12/07/09	#16A-5615	Initial Licensure Fees	#2810	OPEN
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Amends the fee structure for initial licensure.

## DEPARTMENT OF TRANSPORTATION

11/13/06	#18-408	Roadside Rest Areas	#2584	2/17/09 W2Y
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Updates and clarifies conditions and activities not permitted at roadside rest areas and facilities.

02/10/09	#18-413	Interstate Motor Carrier Safety Requirements	#2744	04/22/09*
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Amends existing regulations to ensure that they are consistent with the Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations.

02/10/09	#18-414	Intrastate Motor Carrier Safety Requirements	#2745	04/22/09*
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Amends existing regulations to ensure that they are consistent with the Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations.

07/21/09	#18-415	Transportation Enhancement Grants from Automated Red Light Enforcement System Revenues	#2779	09/30/09
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Establishes a Transportation Enhancement Grant Program for the use of revenue generated from automated red light enforcement systems.

# Proposed Regulations

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

02/03/09	#11-238	Annual Audited Insurers' Financial Report Required	#2740	04/15/09*
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Updates an existing chapter which requires insurers to have annual audits of their year-end statutory financial statements performed by certified public accountants.

12/14/09	#11-240	Education and Training for Applicants and Insurance Producers	#2812	OPEN
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Clarifies existing training and education requirements for insurance producers and adds new requirements for insurers and producers writing long-term care insurance and producers selling flood insurance.

## PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY, OFFICE OF VICTIMS' SERVICES

05/13/09	#35-31	Crime Victims Compensation	#2765	NONE*
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Implements pre-licensure education, testing and continuing education requirements under the Mortgage Act.

## PENNSYLVANIA GAMING CONTROL BOARD

10/28/08	#125-92	Smoking in Licensed Facilities	#2731	01/07/09*
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Adds a new section to implement the provisions of the Clean Indoor Air Act.

11/14/08	#125-95	Suppliers' Principal Place of Business; Temporary Credentials and Recordkeeping	#2733	01/28/09*
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Addresses requirements for suppliers' principal places of business; temporary credentials issued to applicants for principal or key employee licenses; and record storage.

01/09/09	#125-94	Slot Machine Master Lists	#2738	NONE*
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Updates requirements for filing slot machine master lists.

01/13/09	#125-96	Revised Procedures	#2739	03/25/09*
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Updates four chapters of existing regulations to correct errors, clarify requirements, and reflect current practices.

# Proposed Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## **PENNSYLVANIA GAMING CONTROL BOARD** *continued*

02/11/09	#125-97	Vendor Permission to Conduct Business Prior to Certification or Registration	#2748	04/22/09*
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Amends existing provisions which allow a vendor to provide goods or services to a slot machine applicant or licensee while the vendor's application for certification or registration is being renewed.

03/24/09	#125-99	Junkets; Slot Machines; and Practice and Procedures; Omnibus Amendments	#2756	NONE*
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Amends existing regulations to improve clarity, reflect current practices and improve the effectiveness of the Gaming Control Board's regulatory programs.

04/15/09	#125-102	Key Employees and Complimentary Services or Items	#2757	06/25/09*
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Amends definitions of "Complimentary service" and "Key employee" and the procedures for review of accounting and internal controls for complimentary services.

06/29/09	#125-104	Employee Revisions and Pennsylvania Race Horse Development Fund	#2773	NONE*
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Revises provisions related to employees and distribution of funds from the Pennsylvania Race Horse Development Fund.

07/30/09	#125-100	Vendor Revisions	#2780	10/14/09*
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Amends existing regulations to improve clarity, reduce unnecessary filing requirements and improve Board's oversight of vendors.

08/10/09	#125-103	Employees; Slot Machines; Accounting and Internal Controls; and Compulsive and Problem Gambling	#2781	10/21/09*
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Updates existing regulations to clarify provisions and provide greater flexibility.

08/12/09	#125-105	Jackpot and Credit Meter Payouts	#2782	10/21/09*
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Rewrites the Board's jackpot payout regulations and expands the scope of the regulations to cover credit meter payouts as well as jackpot payouts.

10/06/09	#125-106	Employee Credentials, Design Standards and Internal Controls	#2803	12/16/09
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Amends existing regulations regarding display of board-issued credentials, use of non-fixed seating and internal controls.

# *Proposed Regulations*

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## **PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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02/04/09	#57-265	Standards and Billing Practices for Residential Utility Services	#2743	05/20/09
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Amends existing regulations to implement the Responsible Utility Customer Protection Act.

03/19/09	#57-266	Licensing Requirements for Natural Gas Suppliers	#2754	07/06/09
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Implements the statutory requirement for licensing retail natural gas suppliers.

06/26/09	#57-269	Natural Gas Distribution Companies and the Promotion of Competitive Retail Markets	#2772	09/24/09
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Adds a subchapter to address issues pertaining to retail competition in the natural gas supply market.

10/06/09	#57-268	Natural Gas Distribution Company; Business Practices	#2798	OPEN
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Establishes common business practices for the statewide retail natural gas markets.

# *Final Regulations*

The following chart lists the 63 final-form and seven final-omitted regulations submitted to the Commission in 2009 along with regulations that were received in 2008 but acted on in 2009.

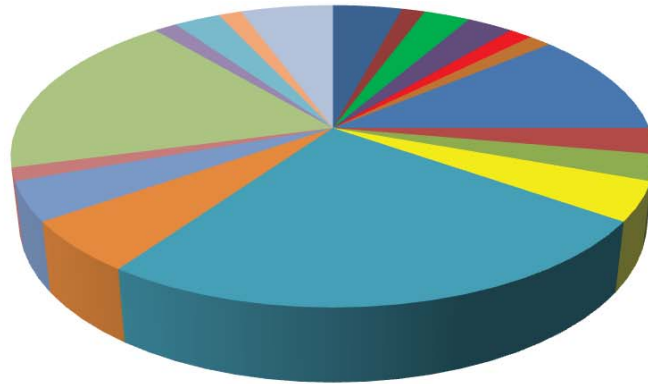
The regulations are listed by agency and include the department code and regulation number, the title of the regulation, the Commission's internal regulation number, a brief description of the regulation, the date received and/or resubmitted, the date the Commission filed comments with the agency, and 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.

The following is an explanation of the action codes in this section:

<b>APP</b>	<b>Approved – The final regulation was approved upon initial consideration.</b>
<b>AAT</b>	<b>Approved After Tolling – The final regulation was tolled, resubmitted and approved.</b>
<b>ABL</b>	<b>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.</b>
<b>DIS</b>	<b>Disapproved – IRRC disapproves final regulation at first meeting.</b>
<b>LAC</b>	<b>Later Approved with Changes – The regulation was approved with changes at the Commission's second meeting.</b>
<b>OPEN</b>	<b>Regulation received in 2008 with action due in 2009.</b>
<b>TOL</b>	<b>Tolled – A temporary timeout to stop the running of time lines.</b>
<b>WAD</b>	<b>Withdrawn After Disapproval – The regulation was withdrawn after it was disapproved at the Commission's first meeting.</b>
<b>WPA</b>	<b>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.</b>

# Final Regulations

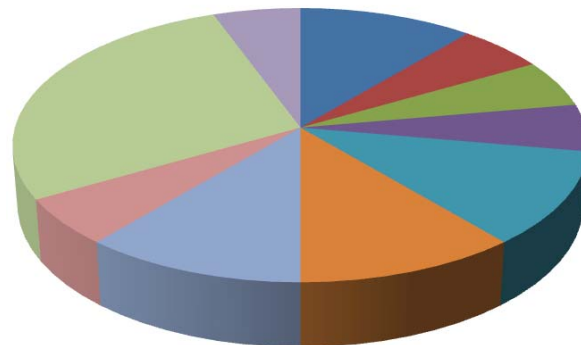
## 2009 Final-Form and Final-Omitted Regulations



- Agriculture - 3
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- Environmental Quality Board - 8
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- Insurance - 3
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- State Employees' Retirement Board - 4
- County Probation & Parole Officers' Firearm... - 1
- State Board of Education - 2
- Environmental Hearing Board - 1
- Health - 2
- Public Welfare - 3
- Transportation - 4
- Commission on Crime and Delinquency... - 1
- Liquor Control Board - 1
- Municipal Police Officers' Education... - 1

## Department of State

- State - 2
- State Board of Accountancy - 1
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- State Board of Dentistry - 1
- State Board of Funeral Directors - 2
- State Board of Medicine - 2
- State Board of Nursing - 2
- State Board of Osteopathic Medicine - 1
- State Board of Pharmacy - 5
- State Board of Veterinary Medicine - 1



# Final Regulations

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

02/12/09 04/06/09	#41-18	County Probation and Parole Officers' Firearm Education and Training Commission	#2576	12/27/06	03/16/09 TOL 04/23/09 AAT
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Establishes procedures for county probation and parole officers to be certified to carry a firearm.

## DEPARTMENT OF AGRICULTURE

02/19/09	#2-156	Seed Testing, Labeling and Standards	#2697	NONE	04/01/09 ABL
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Establishes seed testing, labeling and standards criteria for seed producers and distributors.

02/19/09	#2-157	General Provisions for Seed Certification	#2698	NONE	04/01/09 ABL
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Establishes seed certification standards.

02/19/09	#2-158	Standards for Seed Certification	#2699	NONE	04/01/09 ABL
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Establishes seed certification standards.

## DEPARTMENT OF EDUCATION

06/03/09	#6-320	General Provisions and Supervision	#2768	N/A	07/23/09 APP
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Aligns the Department's regulations with the December 1, 2008 version of the federal Individuals with Disabilities Education Act regulations.

06/03/09	#6-319	Pennsylvania Pre-K Counts Requirements, Standards, and Procedures	#2769	N/A	06/08/09 WPA
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Establishes the framework, standards and procedures for the Pennsylvania Pre-K Counts grant program.

### State Board of Education

06/03/09	#6-317	Special Education Services and Programs – General Provisions	#2767	N/A	07/23/09 APP
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Aligns Pennsylvania's regulations with the December 1, 2008 version of the federal Individuals with Disabilities Education Act regulations.

# Final Regulations

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

### State Board of Education *continued*

09/21/09	#6-312	Academic Standards and Assessment	#2696	07/16/08	10/22/09 APP
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Amends existing provisions relating to academic standards and assessments and requires demonstration of proficiency in academic standards as a high school graduation requirement beginning with the class of 2015.

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Coal and Clay Mine Subsidence Insurance Board

09/18/09	#7-424	Mine Subsidence Fund	#2737	02/19/09	10/22/09 APP
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Updates existing regulations and adds new regulations pertaining to the Coal and Clay Mine Subsidence Insurance Fund.

### Environmental Hearing Board

06/30/09	#106-9	Practice and Procedure	#2732	01/07/09	08/06/09 APP
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Amends existing regulations to provide more specific direction on practice and procedure before the Environmental Hearing Board.

### Environmental Quality Board

10/07/08 02/06/09	#7-421	Triennial Review of Water Quality Standards	#2659	04/28/08	11/20/08 DIS 02/26/09 LAC
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Triennial update of water quality standards for the Commonwealth.

02/04/09	#7-430	Marcellus Shale Well Permit Fees	#2741	N/A	03/19/09 APP
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Establishes increases in permit fees relative to the development of Marcellus Shale gas wells in Pennsylvania.

02/10/09	#7-407	Safe Drinking Water; Public Notification Revisions	#2637	12/21/07	03/19/09 APP
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Establishes new requirements for improving public notification in response to emergencies or contaminations involving public water supplies.

02/27/09	#7-412	Safe Drinking Water – General Update	#2633	10/31/07	04/02/09 APP
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Updates existing drinking water regulations to match federal requirements and improve reporting methods.



# Final Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## DEPARTMENT OF ENVIRONMENTAL PROTECTION *continued*

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### Environmental Quality Board *continued*

07/02/09	#7-404	Bluff Recession and Setback	#2717	11/21/08	08/06/09 APP
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Designates Bluff Recession Hazard Areas to protect the health and safety of coastal property owners by preventing the destruction of property and structures.

08/14/09	#7-431	Oil and Gas Wells	#2742	04/15/09	09/17/09 APP
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Increases fees for oil and gas well permits.

10/02/09	#7-432	Administration of the Storage Tank and Spill Prevention Program	#2753	05/13/09	11/05/09 APP
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Amends an existing chapter to establish new comprehensive training requirements for three classes of underground storage tanks.

10/02/09	#7-439	Safe Drinking Water Amendments (Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR) Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) and Groundwater Rule (GWR))	#2797	01/28/09 02/19/09 02/19/09	11/05/09 APP
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Amends existing safe drinking water regulations to incorporate federal provisions needed for Pennsylvania to retain primary enforcement authority. This final regulation is a combination of three proposed regulations (#2734, #2735 and #2736).

## DEPARTMENT OF HEALTH

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06/04/09	#10-180	Supplemental Nutrition Program for Women, Infants and Children (WIC Program)	#2718	10/29/08	07/23/09 APP
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Amends existing regulations relating to the authorization and management of stores participating in the Special Supplemental Nutrition for Women, Infants and Children Program.

08/24/09	#10-184	Home Care Agencies and Home Care Registries	#2623	10/10/07	10/01/09 APP
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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.

# Final Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## DEPARTMENT OF LABOR AND INDUSTRY

07/13/09	#12-84	Special Rules of Administrative Practice and Procedure Before the Workers' Compensation Appeals Board; Special Rules of Administrative Practice and Procedure Before the Workers' Compensation Judges	#2721	11/05/08	08/20/09 APP
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Amends regulations to clarify and provide additional guidance when litigating matters before the Workers' Compensation Appeal Board, the Office of Adjudication and judges.

10/23/09	#12-89	Uniform Construction Code	#2804	N/A	12/10/09 APP
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Updates existing regulations to adopt the 2009 Revisions of three International Code Council codes and amendments to the Pennsylvania Construction Code Act.

## DEPARTMENT OF PUBLIC WELFARE

02/12/09 07/28/09	#14-510	Payment for Burial and Cremation	#2655	02/13/08	03/18/09 WPA 09/17/09 APP
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Codifies a Notice of Rule Change published at 30 Pa.B. 2957 on June 10, 2000.

08/31/09	#14-517	Revisions to the Special Allowance for Supportive Services Requirement	#2784	N/A	09/25/09 WPA
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Revises requirements and amounts for special allowances for supportive services for certain cash assistance of food stamp benefit recipients.

10/19/09	#14-515	Food Stamp Discretionary Provisions	#2749	NONE	11/18/09 ABL
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Revises existing regulations relating to intentional program isolation disqualifications to conform to federal regulations.

# Final Regulations

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

09/18/08 02/09/09	#16-40	Lobbying Disclosure	#2665	03/20/08	11/06/08 DIS 02/26/09 LAC
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Implements the lobbying disclosure requirements of Act 134 of 2006.

04/02/09	#16-42	Alteration of Local Election Districts	#2716	10/22/08	05/07/09 APP
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Sets forth procedures for election districts to follow when implementing alteration of local election districts and reporting election results.

## State Board of Accountancy

09/21/09	16A-5512	Biennial Renewal Fees	#2759	07/01/09	10/22/09 APP
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Increases the biennial license renewal fees for certified public accountants, public accountants and public accounting firms and increases the biennial renewal fees for continuing education program sponsors.

## State Board of Chiropractic

10/06/09	16A-4317	Needle Acupuncture	#2746	04/22/09	11/19/09 APP
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Amends existing regulations to remove the prohibition against advertising or practicing needle acupuncture for licensees who are registered to do so by the State Board of Medicine or State Board of Osteopathic Medicine.

## State Board of Dentistry

09/28/09	16A-4617	Dental Hygiene Scope of Practice; Local Anesthesia	#2720	10/29/08	11/05/09 APP
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Expands the scope of practice of dental hygienists to include the administration of local anesthesia by regional injection under the direct supervision of a licensed dentist.

# *Final Regulations*

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## **DEPARTMENT OF STATE *continued***

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### **State Board of Funeral Directors**

09/21/09	16A-4815	Preneed Funeral Arrangements	#2627	10/24/07	10/22/09 DIS 12/07/09 WAD
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Sets forth procedures and requirements for managing preneed funds and contracts, and allowing customers to transfer contracts and funds.

10/06/09	16A-4816	Preneed Activities of Unlicensed Employee	#2639	11/28/07	11/19/09 DIS
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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**

02/06/09	#16A-4926	Nurse Midwife Prescriptive Authority	#2656	02/13/08	11/17/08 TOL 02/26/09 AAT
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Establishes prescriptive authority for licensed midwives working in collaboration with medical doctors.

11/02/09	#16A-4924	Acupuncture Licensure	#2690	07/02/08	12/10/09 APP
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Authorizes acupuncturists to treat patients for 60 days without any physician involvement and establishes protocols for the relationship between the acupuncturists and the patient's treating physician.

### **State Board of Nursing**

02/06/09	#16A-5123	Nursing Education Programs Examination Pass Rates	#2664	03/20/08	03/19/09 APP
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Increases the examination pass rate required for nursing schools to 80% of their graduates in three years.

10/01/09	#16A-5124	Certified Registered Nurse Practitioners; General Provisions	#2729	01/07/09	11/05/09 APP
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Updates existing regulations to reflect statutory revisions affecting the practice of certified registered nurse practitioners.

# Final Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## DEPARTMENT OF STATE *continued*

### State Board of Osteopathic Medicine

02/26/09 05/22/09	#16A-5318	Prescriptive Privileges for Physician Assistants	#2644	12/19/07	04/02/09 DIS 06/11/09 LAC
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Permits physician assistants practicing under the direction of an osteopathic physician to prescribe drugs.

### State Board of Pharmacy

06/05/09	#16A-5418	Sales of Hypodermic Needles and Syringes	#2625	10/24/07	07/23/09 APP
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Permits a pharmacist to sell hypodermic needles and syringes without a prescription.

06/29/09	#16A-5422	Fees	#2719	NONE	08/05/09 ABL
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Increases fees for the pharmacy intern certificate, new pharmacy permits, reinspections, pharmacy permit changes and biennial renewal for pharmacists and pharmacies.

09/28/09	#16A-5420	Pharmacist Breaks	#2663	03/20/08	11/05/09 APP
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Adds provisions related to pharmacist breaks.

10/06/09	#16A-5416	Revisions Regarding Current Pharmacy Practice	#2640	11/28/07	11/19/09 APP
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Amends existing provisions to remove outdated language and bring the regulation up to date with current practices in the industry.

11/02/09	#16A-5417	Continuing Education	#2662	03/20/08	12/10/09 APP
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Clarifies sections of the existing regulations relating to continuing pharmacy education.

### State Board of Veterinary Medicine

11/03/08 02/06/09	#16A-5721	Professional Conduct	#2594	05/02/07	12/10/08 WPA 03/19/09 APP
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Revises and updates standards of conduct and adds prohibitions for "unprofessional conduct" including verbal abuse and harassment.

# Final Regulations

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

12/23/09	#18-411	School Bus Drivers	#2704	08/27/08	OPEN
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Updates the medical requirements and standards for school bus drivers diagnosed with diabetes mellitus.

12/23/09	#18-410	Physical and Mental Criteria, Including Vision Standards Relating to the Licensing of Drivers	#2705	08/27/08	OPEN
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Updates the minimum medical requirements and standards for licensed drivers who are being treated for diabetes mellitus.

12/29/09	#18-413	Interstate Motor Carrier Safety Requirements	#2744	04/22/09	OPEN
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Amends existing regulations to ensure that they are consistent with the Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations.

12/29/09	#18-414	Intrastate Motor Carrier Safety Requirements	#2745	04/22/09	OPEN
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Amends existing regulations to ensure that they are consistent with the Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations.

## INSURANCE DEPARTMENT

02/27/09	#11-242	Medicare Supplement Insurance Minimum Standards	#2752	N/A	04/02/09 APP
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Amends existing regulations to comply with changes in federal law for Medicare Supplement Insurance plans and benefits.

07/20/09	#11-241	Military Sales Practices	#2709	NONE	08/20/09 APP
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Establishes standards to protect active duty service members of the US Armed Forces from dishonest and predatory insurance sales practices.

07/20/09	#11-238	Annual Audited Insurers' Financial Report Required	#2740	04/15/09	08/20/09 APP
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Updates an existing chapter which requires insurers to have annual audits of their year-end statutory financial statements performed by certified public accountants.

# Final Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## **PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY, OFFICE OF VICTIMS' SERVICES**

09/18/09	#35-31	Crime Victims Compensation	#2765	NONE	10/21/09 ABL
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Increases reimbursement to crime victims, expands eligibility for reimbursement and simplifies claims processing procedures.

## **PENNSYLVANIA GAMING CONTROL BOARD**

02/11/09 04/22/09	#125-86	Slot Machine Licensing	#2695	07/16/08	03/19/09 DIS 05/21/09 LAC
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Amends provisions governing slot machine licensing hearings.

02/11/09 04/22/09	#125-93	Rules of Practice and Procedures	#2723	12/03/08	03/19/09 DIS 05/21/09 LAC
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Revises existing practice and procedure regulations to improve clarity, conform to current practice and simplify existing requirements.

02/11/09	#125-92	Smoking in Licensed Facilities	#2731	01/07/09	03/19/09 DIS 04/22/09 WAD
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Adds a new section to implement the provisions of the Clean Indoor Air Act.

02/20/09	#125-95	Suppliers' Principal Place of Business; Temporary Credentials and Recordkeeping	#2733	01/28/09	04/02/09 APP
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Addresses requirements for suppliers' principal places of business; temporary credentials issued to applicants for principal or key employee licenses; and record storage.

04/22/09	#125-94	Slot Machine Master Lists	#2738	NONE	06/10/09 ABL
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Updates requirements for filing slot machine master lists.

06/03/09	#125-96	Revised Procedures	#2739	03/25/09	07/23/09 APP
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Updates four chapters of existing regulations to correct errors, clarify requirements, and revise or add new requirements to reflect current practices

# Final Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## PENNSYLVANIA GAMING CONTROL BOARD *continued*

07/15/09	#125-97	Vendor Permission to Conduct Business Prior to Certification or Registration	#2748	04/22/09	08/20/09 APP
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Amends existing provisions which allow a vendor to provide goods or services to a slot machine applicant or licensee while the vendor's application for certification or registration is being renewed.

06/03/09	#125-99	Junkets, Slot Machines; and Practice and Procedures; Omnibus Amendments	#2756	NONE	08/19/09 ABL
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Amends existing regulations to improve clarity, reflect current practices and improve the effectiveness of the Gaming Control Board's regulatory programs.

08/31/09	#125-102	Key Employees and Complimentary Services or Items	#2757	06/25/09	10/01/09 WPA
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Amends definitions of "Complimentary service" and "Key employee" and the procedures for review of accounting and internal controls for complimentary services.

09/23/09	#125-104	Employee Revisions and Pennsylvania Race Horse Development Fund	#2773	NONE	11/04/09 ABL
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Revises provisions related to employees and distribution of funds from the Pennsylvania Race Horse Development Fund.

11/05/09	#125-105	Jackpot and Credit Meter Payouts	#2782	10/21/09	12/10/09 APP
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Rewrites the Board's jackpot payout regulations and expands the scope of the regulations to cover credit meter payouts as well as jackpot payouts.

11/18/09	#125-100	Vendor Revisions	#2780	10/14/09	OPEN
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Amends existing regulations to improve clarity, reduce unnecessary filing requirements and improve the Board's oversight of vendors.

12/10/09	#125-103	Employees; Slot Machines; Accounting and Internal Controls; and Compulsive and Problem Gambling	#2781	10/21/09	OPEN
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Updates existing regulations to clarify provisions and provide greater flexibility.



# Final Regulations

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

08/20/09 10/29/09	#54-63	License Application and Management Contracts	#2613	09/19/07	09/29/09 TOL 11/19/09 AAT
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Amends various sections of the Board's existing regulations and adds two subchapters pertaining to management contracts and tax clearance.

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

03/12/09	#57-255	Retail Electricity Choice Activity Reports	#2648	02/01/08	04/23/09 APP
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Requires electric distribution companies and electric generation suppliers to report information relating to sales activity by customer group.

06/26/09	#57-262	Household Goods in Use Carrier	#2725	NONE	08/05/09 ABL
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Amends the definition of "household goods in use."

## PENNSYLVANIA STATE POLICE

### Municipal Police Officers' Education and Training Commission

07/01/09	#17-75	Retired Law Enforcement Officers Identification and Qualification Cards	#2661	05/28/08	08/06/09 APP
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Provides for the issuance of identification and firearm qualification cards for retired law enforcement officers.

# Final Regulations

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## STATE EMPLOYEES' RETIREMENT BOARD

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06/08/09	#31-6	Special Rules of Administrative Practice and Procedure	#2622	NONE	07/22/09 ABL
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Provides an exception to the applicability of general rules and extends the period to appeal a Board decision from ten to 30 days.

10/20/09	#31-12	Death Benefits	#2711	NONE	12/09/09 ABL
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Amends existing regulations to set forth the priority of a member's SERS death benefits in the event a member dies without a valid designation of beneficiaries.

11/24/09	#31-10	Termination of Annuities	#2669	NONE	OPEN
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Deletes obsolete and repetitive language.

11/24/09	#31-8	Definitions	#2671	NONE	OPEN
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Clarifies the definition of "Beneficiary."





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