



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF AGRICULTURE
LEGAL OFFICE
August 6, 1999

83719-6 PM 3:51

Independent Regulatory Review Commission
333 Market Street
14th Floor
Harrisburg, PA 17120

Original: 1858
Harbison
cc: McGinley
Bush
Cocodrilli
Harbison
Mizner
Smith
Sandusky
Legal

**Re: NOTICE OF INTENTION TO TOLL
FINAL-FORM REGULATION
Department of Agriculture
7 Pa. Code Chapter 76
Bureau of Food Safety and Laboratory Services
Food Employee Certification
I.D. No. 2-107**

Dear Sirs:

Please accept this letter as written notice of the Pennsylvania Department of Agriculture's ("PDA's") request that the above-referenced final-form regulation be "tolled" in accordance with § 5.1(g) of the Regulatory Review Act (71 P.S. § 745.5a(g)).

The final-form regulation was submitted to the Independent Regulatory Review Commission ("IRRC") and the House and Senate Standing Committees for Agriculture and Rural Affairs ("Committees") on July 19, 1999. This tolling request is delivered within the time parameters prescribed by § 5.1(g)(1) of the Regulatory Review Act (71 P.S. § 745.5a(g)(1)) and the regulation at 1 Pa. Code § 307.4(d) (relating to tolling the review period). The Committees have received this notice on today's date.

In accordance with the requirements of the regulation at 1 Pa. Code § 307.5 (relating to procedure for filing), I offer the following:

1. Citation to section being considered for revision.

PDA is considering revising § 76.15(d) of the final-form regulation it delivered to IRRC and the Committees on July 19, 1999.

2. Description of revisions being considered.

PDA is considering a recommendation by Chief Counsel for IRRC that §

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76.15(d) of the final-form regulation be revised as follows:

(d) *Reinstatement.* If a period of suspension ends *before* the expiration date of the suspended certificate, the certificate shall be considered reinstated at the end of the suspension period. [If a certificate is revoked, or if it] If a certificate is suspended and the period of suspension ends *after* the expiration date of the suspended certificate, the certificate is expired and the holder of the expired certificate [must] may reapply for certification at the end of the suspension period in accordance with the Act and this chapter.

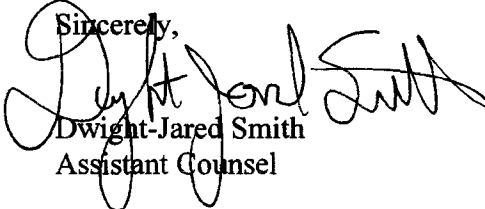
3. Explanation of how revision would satisfy the concerns of IRRC or the Committees.

The revision is being considered in response to concerns raised by Chief Counsel for IRRC. The language of the revision was provided by Chief Counsel for IRRC, and would satisfy a concern that unrevised language would create some type of loophole which might be exploited by persons whose certificates are revoked.

PDA shall deliver its revised regulation, or a written notice that the final-form regulation will not be revised, to IRRC and the Committees within the 30-day maximum span of this tolling period.

Although IRRC *has* the statutory authority to object to this tolling request and cause the review of the final-form regulation to continue, it is respectfully submitted that the revision being considered is not broader than or inconsistent with those recommended by IRRC or the Committees, and that the standard for IRRC objection set forth in the regulation at 1 Pa. Code § 307.4(f) (relating to tolling the review period) has not been met in this instance.

If I may be of further information, please advise.

Sincerely,

Dwight-Jared Smith
Assistant Counsel

cc: Christian R. Herr, Deputy Secretary
Gerald T. Osburn, Esq.
Leroy C. Corbin, Jr.
Martha Melton