

REGULATORY ANALYSIS FORM		This space for use by IRRC	
(1) Agency Pennsylvania State Police		IRRC Number: 1941 2000 AUG -2 AM 11: 17 REVIEW COMMISSION	
(2) ID Number (Governor's Office Use) 17-60			
(3) Short Title State Police - Administrative Regulations Regarding The Uniform Firearms Act			
(4) Pa. Code Cite Title 37. Law Part I. State Police Subpart D. Administrative Regulations Regarding The Uniform Firearms Act Chapter 31. Standards for licensed retail dealers; Chapter 33. Procedures and specifications for firearm record forms		(5) Agency Contacts & Telephone Number: Primary Contact: Ronald E. Plesco, Jr., Esq. (717) 783-5558 Secondary Contact: Corporal Albert J. Picca, (717) 783-5598	
(6) Type (Check one) <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted		(7) Is a 120-day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and non-technical language. These final regulations set forth policy and procedures for the collection, submission, preservation of information, and records relating to the Pennsylvania Uniform Firearms Act of 1995(UFA).			
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. The Pennsylvania Uniform Firearms Act of 1995 (Title 18 Pa.C.S. §§6101-6126).			

Regulatory Analysis Form

- (10) **Is the regulation mandated by any federal or state law, court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.**

In accordance with the UFA, these final regulations are to be implemented immediately.

- (11) **Explain the compelling public interest that justifies the regulation. What is the problem it addresses?**

These final regulations have been created to provide support to law enforcement in the area of crime prevention and control. It is not the purpose of the regulation to place any undue or unnecessary restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, transfer, transportation or use of firearms, rifles or shotguns for personal protection, hunting, target shooting, employment or any other lawful activity. The final regulations are not intended to discourage or restrict the private ownership and use of firearms by law-abiding citizens for lawful purposes or to provide for the imposition by rules or regulations of any procedures or requirements other than those necessary to implement and effectuate the provisions of these regulations.

- (12) **State the public health, safety, environmental or general welfare risks associated with non-regulation.**

This aspect of public safety is already being regulated by previous regulations. These final regulations are meant to promote and improve upon those.

- (13) **Describe who will benefit from this regulation. (Please quantify the benefits as completely as possible and approximate the number of people who will benefit.)**
These final regulations will clearly benefit the citizenry of this Commonwealth by providing for procedures to prevent prohibited persons from obtaining firearms.

Regulatory Analysis Form

- (14) Describe who will be adversely affected by this regulation. (Please quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)**

None determinable.

- (15) List the persons, groups or entities that will be required to comply with this regulation. (Please approximate the number of people who will be required to comply.)**

Criminal justice agencies, the courts, mental health providers, sportsman groups, firearm sellers, and firearm purchasers.

- (16) Describe the communications with and input from the public in the development and drafting of this regulation. Please list persons and/or groups who were involved, if applicable.**

The State Police worked with, and received input from, a committee consisting of Representative Robert W. Godshall, Senator Vincent J. Fumo, Attorney General Michael D. Fisher, Kathleen Eakin from the Governor's Office of General Counsel, and Richard Sheetz from the Attorney General's Office. In addition, representatives from the Department of Treasury- Bureau of Alcohol, Tobacco, and Firearms, the National Rifle Association, various county sheriffs, retail firearm dealers, and State and county mental health and mental retardation agencies were contacted.

- (17) Provide the specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.**

The forms required for these final regulations were designed and promulgated by the Pennsylvania State Police as required by the UFA. Although the PSP is responsible for providing the Sportsman Firearm Permit, they will also provide the Application/Record of Sale. The remaining forms shall be reproduced and provided by the applicable entity.

Regulatory Analysis Form

(18) Provide the specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

While not quantifiable, County Sheriff departments will have costs associated with their duties from applicants applying/obtaining licenses/permits to sell/carry firearms, and applicants purchasing firearms.

(19) Provide the specific estimate of the costs and/or savings to state government associated with the implementation of this regulation, including any legal, accounting or consulting procedures which may be required.

**Costs associated with implementing the Uniform Firearms Act
(\$ amounts in thousands)**

	Actual FY 1997-98 (2)	Actual FY 1998-99	Available FY 1999-00	Requested FY 2000-01
Personnel (1)	\$ 412	\$ 2,504	\$ 3,334	\$ 3,477
Operating	1,697	1,269	966	779
Fixed Assets	514	143	200	125
TOTAL	\$ 2,632	\$ 3,915	\$ 4,500	\$ 4,381

Notes:

(1) Positions allocated to PICS (noted in parentheses) were added to the complement as follows during the following calendar years: 1995 (10), 1997 (17), 1998 (81) for a total of 108 positions. In 1998 the PICS complement was reduced by 12 positions for a current complement of 96.

(2) Other costs for the development of PICS occurred as follows: FY 95/96 \$1,120, FY 96/97 \$9 (both amounts in thousands). Funding occurred through Appropriation 305 in FY 95/96 which represented a special two-year Appropriation.

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current Year:99/00	FY+1 Year:	FY+2 Year:	FY+3 Year:	FY+4 Year:	FY+5 Year:
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						

Regulatory Analysis Form

State Government						
Total Savings						
COSTS:						
Regulated Community	\$2,200,000	\$2,200,000	\$2,200,000	\$2,200,000	\$2,200,000	\$2,200,000
Local Government						
State Government	\$4,500,000	\$4,381,000	\$4,381,000	\$4,381,000	\$4,381,000	\$4,381,000
Total Costs						
REVENUE LOSSES						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates were derived.

Request Year FY 00/01

A total of 96 positions dedicated to the Pennsylvania Instant Check System (PICS) are funded under the Personnel category. Operating costs supports contracted maintenance of PICS, system phone line charges, printing of mandated firearms safety brochures and required system enhancements. Fixed Assets also fund system modifications. Total funding requested in the 2000-01 Governor's Executive Budget is \$4,381,000. The cost of this program is funded with funds collected through the Firearms Ownership Fund and General Fund Monies.

(20b) Provide the three year expenditure history for programs affected by the regulation.

Program	FY-96/97	FY-97/98	FY-98/99	Current FY99/00
PICS UNIT	\$9,041	\$2,623,124	\$3,915,893	\$4,500,000

Regulatory Analysis Form

(21) Using the cost/benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

While it is difficult to quantify the benefits of restricting a prohibited person from a firearm, the cost to society if we don't while having the means, clearly mandate that we take a proactive approach.

(22) Describe the nonregulatory alternatives considered and the costs associated with these alternatives. Please provide the reasons for their dismissal.

The UFA mandates the Pennsylvania State Police to take the steps outlined in these regulations.

(23) Describe alternative regulatory schemes considered and the costs associated with these schemes. Please provide the reasons for their dismissal.

The final regulations were drafted in consultation with a large number of entities which would most likely be affected by same. Because these regulations simply expand on previous regulations which were in effect, no other schemes were considered.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

Regulatory Analysis Form

- (25) How does this regulation compare with those of other states? Will this regulation put Pennsylvania at a competitive disadvantage with other states?**

The proposed regulations are similar to those of Virginia, Florida, South Carolina, and Illinois, and will not put Pennsylvania at a competitive disadvantage with other states.

- (26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.**

No.

- (27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times and locations, if available.**

Ongoing contacts are made with the members of a committee including Representative Robert W. Godshall, Senator Vincent J. Fumo, Attorney General Michael D. Fisher, Kathleen Eakin from the Governor's Office of General Counsel, and Richard Sheetz from the Attorney General's Office. In addition, representatives from the ATF, various county sheriffs, retail firearm dealers, and State and county mental health and mental retardation agencies are routinely contacted. Regional meetings to update and inform those affected are ongoing and will continue.

- (28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.**

Numerous new/revised forms and procedures were required as a result of the UFA and have been in effect since July 1, 1998.

- (29) Please list any special provisions which may have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.**

No special provisions, beyond those enumerated in the UFA, were deemed necessary.

Regulatory Analysis Form

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The UFA went into effect immediately. The PICS went into effect on July 1, 1998, Full compliance has been required since the effective date.

(31) Provide the schedule for continual review of this regulation.

In accordance with the Governor's Executive Order 96-1, these proposed regulations will be formally reviewed on an annual basis. They will also be reviewed far more frequently for compliance and overall effectiveness.

CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

RECEIVED

2000 AUG -2 AM 11:17

REVIEW DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY _____ (DEPUTY ATTORNEY GENERAL)</p> <p>_____ (DATE OF APPROVAL)</p> <p><input type="checkbox"/> Check if applicable. Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>The Pennsylvania State Police</p> <p>DOCUMENT/FISCAL NOTE NO. 17-60</p> <p>DATE OF ADOPTION: May 5, 2000</p> <p><i>Col. Paul J. Evanko</i> BY: Colonel Paul J. Evanko TITLE: Commissioner</p>	<p>Copy below is hereby approved as to for and legality. Executive or Independent Agencies:</p> <p>BY: <i>[Signature]</i></p> <p><u>5/17/00</u> DATE OF APPROVAL</p> <p>(Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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NOTICE OF FINAL ORDER ADOPTING REGULATION
TITLE 37. LAW

PART I. STATE POLICE

Subpart D. ADMINISTRATIVE REGULATIONS REGARDING THE UNIFORM FIREARMS ACT

CHAPTER 31. STANDARDS FOR LICENSED RETAIL DEALERS

CHAPTER 33. PROCEDURES AND SPECIFICATIONS FOR FIREARM RECORD FORMS

Annex A

TITLE 37. LAW

PART I. STATE POLICE

**Subpart D. ADMINISTRATIVE REGULATIONS REGARDING THE UNIFORM
FIREARMS ACT**

CHAPTER 31. STANDARDS FOR LICENSED RETAIL DEALERS

(Editor's Note: As part of this final order, the agency proposes to delete the existing text of Chapter 31, §§ 31.1--31.6, 31.11 and 31.21, which appears at 37 Pa. Code pages 31-1--31-6, serial pages (237921)--(237926) and replace it with the following text.)

GENERAL PROVISIONS

Sec.

31.1--31.6.

(Reserved).

31.11.

(Reserved).

31.21.

(Reserved).

31.101.

Scope.

31.102.

Definitions. LICENSED RETAIL DEALERS

31.103.

Responsibilities of licensed retail dealers.

31.104.

Responsibilities of designated employe.

31.105.

Storage requirements.

31.106.

Commissioner's notification.

31.107.

Fines and other penalties.

GENERAL PROVISIONS

§§ 31.1--31.6. (Reserved).

§ 31.11. (Reserved).

§ 31.21. (Reserved).

§ 31.101. Scope.

This chapter sets forth regulations for the storage of firearms by licensed retail dealers if a clear and present danger to public safety is found by the Commissioner to exist within this Commonwealth during the hours when the licensed retail dealer is closed for business. This chapter applies to all licensed retail dealers and their designated employees.

§ 31.102. Definitions.

The following words and terms, when used in this subpart, have the following meanings, unless the context clearly indicates otherwise:

Act--The Pennsylvania Uniform Firearms Act of 1995 (Act), 18 Pa.C.S. Chapter 61, Subchapter A.

Commissioner--The Commissioner of the State Police.

Designated employe--An employe of the licensed retail dealer who is designated by the licensed retail dealer to have direction or control in the sale of firearms to the consumer--for example, sporting goods department manager, firearms department manager.

Firearm--~~As referred to in the act,~~ UNLESS OTHERWISE DEFINED IS a weapon which is designed to or may readily be converted to expel a projectile by the action of an explosive or the frame or receiver of the weapon.

Licensed retail dealer--A person, partnership, association or corporation licensed to sell or transfer firearms to the consumer.

LICENSED RETAIL DEALERS

§ 31.103. Responsibilities of licensed retail dealers and designated employees.

(a) *General.* If a clear and present danger to public safety is found by the Commissioner to exist in this Commonwealth, licensed retail dealers located in the affected area, upon public announcement by the Commissioner as referred to in section 6113 of the act (relating to licensing of dealers), shall securely store all firearms which are on the business premises during the hours when the licensed retail dealer is closed for business.

(b) *Storage.* Licensed retail dealers located in the affected area, upon public announcement by the Commissioner, are required to comply with one of the following:

(1) All firearms shall be removed from public display. This includes firearms in display cases, racks and shelves within the premises. These firearms shall be placed in a suitable safe, vault or storeroom until the Commissioner has declared the danger to have ceased.

(2) Those licensed retail dealers who do not have a suitable safe, vault or storeroom shall remove all firearms from public view. A bolt, cylinder or any other essential part the absence of which would make the firearm inoperable shall be removed from each firearm and stored at a location other than the licensed retail dealer's place of business until the Commissioner has declared the danger to have ceased. The location shall be at a place geographically removed from the emergency and shall restrict unauthorized access.

(c) *Designated employe instructions.* In the absence of the licensed retail dealer, the designated employe is responsible for the securing of firearms according to subsection (b) of this section (relating to responsibilities of licensed retail dealers).

Licensed retail dealers shall instruct their designated employes of the storage requirements of firearms, if the Commissioner finds a time of clear and present danger to public safety.

§ 31.104. Storage requirements.

(a) A suitable storeroom for the storage of firearms shall consist of a separate room or closet located inside the premises. There may not be any windows or outside exits to this room. The entrance door of the storeroom shall be of solid wood or metal with the hinges to be designed and located so the pins cannot be pulled from outside the room. Door locks shall be the cylinder type, in good working order, firmly set in place, and with locking bolts or bars so designed that they cannot be pushed back with a thin instrument such as a knife blade or plastic card. The ceiling, floor and walls shall be CONSTRUCTED OF WOOD,

~~METAL OR WALLBOARD TO PREVENT ENTRANCE so that the entrance cannot be easily gained~~ from an adjoining building or room.

(b) Vaults or safes employed to store the firearms shall be constructed of ~~METAL, STEEL OR SIMILAR MATERIALS TO PREVENT UNAUTHORIZED ENTRY. require an excessive amount of force to gain illegal entry.~~

(c) The premises or storeroom of a licensed retail dealer may be equipped with other security devices which the retail dealer deems necessary in addition to the requirements in this chapter.

§ 31.105. Commissioner's notification.

(a) If the Commissioner determines that a clear and present danger to public safety in this Commonwealth exists, the Commissioner will notify all licensed retail dealers through public announcements through the news media.

(b) If the Commissioner determines that the clear and present danger to public safety in this Commonwealth has ceased, the Commissioner will notify all licensed retail dealers through public announcements through the news media .

§ 31.106. Fines and other penalties.

Failure of any licensed retail dealer or a designated employe to abide by this chapter may result in prosecution under the act.

**CHAPTER 33. PROCEDURES AND SPECIFICATIONS FOR FIREARM
RECORD FORMS**

GENERAL

Sec.

- 33.1. (Reserved).
- 33.11--33.17. (Reserved).
- 33.21. (Reserved).
- 33.101. Authority.
- 33.102. Definitions
- 33.103. Confidentiality.

FORM REQUIREMENTS

- 33.111. Application/record of sale.
- 33.112. Surcharge remittance form.
- 33.113. Surcharge remittance continuation form.
- 33.114. Application for a Pennsylvania license to carry firearms.
- 33.115. Pennsylvania license to carry firearms.
- 33.116. Application for a Pennsylvania license to sell firearms.
- 33.117. Pennsylvania license to sell firearms.
- 33.118. Pennsylvania sportsman's firearms permit.
- 33.119. Revocations.
- 33.120. Notification of mental health commitment.
- 33.121. PICS firearm acquisition license to carry/denial challenge.
- 33.122. Fines and other penalties.

FORMS

- 33.131. Forms.

GENERAL

§ 33.1 (Reserved).

§ 33.11--33.17. (Reserved).

§ 33.21. (Reserved).

§ 33.101. Authority.

(a) The General Assembly has declared its intention to provide support to law enforcement in the area of crime prevention and control, and that it is not the policy of the Commonwealth to place undue or unnecessary restrictions or

burdens on law-abiding citizens with respect to the acquisition, possession, transfer, transportation or use of firearms, rifles or shotguns for personal protection, hunting, target shooting, employment or other lawful activity.

(b) The General Assembly further declared that this policy is not intended to discourage or restrict the private ownership and use of firearms by law-abiding citizens for lawful purposes or to provide for the imposition by rules or regulations of any procedures or requirements other than those necessary to implement and effectuate the act.

§ 33.102. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Firearm as defined in section 6102 of the act--A pistol or revolver with a barrel length less than 15 inches, a shotgun with a barrel length less than 18 inches or a rifle with a barrel length less than 16 inches, or a pistol, revolver, rifle or shotgun with an overall length of less than 26 inches. The barrel length of a firearm shall be determined by measuring from the muzzle of the barrel to the face of the closed action, bolt or cylinder, whichever is applicable.

Firearm as defined in section 6111.2 of the act--A weapon which is designed to or may readily be converted to expel a projectile by the action of an explosion or the frame or receiver of the weapon.

Gun show/meet--A function sponsored by a National, state or local organization, devoted to the collection, competitive use or other sporting use of firearms, as defined in section 6111.2 of the act (relating to firearm sales surcharge), or an organization or association that sponsors functions devoted to the collection, competitive use or other sporting use of firearms, as defined in section 6111.2 of the act, in the community.

Handgun--A pistol or revolver with a barrel length less than 15 inches, a shotgun with a barrel length less than 18 inches or a rifle with a barrel length less than 16 inches, or a pistol, revolver, rifle or shotgun with an overall length of less than 26 inches. The barrel length of a firearm is determined by measuring from the muzzle of the barrel to the face of the closed action, bolt or cylinder, whichever is applicable as defined in section 6102 of the act.

Identification--

(i) Includes the following documents, which shall be accepted by dealers:

(A) A valid photo driver's license.

(B) A valid government-issued photo identification card.

(ii) To be acceptable, a government-issued photo identification card shall contain the holder's name, date of birth and signature. If it does not contain the holder's current address, another document containing that address such as a current utility bill, residential lease agreement, mortgage, and the like, shall be presented.

(iii) If the applicant is a member of a religious sect or community whose tenets forbid or discourage the taking of photographs, dealers shall accept a valid without-photo driver's license, or a combination of three of the following types of identification. If none of those three contain the applicant's current address, the applicant shall have another document containing the name and current address such as a current utility bill, residential lease agreement, mortgage, and the like.

(A) A valid government-issued identification card.

(B) A birth certificate.

(C) A Social Security card.

(D) A valid Pennsylvania License To Carry Firearms issued under section 6109 of the act (relating to licenses). To be accepted as a valid Pennsylvania license to carry firearms, a license issued after July 1, 1998 shall be on a form identical to the one prescribed by the State Police.

Licensee--A person, partnership, association or corporation issued a license by the Commonwealth, or a political subdivision thereof, to sell or transfer a firearm.

Long-gun--The term includes any weapon, that is not a handgun, designed to or may readily be converted to expel a projectile by the action of an explosion, or the frame or receiver of the weapon.

PICS--Pennsylvania Instant Check System--The Pennsylvania instantaneous records check system established under the act and in accordance with the Brady Handgun Violence Prevention Act, 18 U.S.C.A. §§ 921--925A.

Private sale--A sale or transfer between two non-licensed persons as referred to in section 6111 of the act (relating to sale or transfer of firearms).

Responsible person--In addition to a sole proprietor, a responsible person is:

(i) In the case of a corporation, partnership or association, an individual possessing, directly or indirectly, the power to direct or cause the direction of the management, policies and practices of the corporation, partnership or association, insofar as they pertain to firearms, as defined in section 6111.2 of the act.

(ii) In the case of a corporation, association or similar organization, a person owning 10% or more of the outstanding shares of stock issued by the applicant, and the officers and directors thereof.

Sheriff--The sheriff of the county, or the chief or head of the police department in a city of the first class.

§ 33.103. Confidentiality.

(a) Information furnished under this chapter by an applicant, purchaser, transferee or licensee, or collected by the designated issuing authority under this chapter, is confidential and not subject to public disclosure.

(b) Information collected or maintained under this chapter by the State Police is confidential and not subject to public disclosure.

(c) Nonpublic disclosure by the State Police of information collected, furnished or maintained under this chapter is restricted to:

(1) Disclosure upon request of the applicant, licensee, purchaser or transferee, as described in sections 6109 and 6111 of the act (relating to licenses; and sale or transfer of firearms), upon documentary certification that the requestor is in fact the applicant, licensee, purchaser or transferee.

(2) Disclosure upon request of a county sheriff or a criminal justice agency, defined as any court, including the minor judiciary, with criminal jurisdiction or any other governmental agency, or sub-unit thereof, created by statute or by the State or Federal constitutions, specifically authorized to perform as its principal function the administration of criminal justice, and which allocates a substantial portion of its annual budget to this function. Criminal justice agencies include: organized State and municipal police departments, local detention facilities, county, regional and State correctional facilities, probation agencies, district or prosecuting attorneys, parole boards, pardon boards and agencies or subunits thereof, as are declared by the Attorney General to be criminal justice agencies as determined by a review of applicable statutes and the State and Federal Constitutions, or both.

(d) No disclosure of information forwarded, collected or maintained under this chapter will be made to requests of non-criminal justice agencies, or individuals other than the applicant, licensee, purchaser or transferee as described in sections 6109 and 6111 of the act.

(e) Mental health records information received or maintained by the State Police under section 6111.1(b) and (f) of the act (relating to Pennsylvania State Police) shall be confidential and not subject to public disclosure. The information shall be available only to the State Police for the purposes of determining, under sections 6109(d) and 6111.1(b) of the act, if the potential applicant is prohibited from possessing, using, controlling, selling, transferring or manufacturing a firearm, or

obtaining a license to possess, use, control, sell, transfer or manufacture a firearm in this Commonwealth, as defined under Federal or State law, and for the purpose of informing the licensee/sheriff making inquiry under sections 6109(d) and 6111.1(b)(iii) of the act.

FORM REQUIREMENTS

§ 33.111. Application/record of sale.

(a) *Description.* The application/record of sale, Form SP 4-113, is a pre-numbered three-part form furnished through the State Police under section 6111 of the act (relating to sale or transfer of firearms) and is used to record firearm transactions. A written request for these forms may be directed to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. Telephone requests will not be honored. Forms will be furnished to the licensee/sheriff and shall be requested at least 3 weeks prior to the time of actual need.

(b) *Requirements.*

(1) The application/record of sale shall be either typewritten or printed in blue or black ink with a ballpoint pen. Copies shall contain legible impressions. It is the responsibility of the licensee/sheriff, and the transferee/purchaser, to ensure the form is accurately completed as indicated in the block instructions (relating to fines and other penalties). The original shall be transmitted by the licensee/sheriff within 14 days of the sale/transfer by first class mail to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. The first copy shall be retained by the licensee/sheriff for 20 years and filed in a book form in chronological order, with the latest date to the front. The second copy shall be provided to the transferee/purchaser.

(2) If a licensed business is discontinued and succeeded by a new licensee, the records prescribed by this section including both completed and blank application/record of sale forms, shall be delivered to the successor. When discontinuance of the business is absolute, the records shall be delivered within 30 days following the business discontinuance to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110.

(c) *Retail sale/transfer of a handgun or long gun prior to the implementation of the instantaneous background check.* The following are steps for completing the application/record of sale for a retail sale/transfer of a handgun or, a long gun as required in section 6111(b)(1.1)(i) OF THE ACT, prior to the implementation of the instantaneous background check.

(1) The applicant is provided an application/record of sale form and the applicant shall complete the applicable blocks as indicated on the form. If the applicant does not complete all of the required information or checks "yes" to any of the

questions under transferee's/purchaser's information on the form, the sale/transfer may not take place.

(2) The licensee/sheriff shall check the applicant's identification and ensure it meets the requirements under § 33.104 (relating to definitions).

(3) The licensee/sheriff shall ensure the form has been accurately completed.

(4) The licensee/sheriff shall comply with any applicable waiting period (Federal or State).

(5) If the sale/transfer is not denied, the transaction may be completed and the licensee/sheriff shall complete the applicable sections on the form as per block instructions, and provide the transferee/purchaser a summary of the uniform firearm laws which includes a safety brochure. The transferee/purchaser shall then sign the designated block on the form.

(d) Retail sale/transfer of a handgun or long gun after the implementation of the instantaneous background check: The following are steps for completing the application/record of sale for a retail sale/transfer of a handgun a long gun as required in section 6111(b)(1.1)(i) OF THE ACT, upon the implementation of the instantaneous background check.

~~Unless~~ IF the system becomes inoperable for a period exceeding 48 hours as indicated by the State Police at the time an instant background check is requested, the licensee/sheriff shall follow the procedures outlined in subsection (c) for any firearm. This procedure shall stay in effect during the time indicated by State Police at the time of the check. **HOWEVER LICENSEES ARE STILL REQUIRED TO COMPLY TO THE FEDERAL REQUIREMENTS OF 18 U.S.C. 922(T) (RELATING TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM).**

(1) The applicant is provided an application/record of sale form and shall complete the applicable blocks as indicated on the form. If the applicant does not complete all of the required information or checks "yes" to any of the questions under transferee's/purchaser's information on the form, the sale/transfer may not take place.

(2) The licensee/sheriff shall check the applicant's identification and ensure it meets the requirements under § 33.104.

(3) The licensee/sheriff shall ensure the form has been accurately completed.

(4) The licensee/sheriff shall request an instantaneous background check be conducted on the applicant.

(5) If the applicant's instantaneous background check is approved, the transaction may be completed and the licensee/sheriff shall complete the applicable sections on the form as per block instructions, and provide the

transferee/purchaser a summary of the uniform firearm laws which includes a safety brochure. The transferee/purchaser shall then sign the designated block on the form.

(e) *Private sale/transfer of handgun.* The following are the steps for completing the application/record of sale for a private sale/transfer involving a handgun:

(1) The licensee/sheriff shall follow the same procedures as outlined in either subsection (c) or (d), except that the transferor's/seller's information shall also be included in Section F on the form before the private sale/transfer can be completed. If the transfer is by intestate succession or by bequest, the executor or administrator shall act in the capacity of the transferor/seller. Private sales shall occur only at the place of business of the licensee, or sheriff's office. The licensee/sheriff shall follow the procedures as if he was the seller.

(2) The licensee/sheriff shall retain the application/record of sale as though he were the seller.

(f) *Approval number.* An approval number shall be issued through the instant background check system for use by the licensee/sheriff for approval of an applicant to complete a firearm, as defined in section 6111.2 of the act, transaction. If the applicant chooses to complete other firearm transactions on the same day with the same licensee/sheriff, the approval number shall be valid for use on the subsequent application/record of sale forms. If the applicant chooses to complete a firearm transaction with a different licensee/sheriff, a new approval number shall be obtained from the State Police by that licensee/sheriff and it shall be valid for all firearm transactions made with the licensee/sheriff for that date, and so on. The applicant shall be issued a receipt from the licensee/sheriff for each firearm transaction made. It shall contain the approval number for the firearm transaction, and date it was given. The application/record of sale may serve as the receipt.

(g) *Preapproval.* At an auction or gun show/meet, an approval number may be obtained by a potential transferee/purchaser for use during a later firearm transaction, as defined in section 6111.2. The potential transferee/purchaser shall be required to present the required identification to the licensee/sheriff, complete Section B on the application/record of sale and pay the required fee. The licensee/sheriff shall then request that an instantaneous background check be conducted on the potential transferee/purchaser. If approved, the licensee/sheriff shall place the approval number and date on the application, and retain it pending any transactions made by the potential transferee/purchaser on that date.

(1) If the potential transferee/purchaser conducts a transaction that requires a completed application/record of sale, the form shall be completed and the transferee/purchaser shall be given a copy to serve as the receipt.

(2) If the transferee/purchaser conducts a transaction that does not require a completed application/record of sale, the transferee/purchaser shall be given a copy of the partially completed form to serve as the receipt. The State Police copy shall be voided and forwarded to the State Police. The licensee's/sheriff's copy shall be retained as required. The licensee/sheriff shall ensure the fee is included with the surcharge remittance form.

(3) If no transaction is made on that date, the licensee/sheriff shall void the form. The State Police copy shall be voided and forwarded to the State Police. The licensee's/sheriff's copy shall be retained as required. The licensee/sheriff shall ensure the fee is included with the surcharge remittance form.

(h) *Fees.*

(1) *Firearm sales surcharge.* It is the responsibility of the licensee/sheriff to collect the firearm sales surcharge from the purchaser at the time of the transaction of the firearm, as defined in section 6111.2 of the act.

(2) *Instantaneous records check.* When the instantaneous records check is operational, a fee shall be collected by the licensee/sheriff from the requestor at the time a check is requested, under section 6111(b)(3) of the act.

(3) *Transmittal of fees.* The fees as described in paragraphs (1) and (2), shall be transmitted by the licensee/sheriff within 14 days of collection by first class mail to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110.

(i) *Transmission of fees/surcharges.* The licensee/sheriff shall utilize the surcharge remittance form, and if necessary, the surcharge remittance continuation form, when transmitting the above fees/surcharges referenced in this subsection. Refer to § 33.112 (relating to surcharge remittance form).

§ 33.112. Surcharge remittance form.

(a) The surcharge remittance form, shall be used by the licensee/sheriff to supply the State Police a record of the number of private sales processed, long-guns and handguns sold, telephone instantaneous records checks approved/denied, verification that a background check has been completed for each purchase/transfer as required by the act, and as a means to calculate the amount of fees/surcharges owed by the licensee/sheriff. The surcharge remittance form shall be uniform throughout this Commonwealth and shall be on a form prescribed by the State Police. The form shall be 8 1/2 inches by 11 inches in dimension, on plain white paper.

(b) It is the responsibility of the licensee/sheriff to ensure the form is accurately completed as indicated in the block instructions. The form may be typewritten, computer generated or printed in blue or black ink with a ballpoint pen. Copies shall contain legible impressions. The original shall be transmitted by the

licensee/sheriff along with a check payable to "Pennsylvania State Police FSSF" covering the total amount of surcharge/fee owed within 14 days of a sale, transfer or instantaneous records check by first class mail to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110.

~~(c) When a licensed business is discontinued and succeeded by a new licensee, the records prescribed by this section shall be delivered to the successor. When discontinuance of the business is absolute, the records shall be delivered within 30 days following the business discontinuance to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110.~~

§ 33.113. Surcharge remittance continuation form.

(a) The surcharge remittance continuation form shall be uniform throughout this Commonwealth and shall be on a form prescribed by the State Police. The form shall be 8 1/2 inches by 11 inches in dimension, on plain white paper. The form shall be used by the licensee/sheriff when additional space is needed to record approval numbers/dates approved as required in § 33.111 (relating to application/record of sale).

(b) It is the responsibility of the licensee/sheriff to ensure the form is accurately completed as indicated in the block instructions. The form may be typewritten, computer generated or printed in blue or black ink with a ballpoint pen. Copies shall contain legible impressions. The original shall be transmitted by the licensee/sheriff along with the corresponding surcharge remittance form within 14 days of a sale, transfer or instantaneous records check by first class mail to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110.

~~(c) When a licensed business is discontinued and succeeded by a new licensee, the records prescribed by this section shall be delivered to the successor. When discontinuance of the business is absolute, the records shall be delivered within 30 days following the business discontinuance to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110.~~

§ 33.114. Application for a Pennsylvania license to carry firearms.

(a) The application for a Pennsylvania license to carry firearms (AS DEFINED IN SECTION 6102 OF THE ACT) form, is used to apply for an original/renewal of a Pennsylvania license to carry firearms and shall be uniform throughout this Commonwealth. It shall be on a form prescribed by the State Police. The form shall be 8 1/2 inches by 11 inches in dimension, on plain white paper. The form shall be used by the issuing authority, that is, county sheriff or a chief of police for a city of the first class, to conduct an investigation within 45 days relative to whether the applicant would be precluded from receiving a license under the conditions in the act.

(b) The application for a Pennsylvania license to carry firearms (AS DEFINED IN SECTION 6102 OF THE ACT) shall be typewritten, computer generated or printed in blue or black ink with a ballpoint pen. Copies shall contain legible impressions. It is the responsibility of the issuing authority to utilize the form as prescribed by the State Police, and ensure it is accurately completed in accordance with the block instructions contained therein. The form shall be retained by the issuing authority for 6 years.

(c) At least 60 days prior to the expiration of each license, the issuing sheriff shall send to the licensee an application for a renewal of license. Failure to receive a renewal application does not relieve a licensee from the responsibility to renew the license.

§ 33.115. Pennsylvania license to carry firearms.

(a) The Pennsylvania license to carry firearms (AS DEFINED IN SECTION 6102 OF THE ACT) form, shall be constructed as a three-part form, 3 inches by 5 3/8 inches in dimension, on white paper. The issuing authorities, that is, county sheriff or a chief of police for a city of the first class, shall utilize the form as prescribed by the State Police.

(b) The Pennsylvania license to carry firearms (AS DEFINED IN SECTION 6102 OF THE ACT) shall be typewritten, computer generated or printed in blue or black ink with a ballpoint pen. Copies shall contain legible impressions. A photograph of the applicant may be placed on the license if required by the issuing authority.

(c) The form is designed to be folded in half and may be laminated. At the option of the entity furnishing the form, the paper weight of each part may be a minimum of 14 pounds up to a maximum of 28 pounds, and impressions may be produced by utilizing either carbon inserts or no carbon required (NCR) paper. Forms shall be numbered in numerical sequence and the size of the license numbers shall be at least 3/16 of an inch. The first two numbers shall be the county location code followed by the license number--for example, if the license was issued by Dauphin County, the license number would be 22-0000001, and so on.

(d) Under section 6109 of the act (relating to licenses), the original shall be issued to the licensee and be valid for 5 years from date of issue, unless revoked sooner. The first copy shall be transmitted by the issuing authority within 7 business days by first class mail to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. The second copy shall be retained by the issuing authority for 6 years.

§ 33.116. Application for a Pennsylvania license to sell firearms.

(a) The application for a Pennsylvania license to sell firearms form is used to apply for an original/renewal of a Pennsylvania license to sell firearms and shall be uniform throughout this Commonwealth. It shall be on a form prescribed by

the State Police. The form shall be 8 1/2 inches by 11 inches in dimension, on plain white paper. The form shall be used by the issuing authority, that is, the chief or head of any police department of a city, and elsewhere, the sheriff of the county, to conduct an investigation relative to whether the applicant would be precluded from receiving a license under the conditions in the act.

(b) The application for a Pennsylvania license to sell firearms shall be either typewritten, computer generated or printed in blue or black ink with a ballpoint pen. Copies shall contain legible impressions. It is the responsibility of the issuing authority to utilize the form and to ensure it is accurately completed as indicated in the block instructions. The original shall be transmitted by the issuing authority within 7 business days by first class mail to the Pennsylvania State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. The issuing authority shall retain a duplicate copy for 6 years.

(c) By signing the application, the applicant is acknowledging that should a license be granted, the applicant gives permission to the Pennsylvania State Police, or their designee, and the issuing authority to come to the licensee's business location and inspect the premises, records, and documents without a warrant, to ensure compliance with this chapter, and the provisions of the Act.

§ 33.117. Pennsylvania license to sell firearms.

(a) The Pennsylvania license to sell firearms form shall be uniform throughout this Commonwealth and shall be on a form prescribed by the State Police. The license shall be 8 1/2 inches by 11 inches in dimension, on plain white paper. The license shall be granted to reputable applicants by the issuing authority. The Pennsylvania license to sell firearms is required for any person engaged in the business of selling or transferring firearms as defined in section 6113(d) of the act (relating to licensing of dealers).

(b) The Pennsylvania license to sell firearms shall be either typewritten, computer generated or printed in blue or black ink with a ballpoint pen in three counterparts. Copies shall contain legible impressions. It is the responsibility of the issuing authority to ensure the form is accurately completed as indicated in the block instructions, and that the State Police Firearm Unit is contacted, at (717) 783-5495, to obtain a specific license number for the form. The issuing authority shall use only the license prescribed by the State Police.

(c) The original shall be delivered to the licensee to be displayed as prescribed by the act and is valid for 3 years from date of issue. The first copy shall be transmitted by the issuing authority within 7 business days by first class mail to the Pennsylvania State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. The issuing authority shall retain the second copy for 6 years.

§ 33.118. Pennsylvania sportsman's firearm permit.

(a) The Pennsylvania sportsman's firearm permit form is a pre-numbered three-part form furnished by the State Police under section 6106(c) of the act (relating to firearms not to be carried without a license). This permit, granting exemption to section 6106(a) of the act, is issued in conjunction with a hunting, furtaking or fishing license, or permit relating to hunting dogs, under section 6106(b)(9) and (10) and (c) of the act. A written request for these forms may be directed to the Pennsylvania State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. Telephone requests will not be honored. The Pennsylvania State Police shall furnish official permit forms to the county treasurer upon request. Requests shall be made three weeks prior to the time of actual need. Upon receipt the county treasurer shall remit to the Pennsylvania State Police the sum of \$1.00 for each official permit form furnished in accordance with section 6106 (c) of the act.

(b) The Pennsylvania sportsman's firearm permit shall be completed as indicated in the block instructions. It can either be typewritten or printed in blue or black ink with a ballpoint pen. Copies shall contain legible impressions. The original shall be issued to the licensee and is valid for 5 years from date of issue. The first copy shall be transmitted by the issuing authority within 7 business days by first class mail to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. The issuing authority shall retain the second copy for 2 years after the expiration date.

§ 33.119. Revocations.

(a) A Pennsylvania license to carry firearms, Pennsylvania license to sell firearms or a Pennsylvania sportsman's firearm permit may be revoked by the issuing authority for good cause.

(b) Notice of revocation shall be in writing upon the official letterhead stationery of the issuing authority and shall state the reason for revocation, the full name and date of birth of the licensee as it appears on the license/permit, the number of the license/permit and the date of revocation.

(c) The notice shall be sent by certified mail, and, at that time, a copy shall be forwarded to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110.

(d) An individual whose license/permit is revoked shall surrender the license/permit to the issuing authority within 5 days of the receipt of notice.

§ 33.120. Notification of mental health commitment.

(a) The notification of mental health commitment and adjudication of incompetence shall be consistent in form and format throughout this Commonwealth. The notification form

and format shall be prescribed by the State Police and used by the judges of the courts of common pleas, mental health review officers and county mental health and mental retardation administrators for notifying the State Police of individuals who have been adjudicated as an incompetent or who have been involuntarily committed to a mental institution for inpatient care and treatment pursuant to section § 302, § 303 or § 304 of the Mental Health Procedures Act (50 P.S. §§ 7102-7104). ~~Examining physicians are required to provide certification that inpatient care was necessary or that the person was committable. See Title 18 Pa. C.S. § 6105 (c)(4) and §6111.1(f). In addition, the form and format shall be used by examining physicians when they determine a lack of severe mental disability following the initial examination under § 302(b) of the Mental Health Procedures Act and under § 6111.1(f)(3) of the Act (relating to State Police).~~

FOLLOWING A NOTIFICATION SUBMITTED TO THE STATE POLICE THAT INPATIENT CARE WAS NECESSARY FOR A PERSON OR THAT A PERSON WAS COMMITTABLE, IF AN EXAMINING PHYSICIAN SUBSEQUENTLY DETERMINES THAT NO SEVERE MENTAL DISABILITY EXISTED PURSUANT TO SECTION 302(b) OF THE MENTAL HEALTH CARE PROCEDURES ACT, THAT EXAMINING PHYSICIAN SHALL UTILIZE THE FORM AND FORMAT TO PROVIDE NOTICE TO THE STATE POLICE TO EXPUNGE THE PREVIOUSLY SUBMITTED NOTIFICATION IN ACCORDANCE WITH TITLE 18 PA.C.S. §6111.1(G)(3).

(b) It is the responsibility of the judges of the courts of common pleas, mental health review officers, and county mental health and mental retardation administrators to ensure the notification provides complete and accurate information. The notification shall include: The full name of the individual who was involuntarily committed or adjudicated incompetent, at least one numeric identifier (date of birth and/or social security number), and physical description; notification of the type of commitment and date of the commitment or adjudication of incompetence; the county submitting the information, and name, address and telephone number of the notifying official; examining physician's certification on 302 commitments; facility where the commitment occurred; court case number and date of court order, where applicable. The notification shall be made to the State Police by the judges of the courts of common pleas, mental health review officers, and mental health and mental retardation administrators within 7 days of the adjudication, commitment or treatment, or determination by an examining physician of the lack of OF severe mental disability FOLLOWING THE INITIAL COMMITMENT AS SET FORTH IN SUBSECTION (A) OF THIS SECTION, by the form and format prescribed by the State Police. Notification made by mail, shall be directed to the Pennsylvania State Police, Attention: Firearm Division, PICS Operations, 1800 Elmerton Avenue, Harrisburg, PA 17110. The Envelope shall be marked "CONFIDENTIAL."

§ 33.121 PICS firearm acquisition/license to carry/denial challenge.

(a) The PICS firearm acquisition/license to carry/denial challenge form ~~SP4-496~~, shall be furnished to licensed firearms dealers and county sheriffs in this

Commonwealth, to be provided to individuals upon request, who are denied the ability to purchase or acquire a firearm, as defined in section 6111.2 of the act (relating to firearms sales surcharge) or a license to carry a firearm, based upon a PICS firearms background check determination. A written request for these forms may be directed to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. Forms shall be furnished to the firearms dealer/sheriff and shall be requested at least 3 weeks prior to the time of actual need.

(b) The PICS firearm acquisition/license to carry/denial challenge form shall be either typewritten or printed in blue or black ink pen. The form shall be completed containing legible impressions. It shall be the responsibility of the individual submitting the denial challenge to ensure the form is accurately completed. The form shall be submitted within 30 days of the PICS denial determination by the requesting individual, by first class mail, to the State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110.

FINES AND PENALTIES

§ 33.122. Fines and other penalties.

This chapter is promulgated under the authority contained in the act, and will be prosecuted as a violation of the act.

FORMS

§ 33.131. Forms.

(a) The following forms have been promulgated by the State Police under authority of the act and this subpart.

- (1) Application/Record of Sale.
- (2) Surcharge Remittance Form.
- (3) Surcharge Remittance Continuation Form.
- (4) Application for a Pennsylvania License to Carry Firearms.
- (5) Pennsylvania License to Carry Firearms.
- (6) Application for a Pennsylvania License to Sell Firearms.
- (7) Pennsylvania License to Sell Firearms.
- (8) Pennsylvania Sportsman's Firearm Permit.
- (9) Notification of Mental Health Commitment.
- (10) PICS Firearm Acquisition/ License to Carry/Denial Challenge.

(b) The forms are available from the State Police by contacting: Pennsylvania State Police, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110.

RULES AND REGULATIONS

Title 37—LAW

STATE POLICE

[37 PA. CODE CHAPTERS 31 AND 33]

Administrative Regulations Regarding the Pennsylvania Uniform Firearms Act of 1995

The State Police (Department), by this order, adopts Chapters 31 and 33 (relating to administrative regulations regarding the Pennsylvania Uniform Firearms Act of 1995), as derived specifically from the Pennsylvania Uniform Firearm Act of 1995 (UFA) (Title 18 Pa. C.S. §§ 6101—6126), to read as set forth in Annex A.

A. Effective Date

These final form regulations will be effective upon publication in the Pennsylvania Bulletin.

B. Statutory Authority

These final form regulations are adopted under the authority of the Pennsylvania Uniform Firearms Act of 1995 (Title 18 Pa. C.S. §§ 6101—6126). This Act was most recently amended by Act 5 of 1997, Act 70 and 121 of 1998. Act 70 of 1998 amended Section 6111.1 of the UFA and required the Pennsylvania State Police to implement the Pennsylvania Instant Check System (PICS) by July 1, 1998 for the purpose of conducting a criminal background check on every sale, transfer or purchase of a handgun between individuals and on all applicants for a license to carry a firearm. In addition, Act 121 of 1998 required the Pennsylvania State Police to conduct a criminal background check through the PICS by December 31, 1998 on the sale, transfer or purchase of a long gun by a person from a Pennsylvania Licensed firearms dealer.

C. Background and Purpose

As provided, Acts 17 of 1995 (SS1) and Act 66 of 1995 amending the Uniform Firearms Act became effective on November 20, 1995 and November 22, 1995. The UFA and these implementing final regulations have been created to provide support to law enforcement in the area of crime prevention and control by establishing the Pennsylvania Instant Check System (PICS). It is not the purpose of the Act or these regulations to place any undue or unnecessary restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, transfer, transportation or use of firearms, rifles or shotguns for personal protection, hunting, target shooting, employment or any other lawful activity. These final regulations are not intended to

discourage or restrict the private ownership and use of firearms by law-abiding citizens for lawful purposes or to provide for the imposition by rules or regulations of any procedures or requirements other than those necessary to implement and effectuate the provisions of the UFA.

D. Comments Received

Notice of proposed rulemaking was published on May 2, 1998 in Volume 28, No. 18 of the Pennsylvania Bulletin with an invitation to submit written comments within 30 days of publication. The Department only received comments from the Pennsylvania Community Providers Association and the Independent and Regulatory Review Commission (IRRC). The following is a summary of the IRRC's comments and the Department's response:

- (1) IRRC raised concern over the clarity of the use of the terms "Act" and "Steel mesh". The Department agrees with IRRC and has change the regulation by deleting the term "steel mesh" and further defining the term "Act." The remaining suggestions regarding the use of the terms, "entrance can not be easily gained" and "constructed to require an excessive amount of force to gain illegal entry" were not incorporated as the Department avers that they are self-explanatory and do not require further clarification.
- (2) IRRC suggested removing and renaming the responsibilities of designated employees in §31.104. The suggestion was adopted.
- (3) IRRC identified the need for clarity regarding the storage requirements of firearms in an emergency. See § 31.105. Each suggestion was incorporated.
- (4) In §31.106 relating to the Commissioner's notification to retail firearm dealers during an emergency, IRRC suggested using the news media to notify dealers. This suggestion was incorporated.
- (5) IRRC suggested removal of §31.101 because it is duplicative. The section was removed from the final regulation.
- (6) IRRC suggested use of different terminology to streamline § 33.102 to identify the contents of the section as "Scope". This suggestion was adopted.
- (7) As a result of comments received by IRRC from the Sheriff of Delaware County, IRRC suggested the inclusion of County Sheriff's in §33.103(c). This suggestion was incorporated.
- (8) IRRC raised several concerns regarding the use of the following terms: "firearm as defined in section 6102" and "firearm as defined in section 6111.2". Based on the need for consistency and clarity IRRC suggested that the term "firearm as defined in section 6102" should be modified by replacing it with the term handgun and that

the term "firearm as defined in section 6111.2" should be changed to just the term "firearm" Each term is defined and used specifically in the regulation based upon each term's use and application in the UFA. In addition, federal firearm laws are very specific in the use of the term "firearms". See *Title 18 U.S.C. §921*. Due to the uniformity and consistency of use and application of these terms and to prevent confusion among the regulated community the Department respectfully disagrees with IRRC's recommendation.

- (9) The IRRC suggested the deletion of the term "or if required by law" from §33.111 based upon the need for clarity and reasonableness of inclusion. The Department concurs and has amended the section accordingly.
- (10) The IRRC raised a concern regarding the need for the Department to require the regulated community to use "100% sulfite bond paper" in complying with §§ 31.113-31.117 and §31.120 of the proposed regulation. The Department agrees with IRRC's concern and has deleted the 100% sulfite bond paper, paper requirement accordingly.
- (11) The IRRC has asked the Department to justify the requirements in §§33.112 and 33.113. The justification is found in the UFA, which requires the retention of records, by the firearm dealers. See *Title 18 Pa.C.S. §6111(b)*. The Department has complied with the IRRC's second suggestion in this area and deleted the requirement in §33.112 relating to firearm dealers retention of surcharge remittance forms.
- (12) The IRRC again raised the concern that the Department should use the term "firearm as defined in section 6102" consistently throughout the regulation and cites §§33.114 and 33.115 as an example. See *paragraph (8) above for background*. These sections refer to a "license to carry firearms" as provided for in Title 18 Pa.C.S. §6109. Section 6109 does not define the term "firearms" therefore the Department refuses expand section 6109 by defining the term.
- (13) The IRRC questioned the Department's requirement in §33.118 of the regulation that the Sportsman's Firearms Permit" be distributed in quantities of 500 per pack. The Department concurs and has deleted this requirement.
- (14) The IRRC correctly points out a citation error in §33.120 and that the term "note" should be deleted. The citation to § 6111.1(f)(3) has been changed to the correct cite of 6111.1(f) and the term "note" has been deleted.
- (15) The IRRC suggested the deletion of the "SP" form designation in §33.131 of the regulation. The Department concurs and has removed the designation.

D (1). IRRC Disapproval and Recommendations:

On June 22, 2000 the IRRC disapproved this final regulation. On June 27, 2000

the Department received the IRRC's disapproval order which contained reasons for the disapproval and recommendations. On June 30, 2000 the Department sent notice to the IRRC, the House Judiciary Committee and the Senate Law and Justice Committee of the Department's intent to resubmit revised final-form regulations in accordance with 71 P.S. §745.7(c). In compliance with 71 P.S. §745.7(c) the Department has enclosed and forwarded an agency report to the IRRC, the House Judiciary Committee and the Senate Law and Justice Committee.

The Department has adopted each of the recommendations contained in the IRRC's June 22, 2000 disapproval order. The following is summary of the IRRC recommendations and the Department's response:

- (1) The IRRC noted that the use of the term "firearm" in Sections 33.114 and 33.115 was unclear and that the term should be defined consistent with section 6102 of the Act. The Department concurs with IRRC's recommendation and has amended the two sections by adding the term "as defined in section 6102 of the Act" after the term "firearm".
- (2) The IRRC recommended that Section 31.104 lacked clarity because the section contained the following terms: "entrance can not easily be gained" and "constructed to require an excessive amount of force to gain illegal entry". The Department has clarified this section by deleting the problematic terms and specifically requiring the use of certain construction materials to prevent unauthorized entry.
- (3) The IRRC recommended the deletion of Subsection (c) in sections 33.112 and 33.113. The IRRC's reasoning for this recommendation was based on IRRC's previous recommendation concerning Sections 33.112 and 33.113 to delete the twenty year retention of records requirements because they were inconsistent with the UFA. The Department complied with IRRC's previous recommendation but failed to delete Subsection (c) in Sections 33.112 and 33.113. The Department has corrected this error and complied with IRRC's recommendation by deleting Subsection (c) in Sections 33.112 and 33.113.
- (4) The IRRC's final recommendation was to delete the reporting requirements for physicians contained in Section 33.120(a) and (b) because they are inconsistent with the UFA. The reporting requirements in Section 33.120 mandates that judges of the courts of common pleas, mental health review officers and county mental health and mental retardation administrators must notify the State Police of individuals who have been adjudicated as an incompetent or who have been involuntarily committed to a mental institution for impatient care and treatment pursuant to section § 302, § 303 or § 304 of the Mental Health Procedures Act (50 P.S. §§ 7102-7104). The recommendation by IRRC to delete this section was based on comments received from the Pennsylvania Psychiatric Society (PPS). The PPS requested that the reporting requirement for examining physicians be deleted because it is inconsistent with the UFA. The Department met with the PPS and drafted an agreed to amendment to this section which deletes the reporting requirement and delineates the only certification reporting requirement for

physicians.

E. Compliance with Executive Order 1996-1

In accordance with the requirements of Executive Order 1996-1, the Department solicited input and suggestions from the regulated community. This regulation addresses a compelling public interest as described in the Preamble and otherwise complies with Executive Order 1996-1.

F. Benefits

These regulations will clearly benefit the citizens of this Commonwealth by establishing procedures to prevent prohibited persons from obtaining firearms. To date, 182 individuals with active arrest warrants for their arrest have been arrested attempting to purchase a firearm in violation of the UFA.

G. Effect

The proposed regulation will affect Pennsylvania residents and non-residents, firearm dealers and all County Sheriffs and the Philadelphia Police Department. The effective date of PICS was July 1, 1998, since that time the Department has provided seminars, participated in conferences, legislative hearings and various meetings with the regulated community.

H. Paperwork Requirements and Fiscal Impact

The final form regulations continue to require the completion of additional forms, reports, and/or other paperwork as prescribed and provided by the Department.

The costs of the PICS are funded through funds collected by the Firearms Ownership Fund and General Fund Monies. The costs incurred for operating the PICS system and enforcing the UFA through these regulations are arranged into the following three areas: personnel, operating, and fixed assets. The Department funds a total of 96 positions dedicated to PICS. The 1999-2000 costs for these positions are \$3,334,000.

Operating costs support contracted maintenance of PICS, system phone line charges, printing of mandated firearms safety brochures, forms and required system enhancements. In 1999-2000 the operating costs are \$966,000. Fixed Assets also fund system modifications. Fixed assets costs for 1999-2000 are \$200,000.

I. Input

These regulations were drafted with input from, a committee consisting of Representative Robert W. Godshall, Senator Vincent J. Fumo, Attorney General Michael D. Fisher, Kathleen Eakin from the Governor's Office of General Counsel, and Richard Sheetz from the Attorney General's Office. In addition, representatives from the Department of Treasury- Bureau of Alcohol, Tobacco, and Firearms, the National Rifle Association, various county sheriffs, retail firearm dealers, and State and county mental health and mental retardation agencies were contacted.

J. Review

Due to the complexity of the UFA and recent and ongoing amendments to the UFA these regulations, the PICS, and every implementing form and procedure will be continuously reviewed for effectiveness, clarity, and cost savings to ensure that the regulated community's interests are being properly served. The Department is committed to the success of the PICS and adherence to the UFA and will continue to take a proactive approach to soliciting comments from the regulated community.

K. Regulatory Review

Pursuant to § 5(a) of the Regulatory Review Act (Title 71 P.S. § 745(a)), the Department has submitted a copy of these final form regulations to IRRC and to the Chairpersons of the House Judiciary Committee and the Senate Law and Justice Committee on May_____, 2000. In addition to submitting the final form regulations

In accordance with §5(b) of the Regulatory Review Act (Title 71 P.S. § 745(b)), the Department has also provided, the IRRC and the Committees with a copy of a detailed Regulatory Analysis Form in compliance with Executive Order 1982-2, "Improving Government Regulations". A copy of the material is also available to the public upon request.

In preparing these final form regulations the Department considered the comments received from IRRC, the Committees and the regulated community.

These final form regulations were deemed approved by the House Judiciary Committee and the Senate Law and Justice Committee on _____, 2000. The IRRC met on _____, 2000 and approved these final form regulations in accordance with §5(c) of the Regulatory Review Act (Title 71 P.S. § 745(c)).

L. Contact Person

The contact person is Ronald E. Plesco, Jr. Esq., Director, Policy Office, Pennsylvania State Police, 1800 Elmerton Avenue, Harrisburg, PA 17110, (717) 783-5558.

M. Findings

The State Police find that:

(1) Public notice of intention to amend these regulations amended by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The amendment of the regulations of the State Police in the manner provided in this order is necessary and appropriate. A public comment period was provided as required by law and that the comments received were considered.

(3) The modifications that were made to these regulations in response to

comments received do not enlarge the purpose or scope of the proposed regulations published at 28 Pa.B. 2040.

(4) The adoption of the regulations in the manner provided is necessary and appropriate for the administration of the authorizing statute.

N. Order

The State Police, acting under the authorizing statutes, orders that:

(a) The regulations of the State Police, 37 Pa. Code are amended by adopting Chapters 31 and 33 to read as set forth in Annex A.

(b) The Commissioner of the State Police shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as required by law.

(c) The Commissioner of the State Police shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

Colonel Paul J. Evanko,
Commissioner

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see ____ Pa.B. _____ (_____, 2000).)

Fiscal Note: 17-60.



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA STATE POLICE
1800 ELMERTON AVENUE
HARRISBURG, PA. 17110

OFFICE OF COMMISSIONER

July 31, 2000

Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
14th Floor
333 Market Street
Harrisburg, Pennsylvania 17101

Re: Report on IRRC Recommendations
IRRC Regulation 17-60 (#1941)
Uniform Firearms Act; Licensed Retail Dealers; Firearm Record Forms

Dear Director Nyce:

The Department is submitting this report and the revised final form regulations to IRRC, the House Judiciary Committee and the Senate Law and Justice Committee in compliance with the reporting requirements contained in §7(c) of the Regulatory Review Act.

On June 22, 2000 the IRRC disapproved this final regulation. On June 27, 2000 the Department received the IRRC's disapproval order which contained reasons for the disapproval and recommendations. *See enclosed.* On June 30, 2000 the Department sent notice to the IRRC, the House Judiciary Committee and the Senate Law and Justice Committee of the Department's intent to resubmit revised final-form regulations in accordance with §7 of the Regulatory Review Act.

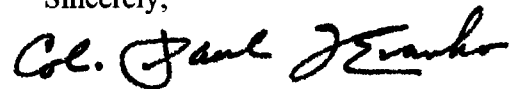
The Department has adopted all of the recommendations contained in the IRRC's June 22, 2000 disapproval order. The following is a summation of each recommendation and the Department's action:

- The IRRC noted that the use of the term "firearm" in Sections 33.114 and 33.115 was unclear and that the term should be defined consistent with section 6102 of the Uniform Firearms Act (UFA). The Department has amended the two sections by adding the term "as defined in section 6102 of the Act" after the term "firearm".
- The IRRC explained that Section 31.104 lacked clarity because the section contained the following terms: "entrance can not easily be gained" and "constructed to require an excessive amount of force to gain illegal entry". The Department has clarified this section by deleting the problematic terms and specifically requiring the use of certain construction materials to prevent unauthorized entry.

- The IRRC recommended the deletion of Subsection (c) in Sections 33.112 and 33.113. The IRRC's reasoning for this recommendation was based on IRRC's previous recommendation concerning Sections 33.112 and 33.113 to delete the twenty year retention of records requirements because they were inconsistent with the UFA. The Department complied with IRRC's previous recommendation but failed to delete Subsection (c) in Sections 33.112 and 33.113. The Department has corrected this error and complied with IRRC's recommendation by deleting Subsection (c) in Sections 33.112 and 33.113.
- The IRRC's final recommendation was to delete the reporting requirement for physicians contained in Section 33.120(a) and (b) because the requirements are inconsistent with the UFA. The recommendation by IRRC to delete this section was based on comments received from the Pennsylvania Psychiatric Society (PPS). The PPS requested that the reporting requirement for examining physicians be deleted because it is inconsistent with the UFA. The Department met with the PPS and has drafted an agreed to amendment to this section which deletes the reporting requirement and delineates the only certification reporting requirement for physicians.

Thank you for your assistance with the promulgation of these important regulations. In addition, please express my thanks to the members of your staff who have assisted the Department in the promulgation process. Please do not hesitate to contact Mr. Ronald Plesco, the Director of the Department's Policy Office at 717-772-0905 if you have any questions regarding this report or the enclosed documents.

Sincerely,



Colonel Paul J. Evanko
Commissioner

Enclosures

cc: Honorable Kevin Blaum
Honorable Thomas Gannon
Honorable Robert Thompson
Honorable Jack Wagner

JOHN R. MCGINLEY, JR., ESQ., CHAIRMAN
ALVIN C. BUSH, VICE CHAIRMAN
ARTHUR COCCODRILLI
ROBERT J. HARBISON, III
JOHN F. MIZNER, ESQ.
ROBERT E. NYCE, EXECUTIVE DIRECTOR
MARY S. WYATTE, CHIEF COUNSEL



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<http://www.irrc.state.pa.us>

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

June 22, 2000

Honorable Colonel Paul J. Evanko, Commissioner
Pennsylvania State Police
3rd Floor, Department Headquarters
1800 Elmerton Avenue
Harrisburg, PA 17110


Re: IRRC Regulation #17-60 (#1941)
Pennsylvania State Police
Uniform Firearms Act; Licensed Retail Dealers; Firearm Record Forms

Dear Commissioner Evanko:

The Independent Regulatory Review Commission disapproved the subject regulation at its public meeting on June 22, 2000. Our Order is enclosed and is available on our website at <http://www.irrc.state.pa.us>.

Section 7(a) of the Regulatory Review Act requires you to notify us within seven days from receipt of this letter if you will: (1) withdraw the regulation; (2) proceed with promulgation under Section 7(b); or (3) proceed with promulgation under Section 7(c).

Sincerely,


Alvin C. Bush
Vice Chairman

kms
Enclosure
cc: Ronald E. Plesco, Jr., Esq.
Corporal Albert J. Picca

*Rec'd
6/25-2000
PGE*

**INDEPENDENT REGULATORY REVIEW COMMISSION
DISAPPROVAL ORDER**

Commissioners Voting:

Public Meeting Held June 22, 2000

John R. McGinley, Jr., Chairman – by Proxy
Alvin C. Bush, Vice Chairman
Arthur Coccodrilli
Robert J. Harbison, III
John F. Mizner

Regulation No. 17-60
Pennsylvania State Police
Uniform Firearms Act; Licensed Retail
Dealers; Firearm Record Forms

On April 15, 1998, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania State Police (State Police). This rulemaking amends 37 Pa. Code Chapters 31 and 33. The proposed regulation was published in the May 2, 1998 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 1, 2000.

This regulation implements the Pennsylvania Uniform Firearms Act of 1995 (Act) including firearms storage requirements for dealers, the Pennsylvania Instant Check System, confidentiality requirements, license revocation procedures and forms to carry out these requirements.

The State Police made amendments in response to many of our comments, or explained why amendments were not made. However, there continue to be four areas where the final regulation does not meet our criteria.

First, the use of the term "firearm" in Sections 33.114 and 33.115 of this regulation creates a clarity problem (71 P.S. § 745.5a(i)(3)(ii)). The Act contains two distinct definitions of this term in Sections 6102 and in 6111.2. To remove any potential confusion, the term "firearm" in Sections 33.114 and 33.115 should be replaced with the term "firearm as defined in section 6102 of the Act."

Second, Section 31.104 lacks clarity (71 P.S. § 745.5a(i)(3)(ii)). We commented that the phrases "entrance cannot easily be gained" and "constructed to require an excessive amount of force to gain illegal entry" in Section 31.104 (formerly Section 31.105) are vague. Although the Preamble states the regulation was amended in response to our comments, this section is unaltered from the proposed version, except for the deletion of the term "steel mesh." Therefore, further clarification is needed.

Third, the record keeping requirements in Sections 33.112 and 33.113 still raise questions as to the economic impact of and need for these requirements (71 P.S. § 745.5a(i)(1)(iii) and (3)(iii)). We questioned the need to retain record forms required in Sections 33.112 and 33.113 for 20 years. In response, the State Police deleted the 20-year record retention requirement.

However, Subsection (c) in both of these sections still requires the transfer of records when a licensed business is discontinued. Subsection (c) in Sections 33.112 and 33.113 is no longer necessary and should be deleted.

Finally, Subsections 33.120(a) and (b) are also inconsistent with the statutory requirements and lack clarity (71 P.S. § 745.5a(i)(3)(i) and (ii)). These subsections require examining physicians to report "when they determine a lack of severe mental disability following the initial examination under Section 302(b) of the Mental Health Procedures Act...." The Pennsylvania Psychiatric Society commented that Subsections 33.120(a) and (b) are inconsistent with Section 6105(c)(4) of the Act as amended by Act 70 of 1998. It is our understanding that the State Police agree that reporting a lack of mental disability is not necessary. The State Police should delete this reporting requirement in Subsections 33.120(a) and (b).

We have determined this regulation is consistent with the statutory authority of the State Police (18 Pa.C.S. §§ 6101 to 6126) and the intention of the General Assembly. However, after considering all of the other criteria of the Regulatory Review Act discussed above, we find promulgation of this regulation is not in the public interest.

BY ORDER OF THE COMMISSION:

This regulation is disapproved.



A handwritten signature in cursive script, appearing to read "Alvin C. Bush".

Alvin C. Bush, Vice Chairman

**TRANSMITTAL SHEET FOR
REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

DEPARTMENT: Pennsylvania State Police ID NUMBER: 17-60

SUBJECT: Standards for Licensed Retail Dealers; Procedures & Specification for Firearm Records Forms

PA CODE CITE: Title 37 - PA Code, Chapters 31 and 33

RECEIVED
2000 AUG -2 AM 11:17
REGULATORY COMMISSION

TYPE OF REGULATION

(X) Final Re-submitted Regulation

FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
<u>8/2/00</u>	<u>[Signature]</u>	House Committee on Judiciary
<u>8/2/00</u>	<u>[Signature]</u>	
<u>8/2/00</u>	<u>[Signature]</u>	Senate Committee on Law & Justice
<u>8/2/00</u>	<u>[Signature]</u>	
<u>8/2/00</u>	<u>[Signature]</u>	Independent Regulatory Review Commission
_____	_____	Attorney General
_____	_____	Legislative Reference Bureau