

		This space for use by IRRC
(1) Agency Department of State, Bureau of Professional and Occupational Affairs, State Board of Accountancy		RECEIVED 2000 OCT -6 PM 12:33 REGULATORY REVIEW COMMISSION
		IRRC Number: 2056
(2) I.D. Number (Governor's Office Use) 16A-556		
(3) Short Title Peer Review		
(4) PA Code Cite 49 Pa. Code §§11.81-11.86	(5) Agency Contacts & Telephone Numbers Primary Contact: Steven Wennberg, Board Counsel 783-7200 Secondary Contact: Joyce McKeever, Deputy Chief Counsel, 783-7200	
(6) Type of Rulemaking (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 nontechnical language. <p>The regulations define peer review and related terms; clarify compliance deadlines for peer review; establish qualifications for peer review administering organizations and peer reviewers; adopt peer review standards; prescribe conditions for out-of-state peer reviews of multi-state firms; and provide for confidentiality of peer review reports.</p>		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. <p>Section 8.9(c) of the CPA Law, 63 P.S. §9.8i(c), empowers the Board to promulgate regulations relating to approval of peer review programs and standards, qualifications of peer reviewers, and the confidentiality of the peer review process.</p>		

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

The regulations are mandated by Section 8.9(c) of the CPA Law.

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

The regulations are necessary to implement statutorily mandated peer review.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

The principal risk associated with nonregulation is that public accounting firms and sole practitioners that do not voluntarily participate in peer review programs may be unaware of deficiencies in their quality controls for audit and review engagements. Such licensees may be less effective in performing attest services for clients that conform to professional standards.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The public will benefit from the regulations because peer review contributes directly to maintaining and enhancing the ability of public accounting firms and sole practitioners to adhere to professional standards when rendering attest services.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The Board cannot identify any groups that will be adversely affected by the regulations.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

All non-exempt public accounting firms and sole practitioners that perform audit or review engagements after May 1, 1998, will be required to comply with the regulations. As of January 12, 2000, there were 1,043 currently licensed firms; 19, 883 currently licensed certified public accountants; and 432 currently licensed public accountants. The Board does not know how many firms and sole practitioners currently perform audit or review engagements; nor does the Board know how many firms and sole practitioners may be eligible for exemptions.

The Pennsylvania Institute of Certified Public Accountants estimates that of those "practice units" in its membership that do not currently participate in a voluntary peer review program, approximately 600 would be subject to the regulations' peer review requirements.

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

In developing the regulations, the Board solicited comments from the Pennsylvania Institute of Certified Public Accountants and the Pennsylvania Society of Public Accountants, the principal professional organizations representing the public accounting profession in Pennsylvania. The Board also received comments from members of the General Assembly regarding the Board's interpretation of peer review compliance deadlines.

(17) Provide a 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 costs of compliance associated with the regulations are the direct result of the mandatory peer review provisions of Section 8.9 of the CPA Law. The Board cannot provide a specific estimate of the costs to public accounting firms and sole practitioners of completing periodic peer reviews. The scope, and thus cost, of peer reviews may vary widely depending on the licensees' size and the nature of the attest engagements being reviewed. Peer review charges are assessed directly by the peer review administering organization to licensees. The costs to licensees of providing the Board with documentation of peer review completion or exemption are expected to be negligible. The Board's costs in implementing the regulations will not result in increased application or renewal fees for licensees. (See Item 19)

(18) Provide a 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.

The regulations will not result in costs or savings to local government.

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

The regulations will cause the Board to incur minor, unspecified costs in reviewing peer review documentation when processing applications by public accounting firms and sole practitioners for initial licensure and license renewal. The Board also will incur minor, unspecified costs in maintaining data on peer reviewed licensees and on licensees granted extensions of time to complete a peer review. The Board does not anticipate that these costs will require any increase in application or renewal fees.

Regulatory Analysis Form

(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 FY	FY +1	FY +2	FY +3	FY +4	FY +5
SAVINGS:	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
Regulated						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated	See 17	See 17	See 17	See 17	See 17	See 17
Local Government						
State Government	See 19	See 19	See 19	See 19	See 19	See 19
Total Costs						
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated						
Local Government						
State Government						
Total Revenue Losses						

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

As set fort in Items 17 and 19, the estimated costs of the regulations for the regulated community and state government cannot be quantified.

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

Program	FY -3	FY -2	FY -1	Current FY
Accountancy	\$579,731.92	\$636,828.58	\$714,838.10 (est)	\$684,000 (est)

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

The regulations will benefit the public by ensuring that public accounting firms and sole practitioners that perform audit and review engagements participate in a program of periodic evaluation of their compliance with accounting and auditing standards. The need for this benefit outweighs its costs to the regulated community and to state government.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

A nonregulatory alternative was not available to the Board. The CPA Law mandates that peer review requirements be implemented by regulation.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

The Board did not consider an alternative regulatory scheme.

(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.

The regulations are not more stringent than federal standards.

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

The Board believes the regulations are generally comparable to peer review regulations of other states.

The regulations should not put Pennsylvania at a competitive disadvantage with other states. The regulations establish procedures allowing multi-state public accounting firms that operate in Pennsylvania to utilize out-of-state peer reviews to satisfy Pennsylvania's peer review requirements.

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

The regulations will not affect other existing or proposed regulations of the Board or of any other state agency.

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

The Board has not scheduled public hearings or informational meetings in connection with final rulemaking. The Board intends to apprise licensees of the new requirements through individualized mailings, the Board's newsletter, and the Board's website. In its Fall/Winter 1999 newsletter, the Board advised licensees to disregard previously announced compliance deadlines that were incorrect and that have been corrected during final rulemaking.

(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.

The regulations will require public accounting firms and sole practitioners that perform audit or review engagements to provide the Board, at the time application for initial licensure or license renewal, with a letter from a peer review administering organization verifying the applicant's completion of a peer review or appropriate documentation evidencing the applicant's entitlement to an exemption from peer review.

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

As noted in Item 25, the regulations contain special peer review provisions for multi-state public accounting firms that operate in Pennsylvania. These provisions eliminate unnecessary peer reviews by allowing multi-state firms to use peer reviews conducted on out-of-state engagements to satisfy Pennsylvania's peer review requirement, provided such out-of-state peer reviews meet Pennsylvania's standards. Additionally, the regulations contain provisions clarifying how licensees may establish their entitlement to other statutorily authorized exemptions from peer review requirements.

(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 regulations will take effect upon final publication in the Pennsylvania Bulletin. Non-exempt public accounting firms and sole practitioners that perform audit engagements after May 1, 1998, will have to complete a peer review by May 1, 2002; non-exempt firms and sole practitioners that perform review engagements but not audit engagements after May 1, 1998, will have to complete a peer review by May 1, 2006.

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

The Board intends to conduct an annual review of the regulations to evaluate their continued effectiveness.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

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LEGISLATIVE REGULATORY
REVIEW COMMISSION

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BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Accountancy
(AGENCY)

BY: *John V. ...*

DOCUMENT/FISCAL NOTE NO. 16A-556

DATE OF APPROVAL

DATE OF ADOPTION: _____

8-17-00
DATE OF APPROVAL

BY: *Thomas J. Baumgartner*
Thomas J. Baumgartner, CPA

(Deputy General Counsel
Chief Counsel,
Independent Agency
(Strike inapplicable
title)

TITLE: Chairman
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

- [] Check if applicable
Copy not approved.
Objections attached.
- [] Check if applicable. No Attorney General approval or objection within 30 days after submission.

ORDER OF FINAL RULEMAKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF ACCOUNTANCY
(49 PA CODE, CHAPTER 11)

PEER REVIEW

PREAMBLE

The State Board of Accountancy (Board), by this order, amends 49 Pa. Code, Chapter 11, by adding §§11.81-11.86 as set forth in Annex A.

Sections 11.81-11.86 implement the peer review requirements of Section 8.9 of the CPA Law, 63 P.S. §9.8i, which was added by the Act of December 4, 1996, P.L. 851 (Act 140 of 1996). Specifically, the regulations clarify deadlines for peer review compliance and the requirements for peer review exemptions; establish qualifications for peer review administering organizations and peer reviewers; adopt peer review standards; provide for confidentiality of peer review reports; and define relevant terms.

Summary of Comments and Responses to Proposed Rulemaking

The Board published a notice of proposed rulemaking on August 21, 1999 (29 Pa. B. 4448), following which the Board entertained public comment for a period of 30 days. The Board received comments from the Pennsylvania Institute of Certified Public Accountants (PICPA), which supported the proposed regulations, and the Pennsylvania Society of Public Accountants (PSPA), which objected to parts of the proposed regulations.

The Board received comments from the House Professional Licensure Committee (House Committee) on October 6, 1999, and the Independent Regulatory Review Commission (IRRC) on October 22, 1999, as part of their review of the proposed regulations under the Regulatory Review Act. The Board did not receive comments from the Senate Committee on Consumer Protection and Professional Licensure (Senate Committee), which also reviewed the proposed regulations pursuant to the Regulatory Review Act.

Following is a summary of the comments that the Board received during proposed rulemaking and of the changes the Board has made to the regulations in response to the comments.

§11.81 (Definitions)

Section 11.81 defines terms used in the peer review regulations. At the suggestion of the IRRC, the Board has added definitions for "audit engagement," "review engagement," and "sole practitioner." An audit engagement is an audit as defined in the Statement on Auditing Standards of the American Institute of Certified Public Accountants (AICPA); a review engagement is a review as defined in the AICPA's Statement of Standards on Accounting and Review Services (SSARS); and a sole practitioner is a licensed certified public accountant or licensed public accountant who practices public accounting on his own behalf. (AICPA and other acronyms used by the Board

throughout Chapter 11 are defined in existing §11.1(relating to definitions).)

In addition, the Board has added definitions of “onsite peer review” and “offsite peer review” to §11.81 to conform to recently approved changes in terminology in the AICPA’s Standards for Performing and Reporting on Peer Reviews (AICPA Peer Review Standards). Section 8.9(d)(1) and (2) of the CPA Law, 63 P.S. §9.8i(d)(1) and (2), provides that the peer review of a non-exempt public accounting firm that performs audit engagements shall be an “onsite review,” while the peer review of a non-exempt public accounting firm that performs review engagements shall be an “offsite review.” Section 8.9(d)(1) and (2) also describes in general terms the scope of an onsite review and an offsite review; one of the differences between the two types of peer reviews is that an offsite review, unlike an onsite review, does not include a study of associated working papers. The terminology and descriptions used in Section 8.9(d)(1) and (2) are consistent with the current AICPA Peer Review Standards, which were also in effect when Section 8.9 was added to the CPA Law in 1996. The Board’s regulations adopt the AICPA Peer Review Standards. On October 5, 1999, the AICPA Peer Review Board approved revisions to the AICPA Peer Review Standards that will take effect January 1, 2001. The revised AICPA Peer Review Standards redesignate the terms onsite review and offsite review as “system review” and “engagement review,” respectively, and also enlarge the scope of the offsite, or engagement, review to include a study of associated working papers. In order to apprise firms how the revisions to the AICPA Peer Review Standards relate to the peer requirements of the CPA Law and to clarify that such revisions do not alter the requirements of the CPA Law, the Board has defined onsite peer review as a system review under the AICPA’s Peer Review Standards and has defined offsite peer review as an engagement review under the AICPA’s Peer Review Standards except for the study of associated working papers.

§11.82 (Effective dates for peer review compliance; proof of compliance or exemption)

Proposed §11.82(a) provided that a non-exempt firm that performs an audit engagement after May 1, 1998, shall complete a peer review before the license biennium that begins May 1, 2000, while proposed §11.82(b) provided that a non-exempt firm that performs a review engagement after May 1, 1998, shall complete a peer review before the license biennium that begins May 1, 2004. In its notice of proposed rulemaking, the Board noted that there appeared to be conflicting language in the CPA Law regarding the deadlines for peer review compliance. Section 8.9(l)(2) of the CPA Law, 63 P.S. §9.8i(l)(2), provides: “This section [relating to peer review] shall not become applicable to firms and no firm shall be required to undergo a peer review under this section until May 1, 2000, except that this section shall not become applicable until May 1, 2004, to a firm that has not accepted or performed any audit engagement during May 1, 1998, through April 30, 2004.” However, Section 8.8(c) of the CPA Law, 63 P.S. §9.8h(c), which relates to the licensing of firms,

provides: "An initial or renewal license shall not be issued to a firm after April 30, 2000, unless the firm complies with the requirements of Section 8.9 of this act." For reasons more fully discussed in the notice of proposed rulemaking, the Board considered Section 8.8(c) of the CPA Law to be controlling.

The House Committee, the IRRC and the PSPA raised objections to the proposed deadlines for peer review compliance. The House Committee commented that the Board had misapprehended the legislative intent regarding the effective dates for peer review and that the matter was clearly governed by Section 8.9(l)(2) of the CPA Law. The House Committee stated that it "finds the legislative intent was for May 1, 2000, to be the starting date for the peer review program, and not the deadline for peer review compliance." In accordance with the House Committee's comments, the Board has revised §11.82(a) and (b) to provide that a non-exempt firm that performs an audit engagement after May 1, 1998, has until May 1, 2002, to complete a peer review, while a non-exempt firm that performs a review engagement after May 1, 1998, has until May 1, 2006, to complete a peer review.

The Board has also revised §11.82(a) and (b) to clarify the type of peer review (onsite or offsite) that a non-exempt firm is required to complete.

The Board has made editorial changes to §11.82(c), which provides that a non-exempt firm shall submit with its application for initial licensure or license renewal a letter from the peer review administering organization that evidences the firm's completion of peer review.

Proposed §11.82(d) provided that a firm seeking to claim an exemption from peer review under Section 8.9(g) of the CPA Law, 63 P.S. §9.8i(g), shall submit "information that substantiates its entitlement to an exemption." Proposed §11.82(d) further provided that in the case of a multi-state firm that claims an exemption under Section 8.9(g)(1) based on its having completed a peer review in another state or jurisdiction, the firm shall submit (1) a letter from the out-of-state peer review administering organization evidencing the firm's completion of a peer review (within three years of the date of application) that satisfies Pennsylvania's requirements and (2) a statement that the firm's internal inspection or monitoring procedures require the firm's personnel from an out-of-state office to perform an inspection of the firm's Pennsylvania offices at last once every three years.

The IRRC noted there is a conflict between Section 8.9(a) of the CPA Law, 63 P.S. §9.8i(a), which provides that a firm is not required to undergo a peer review if it meets *one* of the exemptions in Section 8.9(g), and Section 8.9(g), which states that a firm shall be exempt from the requirement of a peer review if *all* the specified conditions in paragraphs (1)-(3) apply. The IRRC questioned the Board how it intends to resolve this statutory inconsistency. A cardinal rule of

statutory construction, set forth in Section 1922 (1) of the Statutory Construction Act of 1972, 1 Pa. C.S. §1922(1), provides that it may be presumed, in ascertaining the legislative intent of a statute, that the General Assembly did not intend a result that is absurd, impossible of execution, or unreasonable. The three sets of conditions for exemption set forth in Section 8.9(g) involve disparate, unrelated circumstances; it would appear exceedingly rare, if not impossible, for a firm to be able to satisfy all three sets of conditions at once. Accordingly, the Board believes the only reasonable interpretation of the CPA Law is to treat Section 8.9(g) as setting forth three discrete exemptions, any one of which would permit a firm to be excused from the peer review requirement. Consistent with this interpretation, the Board has revised §11.82(d) to explicitly state that a firm that has performed an audit or review engagement after May 1, 1998, is entitled to an exemption if any one of the three conditions set forth in Section 8.9(g) apply.

The Board has also revised §11.82(d) to set forth the types of documentation required to substantiate entitlement to each of the three exemptions. In addition to retaining the language in proposed §11.82(d) about the required documentation for a multi-state firm claiming an exemption under Section 8.9(g)(1), the revised §11.82(d) provides that a firm claiming an exemption under Section 8.9(g)(2) shall submit a notarized statement from the firm that (i) the firm has not accepted or performed any audit or review engagement during the preceding two years, (ii) the firm does not intend to accept or perform any audit or review engagement during the next two years, and (iii) the firm agrees to notify the Board within 30 days of accepting an audit or review engagement and undergo a peer review within 18 months of commencing the engagement. The revised §11.82(d) also provides that a firm claiming an exemption under Section 8.9(g)(3) shall submit one of the following: (i) a physician's statement that a specified medical condition prevents the firm from completing a timely peer review, (ii) a statement from the appropriate military authority that military service prevents the firm from completing a timely peer review, or (iii) a notarized statement from the firm setting forth exigent circumstances that prevent the firm from completing a timely peer review.

Finally, the IRRC questioned whether §11.82(d)'s requirement that a multi-state firm claiming an exemption under Section 8.9(g)(1) demonstrate that its internal inspection or monitoring procedures require the firm's personnel from an out-of-state office to perform an inspection of the firm's Pennsylvania offices every three years is equivalent to a peer review and, if so, how can such an inspection constitute an independent peer review required by the CPA Law. The internal inspection is complementary of, and not a substitution for, the statutory requirement that the multi-state firm have completed a qualifying out-of-state peer review. The limitation of an out-of-state peer review of a multi-state firm is that while the peer review team is able to evaluate a firm's quality control policies, it cannot offer assurances that the firm's Pennsylvania offices are in compliance with those policies. The requirement that a multi-state firm provide for a periodic internal inspection

of its Pennsylvania offices by its personnel from an out-of-state office furnishes an adequate level of assurance that the Pennsylvania offices are in compliance with quality control policies.

§11.83 (Administering organizations for peer review; firm membership not required)

Proposed §11.83(a) provided that the following organizations are deemed approved to administer a peer review program: (1) the AICPA's Securities and Exchange Practice Section and the Private Companies Practice Section and (2) any state society or institute that participates in the AICPA Peer Review Program. Proposed §11.83(b) provided that a firm that is subject to peer review shall not be required to become a member of the AICPA or another administering organization.

The IRRC asked the Board to explain the function of the administering organization in the peer review process. The administering organization ensures that all aspects of the peer review program are carried out. These functions include selecting qualified persons to serve on peer review teams, scheduling peer reviews, evaluating peer review reports, and recommending remedial or corrective action as needed.

Both the IRRC and the PSPA recommended that the Board add provisions to permit organizations other than those set forth in proposed §11.83(a) to qualify as administering organizations for peer review. The IRRC further commented that the language in proposed §11.83(a) appeared to limit multi-state or national organizations, excepting AICPA, from being eligible for deemed approval status. The IRRC also recommended that proposed §11.83(b) be clarified to prohibit an administering organization from requiring membership as a pre-condition to conducting a peer review of a firm.

In response, the Board has revised §11.83(a) to provide that any organization of licensed certified public accountants or licensed public accountants that participates in the AICPA Peer Review Program is deemed approved to administer a peer review program and does not require prior approval from the Board. As the Board stated in its notice of proposed rulemaking, because the AICPA Peer Review Program is universally recognized in the public accounting profession as the preeminent model for peer review, the least costly and most efficient way to implement peer review in Pennsylvania is to grant deemed approval status to any organization of licensed accounting professionals that employs the AICPA peer review model.

The Board has adopted the suggestion of the IRRC and the PSPA to establish a regulatory mechanism by which peer review programs other than the AICPA's can be evaluated for appropriateness. To this end, the Board has revised §11.83(b) to provide that an organization of licensed certified public accountants or licensed public accountants that does not qualify for deemed

approval status under §11.83(a) may apply to the Board for approval to serve as an administering organization. The Board will evaluate the application based on the following factors: (i) whether the organization has adequate financial and other resources to administer a peer review program; (ii) whether the organization has the technical competence to administer a peer review program; and (iii) whether the organization has an oversight peer review committee whose members are subject to and have successfully completed peer reviews and that is capable of retaining qualified peer reviewers, scheduling peer reviews, reviewing the results of peer reviewers, and recommending remedial action for firms that do not receive unqualified peer review reports.

The Board has added a new §11.83(c) that restates proposed §11.83(b) in a manner consistent with the recommendation of the IRRC.

§11.84 (Peer review standards)

The Board has made editorial changes to §11.84, which requires that a peer review be conducted in accordance with the AICPA's Peer Review Standards.

§11.85 (Qualifications of peer reviewers)

Proposed §11.85(a) stated that, except as provided in subsections (b) and (c), a peer reviewer shall possess the qualifications set forth in the AICPA's Peer Review Standards. Proposed §11.85(b) provided that a licensed public accountant who otherwise satisfies the requirements of proposed §11.85(a) shall be qualified to serve as a peer reviewer; proposed §11.85(c) provided that a sole practitioner with a public accounting or auditing practice who otherwise satisfies the requirements of proposed §11.85(a) and who is enrolled in a peer review program shall be qualified to serve as a peer reviewer. Proposed §11.85(d) provided that a peer reviewer shall be independent from, and have no conflict of interest with, the firm being reviewed.

The IRRC commented that the proposed regulations do not specify how the Board would determine whether a prospective peer reviewer is qualified. The IRRC also questioned the meaning of the phrase "who otherwise satisfies the requirements of subsection (a)" in proposed §11.85(b) and (c).

In order to state with greater clarity who is eligible to serve as a peer reviewer, the Board has consolidated proposed §11.85(a)-(c) into a revised §11.85(a), which provides that a peer reviewer shall be a licensed certified public accountant or licensed public accountant, whether a sole practitioner or part of a group practice, who is enrolled in a peer review program and who possesses the qualifications set forth in the AICPA's Peer Review Standards. The Board has also revised

§11.85(b) to state that the peer review administering organization shall be responsible for ensuring that its peer reviewers are qualified. The Board has also renumbered §11.85(d) as §11.85(c).

Statutory Authority

Section 8.9(c) of the CPA Law, 63 P.S. §9.9i(c), empowers the Board to promulgate regulations approving peer review programs and standards, establishing qualifications of peer reviewers, and prohibiting unauthorized disclosure of information obtained during peer review.

Fiscal Impact and Paperwork Requirements

The regulations will have a fiscal impact on licensed public accounting firms subject to peer review. The Board cannot accurately estimate the cost of completing a peer review. The scope, and thus cost, of a peer review may vary widely depending on the size of the firm and the nature of the attest engagements that are being reviewed. The cost could range from less than \$1,000 for an off-site review to hundreds of thousands of dollars and more for an on-site review of the nation's largest firms.

The regulations will cause the Board to incur minor costs in processing license renewal applications and initial license applications of firms subject to peer review. The Board anticipates that these costs will be defrayed by application and renewal fees.

The regulations will require firms subject to peer review to provide the Board with proof of completion of a peer review or information substantiating entitlement to an exemption. The regulations also will require the Board to revise its forms for initial licensure and license renewal. The regulations will not impose new paperwork requirements on the Commonwealth's other agencies or its political subdivisions.

Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1 (relating to regulatory review and promulgation), the Board, in developing the regulations, solicited comments from the major professional associations representing the public accounting profession in Pennsylvania.

Regulatory Review

On August 11, 1999, as required by Section 5(a) of the Regulatory Review Act, 71 P.S. §745.5(a), the Board submitted copies of the notice of proposed rulemaking, published at 29 Pa.B.4448 (August 21, 1999), to the IRRC and the House and Senate Committees for review and comment.

In adopting final-form regulations, the Board considered comments from the IRRC, the House Committee, and the general public. The Board did not receive comments from the Senate Committee.

On September 25, 2000, the Board submitted final-form regulations to the IRRC and the House and Senate Committees for review. On October 6, 2000, under authority of Section 5.1(g)(1) of the Regulatory Review Act, 71 P.S. §745.5a(g)(1), the Board tolled the review period in order to correct an error in the final-form regulations, and submitted revised final-form regulations on that date. Pursuant to Section 5.1(g)(3) of the Regulatory Review Act, 71 P.S. §745.5a(g)(3), the revised final-form regulations were approved by the House Committee on _____, 2000, approved by the Senate Committee on _____, 2000, and approved by the IRRC on _____, 2000.

Additional Information

Individuals who desire additional information about the regulations are invited to submit inquiries to Steven Wennberg, Esq., Counsel, State Board of Accountancy, P.O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The Board finds that:

- (1) Public notice of the Board's intention to amend 49 Pa. Code, Chapter 11, by this order has been given under Sections 201 and 202 of the Commonwealth Documents Law, 45 P.S. §§1201 and 1202, and the regulations thereunder, 1 Pa. Code §§7.1 and 7.2.
- (2) The regulations adopted by this order are necessary and appropriate for the administration of the CPA Law.

Order

The Board, acting under its authorizing statute, orders that:

- (a) The regulations of the Board, 49 Pa. Code, Chapter 11, are amended by adding §§11.81-11.86 to read as set forth in Annex A.
- (b) The Board 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 Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (d) The regulations shall take effect upon publication in the Pennsylvania Bulletin.

ANNEX A

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 11. STATE BOARD OF ACCOUNTANCY**

* * *

PEER REVIEW

§11.81. Definitions.

The following words and terms, when used in §§11.82-11.86 (relating to peer review), shall have the following meanings:

Administering organization - An entity that meets the standards specified by the Board for administering a peer review program.

AUDIT ENGAGEMENT - AN AUDIT AS DEFINED IN THE AICPA'S STATEMENT ON AUDITING STANDARDS.

Firm - A licensee who is a sole practitioner or a licensee that is a qualified association as defined in section 2 of the act (63 P.S. §9.2).

OFFSITE PEER REVIEW - AN ENGAGEMENT REVIEW AS DEFINED IN THE AICPA'S STANDARDS FOR PERFORMING AND REPORTING ON PEER REVIEWS, INCLUDING INTERPRETATIONS THEREOF, EXCEPTING A STUDY OF THE ASSOCIATED WORKING PAPERS.

ONSITE PEER REVIEW - A SYSTEM REVIEW AS DEFINED IN THE AICPA'S STANDARDS FOR PERFORMING AND REPORTING ON PEER REVIEW, INCLUDING INTERPRETATIONS THEREOF.

Peer reviewer - An individual who conducts an on-site or off-site peer review. The term includes an individual who serves as captain of an on-site peer review team.

REVIEW ENGAGEMENT - A REVIEW AS DEFINED IN THE AICPA'S SSARS.

SOLE PRACTITIONER. - A LICENSED CERTIFIED PUBLIC ACCOUNTANT OR LICENSED PUBLIC ACCOUNTANT WHO PRACTICES PUBLIC ACCOUNTING ON HIS OWN BEHALF.

§11.82. Effective dates for peer review compliance; proof of compliance or exemption.

(a) Unless subject to an exemption under section 8.9(g) of the act (63 P.S. §9.8i(g)), a firm that performs an audit engagement after May 1, 1998, shall complete an ONSITE peer review before the license biennium that begins May 1, 2000 2002.

(b) Unless subject to an exemption under section 8.9(g) of the act, a firm that performs a review engagement, but not an audit engagement, after May 1, 1998, shall complete AN OFFSITE peer review before the license biennium that begins May 1, 2004 2006.

(c) A non-exempt firm THAT PERFORMS AN AUDIT OR REVIEW ENGAGEMENT shall submit with its application for initial licensure or license renewal a letter from the peer review administering organization that evidences the firm's completion of a peer review.

(d) A firm THAT PERFORMS AN AUDIT OR REVIEW ENGAGEMENT IS ENTITLED TO claiming an exemption from peer review IF ANY OF THE THREE CONDITIONS under IN section 8.9(g) of the act APPLY. A FIRM CLAIMING AN EXEMPTION shall submit with its application for initial licensure or license renewal information that substantiates its entitlement to an exemption. In the case of a multi-state firm that claims an exemption under section 8.9(g) based on its having undergone a peer review in another state or jurisdiction, the firm shall provide the following:

(1) A letter from the out-of-state peer review administering organization evidencing the firm's completion of a peer review, within three years prior to the date of the application, that meets the requirements of the act and this chapter.

(2) A statement that the firm's internal inspection or monitoring procedures require that the firm's personnel from an out-of-state office perform an inspection of the firm's Pennsylvania offices at least once every three years.

AS FOLLOWS:

(1) EXEMPTION UNDER SECTION 8.9(G)(1):

(I) A LETTER FROM AN OUT-OF-STATE PEER REVIEW ADMINISTERING ORGANIZATION EVIDENCING THE FIRM'S COMPLETION OF A PEER REVIEW, WITHIN THREE YEARS PRIOR TO THE DATE OF THE APPLICATION, THAT MEETS THE REQUIREMENTS OF THE ACT AND THIS CHAPTER; AND

(II) A STATEMENT THAT THE FIRM'S INTERNAL INSPECTION OR MONITORING PROCEDURES REQUIRE THE FIRM'S PERSONNEL FROM AN OUT-OF-STATE OFFICE TO PERFORM AN INSPECTION OF THE FIRM'S PENNSYLVANIA OFFICES AT LEAST ONCE EVERY THREE YEARS.

(2) EXEMPTION UNDER SECTION 8.9(G)(2): A NOTARIZED STATEMENT FROM THE FIRM THAT:

(I) THE FIRM HAS NOT ACCEPTED OR PERFORMED ANY AUDIT OR REVIEW ENGAGEMENT DURING THE PRECEDING TWO YEARS;

(II) THE FIRM DOES NOT INTEND TO ACCEPT OR PERFORM ANY AUDIT OR REVIEW ENGAGEMENT DURING THE NEXT TWO YEARS; AND

(III) THE FIRM AGREES TO NOTIFY THE BOARD WITHIN 30 DAYS OF ACCEPTING AN AUDIT OR REVIEW ENGAGEMENT AND TO UNDERGO A PEER REVIEW WITHIN 18 MONTHS OF COMMENCING THE ENGAGEMENT.

(3) EXEMPTION UNDER SECTION 8.9(G)(3):

(I) A PHYSICIANS'S STATEMENT THAT A SPECIFIED MEDICAL CONDITION PREVENTS THE FIRM FROM COMPLETING A TIMELY PEER REVIEW;

(II) A STATEMENT FROM THE APPROPRIATE MILITARY AUTHORITY THAT MILITARY SERVICE PREVENTS THE FIRM

FROM COMPLETING A TIMELY PEER REVIEW; OR

(III) A NOTARIZED STATEMENT FROM THE FIRM SETTING FORTH UNFORSEEN EXIGENT CIRCUMSTANCES THAT PREVENT THE FIRM FROM COMPLETING A TIMELY PEER REVIEW.

§11.83. Administering organizations for peer review; firm membership not required.

(a) The following organizations are deemed qualified to administer peer review programs AND DO NOT REQUIRE PRIOR APPROVAL FROM THE BOARD:

(1) The Securities and Exchange Commission Practice Section and the Private Companies Practice Section of the AICPA.

(2) ~~Any state society or institute~~ ORGANIZATION OF LICENSED CERTIFIED PUBLIC ACCOUNTANTS OR LICENSED PUBLIC ACCOUNTANTS that participates in the AICPA Peer Review Program.

(B) AN ORGANIZATION OF LICENSED CERTIFIED PUBLIC ACCOUNTANTS OR LICENSED PUBLIC ACCOUNTANTS THAT DOES NOT QUALIFY AS AN ADMINISTERING ORGANIZATION UNDER SUBSECTION (A) MAY APPLY TO THE BOARD FOR APPROVAL TO SERVE AS AN ADMINISTERING ORGANIZATION. IN DETERMINING WHETHER TO GRANT APPROVAL, THE BOARD WILL CONSIDER THE FOLLOWING FACTORS:

(1) WHETHER THE ORGANIZATION HAS ADEQUATE FINANCIAL AND OTHER RESOURCES TO ADMINISTER A PEER REVIEW PROGRAM.

(2) WHETHER THE ORGANIZATION HAS THE TECHNICAL COMPETENCE TO ADMINISTER A PEER REVIEW PROGRAM.

(3) WHETHER THE ORGANIZATION HAS A PEER REVIEW OVERSIGHT COMMITTEE:

(I) WHOSE MEMBERS ARE SUBJECT TO AND HAVE SUCCESSFULLY COMPLETED PEER REVIEWS; AND

(II) THAT IS CAPABLE OF RETAINING QUALIFIED PEER REVIEWERS, SCHEDULING PEER REVIEWS.

REVIEWING THE RESULTS OF PEER REVIEWS, AND
RECOMMENDING APPROPRIATE REMEDIAL ACTION FOR
FIRMS THAT DO NOT RECEIVE UNQUALIFIED PEER REVIEW
REPORTS.

~~(C) (b) A firm that is subject to peer review shall not be required to become a member of the AICPA or any other administering organization. AN ADMINISTERING ORGANIZATION MAY NOT REQUIRE A FIRM TO BECOME A MEMBER THE OF THE ADMINISTERING ORGANIZATION AS A PRE-CONDITION FOR THE ADMINISTERING ORGANIZATION TO CONDUCT A PEER REVIEW OF THE FIRM.~~

§11.84. Peer review standards.

A peer review shall be conducted in accordance with the AICPA'S "Standards for Performing and Reporting on Peer Reviews,"²² including interpretations thereof, issued by the AICPA.

§11.85. Qualifications of peer reviewers.

~~(a) Except as provided in subsections (b) and (c), a A peer reviewer shall BE A LICENSED CERTIFIED PUBLIC ACCOUNTANT OR LICENSED PUBLIC ACCOUNTANT, WHETHER A SOLE PRACTITIONER OR PART OF A GROUP PRACTICE, WHO IS ENROLLED IN A PEER REVIEW PROGRAM AND WHO possessES the qualifications set forth in the AICPA'S "Standards for Performing and Reporting on Peer Reviews,"²² including interpretations thereof, issued by the AICPA.~~

~~(b) A licensed public accountant who otherwise satisfies the requirements of subsection (a) shall be qualified to serve as a peer reviewer. THE ADMINISTERING ORGANIZATION SHALL ENSURE THAT ITS PEER REVIEWERS ARE QUALIFIED UNDER SUBSECTION (A).~~

~~(c) A sole practitioner with a public accounting or auditing practice who otherwise satisfies the requirements of subsection (a) shall be qualified to serve as a peer reviewer if the practitioner is also enrolled in a peer review program.~~

~~(C) (d) A peer reviewer shall be independent from, and have no conflict of interest with, the firm being reviewed.~~

§11.86. Confidentiality of peer review reports.

(a) All peer review reports and related information shall remain confidential except as provided in section 8.9(e) and (h)(3) of the act (63 P.S. §9.8i(e) and (h)(3)) and subsection (b) of this section.

(b) The Board shall have the right to inquire of an administering organization whether a peer review report has been accepted.



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF ACCOUNTANCY**

(717) 783-1404

116 PINE STREET
P. O. BOX 2649
HARRISBURG, PA
17105-2649

October 6, 2000

Mr. Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
Harristown II, 14th Floor
333 Market Street
Harrisburg, PA 17101

RE: Regulation #16A-556 (Peer Review)

Dear Mr. Nyce:

The State Board of Accountancy is in receipt of your letter of October 5, 2000, recommending a revision to the final-form regulations on peer review that the Board submitted for regulatory review on September 25, 2000.

You point out in your letter that a consistent interpretation of the peer review provisions of the CPA Law requires that the effective dates of peer review compliance be May 1, 2002, for public accounting firms that perform audit engagements and May 1, 2006, for public accounting firms that perform review engagements but not audit engagements. You note that while §11.82(a) of the Board's final-form regulations sets forth the correct compliance deadline for firms that perform audit engagements, §11.82(b) of the final-form regulations sets forth an incorrect compliance deadline (May 1, 2004) for firms that perform review engagements only. You recommend that the Board toll the review period for final rulemaking so that it may consider revising §11.82(b) to reflect the correct compliance deadline of May 1, 2006.

The Board agrees that the recommended revision is appropriate and, accordingly, requests that the review period for the final-form regulations be tolled in accordance with Section 5.1(g) of the Regulatory Review Act. The Board is simultaneously submitting with this tolling request a revised final-form regulation package (Preamble, Annex, Regulatory Analysis Form) that reflects the correct peer review compliance deadline of May 1, 2006, for firms that perform review engagements only.

RECEIVED
2000 OCT -6 PM 12:33
INDEPENDENT REGULATORY
REVIEW COMMISSION

If you should have any questions about this tolling request, please do not hesitate to contact the Board's counsel, Steven Wennberg, at (717) 783-7200.

Sincerely,

Handwritten signature of Thomas J. Baumgartner, CPA in black ink.

Thomas J. Baumgartner, CPA, Chairman
State Board of Accountancy

TJB/SW/apm
Enclosure

cc: The Honorable Mario J. Civera, Jr., Majority Chairperson
House Professional Licensure Committee

The Honorable Clarence D. Bell, Majority Chairperson
Senate Consumer Protection and Professional Licensure Committee

The Honorable William W. Rieger, Minority Chairperson
House Professional Licensure Committee

The Honorable Lisa M. Boscola, Minority Chairperson
Senate Consumer Protection and Professional Licensure Committee

David J. DeVries, Chief Deputy Attorney General
Review and Advice Section
Office of Attorney General

Steven V. Turner, Deputy General Counsel
Office of General Counsel

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

RECEIVED

I.D. NUMBER: 16A-556

2000 OCT -6 PM 12:33

SUBJECT: Peer Review

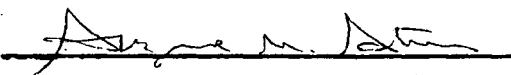
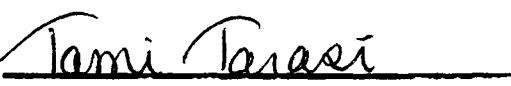
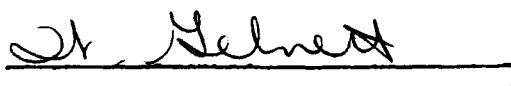
INDEPENDENT REGULATORY
REVIEW COMMISSION

AGENCY: DEPARTMENT OF STATE: State Board of Accountancy

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
10-6-00		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
10-6-00		SENATE COMMITTEE ON CONSUMER PROTECTION AND PROFESSIONAL LICENSURE
10/6/00		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU