

Regulatory Analysis Form

This space for use by IRRC

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REVIEW COMMISSION

(1) Agency

The Pennsylvania State Police

(2) I.D. Number (Governor's Office Use)

17-65

IRRC Number: 2386

(3) Short Title

The Use of Unmarked Cars

(4) PA Code Cite

Annex A
TITLE 37. LAW
PART I. STATE POLICE
CHAPTER 42. USE OF
UNMARKED CARS

(5) Agency Contacts & Telephone Numbers

Primary Contact: Syndi L. Guido, Policy Director
717-772-0905

Secondary Contact: Lt. Thomas McDaniel
717-783-5521

(6) Type of Rulemaking (check one)

Proposed Rulemaking

Final Order Adopting Regulation

Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

No

Yes: By the Attorney General

Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The regulation requires officers using unmarked cars to carry identification and display it upon request unless it would jeopardize his or her safety. Officers using unmarked cars for patrol duties must be in uniform; officers using unmarked cars for duties that are likely to involve vehicle stops must wear clothing bearing the name of a specific law enforcement agency or task force. When making a stop in an unmarked car, the officer must choose the safest location possible. In a vehicle pursuit, officers in an unmarked car should relinquish primary pursuit as soon as a marked unit can take over. Unmarked police cars must have audible and visual signals that comply with regulations of the Department of Transportation.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Act 75 of 2001, 75 Pa.C.S. § 3328(a) requires the State Police to promulgate regulations, in consultation with the Department of Transportation, for police officers' use of unmarked cars.

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(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.

Act 75 of 2001, 75 Pa.C.S. § 3328(a), requires the State Police to promulgate regulations, in consultation with the Department of Transportation, for police officers' use of unmarked cars.

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

The use of unmarked cars are an important tool in apprehending law violators who would otherwise escape detection and apprehension. For example, there are drivers who use citizens band radios to communicate the location of police vehicles; vehicles that are equipped with devices to detect radar and other speed-measuring equipment; chronic offenders who repeatedly operate vehicles during periods of suspension, revocation, or under the influence of alcohol or drugs; aggressive drivers who follow too closely, drive recklessly by passing vehicles abruptly without turn signals, exceed speed limits, and fail to yield the right of way. Unmarked vehicles augment the belief of police omnipresence by creating the perception that any vehicle may be operated by a police officer. Unmarked vehicles are also needed for inconspicuous transport, criminal investigations, surveillance, and command transportation. Thus, using unmarked cars is a necessary component of the overall law enforcement effort. However, there is an increasing awareness of public safety concerns that arise from the methodology employed by criminals who impersonate police officers in order to approach an intended victim. These regulations are intended to address this problem.

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

Public safety would be enhanced through the standardization of police practices relating to the use of unmarked police vehicles. The regulation addresses public concerns regarding police impersonators.

(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 motoring public

Regulatory Analysis Form

(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.)

Unmarked police vehicles are already commonly employed by police departments. The regulation only standardizes the practices governing their use.

(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 Commonwealth of Pennsylvania police departments who use unmarked police vehicles.

(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.

The Pennsylvania State Police, Bureau of Patrol has worked with personnel from the Pennsylvania State Police's Policy Office, Legislative Affairs Office, the Bureau of Research and Development, Bureau of Training and Education, Office of Chief Counsel, Troops A, B, C, D, E, F, G, H, J, K, L, M, N, P, T, the Municipal Police Officers' Education and Training Commission, PENNDOT, the Pennsylvania Capitol Police, the Fish and Boat Commission, the Game Commission, the Pennsylvania Chiefs of Police, the Pennsylvania District Attorneys Association, the Pennsylvania Fraternal Order of Police, the Pennsylvania State Troopers Association, Philadelphia Police Department, Pittsburgh Police Department, Lancaster City Police Department, Harrisburg Police Department, Whitehall Borough Police Department, Buckingham Township Police Department, Mahoning Township Police Department, Cheltenham Township Emergency Management as well as many other municipal police departments, along with private industry subject matter experts in the drafting of these regulations. The Pennsylvania State Police, Bureau of Patrol has hosted three policy meetings in the eastern, central and western regions of the Commonwealth on this matter. Numerous drafts have been e-mailed to hundred of police departments in the Commonwealth.

(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.

N/A

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(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 potential cost savings is difficult to quantify, however it is anticipated that the regulation would result in a reduction of police impersonator cases.

(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.

Same as question #18; The potential cost savings is difficult to quantify, however it is anticipated that the regulation would result in a reduction of police impersonator cases.

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(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 Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

As stated in questions #18 and #19, the savings to local and state government would be contingent upon the reduction of police impersonator cases and the associated investigative/prosecutorial costs of those crimes. There are costs associated with the loss of police confidence and business revenue from a community in fear of police impersonators. This reduction in the fear of victimization is a likely outcome associated with the reduction of this type of crime.

Regulatory Analysis Form

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

N/A

Program	FY -3	FY -2	FY -1	Current FY

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

N/A

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

These regulations are required by statute.

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

N/A

Regulatory Analysis Form

(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.

N/A

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

For those states which permit the use of unmarked police cars, this will put us on the leading edge of this process. There is no disadvantage to the Commonwealth.

(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 existing regulation.

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

Public informational meetings were held on December 17, 2002, March 18, 2003; and April 22, 2003.

Regulatory Analysis Form

(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.

No.

(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.

N/A

(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?

Unknown. The Pennsylvania State Police will be prepared to implement these regulations as soon as they are approved.

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

The proposed regulations will be continuously reviewed for clarity, effectiveness, and whether they are serving the greater interests of citizens of this Commonwealth.

CDL-1

**FACE SHEETS
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

2386

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LEGISLATIVE REFERENCE BUREAU
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and
legality. Attorney General

[Signature]

By: _____
(Deputy Attorney General)

DEC 03 2003

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached.

Copy below is hereby certified to be true and correct copy of
a document issued, prescribed or promulgated by:

Pennsylvania State Police

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 17-65

DATE OF ADOPTION _____

By: *Col. Jeffrey B. Miller*

Colonel Jeffrey B. Miller

TITLE Commissioner

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

Copy below is hereby approved as to form and
legality Executive or Independent Agencies

By: *Tanya C. [Signature]*

11/12/03
DATE OF APPROVAL

Deputy General Counsel
~~Chief Counsel - Independent Agency~~
Strike inapplicable title

Check if applicable. No Attorney General
approval or objection within 30 days after
submission.

Proposed Rulemaking

TITLE 37. LAW

PART I. STATE POLICE

CHAPTER 42. USE OF UNMARKED CARS

PROPOSED RULEMAKING

STATE POLICE

[37 PA. CODE CH. 42]

Use of Unmarked Vehicles

Act 75 of 2001, P.L. 374, No. 75, § 5 requires the Pennsylvania State Police, in consultation with the Department of Transportation, to promulgate regulations for the use of unmarked vehicles by police officers. The effective date of the act was August 25, 2001. As set forth, the proposed regulations require officers using unmarked vehicles to carry identification and display it upon request unless it would jeopardize his or her safety. Officers using unmarked vehicles for patrol duties must be in uniform; officers using unmarked cars for duties that are likely to involve vehicle stops must wear clothing bearing the specific name of the law enforcement agency or task force. When making a stop in an unmarked vehicle, the officer must choose the safest location possible. In a vehicle pursuit, officers in an unmarked vehicle must have audible and visual signals that comply with regulations of the Department of Transportation, and unmarked vehicles should relinquish the lead in pursuit as soon as marked vehicles are available.

Effect

The proposed regulations will affect all Commonwealth law enforcement agencies that use unmarked vehicles.

Fiscal Impact

The proposed regulations will have a minimal fiscal impact.

Paperwork Requirements

The proposed regulations will not require the completion of additional forms, reports or other paperwork.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the State Police submitted a copy of these proposed regulations on February 4, 2004 to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Judiciary Committee and the Senate Law and Justice Committee. In addition to submitting the proposed regulations, the State Police has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of the material is also available to the public upon request.

October 28, 2003

If IRRC has objections to any portion of the proposed regulations, it will notify the State Police within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the proposed regulations, by the State Police, the General Assembly and the Governor of objections raised.

Sunset Date

No sunset date has been assigned; however, every facet of these proposed regulations will be continuously reviewed for effectiveness, clarity and whether they are serving the greater interests of citizens of this Commonwealth.

Public Comment

Interested parties wishing to comment are invited to submit a written statement within 30 days of the publication of this notice in the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the interested party and a concise statement with sufficient detail on the subject. Written statements may be directed to Syndi L. Guido, Policy Director, Pennsylvania State Police, 1800 Elmerton Avenue, Harrisburg, PA 17110.

Contact Person

The contact person is Syndi L. Guido, Policy Director, Pennsylvania State Police, 1800 Elmerton Avenue, Harrisburg, PA 17110, (717) 772-0905. If you are a person with a disability and require an alternative format of this document (i.e. large print, audio tape, Braille), please contact Ms. Guido so that she may make the necessary arrangements.

COLONEL JEFFREY B. MILLER,
Commissioner

October 28, 2003

Annex A

TITLE 37. LAW

PART I. STATE POLICE

CHAPTER 42. USE OF UNMARKED VEHICLES

GENERAL PROVISIONS

<u>Sec.</u>	
42.1	<u>Purpose</u>
42.2	<u>Policy and effect</u>
42.3	<u>Definitions</u>

PROCEDURES

<u>Sec.</u>	
42.21	<u>Identification and uniform requirements</u>
42.22	<u>Vehicle stops and pursuits</u>

GENERAL PROVISIONS

§ 42.1 Purpose.

This chapter governs the use of unmarked vehicles. It is necessary to establish uniformity in the use of unmarked vehicles for the purpose of law enforcement.

§ 42.2 Policy and effect

The policy of the Commonwealth is to permit the use of unmarked vehicles for law enforcement. Failure to comply with this regulation shall not affect the legality of any arrest or citation, nor will it be grounds for the suppression of evidence.

§ 42.3 Definitions

Light bar assembly – A device designed and constructed to display two or more steady burning, flashing, or revolving beams of light with 360-degree visibility.

Marked police vehicle – A police vehicle that is equipped with at least one light-bar assembly and displays graphics, markings or decals identifying the agency or department on a minimum of three sides (front, rear, left, or right).

Official identification – Identification issued, designated, or approved by the individual law enforcement agency or municipality.

Official uniform – Any attire designated or approved by the individual law enforcement agency or municipality.

Unmarked police vehicle - A police vehicle not equipped with a roof mounted light-bar assembly. The vehicle may display graphics, markings or decals, identifying the agency or department.

PROCEDURES

§ 42.21 Identification and uniform requirements.

(a) Identification. Officers using an unmarked vehicle shall ensure they are carrying official identification, other than their uniform, to verify their identity, unless it would jeopardize the officer's safety due to their work assignment. Officers shall be prepared to display their official identification upon request. Officers shall honor such requests when the request is reasonable and the officer's safety has been ensured. If the officer does not carry official identification, the officer should not attempt to stop traffic law violators, unless there is immediate threat to public safety.

(b) Uniforms. Officers assigned to use an unmarked vehicle to perform patrol duties shall be attired in an official uniform. Officers assigned other duties that are likely to include or require traffic stops shall wear an official uniform or alternative attire, such as a police raid jacket, that bears the name of

a specific law enforcement agency or task force. Markings on alternative attire should be visible from the front and back.

§ 42.22 Vehicle stops and pursuits

(a) Stopping suspected violators while operating an unmarked vehicle. Officers stopping suspected violators shall attempt to ascertain the safest available location for the officer and the motorist, consistent with the need for prompt action. Officers shall take into consideration the road and weather conditions, terrain, lighting, traffic, and the nature of the violation. The officer should also attempt to choose a location that will afford both the driver and the officer a sense of safety.

(b) Use of audible and visual signals required while operating an unmarked vehicle. Audible and visual signals meeting the requirements and standards set forth in Title 67, Chapter 173 of the Pennsylvania Code shall be utilized when officers stop suspected violators.

(c) Unmarked vehicle pursuits. Officers engaged in a pursuit using an unmarked vehicle, shall relinquish their role as the primary pursuit vehicle and permit officers in marked units to assume the role of the primary unit when that assistance is available.



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

Syndi L. Guido
Director
Policy Office

E-Mail: sguido@state.pa.us
Telephone: (717) 772-0905
FAX: (717) 705-1750

February 4, 2004

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

Re: Proposed Rulemaking, Identification Number 17-65
Title 37. Law, Part I. State Police
Chapter 42. Use of Unmarked Cars

Dear Mr. Nyce:

As required by Act 75 of 2001, the Pennsylvania State Police, in consultation with the Department of Transportation, propose regulating police officers' use of unmarked cars. Pursuant to the Regulatory Review Act, I am providing you with the enclosed copy of the proposed rulemaking. Should the Commission require any assistance with its review of the proposed regulations, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Syndi L. Guido".

Syndi L. Guido
Policy Director

Enclosure

cc: Colonel Jeffrey B. Miller
Commissioner

Major Kathryn E. Doult
Director, Bureau of Patrol

Barbara Christie
Chief Counsel

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

RECEIVED

I.D. NUMBER: 17-65
 SUBJECT: Use of unmarked cars
 AGENCY: PA STATE POLICE

2004 FEB -4 PM 12:51

REGULATORY REVIEW COMMISSION
 REVIEW SUBMISSION

TYPE OF REGULATION

- X 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
2/4/04	<i>Rose Garrison</i>	HOUSE COMMITTEE ON JUDICIARY
2/4/04	<i>Lee Thomas</i>	
2/4/04	<i>Marge Murphy</i>	SENATE COMMITTEE ON LAW AND JUSTICE
2/4/04	<i>M. Wagner</i>	
2/4/04	<i>J. Belmont</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
	<i>[Signature]</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)