



JOHN R. MCGINLEY, JR., ESQ., CHAIRMAN
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ROBERT F. NYCE, EXECUTIVE DIRECTOR
MARY S. WYATTE, CHIEF COUNSEL

**INDEPENDENT REGULATORY REVIEW COMMISSION
COMMONWEALTH OF PENNSYLVANIA
333 MARKET STREET
14TH FLOOR
HARRISBURG, PA 17101**

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(717) 783-5417
Fax (717) 783-2664

March 2, 2004

Francis J. Lison, CPA, Chairman
State Board of Accountancy
2601 North 3rd Street
Harrisburg, PA 17110

Re: Regulation #16A-5510 (IRRC #2390)
State Board of Accountancy
CPA Examination

Dear Chairman Lison:

In our review of this regulation, we noted a provision that could be clarified. We discussed this item with your staff today. We recommend that you consider tolling the review period to clarify the last sentence of Section 11.18, relating to character references for examination should be changed.

Section 11.18 sets forth requirements for character references. The last sentence states that the Board may accept references that do not meet the requirements. However, CPA Examination Services, not the Board, reviews the references and alternative references as a part of the examination application process. In order to reflect this fact, the words "The Board may accept" should be replaced with the phrase: "The candidate may submit with the examination application" in the last sentence.

If you choose to toll the review period, your agency must deliver written notice to the Senate Consumer Protection and Professional Licensure Committee, House Professional Licensure Committee and the Independent Regulatory Review Commission on the same day. The written notice must be delivered before either Committee takes action on the regulation, or before the end of the Committees' review period on March 24, 2004, whichever occurs first.

As required by Section 307.5 of our regulations, written notice must include:

1. A citation to the section(s) the Department is considering revising,
2. A description of the revisions the agency is considering, and
3. An explanation of how the revisions will satisfy the concerns listed above.

March 2, 2004
Francis J. Lison, CPA, Chairman
Page 2

If your written notice includes revisions that are beyond the scope of our recommendations, the Commission may object to tolling the review period. We are required to notify you and the Committees within two business days after receipt of your tolling notice if we object. If the Commission objects to your tolling notice, the review period will not be tolled and your regulation will be considered by the Commission at our public meeting on March 25, 2004. If the Commission does not object, the review period is tolled for up to 30 days beginning with receipt of your letter and ending on the day you resubmit the regulation.

Please call me at 783-5506, if you have any questions.

Sincerely,



Robert E. Nyce
Executive Director

wbg

Enclosure

cc: Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional
Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional
Licensure Committee
Honorable Thomas P. Gannon, Majority Chairman, House Professional Licensure Committee
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee
Honorable Pedro A. Cortes, Secretary, Department of State
Robert A. Mulle, Esq., Office of Attorney General
David J. DeVries, Esq., Office of General Counsel
Steven Wennberg, Esq., State Board of Accountancy

FREQUENTLY ASKED QUESTIONS ABOUT TOLLING

What is tolling?

Tolling is a process through which an agency may pause the review process in order to make changes to a final-form or final-omitted regulation after it has been submitted to the Standing Committees and IRRC for review.

Are there restrictions on what types of changes can be made through the tolling process?

Only changes recommended by a Standing Committee or IRRC are subject to tolling. Most of the time, tolling is used to correct errors or clarify areas where the language of the regulation does not clearly reflect the agency's intent. IRRC provides the agency with a list of its suggested revisions.

When can an agency toll a regulation?

An agency can toll a regulation anytime before either Standing Committee acts on the regulation or the end of the Commission's review period, whichever occurs first.

How long can an agency toll a regulation?

Tolling is limited to a maximum of thirty days. If an agency takes no action within the thirty-day period, the regulation is deemed to have been withdrawn.

What must an agency do to toll a final regulation?

To toll a regulation, the agency must deliver a notice of its intent to toll to the Standing Committees and IRRC on the same day. The notice must cite the sections the agency is considering revising, describe the changes it is considering and explain how those changes would satisfy the Standing Committees' or IRRC's concerns. A copy of any written concerns raised by the Standing Committees should be attached to the agency's tolling notice.

Can an agency submit its tolling notice and its revised final regulation simultaneously?

Depending on the scope of the revisions an agency is considering, the agency may elect to submit its revised regulation at the same time it submits its tolling notice. This can be done by submitting the tolling notice as discussed above and submitting the revised final regulation as outlined in Section 307.5 of IRRC's regulations. However, if IRRC objects to the tolling, the submittal of the revised regulation will be nullified. Instead, the review of the initial version of the final regulation will continue without interruption.

If an agency tolls a regulation, is it required to make revisions?

When an agency submits its intent to toll, it is only required to specify what changes it is considering. A tolling is done at the agency's discretion and does not

obligate the agency to make any changes. However, if it doesn't make some or all of the changes recommended by the Standing Committees or IRRC, it should explain why it isn't making those changes when it resubmits the regulation.

Can IRRC object to an agency's tolling?

While the decision to toll rests with the agency, IRRC may object to an agency's tolling. If IRRC objects, it will notify the agency and the Standing Committees of its objection within two business days of its receipt of the tolling notice. If this occurs, review of the final regulation will continue using the timeframe triggered by the agency's initial submission of the final regulation.

Can an agency toll a regulation more than once?

The Regulatory Review Act allows an agency to toll a regulation only once.

How will tolling affect the timing of IRRC's and the Standing Committees' review of a final regulation?

On the day the agency submits its tolling notice, the clock stops on the Standing Committees' minimum twenty-day review period. The clock starts again the day after the tolled regulation is resubmitted. If there are less than ten days left in the Standing Committees' review period, they will be allowed ten days to review the agency's resubmittal. For most tolled regulations, final consideration will be pushed back one or two public meetings.

Must commentators be notified when a tolling or resubmittal is done?

There is no requirement that commentators, who request notification of the submittal of the final-form version of a proposed rulemaking, be notified when the agency tolls a final-form regulation. Similarly, there is no notice requirement associated with the resubmittal of a tolled regulation. However, agencies are encouraged to share any changes with commentators who showed an interest in the provisions that are being modified.

IRRC REGULATIONS ON TOLLING

§ 307.4. Tolling the review period.

(a) After delivery of a final regulation to the Commission and committees, an agency may revise the regulation only if it tolls the review period in compliance with section 5.1(g) of the act (71 P. S. § 745.5a(g)) and this section.

(b) An agency may only toll the review period one time.

(c) The agency may toll the review period to consider revisions recommended by the Commission or a committee.

(d) The agency shall toll the review period prior to whichever of the following events occurs first:

- (1) The day on which either committee takes action on the regulation;
- (2) The expiration of the committee review period, if neither committee takes action; or
- (3) The beginning of the blackout period.

(e) The agency may only toll the review period for up to 30 days.

(f) The agency may not toll the review period if the Commission objects. The Commission may object if the agency indicates in its intent to toll that it is considering revisions that are broader than or inconsistent with those recommended by the Commission or a committee.

§ 307.5. Procedure for tolling.

(a) The agency shall deliver written notice of its intention to toll to the Commission and the committees on the same date.

(b) The written notice shall include the following:

- (1) A citation to the section the agency is considering revising.
- (2) A description of the revisions the agency is considering.
- (3) An explanation of how the revisions the agency is considering will satisfy the Commission's or committee's concerns.

(c) The agency shall deliver the written notice of its intention to toll prior to the expiration of the committees' 20-day review period or the day on which either committee takes action on the regulation, whichever occurs first.

(d) If the Commission objects to the tolling, it will notify the agency and the committees of its objections within 2 business days after its receipt of the agency's notice.

(e) If the Commission objects, the review period will not be tolled and the regulation will be reviewed within the original time period established under section 5.1(d)–(f) of the act (71 P. S. § 745.5a(d)–(f)).

(f) The Commission will notify the agency, the committees, the Attorney General and the General Counsel of the first and 30th day of the tolling period.

(g) Before the expiration of the tolling period, the agency shall deliver a revised regulation, or a written notice that the regulation will not be revised, to the committees, the Commission and the Attorney General (for a final-omitted regulation) on the same date.

(h) The agency shall include a transmittal sheet signed by the committees with delivery of the regulation, or written notice that the regulation will not be revised.

(i) If the agency does not deliver a revised regulation, or written notice that the regulation will not be revised, before the expiration of the tolling period, the agency is deemed to have withdrawn the regulation. The Commission will notify the agency, the committees, the Attorney General and the Office of General Counsel that the regulation is deemed withdrawn.

(j) Upon receipt of the revised regulation, or written notice that the regulation will not be revised, the Commission will notify the agency, the committees, the Attorney General and the Office of General Counsel of the beginning and ending dates of the committee review period.

(k) The committees have the remainder of their 20-day review period or 10 days from the date of receipt of the revised regulation or written notice that the regulation will not be revised, whichever is longer, to approve or disapprove the regulation. The committee review period begins the day after the revised regulation or written notice is received.

(l) The Commission has 10 days after the expiration of the committee review period, or until its next regularly scheduled meeting, whichever is later, to approve or disapprove the original or revised regulation.

OFFICE OF CHIEF COUNSEL
Commonwealth Keystone Building
P.O. Box 8212 • Harrisburg PA 17105-8212
400 North Street-9th Floor • Harrisburg PA 17120-0096
(717) 787-6485

October 10, 2003

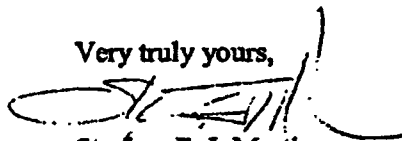
Robert E. Nyce
Executive Director
14th Floor Harrisstown 2
333 Market Street
Harrisburg, PA 17101

**Re: Regulation #18-384 — 67 Pa. Code, Chapter 177 —
Emissions Inspection Program**

Dear Mr. Nyce:

Pursuant to your letter of October 10, 2003 to Transportation Secretary Allen D. Biehler, P.E. we are tolling the review period for the above captioned regulation, and, with this letter, simultaneously resubmitting the regulatory package with the changes and corrections noted in Attachment A hereto.

Very truly yours,



Stephen F. J. Martin
Regulatory Counsel

GOVERNOR'S OFFICE OF GENERAL COUNSEL
TELEPHONE: 717.787.5473
FAX: 717.772.2741
www.dot.state.pa.us

COMMONWEALTH OF PENNSYLVANIA



KATHERENE E. HOLTZINGER CONNER, Esq.
Chairman

RONALD K. ROWE
Executive Director

BARBARA L. KRAUSE, Esq.
Commissioner

STATE CIVIL SERVICE COMMISSION

JAMES W. MARTIN
Commissioner

P.O. Box 569
Harrisburg, PA 17108-0569

January 16, 2004

(717) 783-2924
FAX (717) 772-5120

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

RE: Regulation No. 61-5(IRRC No. 2379)
State Civil Service Commission
Act 140 of 2002 Implementation

Dear Mr. Nyce:

The Independent Regulatory Review Commission has suggested revisions to sections of the final omitted Regulation No. 61-5 referenced above that were submitted for your review on December 22, 2003. At the IRRC's request, we are hereby asking that the time for review of the regulations be tolled to revise the following sections:

- Section 91.3 (Definitions)
- Section 95.2 (Residence requirements)
- Section 95.33 (Content and publication of examination announcements)
- Section 97.13 (Removal of eligible)
- Section 105.14d (Prehearing conferences)

The revision to Section 91.3 adds the definition for a "permanent position," which was inadvertently omitted from the Annex A the Commission submitted on December 22, 2003. This definition is also being modified expressly to conform to the changes enacted in Act 140 of 2002. The Annex will now include this change. Section 95.2 has been corrected by removing the

- A reference to Section 99.11 has been added since the explanation for the change to this section was not explained in the previous Preamble. The added section offers the following explanation for the proposed change to Section 99.11. "This rule was modified expressly to conform to the changes enacted in Act 140 of 2002."

The State Civil Service Commission is simultaneously submitting with this tolling request a revised final form regulation package which consists of a Preamble, Annex A, and a Regulatory Analysis Form that reflects all of these changes. If you should have any questions about this tolling request, please do not hesitate to contact the State Civil Service Commission's Counsel, Frederick C. Smith, Jr., at 717-783-1444.

Sincerely,



Ronald K. Rowe
Executive Director

cc: Honorable Bob Allen, Majority Chairman
Honorable Robert E. Belfanti, Jr., Democratic Chairman
Honorable Charles D. Lemmond, Jr., Chairman
Honorable Anthony H. Williams, Minority Chairman
Robert A. Mulle, Esquire
Honorable Katherine E. Holtzinger Conner, Esquire, Chairman
Randall C. Breon, Deputy for Operations
Frederick C. Smith, Jr., Chief Counsel

Original: 2075

Commonwealth of Pennsylvania



2001 SEP 13 PM 2:20

REVIEW COMMISSION

DEPARTMENT OF HEALTH

HARRISBURG

September 13, 2001

ROBERT S. ZIMMERMAN, JR., MPH
SECRETARY OF HEALTH

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

Re: Regulation No. 10-154
Drug and Alcohol Facilities and Services

Dear Mr. Nyce:

The Independent Regulatory Review Commission has suggested revisions to sections of the final-form regulation to No. 10-154 (relating to Drug and Alcohol Facilities and Services), that was submitted for your review on August 24, 2001. At the Commission's recommendation, we are requesting that the time for review of the regulations be tolled to revise the regulations as follows:

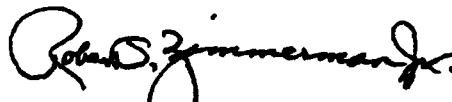
1. Section 705.1(4) exempts existing residential facilities from the requirements of Section 705.5(c), (e) and (f). However, Paragraphs (e) and (f) in Section 705.5 were redesignated as Paragraphs (d) and (e) in the final-form regulation. The reference in Section 705.1(4) will be amended accordingly.
2. Section 705.5(h) requires each bedroom to have a window. This is a new requirement that was not included in the proposed regulation. The Department will include Paragraph (h) in the exemptions for existing facilities in Section 705.1(4).
3. The emergency training requirements originally proposed in Sections 705.10(d)(3) and 705.28(d)(3) are being deleted. Since emergency training is not required elsewhere in the regulation, the Department will restore the emergency training requirements in the final-form regulation.

4. Sections 705.10(a)(1)(ii) and 705.28(a)(1)(ii) require 15 feet between exits. This is a minimum standard. These sections of the final-form regulation will specify that the exits are to be separated by "a minimum distance of 15 feet."
5. The Department rewrote Paragraph (iii) of Sections 705.10(a) and 705.28(a) regarding where hand railings are required. As a result, Subparagraph (iv) in each of these sections is no longer needed and will be deleted.
6. In Sections 705.10(d)(2) and 705.28(d)(2), the phrase "...and not when additional staff persons are present" is unnecessary and will be deleted.
7. There is a typographical error in Section 705.6(1). The first use of the word "residents" is not needed and will be deleted.

These revisions reflect clarification and correction of certain sections. By making these changes, the Department will have satisfied the Commission's concerns set forth in your letter dated September 12, 2001.

If you have any questions about this tolling request, please contact John Hair, Director, Bureau of Community Program Licensure and Certification at (717) 783-8665.

Sincerely,



Robert S. Zimmerman, Jr.
Secretary of Health

cc: Honorable Dennis M. O'Brien, Majority Chairman, House Health & Human Services Comm.
Honorable Frank L. Oliver, Minority Chairman, House Health & Human Services Comm.
Honorable Harold F. Mowery, Jr., Majority Chairman, Senate Public Health & Welfare Comm.
Honorable Vincent J. Hughes, Minority Chairman, Senate Public Health & Welfare Comm.



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DEPARTMENT OF
LABOR & INDUSTRY
COMMONWEALTH OF PENNSYLVANIA

November 6, 2003

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

Re: Regulation #12-60 (IRRC #2283)
Uniform Construction Code

Dear Mr. Nyce:

The Independent Regulatory Review Commission suggested revisions to sections of the final-form regulation #12-60 (relating to the administration and enforcement and elevators and other lifting devices of the Uniform Construction Code) that was submitted for your review on October 22, 2003. At the Commission's recommendation in its November 3, 2003 letter, we are requesting that the review period for the regulation be tolled to revise the sections listed below.

With this letter, the Department has resubmitted an annex incorporating the following changes suggested by the Commission:

1. Corrections in Section 403.102 (pages 51-53).

A. The repeated text of Subsection (i)(3) and Subsection (j) on 51 is deleted to eliminate repetition.

B. Subsection (l)(1) (page 52) now refers to Section 403.42(b) *and* (c). This revision is recommended to ensure that a municipality has the authority to issue ordinances that meet or exceed the Uniform Construction Code for minor repairs for both commercial and residential construction under the Pennsylvania Construction Code Act. 35 P.S. § 7210.503.

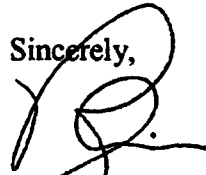
C. Subsections (l)(9), (l)(10) and (l)(11) are inserted at the bottom of page 52.

Robert E. Nyce, Executive Director
Re: Regulation #12-60 (IRRC #2283)
November 6, 2003
Page 2

2. The revised appendix contains the completed text for the following sections:
 - A. Section 403.23(b) strike through language (page 18).
 - B. Section 403.42a(i) revised language (page 29).
 - C. Section 403.62(c)(6)(v) new language (page 39).
 - D. Section 405.12(l) revised language (page 73).

Please contact the Department of Labor and Industry if you have any questions or need additional information. Thank you for your review of this regulation.

Sincerely,



Roger H. Caffier

RHC/
Attachment

cc: The Honorable Joseph B. Scarnati
The Honorable Christine M. Tartaglione
The Honorable Bob Allen
The Honorable Robert E. Belfanti, Jr.
The Honorable Lynn B. Herman
The Honorable Stephen M. Schmerin, Secretary
The Honorable Leslie Anne Miller, General Counsel
Donna Cooper, Director, Governor's Policy Office
David J. DeVries, Executive Deputy General Counsel, Office of General Counsel
James A. Holzman, Deputy Chief Counsel, Labor and Industry
Charles J. Sludden, Director, Bureau of Occupational and Industrial Safety

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

C.D. NUMBER:

SUBJECT:

AGENCY:

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 Tolloed Regulation**
- a. _____ **With Revisions**
- b. _____ **Without Revisions**

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
_____	_____	HOUSE COMMITTEE ON
_____	_____	
_____	_____	SENATE COMMITTEE ON
_____	_____	
_____	_____	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL
_____	_____	LEGISLATIVE REFERENCE BUREAU

Facsimile Cover Sheet

Kristine M. Shomper
Administrative Officer



Phone: (717) 783-5419
Fax #: (717) 783-2664
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Website: www.irrc.state.pa.us

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

To: Steven Wennberg, Esq.
Agency: Department of State
State Board of Accountancy

Phone:

Fax: 7-0251

Date: March 2, 2004

Pages: 7

Enclosed is a copy of our letter outlining the tolling issues and some sample responses as discussed earlier today. If you have any questions, please call Mike Stephens at 787-8491 or John Jewett at 783-5475. Thank you.

*Sent
3/2/04
3:30 PM*



JOHN R. MCGINLEY, JR., ESQ., CHAIRMAN
ALVIN C. BENI, VICE CHAIRMAN
DANIEL F. CLARK, ESQ.
ARTHUR COCCODRILLI
MURRAY UEBERG, ESQ.
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March 5, 2004

Francis J. Lison, CPA, Chairman
State Board of Accountancy
2601 North 3rd Street
Harrisburg, PA 17110

Re: Regulation #16A-5510 (IRRC #2390)
State Board of Accountancy
CPA Examination

Dear Chairman Lison:

We received your letter informing us of your intent to toll the subject regulation and your revisions to the regulation on March 4, 2004. The Commission does not object to your request.

Pursuant to Sections 5.1(g)(3) and (j.2) of the Act (71 P.S. §§ 745.5a(g)(3) and (j.2)), the Committees will have until March 24, 2003, to complete their review. The Commission will act on this regulation at its public meeting on March 25, 2004.

If you have any questions, please contact me at 783-5506 or bobn@irrc.state.pa.us.

Sincerely,

Robert E. Nyce
Executive Director
wbg
Enclosure

cc: Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Thomas P. Gannon, Majority Chairman, House Professional Licensure Committee
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee
Honorable Pedro A. Cortes, Secretary, Department of State
Robert A. Mulle, Esq., Office of Attorney General
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Steven Wennberg, Esq., State Board of Accountancy