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Regulatory Analysis Form

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REVIEW COMMISSION

(1) Agency

Department of State
State Athletic Commission

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

16-34

IRRC Number: 2445

(3) Short Title

Communicable Disease Testing

(4) PA Code Cite

58 Pa. Code §§ 1.1 and 21.8

(5) Agency Contacts & Telephone Numbers

Primary Contact: Gregory P. Sirb, Executive Director,
State Athletic Commission
717-787-5720

(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 Commission amends its regulations pertaining to professional boxers to require annual testing for communicable diseases thereby adopting the recommendation of the American Association of Boxing Commissions, the American Association of Professional Ringside Physicians and its own Medical Advisory Board. The intent of the amendment is to better protect professional boxers, who frequently come into direct contact with the blood of an opponent in a boxing contest or exhibition, from contracting a communicable disease that can have significant long-term health consequences for professional boxers.

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

The regulation is authorized under section 103 of the State Athletic Code (5 Pa.C.S. § 103), which authorizes the Commission to establish policy and promulgate rules and regulations regarding professional boxing contests and exhibitions and all matters pertaining thereto.

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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.

No.

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

The regulation is needed to help better protect professional boxers from the devastating health consequences of contracting communicable diseases through the exposure to blood in the ring by requiring all boxers to undergo annual communicable disease testing at minimal cost.

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

Nonregulation will contribute to the further spread of communicable diseases among professional boxers.

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

Professional boxers will directly benefit from the regulation through improved health. However, members of the public who visit boxing contests and exhibitions will also indirectly benefit because they will be less likely to be exposed at ringside to infected blood and bodily fluids of affected professional boxers.

(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.)

No one will be adversely affected by the regulation, except that professional boxers will have to incur somewhat higher annual testing costs before participating in boxing bouts.

Regulatory Analysis Form

(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 licensed professional boxers would have to comply with the regulation. There are currently 315 licensed professional boxers in the Commonwealth.

(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.

Communications with and soliciting input from the public in the development and drafting of this regulation included affording the following categories of individuals with the opportunity for a 30 day predraft comment review period: four current members of the Medical Advisory Board and three physicians who are presently licensed as ringside physicians by the Commission; twelve professional boxing promoters; eight professional boxing managers; ten professional boxers; and ten boxing seconds or trainers. Only two physicians commented by recommending slight changes to the definition of communicable disease, one of which was adopted.

(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 that may be required.

While professional boxers will have to pay somewhat higher annual testing fees, no legal, accounting or consulting procedures will be implicated in complying with the regulations and therefore, no other additional costs are estimated.

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

N/A

(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 that may be required.

N/A

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 Year | FY +1 Year | FY +2 Year | FY +3 Year | FY +4 Year | FY +5 Year |
|------------------------|--------------------|---------------|---------------|---------------|---------------|---------------|
| SAVINGS: | 0 | 0 | 0 | 0 | 0 | 0 |
| Regulated Community | N/A | N/A | N/A | N/A | N/A | N/A |
| Local Government | 0 | 0 | 0 | 0 | 0 | 0 |
| State Government | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Savings | 0 | 0 | 0 | 0 | 0 | 0 |
| COSTS: | 0 | 0 | 0 | 0 | 0 | 0 |
| Regulated Community | N/A | N/A | N/A | N/A | N/A | N/A |
| Local Government | 0 | 0 | 0 | 0 | 0 | 0 |
| State Government | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Costs | 0 | 0 | 0 | 0 | 0 | 0 |
| REVENUE LOSSES: | 0 | 0 | 0 | 0 | 0 | 0 |
| Regulated Community | N/A | N/A | N/A | N/A | N/A | N/A |
| Local Government | 0 | 0 | 0 | 0 | 0 | 0 |
| State Government | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Revenue Losses | 0 | 0 | 0 | 0 | 0 | 0 |

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

N/A

Regulatory Analysis Form

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

| Program | FY-3 (2001-2002) | FY- 2 (2002-2003) | FY- 1 (2003-2004) | Current FY |
|---------------------------|------------------|-------------------|-------------------|----------------|
| State Athletic Commission | \$ 314,700.53 | \$ 330,943.93 | \$364,015.33 | \$ 393,000.00* |
| | | | | *budgeted |
| | | | | |
| | | | | |

(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.

No nonregulatory alternatives were considered because it is apparent that communicable disease testing is greatly needed to help protect the health of professional boxers.

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

No alternative regulatory schemes were considered because the Commission sought to adopt the recommendations of the American Association of Boxing Commissions, the American Association of Professional Ringside Physicians and its own Medical Advisory Board.

(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.

There are no 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?

Of the six states contingent to Pennsylvania, the boxing commissions of three states (Maryland, New Jersey and New York) have adopted a requirement for communicable disease testing. This rulemaking will not put Pennsylvania at a competitive disadvantage with other states.

Regulatory Analysis Form

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

This regulation will have no impact on the regulations of other state agencies.

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

No.

(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 changes to reporting, record keeping, or other paperwork is required by this regulation.

(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.

The Commission and the Department have perceived no special needs of any subset of groups or persons affected for which special accommodations should be made.

(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 regulation will be effective upon publication as final rulemaking in the *Pennsylvania Bulletin*.

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

The Department will review the regulation promulgated under this section yearly to determine whether new requirements should be promulgated.

CDL-1

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

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REVIEW COMMISSION

#2445

DO NOT WRITE IN THIS SPACE

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

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

Copy below is approved as
to form and legality.
Executive or Independent
Agency.

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Athletic Commission
(AGENCY)

[Signature]
DAVID J. DEVRIES

DOCUMENT/FISCAL NOTE NO. 16-34

DATE OF APPROVAL

DATE OF ADOPTION: _____

BY: *[Signature]*
Charles P. Bednarik

6.16.05
DATE OF APPROVAL

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

TITLE: Chairman, State Athletic Commission
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

FINAL RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
STATE ATHLETIC COMMISSION
58 Pa. Code §§ 1.1 AND 21.8
COMMUNICABLE DISEASE TESTING

The State Athletic Commission (Commission) hereby amends §§ 1.1 and 21.8 (relating to definitions; and boxers) as they pertain to the testing of professional boxers for communicable diseases to read as set forth in Annex A.

A. Effective Date

The final-form rulemaking will be effective upon publication in the Pennsylvania Bulletin.

B. Statutory Authority

The amendments are authorized under section 103 of the State Athletic Code (code) (5 Pa.C.S. § 103), which authorizes the Commission to establish policy and promulgate rules and regulations regarding professional boxing contests and exhibitions and all matters pertaining thereto.

C. Comments Received

The Commission did not receive any public comments or comments from the House or Senate State Government Committees. The Independent Regulatory Review Commission (IRRC) commented that the Commission should delete the phrase “such as Hepatitis” from the definition of “communicable disease” in § 1.1 (relating to definitions) to be consistent with the Department of Health definition of communicable disease at 28 Pa.Code § 27.1 (relating to definitions). The Commission agrees with IRRC’s comment and deleted the phrase.

IRRC also commented that for consistency with the existing language of § 21.8 (relating to boxers) that sets forth the requirements for testing for Human Immunodeficiency Virus (HIV), the requirements for Hepatitis testing should be included in this section and deleted from the definition section. Since the Commission would like to test for all communicable diseases and the same requirements for the testing of HIV will apply to that testing, subsequent discussions with IRRC revealed that it would be acceptable to retain the phrase “and any other communicable disease” in § 21.8. Therefore, as a condition for an initial or renewed license as a professional boxer, in addition to being required to be tested for HIV, an applicant would also be required to be tested for communicable diseases as defined in § 1.1.

D. Background and Purpose

Increasing concerns about the rapid spread of communicable diseases has led to an ever greater call for testing professional boxers for such diseases. Given the devastating long-term health consequences of Hepatitis C, which according to the Centers for Disease Control and

Prevention often includes chronic liver disease, cirrhosis and even death in 3% of those infected, the American Association of Boxing Commissions and the American Association of Professional Ringside Physicians recently recommended that the boxing commissions in the various states consider adopting a requirement for the testing of Hepatitis C and other communicable diseases. The Commission's Medical Advisory Board (Board) also unanimously endorses the adoption of such a requirement with the concurrence of the Commission.

Therefore, the Commission amends its current regulations pertaining to professional boxers to require annual testing for communicable diseases. It is the intent of the amendment to better protect professional boxers, who frequently come into direct contact with the blood of an opponent in a boxing contest or exhibition, from contracting a communicable disease. The cost for the additional test will be limited to no more than \$50 per annual test, which is outweighed by the benefit of the protection that the test affords.

E. Fiscal Impact and Paperwork Requirements

The final-form regulation will have no adverse fiscal impact on the Department of State (Department) or the Commission. The regulation will also have no adverse fiscal impact on the Commonwealth or its political subdivisions and will not impose any additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector. The proposed amendment will have a minimal fiscal impact on the professional boxers the Commission regulates by requiring that they must incur the cost for an annual test for communicable diseases but at an estimated cost of no more than \$50 per test.

F. Sunset Date

The Commission and the Department monitors the regulations of the Commission on a continuing basis. Therefore, no sunset date has been assigned.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Department submitted copies of the notice of proposed rulemaking, published at 34 Pa.B. 6150, on November 13, 2004, to IRRC, the Senate State Government Committee and the House State Government Committee for review and comment.

In compliance with section 5(c) of the Regulatory Review Act, the Department also provided IRRC, the Senate State Government Committee, and the House State Government Committee with copies of comments received during the public comment period, as well as other documents when requested. In preparing the final-form regulation, the Department has considered all comments received.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), this final-form regulation was deemed approved by the Senate State Government Committee on _____, 2005, and deemed approved by the House State Government Committee on _____, 2005. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, 2005, and approved the final-form regulation.

I. Additional Information

Individuals who require information about the final-form rulemaking may contact Gregory P. Sirb, Executive Director or the State Athletic Commission, 2601 North 3rd Street, Harrisburg, PA 17110.

J. Findings

The Chairman of the Commission finds that:

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

(2) A public comment period was provided as required by law and all comments were considered.

(3) The amendments made to the final-form do not enlarge the original purpose of the proposed rulemaking as published under section 201 of the Act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1201).

(4) These regulations are necessary and appropriate for administering and enforcing the authorizing acts identified in Part B of this Preamble.

K. Order

The Chairman of the Commission, acting under the authorizing statute, orders that:

(a) The regulations of the Commission at 58 Pa. Code §§ 1.1 and 21.8 are amended to read as set forth in Annex A.

(b) The Commission shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.

**16-34 Final Rulemaking
Communicable Disease Testing
January 28, 2005**

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

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

CHARLES BEDNARIK
Chairman of the State Athletic Commission

ANNEX A

Title 58. Recreation

PART I. STATE ATHLETIC COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 1.1. Definitions.

- (a) The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

* * *

Communicable Disease—An illness, ~~such as Hepatitis~~, which is capable of being spread to a susceptible host through the direct or indirect transmission of an infectious agent or its toxic product by an infected person, animal or arthropod, or through the inanimate environment.

* * *

SUBPART B. BOXING

CHAPTER 21. PROFESSIONAL BOXING

§ 21.8 Boxers.

- (a) Professional boxers shall be licensed by the Commission. The Commission will not license or renew the license of a professional boxer unless the license application is accompanied by a report from a Department of Health facility, a laboratory possessing a permit from the Department

of Health under 28 Pa. Code § 5.11 (relating to permit, requirements, application and conditions) or a report from a laboratory licensed in another jurisdiction that meets the requirements to be issued a permit under 28 Pa. Code § 5.11, and is acceptable to the Commission, which indicates that the applicant has been tested for any virus, antibody, antigen or etiologic agent determined to cause or indicate the presence of human immunodeficiency virus and any other communicable disease as defined in § 1.1 (relating to definitions) and the results of those tests were negative. The tests shall have been initiated no more than 60 days prior to the date of filing the application. A boxer whose application for license has been denied has the right to a hearing before the Commission under 2 Pa.C.S. §§ 501-508 (relating to practice and procedure of Commonwealth agencies). The applicant shall apply, in writing, to the Commission requesting a hearing. The Commission will conduct a hearing within 10 business days from the receipt of the written request.



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
STATE ATHLETIC COMMISSION
302 NORTH OFFICE BUILDING
HARRISBURG, PA 17120-0029
(717) 787-6802**

July 7, 2005

The Honorable John R. McGinley, Jr.
Chairman
Independent Regulatory Review Commission
14th Floor, Harrisburg 2
333 Market Street
Harrisburg, PA 17101

Re: Final Rulemaking of the State Athletic Commission
Communicable Disease Testing (16-34)

Dear Chairman McGinley:

Enclosed is a copy of a final regulation of the State Athletic Commission pertaining to Communicable Disease Testing.

The State Athletic Commission, as always, will be pleased to provide your committee with any assistance it may require during the course of its review of this regulation.

Sincerely,

A handwritten signature in cursive script, reading "Charles P. Bednarik".

Charles P. Bednarik

CPB/MHB/mab

Enclosures

cc: Albert H. Masland, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
State Athletic Commission

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

I.D. NUMBER: 16-34

SUBJECT: State Athletic Commission: Communicable Disease Testing

AGENCY: DEPARTMENT OF STATE

#2445

TYPE OF REGULATION

Proposed Regulation

X 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

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REGULATORY REVIEW ACT

FILING OF REGULATION

DATE

SIGNATURE

DESIGNATION

7/8/05

[Signature]

HOUSE COMMITTEE ON STATE GOVERNMENT

[Signature]

7/8/05

[Signature]

SENATE COMMITTEE ON STATE GOVERNMENT

7/8/05

[Signature]

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL (for Final Omitted only)

LEGISLATIVE REFERENCE BUREAU (for Proposed only)

June 16, 2005