

# Regulatory Analysis Form

This space for use by **IRRC**

2004 NOV - 1 PM 2: 51

INDUSTRIAL & REGULATORY  
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

Secondary Contact: Erin E. Verano, Counsel  
State Athletic Commission  
717-705-4592

(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 proposes to amend its current 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 proposed amendments are 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.

### Regulatory Analysis Form

(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, including Hepatitis C, 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 proposed 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 proposed 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.

(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 has been 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
<b>SAVINGS:</b>	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
<b>COSTS:</b>	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
<b>REVENUE LOSSES:</b>	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.				
N/A	N/A	N/A	N/A	N/A
(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.				

### 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 proposed 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 proposed regulations promulgated under this section yearly to determine whether new requirements should be promulgated.

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

(Pursuant to Commonwealth Documents Law)

RECEIVED

2004 NOV -1 PM 2:51

INDEPENDENT REGULATORY  
REVIEW COMMISSION

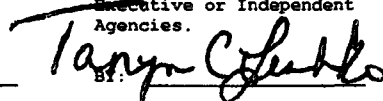
DO NOT WRITE IN THIS SPACE

#2445

Copy below is hereby approved as to  
form and legality. Attorney GeneralBY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)Copy below is hereby certified to be a true and correct  
copy of a document issued, prescribed or promulgated by:

State Athletic Commission

(AGENCY)

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

BY: \_\_\_\_\_

SEP 23 2004

DATE OF APPROVAL

DOCUMENT/FISCAL NOTE NO. 16-34

DATE OF ADOPTION: \_\_\_\_\_

BY:   
Charles Bednarik

Chairman, State Athletic Commission

TITLE: \_\_\_\_\_  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

9.1.04

DATE OF APPROVAL

Asst.

(Deputy General Counsel  
~~Chief Counsel~~  
~~Independent Agency~~  
(Strike inapplicable  
title)[ ] Check if applicable  
Copy not approved.  
Objections attached.[ ] Check if  
applicable. No Attorney  
General approval or  
objection within 30 days  
after submission.

PROPOSED RULEMAKING  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
STATE ATHLETIC COMMISSION  
58 Pa. Code §§ 1.1 AND 21.8  
Communicable Disease Testing

**Preamble #16-34 Communicable  
Disease Testing  
May 28, 2004**

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

**A. Effective Date**

The amendments would be effective upon publication of the final-form rulemaking in the Pennsylvania Bulletin.

**B. Statutory Authority**

The amendments are 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.

**C. Background and Purpose**

Increasing concerns about the rapid spread of communicable diseases, particularly Hepatitis C, which is a disease of the liver caused by a virus that can be transmitted by contact with blood through one's occupation or vocation, has led to an ever greater call for testing professional boxers for such diseases. In fact, 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 also unanimously endorses the adoption of such a requirement with the concurrence of the Commission.

Therefore, the Commission proposes to amend its current regulations pertaining to professional boxers to require annual testing for certain 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 \$50.00 per annual test, which is outweighed by the benefit of the protection that the test affords.



### **Description of the Proposed Amendments**

The Commission is proposing that as a condition for an initial or renewal license as a professional boxer, in addition to being required to be tested for any virus, antibody, antigen or etiologic agent determined to cause or indicate the presence of human immunodeficiency virus as currently mandated by regulation, an applicant would also be required to be tested for Hepatitis C and other communicable diseases as defined in § 1.1 (relating to definitions) of the Annex.

The Commission developed its definition of communicable disease based upon the definition of communicable disease contained in the Department of Health's regulations at 28 Pa. Code § 27.1.

#### **E. Compliance with Executive Order 1996-1**

The Commission reviewed this rulemaking and considered its purpose and likely impact upon the public and regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation (February 6, 1996). The proposed amendment addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

As part of its review, the Commission also afforded the opportunity for a 30 day predraft comment by forwarding an exposure draft of Annex A to the following categories of individuals: four physicians who are members of the Medical Advisory Board and three physicians who are presently licensed as ringside physicians by the Commission; 12 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 has been adopted.

#### **F. Fiscal Impact and Paperwork Requirements**

The proposed amendment will have no adverse fiscal impact on the Department of State or the Commission. The proposed amendment 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 Hepatitis C and other communicable diseases but at an estimated cost of no more than \$50.00 per test.

**G. 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)), on November 1, 2004, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC), the Chairpersons of the Senate State Government Committee and the House State Government Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections regarding the proposed rulemaking within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review of comments, recommendations and objections by the Commission, the General Assembly, and the Governor prior to publication of the final rulemaking.

**I. Public Comment**

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Gregory P. Sirb, Executive Director or the State Athletic Commission, 2601 North 3rd Street, Harrisburg, PA 17110, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16-34 (Communicable Disease Testing), when submitting comments.

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 [shall] will not license or renew [any] the license of a professional boxer unless the license application is accompanied by a report from a [Pennsylvania] 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

**Annex #16-34 Communicable  
Disease Testing  
August 2, 2004**

jurisdiction that meets the requirements to be issued a permit under 28 Pa. Code § 5.11 [(relating to permit, requirements, application, and conditions)], 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. [Such] The tests shall have been initiated no more than sixty (60) days prior to the date of filing the application. [Any] A boxer whose application for license has been denied has the right to a hearing before the Commission [under the provisions of Title 2 (relating to administrative law and procedure)] 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. [at which time] [t] The Commission [shall] will conduct a hearing within [ten 10] 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**

November 1, 2004

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

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

Dear Chairman McGinley:

Enclosed is a copy of a proposed 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 Bednarik".

Charles Bednarik  
Chairman  
State Athletic Commission

CB/mab

Enclosures

cc: Linda C. Barrett, Chief Counsel  
Department of State  
Joyce McKeever, Deputy Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
Department of State  
Gregory Sirb, State Athletic Commission

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

I.D. NUMBER: 16-34

SUBJECT: Communicable Disease Testing

AGENCY: DEPARTMENT OF STATE

# 2445

**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

RECEIVED  
2004 NOV -1 PM 2:51  
INDEPENDENT REGULATORY  
REVIEW COMMISSION

**FILING OF REGULATION**

DATE

SIGNATURE

DESIGNATION

11-1-04 *Eileen Kruck*

HOUSE COMMITTEE ON STATE GOVERNMENT

11-1-04 *For the Senate*

11/1/04 *J. Hess*

SENATE COMMITTEE ON STATE GOVERNMENT

11/1/01 *Stephen J. Koffman*

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL (for Final Omitted only)

LEGISLATIVE REFERENCE BUREAU (for Proposed only)