

KELVIN C. BUSH, CHAIRMAN
ARTHUR COCCODRILLI
JOHN R. MCGINLEY, JR., ESQ.
JOHN F. MIZNER, ESQ.
KIM KAUFMAN, EXECUTIVE DIRECTOR
MARY S. WYATTE, CHIEF COUNSEL



PHONE: (717) 783-5417
FAX: (717) 783-2664
irrc@irrc.state.pa.us
www.irrc.state.pa.us

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

April 26, 2006

Honorable Dennis C. Wolff, Secretary
Department of Agriculture
211 Agriculture Building
2301 North Cameron Street
Harrisburg, PA 17110

Re: Regulation #2-151 (IRRC #2526)
Department of Agriculture
Shellfish

Dear Secretary Wolff:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact me.

Sincerely,


Kim Kaufman
Executive Director

wbg

Enclosure

cc: Honorable Mike Waugh, Chairman, Senate Agriculture and Rural Affairs Committee
Honorable Michael A. O'Pake, Minority Chairman, Senate Agriculture and Rural Affairs Committee
Honorable Arthur D. Hershey, Majority Chairman, House Agriculture and Rural Affairs Committee
Honorable Peter J. Daley, II, Democratic Chairman, House Agriculture and Rural Affairs Committee

Comments of the Independent Regulatory Review Commission

on

Department of Agriculture Regulation #2-151 (IRRC #2526)

Shellfish

April 26, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the February 25, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Department of Agriculture (Department) to respond to all comments received from us or any other source.

1. Section 49.2. Scope. – Clarity.

This section declares that persons processing, distributing, transporting or selling shellfish must comply with Chapter 49 and the National Shellfish Sanitation Program (NSSP) Model Ordinance. During our review, Department staff identified a link at <http://www.cfsan.fda.gov/~ear/nss2-toc.html> to the text of the NSSP Model Ordinance. It would help the regulated community if the Department included this link in the text of the final-form regulation.

2. Section 49.42. Plumbing. – Consistency with existing regulations and statutes; Clarity.

Subsection (a) states: “Plumbing [shall] must be sized, installed and maintained in compliance with the provisions of the local plumbing code or, in the absence thereof, in a manner that prevents contamination of the water supply or the creation of an unsanitary condition.” This subsection should include a reference to the Pennsylvania Construction Code Act (35 P.S. §§ 7210.101 - 7210.1103).

3. Section 49.53. Utensils and equipment construction. – Clarity.

Subsection (b) refers to the Shellfish Industry Equipment Construction Guide (Guide). This subsection should contain information on the source and availability of the Guide including a link to the Guide at <http://www.cfsan.fda.gov/~ear/nss2-43a.html>.

Facsimile Cover Sheet

Kristine M. Shomper
Director for Administration



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

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

To: April Sparks
Agency: Department of Agriculture
Phone: 2-2853
Fax: 5-8402
Date: April 26, 2004
Pages: 3

RECEIVED
2006 APR 26 AM 9:19
INDEPENDENT REGULATORY
REVIEW COMMISSION

Comments: We are submitting the Independent Regulatory Review Commission's comments on the Department of Agriculture's regulation #2-151 (IRRC #2526). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: *[Signature]* Date: 4/26/06