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## Regulatory Analysis Form

<p>(1) Agency Department of Public Welfare</p>	<p>This space for use by IRRC INDEPENDENT REGULATORY REVIEW COMMISSION</p> <p>IRRC Number: <b>2539</b></p>
<p>(2) I.D. Number (Governor's Office Use) <b>14-506</b></p>	
<p>(3) Short Title Child Care Facilities</p>	
<p>(4) PA Code Cite 55 Pa. Code Chapters 3270, 3280, 3290 and 3300</p>	<p>(5) Agency Contacts &amp; Telephone Numbers Primary Contact: Wendy Etheridge-Smith, 346-1116 Secondary Contact: Jennifer Lau, 772-4850</p>
<p>(6) Type of Rule Making (Check One)</p> <p><input type="checkbox"/> Proposed Rule Making <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rule Making Omitted</p>	<p>(7) Is a 120-Day Emergency Certification Attached? (To be used only for emergency-certified regulations.)</p> <p><input type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor</p>
<p>(8) Briefly explain the regulation in clear and nontechnical language.</p> <p>The child care facility regulations in Chapters 3270, 3280 and 3290 provide standards to aid in protecting the health, safety and rights of children and to reduce risks to children in child day care centers, group child day care homes (GDCH) and family child day care homes (FDCH). The regulations identify the minimum level of compliance necessary to obtain the Department's certificate of compliance to operate a child care center or GDCH or certificate of registration to operate an FDCH.</p>	
<p>(9) State the statutory authority for the regulation and any relevant state or federal court decisions.</p> <p>The Department amends the regulations under the authority of Articles IX and X of the Public Welfare Code (62 P. S. §§ 901-922 and 1001-1087).</p>	
<p>(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.</p>	

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The regulation is not mandated by a Federal or state law, court order or regulation.

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

The final-form rulemaking is needed to update the minimum standards for child care facilities. The current regulations were published at 22 Pa.B. 1651 (April 4, 1992) and must be updated to reference the current laws that directly impact the operation of child care facilities, to incorporate the Department's statements of policy issued since 1992, to implement changes in recommended health and safety practices, to clarify minimum standards and to reflect best practice in the field of child care.

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

The Department cannot require that an individual who wants to operate a child care facility must attend the Department's orientation training without the regulation. Attendance at orientation increases the facility's level of compliance with regulations and improves health and safety for children in care.

The Department cannot address inclusion of children with special needs in all child care facilities if Chapter 3300 is not deleted and the requirements relating to care for children with special needs are addressed within Chapters 3270, 3280 and 3290.

(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 current child care service regulations were published in April 1992. Since 1992, many changes have occurred that affect the regulations and operation of a child care facility. The Department published 11 statements of policy clarifying or interpreting the regulations, including statements of policy regarding emergency plans, supervision of children, Syrup of Ipecac, release of children, posting inspection summaries, Departmental access and swimming pool accessibility. Laws that impact operating a child care facility have changed regarding certificate of occupancy, vehicle safety, childhood immunizations and children with special needs. New research has resulted in changes to health and safety recommendations regarding SIDS prevention, playground safety and tuberculosis testing. In addition, the Department noted areas in which facilities have difficulty complying with requirements and examined the reasons for noncompliance. When possible, the final-form rulemaking reflects changes that will assist facilities to comply with the regulations and continue to ensure minimum health and safety at a facility.

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The final-form rulemaking improves health and safety standards for all children in care, facilitates inclusion of children with special needs, incorporates current statements of policy and corrects regulatory language to accurately reflect laws that impact facility operation.

(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.)

Facilities may be adversely affected by the costs associated with the proposed amendments relating to mandatory orientation training, progress checklist and protective surface coverings under outdoor play equipment. The costs of compliance may be offset by other cost savings resulting from amendments related to kindergarten children, child health reports and staff health.

(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.)

Child day care centers, group child day care homes and family child day care homes are required to comply with the regulation. As of June 30, 2006, 3917 child care centers, 799 GDCHs and 4,150 FDCHs were certified or registered by the Department.

(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 Office of Child Development (OCD) held a stakeholders meeting to discuss proposed regulations. Attendees included individuals who operate profit and nonprofit child care centers, GDCHs and FDCHs; representatives of provider organizations and child advocacy groups; representatives from the Departments of Health and Education and OCD staff.

As a result of the stakeholders meeting, OCD convened a subgroup of stakeholders to discuss amendments related to serving children with special needs. Attendees included individuals who operate profit and nonprofit child care centers, group child day care homes and family child day care homes; representatives of provider organizations, the Department of Education, the Department's Office of Legislative Affairs, Early Intervention specialists and OCD staff.

In February 2006, the Office of Child Development (OCD) conducted leadership forums regarding initiatives for fiscal year 2006-2007. The forums were held in several locations across the state. Approximately 500 people attended the forums. Participants were provided the option of attending several topic-specific sessions

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regarding upcoming initiatives, including an overview and discussion of the proposed regulatory amendments.

Draft regulatory amendments were shared with all stakeholders who were invited to attend the two work group meetings, the Director of the Department's Policy Office and the Department's legal counsel. All recipients were invited to submit written comments regarding the draft regulation amendments. The comments received were reviewed and considered in developing the regulation amendments proposed for publication.

Following publication of proposed rulemaking, the Department received 46 comments during the 30-day public comment period and three comments within 30 days following the close of the public comment period.

The comments received during the public comment period came from 18 child care providers, 13 advocacy organizations, seven medical professionals or organizations, three attorneys, three consumers, one Pennsylvania Key employee and one former Department employee.

The comments received within 30 days following the close of the public period came from two providers and one medical professional.

The Department also received comments from the House Children and Youth Committee and the Independent Regulatory Review Commission (IRRC).

Following publication of proposed rulemaking, the Department held two meetings of the previously formed regulation work group. During the public comment period, the work group met once to discuss strategy to solicit comments regarding the proposed amendments. Following the close of the public comment period, the work group met to discuss the content of the comments and revisions to the proposed rulemaking. In addition, Department staff contacted work group members who were unable to attend the meeting in order to get their input.

(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.

### Kindergarten child as a young school-age child

Including a kindergarten child in the definition of young school-age child will result in cost saving for child care centers and GDCHs. A school-age child care center or GDCH that enrolls a kindergarten child will be able to maintain its status as a school-age facility and will realize cost savings relating to staffing and physical site (see 55 Pa. Code §§3270.241 and 3280.221 (relating to requirements specific to school-age

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programs)). The greatest cost savings will be to a school-age child care center that will not have to pay a director or group supervisor to be on-site at all times. According to the Pennsylvania Department of Labor and Industry (L&I) wage statistics, the average hourly wage for a director is \$16.64/hour. A child care center director must be on site at least 30 hours per week when the facility provides care for children younger than school-age children. The director's salary at 30 hours per week is \$499.20. At a school-age center, the number of hours a director must be on-site depends upon the number of hours of facility operation. When a school-age child care center operates 30 hours or less per week, a director must be on-site 20% of the time or six hours. The cost of having a director on-site for six hours is \$99.84. This represents a cost savings of \$399.36 per week.

A child care center must employ a group supervisor for each group of 45 enrolled children when the facility provides care for children younger than school-age children. The group supervisor must be on-site a minimum of 30 hours per week. A group supervisor is often referred to as a "teacher". According to the L&I wage statistics, the average wage for a preschool teacher is \$11.01 per hour. The group supervisor's salary at 30 hours per week is \$330.03. At a school-age center, a group supervisor is not required until there are 46 or more children enrolled at the facility. For a school-age center enrolling less than 46 children, this represents a cost savings of \$330.03 per week.

A facility that transports kindergarten and school-age children to and from school will be able to count the driver in the staff:child ratio and will no longer have to supply an additional staff person on the vehicle to comply with ratio requirements related to transporting preschool children. According to the L&I wage statistics, the average wage for a child care worker is \$8.50 per hour. The facility will save an average of \$8.50 for each hour of transportation.

The staff:child ratio for young school-age children is 1:12 and for preschool children is 1:10. The income produced from a group of 12 young school-age children is greater than the income produced from a group of 10 preschool children. The cost of child care is established by each facility; therefore, the income difference is illustrated below in the discussion of the regarding the statewide average child care subsidy rate.

Changing the definition of young school-age to include kindergarten children may result in lower reimbursement rates for facilities that participate in the child care subsidy program. Currently, kindergarten children are preschool children. On average, the reimbursement rate for a preschool child is higher than the reimbursement rate for a young school-age child. The chart below illustrates the average subsidy reimbursement rates for a preschool (PS) child and young school-age (YSA) child and the differences between those rates.

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<b>STATEWIDE AVERAGE SUBSIDY REIMBURSEMENT RATES FOR PS AND YSA CHILD</b>						
<b>Facility Type</b>	<b>FULL-TIME CARE 5 or more hours/day</b>			<b>PART-TIME CARE Less than 5 hours/day</b>		
	<b>Average PS Rate</b>	<b>Average YSA Rate</b>	<b>Difference</b>	<b>Average PS Rate</b>	<b>Average YSA Rate</b>	<b>Difference</b>
Child Care Center	\$24.01	\$20.98	- 3.03	\$17.44	\$16.56	- .88
Group Child Care Home	\$21.37	\$19.93	- 1.44	\$16.03	\$15.87	- .16
Family Child Care Home	\$19.75	\$18.52	-1.23	\$14.31	\$13.97	-.34

The chart below illustrates the fluctuation in rates across the state:

		<b>YSA &lt; PS</b>	<b>YSA = PS</b>	<b>YSA &gt; PS</b>
<b>Center Full-time Rate</b>	# Counties	57	5	5
	Average difference	- \$3.77	0	+ \$2.43
	Range of difference	-\$ .10 to -\$13.80	0	+ \$.70 to +\$5.56
<b>Center Part-time Rate</b>	# Counties	40	16	11
	Average difference	- \$2.31	0	+ \$3.00
	Range of difference	- \$.10 to -\$7.80	0	+ \$.10 to + \$9.80

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	Average difference	- \$2.30	0	+ \$1.27
	Range of difference	-\$ .04 to -\$12.00	0	+\$ .20 to +\$3.00
<b>GCCH Part-time Rate</b>	# Counties	29	22	15
	Average difference	- \$1.63	0	+ \$2.46
	Range of difference	-\$ .40 to \$7.80	0	+\$ .10 to +\$9.80
<b>FCCH Full-time Rate</b>	# Counties	48	17	2
	Average difference	- \$1.81	0	+ \$2.33
	Range of difference	-\$ .04 to -\$8.00	0	+\$1.65 to +\$3.00
<b>FCCH Part-time Rate</b>	# Counties	22	32	13
	Average difference	- \$2.17	0	+ \$1.91
	Range of difference	-\$ .30 to -\$5.40	0	+\$ .20 to +\$6.50

Additional information is attached detailing the differences in reimbursement rates.

For many facilities, the decrease in reimbursement rate will be offset by the lowered operating costs realized by lessened staff:child ratio. Facilities that transport children to school will save the cost of providing an additional staff person in the vehicle. School-age facilities will see additional cost savings.

The wages for child care staff vary according to position. The majority of staff in child care facilities are qualified as assistant group supervisor (AGS). An AGS is permitted to be alone with children. According to the L&I wage statistics, the average wage for a child care worker is \$8.50 per hour. The staff:child ratio for preschool children is 1:10. The staff:child ratio for young school-age children is 1:12. The greatest rate difference is seen in the full-time center rate. Using the full-time rate, the income from each group of children is as follows:

\$ 24.01	average preschool rate
x 10	preschool children per one staff person
\$240.10	income from one group of 10 preschool children

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$\begin{array}{r} \$ 20.98 \\ \times \quad 12 \\ \hline \$251.76 \end{array}$	average young school-age rate young school-age children per one staff person income from one group of 12 young school-age children
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If the children are in care full-time, using an estimate of a 10 hour full-day of care, the cost of staffing is:

$\begin{array}{r} \$ 8.50 \\ \times \quad 10 \\ \hline \$85.00 \end{array}$	average hourly child care worker wage full day child care cost of AGS for 10 hours
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$\begin{array}{r} \$240.10 \\ - \quad 85.00 \\ \hline \$155.10 \end{array}$	income from one group of 10 preschool children cost of staffing difference
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$\begin{array}{r} \$251.76 \\ - \quad 85.00 \\ \hline \$166.76 \end{array}$	income from one group of 12 young school-age children cost of staffing difference
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The addition of two children to the staff:ratio offsets the lower rate for a young school-age child.

A child care center must have one group supervisor (GS) for every group of 45 enrolled children. A GS has more qualifications than an AGS, may supervise children alone and is often referred to as a "teacher". According to the L&I wage statistics, the average wage for a preschool teacher is \$11.01 per hour. If a GS is counted as a staff person, the costs are as follows:

$\begin{array}{r} \$11.01 \\ \times \quad 10 \\ \hline \$110.10 \end{array}$	average hourly preschool teacher wage full day child care cost of GS for 10 hours
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$\begin{array}{r} \$240.10 \\ - \quad 110.10 \\ \hline \$130.00 \end{array}$	income from one group of 10 preschool children cost of staffing difference
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$\begin{array}{r} \$251.76 \\ - \quad 110.10 \\ \hline \$141.66 \end{array}$	income from one group of 12 young school-age children cost of staffing difference
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The addition of two children to the staff:ratio offsets the lower rate for a young school-age child.



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### Pre-certification orientation:

Pre-certification orientation may create costs to an individual who wants to apply for a certificate of compliance or registration. The training will require a full day including travel and training time. The individual's costs will vary depending on the distance the individual must travel to participate in training. Using the Commonwealth mileage rate, an individual who travels 200 miles round trip would incur a travel cost of \$97.00.

For individuals currently operating or working in child care facilities, attendance at orientation training would be part of their job and they would be paid for the time to attend the training.

An individual who operates a family child day care home or group child day care home and who wants to open a new facility may have to arrange for staff to work at the facility while the individual attends orientation training. According to the Pennsylvania Department of Labor and Industry (L&I), the average wage for a child care worker is \$8.50 per hour. If substitute staff must be hired to cover an eight hour shift, the estimated cost is \$68.00.

An individual who is employed outside the child care field and who wants to open a facility may miss a day of work to attend orientation training and may lose wages for that day. Based on L&I's statistics regarding the average state wage, the individual may lose \$147 in wages to attend orientation training.

### Indoor temperature:

The current child care center regulation requires that when the indoor temperature exceeds 85° F in a child care space, a means of mechanical air circulation shall be operating. Many facilities already have a means of ventilation in place at the facility. Ventilation may be provided through using a fan. If a facility has to purchase a fan, the cost of a fan will vary depending on the type of fan i.e., standing fan, window fan, wall fan or ceiling fan. The estimated costs would be anywhere from \$15.00 to \$100.00 depending upon the type of fan chosen by the provider.

### Disposable, nonporous gloves in first aid kit:

The addition of disposable, nonporous gloves to the first aid kit represents increased cost to a facility. The use of gloves is a universal precaution to prevent the spread of disease transmitted via body fluids. The cost of a box of 100 gloves ranges from \$2.99 to \$8.99. The rate at which the gloves are used to administer first aid is unknown. The health and safety protection afforded to children and staff by using gloves outweighs the cost.

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### Protective surfacing under outdoor play equipment:

The amendment relating to surface covering under outdoor embedded play equipment will result in increased costs for facilities where the surface covering does not meet the CPSC guidelines. The current regulation requires at least six inches of loose-fill material under the equipment. The CPSC standards state that six inches of uncompressed wood chips, the most common protective surface covering used at child care facilities, provides protection up to a fall height of seven feet. The current requirement for six inches of loose-fill material will be adequate for most child care facilities.

If the facility must modify the protective surface to comply with the regulation, the cost will depend upon the fall height from the equipment, the type of surface covering used and the size of the area that must be covered. Below is a chart showing the average cost of different surface coverings that may be used to meet the regulation.

Surfacing	Cost
Gravel	\$13.00 per square foot
Wood mulch	\$15.00 per cubic yard
Sand	\$17.00 per ton
Rubber mulch	\$25.00 per cubic yard
Safety tiles (unitary surface)	\$50.00 per square yard

A facility that has a unitary surface covering that currently meets the requirements in the Department's statement of policy will be in compliance with the amended regulation.

### Progress checklist:

Facilities will incur added costs in preparing a progress checklist for each child twice a year. The current regulation at Chapter 3300 requires that each child with special needs must have a program plan that is reviewed every three months and rewritten annually. The proposed amendment relating to progress checklist requires that the facility must complete a semi-annual progress checklist for each infant, toddler and preschool child and for each school-age child who attends the facility more than 15 hours per week. The Department estimates that on average, a progress checklist will take 10 minutes to complete. The estimated cost for a facility to update progress checklists twice a year is illustrated in the table below. The average wage is determined based on the fact that the child care center director, GDCH primary staff person or FDCH operator is responsible for the progress checklist review.

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Facility	Average enrollment	Six month checklists per year	Total time preparing checklists	Average hourly wage	Cost
Center	50	100	17 hours	\$16.64	\$282.88
GDCH	12	24	4 hours		\$66.56
FDCH	6	12	2 hours		\$33.28

Staff health:

Staff persons will save money from the decreased requirements for staff health appraisals. By changing the requirement for annual health appraisals to bi-annual health appraisals, each staff person will save \$75.00 to \$150.00 per year. In addition, eliminating the requirement for bi-annual tuberculosis testing will save each staff person an additional \$25.00 to \$75.00 every two years.

(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.

There are no new costs or savings to local governments associated with compliance with this proposed regulation. No new legal, accounting or consultant procedures are required.

(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.

Kindergarten child as a young school-age child

Changing the definition of young school-age to include kindergarten children may result in lower reimbursement rates for some providers who participate in the child care subsidy program. This will result in cost savings for state government. Using the average statewide reimbursement rates illustrated in the chart in #16, the average savings will be from \$.16 cents to \$3.03 per kindergarten child who receives child care subsidy. The Department does not have statistics regarding the number of children who attend kindergarten and also receive child care subsidy. Statistics from April 2006 the following number of children who receive child care subsidy and were five years old prior to the start of the school year, the usual age at which a child is eligible to

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attend kindergarten:

3,935	kindergarten children receiving subsidy in child care centers:
282	kindergarten children receiving subsidy in group child care homes
<u>464</u>	kindergarten children receiving subsidy in family child care homes
4,681	kindergarten children in all regulated facilities

Using the above figures, a total of 4,681 children would be impacted by change in definition of a young school-age child.

### Pre-certification orientation

The Department currently provides pre-certification orientation training for individuals who want to operate child care facilities. The Department will not incur additional costs related to the proposed amendment requiring attendance at orientation training.

9 - 22 - 06

*Pat M...* for Linda

(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>						
Regulated Community	7,223,975	7,223,975	7,223,975	7,223,975	7,223,975	7,223,975
Local Government						
State Government						
Total Savings	7,223,975	7,223,975	7,223,975	7,223,975	7,223,975	7,223,975
<b>COSTS:</b>						
Regulated Community	2,074,233	2,074,233	1,526,420	1,526,420	1,526,420	1,526,420
Local Government						
State Government						
Total Costs	2,074,233	2,074,233	1,526,420	1,526,420	1,526,420	1,526,420
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	0	0	0	0	0	0

9-22-06

*Robt M... for Linda*

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

Kindergarten child as young school age

- No fiscal impact due to potential reduced subsidy payment offset by reduced stringency of requirements.

New Orientation Training - Costs

- Based on 12/05 Applications (1/2 year) for 05-06, 242 centers, 70 GDCH, and 349, FDCH for total of 1322 new applications for a full year.
- Assume only half of centers and groups are for new legal entities so use 242 and 70 respectively.
- Yearly estimate of new applications =  $\frac{1}{2}$  centers +  $\frac{1}{2}$  GDCH + FDCH = 1010.
- Assume average travel per staff person of 100 miles round trip at Commonwealth mileage rate =  $\$48.50 \times 1010 = \$48,985$ .
- Assuming use of substitute staff in centers and GDCH at rate of  $\$8.50/\text{hour} = \$68$  for 8-hour shift =  $\$68 \times 312 = \$21,216$
- Assuming FDCH may lose a day of work, L & I statistics indicate loss of  $\$147$  for a day of training so  $\$147 \times 698 = \$102,606$
- Total new cost to providers =  **$\$172,807$**

Ventilation required at 82 F- Costs

- Assume that only a tenth of currently regulated centers, GDCH, and FDCH will have to purchase a fan (because most already have mechanical ventilation).  
881 facilities
- Cost of fan can vary from  $\$15$  to  $\$100$ , depending on the type purchased.  
Taking an average cost of about  $\$57.50 \times 881 = \mathbf{\$50,657.50}$

Disposable, non-porous gloves in first aid kit - Costs

- Majority of injuries that occur in child care occur on playgrounds (> 60% of cases). Further, majority of injuries on playgrounds are due to falls and inadequate protective surface materials.
- Due to proposed regulations regarding surface play materials, this should reduce the amount of injuries requiring the use of gloves.
- As a conservative estimate, assume that staff will use gloves to treat injuries on 25% of children in all centers, GDCH, and FDCH. Total capacity is 336,318, and 2002 study suggested enrollment as 80% of capacity = 269,054 so total number of children injured estimated at 67,263 and need 2 gloves/child so 134,526 gloves.
- Box of gloves costs in range of  $\$2.99$  to  $\$8.99$  so use the average cost for a box of 100 as  $\$5.99$ ; gives  $134,526/100 = 1,346.26$  boxes  $\times \$5.99 = \mathbf{\$8,064.10}$

*Pat Moore for Linda* 9-22-06

Protective surface under outdoor play equipment - Costs

- 90% centers have outdoor play space, all imbedded = 3,505
- Assume 50% of them will have to add mulch or wood chips = 1,753
- 20ft x 15ft as average play space for 3 inches of mulch at \$15 cubic yards = \$625 per site
- \$625 x 1,753 = \$1,095,625, which is a one-time cost spread over 2 years
- \$1,095,625 ÷ 2 = **\$547,812.50 per year for a 2 year period.**

Progress Checklist - Costs

- \$282.88/center + \$66.56/GDCH + \$33.28/FDCH = \$1,101,534.72+ \$53,114.88 + \$140,241.92
- Total = **\$1,294,891.52**

Staff Health – Savings

- Assume 12 staff at each center, 2 staff at GDCH, 1 staff at FDCH
- 46,728 + 1596 + 4214 = 52,538
- Appraisals cost \$75 - \$150 so take the average of \$112.50
- TB test costs \$25 - \$75 every 2 years so average is \$25/year
- Total savings = \$5,910,525 + \$1,313,450 = **\$7,223,975**

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

Program	FY -3 2003-2004	FY -2 2004-2005	FY -1 2005-2006	Current FY 2006-2007
CCDFBG – Admin	\$12,479,000	\$13,127,000	\$13,480,000	13,480,000

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

The benefits of the final-form rulemaking outweigh the costs because of the additional health and safety protection afforded to children. The major cost associated with the amendments is the requirement related to protective surface covering under outdoor

and death. The health and safety protection gained outweighs the cost.

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

The Department could not utilize nonregulatory methods since the current regulations needed amending.

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

For many of the proposed amendments, the requirements reflect current statements of policy and current laws; therefore, facilities are already in compliance with the requirements. The Department did not alter the requirements that currently appear in statements of policy.

(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 applicable Federal regulations for child care facilities. Child care facilities are solely regulated by state governments.

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

Research of other states revealed that Pennsylvania's regulations for child care facilities generally present higher standards of care than other states.

In addition, 46 states include kindergarten children in the definition of school-age child. Eight states require orientation training for individuals who want to operate child care facilities. Most states include requirements related to providing care for children with special needs in the same regulatory chapters as the general standards relating to child care facilities.

Ten other states require that protective surface covering under outdoor play equipment must comply with the requirements of the CPSC or an equivalent standard.

Four states require child health assessments and screenings in accordance with the American Academy of Pediatrics (AAP) recommendations. The remaining 45 states' requirements are as follows:

- Two states do not require health reports.



- 27 states require a health report at the time of admission or enrollment and require no updates.
- 12 states require annual health reports.
- Two states require bi-annual health reports.
- Two states differentiate the frequency of health reports according to age groups:
  - One state requires annual reports for children 24 months of age and younger and bi-annual health reports for children 25 months of age and older.
  - One state requires health reports every six months for infants, annually for toddlers, every 18 months for preschool children and every three years for school-age children.

The final-form rulemaking requiring a health report every six months for infants and young toddler and every 12 months for older toddlers and preschool children exceeds the requirements in 45 states.

The Department's final-form rulemaking relating to child health reports exceeds the health report requirements in the 45 states that do not require health reports and screenings in accordance with the AAP recommendations.

Twenty-one other states require that infants be placed on their backs to sleep.

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

The final-form rulemaking does not affect existing or proposed regulations of the Department or another state agency.

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

The Department will continue to meet with affected individuals and organizations to discuss the application and effectiveness of this regulation.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports that will be required as a result of implementation, if available.

The regulation requiring progress checklists will result in increased paperwork. The Department will develop tools to assist the provider in completing the progress checklist.

The regulation requiring that each child care center and GDCH operator must certify that no hazardous equipment is on the premises will result in increased paperwork.

The Department will develop the certification document. It should take no more than 10 minutes for a facility to complete the self-certification form. This requirement is not applicable to family child day care homes.

(29) Please list any special provisions that have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

This final-form rulemaking applies to all child care facilities. There are special provisions relating to children with special needs to address and promote inclusion of all children in child care facilities.

(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 final-form rulemaking will be effective 120 days after publication in the Pennsylvania Bulletin. In addition, the Department will afford two years following the effective date for facilities to comply with the requirement relating to protective surface covering under outdoor play equipment.

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

On an ongoing basis, the Department will review inspection results to determine trends related to regulatory noncompliance. In addition, the Department will review updates related to health and safety recommendations for child care facilities and assess the need for regulatory amendments.

AVERAGE SUBSIDY RATES FOR PRESCHOOL AND YOUNG SCHOOL-AGE

Facility	Full-Time Care			Part-Time Care		
	Average Pre-school Rate	Average Young School-age Rate	Difference	Average Pre-school Rate	Average Young School-age Rate	Difference
Child Care Center	\$24.01	\$20.98	- 3.03	\$17.44	\$16.56	- .88
Group Child Care Home	\$21.37	\$19.93	- 1.44	\$16.03	\$15.87	- .16
Family Child Care Home	\$19.75	\$18.52	-1.23	\$14.31	\$13.97	-.34

**COMPARISON OF YOUNG SCHOOL-AGE RATE AND PRESCHOOL RATE**

<b>CHILD CARE CENTER FULL-TIME RATE</b>					
<b>Young School-Age Rate <i>LESS</i> Than Preschool Rate</b>					
Number of counties	57	Average difference	- \$3.77	Range of difference	-\$ .10 to -\$13.80
<b>Breakout by Range and Number of Counties</b>					
Range of difference	No. of Counties	Range of difference	No. of Counties	Range of difference	No. of Counties
- .01 - .49	2	- 3.00 - 3.49	7	- 6.00 - 6.49	6
- .50 - .99	4	- 3.50 - 3.99	3	- 7.00 - 7.49	1
- 1.00 - 1.49	6	- 4.00 - 4.49	6	- 7.50 - 7.99	1
- 1.50 - 1.99	4	- 4.50 - 4.99	1	- 8.50 - 8.99	1
- 2.00 - 2.49	5	- 5.00 - 5.49	2	- 9.50 - 9.99	1
- 2.50 - 2.99	3	- 5.50 - 5.99	3	- 13.50 - 13.99	1
<b>Young School-Age Rate <i>EQUALS</i> Preschool Rate</b>					
Number of counties	5	Average difference	0	Range of difference	0
<b>Young School-Age Rate <i>MORE</i> Than Preschool Rate</b>					
Number of counties	5	Average difference	+ \$2.43	Range of difference	+ \$.70 to +\$5.56
<b>Breakout by Range and Number of Counties</b>					
Range of difference	No. of Counties	Range of difference	No. of Counties	Range of difference	No. of Counties
+ .50 - 0.99	2	+ 3.00 - 3.49	1	+ .50 - 0.99	2
+ 2.00 - 2.49	1	+ 5.50 - 5.99	1	+ 2.00 - 2.49	1

<b>CHILD CARE CENTER PART-TIME RATE</b>					
<b>Young School-Age Rate <i>LESS</i> Than Preschool Rate</b>					
Number of counties	40	Average difference	-\$2.31	Range of difference	-\$0.10 to -\$7.80
<b>Breakout by Range and Number of Counties</b>					
Range of difference	No. of Counties	Range of difference	No. of Counties	Range of difference	No. of Counties
-.01-0.49	3	- 2.50-2.99	2	- 5.50-5.99	1
-.50-0.99	9	- 3.00-3.49	2	- 6.00-6.49	1
- 1.00-1.49	6	- 3.50-3.99	5	- 7.50-7.99	1
- 1.50-1.99	3	- 4.50-4.99	1		
- 2.00-2.49	4	- 5.00-5.49	2		
<b>Young School-Age Rate <i>EQUALS</i> Preschool Rate</b>					
Number of counties	16	Average difference	0	Range of difference	0
<b>Young School-Age Rate <i>MORE</i> Than Preschool Rate</b>					
Number of counties	11	Average difference	+\$3.00	Range of difference	+\$0.10 to +\$9.80
<b>Breakout by Range and Number of Counties</b>					
Range of difference	No. of Counties	Range of difference	No. of Counties	Range of difference	No. of Counties
+.01 -.49	2	+ 2.00 - 2.49	2	+ 4.00 - 4.49	1
+ 1.00 - 1.49	1	+ 2.50 - 2.99	1	+ 5.50 - 5.99	1
+ 1.50 - 1.99	1	+ 3.00 - 3.49	1	+ 9.50 - 9.99	1

<b>GROUP CHILD CARE HOMES FULL-TIME RATE</b>					
<b>Young School-Age Rate <i>LESS</i> Than Preschool Rate</b>					
Number of counties	44	Average difference	-\$2.30	Range of difference	-\$\$.04 to -\$12.00
<b>Breakout by Range and Number of Counties</b>					
Range of difference	No. of Counties	Range of difference	No. of Counties	Range of difference	No. of Counties
-.01 - .49	4	- 2.50 - 2.99	2	- 5.50 - 5.99	2
-.50 - .99	4	- 3.00 - 3.49	3	- 6.00 - 6.49	1
- 1.00 - 1.49	13	- 3.50 - 3.99	2	- 10.50 - 10.99	1
- 1.50 - 1.99	7	- 4.00 - 4.49	1	- 12.00 - 12.49	1
- 2.00 - 2.49	2	- 5.00 - 5.49	1		
<b>Young School-Age Rate <i>EQUALS</i> Preschool Rate</b>					
Number of counties	14	Average difference	0	Range of difference	0
<b>Young School-Age Rate <i>MORE</i> Than Preschool Rate</b>					
Number of counties	9	Average difference	+\$1.27	Range of difference	+\$\$.20 to +\$3.00
<b>Breakout by Range and Number of Counties</b>					
Range of difference	No. of Counties	Range of difference	No. of Counties	Range of difference	No. of Counties
+.01 - .49	3	+ 1.50 - 1.99	1	+ 3.00 - 3.49	1
+.50 - .99	2	+ 2.00 - 2.49	2		

<b>GROUP CHILD CARE HOMES PART-TIME RATE</b>					
<b>Young School-Age Rate <i>LESS</i> Than Preschool Rate</b>					
Number of counties	29	Average difference	-\$1.63	Range of difference	-\$\$.40 to \$7.80
<b>Breakout by Range and Number of Counties</b>					
Range of difference	No. of Counties	Range of difference	No. of Counties	Range of difference	No. of Counties
-.01 - .49	2	- 1.50 - 1.99	3	- 3.00 - 3.49	3
-.50 - .99	8	- 2.00 - 2.49	1	- 5.00 - 5.49	1
- 1.00 - 1.49	8	- 2.50 - 2.99	1	- 7.50 - 7.99	1
<b>Young School-Age Rate <i>EQUALS</i> Preschool Rate</b>					
Number of counties	22	Average difference	0	Range of difference	0
<b>Young School-Age Rate <i>MORE</i> Than Preschool Rate</b>					
Number of counties	15	Average difference	+\$2.46	Range of difference	+\$\$.10 to +\$9.80
<b>Breakout by Range and Number of Counties</b>					
Range of difference	No. of Counties	Range of difference	No. of Counties	Range of difference	No. of Counties
+.01 - .49	4	+ 2.00 - 2.49	1	+ 5.50 - 5.99	1
+ 1.00 - 1.49	2	+ 3.00 - 3.49	1	+ 9.50 - 9.99	1
+ 1.50 - 1.99	3	+ 4.00 - 4.49	2		

<b>FAMILY CHILD CARE HOMES FULL-TIME RATE</b>					
<b>Young School-Age Rate <i>LESS</i> Than Preschool Rate</b>					
Number of counties	48	Average difference	-\$1.81	Range of difference	-\$0.04 to -\$8.00
<b>Breakout by Range and Number of Counties</b>					
Range of difference	No. of Counties	Range of difference	No. of Counties	Range of difference	No. of Counties
-.01 -.49	9	- 2.00 - 2.49	5	- 6.00 - 6.49	2
-.50 -.99	3	- 3.00 - 3.49	2	- 6.50 - 6.99	1
- 1.00 - 1.49	18	- 3.50 - 3.99	1	- 8.00 - 8.49	1
- 1.50 - 1.99	5	- 5.50 - 5.99	1		
<b>Young School-Age Rate <i>EQUALS</i> Preschool Rate</b>					
Number of counties	17	Average difference	0	Range of difference	0
<b>Young School-Age Rate <i>MORE</i> Than Preschool Rate</b>					
Number of counties	2	Average difference	+\$2.33	Range of difference	+\$1.65 to +\$3.00
<b>Breakout by Range and Number of Counties</b>					
Range of difference	No. of Counties	Range of difference	No. of Counties		
+ 1.50-1.99	1	+ 3.00-3.49	1		



<b>FAMILY CHILD CARE HOMES PART-TIME RATE</b>					
<b>Young School-Age Rate <i>LESS</i> Than Preschool Rate</b>					
Number of counties	22	Average difference	-\$2.17	Range of difference	-\$\$.30 to -\$5.40
<b>Breakout by Range and Number of Counties</b>					
Range of difference	No. of Counties	Range of difference	No. of Counties	Range of difference	No. of Counties
-.01 - .49	1	- 1.50 - 1.99	4	- 3.50 - 3.99	1
-.50 - .99	3	- 2.50 - 2.99	2	- 4.00 - 4.49	1
- 1.00 - 1.49	6	- 3.00 - 3.49	1	- 5.00 - 5.49	3
<b>Young School-Age Rate <i>EQUALS</i> Preschool Rate</b>					
Number of counties	32	Average difference	0	Range of difference	0
<b>Young School-Age Rate <i>MORE</i> Than Preschool Rate</b>					
Number of counties	13	Average difference	+\$1.91	Range of difference	+\$\$.20 to +\$6.50
<b>Breakout by Range and Number of Counties</b>					
Range of difference	No. of Counties	Range of difference	No. of Counties	Range of difference	No. of Counties
+.01 - .49	1	+ 2.00-2.49	1	+ 5.50-5.99	1
+.50 - .99	4	+ 4.00-4.49	1	+ 6.50-6.99	1
+ 1.00 - 1.49	4				