

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

IRRC Number: 2728

(1) Agency

Department of General Services

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

8-13

(3) Short Title

4 Pa. Code Ch. 71 Commonwealth Parking Facilities

(4) PA Code Cite

4 Pa. Code Ch. 71.

(5) Agency Contacts & Telephone Numbers

Primary Contact: Mary Benefield Seiverling (717) 772-2749

Secondary Contact: Gary F. Ankabrandt (717) 783-1982

(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. Chapter 71 is updated to delete policies and procedures pertaining to the issuance of parking permits within the Pennsylvania State Capitol building and the State offices located in Harrisburg for state employees, contractors and visitors. The repeal of Sections 71.1 through 71.43 and 71.46 facilitates the planned issuance of a management directive addressing the same subject which will include a new diagram of the parking facilities with the Judicial Center and other changes.

The amendments to sections 71.44 and 71.45 enable the issuance of parking tickets in whatever amount the General Assembly authorizes and specifically provide that Vehicle Code provisions relating to stopping, standing and parking apply to Commonwealth parking facilities.

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

The Department's authority is The Administrative Code of 1929, sections 506, 402.2, and 632(a) (71 P.S. §§ 186, 631.1, and 632(a)). 71 P.S. § 632(a) (relates to the power and duty to control and supervise the Capitol Building and the public grounds owned by the Commonwealth within the City of Harrisburg).

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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 amendments will facilitate the utilization of limited parking facilities available to Commonwealth employees within the Pennsylvania State Capitol Building and the State offices located in Harrisburg. The Department's regulations no longer accurately reflect the policy of the administration pertaining to parking on Commonwealth property. The regulations no longer accurately reflect the parking areas in the Capitol Complex. The repeals are necessary to facilitate the issuance of a management directive on the same subject-matter. The amendments are necessary to permit the issuance of parking tickets in any amount set by the General Assembly now or in the future.

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

The regulations in place. The Department proposes to rescind the policy and procedure regulations and deal with the subject matter in a more flexible manner under the directive management system. Failure to repeal the regulations would allow the inaccurate regulations to remain in place and adversely impact the Department's ability to best utilize the available parking. Failure to amend the penalty regulations could prevent the Department from increasing fines and penalties if the General Assembly acts to amend 18 Pa.C.S. § 7505 (relating to violation of governmental rules regarding traffic) and from assessing the fines and penalties authorized by the Vehicle Code.

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

Commonwealth agencies that administer the parking permits will benefit from improved utilization of available parking, which should result from repeal of the regulations and issuance of a management directive. A directive would provide the Department with more tools to enable continuous monitoring of parking spaces to ensure optimum use. Commonwealth employees within the Pennsylvania State Capitol Building and the State offices located in Harrisburg will benefit if use of the parking spaces is maximized through a directive and from the deterrence of parking violations through increased fines if

authorized.

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(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.

(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.)

This directive applies to all agencies, boards, commissions, and councils with employees in the Capitol Complex Area.

(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.

Not applicable.

(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 which may be required.

None.

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

None.

(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 which may be required.

None.

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(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: | \$ | \$ | \$ | \$ | \$ | \$ |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Savings | | | | | | |
| COSTS: | | | | | | |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Costs | | | | | | |
| REVENUE LOSSES: | | | | | | |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Revenue Losses | | | | | | |

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

Not applicable.

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

| Program | FY -3 | FY -2 | FY -1 | Current FY |
|----------------|--------------|--------------|--------------|-------------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

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

Amending the regulations will have no impact on the costs of the program.

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

Not applicable.

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

Not applicable.

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(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.

Not applicable.

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

Not applicable.

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

No.

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

No.

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(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.

Not applicable.

(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.

Not applicable.

(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 regulations will be effective upon publication in the Pennsylvania Bulletin.

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

The regulations will be reviewed periodically.

FACE SHEET - FINAL OMITTED

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CDL-1

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FACE SHEET FOR FILING DOCUMENTS WITH THE LEGISLATIVE REFERENCE BUREAU

INDEPENDENT REGULATORY REVIEW COMMISSION

(Pursuant to Commonwealth Documents Law)

2728

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 hereby approved as to form and legality. Executive or Independent Agencies.

By: _____ (Deputy Attorney General)

DEPARTMENT OF GENERAL SERVICES (Agency)

BY: Andrew C. Clark

LEGAL COUNSEL: _____

OCT 8 2008

DOCUMENT/FISCAL NOTE NO. 8-13

Date of Approval

DATE OF ADOPTION: _____

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

BY: _____

TITLE: SECRETARY OF GENERAL SERVICES (Executive Officer, Chairman or Secretary) James P. Creedon

Check if applicable. No Attorney General approval or objection within 30 days after submission.

Check if applicable not approved objections attached.

NOTICE OF PROPOSED FINAL OMITTED REGULATIONS WITHOUT PUBLICATION AS PROPOSED

DEPARTMENT OF GENERAL SERVICES

[4 PA. CODE CHAPTER 71]

Commonwealth Parking Facilities

STATUTORY AUTHORITY

The Department of General Services (Department), acting under sections 506, 2401.1, and 2402 of The Administrative Code of 1929 (71 P.S. §§ 186, 631.1, 632(a)) rescinds its regulations relating to allocation of parking permits found in 4 Pa. Code §§ 71.1—71.43 and amends its regulations relating to compliance with procedure, parking violations, fines and penalties in 4 Pa. Code §§ 71.44 to 71.46 to read as set forth in Annex A.

OMISSION OF PROPOSED RULEMAKING

Public notice of intention to amend the regulations under the procedures in sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), known as the Commonwealth Documents Law (CDL), has been omitted as authorized under section 204(1) of the CDL (45 P.S. §1204(1)) because the changes in the regulations relate to agency procedure and practice relating to Commonwealth property.

PURPOSE

The purpose of this final-omitted rulemaking is to enhance the ability of the Department to maximize the use of the available parking in the Capitol Complex by rescinding policies and procedures relating to an out-of-date description of the Capitol Complex parking areas. Since these policies and procedures are established by regulation, the Department does not have the flexibility needed to maximize the utilization of limited parking facilities available now and in the future.

The amended regulations retain and clarify provisions on parking violations, fines and penalties.

BACKGROUND

Construction of the Pennsylvania Judicial Center in Harrisburg will result in greater demand by employees for parking stalls in the Capitol Complex. Flexibility is needed to maximize the utilization of limited parking facilities available to Commonwealth employees within the Capitol Complex Area and to ensure the application of established priorities in assignment of parking permits. The Department has determined that the use of rulemaking to establish guidelines and procedures for allocation of parking permits is too rigid, and that parking policies and procedures are better addressed through the Directives Management System. An objective of the Directives Management System is to “[p]rovide comprehensive statements of policy and procedures on matters that affect primarily agencies and employees of the executive branch.” M.D. 210.1 (relating to directives management system).

OVERVIEW OF CHANGES TO REGULATIONS

Sections 71.1 - 71.43 and 71.46 are being rescinded. The rescinded provisions address the allocation of parking permits (§§ 71.1-71.6), temporary parking permits (§ 71.11-71.12), lost or stolen permits (§ 71.21), special visitor parking (§ 71.31) and the

use of parking facilities (§§ 71.41-71.43 and 71.46). The substance of the rescinded provisions will be addressed through the issuance of a management directive.

The amendments to §§ 71.44 and 71.45 clarify that 75 Pa.C.S. §§ 3351-3354 (relating to stopping, standing and parking) apply to parking in Commonwealth parking facilities and that violation of these provisions of the Vehicle Code will be punished pursuant to the fines established by the Vehicle Code.

The amendments to §§ 71.44 and 71.45 enable the issuance of parking tickets in whatever amount the General Assembly authorizes for violations of 18 Pa.C.S. § 7505 (relating to violation of governmental rules regarding traffic) or the Vehicle Code.

AFFECTED INDIVIDUALS AND ORGANIZATIONS

This final-omitted rulemaking will affect the agencies, boards, commissions, and councils with employees in the Pennsylvania State Capitol building and the State offices located in Harrisburg.

Private businesses will not be directly affected by this final-omitted rulemaking. The public is not affected by this final-omitted rulemaking.

COMPLIANCE WITH EXECUTIVE ORDER 1996-1

The Department reviewed this final-omitted rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation. The final

omitted rulemaking serves the public interest as described in this preamble and otherwise complies with Executive Order 1996-1.

FISCAL IMPACT

There will be no fiscal impact.

PAPERWORK REQUIREMENTS

The final-omitted rulemaking will impose no new paperwork requirements.

REGULATORY REVIEW

Under section 5.1 (c) of the Regulatory Review Act (71 P.S. §745.5a (c)), on October 10, 2008, the Department submitted a copy of the final-omitted rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Committees on State Government. On the same day, the final-omitted rulemaking was submitted to the Office of the Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§732-101—732-506).

In addition to submitting the final-omitted rulemaking, the Department provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

The Attorney General approved the final-omitted rulemaking on _____, 2008. Under section 5(c) of the Regulatory Review Act, the final omitted rulemaking

was deemed approved by the House and Senate Committees on _____, 2008.

At a hearing on _____, 2008, IRRC approved the rulemaking.

ADDITIONAL INFORMATION

Individuals interested in further information may contact Mary Benefield Seiverling, Assistant Chief Counsel, Department of General Services, 603 North Office Building, Harrisburg, Pennsylvania, 17125 at (717) 772-2749.

FINDINGS

The Department finds that:

1. Public notice under the procedures in sections 201 and 202 of CDL of the Department's intention to amend the regulations adopted by this order has been omitted as authorized under section 204(1) of the CDL because the changes in the regulations affect agency procedure and practice relating to Commonwealth property.
2. The amendment of the regulations in the manner provided in this order is necessary and appropriate.

ORDER

The Department, acting under its statutory authority, orders that:

- a. The regulations of the Department, 4 Pa. Code Chapter 71, are amended by deleting §§ 71.1-71.6, 71.11, 71.12, 71.21, 71.31, and 71.41-71.46 and by amending §§ 71.44 and 71.45 to read as set forth in Annex A.

- b. The Office of the Attorney General and the Office of the General Counsel approved the final-omitted rulemaking as to the legality and form as required by law.
- c. The Secretary of the Department 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 upon final publication in the *Pennsylvania Bulletin*.

James P. Creedon,

Secretary of the Department of General Services

Fiscal Note: 8-13. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART III. DEPARTMENT OF GENERAL SERVICES

Subpart D. AUTOMOBILES

CHAPTER 71. COMMONWEALTH PARKING FACILITIES

§ 71.1--71.43. (Reserved).

§ 71.44. Compliance with procedure, parking violations, fines, and penalties.

(1) (a) *General.* The Vehicle Code provisions at 75 Pa.C.S. §§ 3351-3354 (relating to stopping, standing and parking) are applicable to Commonwealth parking facilities. Any violation of 75 Pa.C.S. §§ 3351-3354 or [Failure] failure to comply with [the procedures contained in this chapter and] the posted parking instructions or restrictions at Commonwealth owned or leased parking areas shall constitute unauthorized parking and operators of vehicles involved in the violation will be cited accordingly.

(b) *Parking violations.* [Additionally, vehicle operators] The vehicle owner or operator will be cited for violation when the vehicle [they are operating], whether attended or unattended, is parked in any of the following:

(1) No parking zone.

(2) Bus zone.

(3) Unloading zone or entrance ramp.

(2) Reserved parking space or stall without written permission of the Department of General Services.

(3) Violation of Title 75 Pa.C.S. §§ 3351-3354.

(c) *Fines and payment.*

(1) Payment prior to filing of citation. To avoid criminal proceedings, [Any] a person who receives a parking ticket from a Capitol Police Officer [a citation] for violation of the parking rules and regulations contained in this chapter may pay [a] the maximum fine [of \$5 (increased to \$6.00 if not paid within 48 hours from date of violation)] at the Capitol Police Ticket Office, [Room 1, Basement, Main] Suite 70E, Capitol [Building] East Wing, Harrisburg, Pennsylvania 17125 within five days of the violation.

(i) Fine for Vehicle Code violation. The maximum fine for a violation of section 3351, 3353 or 3354 of the Vehicle Code is the maximum fine for the offense as specified in the Vehicle Code.

(ii) Fine for violation of department rule. The maximum fine for a violation of the parking rules and regulations contained in this chapter is the maximum fine established in 18 Pa.C.S. § 7505 (relating to violation of governmental rules regarding traffic).

(2) Issuance of citation. If the violator fails to pay the fine within the cited period, the record of violation will be forwarded to the [District Justice of Peace] Magisterial District Judge.

(d) *Penalty.* [Any] A person violating this chapter shall, upon summary conviction thereof, be sentenced to pay a fine [of \$6] and court costs [of prosecution and in default of payment, imprisonment for not more than 5 days].

(e) *Enforcement provisions.* Enforcement provisions [shall] will conform [with] to the following:

(1) [Informations,] An information charging [violations of any of the summary provisions of this chapter in such detail as the department may prescribe as being necessary for its records,] a parking violation shall be brought before the designated [District Justice of Peace] Magisterial District Judge within the city, borough, incorporated town[,] or township in the county where the alleged violation occurred within 90 days after the commission of the alleged offense and not thereafter, except that [where] when an information is filed against a person prima facie guilty of a summary offense, and it subsequently appears that a person other than the person named in the information was the offender or violator[, an]. An information may be filed against [such] the other person within 30 days after [his or her] the other person's identity shall have been discovered[,] and not thereafter.

(2) [Any salaried member] A sworn member of the Capitol Police [, Commonwealth Property Police, Security or Campus Police] employed by the Commonwealth [of Pennsylvania], when in uniform or exhibiting [his] a badge or other sign of authority, whenever a violation of the rules and regulations described in this chapter is committed in [his] the officer's presence, shall be vested with the authority to present the alleged offender a printed notice citing the offense or violation, the reverse side of which shall contain the amounts of the fines and instructions for payment.

(3) The police authority, upon accepting the fine from an individual for a cited offense of violation, shall issue a receipt to the person acknowledging payment and shall record the payment upon the docket. [If payment is made by check or money order, no receipt will be prepared. When cleared by bank or Post Office the check or money order provides a record of payment.]

§ 71.45. Illegally parked vehicles to be towed away.

Unauthorized, illegally parked vehicles on Commonwealth parking facilities shall be towed away and placed in storage. Towing and storage of any vehicle is at the owner's expense.

§ 71.46. (Reserved).

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

I.D. NUMBER: 8-13
 SUBJECT: COMMONWEALTH PARKING FACILITIES
 AGENCY: DEPARTMENT OF GENERAL SERVICES

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

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 REVIEW COMMISSION

FILING OF REGULATION

| DATE | SIGNATURE | DESIGNATION |
|----------|---------------------------|--|
| 10/10/08 | <i>Patricia Z. Hule</i> | HOUSE COMMITTEE ON STATE GOVERNMENT |
| 10/10/08 | <i>Marie-Anne Spurr</i> | MAJORITY CHAIRMAN, BABETTE JOSEPHS |
| 10/10/08 | <i>Betty Scott</i> | SENATE COMMITTEE ON STATE GOVERNMENT |
| 10/10/08 | <i>Jeffrey E. Piccola</i> | MAJORITY CHAIRMAN, JEFFREY E. PICCOLA |
| 10/10/08 | <i>Kathy Cooper</i> | INDEPENDENT REGULATORY REVIEW COMMISSION |
| 10-10-08 | <i>M. Mumment</i> | ATTORNEY GENERAL (for Final Omitted only) |
| | | LEGISLATIVE REFERENCE BUREAU (for Proposed only) |