

# Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY  
REVIEW COMMISSION

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(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency

Department of Transportation

(2) Agency Number:

18-423

IRRC Number: 2923

(3) PA Code Cite:

67 Pa. Code, Chapter 23

(4) Short Title:

Delivery of Certificate of Title

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Penni Bernard, Customer Services Division, Bureau of Motor Vehicles, Pennsylvania Department of Transportation, 1101 South Front Street, Harrisburg, PA 17104, (717) 772-3337  
[pbernard@state.pa.us](mailto:pbernard@state.pa.us)

Secondary Contact: Craig Comp, Customer Services Division, Bureau of Motor Vehicles, Pennsylvania Department of Transportation, 1101 South Front Street, Harrisburg, PA 17104, (717) 783-6523  
[CCOMP@state.pa.us](mailto:CCOMP@state.pa.us)

(6) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation

- Emergency Certification Regulation;
  - Certification by the Governor
  - Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The purpose of this chapter is to specify the manner of delivery of encumbered certificates of title and certificates of title which are issued by the Department of Transportation free of a lien or encumbrance, as provided by § 1107 (relating to delivery of certificate of title). The purpose of these amendments is to include electronic transmission of certificates of title consistent with the system developed pursuant to section §1151 of the Vehicle Code, 75 Pa. C.S. § 1151 (relating to electronic media system for vehicle titles). These amendments also correct typographical errors in the existing regulation.

(8) State the statutory authority for the regulation. Include specific statutory citation.

Authority for this regulation is found in Sections 1107, 1115.1 and 6103 of the Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, *as amended* (75 Pa. C.S. §§ 1107, 1115.1 and 6103).

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

These amendments will add electronic transmission to methods for transmitting certificates of title. Section 1115.1 of the Vehicle Code, 75 Pa. C.S. § 1115.1 mandated the Department to develop an electronic media system for titling vehicles; this amendment is needed to include transmission of certificates of title in that system.

(11) 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 regulations.

There are no applicable federal standards.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

This regulation has no effect on Pennsylvania's competitiveness.

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

The regulation will not affect other regulations of the Department or any other agency.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

There was no input sought from the public or any advisory groups.

**Note.** This Final rulemaking is not subject to the provisions of Act 76 of 2012 insofar as the Proposed Rulemaking for these amendments was delivered to the Independent Regulatory Review Commission on November 1, 2011 and was published in the Pennsylvania Bulletin for comment on November 12, 2011.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

Individuals and lien holders who normally engage in the business or practice of financing vehicles may be affected if they take advantage of the Department's electronic media system, but will not be required to do so.

**Note.** This Final rulemaking is not subject to the provisions of Act 76 of 2012 insofar as the Proposed Rulemaking for these amendments was delivered to the Independent Regulatory Review Commission on November 1, 2011 and was published in the Pennsylvania Bulletin for comment on November 12, 2011.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

The Department will be required to comply with this regulation. Individuals and lien holders who normally engage in the business or practice of financing vehicles may be affected if they take advantage of the Department's electronic media system, but will not be required to do so.

**Note.** This Final rulemaking is not subject to the provisions of Act 76 of 2012 insofar as the Proposed Rulemaking for these amendments was delivered to the Independent Regulatory Review Commission on November 1, 2011 and was published in the Pennsylvania Bulletin for comment on November 12, 2011.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

**Note.** This Final rulemaking is not subject to the provisions of Act 76 of 2012 insofar as the Proposed Rulemaking for these amendments was delivered to the Independent Regulatory Review Commission on November 1, 2011 and was published in the Pennsylvania Bulletin for comment on November 12, 2011.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

See responses to Items 10 and 16 above.

(19) 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. Explain how the dollar estimates were derived.

There will be no additional cost to the regulated community.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There will be no additional cost to local governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

As noted above in response to Item 10, Section 1115.1 of the Vehicle Code, 75 Pa. C.S. § 1115.1 mandated the Department to develop an electronic media system for titling vehicles; this amendment is needed to include transmission of certificates of title in that system. Additional cost related to this regulation result from the implementation of the statutory mandate, not from the regulation.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

There will be no additional accounting, consulting or additional procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation other than that required by the statutorily mandated electronic system.

(23) 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.

	<b>Current FY Year</b>	<b>FY +1 Year</b>	<b>FY +2 Year</b>	<b>FY +3 Year</b>	<b>FY +4 Year</b>	<b>FY +5 Year</b>
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>	None					
<b>Local Government</b>	None					
<b>State Government</b>	None					
<b>Total Savings</b>	None					
<b>COSTS:</b>						
<b>Regulated Community</b>	None					
<b>Local Government</b>	None					
<b>State Government</b>	None					
<b>Total Costs</b>	None					
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>	None					
<b>Local Government</b>	None					
<b>State Government</b>	None					
<b>Total Revenue Losses</b>	None					

(23a) Provide the past three year expenditure history for programs affected by the regulation.

<b>Program</b>	<b>FY -3</b>	<b>FY -2</b>	<b>FY -1</b>	<b>Current FY</b>
Safety Administration	117,842,000	112,747,000	124,420,000	106,000,000

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

**Note.** This Final rulemaking is not subject to the provisions of Act 76 of 2012 insofar as the Proposed Rulemaking for these amendments was delivered to the Independent Regulatory Review Commission on November 1, 2011 and was published in the Pennsylvania Bulletin for comment on November 12, 2011.

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

No special provisions have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternative regulatory provisions were developed and considered.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

**Note.** This Final rulemaking is not subject to the provisions of Act 76 of 2012 insofar as the Proposed Rulemaking for these amendments was delivered to the Independent Regulatory Review Commission on November 1, 2011 and was published in the Pennsylvania Bulletin for comment on November 12, 2011.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Data was not the basis for this regulation.

(29) Include a schedule for review of the regulation including:

- |   |                   |
|---|-------------------|
| A. The date by which the agency must receive public comments:                               | <u>12/12/2011</u> |
| B. The date or dates on which public meetings or hearings will be held:                     | <u>N/A</u>        |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>12/22/2012</u> |
| D. The expected effective date of the final-form regulation:                                | <u>12/22/2012</u> |
| E. The date by which compliance with the final-form regulation will be required:            | <u>12/22/2012</u> |
| F. The date by which required permits, licenses or other approvals must be obtained:        | <u>N/A</u>        |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Department will monitor the usage and effectiveness of the statutorily mandated system for electronic transfer of certificates of title on an ongoing basis.

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

(Pursuant to Commonwealth Documents Law)

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DO NOT WRITE IN THIS SPACE

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

By: \_\_\_\_\_  
(Deputy Attorney General)

\_\_\_\_\_  
Date of Approval

Check if applicable  
Copy not approved. Objections attached.

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

**Department  
of  
Transportation**  
(Agency)

DOCUMENT/FISCAL NOTE NO. 18-423

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

BY *Benjamin J. Schuch*  
Secretary of Transportation

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

BY *Shawn E. Smith*  
SHAWN E. SMITH

SEP 04 2013

(Date of Approval)

(Deputy General Counsel)  
(Chief Counsel, Independent Agency)  
(Strike Inapplicable Title)

Check if applicable. No attorney  
General Approval or Objection within  
30 days after submission.

**NOTICE OF FINAL RULEMAKING**  
**DEPARTMENT OF TRANSPORTATION**  
**Title 67 Transportation**  
**Part I. Department of Transportation**  
**Subpart A. Vehicle Code Provisions**  
**Article II. Title**  
**Chapter 23**  
**Delivery of Certificates of Title**  
**Bureau of Motor Vehicles**



**DEPARTMENT OF TRANSPORTATION  
BUREAU OF MOTOR VEHICLES**

**Title 67 Transportation  
Part I. Department of Transportation  
Subpart A. Vehicle Code Provisions  
Article II. Title  
Chapter 23  
Delivery of Certificates of Title  
Bureau of Motor Vehicles**

**Notice of Final Rulemaking**

**Preamble**

Notice is hereby given that the Department of Transportation, pursuant to the authority contained in Sections 1107, 1115.1 and 6103 of the Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, *as amended* (75 Pa.C.S. §§ 1107, 1115.1 and 6103), hereby adopts amendments to Title 67, Chapter 23 of the Department of Transportation Regulations, (relating to delivery of certificates of title) to read as set forth in Annex A to this Notice.

**Purpose of this Chapter**

The purpose of this chapter is to specify the manner of delivery of encumbered certificates of title and certificates of title which are issued by the Department of Transportation free of a lien or encumbrance, as provided by § 1107 (relating to delivery of certificate of title).

**Purpose of these Amendments**

The purpose of these regulations is to include electronic transmission of certificates of title consistent with the system developed pursuant to section §1151 of the

Vehicle Code, 75 Pa. C.S. § 1151 (relating to electronic media system for vehicle titles).

These amendments also correct typographical errors in the existing regulation.

### ***Summary of Comments and Changes in the Final Adopted Regulation***

The amendments to the regulation were published as a proposed rulemaking in the November 12, 2011 issue of the *Pennsylvania Bulletin*. The proposed rulemaking was also submitted to the Independent Regulatory Review Commission (IRRC) and the House and Senate Transportation Committees of the Pennsylvania General Assembly.

No comments or objections were received from the public, the Committees or IRRC. Consequently, no changes have been made in the Final Adopted Regulation.

### **Persons and Entities Affected**

The amendment will affect the Department in the delivery of a certificate of title and any lienholder who may receive an encumbered certificate of title.

### **Fiscal Impact**

Implementation of these amendments will not require the expenditure of significant additional funds by the Commonwealth or local municipalities. Minimal additional effort or paperwork will be required to validate the identity of the person performing the verification.

### **Regulatory Review**

Under Section 5(a) of the Regulatory Review Act, Act of June 25, 1982 (P.L. 633, No. 181), *as amended*, 71 P.S. 745.5(a), on November 1, 2011, the Department submitted a copy of this proposed rulemaking, published at 41 Pa. B. 6088, to the Independent Regulatory Review Commission and to the Chairpersons of the House and

Senate Transportation Committees. No comments were received from the public, IRRC or the Committees.

Under Section 5.1(j.2) of the Regulatory Review Act, on \_\_\_\_\_, 2013, the final rulemaking was deemed approved by the House and Senate Transportation Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on \_\_\_\_\_, 2013 and approved the final rulemaking.

### **Sunset Provisions**

The Department of Transportation will make these regulations effective upon publication in final form following appropriate evaluation of any comments, suggestions or objections received during the period allowed for public comment. The Department is not establishing a sunset date for these regulations, since these regulations are needed to administer provisions required pursuant to the Vehicle Code (75 Pa. C.S. 1.01, *et seq.*). The Department, however, will continue to closely monitor these regulations for their effectiveness.

### **Contact Person**

The contact person for this regulation is Penni Bernard, Customer Service Division, 3rd Floor, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104, or to [pbernard@state.pa.us](mailto:pbernard@state.pa.us)

### **Order**

The Department of Transportation orders that:

- (A) The regulations of the Department of Transportation, 67 PA. Code, Chapter 23, are amended as set forth in Annex A.

- (B) The Secretary of the Department of Transportation shall submit this order and Annex A hereto to the Office of General Counsel and the Office of Attorney General for approval as to legality and from, as required by law.
- (C) The Secretary shall certify this Order and Annex A and deposit the same with the Legislative Reference Bureau, as required by law.
- (D) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

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Barry J. Schoch, P.E.  
Secretary of Transportation

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE CHARACTERISTICS

ARTICLE II. TITLE

CHAPTER 23. DELIVERY OF CERTIFICATES OF TITLE

\* \* \* \* \*

§ 23.2. General rule.

\* \* \* \* \*

(b) *Encumbered titles.* Every certificate of title issued by the Department of Transportation containing a lienholder or encumbrancer will be either mailed or electronically transmitted to the first named lienholder or encumbrancer.

§ 23.3. Exceptions.

\* \* \* \* \*

(b) *Other.* The Director of the Bureau of Motor Vehicles or his designees may, at [their] his discretion, deliver a certificate of title, if [its] it is free and clear of a lien or encumbrance, to the owner or a person authorized by the owner showing good cause to be entitled to receive the certificate of title. The discretion shall be reserved for circumstances demonstrating exceptional or unusual need and may include, but [shall] not be limited to requests for the title for immediate resale of the vehicle, for shipment of

a vehicle overseas, and for use of the title as collateral for a loan after submission to the Department of Transportation for correction of an error. Identification satisfactory to the Department of Transportation shall be required of the owner or the person authorized by the owner prior to delivery of the certificate of title.

\* \* \* \* \*



COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

September 6, 2013

David Sumner, Executive Director  
Independent Regulatory Review Commission  
333 Market Street, 14th Floor  
Harrisburg, Pennsylvania 17101

**Re: Final Rulemaking  
# 18-423 — 67 Pa. Code, Chapter 23  
Delivery of Certificate of Title**

Dear Mr. Sumner:

Enclosed please find a copy of the Face Sheet, Preamble, Annex A and Regulatory Analysis Form, for amendments to Chapter 23 of Department regulations which the Department of Transportation intends to adopt in accordance with the provisions of the Regulatory Review Act, Act of June 25, 1982, P.L. 633, *as amended*, specifically 71 P.S. § 745.5a.

Copies of these materials were also delivered today to the majority and minority chairpersons of the Pennsylvania House and Senate Transportation Committees.

The Department of Transportation will provide IRRC with any assistance you require to facilitate a thorough review of this regulation. Thank you for your attention.

Very truly yours,

Stephen F. J. Martin  
Regulatory Counsel



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

I.D. NUMBER: #18-423  
 SUBJECT: Delivery of Certificate of Title  
 67 Pa. Code, Chapter 23  
 AGENCY: Department of Transportation

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**TYPE OF REGULATION**

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
	<u><i>B. Kozminski</i></u> for Majority Chair Hon. Dick L. Hess	HOUSE COMMITTEE ON TRANSPORTATION
<u>9/6/13</u>	<u><i>E. McGeehan</i></u> for Minority Chair Hon. Michael P. McGeehan	
<u>9-6-13</u>	<u><i>C. Boyer</i></u> for Majority Chair Hon. John C. Rafferty, Jr.	SENATE COMMITTEE ON TRANSPORTATION
<u>9-6-13</u>	<u><i>Cheryl L. Hicks</i></u> for Minority Chair Hon. John N. Wozniak	
	<u>N/A</u>	OFFICE OF ATTORNEY GENERAL
<u>9/6/13</u>	<u><i>K. Cooper</i></u>	INDEPENDENT REGULATORY REVIEW COMMISSION
	<u>N/A</u>	LEGISLATIVE REFERENCE BUREAU

Date: September 6, 2013