

Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

SECTION I: PROFILE

(1) Agency:

Department of Transportation

(2) Agency Number:

#18 - 423

IRRC Number: #

2923.

2011 NOV - 1 P 3:25

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IRRC

(3) Short Title:

Delivery of Certificate of Title

(4) PA Code Cite:

67 Pa. Code, Chapter 23

(5) Agency Contacts (List Telephone Number, Address, Fax 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

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

Regulatory Analysis Form

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) 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

(8) 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.

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

- | | |
|---|---------------------------|
| A. The date by which the agency must receive public comments: | <u>September 30, 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>December 31, 2011</u> |
| D. The expected effective date of the final-form regulation: | <u>December 31, 2011</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>December 31, 2011</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

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

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.

SECTION II: STATEMENT OF NEED

(11) 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).

(12) 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.

(13) 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.

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

No scientific data, studies, or references are being used to justify this regulation.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

These regulations will not adversely affect any individuals or specific groups.

Regulatory Analysis Form

(16) 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.

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.

SECTION III: COST AND IMPACT ANALYSIS

(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. Explain how the dollar estimates were derived.

There will be no additional costs to the regulated community.

(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. Explain how the dollar estimates were derived.

See response to Item 17.

(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. Explain how the dollar estimates were derived.

See response to Item 17.

(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	None					
Local Government	None					
State Government	None					
Total Savings	None					
COSTS:						

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Regulated Community	Marginal					
Local Government	Marginal					
State Government	Marginal					
Total Costs	Marginal					
REVENUE LOSSES:						
Regulated Community	None					
Local Government	None					
State Government	None					
Total Revenue Losses	None					

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

Program	FY -3	FY -2	FY -1	Current FY
Safety Administration	\$ 132,828,000	\$ 117,842,000	\$ 112,747,000	\$ 124, 420,000

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

See responses to Items 13 and 17.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

There was not input sought from the public or any advisory groups.

(23) 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.

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No alternative regulatory provisions were developed and considered.

(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 regulations.

There are no applicable federal standards.

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

The regulation has no effect on Pennsylvania's competitiveness.

(26) 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.

(27) 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 reporting as a result of this regulation.

(28) 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.

No special provisions have been developed.

Regulatory Analysis Form

SUPPLEMENTAL PAGE VALID FOR USE THROUGH 11/1/2011
(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION
RECEIVED
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2011 NOV - 1 P 3 25

(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

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

(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) 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.

<p>FACE SHEET FOR FILING DOCUMENTS WITH THE LEGISLATIVE REFERENCE BUREAU</p> <p>(Pursuant to Commonwealth Documents Law)</p>		<p>RECEIVED IRRC</p> <p>2011 NOV -1 P 3 25</p> <p>DO NOT WRITE IN THIS SPACE</p>
<p>Copy below is hereby approved as to form and legality. Attorney General.</p> <p>By <u><i>Amy M. Ellis</i></u> (Deputy Attorney General)</p> <p><u>OCT 27 2011</u> Date of Approval</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy of below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:</p> <p style="text-align: center;"><u>Department</u> <u>of</u> <u>Transportation</u> (Agency)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>18-423</u></p> <p>DATE OF ADOPTION _____</p> <p>BY <u><i>Bruce J. Schulz</i></u> Secretary of Transportation</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agency.</p> <p>By <u><i>Andrew C. Clark</i></u></p> <p><u>AUG 22 2011</u> (Date of Approval)</p> <p><u>Andrew C. Clark</u> (Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike Inapplicable Title)</p> <p><input type="checkbox"/> Check if applicable. No attorney General Approval or Objection within 30 days after submission.</p>

NOTICE OF PROPOSED 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

ORIGINAL

**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 Proposed 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), proposes to amend Chapter 23 of the Department of Transportation Regulations, Title 67, by amending §§ 23.1 *et seq.*, 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

Title 67 Transportation
Chapter 23
Delivery of Certificates of Title
Preamble

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 Significant Amendments

Section 23.2 of the regulation has been amended to provide that a certificate of title containing a lienholder or encumbrancer may be either mailed or electronically transmitted to the first named lienholder or encumbrancer.

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), the agency submitted a copy of this proposed regulation on November 1, 2011 to the Independent Regulatory Review

Commission and to the Chairpersons of the House and Senate Transportation Committees. In addition to submitting these regulations, the agency has provided the Commission and the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

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

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.

Public Comments

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendments to the regulations to Penni Bernard, Customer Service Division, 3rd Floor, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104, or to pbernard@state.pa.us.

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

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.

(a) *Unencumbered titles.* Except as provided in § 23.3 (relating to exceptions), the Department of Transportation, upon issuing a certificate of title which is free and clear of a lien or encumbrance, will mail the certificate to the owner named thereon.

(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.

(a) *Dealer titles.* The Department of Transportation, at its offices, will deliver to a dealer licensed by the State Board of Motor Vehicle Manufacturers, Dealers and Salespersons and other dealers governed by this title, or their authorized representatives, a certificate of title issued in the name of the dealer, if the vehicle is free and clear of a

lien or encumbrance. Identification satisfactory to the Department of Transportation will be required of the dealer or its authorized representative prior to delivery of the certificate of title.

(b) *Other.* The Director of the Bureau of Motor Vehicles or his designees may, at their 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

November 1, 2011

Fiona E. Wilmarth, Acting Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, Pennsylvania 17101

Re: Proposed Rulemaking
18-423 — 67 Pa. Code Chapter 23
Delivery of Certificates of Title

Dear Acting Executive Director Wilmarth:

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 Section 5 of the Regulatory Review Act, Act of June 25, 1982, P.L. 633, *as amended* 71 P.S. § 745.5.

Copies of these materials were also delivered today to the Legislative Reference Bureau and 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,

A handwritten signature in black ink, appearing to read "S. F. J. Martin", with a long horizontal flourish extending to the right.

Stephen F. J. Martin
Regulatory Counsel



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

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

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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

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
<u>11-1-11</u>	<u>Kelly Shipp</u> for Majority Chair Hon. Richard A. Geist	HOUSE COMMITTEE ON TRANSPORTATION
<u>11/1/11</u>	<u>Suzanne E Chadwick</u> for Minority Chair Hon. Michael P. McGeehan	
<u>11-1-11</u>	<u>C. Bochs</u> for Majority Chair Hon. John C. Rafferty, Jr.	SENATE COMMITTEE ON TRANSPORTATION
<u>11-1-11</u>	<u>Dancy Harmantzi</u> for Minority Chair Hon. John N. Wozniak	
	N/A	OFFICE OF ATTORNEY GENERAL
<u>11/1/11</u>	<u>K Cooper</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
<u>11/1/11</u>	<u>n. nichols</u>	LEGISLATIVE REFERENCE BUREAU

Date: November 1, 2011