

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:

Transportation

(2) Agency Number:

No. 18-431

IRRC Number: 2960

(3) PA Code Cite:

67 Pa. Code Chapter 443

(4) Short Title:

Roadside Rest Areas

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

Primary Contact: Diane M. Chamberlin, Director, Bureau of Office Services, Pennsylvania Department of Transportation, 400 North Street, Harrisburg, Pa 17105, 717-783-8869, DCHAMBERLI@pa.gov.

Secondary Contact: Terrence G. Pearsall Jr., Acting Division Chief, Facility Management Division, Bureau of Office Services, Pennsylvania Department of Transportation, 400 North Street, Harrisburg, Pa 17105-3451, 717-787-0466 Office, 717-787-0462 Fax, tpearsall@pa.gov.

(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 regulation is ensure that Roadside Rest Area and Welcome Centers provide comfortable, convenient, clean, attractive and safe places for the general motoring public and to set forth rules to insure the maximum comfort, convenience, cleanliness, health and safety of those members of the general public using the facilities. This regulation delineates the activities or actions which are inconsistent with the purpose of Roadside Rest Area and Welcome Centers. The purpose of this amendment is to provide greater detail in the delineation of the impermissible activities.

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

These regulations are promulgated pursuant to the authority contained in Sections 8 of the Act of June 7, 1961, (P.L. 257, No 151) *as amended* (36 P.S. § 478.18).

(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.

These amendments to the regulation are not mandated by any federal or state law or court order or federal regulations.

(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.

Amendments to the existing regulation are required to further delineate the activities or actions permissible and impermissible at Roadside Rest Areas or Welcome Centers for the protection and convenience of the motoring public.

(11) 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.

These proposed amendments are not based on any replicable and testable data.

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

Travelers taking advantage of roadside rest areas across the Commonwealth will be subject to the regulation. Some may consider the restrictions in the regulation to be adverse; more likely, however, the adherence to the regulation by travelers will result in a positive, rather than an adverse travel experience.

(13) 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.

Travelers taking advantage of the roadside rest areas across the Commonwealth will be required to comply with the regulation. The number of such travelers using roadside rest areas is difficult to approximate.

(14) 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.

The costs and/or savings to the regulated community resulting from these amendments are marginal and cannot be calculated with any precision.

(15) 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.

There should be no costs and/or savings to local governments resulting from these amendments to the regulation.

(16) 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.

There should be no costs and/or savings to state government resulting from these amendments to the regulation.

(17) 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:	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Costs	N/A	N/A	N/A	N/A	N/A	N/A
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

(17a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Appropriation 187	\$ 826,227,000	\$ 754,159,000	\$ 799,147,000	\$ 867,000,000

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

These amendments provide clarity to the existing regulations. Any perceived additional restrictions for using roadside rest facilities are outweighed by the enhancements to the travelers experience in the control of the use of the facility and maintenance of its efficiency and restful character.

(19) 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.

In addition to internal Department discussions among Welcome Center Program Office and other Department District and Central Office professionals, public input was obtained from complaints received and from on-site conversations with travelers utilizing Roadside Rest Areas and Welcome Centers.

(20) 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.

There were no alternative regulatory or non regulatory alternatives considered. The changes to the Roadside Rest Areas could not be effected without amendment of the regulation.

(21) 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 governing the use of Roadside Rest Areas or Welcome Centers.

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

These provisions are similar to restrictions in Illinois, Maryland and Virginia which prohibit oration and public demonstrations at roadside rest areas. This regulation will not put Pennsylvania at a competitive disadvantage vis a vis other states.

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

These amendments will not affect other Department regulations or the regulations of any other Commonwealth agency

(24) 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 should be no additional legal, accounting or consulting procedures or additional reporting, associated with the implementation of these amendments, and only marginal additional recordkeeping or paperwork associated with the implementation of § 443.2(13).

(25) 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.

There are no special provisions in these regulations designed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

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

- | | |
|---|-------------------|
| A. The date by which the agency must receive public comments: | <u>05/31/2012</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>01/05/2013</u> |
| D. The expected effective date of the final-form regulation: | <u>01/05/2013</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>01/05/2013</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

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

These provisions will be reviewed periodically as appropriate.

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<p style="text-align: center;">FACE SHEET FOR FILING DOCUMENTS WITH THE LEGISLATIVE REFERENCE BUREAU</p> <p style="text-align: center;">(Pursuant to Commonwealth Documents Law)</p>	<p style="text-align: right;">2012 JUL 17 PM 2: 33</p> <p style="text-align: center;">DO NOT WRITE IN THIS SPACE</p>
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<p>Copy below is hereby approved as to form and legality. Attorney General.</p> <p style="text-align: center;"><i>Amy M. Elliott</i> By: _____ (Deputy Attorney General) JUL 10 2012 _____ 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>18-431</u></p> <p>DATE OF ADOPTION _____</p> <p>BY <i>Bruce J. Miller</i> _____ Secretary of Transportation</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p style="text-align: center;"><i>Megan L. Considine</i> _____ Megan L. Considine MAY 08 2012 _____ (Date of Approval)</p> <p>(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>
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TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

SUBPART B. NON VEHICLE CODE PROVISIONS

ARTICLE III. HIGHWAYS

CHAPTER 443. ROADSIDE REST AREAS

Notice of Proposed Rulemaking

TITLE 67. TRANSPORTATION
PART I. DEPARTMENT OF TRANSPORTATION
CHAPTER 443. ROADSIDE REST AREAS

Notice of Proposed Rulemaking

Preamble

Notice is hereby given that the Department of Transportation, pursuant to the authority contained in Sections 8 of the Act of June 7, 1961, (P.L. 257, No 151) *as amended* (36 P.S. § 478.18), proposes to amend Chapter 443 of the Department of Transportation Regulations, Pa. Code, Title 67, as set forth in Annex A to this Notice.

Purpose of Chapter

The purpose of this Chapter is to set forth rules to ensure the comfort, convenience, cleanliness, health and safety of those members of the traveling public utilizing roadside rest areas and facilities.

Purpose of the Proposed Amendments

The purpose of these amendments to Chapter 443 is to provide greater detail in the description of conditions and activities not permitted at roadside rest areas and facilities.

Summary of Significant Amendments

Section 443.1 (Purpose and policy) has been expanded to include a subsection which clarifies that these regulations are applicable to all roadside rest areas administered by the Department of Transportation including Commonwealth Welcome Centers. The section has also been amended to include clarification that it is the intent of the Chapter to limit the use of roadside rest areas to those activities conducive to their purpose as a

comfortable and convenient place for travelers to take a break from their driving journey to rest, stretch, and take advantage of necessary facilities.

Section 443.2 has been amended to include more specific delineation of activities or actions which are inconsistent with the purpose of the roadside rest areas and are therefore prohibited. Among the newly delineated prohibited activities are making routine vehicle repairs or any repairs to vehicles unless the vehicle has been placed out of service by law enforcement, and the repair can be accomplished within 2 hours. Also included is a prohibition of commercial activity unless permitted by the Department through written agreement; skateboarding and other similar activities; camping or setting up a tent; distribution of written materials except on such terms as the Department may permit; and the use of a roadside rest area for special events, unless permitted by the Department. Potentially disruptive activity that could interfere with the function and restful purpose of a rest area, such as solicitation, harassment, intimidation, picketing, demonstrating, oration, as well as activity which impedes the movement of pedestrians or the flow of traffic is expressly prohibited.

The prohibition against picketing, demonstrations and oration is not violative of the First Amendment guarantees of free speech. The courts have distinguished between forums that have been traditionally or historically open and available for public speech and expression; designated public forums specifically opened or designated by the government for speech or expressive activity; and those not traditionally or explicitly designated as a public forum. The courts have found roadside rest areas to fall within this last category and that public expression can be restricted.

A new section 443.4 has been added to establish a clear 2-hour limitation on the length of time vehicles may be parked or left standing at roadside rest areas. Vehicles left unattended for more than 24 hours will be considered abandoned and removed at the owner's expense; vehicles placed out of service by law enforcement which cannot be repaired on site within 2 hours must be towed to an appropriate repair facility.

Persons and Entities Affected

These regulations affect all members of the general motoring public who stop at Roadside Rest Areas and Welcome Centers.

Fiscal Impact

Implementation of these regulations will not require the expenditure of any additional funds by the Commonwealth or local municipalities.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act, the Act of June 25, 1982 (P.L. 633, No. 181), *as amended*, 71 P.S. § 745.5(a), the agency submitted a copy of these proposed regulations on July 17, 2012, to the Independent Regulatory Review Commission and to the Chairpersons of the House and Senate Transportation Committees. In addition to submitting the 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 specifies

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 Diane M. Chamberlin, Director, Bureau of Office Services, Pennsylvania Department of Transportation, 400 North Street, Harrisburg, Pa 17105, 717-783-8869, DCHAMBERLI@pa.gov, within 30 days of the publication of this notice in the *Pennsylvania Bulletin*.

Contact Person

The contact person for technical questions about the proposed amendments to the regulations is Terrence G. Pearsall Jr., Acting Division Chief, Facility Management Division, Bureau of Office Services, Pennsylvania Department of Transportation, 400

North Street, Harrisburg, Pa 17105-3451, 717-787-0466 Office, 717-787-0462 Fax,
tpearsall@pa.gov.

Barry J. Schoch, P.E.

Secretary of Transportation

TITLE 67. TRANSPORTATION
PART I. DEPARTMENT OF TRANSPORTATION
CHAPTER 443. ROADSIDE REST AREAS

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Summary of Significant Amendments

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comfortable and convenient place for travelers to take a break from their driving journey to rest, stretch, and take advantage of necessary facilities.

Section 443.2 has been amended to include more specific delineation of activities or actions which are inconsistent with the purpose of the roadside rest areas and are therefore prohibited. Among the newly delineated prohibited activities are making routine vehicle repairs or any repairs to vehicles unless the vehicle has been placed out of service by law enforcement, and the repair can be accomplished within 2 hours. Also included is a prohibition of commercial activity unless permitted by the Department through written agreement; skateboarding and other similar activities; camping or setting up a tent; distribution of written materials except on such terms as the Department may permit; and the use of a roadside rest area for special events, unless permitted by the Department. Potentially disruptive activity that could interfere with the function and restful purpose of a rest area, such as solicitation, harassment, intimidation, picketing, demonstrating, oration, as well as activity which impedes the movement of pedestrians or the flow of traffic is expressly prohibited.

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Persons and Entities Affected

These regulations affect all members of the general motoring public who stop at Roadside Rest Areas and Welcome Centers.

Fiscal Impact

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tpearsall@pa.gov.

Barry J. Schoch, P.E.

Secretary of Transportation

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

CHAPTER 443. ROADSIDE REST AREAS

§ 443.1. Purpose and policy.

(a) This chapter is promulgated for the purpose of providing comfortable, [convenience] convenient, clean, attractive and safe places for the general motoring public and to set forth rules to insure the maximum comfort, convenience, cleanliness, health and safety of those members of the general public using the facilities.

(b) This chapter applies to all rest areas administered by the Department, including those containing information centers for the traveling public, i.e. Welcome Centers.

(c) This chapter is intended to limit activities and actions in roadside rest areas to those that are consistent with the purpose of the facilities.

§ 443.2. Prohibited activities or actions.

The following specified activities or actions [shall be] are prohibited in roadside rest areas:

(1) [Driving or parking of a vehicle in areas other than those provided.] Failure to comply with all posted traffic signs and markings.

(2) Parking or standing of a vehicle for more than 2 hours in a single 24 hour period or in excess of the posted time limit.

(3) Driving or parking of a vehicle in areas other than those provided.

[(3)] (4) Defacing or damaging buildings or other facilities.

[(4)] (5) Igniting or maintaining fires for heating or cooking equipment, except in areas or facilities designed for the purpose.

[(5)] (6) Depositing or disposing of refuse or waste, except picnic waste and contents of vehicle litter bags, which shall be deposited only in areas or containers provided [therefore] for that purpose. Disposing of camping, sewage, or household refuse in [this area] these areas is prohibited.

[(6)] (7) Consumption of alcoholic beverages[,], or the use, possession or delivery of controlled substances.

[(7)] (8) Discharging or shooting of firearms or bows and arrows[, and], hunting or fishing [.,] or parking of vehicles for the purpose of hunting or fishing outside of the rest area.

[(8)] (9) Maintenance or repairing of vehicles or attachments to vehicles — oil changes, filter replacements, draining of coolants, washing vehicles [.,] or attachments to vehicles, motor disassembly or assembly and the like — except in emergencies, or where the vehicle has been placed out of service by law enforcement after roadside inspection, and the repairs needed to return the vehicle to service can be completed within the two hour parking limitation in section 443.4 of this chapter (relating to limitation on parking or standing of vehicles).

[(9)] (10) Release of pets or unloading of livestock.

(i) Animals on leashes shall be permitted only in areas designated as a pet area.

(ii) Pets may be permitted off-leash in designated fenced-in areas.

(iii) Seeing-Eye or Service Dogs are not restricted.

(21) Use of the area or facilities for special events, except for free “Coffee Break” events and similar non-profit activities for the traveling public when approved by the Department and on such terms and conditions as the Department shall deem appropriate.

(22) Other potentially disruptive activities that interfere with the proper functioning of the rest area for the purposes set forth in § 443.1 (relating to purpose and policy), including, but not limited to:

(i) Soliciting, harassing, intimidating, or coercing travelers.

(ii) Impeding the movement of pedestrians, or interrupting traffic flow.

(iii) Picketing, demonstrating, or performing oration or similar activities.

§ 443.3. Additional prohibited activities or actions on noninterstate highways.

In addition to the activities prohibited in § 443.2 (relating to prohibited activities or actions), parking of commercial vehicles or the parking of a vehicle between dusk and dawn is prohibited in roadside rest areas along noninterstate highways [.], unless otherwise posted by the Department.

§ 443.4. Limitation on parking or standing of vehicles.

(a) Parking or standing of a vehicle for more than 2 hours in a single 24-hour period or in excess of the posted time limit is prohibited.

(b) Vehicles unattended for more than 24 hours will be considered abandoned and subject to removal and storage at the sole cost and expense of the owner.

(c) Vehicles which have been placed out of service by law enforcement after roadside inspection, and the repairs needed to return the vehicle to service cannot be completed within 2 hours, should be towed for repair to an appropriate garage or repair facility.



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

July 17, 2012

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

**Re: Proposed Rulemaking
18-431 — 67 Pa. Code, Chapter 443
Roadside Rest Areas**

Dear Mr. Sumner:

Enclosed please find a copy of the Face Sheet, Preamble, Annex A and Regulatory Analysis Form, for amendments to Chapter 443 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,

Stephen F. J. Martin
Regulatory Counsel



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

I.D. NUMBER: #18-431
 SUBJECT: Roadside Rest Areas
 67 Pa. Code, Chapter 443
 AGENCY: Department of Transportation

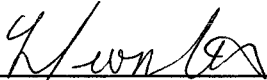
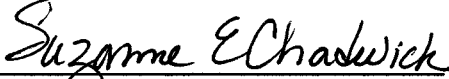

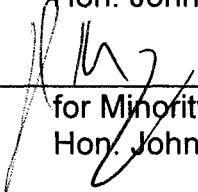

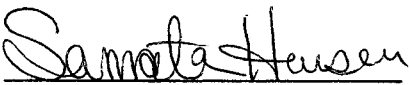
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TYPE OF REGULATION

- 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
7/17/12	 for Majority Chair Hon. Richard A. Geist	HOUSE COMMITTEE ON TRANSPORTATION
7/17/12	 for Minority Chair Hon. Michael P. McGeehan	
7/17/12	 for Majority Chair Hon. John C. Rafferty, Jr.	SENATE COMMITTEE ON TRANSPORTATION
7/17/12	 for Minority Chair Hon. John N. Wozniak	
	N/A	OFFICE OF ATTORNEY GENERAL
7/17/12	 K. Cooper	INDEPENDENT REGULATORY REVIEW COMMISSION
7/17/12	 Samata Husein	LEGISLATIVE REFERENCE BUREAU
Date:	July 17, 2012	