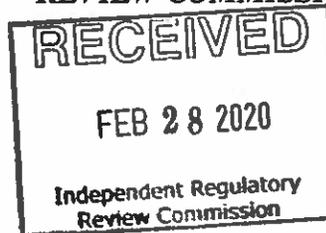


# Regulatory Analysis Form

(Completed by Promulgating Agency)

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

**INDEPENDENT REGULATORY  
REVIEW COMMISSION**



IRRC Number: 3255

(1) Agency:  
Pennsylvania Liquor Control Board

(2) Agency Number: 54  
Identification Number: 101

(3) PA Code Cite: 40 Pa. Code, Chapter 5, Chapter 9

(4) Short Title: Cleaning Beer Dispensing Systems

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

Primary Contact: Norina Foster, Assistant Counsel (717) 783-9454  
Pennsylvania Liquor Control Board  
401 Northwest Office Building  
Harrisburg, Pennsylvania 17124  
FAX: (717) 787-8820  
Email: [ra-lblegal@pa.gov](mailto:ra-lblegal@pa.gov)

Secondary Contact: Rodrigo Diaz, Chief Counsel  
Jason M. Worley, Deputy Chief Counsel  
(Same Contact Information)

(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 PLCB submits this proposed rulemaking to update its regulations regarding the cleaning of malt or brewed beverage dispensing systems, which delivers what is commonly known as "draft beer." In the proposed regulation, the frequency of dispensary system cleaning is decreased from every seven days to every fourteen days. The proposed rulemaking also clarifies that every licensee using such a dispensary system for selling malt or brewed beverages ("beer") – including limited wineries, limited distilleries, and distilleries – is subject to this regulation.

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

Pennsylvania Liquor Code, section 207(i) (47 P.S. § 2-207(i)).

(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.

The regulation is not mandated by any federal or state law, court order or federal regulation.

(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.

A dispensing system begins with beer that is stored in a keg. Pressurized gas enters the keg and forces the beer up and into a plastic hose, whose length it travels until it reaches a faucet. The beer waits in the plastic hose until the faucet is opened, whereupon the beer is poured into a container. For purposes of this proposed regulation, the dispensing system runs from the keg to the faucet.

A dispensing system is, because of its function, usually wet and located in a dark area. As a result, dispensing systems can readily harbor bacteria, yeast, mold, and “beer stones,” which occur when organic compounds in the beer bind with compounds in the brewing water and form calcium oxalate, the chemical name for beer stones. Cleaning the dispensing system is necessary to prevent these items from spoiling the beer.

However, the licensee incurs costs for cleaning the dispensing system, as well as the loss of the beer that is present in the hose. Therefore it is important to find the right frequency for cleaning, so as to avoid requiring the licensee to incur unnecessary expense and avoid needless waste of beer.

The Pennsylvania Restaurant and Lodging Association (“PLRA”) and the Brewers of Pennsylvania (“BOP”) asked the PLCB to consider revising the cleaning frequency requirement from once every seven days to once every fourteen days. PRLA and BOP note that the Brewer’s Association, an organization of more than 5,000 U.S. brewery members, advocates cleaning a dispensing system every fourteen days.<sup>1</sup> Based on this information, this proposed rulemaking changes the frequency of cleaning the dispensing system from once every seven days to once every fourteen days. Licensees are still required to maintain clean dispensary systems, under section 5.54 (relating to responsibility for condition of equipment), regardless of how often the lines are cleaned.

The proposed rulemaking also amends section 5.51(a) to clarify that all licensees who use a dispensing system are subject to the regulation. The current language—“A licensee that uses a malt or brewed beverage dispensing system in its licensed premises shall clean the system at its sole expense”—was proposed in 2007 and finalized in 2010. At that time, Pennsylvania-licensed limited wineries, limited distilleries, and distilleries did not have the authority to serve malt or brewed beverages on their licensed premises.

However, Act 39 of 2016 gave Pennsylvania-licensed manufacturers the right to sell, for on-premises consumption, products made by other Pennsylvania-licensed manufacturers. As a result, Pennsylvania-

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<sup>1</sup> <https://www.brewersassociation.org/educational-publications/draught-beer-quality-manual/>.

licensed limited wineries, limited distilleries, and distilleries may sell beer produced by Pennsylvania-licensed breweries for on-premises consumption. 47 P.S. §§ 5-505.2(a)(6.1), 5-505.4(b)(1), 5-505.4(c)(1). The proposed regulation clarifies that if the Pennsylvania-licensed manufacturer serves beer via a dispensing system, the manufacturer is subject to the regulation regarding the cleaning of the dispensing system.

The affected parties include any licensee that sells draft beer, including licensed restaurants, hotels, and clubs, as well as licensed breweries, limited wineries, distilleries and limited distilleries. As of December 11, 2019, there were nearly 17,000 licensees that could potentially serve draft beer.

(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.

The proposed rulemaking is not known to be more stringent than federal regulations.

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

Regulations pertaining to the cleaning of beer dispensing systems are governed by neighboring states in accordance with their unique and individual systems of alcoholic beverage control. Because of this, the proposed rulemaking does not play a role in Pennsylvania's ability to compete with other states.

(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 any other existing or proposed regulations of the Liquor Control Board or any other state 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.)

The PLCB has developed this proposed rulemaking, in part, in response to a request from two industry groups. The PLCB will carefully consider any comments, recommendations or objections to the proposed rulemaking received during the statutory public comment period and will respond as required.

(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?

The affected parties include any licensee that sells draft beer, including licensed restaurants, hotels, and clubs, as well as licensed breweries, limited wineries, distilleries and limited distilleries. As of December 11, 2019, there were nearly 17,000 licensees that could potentially serve draft beer. It is anticipated that the regulation will have a positive effect on licensees, since it will effectively halve the annual expenses of cleaning the dispensing system.

(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.

As of December 11, 2019, there were nearly 17,000 licensees that could potentially serve draft beer. These include clubs (3,092), eating place retail dispensers (410), hotels and restaurants (12,176), breweries (666), limited wineries (433) and distilleries or limited distilleries (147). If any of these licensees serve beer through a dispensing system, they will be required to comply with the proposed regulation.

(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.

The licensee incurs costs for cleaning the dispensing system, as well as the loss of the beer that is present in the hose. The proposed rulemaking changes the frequency of cleaning the dispensing system from once every seven days to once every fourteen days. It is anticipated that the proposed rulemaking will benefit licensees, since it will effectively halve the annual expenses of cleaning the dispensing system.

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

The proposed regulation benefits the regulated community by reducing the burden of cleaning the dispensary system on a weekly basis and only requiring cleaning every fourteen days. This will reduce the cost to licensees by half.

(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.

The regulated community would not incur any legal, accounting or consulting procedures as a result of this proposed regulation. It is estimated that those members of the regulated community that utilize dispensing systems for beer may be able to halve their cleaning costs. Dollar estimates are not available, but the regulation changes the required frequency from every seven days, or weekly, to every fourteen days, or biweekly. In the course of a year, a licensee would be required to clean 26 times instead of 52 times.

(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.

The proposed rulemaking is not expected to result in costs or savings for local governments. No legal, accounting or consulting procedures are required.

(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.

The proposed rulemaking is not expected to result in costs or savings for state government. No legal, accounting or consulting procedures are required.

(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.

The proposed rulemaking is not expected to affect legal, accounting or consulting procedures and should not require any additional reporting, recordkeeping or other paperwork. Similarly, the regulation is not expected to require any additional governmental measures in order to implement the regulation.

(22a) Are forms required for implementation of the regulation?

No.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

N/A

(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.

There is no data available regarding how many members of the regulated community provide draft beer for their customers, nor how many types of draft beer are available at each licensed establishment. However, for the purposes of estimation, assume that each of the 17,000 licensed entities has three dispensing systems (admittedly, three is an arbitrary number; some licensees may not have any and some will have many more). The average total cost to clean one draft beer line is between \$6 and \$12, according to Micro Matic, a beer line cleaning service. <https://www.micromatic.com/beer-line-cleaning-roi>.

Currently, the estimated cost for all licensees to clean three dispensing systems every week ranges from \$15,912,000 to \$31,824,000 (17,000 x 3 x 52 x \$6 or \$12). Under the proposed regulation, the estimated cost ranges from \$7,956,000 to \$15,912,000 (17,000 x 3 x 26 x \$6 or \$12). This results in a collective savings for the regulated community of \$7.9 to \$15.9 million per year.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>						
<b>Regulated Community</b>	\$7.9 – \$15.9 Million	\$15.8 - \$31.8 Million	\$23.7 - \$47.7 Million	\$31.6 - \$63.6 Million	\$39.5 - \$79.5 Million	\$47.4 - \$23.4 Million
<b>Local Government</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>State Government</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Savings</b>	\$7.9 – \$15.9 Million	\$15.8 - \$31.8 Million	\$23.7 - \$47.7 Million	\$31.6 - \$63.6 Million	\$39.5 - \$79.5 Million	\$47.4 - \$23.4 Million
<b>COSTS:</b>	\$7.9 – \$15.9 Million	\$15.8 - \$31.8 Million	\$23.7 - \$47.7 Million	\$31.6 - \$63.6 Million	\$39.5 - \$79.5 Million	\$47.4 - \$23.4 Million
<b>Regulated Community</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Local Government</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>State Government</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Costs</b>	\$7.9 – \$15.9 Million	\$15.8 - \$31.8 Million	\$23.7 - \$47.7 Million	\$31.6 - \$63.6 Million	\$39.5 - \$79.5 Million	\$47.4 - \$23.4 Million
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Local Government</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>State Government</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Revenue Losses</b>	\$0	\$0	\$0	\$0	\$0	\$0

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

Program	FY -3 2016-2017	FY -2 2017-2018	FY -1 2018-2019	Current FY 2019-2020
N/A	N/A	N/A	N/A	N/A

(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.

(a) Federal regulation (relating to small business size standards) provides the following measurements for determining whether a business may be considered to be a “small” business: a full-service restaurant with annual receipts of less than \$7.5 million; a drinking place (alcoholic beverages) with annual receipts of less than \$7.5 million; hotels with annual receipts of less than \$32.5 million; and all other amusement and recreation industries with annual receipts of less than \$7.5 million. (13 C.F.R. § 121.201). In addition, the following manufacturers are considered to be a “small” business: breweries with less than 1,250 employees; wineries with less than 1,000 employees; and distilleries with less than 1,000 employees. (*Id.*). It is estimated that most of the regulated community impacted by this proposed regulation would fall within the definition of “small business.”

(b) The proposed regulation does not change the language pertaining to reporting or recordkeeping for cleaning of dispensing systems. The extent of the required recordkeeping is set forth in section 5.52(b), which provides: “The licensee shall maintain and keep a record of the date of each cleaning and the method utilized.” (40 Pa. Code § 5.52(b)). However, by reducing the frequency of cleaning, the proposed regulation effectively reduces the amount of recordkeeping required. No professional skills are required to prepare this record.

(c) The proposed regulation is anticipated to have a positive impact on small businesses. The regulated community is still required to keep their dispensing systems clean, but the frequency of cleaning will be changed from every seven days to every fourteen days, in keeping with the industry standard established by the Brewer’s Association. This change is anticipated to save small businesses time and money.

(d) The proposed regulation establishes a less intrusive and less costly method of achieving clean dispensing systems than the current regulation requires, while at the same time protecting the public from unsanitary beer dispensing systems. There are no other less intrusive or less costly alternatives that would still achieve the purpose of the proposed regulation.

(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.

The PLCB has not identified any group that may need any special provisions or accommodations.

(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 considered and rejected, since this proposed regulation involves an amendment of an existing regulation. The least burdensome acceptable alternative, which still requires clean dispensing systems, has been selected.

(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.

The proposed regulation is intended to minimize adverse impact on small businesses by reducing the requirement to clean the dispensing system from every seven days to every fourteen days. As a result:

- (a) The proposed regulation creates less stringent compliance and reporting requirements for small businesses, since the compliance for cleaning beer dispensing systems is now required every fourteen days, not every seven days;
- (b) The proposed regulation creates less stringent schedules or deadlines for compliance or reporting requirements because the schedule for cleaning dispensing systems is being changed from every seven days to every fourteen days and therefore the reporting of cleaning is also changed from every seven days to every fourteen days;
- (c) The compliance or reporting requirements are already quite minimal: "The licensee shall maintain and keep a record of the date of each cleaning and the method utilized." (40 Pa. Code § 5.52(b)). Since cleanings of the dispensing system will be required every fourteen days instead of every seven days, the recordkeeping requirements will effectively be reduced in half;
- (d) The requirement of cleaning the dispensing systems every fourteen days instead of every seven days is the operational standard established by the Brewer's Association, a national trade organization;
- (e) The proposed regulation does not provide for exemption from all or any part of the requirements contained in the regulation.

(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.

The PLCB has not relied on data to justify this regulation.

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

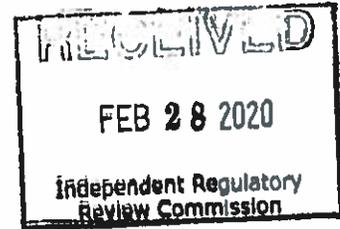
- |   |                       |
|---|-----------------------|
| A. The length of the public comment period:   | <u>30 days</u>        |
| B. The date or dates on which any public meetings or hearings will be held:                   | <u>June 2020</u>      |
| C. The expected date of delivery of the final-form regulation:                                | <u>August 2020</u>    |
| D. The expected effective date of the final-form regulation:                                  | <u>September 2020</u> |
| E. The expected date by which compliance with the final-form regulation will be required:     | <u>September 2020</u> |
| F. The expected 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.**

Review of the regulations is ongoing, and any changes will be through the rulemaking process.

CDL-1

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)



DO NOT WRITE IN THIS SPACE

Copy below is hereby approved  
as to form and legality.

Attorney General:

*Lois P. Lora*

BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

FEB 12 2020

DATE OF APPROVAL

Check if applicable  
Copy not approved. Objections  
attached.

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

Pennsylvania Liquor Control Board  
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 54-101

DATE OF ADOPTION: 1/15/2020

BY: *T. Hella*

TITLE: Chairman  
(Executive Officer, Chairman or  
Secretary)

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

BY: *[Signature]*  
Chief Counsel

1/15/2020

DATE OF APPROVAL

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

TITLE 40—LIQUOR

PART I. LIQUOR CONTROL BOARD

CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES

Subchapter D. SANITARY CONDITIONS AND LIGHTING  
AND CLEANING OF MALT OR BREWED BEVERAGE DISPENSING SYSTEMS

## PROPOSED RULEMAKING

### LIQUOR CONTROL BOARD

[ 40 PA. CODE CH. 5]

#### Cleaning of Malt or Brewed Beverage Dispensary Systems

The Liquor Control Board (“PLCB”), under the authority of section 207(i) of the Liquor Code (47 P.S. § 2-207(i)), proposes to amend § 5.51 (relating to cleaning of malt or brewed beverage dispensing systems) to read as set forth in Annex A.

#### *Summary*

The PLCB submits this proposed rulemaking to update its regulations regarding the cleaning of malt or brewed beverage dispensing systems, which delivers what is commonly known as “draft beer.” In the proposed regulation, the frequency of dispensary system cleaning is decreased from every seven days to every fourteen days. The proposed rulemaking also clarifies that every licensee using such a dispensary system for selling malt or brewed beverages (“beer”) – including limited wineries, limited distilleries, and distilleries – is subject to this regulation.

A dispensing system begins with beer that is stored in a keg. Pressurized gas enters the keg and forces the beer up and into a plastic hose, whose length it travels until it reaches a faucet. The beer waits in the plastic hose until the faucet is opened, whereupon the beer is poured into a container. For purposes of this proposed regulation, the dispensing system runs from the keg to the faucet.

A dispensing system is, because of its function, usually wet and located in a dark area. As a result, dispensing systems can readily harbor bacteria, yeast, mold, and “beer stones,” which occur when organic compounds in the beer bind with compounds in the brewing water and form calcium oxalate, the chemical name for beer stones. Cleaning the dispensing system is necessary to prevent these items from spoiling the beer.

However, the licensee incurs costs for cleaning the dispensing system, as well as the loss of the beer that is present in the hose. Therefore it is important to find the right frequency for cleaning, so as to avoid requiring the licensee to incur unnecessary expense and avoid needless waste of beer.

The Pennsylvania Restaurant and Lodging Association (“PLRA”) and the Brewers of Pennsylvania (“BOP”) asked the PLCB to consider revising the cleaning frequency requirement from once every seven days to once every fourteen days. PRLA and BOP note that the Brewer’s Association, an organization of more than 5,000 U.S. brewery members, advocates cleaning a dispensing system every fourteen days.<sup>1</sup> Based on this information, this proposed rulemaking changes the frequency of cleaning the dispensing system from once every seven days to once every fourteen days. Licensees are still required to maintain

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<sup>1</sup> <https://www.brewersassociation.org/educational-publications/draught-beer-quality-manual/>.

clean dispensary systems, under section 5.54 (relating to responsibility for condition of equipment), regardless of how often the lines are cleaned.

The proposed rulemaking also amends section 5.51(a) to clarify that all licensees who use a dispensing system are subject to the regulation. The current language—“A licensee that uses a malt or brewed beverage dispensing system in its licensed premises shall clean the system at its sole expense”—was proposed in 2007 and finalized in 2010. At that time, Pennsylvania-licensed limited wineries, limited distilleries, and distilleries did not have the authority to serve malt or brewed beverages on their licensed premises.

However, Act 39 of 2016 gave Pennsylvania-licensed manufacturers the right to sell, for on-premises consumption, products made by other Pennsylvania-licensed manufacturers. As a result, Pennsylvania-licensed limited wineries, limited distilleries, and distilleries may sell beer produced by Pennsylvania-licensed breweries for on-premises consumption. 47 P.S. §§ 5-505.2(a)(6.1), 5-505.4(b)(1), 5-505.4(c)(1). The proposed regulation clarifies that if the Pennsylvania-licensed manufacturer serves beer via a dispensing system, the manufacturer is subject to the regulation regarding the cleaning of the dispensing system.

#### *Affected Parties*

The affected parties include any licensee that sells draft beer, including licensed restaurants, hotels, and clubs, as well as licensed breweries, limited wineries, distilleries and limited distilleries. As of December 11, 2019, there were nearly 17,000 licensees that could potentially serve draft beer.

#### *Paperwork Requirements*

This proposed rulemaking does not impose any new paperwork requirements on licensees.

#### *Fiscal Impact*

It is anticipated that the fiscal impact would be beneficial to licensees, since it will effectively halve the annual expenses of cleaning the dispensing system.

#### *Effective Date*

This proposed rulemaking will become effective upon final-form publication in the Pennsylvania Bulletin.

#### *Public Comments*

Interested persons are invited to submit written comments about this proposed rulemaking to Rodrigo Diaz, Chief Counsel, Jason M. Worley, Deputy Chief Counsel, or Norina Foster, Assistant Counsel, Office of Chief Counsel, Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001, within 30 days after publication of this proposed rulemaking in the Pennsylvania Bulletin. When commenting, individuals should indicate if they wish to be apprised of future developments regarding this proposed rulemaking, and include a name, address and e-mail address. Comments submitted by facsimile will not be accepted.

Public comments will be posted on the Independent Regulatory Review Commission's (IRRC) website. Personal information will not be redacted from the public comments received.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on \_\_\_\_\_, the PLCB submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the Chairpersons of the House Liquor Control Committee and Senate Committee on Law and Justice. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review prior to final publication of the rulemaking by the PLCB, the General Assembly and the Governor.

TIM HOLDEN,  
Chairperson

ANNEX A

TITLE 40. LIQUOR

PART I. LIQUOR CONTROL BOARD

Chapter 5 – DUTIES AND RIGHTS OF LICENSEES

Subchapter D. SANITARY CONDITIONS AND LIGHTING  
AND CLEANING OF MALT OR BREWED BEVERAGE  
DISPENSING SYSTEMS

§ 5.51. Cleaning of malt or brewed beverage dispensing systems.

(a) [A] Any licensee, including but not limited to a retail licensee, a brewery, a limited winery, a limited distillery, or a distillery, that uses a malt or brewed beverage dispensing system in its licensed premises shall clean the system at its sole expense. One licensee may not clean a malt or brewed beverage dispensing system for another licensee.

(b) The method of cleaning must leave the entire malt or brewed beverage dispensing system in a clean and sanitary condition. The cleaning method used must include cleaning the entire system with a chemical cleaning solution or other cleaning method approved by the Board. The following alternative cleaning methods have Board approval:

(1) Live steam.

(2) Hot water and soda solution, followed by thorough rinsing with hot water.

(c) The frequency of cleaning for the malt or brewed beverage dispensing system shall be as follows:

(1) Once every [7] **14** days for the faucets.

(2) Once every [7] **14** days for the dispensing lines, valves, joints, couplers, hose fittings, washers, o-rings, empty beer detectors (known as “FOBS”) and draft foam control units, except if the licensee has an operating ultrasonic, electromagnetic or other system that retards the growth of yeast and bacteria in the dispensing lines. If such a system is installed and operating, the licensee shall follow the cleaning frequency and cleaning method guidelines of the system’s manufacturer.

(3) The Board may approve different cleaning frequencies.

**Commonwealth of Pennsylvania**  
**Pennsylvania Liquor Control Board**  
February 28, 2020

**SUBJECT: Proposed Regulation Package 54-101**  
**Cleaning Beer Dispensing Systems**

**TO: DAVID SUMNER, EXECUTIVE DIRECTOR**  
**INDEPENDENT REGULATORY REVIEW COMMISSION**

**FROM: RODRIGO J. DIAZ**   
**CHIEF COUNSEL**  
**PENNSYLVANIA LIQUOR CONTROL BOARD**

**By Hand Delivery**

The Pennsylvania Liquor Control Board ("PLCB") is submitting proposed amendments to chapter 5 of its regulations. Enclosed please find a copy of the regulatory analysis form, signed CDL-1 face sheet, preamble and Annex A (regulatory text). The Office of Attorney General has approved the proposed amendments for form and legality.

These proposed amendments are being delivered today to the legislative oversight committees and to the Legislative Reference Bureau.

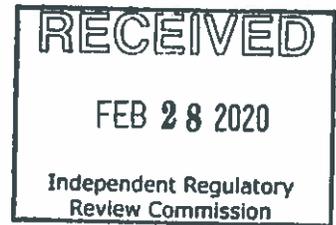
If you have any questions and comments about this regulatory submission, feel free to contact the Office of Chief Counsel, Pennsylvania Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124, or by telephone at (717) 783-9454. If I am not available, you can discuss this matter with Jason Worley, Deputy Chief Counsel, or Norina Foster, Assistant Counsel.

cc with enclosures:

Honorable Patrick Stefano, Majority Chairman, Senate Law and Justice Committee  
Honorable James Brewster, Minority Chairman, Senate Law and Justice Committee  
Honorable Jeff Pyle, Majority Chairman, House Liquor Control Committee  
Honorable Dan Deasy, Minority Chairman, House Liquor Control Committee  
Jake Gery, Executive Director, Senate Law and Justice Committee  
Stephen Bruder, Executive Director, Senate Law and Justice Committee  
Michael Biacchi, Executive Director, House Liquor Control Committee  
Lynn Benka-Davies, Executive Director, House Liquor Control Committee

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

**I.D. NUMBER:** 54-101  
**SUBJECT:** Cleaning Beer Dispensing Systems  
**AGENCY:** Pennsylvania Liquor Control Board



**TYPE OF REGULATION**

- X   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**

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
2/28/20	<u>Alice Keff</u> (1)	SENATE LAW & JUSTICE COMMITTEE (Majority)
2/28/20	<u>Randy Sandell</u> (2)	SENATE LAW & JUSTICE COMMITTEE (Minority)
2/28/20	<u>Christine Conrad</u> (3)	HOUSE LIQUOR CONTROL COMMITTEE (Majority)
2/28/20	<u>Jim Biddle</u> (4)	HOUSE LIQUOR CONTROL COMMITTEE (Minority)
2/28/20	<u>Cosimo Mant</u> (5)	LEGISLATIVE REFERENCE BUREAU
2/28/20	<u>R Cooper</u> (6)	INDEPENDENT REGULATORY REVIEW COMMISSION