

INDEPENDENT REGULATORY REVIEW COMMISSION

2019 ANNUAL REPORT



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Pennsylvania's General Assembly created the Independent Regulatory Review Commission to provide independent oversight of the rulemaking process in Pennsylvania and to establish an ongoing and effective review of agency regulations. The Commission's mission is to review agency regulations in order to determine whether they are in the public interest. By evaluating the conformity of rulemakings with law, and their impact on the public and regulated community, we assist the General Assembly and the Governor in achieving a favorable regulatory balance and ensure the integrity of the regulatory process. This annual report details the Commission's activities in 2019.

In 2019, the Commission reviewed a total of 49 regulations, including 26 proposed and 23 final regulations. More than 2,270 public comments were submitted on pending regulations in 2019. 7 comments were submitted by legislative standing committees and 105 members of the House and Senate submitted comments on these regulations.

Notable regulations reviewed by the Commission in 2019 include: Unfair Market Trade Practices (Office of Attorney General #3242); Minimum Wage and Overtime Requirements (Department of Labor and Industry #3202); Privacy of Consumer Financial Information (Department of Insurance #3207); and Intensive Behavioral Health Services (Department of Human Services #3209).

Copies of all comments filed on these regulations, together with information on all actions taken concerning the regulations, is available on the Commission's website: www.irrc.state.pa.us.

Looking ahead, the Commission will continue its role as an independent oversight body reviewing agency regulations and determining whether the criteria set forth in Pennsylvania's Regulatory Review Act have been satisfied.

Proposed Regulations

The following is an explanation of the action codes for Proposed Regulations:

- NONE** Commission did not submit comments.
- OPEN** Regulation was received in 2019 with Commission action due in 2020.
- W2Y** Withdrawn Under Section 5.1(a) – A regulation submitted as proposed, but not delivered in final-form within two years of the close of the public comment period, and consequently, deemed to be withdrawn.

Final Regulations

The following is an explanation of the action codes for Final Regulations:

- AAW** **Approved After Withdrawal** – The final regulation was withdrawn, resubmitted and approved.
- ABL** **Approved by Law** – The final regulation was deemed to be approved because the Commission did not submit any comments on the proposed regulation, the regulation was not modified from its proposed form and the designated standing committees did not disapprove the final regulation.
- APP** **Approved** – The final regulation was approved.
- N/A** Indicates this was a final-omitted regulation and was, therefore, not published in the *Pennsylvania Bulletin* for public comment.
- NONE** The Commission did not submit any comments on the proposed regulation.
- OPEN** Regulation was received in 2019 with Commission action due in 2020.
- WDN** A final regulation submitted but withdrawn prior to Commission action. A withdrawn final regulation may be resubmitted within two years after the close of the public comment period. A withdrawn final-omitted regulation may be resubmitted as a new final-omitted regulation at any time.

DEPARTMENT OF AGRICULTURE

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action

05/10/19	#2-191	Milk Sanitation	#3210	NONE	06/19/19 ABL
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Brings Pennsylvania's regulations for raw milk cheese into alignment with the Food and Drug Administration's regulations.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Environmental Quality Board

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed

02/25/19	#7-551	Additional Requirements for Control of Fine Particulate Matter in the Nonattainment New Source Review Program	#3225	NONE
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Incorporates the federal requirement to include emissions of volatile organic compounds and ammonia as PM2.5 precursors.

03/04/19	#7-548	Water Quality Standards; Class A Stream Redesignations	#3226	06/06/19
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Updates and revises stream use designations.

03/12/19	#7-533	Water Quality Management and National Pollution Discharge Elimination System Permit Application and Annual Fees	#3227	06/13/19
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Adjusts the existing fee schedules for water quality permit applications and annual fees.

03/27/19	#7-536	Air Quality Fee Schedule Amendments	#3231	07/17/19
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Amends existing and adds new requirements and fee schedules relating to plan approval and operating permit fees.

06/19/19	#7-546	Revision of the Maximum Allowable Sulfur Content Limit for No. 2 and Lighter Commercial Fuel Oil	#3238	10/09/19
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Reduces the maximum allowable sulfur content limit for No. 2 and lighter commercial fuel oil.

10/15/19	#7-545	Water Supply Replacement for Coal Surface Mining	#3245	OPEN
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Addresses inconsistencies between Pennsylvania's surface coal mining program and federal requirements relating to water supply replacement so that Pennsylvania can retain primary regulatory authority.

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action

12/30/19	#7-534	Triennial Review of Water Quality Standards	#3182	03/19/18	OPEN
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Updates and revises water quality criteria as required by the federal Clean Water Act.

02/15/19	#7-523	Noncoal Mining Program Fees	#3190	04/04/18	03/21/19 AAW
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Increases permit application and administrative fees.

12/30/19	#7-532	Federal Office of Surface Mining Reclamation and Enforcement Program Consistency	#3217	12/26/18	OPEN
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Amends existing regulations to address inconsistencies between the Commonwealth's coal mining program and federal regulations.

09/12/19	#7-551	Additional Requirements for Control of Fine Particulate Matter in the Nonattainment New Source Review Program	#3225	NONE	10/16/19 ABL
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Incorporates the federal requirement to include emissions of volatile organic compounds and ammonia as PM2.5 precursors.

DEPARTMENT OF GENERAL SERVICES

PROPOSED REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	

06/18/19	#8-27	State Metrology Laboratory Fee Schedule	#3237	08/28/19	
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Amends the schedule of fees for metrology laboratory services.

DEPARTMENT OF HEALTH

PROPOSED REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	

05/15/19	#10-209	Complete Reporting of CD4 T-Lymphocyte, Viral Load and Genotyping Test Results Relating to HIV	#3235	07/24/19	
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Requires the reporting of all CD4 T-Lymphocyte cell counts related to HIV infection, as well as viral load test results and genotyping results.

DEPARTMENT OF HUMAN SERVICES

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
06/04/19	#14-538	Outpatient Psychiatric Services and Psychiatric Outpatient Clinics	#3176	10/11/17	07/18/19 APP

Updates current regulations pertaining to the delivery of outpatient psychiatric services and the operation of psychiatric outpatient clinics.

07/12/19	#14-546	Intensive Behavioral Health Services	#3209	10/04/18	08/15/19 APP
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Codifies the minimum licensing standards and program requirements for participation in the Medical Assistance (MA) Program and MA payment conditions related to delivery of intensive behavioral health services to individuals under 21 years of age.

DEPARTMENT OF LABOR AND INDUSTRY

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
10/17/19 12/09/19	#12-106	Minimum Wage	#3202	09/21/18	11/21/19 WDN OPEN

Updates the executive, administrative and professional exemptions from the minimum wage and overtime requirements of the Minimum Wage Act of 1968.

04/03/19	#12-108	Uniform Construction Code	#3232	N/A	05/16/19 APP
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Updates the Uniform Construction Code by adopting updated accessibility provisions published by the International Code Council and standards for the operation of ski lifts set forth by the American National Standards Institute.

DEPARTMENT REVENUE

PROPOSED REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	
04/23/19	#15-460	iLottery Games	#3234	07/03/19	

Establishes permanent rules associated with iLottery implementation.

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
12/30/19	#15-460	iLottery Games	#3234	07/03/19	OPEN

Establishes permanent rules associated with iLottery implementation.

DEPARTMENT OF STATE

Bureau of Professional and Occupational Affairs

PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
10/25/18	#16A-60	Expungement; Fees	#3220	01/09/19

Implements a portion of Act 6 of 2018 which requires the Commissioner of Professional and Occupational Affairs to expunge certain disciplinary actions upon application and payment of all costs associated with expungement as established by regulation.

FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
07/09/19	#16A-60	Expungement; Fees	#3220	01/09/19	08/15/19 APP

Implements a portion of Act 6 of 2018 which requires the Commissioner of Professional and Occupational Affairs to expunge certain disciplinary actions upon application and payment of all costs associated with expungement as established by regulation.

State Board of Certified Real Estate Appraisers

FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
07/29/19	#16A-7022	Federally-Mandated Revisions	#3205	09/05/18	09/19/19 APP

Revises and clarifies general, residential and licensed trainee appraiser requirements.

State Board of Dentistry

PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
03/12/19	#16A-4633	Public Health Dental Hygiene Practitioner Practice Sites	#3228	05/22/19

Clarifies acceptable practice sites and expands the locations at which a public health dental hygiene practitioner may practice.

State Board of Nursing

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
05/20/19	#16A-5142	Fees; General Provisions	#3222	04/03/19

Increases application fees and biennial renewal fees and adds additional fees for licensees and adds new and increased fees relating to approval of nursing education programs.

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
05/20/19	#16A-5142	Fees; General Provisions	#3222	04/03/19	06/20/19 APP

Increases application fees and biennial renewal fees and adds additional fees for licensees and adds new and increased fees relating to approval of nursing education programs.

State Board of Optometry

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
02/15/19	#16A-5213	General Revisions	#3223	05/01/19

Defines "contact lens" and amends continuing education and reciprocity regulations.

State Board of Pharmacy

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
04/09/19	#16A-5419	Compounding	#3163	05/10/17	05/16/19 APP

Updates regulations to incorporate developments and improvements related to safe, sterile practices and procedures for the compounding of pharmaceutical products.

State Board of Veterinary Medicine

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
11/07/18	#16A-5727	Certified Veterinary Technicians and Veterinary Assistants	#3221	01/23/19

Removes the 10-year automatic bar on certification for veterinary technicians convicted of a felony under the Controlled Substance, Drug, Device and Cosmetic Act; updates provisions related to examination and reactivation.

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action

10/10/19	#16A-5727	Certified Veterinary Technicians and Veterinary Assistants	#3221	01/23/19	11/21/19 APP
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Removes the 10-year automatic bar on certification for veterinary technicians convicted of a felony under the Controlled Substance, Drug, Device and Cosmetic Act; updates provisions related to examination and reactivation.

DEPARTMENT OF TRANSPORTATION

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed

03/10/17	#18-466	Vehicle Equipment and Inspection	#3166	04/24/19 W2Y
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Updates provisions related to inspection of vehicles.

INSURANCE DEPARTMENT

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action

05/15/19	#11-257	Privacy of Consumer Financial Information	#3207	09/19/18	06/20/19 APP
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Amends existing regulations relating to consumer financial information to be consistent with the corresponding National Association of Insurance Commissioners model rule.

MILK MARKETING BOARD

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed

07/01/19	#47-18	Transactions Between Dealers and Producers; Termination of Dealer-Producer Contract	#3240	09/11/19
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Extends the current 28-day notice to terminate a dealer-producer relationship to 90 days and provides for a waiver in certain circumstances.

07/31/19	#47-19	Milk Marketing Fees	#3241	10/30/19
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Increases license fees paid by milk dealers, subdealers, haulers, testers and weigher-samplers.

09/10/19	#47-20	Transactions Between Dealers and Producers; Payment	#3243	11/20/19
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Requires cooperatives to provide a line item on monthly statements to members disclosing the amount of over-order premium being paid.

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action

12/12/19	#47-19	Milk Marketing Fees	#3241	10/30/19	OPEN
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Increases license fees paid by milk dealers, subdealers, haulers, testers and weigher-samplers.

OFFICE OR ATTORNEY GENERAL

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed

08/21/19	#59-10	Unfair Market Trade Practices	#3242	10/30/19
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Clarifies and updates existing regulations regarding unfair methods of competition and unfair or deceptive acts or practices.

PENNSYLVANIA GAMING CONTROL BOARD

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed

06/20/19	#125-223	Table Game Rules of Play; Over/Under, DJ Wild Stud Poker, Face Up Pai Gow Poker	#3239	09/11/19
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Adds three new table games to the complement of games available for play in the Commonwealth.

11/15/19	#125-225	Slot Machine Licenses; Accounting and Internal Controls; Compulsive and Problem Gambling Requirements; Casino Self-Exclusion; Table Game Equipment; Credit	#3246	OPEN
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Alters the procedures for a person to self-exclude from gaming activities and specifies that the procedures apply only to casino and retail sports wagering self-exclusion.

12/05/19	#125-226	Casino Simulcasting; Fantasy Contests	#3248	OPEN
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Provides Category 2, 3 and 4 casinos with the option to provide live simulcasting of horse racing and associated simulcast wagering; provides a regulatory oversight structure for the conduct of fantasy contests.

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action

02/15/19	#125-204	Four Card Prime and Cajun Stud; Table Game Rules of Play	#3164	05/10/17	03/21/19 APP
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Adds two new table games to the complement of games available for play in the Commonwealth.

06/03/19	#125-205	Table Game Rules of Play	#3172	NONE	07/17/19 ABL
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Incorporates existing statements of policy on new side wagers, payment table and variations of existing table games into permanent regulations and adds a new table game to those available for play in the Commonwealth.

07/16/19	#125-206	Junkets, Electronic Credit Systems and Table Game Rules of Play	#3174	09/13/17	09/19/19 APP
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Amends existing regulations to improve clarity, reduce the number of junket reports required and incorporate new side wagers into the existing table games regulations.

PENNSYLVANIA LABOR RELATIONS BOARD

PROPOSED REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	

03/28/19	#104-1	Board Rules and Regulations	#3229	06/06/19	
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Allows for filing and service of certain documents by electronic mail, eliminates need for filing multiple paper copies, and updates office locations and addresses.

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action

10/23/19	#104-1	Board Rules and Regulations	#3229	06/06/19	12/05/19 APP
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Allows for filing and service of certain documents by electronic mail, eliminates need for filing multiple paper copies, and updates office locations and addresses.

PENNSYLVANIA LIQUOR CONTROL BOARD

PROPOSED REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	

02/21/19	#54-93	Proof of Recycling	#3224	05/08/19	
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Establishes what constitutes "proof in writing" relating to participation in recycling programs.

06/03/19	#54-90	Responsible Alcohol Management Program	#3236	09/18/19	
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Updates existing regulations to implement recent legislative changes, clarify what constitutes RAMP certification, and clarify requirements for online training providers and classroom instructors.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

PROPOSED REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	

09/25/19	#57-326	Rulemaking Regarding Depreciation Reporting and Capital Planning for Crude Oil, Gasoline or Petroleum Products Transportation Pipelines	#3244	12/04/19	
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Removes the current reporting exemption for crude oil, gasoline and petroleum products transportation pipeline public utilities.

FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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03/18/19	#57-315	Standards and Billing Practices for Residential Public Utility Service	#3161	05/18/17	04/18/19 APP
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Amends existing regulations to implement the Responsible Customer Protection Act.

10/21/19	#57-323	Assumption of Commission Jurisdiction Over Pole Attachments from the Federal Communications Commission	#3214	12/28/18	11/21/19 APP
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Adopts the pole attachment regulations as promulgated and as may be amended by the FCC.

PROFESSIONAL STANDARDS AND PRACTICES COMMISSION**PROPOSED REGULATIONS**

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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04/08/19	#6-340	Code of Professional Practice and Conduct for Educators	#3233	06/19/19
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Updates the Code of Professional Practice and Conduct for Educators to include technology related standards and set forth the ethical responsibilities of an educator to students, colleagues and the profession.