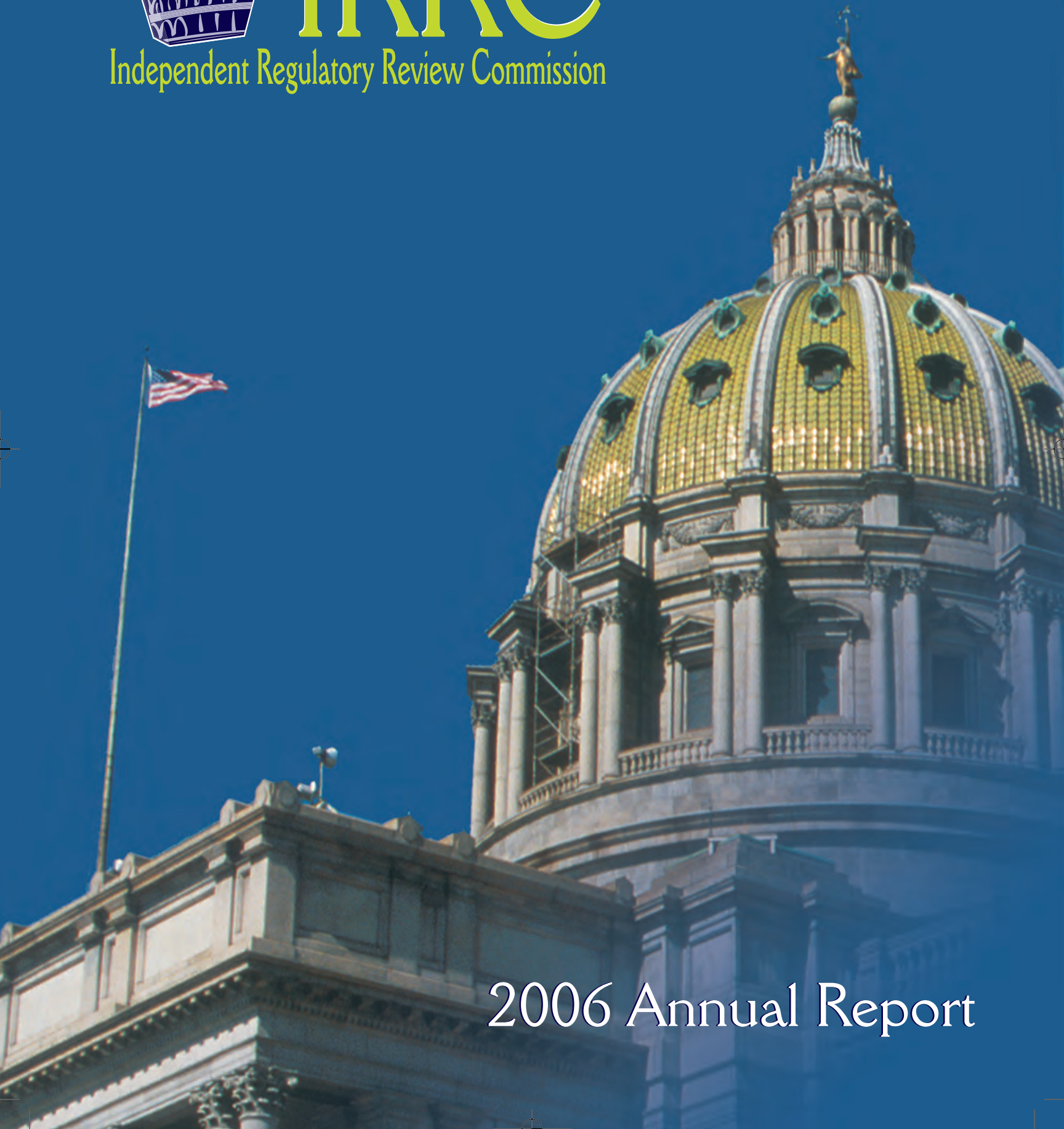


# IRRC

Independent Regulatory Review Commission

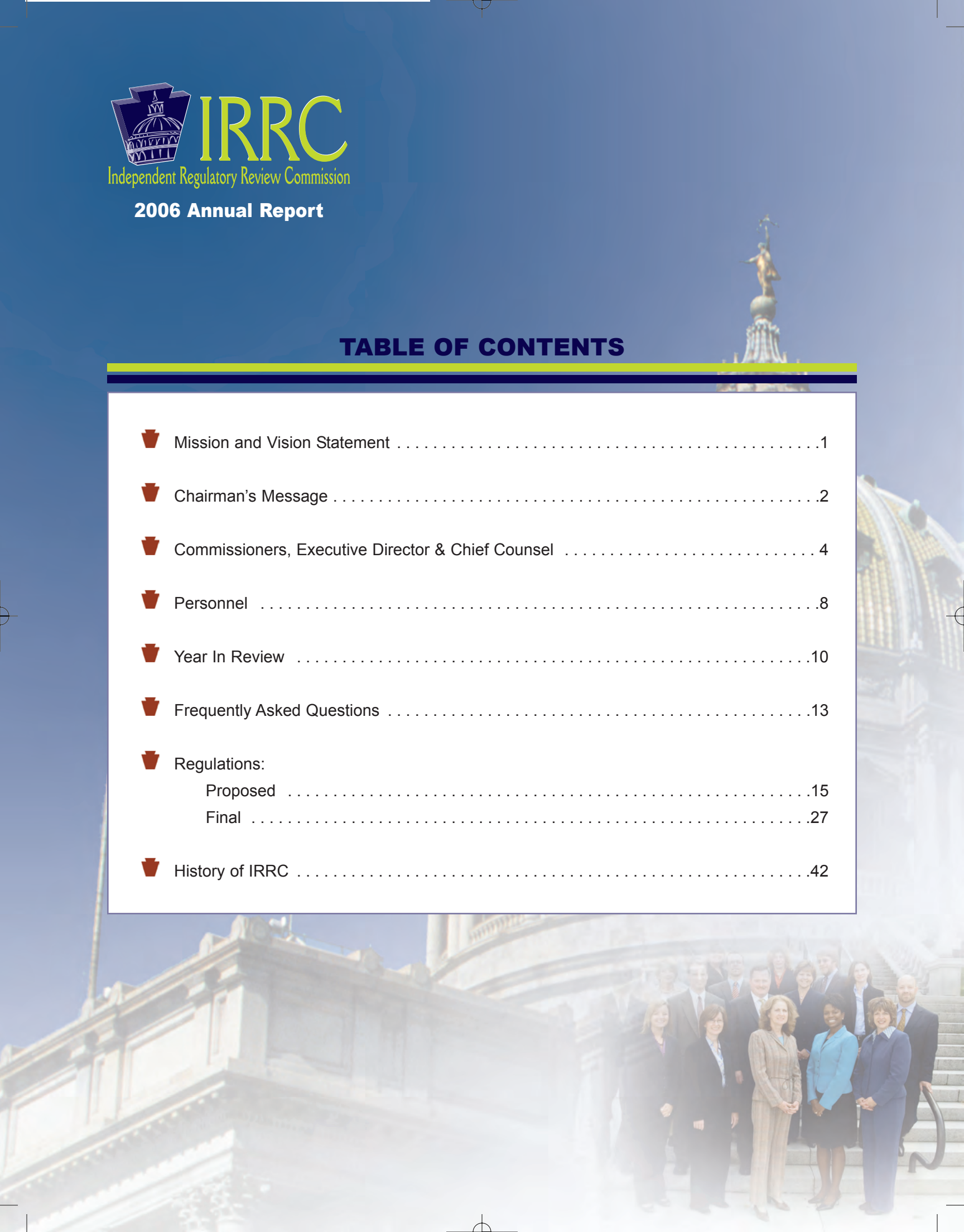


2006 Annual Report



## TABLE OF CONTENTS

▼ Mission and Vision Statement .....	1
▼ Chairman's Message .....	2
▼ Commissioners, Executive Director & Chief Counsel .....	4
▼ Personnel .....	8
▼ Year In Review .....	10
▼ Frequently Asked Questions .....	13
▼ Regulations:	
Proposed .....	15
Final .....	27
▼ History of IRRC .....	42



## MISSION AND VISION STATEMENT

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### **MISSION:**

To assist the Governor and General Assembly in creating a beneficial regulatory balance.

### **VISION:**

The Commission will increase communication with and availability to agencies, the General Assembly and the regulated public to achieve a streamlined and effective review process. We will achieve this in a spirit of cooperation through review of proposed and existing regulations, assistance to agencies with document drafting and availability to our clients through meetings, seminars and workshops intended to resolve particular issues encountered by specific audiences.

## CHAIRMAN'S MESSAGE

While looking back at the Commission's accomplishments during 2006, I paused to reflect on its difficult birth more than two decades ago. As a long-time legislator and senior staffer, I had struggled with the growing problem of unaccountable regulating, which led me to develop the idea for an independent agency that would screen regulations before they could become effective. This agency could provide effective oversight without taking any partisan positions on Executive Branch regulations. It could also provide a forum that would allow concerned parties to express conflicting points of view.



The concept was introduced in the Senate in 1981, with more than 60 sponsors. However, it was blocked by the Governor's office due to concern that it would be a usurpation of executive authority. Nevertheless, it was reintroduced as SB 1 at the start of the next session with even more sponsors. After months of wrangling, enough additional support was gathered, both inside and outside the Legislature, for the bill to be enacted in 1982 - and IRRC became a reality.

Due to the skepticism of some, the original legislation had to include a "sunset" provision requiring the reauthorization of IRRC after five years. But that initial 5-years had shown the regulated community the value of regulatory oversight. And their determined support for the Commission's continuation became pivotal in getting IRRC reauthorized.

The executive agencies also learned that IRRC did not intrude on their responsibilities; instead, it helped them with its independent reviews that were based on specific criteria within the legislation that had created the IRRC. Its independent status also reinforced its non-partisan role, a standard that has been respected from the beginning by all the Commissioners who have served here.

Even-handedness has always been employed by our very competent staff in doing its review work. And contrary to some earlier apprehensions, IRRC has not become a bloated bureaucracy; it fulfills its mission with a relatively small staff. All our Commissioners appreciate their constructive and objective work, along with the creative leadership of our Executive Director Kim Kaufman.

During 2006, our Regulatory Review division, led by Fiona Wilmarth, and our Outreach and Regulatory Services division, led by Mary Lou Harris, performed with a dedication and imagination that makes them so valuable to the Commission, the executive agencies, and the

## CHAIRMAN'S MESSAGE

regulated public. But it was also the year when our long-time Chairman Jack McGinley decided to retire, which all of us regret. His steady leadership and commitment to the IRRC caused the Commissioners to establish the "McGinley Conference Room," while also naming him Chairman Emeritus.

In 2007, we will continue our interaction with the regulating agencies in a spirit of cooperation, while soliciting their feedback on our process and our work product. Our website will continue to be improved in both its content and accessibility. And a new brochure to outline our process, along with a more detailed user's manual, should be made available by mid-summer.

At the time we were struggling to establish the IRRC, I believed it would fill an important need, but only experience could prove that. Fortunately, the value of IRRC is now generally recognized. In fact, the Council on State Governments has cited IRRC for exemplifying constructive "Innovation in State Government."

All of that has been gratifying, but I never expected to someday serve on this Commission. However, after I retired from the Legislature, the unexpected happened, allowing me to become involved in the valuable work this Commission is doing. On top of that, my fellow Commissioners chose to elect me to succeed Jack McGinley as their Chairman; a nice capstone for my long involvement with the IRRC.

In closing, I am pleased to report with great certainty that all of us who work at this Commission are dedicated to continuing the improvement of our service to the regulated community of Pennsylvania.



Chairman



## COMMISSIONERS, EXECUTIVE DIRECTOR & CHIEF COUNSEL

The Independent Regulatory Review Commission consists of five commissioners - one appointed by the Governor, one by the President Pro Tempore of the Senate, one by the Speaker of the House of Representatives, one by the Minority Leader of the Senate and one by the Minority Leader of the House of Representatives. A commissioner may not be a commonwealth employee or hold an elected or appointed position in Pennsylvania government.



### CHAIRMAN



#### **Alvin C. Bush**

Alvin C. Bush was appointed to the Commission in 1997 by The Honorable Robert Jubelirer, President Pro Tempore and reappointed in July 2000, October 2003 and November 2006. He was elected Vice Chairman in January 1998, reelected in January 2000, January 2002, and January 2004, and ascended to Chairman in May 2006.

He is a former member of the House of Representatives; District 84, Lycoming County. He is Chairman Emeritus, Pennsylvania College of Technology; Chairman Emeritus, Our Towns 2010; Member, Williamsport Lycoming Foundation Advisory Board; Member, Williamsport Community Arts Board and a newspaper columnist and resides nears Pennsdale, PA. He earned his BS from the University of North Carolina.



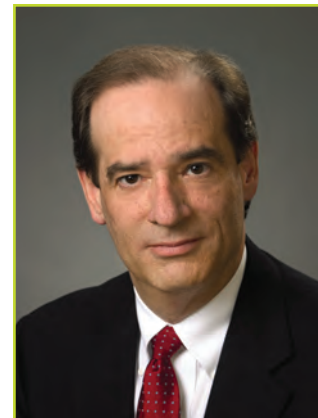
### COMMISSIONERS



#### **David M. Barasch**

David M. Barasch was appointed to the Commission in July 2006 by The Honorable H. William DeWeese, House Democratic Leader. He previously served as U.S. Attorney for the Middle District of Pennsylvania, as Special Assistant to Governor Robert P. Casey, and as the state's Consumer Advocate.

He is currently a partner with McNeese, Wallace & Nurick, LLC and resides in Harrisburg, PA. He earned his BA from State University of New York at Stony Brook, attended Harvard University Graduate School of Arts and Sciences and received his JD from Cornell University School of Law.



## COMMISSIONERS, EXECUTIVE DIRECTOR & CHIEF COUNSEL



### COMMISSIONERS *continued*



#### **Arthur Coccodrilli**

Arthur Coccodrilli was appointed to the Commission in 1996 by The Honorable Robert J. Mellow, Democratic Floor Leader, and reappointed in February 2000 and February 2003.

He is partner in the Snyder Granite Company and resides in Peckville, PA. He earned his BA in Political Science from Widener University.



#### **David J. DeVries**

David J. DeVries was appointed to the Commission in June of 2006 by The Honorable Edward G. Rendell, Governor. He most recently served as Executive Deputy General Counsel in the Governor's Office of General Counsel and previously as Chief Deputy Attorney General for Legal Review with the Office of Attorney General.

He earned his BA from Lafayette College, his MA from Penn State University, and his JD from Ohio State University College of Law. He resides in Camp Hill, PA.



#### **John F. Mizner**

John F. Mizner was appointed to the Commission in 1995 by The Honorable Thomas J. Ridge, Governor, and appointed in June 2005 by The Honorable John M. Perzel, Speaker of the House.

He is currently with Conner, Riley and Fryling and resides in Erie, PA. He earned his BA from St. Vincent College and his JD from the University of Pittsburgh School of Law.





## COMMISSIONERS, EXECUTIVE DIRECTOR & CHIEF COUNSEL



### COMMISSIONERS *continued*



#### **Murray Ufberg**

Murray Ufberg was appointed to the Commission in February 2003 by The Honorable Edward G. Rendell, Governor. Commissioner Ufberg resigned his Commission in March 2006.

He is currently a partner in Rosenn, Jenkins & Greenwald, L.L.P. and resides in Kingston, PA. He earned his BS from Bucknell University and his JD at Duquesne University.



#### **John R. McGinley, Jr.**

John R. McGinley, Jr. was appointed to the Commission in 1984 by The Honorable Edward P. Zempirelli, Senate Democratic Leader; reappointed in February 1986 and November 1988; appointed in March 1990 by the Honorable Robert P. Casey, Governor; appointed in October 1994 by the Honorable H. William DeWeese, Speaker of the House; reappointed in October 1997 and May 2003. He was elected Chairman in May 1988 through August 1989, and for successive terms beginning in October 1995 through June 2006.

Mr. McGinley resigned his Chairmanship of IRRC in May of 2006 and concluded his service with the Commission in June of 2006. His departure will allow him to address the ever-increasing demand for his time and talents.

He is currently a partner in the law firm of Eckert, Seamans, Cherin & Mellott and resides in Pittsburgh, PA. In addition to his busy law practice, Mr. McGinley is Director of Pittsburgh Steelers Sports, Inc. and Wilson-McGinley. He serves as Chairman of Ballymoney & Company and serves on the boards of Mercy Hospital Foundation, Pittsburgh Mercy Health System, St. Bonaventure University and Duquesne University Law Alumni Association.

It would be nearly impossible to overstate the influence that John McGinley, Jr. has had at the Commission in the more than twenty years of service and half of that time as Chairman. He oversaw the implementation of sweeping amendments to the Regulatory Review Act, each streamlining the process and increasing its transparency. And while the Commission has undoubtedly benefited from the considerable talents of all the Commissioners and staff who have served here, the standard of leadership and commitment exemplified by John McGinley, Jr. has left an indelible mark that will remain evident in the years to come.



## COMMISSIONERS, EXECUTIVE DIRECTOR & CHIEF COUNSEL



### EXECUTIVE DIRECTOR



#### **Kim Kaufman**

Kim Kaufman was appointed to the Commission in May 2005. Kim had 17 years of experience in state government working for the Department of Community and Economic Development, and served as the Executive Director of the Pennsylvania Economic Development Financing Authority (PEDFA) and the Pennsylvania Industrial Development Authority (PIDA). He also previously worked for P. Joseph Lehman Consulting Engineer and CENTECH - University of Pittsburgh, Johnstown Campus

He earned his BA in Government and MS in Public Administration from Shippensburg State College.

He resides in Dillsburg, PA and is married to the former Terri Docherty and has one son, John.



### CHIEF COUNSEL



#### **Mary S. Wyatte**

Mary S. Wyatte was appointed as the Commission's Chief Counsel in December 1993. Mary previously served as Deputy General Counsel for the Office of General Counsel and Assistant Counsel for the Department of State.

She earned her BA from Pennsylvania State University and her JD from Temple University School of Law.



## PERSONNEL



### Administrative Section

**Left to Right: Sitting:** Leslie A. Lewis Johnson, Deputy Chief Counsel; Kim Kaufman, Executive Director; Kathy Cooper, Administrative Assistant. **Standing:** Cheryl A. Yohn, Administrative Associate; Kristine M. Shomper, Director for Administration; Mary S. Wyatt, Chief Counsel (Not Shown in Picture).



### Regulatory Review Section

**Left to Right: Sitting:** Wanda B. Gelnett, Administrative Assistant; Fiona E. Wilmarth, Director of Regulatory Review. **Standing:** Regulatory Analysts Scott R. Schalles, Michael J. Stephens, James M. Smith, John H. Jewett.

## PERSONNEL



### Outreach and Regulatory Services Section

*Left to Right: Stephen F. Hoffman, Research Technician;  
Sarah E. Miller, Regulatory Services Analyst; Charlene Creitz, Intern;  
Mary Lou Harris, Director of Outreach and Regulatory Services.*



### Legal Section

*Left to Right: Leslie A. Lewis Johnson, Deputy Chief Counsel;  
Mary S. Wyattte, Chief Counsel.*

## YEAR IN REVIEW



In the past year, we have reviewed 137 proposed, final and final-omitted regulations. These regulations covered a broad spectrum of issues. Our reviews included regulations on Pennsylvania specific mercury standards, shellfish storage and processing requirements, alcohol highway safety measures, sexual assault emergency services, child care facilities standards for child day care providers and nine chapters of the Pennsylvania Gaming Control Board regulations. To carry out our activities our fiscal year appropriation in 05-06 was \$1,850,000 and \$2,050,000 for 06-07.



*IRRC Public Meeting*

IRRC also experienced staff changes during 2006. In March, we welcomed Kathy Cooper as an Administrative Assistant. In April, we bid farewell to Richard Sandusky who served IRRC since its inception in 1982. Rich had most recently held the position of Director of Regulatory Review and, at the time of his departure, marked nearly a generation of loyal service to the Commission. The recent creation of the Pennsylvania Gaming Control Board provided Rich with the opportunity to use his skills to help the new agency literally create its entire regulatory structure from scratch. Rich's many contributions to IRRC will be long felt and remembered. We wish him well.

After an extensive search for a new Director of Regulatory Review, the Commission made the choice to promote Regulatory Analyst Fiona Wilmarth to fill the position. Also in April, the Commission hired Leslie Lewis Johnson as our new Deputy Chief Counsel. Previous to her service to IRRC, Leslie was an attorney for the Pennsylvania State System of Higher Education.

2006 was the first year IRRC did courtesy reviews of draft proposals. This allows IRRC to provide early feedback to the promulgating agency that can ultimately enhance the clarity and accuracy of the formal proposed regulation. In total, we conducted 15 reviews of draft regulations. Of those drafts that IRRC reviewed, six have been subsequently submitted as proposed or final-omitted regulations. In 2006, we gave a variety



*Vince DeLiberato; Senior Attorney at the Legislative Reference Bureau lectures at Regulatory Writing Seminar*

of presentations and seminars to eight public organizations and 32 agencies (25 of which were State Boards), and conducted two legislative seminars. Through those presentations, we spoke with a total audience of more than 800.

In addition, we coordinated the Regulatory Writing Seminars with the Legislative Reference Bureau, the Office of General Counsel, and the Office of Attorney General. Approximately 75 agency and legislative staff attended. Attorneys who attended earned CLE credit.

IRRC also experienced staff changes during 2006. In March, we welcomed Kathy Cooper as an Administrative Assistant. In April, we bid farewell to Richard Sandusky who served IRRC since its inception in 1982. Rich had most recently held the position of Director of Regulatory Review and, at the time of his departure, marked nearly a generation of loyal service to the Commission. The recent creation of the Pennsylvania Gaming Control Board provided Rich with the opportunity to use his skills to help the new agency literally create its entire regulatory structure from scratch. Rich's many contributions to IRRC will be long felt and remembered. We wish him well.



*Executive Director Kim Kaufman speaks at IRRC seminar*

## YEAR IN REVIEW



In the fall of 2006, we participated in the Pennsylvania State System of Higher Education's "The Harrisburg Internship Semester" (THIS) and were the sponsors of an intern in our offices. THIS interns receive 15 credits and must write a research paper while serving their internship. We anticipate staying involved in the internship program.

We encourage you to check our website for useful documents and information. You can find copies of Commission comments on regulations, our docket listing proposed and final regulations currently under review, and upcoming public meeting dates and agendas. Announcements about regulatory review process seminars that are scheduled during the year can also be found on the website.

If you are interested in commenting on a regulation, our contact information is on the back cover of this publication and on our website. As part of our ongoing efforts to reduce paper use, we encourage email communication. Comments can be sent to us at [irrc@irrc.state.pa.us](mailto:irrc@irrc.state.pa.us). Since our process is bound by strict timeframes, please be mindful of the statutory deadlines that are listed on our docket. Please be aware that any comments on a regulation are a matter of public record.



*Harriett Dichter  
of DPW speaks  
to IRRC  
Commissioners*

We are in the process of updating and revising our regulatory process manual, which will contain a comprehensive explanation of the regulatory review process. In addition, a brochure titled, "An Introduction to IRRC" designed to be a general overview of our purpose and process was completed and will be available in the coming year.

We appreciate constructive criticism. This applies to our seminars, our website, and public meeting format. We welcome your suggestions for improving any of these items.



*Left to Right: Commissioner Mizner, Commissioner Coccodrilli, Executive Director Kaufman, Chairman Bush, Commissioner DeVries, Commissioner Barasch*

## YEAR IN REVIEW



*Commissioner DeVries sworn into office by the Honorable Yvette Kane*



*Sarah Miller speaking at IRRC seminar to the Hospital & Health Association of PA*

*Intern Charlene Creitz briefs IRRC Commissioners*



## FREQUENTLY ASKED QUESTIONS

### ▼ **What is the function of the Independent Regulatory Review Commission?**

The Commission reviews proposed and final regulations from Pennsylvania state agencies for consistency with the criteria contained in the Regulatory Review Act. The criteria include the statutory authority for the agency to promulgate the regulation, consistency with the statute which the regulation implements, the economic and fiscal impact of the regulation and the reasonableness of the regulation.

### ▼ **What regulations does the Commission review?**

The Commission reviews regulations from all Pennsylvania state agencies, except regulations from the Senate, the House of Representatives, the Pennsylvania Fish and Boat Commission, the Pennsylvania Game Commission, or any court of political subdivision.

### ▼ **How are Commissioners chosen for service?**

There are five members of the Commission, each of whom is appointed by a different appointing authority. The appointing authorities are the Governor, the President Pro Tempore of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives. A commissioner may not be a Commonwealth employee or hold an elected or appointed position in state government. To see a current list of Commissioners, visit our website at [http://www.irrc.state.pa.us/mem\\_staf.cfm](http://www.irrc.state.pa.us/mem_staf.cfm).

### ▼ **Where can I find proposed regulations?**

The Legislative Reference Bureau publishes all proposed regulations in the *Pennsylvania Bulletin*. The publication of the proposed regulation contains a preamble which explains the proposal, as well as the address where public comments may be sent. Generally, the public comment period lasts for 30 days.

### ▼ **What are the standing committees of the General Assembly?**

Both the House of Representatives and the Senate form committees of its members to oversee specific subject and policy matters. One of the functions of a standing committee includes the review of regulations. (For example, the House and Senate Transportation committees review PENNDOT regulations.) The committee assignments and schedules can be found on the General Assembly's website at <http://www.legis.state.pa.us/cfdocs/legis/home/sitemap.cfm>.

### ▼ **What is the difference between the proposed rulemaking stage and the final-form rulemaking stage?**

During the proposed rulemaking stage the public, the standing committees, and the Commission may submit comments on an agency's proposal. The proposed rulemaking stage allows individuals to provide the agency with suggestions on how the regulation may be improved. During the final-form stage, the committees and the Commission may vote to approve or disapprove the final regulation. Members of the public are also provided the opportunity to comment on the final regulation at the Commission's public meeting.

### ▼ **Is there a time period for an agency to return a proposed regulation as a final-form regulation?**

Yes. The agency has two years from the close of the public comment period to submit a final-form regulation. If the agency fails to meet this deadline, the regulation is considered withdrawn and the review process is concluded.



## FREQUENTLY ASKED QUESTIONS

### ▼ **How will I know if an agency submitted a final-form regulation to the Commission and the committees?**

All individuals who submit comments on a proposed regulation will receive notice from the agency on how it can obtain information on the final version. When the agency submits the final-form regulation to the Commission and the committees, it must also send copy of the final-form regulation or a summary of changes to the regulation to those who requested information.

### ▼ **Is it possible to provide comments on a final regulation?**

Yes. The Commission will review comments on a final regulation up to 48 hours prior to the beginning of the Commission's public meeting. Comments received after this time will be embargoed until the public meeting, unless those comments were submitted at the request of the Commission. If you wish to provide comments on a final regulation, you should contact the Commission office (or visit our website at <http://www.irrc.state.pa.us>) to learn the date of the public meeting when the regulation will be considered.

### ▼ **What is the best manner to provide written comments to the Commission on a final regulation?**

The Commission accepts written comments on final regulations by first class mail, fax or email. Emailed comments should be addressed to [irrc@irrc.state.pa.us](mailto:irrc@irrc.state.pa.us). The Commission's mailing address is: 333 Market Street, 14th Floor, Harrisburg, PA 17101; the fax number is (717) 783-2664. All comments should be received at least 48 hours prior to the Commission's public meeting.

### ▼ **What is tolling?**

Tolling allows an agency to request a 30-day "hold" in the process to make changes to a final regulation after it has been submitted to the Commission and committees. The agency may make only those changes recommended by the Commission and/or committees. Tolling may only occur prior to the expiration of the standing committees' 20-day review period. Review of the regulation will resume when the agency delivers to the Commission and the committees, within the 30-day tolling period, either the revised regulation or written notification that the regulation will not be revised. If the agency does not meet this 30-day deadline, the regulation is deemed withdrawn.

### ▼ **What is a Regulatory Analysis Form and where can I find it?**

The Regulatory Analysis Form, or RAF, is an informational form that accompanies all regulations submitted to the Commission and committees. The RAF identifies the pertinent background information the agency is required to provide under Section 5(a) of the Regulatory Review Act, including statutory authority, estimates of costs or savings, recordkeeping requirements and affected groups. The agency must also acknowledge whether the requirements imposed by the regulation are more stringent than those established under federal standards. Although the RAF is not published in the *Pennsylvania Bulletin* with the proposed or final regulation, the document is available from the agency and the Commission. An example of the RAF can be found on the following page and a template can be found on our website at <http://www.irrc.state.pa.us/RAF.PDF>.

## PROPOSED REGULATIONS



The chart on the following pages lists the proposed regulations that the Commission received during the year 2006.

Of the 61 proposed regulations received in 2006, 18 have been delivered in final-form stage as of December 31, 2006. Regulations submitted as proposed before January 1, 2006, which then moved to the final-form stage before December 31, 2006, are listed in the Final Regulations section, beginning on page 27.

There are two ways that proposed regulations may be withdrawn from the review process. The first is by operation of law. Pursuant to Section 5.1(a) of the Regulatory Review Act, an agency has two years from the date of the close of the public comment period to submit the regulation in final-form. If the agency does not submit the final-form regulation within the two-year window, it is deemed withdrawn. The second is by agency action. At anytime during the two-year window, the promulgating agency may withdraw a proposed regulation. In the year 2006, four regulations were deemed withdrawn, ten were withdrawn by the agency (WPA). Of those regulations withdrawn by the agency, only two have time remaining in the two-year window to be brought back in final-form.

The Commission submitted comments on 37 of the 61 proposed regulations received in 2006. For the remaining 24 regulations, 13 did not conflict with the criteria for review contained in the Regulatory Review Act, and comments were not submitted. Comments are due in 2007 for 11 of these regulations.

The chart is organized by agency and includes the department code and regulation number, the title of the regulation, the Commission's internal regulation number, a brief description of the regulation, and the date the Commission filed comments with the agency.

### Following is an explanation of the action codes in this section:

**NONE** - Commission did not submit comments.

\* - Final-form regulation delivered in 2006.

**OPEN** - Regulation received with action due in 2007.

**WPA** - Withdrawn Prior to Action - A regulation submitted as a proposed, final-form or final-omitted, but withdrawn prior to Commission action. A withdrawn proposed regulation may be submitted as a new proposed or final-omitted at any time. A withdrawn final-form may be submitted as a new final-form within two years after the close of the public comment period on the proposed form. A withdrawn final-omitted may be resubmitted as a new final-omitted at any time.

## PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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### **Board of Probation and Parole**

10/11/06	#41-18	County Probation and Parole Officers' Firearm Education and Training Commission	#2506	12/27/06
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Establishes procedures for county probation and parole officers to be certified to carry a firearm.

### **Department of Agriculture**

12/07/05	#2-150	Commercial Manure Hauler and Broker Certification	#2513	03/20/06*
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Establishes training, examination and certification criteria for commercial manure haulers and manure brokers.

02/13/06	#2-151	Shellfish	#2526	04/26/06*
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Updates procedures and requirements for processing, transportation, storage and sale of shellfish.

12/06/06	#2-152	Dog Law Enforcement	#2559	OPEN
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Establishes specific and stringent kennel requirements to advance implementation of the Dog Law and augment protection of dog health, safety and welfare.

### **State Horse Racing Commission**

04/24/06	#34-65	Pennsylvania Breeding Fund Program	#2536	NONE*
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Establishes Pennsylvania Breeding Fund Program awards in regulation as required by statute and revises definitions.

## PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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### Department of Community and Economic Development

11/22/05	#4-82	Manufactured Housing Improvement Program	#2507	02/22/06*
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Implements the requirements of the Manufactured Housing Improvement Act including installation standards and training requirements for those who install and inspect manufactured housing.

01/23/06	#4-84	Manufactured Housing	#2521	04/05/06*
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Establishes the fees for following inspections or monitoring services and makes a few minor house-keeping amendments.

07/07/06	#4-85	Industrial Housing and Components	#2554	NONE
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Amends existing regulations to conform with energy efficiency requirements consistent with the PA Construction Code Act & reduces the number of inspections by the Department.

### Department of Corrections

06/09/06	#19-7	County Correctional Institutions	#2544	08/23/06
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Updates outdated regulations, makes minimum standards consistent with recognized professional standards, codifies the declassification procedures of county prisons with noncompliance issues and amends the inspection process; outlines the approved program review process and establishes the technical institute program standards.

### Department of Education

01/20/06	#6-298	Vocational Education	#2520	04/05/06
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Identifies the accountability standard for approved career technical education programs, outlines the approved program review process and establishes the technical institute program standards.

06/20/06	#6-300	Keystone Educational Accountability Best Management Practices Standards	#2550	08/30/06
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Establishes best management practice standards to be used to measure school district practices under the Keystone Educational Accountability program.

## PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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### **Department of Education** *continued*

#### **State Board of Education**

09/26/05	#6-295	Academic Standards and Assessment	#2499	01/04/06
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Updates academic standards regarding instruction, graduation, strategic planning and assessment.

09/26/05	#6-296	Academic Standards and Assessment and Work	#2500	01/04/06*
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Amends Chapter 4 to add academic standards in Career and Education Work.

10/27/05	#6-297	Higher Education General Provisions	#2506	01/11/06*
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Updates and clarifies existing regulations for postsecondary Institutions; adds provisions for "distance education."

06/02/06	#6-301	Prekindergarten	#2543	08/16/06*
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Amends existing regulations to establish standards and criteria for prekindergarten programs operated by school districts or community agencies under contract with school districts.

06/19/06	#6-302	Foreign Corporation Standards	#2548	08/30/06
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Establishes the requirements for the operation of post-secondary degree-granting institutions in the Commonwealth that are chartered in another state or country.

11/08/06	#6-303	Certification of Professional Personnel	#2583	OPEN
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Amends teaching certificates for professional personnel in public schools.

### **Department of Environmental Protection**

#### **Environmental Quality Board**

01/31/06	#7-398	Pennsylvania Clean Vehicles Program	#2523	05/12/06*
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Updates and clarifies adoption of California regulations (CARB) for automobile emissions and postpones compliance with CARB's CA LEV II until the 2008 model year.

## PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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### Department of Environmental Protection *continued*

#### Environmental Quality Board *continued*

04/07/06	#7-395	Administration of the Storage Tank and Spill Prevention Act	#2532	07/31/06
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Makes comprehensive and minor editorial changes to existing regulations on the administration of the storage tank and spill prevention program.

04/13/06	#7-399	Nonattainment New Source Review	#2535	08/30/06
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Comprehensive revision retaining provisions more stringent than federal regulations.

06/16/06	#7-405	Standards for Contaminants; Mercury	#2547	09/25/06*
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Establishes Pennsylvania specific mercury emission control limits for coal-fired electric generating units.

07/19/06	#7-401	Coal Mine Reclamation Fees and Reclamation of Bond Forfeiture Sites	#2557	NONE
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Amends provisions relating to reclamation fees and to requirements for the reclamation of coal mined lands where the bonds had been forfeited.

08/17/06	#7-400	Mine Opening Blasting	#2560	11/01/06
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Clarifies that blasting at mine openings is a surface mining activity and other requirements including licensing, scheduling of blasting and protective measures.

11/02/06	#7-402	Radiological Health	#2582	OPEN
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Corrects references to federal rules and clarifies or modifies provisions related to civil penalties, definitions, healing arts screening requirements and attestation requirements for radon services.

11/17/06	#7-403	Water Resources Planning	#2585	OPEN
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Specifies who is required to register, keep records and report information regarding withdrawals of water and the information that is reported to DEP.

12/07/06	#7-406	Notification of Proximity to Airports	#2587	OPEN
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Amends the definition of airport to include military airports and requires notification if a waste transfer facility will be opened or expanded within 6 miles of an airport.

## PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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### Department of Health

10/11/06	#10-182	Sexual Assault Victim Emergency Services	#2577	12/20/06
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Establishes requirements for hospitals that provide sexual assault emergency services.

### Department of Labor and Industry

05/26/06	#12-72	Medical Cost Containment	#2542	08/09/06
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Updates requirements and procedures for reimbursement and review of medical treatment for work-related injuries under the Workmen's Compensation Act.

07/10/06	#12-71	Registration of Sign Language Interpreters and Transliterators	#2556	09/20/06
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Implements the Sign Language Interpreter and Transliterators State Registration Act of 2004 requiring interpreters and transliterators to register with the Department and sets registration and fee requirements.

### Department of Public Welfare

05/23/06	#14-506	Child Care Facilities	#2539	08/02/06*
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Comprehensive update and revision of requirements and standards for child day care providers including protections for children with special needs.

06/19/06	#14-505	Child Care	#2549	08/30/06*
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Updates existing child care subsidy regulations for working families in Temporary Assistance for Needy Families, and extends subsidies to families in General Assistance and Food Stamp programs.

06/20/06	#14-504	Licensure/Approval Appeal Procedure	#2552	09/06/06
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Updates and simplifies the certification appeal process across all certified human services programs.

### Department of Revenue

10/21/05	#15-429	Realty Transfer Tax Amendments	#2503	01/04/06
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Addresses numerous legislative changes and brings regulatory provisions into conformity with departmental policy.

## PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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### Department of Revenue *continued*

12/02/05	#15-430	Revision of Construction Contractors; Sales Tax Requirements	#2508	02/16/06
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Deletes certain regulations pertaining to sales tax requirements for construction contractors and inserts those regulations into more appropriate sections of the Code.

### Department of State

#### State Board of Certified Real Estate Appraisers

05/17/06	#16A-7014	Federally Mandated Education Criteria	#2537	07/26/06
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General revisions including updates to comply with Federal requirements, updates to education requirements and changes to improve clarity of the regulation.

#### State Board of Chiropractic

09/20/06	#16A-4313	Patient Records	#2568	11/29/06
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Makes an amendment to establish the information required to document clinical necessity.

#### State Board of Cosmetology

03/08/06	#16A-4511	Accreditation of Licensed Schools	#2528	05/17/06*
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Clarifies that a licensed cosmetology school must submit proof that it is also accredited by a nationally recognized accrediting agency.

03/08/06	#16A-4513	Removal of Term "Manager"	#2529	NONE*
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Removes the term "manager" and all references to a cosmetology shop manager from the Board's regulations.

#### State Board of Dentistry

10/04/06	#16A-4618	Sexual Misconduct	#2573	12/20/06
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Requires sexual misconduct between certificateholders and current patients to be considered unprofessional conduct and subjects the practitioner to disciplinary action.



## PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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### Department of State *continued*

#### State Board of Medicine

10/26/05	#16A-4916	Physician Assistants	#2505	01/04/06*
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Updates regulations to reflect current medical practice including written agreements, prescribing and dispensing drugs and recognized education programs.

03/08/06	#16A-4915	Athletic Trainers	#2527	05/17/06
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Provides for certification of athletic trainers and establishes procedures for certification and protocols for practice.

#### State Board of Occupational Therapy

09/20/06	#16A-676	Orders	#2567	NONE
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Delineates the standards and requirements for both written and oral orders.

#### State Board of Physical Therapy

09/20/06	#16A-6511	Biennial Renewal Fees	#2566	NONE
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Increases the biennial renewal fees for physical therapists, physical therapist assistants and holders of certificates to practice physical therapy without a referral.

#### State Board of Vehicle Manufacturers, Dealers and Salespersons

12/05/06	#16A-6010	Biennial Renewal Fees	#2586	OPEN
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Increases all biennial license renewal fees.

#### State Board of Veterinary Medicine

09/20/06	#16A-5719	Recordkeeping	#2565	11/29/06
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Amends existing regulations to further specify the requirements for veterinary medical records made by the Board's licensees.

03/08/06	#16A-5717	Biennial Renewal Fees	#2497	NONE*
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Increases the biennial renewal fee for licensed veterinarians and veterinary technicians.

09/20/06	#16A-5716	Certified Veterinary Technician Specialists	#2530	05/17/06
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Amends the code of ethics for certified veterinary technicians to prohibit making "a false, deceptive or misleading statement or claim."

## PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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### Department of Transportation

12/05/05	#18-405	Mechanical, Electrical and Electronic Speed-Timing Devices	#2509	12/28/05 WPA
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Allows State Police to use “Moving Radar” and “Lidar.”

12/06/05	#18-404	Flashing or Revolving Lights on Emergency and Authorized Vehicles	#2510	02/16/06
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Updates requirements and standards for flashing or revolving lights.

06/21/06	#18-407	Prequalification of Bidders	#2553	NONE*
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Deletes the prequalification requirement for Rest Area Structures and Buildings to attract a greater number of bidders.

11/13/06	#18-408	Roadside Rest Area	#2584	OPEN
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Updates and clarifies conditions and activities not permitted at roadside rest areas and facilities.

### Insurance Department

01/13/06	#11-228	Minimum Reserve Standards for Individual and Group Health and Accident Insurance Contracts	#2518	NONE*
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Updates and revises standards for calculating the minimum reserves for health and accident insurance and long-term care insurance, clarifies provisions and deletes duplicate, outdated or unnecessary language.

01/13/06	#11-227	Credit Life Insurance and Credit Accident and Health Insurance	#2517	NONE*
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Updates mortality table used to calculate minimum reserves, clarifies provisions and deletes duplicate, outdated or unnecessary language.

06/15/06	#11-225	Property and Casualty Actuarial Opinion	#2545	08/30/06
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Adds a new chapter with requirements and standards for filing of statements of actuarial opinion by property and casualty insurers.

## PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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### **Milk Marketing Board**

09/07/06	#47-12	Refrigeration Equipment Records and Reports	#2564	11/22/06
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Provides a method to allow milk dealers to sell or lease refrigeration equipment to wholesale customers through a charge added to the minimum milk prices.

### **Pennsylvania Gaming Control Board**

08/28/06	#125-45	General and Operative Provisions; Board Procedures	#2561	11/09/06
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Implements Chapter 401 (Preliminary Provisions), Chapter 403 (Board Operations and Organization), Chapter 405 (Bureau of Investigation and Enforcement) and Chapter 407 (Public Access to Board Files).

08/28/06	#125-46	Recordkeeping and Fees	#2562	11/09/06
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Implements Chapter 451 (Recordkeeping Requirements and Chapter 471 (Filing Fees).

08/28/06	#125-47	Diversity	#2563	11/09/06
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Implements Chapter 481(Diversity).

09/27/06	#125-48	Slot Machine Testing and Control; Possession of Slot Machines	#2572	12/27/06
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Creates testing and approval requirements for slot machines and related equipment as well as provisions governing the possession of those slot machines.



*Mohegan Sun at Pocono Downs*



*Penn National Construction Site*

## PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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### **Pennsylvania Gaming Control Board** *continued*

10/25/06	#125-49	Accounting and Internal Controls; Slot Computer Systems; Commencement of Slot Operations	#2581	OPEN
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Establishes accounting and internal control requirements for slot machine licensees and deletes interim regulations.

12/19/06	#125-53	General Rules of Practice	#2588	OPEN
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Implements Chapter 491 (General Rules of Practice).

### **Pennsylvania Public Utility Commission**

12/07/05	#57-238	Gas Service; Safety Code	#2511	NONE*
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Modifies current language so that future amendments to 49 CFR Parts 191-193 and 199 are automatically adopted by the PUC.

12/07/05	#57-239	Regulation of Interexchange Carriers and Services	#2512	03/02/06
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Implements the provisions of Act 183 of 2004 eliminating the requirement that telecommunications carriers must file tariff or price lists for intrastate competitive services.

01/19/06	#57-244	Alternative Energy Portfolio Standards	#2519	05/05/06*
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Establishes net metering requirements in accordance with the Alternative Energy Portfolio Standards Act (Act 213 of 2004).

02/09/06	#57-245	Alternative Energy Portfolio Standards; Interconnection Standards for Customer-Generators	#2524	05/26/06*
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Establishes procedures for "customer generators" to connect to utility distribution links.

04/11/06	#57-242	Extended Area Service	#2534	07/06/06
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Establishes when Extended Area Service may convert instate toll calling areas to a local call.

04/11/06	#57-247	PUC Filing and Reporting Requirements on Local Exchange Carriers	#2533	NONE*
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Streamlines the Local Exchange Carrier reporting requirements by eliminating certain reports.

## PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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### **Pennsylvania Public Utility Commission** *continued*

09/27/06	#57-248	Inspection and Maintenance Standards for the Electric Distribution Companies	#2571	OPEN
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Establishes minimum inspection, maintenance, repair and replacement standards for infrastructure (poles, wires, conduits and other fixtures).

09/27/06	#57-249	Service Interruptions	#2570	12/13/06
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Adds a definition of “service interruption” for water utilities.

09/27/06	#57-252	Implementation of the Alternative Energy Portfolio Standards Act of 2004	#2569	OPEN
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Establishes alternative energy portfolio standards including the encouragement of a greater reliance on alternative energy sources and the creation of opportunities for net metering of small alternative energy systems.

### **Pennsylvania Securities Commission**

06/20/06	#50-120	Recision of Forms and Other Amendments	#2551	NONE*
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Deletes obsolete provisions and out-dated forms, and updates existing provisions.

### **Pennsylvania State Police**

#### **Municipal Police Officers’ Education and Training Commission**

07/10/06	#17-73	Administration of the Training Program	#2555	NONE
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Amends existing provisions to be consistent with current medical practice by allowing physicians’ assistants and certified nurse practitioners to perform required physicals.

### **State Employees’ Retirement System**

08/11/06	#31-6	Appeal Period	#2558	10/25/06
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Specifies a 30-day period to appeal administrative decisions to the Board.

## FINAL REGULATIONS



The chart on the following pages lists the 62 final-form and 14 final-omitted regulations submitted to the Commission in the year 2006.

The regulations are listed by agency and include the department code and regulation number, the title of the regulation, the Commission's internal regulation number, a brief description of the regulation, the date received and/or resubmitted, the date the Commission filed comments with the agency, and the Commission's final action code and date. We have marked "N/A" in the Comments Filed column for final-omitted regulations and "None" for final-form regulations that we did not comment on during the proposed stage.

### Following is an explanation of the action codes in this section:

**APP** - Approved - The final regulation was approved upon initial consideration.

**ABL** - Approved by Law - The final regulation was deemed 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.

**AAW** - Approved After Withdrawn - Applies to regulations which were withdrawn, resubmitted and approved with Commission's first vote.

**OPEN** - Regulation received with action due in 2007.

**TIE** - IRRC Vote ends in a Tie and Fails to Act on Final - Section 5.1(e).

**WPA** - Withdrawn Prior to Action - A regulation submitted as a proposed, final-form or final-omitted, but withdrawn prior to Commission action. A withdrawn proposed regulation may be submitted as a new proposed or final-omitted at any time. A withdrawn final-form may be submitted as a new final-form within two years after the close of the public comment period on the proposed form. A withdrawn final-omitted may be resubmitted as a new final-omitted at any time.

**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.

## FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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### **Board of Pardons**

02/09/06	#56-3	Representation of Applicant	#2525	N/A	03/21/06 APP
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Clarifies that persons who are unable to apply for clemency due to mental incompetence or mental disability may be represented by a legal guardian, next friend or other person authorized by law to act on behalf of the applicant.

### **Department of Agriculture**

04/24/06	#2-143	Chemsweep Pesticide Disposal Program	#2487	09/14/05	06/01/06 APP
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Revises and expands the disposal program.

07/21/06	#2-151	Shellfish	#2526	04/26/06	09/07/06 APP
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Updates procedures and requirements for processing, transportation, storage and sale of shellfish.

11/02/06	#2-150	Commercial Manure Hauler and Broker Certification	#2513	03/20/06	11/30/06 APP
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Establishes training, examination and certification criteria for commercial manure haulers and manure brokers.

### **State Conservation Committee**

02/16/06	#7-390	Nutrient Management	#2413	03/21/06	11/30/06 APP
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Amends the existing regulations to reflect current scientific and programmatic findings relating to on-farm loss of nutrients.

### **State Horse Racing Commission**

08/14/06	#34-65	Pennsylvania Breeding Fund Program	#2536	NONE	09/06/06 ABL
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Establishes Pennsylvania Breeding Fund Program awards in regulation as required by statute and revises definitions.

## FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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### Department of Community and Economic Development

05/24/06	#4-86	Building Energy Conservation Standards	#2540	N/A	07/06/06 APP
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Deletes existing Chapter 147 of Title 12 Pa. Code dealing with administrative proceedings and energy conservation standards since the enabling statute was repealed and replaced by the Pennsylvania Construction Code Act.

07/18/06	#4-84	Manufactured Housing	#2521	04/05/06	08/10/06 APP
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Establishes the fees for following inspections or monitoring services and makes a few minor house-keeping amendments.

### Department of Education

#### State Board of Education

04/21/06	#6-293	Certification of Professional Personnel	#2502	12/28/05	06/01/06 APP
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Updates certification requirements for teachers, student services personnel, school administrators and other professional personnel.

04/21/06	#6-296	Academic Standards and Assessment for Career Education and Work	#2500	01/04/06	06/01/06 APP
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Amends Chapter 4 to add academic standards in Career Education and Work.

05/01/06	#6-297	Higher Education General Provisions	#2506	01/11/06	06/01/06 APP
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Updates and clarifies existing regulations for postsecondary Institutions; adds provisions for “distance education.”

06/02/06	#6-301	Prekindergarten	#2543	08/16/06	11/16/06 APP
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Amends existing regulations to establish standards and criteria for prekindergarten programs operated by school districts or community agencies under contract with school districts.



## FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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### Department of Environmental Protection

#### Environmental Quality Board

11/23/05	#7-393	Hazardous Waste Management System; Proposed Exclusion for Identification and Listing Hazardous Waste	#2451	02/02/05	01/05/06 APP
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Grants a delisting to MAX Environmental Technologies, Inc. that would allow Electric Arc Furnace Dust to not be treated as a hazardous waste.

09/21/06	#7-398	Pennsylvania Clean Vehicles Program	#2523	05/12/06	11/02/06 APP
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Updates and clarifies adoption of California Air Resources Board (CARB) for automobile emissions and postpones compliance with CARB's CA Low Emission Vehicle II until the 2008 model year.

10/17/06	#7-405	Standards for Contaminants; Mercury	#2547	09/25/06	11/16/06 APP
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Establishes a Pennsylvania specific mercury emission control limit for coal-fired electric generating units.

*Homer City, Edison Mission Energy*

10/25/06	#7-397	Stream Redesignations, (Newtown Creek, et al.)	#2489	NONE	11/29/06 ABL
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Changes the designations of six water bodies and corrects a typographical error.

## FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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### Department of General Services

10/05/06	#8-11	Distribution of Federally Donated Foods to Needy Households	#2574	N/A	11/16/06 APP
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Deletes three obsolete chapters that address the procedures and guidelines for the distribution of federally donated foods to needy households.

### Department of Labor & Industry

03/16/06	#12-68	Qualifications for Vocational Experts	#2485	09/07/05	04/18/06 WPA
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Amends the minimum qualifications for vocational experts and establishes ethical rules and financial interest disclosure standards.

10/20/06	#12-75	Training and Certification Requirements for Code Administrators Administration Elevators and Other Lifting Devices	#2580	N/A	11/30/06 APP
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Updates the Uniform Construction Code by incorporating seven statutory amendments.

### Department of Public Welfare

01/10/06	#14-503	Low Income Home Energy Assistance Program Appeal Procedure	#2516	N/A	02/16/06 APP
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Temporarily expands the eligibility requirements for the Low Income Home Energy Assistance Program through June 30, 2006.

09/13/06	#14-488	Medical Assistance Provider	#2416	10/13/04	10/19/06 APP
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Implements Act 142 of 2002, establishes rules, standards and procedures to be used when Medical Assistance providers challenge DPW decisions.

11/08/06	#14-505	Child Care	#2549	08/30/06	10/18/06 WPA
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Updates existing child care subsidy regulations for working families in Temporary Assistance for Needy Families, and extends subsidies to families in General Assistance and Food Stamp programs.

11/30/06* AAW
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## FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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### **Department of Public Welfare** *continued*

10/03/06	#14-506	Child Care Facilities	#2539	08/02/06	10/18/06 WPA
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Comprehensive update and revision of requirements and standards for child day care providers including protections for children with special needs.

03/23/04	#14-481	Payment for Burial	#2395	06/02/04	05/03/06 W2Y
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Increases the payment to funeral directors for burial services to \$750 for all eligible individuals.

08/03/04	#14-483	Metropolitan Statistical Area	#2414	10/13/04	09/13/06 W2Y
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Changes the manner in which the Department establishes the peer groups used to set net operating prices under the case-mix payment system.

08/03/04	#14-486	MA Day of Care Definition	#2415	10/13/04	09/13/06 W2Y
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Amends the "MA Day of Care" definition to include care by MAMCO and LTCCAP providers.

### **Department of Revenue**

12/13/05	#15-431	Proof Required to Establish Credit	#2514	N/A	02/02/06 APP
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Deletes the word "signed" from existing requirement for "signed" different copies of state tax returns as proof.

04/07/06	#15-426	Sales and Use Tax; Prebuilt Housing	#2446	01/19/05	04/07/06 WPA
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Codifies changes to taxation of prebuilt housing.

05/04/06 AAW
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04/05/06	#15-435	Terminal-Based Lottery Games	#2531	N/A	05/04/06 APP
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Establishes procedures and standards for publishing notices in the Pennsylvania Bulletin to start new terminal-based lottery games like Match 6, Cash 5 or Powerball.

## FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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### **Department of Revenue** *continued*

05/26/06	#15-425	Local Option Small Games of Chance	#2438	12/08/04	07/06/06 APP
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Amends the Department's regulations on small games of chance.

10/11/06	#15-439	School District Personal Income Tax	#2575	N/A	11/16/06 APP
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Implements the provisions of the Taxpayer Relief Act of 2006, to provide uniform rules for the levy, implementation, administration, assessment and collection of school district personal income tax.

10/18/06	#15-440	Organ and Bone Marrow Donor Tax Credit	#2579	N/A	11/16/06 APP
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Implements portions of Act 65 of 2006 to establish a business tax credit for multi-state business firms that permit an employee to miss work to donate an organ or bone marrow.

### **Department of State**

#### **Bureau of Professional and Occupational Affairs**

11/02/06	#16-32	Schedule of Civil Penalties	#2435	12/08/04	11/30/06 APP
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Amends civil penalty schedules for the violation of licensure laws and regulations.

#### **State Board of Auctioneer Examiners**

01/30/06	#16A-646	Corrective Amendment to Schedule of Fees	#2522	N/A	03/21/06 APP
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Corrects the official text of the Board's regulations pertaining to schedule of fees.

#### **State Board of Cosmetology**

09/15/06	#16A-4513	Removal of Term "Manager"	#2529	NONE	10/18/06 ABL
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Removes the term "manager" and all references to a cosmetology shop manager from the Board's regulations.

## FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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### **Department of State** *continued*

#### **State Board of Cosmetology** *continued*

11/02/06	#16A-4511	Accreditation of Licensed Schools	#2528	05/17/06	11/30/06 APP
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Clarifies that a licensed cosmetology school must submit proof that it is also accredited by a nationally recognized accrediting agency.

#### **State Board of Examiners in Speech – Language and Hearing**

01/20/06	#16A-6802	Continuing Education	#2406	08/18/04	03/21/06 APP
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Requires licensed speech-language and hearing professionals to complete 20 hours of continuing education for each biennial renewal period.

#### **State Board of Examiners of Nursing Home Administrators**

02/23/06	#16A-6210	Biennial Renewal Fees	#2469	06/22/05	04/19/06 APP
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Raises the biennial renewal fee for nursing home administrator licensees.

#### **State Board of Landscape Architects**

05/25/06	#16A-618	General Revisions	#2470	06/22/05	07/06/06 APP
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Deletes references to the specific Board-approved licensure exam, conforms the regulations to actual Board procedures, deletes unnecessary provisions and clarifies existing provisions.

#### **State Board of Medicine**

11/28/05	#16A-4917	Licensure of Medical Doctors	#2420	11/03/04	01/05/06 APP
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Amends requirements to license graduates of foreign medical schools and for licensure by endorsement.

05/25/06	#16A-4921	Respiratory Care Continuing Education	#2494	12/07/05	07/06/06 APP
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Defines the requirements for continuing education of respiratory care practitioners.

## FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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### Department of State *continued*

#### State Board of Medicine *continued*

09/15/06	#16A-4916	Physician Assistants	#2505	01/04/06	10/19/06 APP
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Updates regulations to reflect current medical practice, including written agreements, prescribing and dispensing drugs and recognized education programs.

#### State Board of Nursing

11/28/05	#16A-5121	Temporary Practice Permits	#2425	11/03/04	12/12/05 WPA
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Establishes standards and procedures for granting temporary practice permits to qualified nurses who are licensed by another state or country.

02/23/06	#16A-5119	Certified Registered Nurse Practitioner Program Approval	#2426	11/03/04	04/19/06 APP
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Sets forth requirements and standards for approval of certified registered nurse practitioner programs.

02/23/06	#16A-5120	Dietitian-Nutritionists	#2457	04/13/05	04/19/06 APP
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Implements Act 99 of 2002 providing for the application, licensure and conduct of dietician and nutritionists.

03/16/06	#16A-5127	Fees for Approval of Nursing Education Program	#2495	NONE	04/18/06 ABL
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Increases fees to cover the Board's costs in evaluating and approving applications for nursing education programs.

## FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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### Department of State *continued*

#### State Board of Osteopathic Medicine

03/16/06	#16A-5315	Deletion of Exam Fees	#2480	NONE	04/18/06 ABL
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Deletes references to six examination fees and a reference to dates certain examinations are administered.

09/15/06	#16A-5317	Respiratory Therapists	#2496	12/07/05	10/19/06 APP
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Defines the requirements for continuing education for the practice of respiratory therapists.

#### State Board of Pharmacy

11/28/05	#16A-5410	Technology and Automation	#2405	08/18/04	12/09/05 WPA
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Permits electronic transmission and storage of prescriptions and also sets standards for centralized prescription processing and automated medication systems.

04/13/05	#16A-5412	Drug Therapy and Injectable Medications, Biologicals and Immunizations	#2437	12/08/04	05/18/06 APP
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Implements amendments to the Pharmacy Act to allow certain pharmacists to administer injectable medications, biologicals and immunizations.

#### State Board of Podiatry

03/17/06	#16A-447	Professional Liability Insurance	#2424	11/03/04	04/19/06 APP
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Eliminates references to the repealed Health Care Services Malpractice Act and replaces them with references to the Mcare Act.

01/20/04	#16A-448	Sexual Misconduct	#2381	03/31/04	03/01/06 W2Y
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Establishes what will be considered sexual misconduct for Podiatrists.

## FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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### Department of State *continued*

#### State Board of Psychology

02/23/06	#16A-6313	Education Requirements	#2422	11/03/04	04/19/06 APP
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Requires applicants for doctoral degree programs in psychology to graduate from schools that are accredited by the American Psychology Association, Canadian Psychological Association or designated by ASPPB/National Register.

#### State Board of Social Workers, Marriage/Family Therapists and Professional Counselors

05/25/06	#16A-691	Sexual Misconduct	#2419	11/03/04	07/06/06 APP
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Establishes prohibitions against sexual misconduct by licensees in the context of the licensee's professional relationship with a patient.

09/15/06	#16A-6910	Child Abuse Reporting Requirements	#2498	12/07/05	10/19/06 APP
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Establishes child abuse reporting requirements for marriage and family therapists and professional counselors.

11/02/06	#16A-6912	Continuing Education	#2479	06/30/05	11/30/06 APP
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Adds continuing education requirements for clinical social workers, professional counselors and marriage and family therapists.

#### State Board of Vehicle Manufacturers, Dealers and Salespersons

11/28/05	#16A-608	Protest Proceedings	#2471	06/22/05	01/05/06 APP
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Establishes provisions to supplement the General Rules of Administrative Practice and Procedure regarding protest matters.

#### State Real Estate Commission

05/25/06	#16A-5611	Seller Property Disclosure Statement	#2541	N/A	06/13/06 WPA
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Adds seller property disclosure statement requirement to regulation.



## FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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### Department of Transportation

02/23/06	#18-396	Proportional Registration of Fleet Vehicles	#2432	NONE	04/18/06 ABL
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Establishes rules and procedures to implement bilateral agreements and the International Registration Plan for the registration of fleets.

05/23/06	#18-406	Emissions Inspection Program	#2538	N/A	07/06/06 APP
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Modifies emissions station signage requirements to include the posting of certain fees.

09/26/06	#18-377	Alcohol Highway Safety Schools and Driving Under the Influence Program Coordinators	#2417	10/27/04	11/02/06 APP
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Establishes the rules and procedures for the operation of Alcohol Highway Safety Schools.

10/27/06	#18-393	Child Passenger Protection Schools and Driving Under the Influence Program Coordinators	#2439	12/15/04	11/30/06 APP
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Implements requirements for the use of child passenger restraint systems.

11/13/06	#18-407	Prequalification of Bidders	#2553	NONE	OPEN
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Deletes the prequalification requirement for Rest Area Structures and Buildings to attract a greater number of bidders.

### Insurance Department

05/15/06	#11-227	Credit Life Insurance and Credit Accident and Health Insurance	#2517	NONE	06/14/06 ABL
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Updates mortality table used to calculate minimum reserves, clarifies provisions and deletes duplicate, outdated or unnecessary language.

05/15/06	#11-228	Minimum Reserve Standards for Individual and Group Health and Accident Insurance Contracts	#2518	NONE	06/14/06 ABL
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Updates and revises standards for calculating minimum reserves for health and accident, and long-term care insurance, clarifies provisions and deletes duplicate, outdated or unnecessary language.

## FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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### **Insurance Department** *continued*

06/15/06	#11-233	Advances Made to Companies (Other than Mutual Life)	#2546	N/A	07/20/06 APP
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Deletes Chapter 105 pertaining to the form, criteria and reporting requirements for cash advances for mutual insurance companies in response to the passage of Act 216 of 2004.

06/15/06	#11-236	Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits and the 2001 CSO Preferred Class Structure Mortality Table for Use Determined Minimum Reserve Liabilities	#2578	N/A	11/16/06 APP
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Adds the 2001 CSO Preferred Class Structure Mortality Table as a table that may be used as the minimum valuation standard.

### **Pennsylvania Commission on Crime and Delinquency**

04/28/06	#35-29	Crime Victims Compensation	#2428	11/12/04	05/12/06 WPA
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Simplifies or clarifies the office's claims processing determination an appeal procedures.

11/16/06 AAW
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### **Pennsylvania Liquor Control Board**

01/05/06	#54-60	Responsible Alcohol Management Program	#2515	N/A	01/30/06 WPA
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Codifies the Responsible Alcohol Management Program, defines qualifications for certifying instructors and training providers.

09/08/06	#54-61	Revisions to Codify Practices and Procedures Resulting from Legislative Amendments	#2468	06/08/05	10/19/06 APP
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Clarifies and establishes provisions for establishments serving food, gift cards, Sunday sales, wine events, incentive programs and noise exemptions.

## FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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### Pennsylvania Public Utility Commission

01/19/06	#57-229	Permanent Standards of Conduct	#2400	06/16/04	03/21/06 APP
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Establishes binding standards of conduct to govern the relationship between natural gas distribution companies and affiliated natural gas supplies.

02/09/06	#57-236	Practice and Procedure Before the Commission	#2441	01/28/05	03/21/06 APP
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Delineates the form and content of applications and pleadings, filing deadlines, discovery rules, emergency order procedures and filing exceptions.

04/11/06	#57-238	Gas Service; Safety Code	#2511	NONE	05/17/06 APP
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Modifies current language so that future amendments to 49 CFR Parts 191-193 and 199 are automatically adopted by the PUC.

05/17/06	#57-233	Passenger Service and Property and Housing Goods Carriers	#2410	08/25/04	07/06/06 APP
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Updates and clarifies regulations governing common carriers of passengers and property.

09/28/06	#57-244	Alternative Energy Portfolio Standards	#2519	05/05/06	11/02/06 TIE
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Establishes net metering requirements in accordance with the Alternative Energy Portfolio Standards Act (Act 213 of 2004).

09/28/06	#57-245	Alternative Energy Portfolio Standards; Interconnection Standards For Customer Generators	#2524	05/26/06	11/02/06 APP
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Establishes procedures for "customer generators" to connect to utility distribution links.

09/28/06	#57-247	PUC Filing and Reporting Requirements on Local Exchange Carriers	#2533	NONE	11/02/06 APP
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Streamlines the Local Exchange Carrier reporting requirements by eliminating certain reports.

## FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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### **Pennsylvania Securities Commission**

06/20/06	#50-120	Recission of Forms and Other Amendments	#2551	NONE	11/01/06 ABL
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Deletes obsolete provisions and out-dated forms, and updates existing provisions.

### **Pennsylvania State Police**

#### **Municipal Police Officers' Education and Training Commission**

07/10/06	#17-68	Administration of the Training Program	#2501	12/14/05	08/10/06 APP
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Updates requirements for physical fitness, training waivers, examination fees, school directors and suspension of school certification.

### **State Employees' Retirement Board**

03/09/06	#31-3	Preliminary Provisions	#2490	10/03/05	04/19/06 APP
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Deletes the term "class of service multiplier."

03/09/06	#31-4	Membership, Credited Service and Eligibility for Benefits	#2491	10/03/05	04/19/06 APP
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Deletes the lists of class of service.

03/14/06	#31-5	Administrative Duties of the Board	#2492	NONE	04/18/06 ABL
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Deletes provisions that conflict with the Right-To-Know law regarding minutes of board meetings and other records.

## HISTORY



The Commission, with one minor break, has been in existence for 24 years. The idea for regulatory review began in the late 1970s and early 1980s. During these years, there were growing concerns with excessive and unnecessary regulations. There was little, if any, thought given to the potential costs of a regulation, the increased administrative burden that it may impose on the Commonwealth, or whether it would have an adverse effect upon the regulated community. Many expressed dismay about the limited to non-existent oversight of the rulemaking process. In response to these concerns, the legislature introduced different proposals calling for the review of regulations.

### **Bipartisan Compromise**

Legislation to create the Commission was first introduced in 1980. However, the Regulatory Review Act (Act) did not become law until 1982. The original Senate bill would have established a lone, independent commission to review regulations. The House of Representatives amended the bill to include review by designated House and Senate Committees.

The 1982 Act was a compromise that called for a two-tiered review of proposed regulations by an independent commission and legislative committees. To guide the new Commission in its review, the Act set forth 13 criteria for determining whether a regulation was in the public interest. These criteria included statutory authority, legislative intent, fiscal impact, protection of small businesses, clarity and need for the regulation.

The Act also included a “one-house veto” of proposed regulations. If the Commission disapproved a regulation, either chamber of the General Assembly—the House or the Senate—could permanently bar the regulation by passing a resolution.

### **Lights Briefly Go Out**

The original Act was an experiment in state government. Like many experiments, it had a deadline. The Act contained a termination date of December 31, 1985. Legislation to renew the Act was moving through the General Assembly late in 1985, but it did not pass before the end of the year. In January 1986, the Commission was out of business. This interval was brief and a new bill extending the Act was signed into law on February 21, 1986. The statute also amended the review criteria to place a greater emphasis on statutory authority and legislative intent.

### **Major Change – Expanding Process to Include both Proposed and Final Regulations**

In 1988 and 1989, the General Assembly, and the late Governor Robert P. Casey, Sr. and his Administration debated the future of the Act and Commission. Action was necessary to retain the Commission because it had entered into its final six months before termination under the Sunset Act in January 1989. After vetoing two earlier bills, on June 30, 1989, the Governor signed a new bill amending the Act and extending the life of the Commission.

The new legislation included four significant changes. First, it required review of both the proposed and final versions of a regulation. This was a momentous shift since the original Act did not address the fact that agencies could substantially amend a proposed regulation before it was published as a final rule. Second, the “one-house veto” was eliminated. Both the House and

## HISTORY



Senate would need to pass a concurrent resolution permanently barring a regulation and present it to the Governor to sign or veto. Third, the 13 original criteria were combined into six criteria. In addition, new criteria were added on the protection of the public health, safety and welfare, and effect on natural resources. Fourth, strict limits were placed on the process. For example, The Commission could no longer repeatedly disapprove a regulation, send it back to the agency and postpone its implementation.

### **Court Challenge**

Within six months of their enactment, the state judiciary confirmed the need for the 1989 amendments to the Act. Judicial review began with an August 1989 lawsuit filed in Commonwealth Court by the Department of Environment Resources (DER) regarding a DER regulation. A few months before the lawsuit, the Commission voted to disapprove the regulation. After the Commission's vote and as it simultaneously debated amendments to the Act, the Senate passed a resolution that barred the DER regulation from implementation via the "one-house veto" provisions of the original Act.

In December 1989, Commonwealth Court ruled that this version of the Act was unconstitutional. The primary concern for the court was the "one-house veto". This decision was appealed to the Pennsylvania Supreme Court. In September 1992, the Supreme Court ruled that the case was moot because the 1989 changes to the Act cured the constitutional defects.

### **The Most Recent Changes to the Act**

In 1997 and 2002, the Act was again amended. One of the changes in 1997 allowed agencies to toll the review of their final regulations. During the tolling period, an agency could make modifications recommended by a House or Senate Committee or the Commission. The amendments in 2002 provided greater flexibility to the agencies and House and Senate Committees in their review of regulations and added the new criterion of promulgating regulations to the compliance with the Act and its regulations.

### **Years of Review and Consensus Building**

In over two decades of operation, the regulatory review process has progressed and adapted to meet new challenges. The Commission serves two primary functions. First, it acts as a forum where agencies, legislators, and members of the general public and regulated communities can work together to build partnerships. By encouraging partnerships, the Commission assists these groups in building consensus to promote effective public policy, and to reduce "red tape" and the costs of regulations. Second, the Commission serves as a critical and independent eye that reviews regulations and offers constructive input to agencies. This facilitates approval by the oversight bodies, as well as compliance by the regulated entities.





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