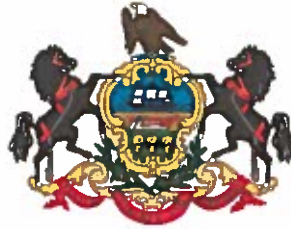


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COMMITTEES
LABOR & INDUSTRY, CHAIR
HEALTH
REPUBLICAN POLICY

APPOINTMENTS
CAPITOL PRESERVATION
COMMITTEE

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

September 16, 2022

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Vice Chairman John F. Mizner, Esq.
Commissioner John J. Soroko, Esq.
Commissioner Murray Ufberg, Esq.
Commissioner Dennis A. Watson, Esq.
Independent Regulatory Review Commission
333 Market Street
Harrisburg, PA 17101

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SEP 20 2022

**Independent Regulatory
Review Commission**

Dear Commissioners,

The House Labor and Industry Committee directed me to advise that, in accordance with Section 8.1 of the Regulatory Review Act, the Committee is requesting review of the regulations listed in this letter that have been in effect for at least 3 years. With the review of these regulations, we strongly believe that IRRC will find outdated regulations that no longer pertain to statute or practices.

The committee requested the review of the regulations on September 14, 2022, by a vote of 25-0.

The committee hereby requests priority review of the regulations listed in the three groups below.

1. Department of Labor and Industry regulations include a number of provisions from antiquated statutes or statutes that have been fully or partially repealed. It is not clear to what extent these regulations are enforced or, in some cases, whether they are even valid. IRRC should review these regulations to determine whether they are in the public interest and should make recommendations accordingly for repeal or modernization of the regulations, as appropriate.

- Pa Code 34, Chapter 5 (Blasting, Demolition, Fireworks and Explosives) – last amended 1969
 - NOTE: Regulations issued under the Explosives Use and Regulation Law (Act 362 of 1957) - Section 2 of Reorganization Plan No.8 of 1981 provided that all the functions, powers and duties of the Department of Labor and Industry as set forth in Act 362 are transferred to the Department of Environmental Resources.
- PA Code 34, Chapter 7 (Elevators, Lifts, Escalators, Dumbwaiters, Hoists and Tramways) -- last amended 1980
 - NOTE: Newer regulations (Pa Code 34, Chapter 405) under the PA Construction Code Act provide for department oversight of elevators and lifting devices.

- PA Code 34, Chapter 13 (Propane and Liquefied Petroleum Gas), Subchapter B (Lead Corroding and Oxidizing) – Last Amended 1977
- PA Code 34, Chapter 23 (Laundering and Dyeing Establishments), Subchapter B (Dry Cleaning and Dyeing) – last amended 1968
 - NOTE: Regulations issued under the Dry Cleaning and Dyeing Law (Act 402 of 1949) - Act 402 was repealed by Act 214 of 1990, and Act 214 was repealed by Act 45 of 1999.
- PA Code 34, Chapter 31 (Migrant Labor), Subchapter C (Seasonal Farm Labor) – last amended 1979
 - NOTE: PA Code cites Act 452 of 1929 as the authority for this regulation, but that appears to be a mistake.
 - NOTE: Regulations apparently issued under the Seasonal Farm Labor Act (Act 93 of 1978) - Much of Act 93 has been repealed by subsequent acts.
- PA Code 34, Chapter 38 (Building Energy Conservation Standards) – last amended 1982
 - NOTE: Regulations issued under the Building Energy Conservation Act (Act 222 of 1980) – Act 222 was repealed by Act 45 of 1999.
- PA Code 34, Chapter 47 (Miscellaneous Provisions), Subchapter D (Facilities for Handicapped) – Last amended 1971 and Chapter 60 (Universal Accessibility Standards) – Last amended 1994
 - NOTE: Regulations issued under an Act Requiring Buildings be Constructed to be Usable by Physically Handicapped (Act 235 of 1965) - Act 235 was repealed by Act 45 of 1999.
- Regulations issued under the General Safety Law (Act 174 of 1937), including PA Code 34:
 - Chapter 6 (Construction and Repairs) – Last Amended 1973
 - Chapter 13 (Propane and Liquefied Petroleum Gas), Subchapter C (Manufacture of Nitro and Amino Compounds) – Last Amended 1968
 - Chapter 19 (Industries- Food and Drink) – Last Amended 1968
 - Chapter 21 (Ladders) – Last Amended 1970
 - Chapter 23 (Laundering and Dyeing Establishments), Subchapter A (Laundries) – Last Amended 1968
 - Chapter 25 (Lifting and Carrying Apparatus) – Last Amended 1969
 - Chapter 27 (Lighting) – Last Amended 1978
 - Chapter 29 (Mechanical Apparatus – Miscellaneous):
 - Subchapter A (Power Foot and Hand Cold Metal Presses) – Last Amended 1968
 - Subchapter B (Powder Actuated Tools) – Last Amended – 1970
 - Subchapter C (Mechanical Power Transmission Apparatus) – Last Amended 1968
 - Subchapter D (Stationary Engines) – Last Amended 1968
 - Subchapter E (Machine Tools) – Last Amended 1967
 - Chapter 31 (Migrant Labor), Subchapter A (Crew Leaders) and Subchapter B (Transportation of Workers) – Last Amended 1966
 - Chapter 35 (Paints) – Last Amended 1979

- Chapter 39 (Safety Standards – General), Subchapter A (Safe Practices) and Subchapter B (Head and Eye Protection) – Last Amended 1970
- Chapter 41 (Sanitation), Subchapter A (Industrial Sanitation) – Last Amended 1970
- Chapter 43 (Tunnel Construction and Compressed Air Work) – Last Amended 1977
- Chapter 45 (Woodworking and Related Occupations) – Last Amended 1968
- Chapter 47 (Miscellaneous Provisions):
 - Subchapter B (Cereal Mills, Malthouses and Grain Elevators) – Last Amended 1968
 - Subchapter C (Dry Color Industry) – Last Amended 1977
 - Subchapter E (Foundries) – Last Amended 1967
 - Subchapter F (Printing and Related Industries) – Last Amended 1977
 - Subchapter G (Railings, Toeboards, Open-sided Floors, Platforms and Runways) – Last Amended 1968
 - Subchapter I (Textile Industries) – Last Amended 1968
 - Subchapter J (Window Cleaning) – Last Amended 1967

2. In some instances, the PA Code does not cite the regulatory authority for a specific regulation. If the statutory authority for a particular regulation no longer exists, or cannot be ascertained, the regulation should be reviewed, and IRRC should make recommendations for appropriate repeals if regulations lack statutory authority.

- PA Code 34, Chapter 29 (Mechanical Apparatus – Miscellaneous), Subchapter F (Abrasive Wheels)
 - NOTE: The regulation adopts national standards from 1970 by reference.
- PA Code 34, Chapter 41 (Sanitation), Subchapter B (Railroad Sanitation) – Last Amended 1968
- PA Code 34, Chapter 47 (Miscellaneous Provisions), Subchapter K (Safety Glazing Material) – Last Amended 1979

3. Through our work as legislators, we occasionally become aware of problems or complaints with longstanding regulations. As a committee, we take no position at this time on what each regulation should specifically provide, but there are several regulations that should be reviewed by IRRC to determine whether they are in the public interest – and recommendations made for whether the regulations should be modernized or amended.

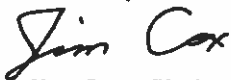
- Pa Code 34, Chapter 83 (Welfare of Apprentices) – Last Amended 1979 – NOTES:
 - Regulations issued under the Apprenticeship and Training Act (Act 304 of 1961).
 - Federal law and regulations have changed multiple times – and the types of occupations open to apprentices has evolved greatly since these regs were promulgated.
 - Trade unions have suggested there should be clearer, more robust standards for the curricula of apprenticeship programs, and that dormant programs (or those that fail to graduate apprentices) should be subject to corrective action or decertification.

- Non-joint construction apprenticeship programs have suggested that the ratio requirements for non-joint programs creates a disparity and an uneven playing field with joint programs. Likewise, apprenticeship programs for occupations inside and outside the construction industry have suggested that ratio requirements, in some cases, unnecessarily stymie the training of needed workers.
- PA Code 34, Chapter 101 (General Requirements), Subchapter E (Telephone hearings) – Last amended 1997 - NOTES:
 - Section 505 of the Unemployment Compensation (UC) Law provides (as amended by Act 6 of 2011): *“Rules established by the board shall permit either party to a hearing to testify via telephone, without regard to distance of hearing location from either party.”*
 - The regulation still refers to distance from the hearing location, and UC Board of Review has never promulgated updated rules to comply with Act 6.
- PA Code 34, Chapter 127 (Medical Cost Containment) – Last amended 1998 – NOTES:
 - Stakeholders have pointed to a number of provisions in this regulation that may not be consistent with the Workers’ Compensation Act, including:
 - Section 127.208 (Time for payment of medical bills)
 - Section 127.254 (Downcoding disputes)
 - Section 127.755 (Required notice of employe rights and duties)
 - Additionally, stakeholders have suggested that some provisions of the regulation are confusing, unnecessary, or cumbersome, including provisions that:
 - May require unnecessary and duplicative work and expense by insurers.
 - Unnecessarily limit the availability of relevant information to Utilization Review Organizations (URO).
 - Contain contradictory language within the same section of the regulation.
 - Place additional burdens on UROs to make determinations about timeliness.
- PA Code 34, Chapter 131 (Special Rules of Administrative Practices and Procedure Before Workers’ Compensation Judges) – Last Amended 2014 – NOTES:
 - Stakeholders have suggested that the timeframes for a number of the required filings and responses could be optimized to reflect the realities of the department’s WCAIS system, investigations, and the litigation process.
 - Stakeholders have also suggested that the language of the regulation does not reflect a recent state Supreme Court decision in *Lorino v. WCAB*.
- PA Code 34, Chapter 401 (Uniform Construction Code Training and Certification of Code Administrators) – NOTES:
 - Although Section 401.1 (Definitions) has been amended numerous times – including within the last three years – to reflect technical updates and conformity to the latest codes adopted under the law, the remainder of the regulation has not been amended since at least 2006.
 - Members of the public and some in the construction industry have suggested that the grounds for corrective action against a code administrator or third-party agency should be changed to address issues like non-responsiveness, disparate enforcement of the code provisions, or extremely unprofessional behavior.

- Code administrators have suggested authorizing a class of certification for trainees to provide the on-the-job training and experience needed to fill vacancies and ensure that new code administrators have the requisite skill set to enforce the codes.
- Likewise, code administrators have suggested that there is no ability to place a certification in escrow (or in a dormant status) if the certificate holder steps away from the field temporarily – and then reactivate the certificate when the holder wants to rejoin the field.

We respectfully request that IRRC examine the regulations in hopes that unnecessary regulations that are out of date, no longer have impact on the Commonwealth, or are no longer in the best interest of the public are removed or modernized, as appropriate. We would also request IRRC engage the regulated community of each regulation when reviewing these regulations.

Sincerely,



Jim Cox, Chairman
Labor and Industry Committee
PA House of Representatives

CC: The Honorable Jennifer Berrier, Secretary
Representative Gerald Mullery, Democratic Chairman
House Labor and Industry Committee