

# **INDEPENDENT REGULATORY REVIEW COMMISSION**

## **2011 ANNUAL REPORT**



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**March 2012**

Pennsylvania's General Assembly created the Independent Regulatory Review Commission to provide for independent oversight of the rulemaking process in Pennsylvania and to establish an ongoing and effective review of agency regulations. The Commission's mission is to review agency regulations in order to determine whether they are in the public interest. By evaluating the conformity of rulemakings with law, and their cost and benefit to the public, we assist the General Assembly and the Governor in achieving a favorable regulatory balance and ensure the integrity of the regulatory process. This annual report details the Commission's activities in 2011.

In 2011, the Commission reviewed a total of 57 regulations, including 31 proposed and 26 final regulations. More than 3,100 public comments were submitted on agency regulations in 2011, including 46 legislative comments. The Commission submitted formal comments to the promulgating agencies on 28 of the 31 proposed regulations.

Notable regulations reviewed by the Commission in 2011 include: Philadelphia Parking Authority # 2885 (Philadelphia Taxicab and Limousine Regulations); Pennsylvania Public Utility Commission (PUC) # 2772 (Natural Gas Distribution Companies and the Promotion of Competitive Retail Markets); and PUC # 2743 (Standards and Billing Practices for Residential Utility Services). Additionally, the Commission reviewed 10 Pennsylvania Gaming Control Board regulations pertaining to table games. A full list of regulations reviewed by the Commission is attached.

Copies of all comments filed on these regulations, together with information on all actions taken concerning the regulations, can be found on the Commission's website: [www.irrc.state.pa.us](http://www.irrc.state.pa.us).

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

# Proposed Regulations

The following is an explanation of the action codes in this section:

- NONE** Commission did not submit comments.
- OPEN** Regulation was received in 2011 with Commission action due in 2012.
- W2Y** **Withdrawn Under Section 5.1(a)** – A regulation submitted as proposed, but not delivered in final-form within two years of the close of the public comment period.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-form regulation delivered in 2011.

## PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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### CONSTABLES' EDUCATION AND TRAINING BOARD

10/26/11	#35-32	Constables' Education and Training Board Amendments	#2921	OPEN
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Amends existing regulations to reflect current Board policies and practices regarding certification, training attendance and financial responsibility. The regulation also addresses firearms qualification.

### DEPARTMENT OF BANKING

11/18/11	#3-50	Debt Management Services Act Continuing Education Requirements	#2925	OPEN
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Sets forth continuing education requirements for debt management service company licensees.

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Board of Coal Mine Safety

10/26/11	#7-463	Requirements for Automated External Defibrillators	#2920	OPEN
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Requires the placement of an automated external defibrillator at various areas of an underground mine operation.

#### Environmental Quality Board

12/14/10	#7-467	Coal Mining Permit Fees	#2883	NONE
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Provides a schedule of permit application fees for coal mining activities.

10/06/09	#7-441	Air Quality Fee Schedules	#2800	12/21/11 W2Y
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Amends existing fee schedules and adds a new chapter relating to testing, auditing and monitoring fees.

### DEPARTMENT OF HEALTH

10/11/11	#10-190	Emergency Medical Services System	#2917	12/28/11
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Implements the Emergency Medical Services System Act.

### DEPARTMENT OF PUBLIC WELFARE

10/22/10	#14-524	Participation Review Process for Medical Assistance Nursing Facilities	#2880	01/05/11
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Establishes the process for nursing facilities to submit requests to enroll in the Medical Assistance (MA) Program, add MA beds or transfer MA beds to an affiliated facility.

## PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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10/28/10	#14-520	Transition to RUG-III Version 5.12 and Latest Assessment	#2881	01/12/11*
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Changes the source of the data and the classification system that is used in determining nursing facility residents' case-mix indices.

### DEPARTMENT OF REVENUE

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08/12/11	#15-451	Local Option Small Games of Chance	#2905	10/26/11
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Amends existing small games of chance regulations to improve clarity and effectiveness.

11/04/11	#15-453	Realty Transfer Tax Amendments	#2924	OPEN
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Amends existing regulations to improve clarity and effectiveness.

### DEPARTMENT OF STATE

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#### Bureau of Professional and Occupational Affairs

08/08/11	#16A-54	Schedule of Civil Penalties – Engineers, Land Surveyors and Geologists	#2903	NONE
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Amends the Board's schedule of civil penalties to correct deficiencies noted by Commonwealth Court.

08/08/11	#16A-48	Schedule of Civil Penalties – Accountants	#2904	10/19/11
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Revises the schedule of civil penalties applicable to violations of the CPA law and regulations of the State Board of Accountancy.

#### State Board of Accountancy

08/08/11	#16A-5511	Continuing Professional Education	#2902	10/19/11
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Updates continuing professional education requirements.

#### State Board of Chiropractic

09/06/11	#16A-4320	Licensure by Reciprocity	#2907	11/16/11
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Amends existing regulations relating to licensure by reciprocity.

#### State Board of Dentistry

09/06/11	#16A-4624	Expanded Function Dental Assistant Scope of Practice and Continuing Education	#2908	11/16/11
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Amends existing regulations pertaining to scope of practice and continuing education for Expanded Function Dental Assistants.

## PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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### State Board of Occupational Therapy Education and Licensure

03/25/11	#16A-677	Continuing Competency	#2892	06/08/11
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Establishes continued competency requirements for occupational therapists and adds fees for continued competency providers and course approvals.

### State Board of Pharmacy

03/02/11	#16A-5423	Cancer Drug Repository Program	#2889	05/11/11
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Implements the Cancer Drug Repository Program Act which permits pharmacies to voluntarily accept donated cancer drugs and to dispense the donated drugs to indigent persons.

### State Board of Physical Therapy

09/06/11	#16A-6514	Act 38 of 2008 Amendments	#2910	11/16/11
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Adds provisions relating to continuing education, professional liability insurance and supervision of physical therapist assistants.

### State Registration Board for Professional Engineers, Land Surveyors and Geologists

12/15/11	#16A-4711	Qualifications For Licensure	#2926	OPEN
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Provides for examination and certification of geologists-in-training and conforms the Board's other regulations concerning qualification for licensure to current administrative practice.

### State Board of Veterinary Medicine

09/06/11	#16A-5725	Professional Conduct; Notice of Animal Supervision	#2909	NONE
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Adds a provision to existing regulations pertaining to notice of animal supervision.

## DEPARTMENT OF TRANSPORTATION

11/01/11	#18-420	Public Transportation – Sustainable Mobility	#2922	OPEN
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Addresses the application for and awarding of financial assistance to public transportation entities, local match funding requirements, establishment of minimum system performance criteria and the impact of performance on future funding.

11/01/11	#18-423	Delivery of Certificates of Title	#2923	OPEN
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Specifies the manner of delivery of encumbered certificates of title and certificates of title which are issued by the Department of Transportation free of a lien or encumbrance.

# PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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## MILK MARKETING BOARD

03/24/11	#47-15	Electronic Methods for Testing Milk for Fat Content	#2891	06/22/11
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Updates existing regulations relating to electronic testing of milk to reflect advances in testing technology and equipment, and changes in the way producers are paid for their milk.

## PENNSYLVANIA GAMING CONTROL BOARD

12/21/10	#125-137	Table Game Equipment	#2884	03/09/11*
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Sets forth minimum design standards for all gaming chips, plaques, dice, cards, shufflers, Pai Gow tiles and Sic Bo shakers, and establishes requirements for the receipt, storage, distribution, inventory and destruction of the equipment.

01/19/11	#125-138	Table Game Devices	#2886	03/30/11*
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Addresses requirements for electronic wagering systems and gaming tables; certification as a Gaming Related Gaming Services Provider; and conditional licensure to conduct table game business.

02/14/11	#125-141	Preliminary Provisions; Bureau of Investigations and Enforcement	#2888	04/27/11*
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Amends two existing chapters pertaining to ex parte communications and the separation of adjudicatory functions of the Board from investigating and prosecutorial functions.

03/22/11	#125-142	General Table Games Provisions; Credit; Table Game Minimum Training Standards	#2890	06/01/11*
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Replaces three chapters of temporary regulations with permanent regulations.

03/30/11	#125-144	Employee and Horsemen's Organization Revisions	#2893	06/08/11
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Revises existing regulations to improve clarity and eliminate inconsistencies.

05/03/11	#125-145	Accounting and Internal Controls; Commencement of Slot and Table Game Operations	#2894	07/20/11
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Amends existing regulations relating to accounting, internal controls and table games.

05/12/11	#125-148	Table Game Rules for Roulette, Big Six Wheel and Casino War	#2895	08/10/11*
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Establishes permanent regulations pertaining to definitions, inspection procedures, rules of play, payout odds and amounts and permissible wagers for Roulette, Big Six Wheel, and Casino War.

05/19/11	#125-149	Table Game Rules for Pai Gow, Craps and Mini-Craps and Sic Bo	#2896	08/10/11*
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Establishes permanent regulations pertaining to definitions, inspection procedures, rules of play, payout odds and amounts and permissible wagers for Pai Gow, Craps, Mini-Craps and Sic Bo.

## PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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06/09/11	#125-151	Table Game Rules for Minibaccarat, Midibaccarat and Baccarat	#2897	08/24/11*
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Establishes permanent regulations pertaining to definitions, inspection procedures, rules of play, payout odds and amounts and permissible wagers for minibaccarat, midibaccarat and baccarat.

06/14/11	#125-152	Table Game Rules for Four Card Poker, Let It Ride Poker, Three Card Poker and Ultimate Texas Hold 'Em Poker	#2898	09/14/11
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Establishes permanent regulations pertaining to definitions, rules of play, payout odds and amounts and permissible wagers for Four Card Poker, Let It Ride Poker, Three Card Poker and Ultimate Texas Hold 'Em Poker.

07/07/11	#125-154	Table Game Rules for Caribbean Stud Poker and Texas Hold 'Em Bonus Poker	#2899	09/21/11
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Establishes permanent regulations pertaining to definitions, rules of play, payout odds and amounts, and permissible wagers for Caribbean Stud Poker and Texas Hold 'Em Bonus Poker.

08/02/11	#125-155	Table Game Rules for Blackjack and Pai Gow Poker	#2901	10/12/11
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Establishes permanent regulations pertaining to definitions, rules of play, payout odds and amounts, and permissible wagers for Blackjack and Pai Gow Poker.

09/15/11	#125-156	Practice and Procedure; Server Supported Slot Systems; Compulsive and Problem Gambling	#2914	12/07/11
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Amends existing practice and procedure rules and updates requirements for server supported slot systems.

10/26/11	#125-159	Table Game Rules of Play for Spanish 21, Poker, Mississippi Stud and Crazy 4 Poker	#2919	OPEN
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Establishes definitions, rules of play, payout odds and amounts, and permissible wagers for Spanish 21, Poker, Mississippi Stud and Crazy 4 Poker.

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

02/10/11	#57-281	Liquid Fuels Pipeline Regulations	#2887	04/27/11
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Incorporates federal regulations relating to liquid fuels and hazardous materials pipelines.

10/11/11	#57-283	Marketing and Sales Practices for the Retail Residential Energy Market	#2915	OPEN
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Sets forth regulations on marketing strategies and sales techniques for electric generation suppliers and natural gas suppliers to ensure fairness and integrity in the competitive market and eliminate confusion on behalf of customers.

10/11/11	#57-286	Railroad Transportation	#2916	12/21/11
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Updates existing regulations to reflect technological and operational changes and federal law.



## PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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10/06/09	#57-268	Natural Gas Distribution Company; Business Practices	#2798	12/16/11 W2Y
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Establishes common business practices for the statewide retail natural gas markets.

## **PHILADELPHIA PARKING AUTHORITY**

12/28/10	#126-1	Philadelphia Taxicab and Limousine Regulations	#2885	03/16/11*
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Establishes regulations applicable to Philadelphia taxicab and limousine service providers relating to practice and procedure, driver training, vehicle condition and inspection, sale of rights and minimum insurance requirements.

# Final Regulations

The 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.
- DIS**      **Disapproved** – The final regulation was disapproved by the Commission at its public meeting.
- OPEN**      Regulation was received in 2011 with Commission action due in 2012.
- LAC**      **Later Approved with Changes** – After an initial disapproval, the regulation was approved with changes at the Commission’s second public meeting.
- N/A**      Indicates this was a final-omitted regulation and was, therefore, not published in the *Pennsylvania Bulletin* for public comment.
- NONE**      The Commission did not submit any comments on the proposed regulation.
- WPA**      **Withdrawn Prior to Action** – A final regulation submitted but withdrawn prior to Commission action. A withdrawn final regulation may be submitted as a new final regulation within two years after the close of the public comment period. A withdrawn final-omitted regulation may be resubmitted as a new final-omitted at any time.
- \*\***      Final regulation had to be redelivered because of Sine Die, the formal end of a biennial legislative session.

# FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## DEPARTMENT OF ENVIRONMENTAL PROTECTION

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### Board of Coal Mine Safety

07/22/11	#7-455	Underground Coal Mine Safety	#2856	NONE	08/25/11 APP
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Adds a new chapter to establish safety standards relating to coal mine operations.

### Environmental Quality Board

11/23/10** 02/28/11	#7-458	Incidental Coal Extraction, Bonding, Enforcement, Sediment Control and Remining Financial Guarantees	#2842	07/01/10	04/28/11 APP
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Amends existing regulations to be consistent with federal mining regulations and amends regulations related to the Remining Financial Guarantee Program.

06/16/11	#7-450	New Source Review	#2818	05/12/10	07/21/11 APP
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Amends existing regulations to incorporate federal requirements pertaining to certain air contamination sources.

06/16/11	#7-438	Clarks Creek, et al; Stream Redesignations	#2834	NONE	07/21/11 APP
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Updates the water quality designations of six streams or stream segments and makes a correction to the stream designation.

06/16/11	#7-456	Unsuitable for Surface Mining; (Muddy Run)	#2845	NONE	07/20/11 ABL
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Designates an area within the headwaters of the Muddy Run watershed in Reade Township, Cambria County as unsuitable for surface mining operations.

06/16/11	#7-461	Stream Redesignations (Fishing Creek, et al.)	#2872	NONE	07/20/11 ABL
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Amends the water quality designations of eight streams or stream segments.

## DEPARTMENT OF LABOR AND INDUSTRY

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02/24/11	#12-93	Responsibilities of Employers	#2869	11/12/10	04/28/11 APP
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Updates existing regulations to conform to current law and practice.

# FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## DEPARTMENT OF PUBLIC WELFARE

06/16/11	#14-520	Transition to RUG-III Version 5.12 and Latest Assessment	#2881	01/12/11	07/21/11 APP
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Changes the source of the data and the classification system that is used in determining nursing facility residents' case-mix indices.

## DEPARTMENT OF REVENUE

10/04/11	#15-449	Return and Payment of Tax	#2852	08/11/10	11/10/11 WPA
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Clarifies the Department's policy on the form of return taxpayers are required to submit for Pennsylvania Personal Income Tax and clarifies instructions for taxpayers regarding reporting requirements.

## DEPARTMENT OF STATE

### State Board of Dentistry

11/09/11	#16A-4616	EFDA Program Approval	#2795	12/09/09	12/15/11 APP
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Establishes standards for the education of expanded function dental assistants.

### State Board of Medicine

04/11/11 06/20/11	#16A-4929	Behavior Specialist	#2820	04/14/10	05/19/11 WPA 07/14/11 WPA
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Establishes licensure requirements for behavior specialists.

09/12/11 12/06/11	#16A-4931	Perfusionist	#2848	07/21/10	10/20/11 DIS OPEN
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Implements the licensure of perfusionists.

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

06/15/11	#16A-6916	Licensure by Endorsement; Hours of Supervised Clinical Experience	#2831	06/23/10	07/21/11 APP
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Amends existing regulations to reflect statutory amendments relating to licensure by endorsement and hours of supervised clinical experience required for licensure.

# FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## State Board of Veterinary Medicine

09/12/11	#16A-5724	License Renewal; Continuing Education	#2858	09/22/10	10/20/11 APP
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Addresses licensure for individuals who graduated from a school of veterinary medicine not accredited by the American Veterinary Medicine Association; clarifies license renewal procedures and penalties; and updates continuing education requirements.

## DEPARTMENT OF TRANSPORTATION

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09/01/11	#18-422	Odometer Reading Disclosure Statements	#2906	N/A	10/06/11 APP
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Repeals an obsolete chapter of regulations pertaining to odometer disclosure statements.

10/21/11	#18-426	Intrastate Motor Carrier Safety Requirements	#2918	N/A	12/15/11 APP
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Provides state and local governments with more flexibility for snow removal activities, roadway maintenance activities and traffic control support operations.

## INSURANCE DEPARTMENT

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07/15/11	#11-248	Fraternal Beneficial Societies	#2900	N/A	08/25/11 APP
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Eliminates obsolete, unnecessary regulations.

## JOINT COMMITTEE ON DOCUMENTS

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03/22/11	#53-9	Preliminary Provisions; Definitions	#2861	10/07/10	04/28/11 APP
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Adds a definition of the term "copy."

## PENNSYLVANIA GAMING CONTROL BOARD

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02/14/11	#125-129	Gaming Junket Amendments	#2873	NONE	03/17/11 APP
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Amends several chapters to comply with statutory revisions, improve clarity, and eliminate or reduce registration or application requirements for certain entities and individuals.

07/21/11	#125-141	Preliminary Provisions; Bureau of Investigations and Enforcement	#2888	04/27/11	08/25/11 APP
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Amends two existing chapters pertaining to ex parte communications and the separation of adjudicatory functions of the Board from investigating and prosecutorial functions.

# FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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10/14/11 11/22/11	#125-138	Table Game Devices	#2886	03/30/11	11/07/11 WPA OPEN
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Addresses requirements for electronic wagering systems and gaming tables; certification as a Gaming Related Gaming Services Provider; and conditional licensure to conduct table game business.

10/14/11 11/22/11	#125-148	Table Game Rules for Roulette, Big Six Wheel and Casino War	#2895	08/10/11	11/07/11 WPA OPEN
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Establishes permanent regulations pertaining to definitions, inspection procedures, rules of play, payout odds and amounts and permissible wagers for Roulette, Big Six Wheel, and Casino War.

10/14/11 11/22/11	#125-149	Table Game Rules for Pai Gow, Craps and Mini-Craps and Sic Bo	#2896	08/10/11	11/07/11 WPA OPEN
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Establishes permanent regulations pertaining to definitions, inspection procedures, rules of play, payout odds and amounts and permissible wagers for Pai Gow, Craps, Mini-Craps and Sic Bo.

10/14/11 11/22/11	#125-151	Table Game Rules for Minibaccarat, Midibaccarat and Baccarat	#2897	08/24/11	11/07/11 WPA OPEN
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Establishes permanent regulations pertaining to definitions, inspection procedures, rules of play, payout odds and amounts and permissible wagers for minibaccarat, midibaccarat and baccarat.

11/22/11	#125-142	General Table Games Provisions; Credit; Table Game Minimum Training Standards	#2890	06/01/11	OPEN
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Replaces three chapters of temporary regulations with permanent regulations.

12/13/11	#125-137	Table Game Equipment	#2884	03/09/11	OPEN
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Sets forth minimum design standards for all gaming chips, plaques, dice, cards, shufflers, Pai Gow tiles and Sic Bo shakers, and establishes requirements for the receipt, storage, distribution, inventory and destruction of the equipment.

## PENNSYLVANIA LIQUOR CONTROL BOARD

09/07/11	#54-66	Brewery Pubs	#2911	N/A	10/20/11 APP
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Amends existing regulations to allow a brewery pub to sell beer produced and owned by the brewery with which it is licensed, without regard to the location in Pennsylvania where the beer is produced.

## FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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09/07/11 11/29/11	#54-67	Connection With Other Business	#2912	N/A	10/20/11 DIS 12/15/11 LAC
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Amends existing regulations to reflect the fact that certain businesses, licensed by both the PA Liquor Control Board and the PA Gaming Control Board, intend to keep their liquor licenses and their gaming licenses in different subsidiaries.

09/07/11	#54-68	Limited Wineries	#2913	N/A	10/20/11 APP
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Amends reporting requirements for licensed limited wineries.

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

03/15/11 04/20/11	#57-267	Streamlining the Rate Increase Procedures for Small Motor Carriers	#2825	05/19/10	04/05/11 WPA 06/16/11 APP
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Streamlines the current procedures for rate increase requests submitted by motor passenger carriers with gross operating revenues less than \$500,000.

04/07/11 06/14/11	#57-265	Standards and Billing Practices for Residential Utility Services	#2743	05/20/09	05/19/11 DIS 07/21/11 LAC
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Amends existing regulations to implement the Responsible Utility Customer Protection Act.

04/07/11 06/24/11 10/13/11	#57-269	Natural Gas Distribution Companies and the Promotion of Competitive Retail Markets	#2772	09/24/09	05/18/11 WPA 08/25/11 DIS 11/03/11 DIS
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Adds a subchapter to address issues pertaining to retail competition in the natural gas supply market.

10/11/11	#57-271	Utilities; Service Outage Response and Restoration Practices	#2822	05/05/10	11/17/11 APP
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Amends existing regulations pertaining to service outage and restoration in the electric, gas and water industries.

# FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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## PHILADELPHIA PARKING AUTHORITY

07/21/11 08/31/11	#126-1	Philadelphia Taxicab and Limousine Regulations	#2885	03/16/11	08/12/11 WPA 10/06/11 APP
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Establishes regulations applicable to Philadelphia taxicab and limousine service providers relating to practice and procedure, driver training, vehicle condition and inspection, sale of rights and minimum insurance requirements.