

INDEPENDENT REGULATORY REVIEW COMMISSION

2018 ANNUAL REPORT



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Pennsylvania's General Assembly created the Independent Regulatory Review Commission to provide independent oversight of the rulemaking process in Pennsylvania and to establish an ongoing and effective review of agency regulations. The Commission's mission is to review agency regulations in order to determine whether they are in the public interest. By evaluating the conformity of rulemakings with law, and their impact on the public and regulated community, we assist the General Assembly and the Governor in achieving a favorable regulatory balance and ensure the integrity of the regulatory process. This annual report details the Commission's activities in 2018.

In 2018, the Commission reviewed a total of 64 regulations, including 29 proposed and 35 final regulations. More than 2,500 public comments were submitted on pending regulations in 2018. No comments were submitted by legislative standing committees, however 101 members of the House and Senate submitted comments on these regulations.

Notable regulations reviewed by the Commission in 2018 include: Minimum Wage and Overtime Requirements (Department of Labor and Industry #3202); Home and Community-Based Supports and Licensing (Department of Human Services #3160); Access to and Occupancy of Highways by Driveways and Local Roads (Department of Transportation #3200); and Milk Sanitation (Department of Agriculture #3210).

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

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

Proposed Regulations

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

- NONE** Commission did not submit comments.
- OPEN** Regulation was received in 2018 with Commission action due in 2019.
- WDN** **Withdrawn** – A regulation submitted as proposed that was withdrawn by the Agency before IRRC issued comments.
- W2Y** **Withdrawn Under Section 5.1(a)** – A regulation submitted as proposed, but not delivered in final-form within two years of the close of the public comment period, and consequently, deemed to be withdrawn.

Final Regulations

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

- ABL** **Approved by Law** – The final regulation was deemed to be approved because the Commission did not submit any comments on the proposed regulation, the regulation was not modified from its proposed form and the designated standing committees did not disapprove the final regulation.
- APP** **Approved** – The final regulation was approved.
- EC** **Emergency Certified** – A regulation certified by the Attorney General or the Governor pursuant to Section 6(d) of the Regulatory Review Act as necessary for compliance with a court order or statutory mandate, or to respond to an emergency.
- 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.

DEPARTMENT OF AGRICULTURE

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
07/25/18	#2-191	Milk Sanitation	#3210	NONE

Brings Pennsylvania's regulations for raw milk cheese into alignment with the Food and Drug Administration's regulations.

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
02/12/18	#2-190	Commercial Kennel Canine Health Regulations	#3180	NONE	03/21/18 ABL

Rescinds a provision relating to flooring which the Commonwealth Court has determined contradicts the express statutory provisions of the Dog Law and violates the legislative intent of the Dog Law.

07/25/18	#2-185	Vegetable Marketing and Research Program	#3181	NONE	09/12/18 ABL
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Addresses producer charges for the Pennsylvania Vegetable Marketing and Research Program and makes "housekeeping" updates to the existing regulations.

07/25/18	#2-187	Weighmasters	#3179	11/21/17	09/13/18 APP
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Rescinds outdated and burdensome provisions related to weighmasters' certificates and certificates of quality for anthracite coal.

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
06/01/18	#4-97	Local Earned Income Tax	#3156	09/28/16	07/19/18 APP

Implements Chapter 5 of the Local Tax Enabling Act which was added by Act 32 of 2008.

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
11/06/17	#7B-8	Conservation of Pennsylvania Native Wild Plants	#3184	NONE

Updates the classification lists of native wild plants, the scientific and common names of certain native wild plants, and the reference source that DCNR uses for the names of native wild plants.

01/09/18	#7B-9	Snowmobile and All-Terrain Vehicle Grants	#3188	03/22/18
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Codifies a program that grants funds to public and private entities for snowmobile and all-terrain vehicle projects throughout the Commonwealth.

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

09/11/18	#7B-8	Conservation of Pennsylvania Native Wild Plants	#3184	NONE	10/17/18 ABL
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Updates the classification lists of native wild plants, the scientific and common names of certain native wild plants, and the reference source that DCNR uses for the names of native wild plants.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Board of Coal Mine Safety

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

03/09/16	#7-526	Proximity Detection Systems	#3144	04/17/18 WDN
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Implements existing federal regulations that require underground coal mine operators to equip certain mining machines with proximity detection systems.

Environmental Quality Board

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

10/06/17	#7-534	Triennial Review of Water Quality Standards	#3182	03/19/18
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Updates and revises water quality criteria as required by the federal Clean Water Act.

01/17/18	#7-523	Noncoal Mining Program Fees	#3190	04/04/18
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Increases permit application and administrative fees.

02/13/18	#7-530	Administration of the Storage Tank and Spill Prevention Program	#3199	04/25/18
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Strengthens underground storage tank requirements by increasing the emphasis on properly operating and maintaining equipment.

07/02/18	#7-542	Unconventional Well Permit Application Fee Amendments	#3206	09/12/18
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Increases unconventional well permit application fees.

10/02/18	#7-532	Federal Office of Surface Mining Reclamation and Enforcement Program Consistency	#3217	12/24/18
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Amends existing regulations to address inconsistencies between the Commonwealth's coal mining program and federal regulations.

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

01/22/18	#7-520	Disinfection Requirements Rule	#3136	05/19/16	02/22/18 APP
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Updates and clarifies safe drinking water regulations.

01/22/18	#7-529	Gasoline Volatility Requirements	#3162	05/31/17	02/22/18 APP
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Repeals certain gasoline volatility requirements.

01/22/18	#7-538	Administration of the Land Recycling Program	#3195	N/A	02/22/18 APP
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Corrects transcription and input errors for the toxicity values for Aldrin, beryllium and cadmium.

03/16/18	#7-522	Handling and Use of Explosives	#3138	04/27/16	04/19/18 APP
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Revises current regulations to address the use of explosives for seismic exploration.

05/11/18	#7-492	Control of VOC Emissions from Industrial Cleaning Solvents; General Provisions; Aerospace Manufacturing and Rework; Additional RACT Requirements for Major Sources of NOx and VOCs	#3173	09/20/17	06/28/18 APP
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Limits emissions of volatile organic compounds from the use and application of industrial cleaning solvents at certain stationary sources.

05/11/18	#7-521	Safe Drinking Water; General Update and Fees	#3177	10/25/17	06/28/18 APP
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Updates existing regulations pertaining to treatment technique requirements for pathogens, permit fees, and monitoring and reporting requirements.

07/16/18	#7-499	Radiological Health	#3169	07/26/17	08/16/18 APP
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Updates regulations to establish and maintain adequate radiation protection standards and oversight.

07/16/18	#7-550	U.S. Nuclear Regulatory Commission (NRC) Consistency Rule	#3208	N/A	08/16/18 APP
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Amends four chapters of existing regulations to exclude certain provisions of Title 10, Chapter I of the Code of Federal Regulations from incorporation-by-reference in these chapters.

09/14/18	#7-523	Noncoal Mining Program Fees	#3190	04/04/18	10/17/18 WDN
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Increases permit application and administrative fees.

09/14/18	#7-530	Administration of the Storage Tank and Spill Prevention Program	#3199	04/25/18	10/18/18 APP
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Strengthens underground storage tank requirements by increasing the emphasis on properly operating and maintaining equipment.

09/14/18	#7-549	Electronic Submission of Air Quality General Plan Approval and General Operating Permit Applications	#3215	N/A	10/18/18 APP
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Adds the option of electronic delivery of applications for air quality general plan approvals and general operating permits.

DEPARTMENT OF GENERAL SERVICES

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

01/18/18	#8-21	Committee on Construction Contract Documents	#3191	N/A	02/22/18 APP
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Repeals Chapter 62 which addresses the creation and operation of the Committee on Construction Contract Documents.

01/18/18	#8-22	Selections Committee	#3192	N/A	02/22/18 APP
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Repeals Chapter 64 which addresses the role and procedures of the Selections Committee in reviewing applications from architects and engineers seeking contracts with the Department.

01/18/18	#8-23	Emergency Construction Repairs	#3193	N/A	02/22/18 APP
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Repeals Chapter 67 relating to the procurement and expeditious processing of contract awards in excess of \$25,000 on completed construction projects in emergency conditions.

01/18/18	#8-25	Methods of Awarding Contracts	#3194	N/A	02/22/18 APP
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Repeals Chapter 69 relating to the procedures, responsibilities and guidance for awarding contracts for the purchase of goods and supplies.

DEPARTMENT OF HUMAN SERVICES

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

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

09/28/18	#14-542	Child Care Facilities	#3216	12/13/18
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Amends existing regulations relating to group child care homes and family child care homes to address new requirements in the Federal Child Care and Development Block Grant and to better ensure the health and safety of children in child care settings.

FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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08/24/18	#14-540	Home and Community-Based Supports and Licensing	#3160	01/18/17	10/18/18 APP
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Amends and updates regulations governing program, operational and fiscal aspects of home and community-based supports for people with an intellectual disability or autism.

DEPARTMENT OF LABOR AND INDUSTRY

PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
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06/12/18	#12-106	Minimum Wage	#3202	09/21/18
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Updates the executive, administrative and professional exemptions from the minimum wage and overtime requirements of the Minimum Wage Act of 1968.

FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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08/10/18	#12-107	Uniform Construction Code	#3211	N/A	09/13/18 APP
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Updates the Uniform Construction Code by adopting nearly all the provisions of the 2015 International Code Council.

10/22/18	#12-109	Uniform Construction Code	#3219	EC	12/06/18 APP
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Requires newly constructed and altered buildings to comply with the fire and smoke protection provisions in the International Building Code of 2016.

DEPARTMENT REVENUE

FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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09/12/18	#15-459	Withholding of Tax	#3183	12/27/17	10/18/18 APP
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Further automates the reporting of tax information.

DEPARTMENT OF STATE

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
08/22/18	#16-59	Regulations Implementing the Revised Uniform Law on Notarial Acts	#3212	11/29/18

Implements the provisions of the Revised Uniform Law on Notarial Acts.

Bureau of Professional and Occupational Affairs

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
10/25/18	#16A-60	Expungement; Fees	#3220	OPEN

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

State Board of Certified Real Estate Appraisers

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
06/22/18	#16A-7022	Federally-Mandated Revisions	#3205	09/05/18

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

State Board of Chiropractic

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
02/09/18	#16A-4312	Chiropractic Specialties	#3197	04/25/18

Amends existing regulations relating to advertisement.

State Board of Dentistry

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
02/09/18	#16A-4626	Child Abuse Reporting Requirements	#3198	04/25/18

Implements amendments to the Child Protective Services Law relating to training in child abuse recognition and reporting.

State Board of Massage Therapy

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
06/13/18	#16A-724	Fees	#3203	08/22/18

Amends fees related to initial licensure, approval of continuing education programs and biennial renewal.

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
10/10/18	#16A-724	Fees	#3203	08/22/18	11/15/18 APP

Amends fees related to initial licensure, approval of continuing education programs and biennial renewal.

State Board of Occupational Therapy Education and Licensure

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
01/18/18	#16A-6710	Code of Ethics	#3133	NONE	02/21/18 ABL

Adopts the 2015 American Occupational Therapy Association Code of Ethics.

02/09/18	#16A-6711	General Revisions	#3134	04/20/16	03/22/18 APP
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Implements the professional liability insurance and continued competency provisions of Act 138 of 2012.

State Board of Pharmacy

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
10/10/18	#16A-5431	Naloxone Exceptions	#3218	N/A	11/15/18 APP

Provides expanded access to the overdose-reversing drug, Naloxone, to at risk individuals who are pending discharge or release from correctional facilities, prisons, jails and residential drug treatment facilities.

State Board of Physical Therapy

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
03/08/18	#16A-6517	Post-Act 38 Revisions	#3148	07/13/16	04/19/18 APP

Updates and clarifies existing regulations.

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

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
01/31/18	#16A-6922	Licensed Bachelor Social Worker; Fees	#3196	04/11/18

Updates existing regulations to address the licensure of bachelor social workers.

State Board of Veterinary Medicine

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

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

DEPARTMENT OF TRANSPORTATION

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
02/17/16	#18-467	Hauling in Excess of Posted Weight Limit	#3139	03/28/18 W2Y

Updates existing regulations regarding the use of weight restricted highways by vehicles and combinations having a gross weight in excess of the posted weight limit.

03/08/18	#18-479	Access to and Occupancy of Highways by Driveways and Local Roads	#3200	05/16/18
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Clarifies who can apply for highway occupancy permits.

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
07/31/18	#18-469	Hazardous Material Transportation	#3155	NONE	09/12/18 ABL

Updates existing regulations to make them consistent with federal requirements.

05/24/18	#18-479	Access to and Occupancy of Highways by Driveways and Local Roads	#3200	05/16/18	06/28/18 APP
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Clarifies who can apply for highway occupancy permits.

INSURANCE DEPARTMENT

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
01/09/18	#11-256	Medicare Supplement Insurance Minimum Standards	#3189	03/22/18

Updates existing regulations to meet new federal mandates for Medicare Supplement Insurance policies and reflect amendments to the National Association of Insurance Commissioners model regulation.

07/11/18	#11-257	Privacy of Consumer Financial Information	#3207	09/19/18
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Amends existing regulations relating to consumer financial information to be consistent with the corresponding National Association of Insurance Commissioners model rule.

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
06/15/18	#11-256	Medicare Supplement Insurance Minimum Standards	#3189	03/22/18	07/19/18 APP

Updates existing regulations to meet new federal mandates for Medicare Supplement Insurance policies and reflect amendments to the National Association of Insurance Commissioners model regulation.

OFFICE OF ATTORNEY GENERAL

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
12/27/17	#59-9	Unfair Market Trade Practices; Automotive Industry Trade Practices	#3186	01/23/18 WDN

Improves, enhances and updates the Office of Attorney General's unfair methods of competition and unfair or deceptive acts or practices regulations.

PENNSYLVANIA GAMING CONTROL BOARD

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
09/11/18	#125-218	Down Under Blackjack; Table Game Rules of Play	#3213	11/21/18

Adds Down Under Blackjack to complement of table games available for play in the Commonwealth.

PENNSYLVANIA LIQUOR CONTROL BOARD

PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
03/08/16	#54-89	Distributors Accepting Credit Cards from Licensees	#3142	05/02/18 W2Y

Authorizes malt or brewed beverage distributors and importing distributors to accept credit cards as payment from licensees.

FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
04/26/18	#54-91	Return of Liquor	#3170	07/26/17	06/28/18 APP

Provides direction to licensees and permittees for returning liquor to the Pennsylvania Liquor Control Board and clarifies existing regulations pertaining to liquor and malt or brewed beverages.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

PROPOSED REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
11/08/17	#57-317	Motor Carrier Age Requirement	#3185	01/25/18

Reduces the minimum age for paratransit drivers from 21 to 18 in limited circumstances.

03/13/18	#57-319	Electricity Generation Customer Choice	#3201	06/21/18
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Amends customer information disclosure regulations.

06/22/18	#57-320	Minimum Insurance Requirements for Motor Carriers of Passengers	#3204	09/05/18
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Amends minimum insurance coverage requirements for motor common carriers of passengers.

09/13/18	#57-323	Assumption of Commission Jurisdiction Over Pole Attachments from the Federal Communications Commission	#3214	12/24/18
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Adopts the pole attachment regulations as promulgated and as may be amended by the FCC.

FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
09/26/18	#57-317	Motor Carrier Age Requirement	#3185	01/25/18	11/15/18 APP

Reduces the minimum age for paratransit drivers from 21 to 18 in limited circumstances.

PENNSYLVANIA STATE POLICE

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
01/03/18	#17-85	Procedures and Specifications for Firearm Record Forms under the Uniform Firearms Act	#3187	NONE

Allows the Pennsylvania State Police to access mental health records for the purposes of hiring police officers and for investigative needs to determine if a person is prohibited from possessing a firearm.

FINAL REGULATIONS					
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
05/10/18	#17-85	Procedures and Specifications for Firearm Record Forms under the Uniform Firearms Act	#3187	NONE	06/27/18 ABL

Allows the Pennsylvania State Police to access mental health records for the purposes of hiring police officers and for investigative needs to determine if a person is prohibited from possessing a firearm.

STATE CIVIL SERVICE COMMISSION

PROPOSED REGULATIONS				
Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed
03/21/17	#61-6	Implementation of Acts 69 and 167 of 2016	#3167	01/16/18 WDN

Updates the regulations to conform to the requirements of Acts 69 and 167 of 2016 and to reflect current practices and procedures.