

INDEPENDENT REGULATORY REVIEW COMMISSION

2020 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 2020.

In 2020, the Commission reviewed a total of 59 regulations, including 36 proposed and 23 final regulations. Almost 9,000 public comments were submitted on pending regulations in 2020. 8 comments were submitted by legislative standing committees and 95 members of the House and Senate submitted comments on these regulations.

Notable regulations reviewed by the Commission in 2020 include: Minimum Wage (Department of Labor & Industry #3202); iLottery (Department of Revenue #3234); Mental Health Parity (Department of Insurance #3252); and Compulsive and Problem Gambling Requirements and other provisions (Pennsylvania Gaming Control Board #3246).

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 2020 with Commission action due in 2021.
- W2Y** Withdrawn Under Section 5.1(a) – A regulation submitted as proposed, but not delivered in final-form within two years of the close of the public comment period, and consequently, deemed to be withdrawn.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-form regulation delivered in 2020.

Final Regulations

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

- AAW** **Approved After Withdrawal** – The final regulation was withdrawn, resubmitted and approved.
- APP** **Approved** – The final regulation was approved.
- N/A** Indicates this was a final-omitted regulation and was, therefore, not published in the *Pennsylvania Bulletin* for public comment.
- WBL** **Deemed Withdrawn by Law** – Agency failed to deliver the regulation and a report to IRRC and the standing committees or formally withdraw the regulation within 40 days of receipt of IRRC's disapproval order.
- WDN** A final regulation submitted but withdrawn prior to Commission action. A withdrawn final regulation may be resubmitted within two years after the close of the public comment period. A withdrawn final-omitted regulation may be resubmitted as a new final-omitted regulation at any time.

PROPOSED REGULATIONS

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

State Board of Education

12/08/20	#6-346	Certification of Professional Personnel	#3283	OPEN
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Aligns existing provisions with statutory changes to the Public School Code and establishes new training requirements related to culturally responsive and sustaining education, structured literacy and professional ethics.

Department of Environmental Protection

Environmental Quality Board

10/15/19	#7-545	Water Supply Replacement for Coal Surface Mining	#3245	01/02/20
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Addresses inconsistencies between Pennsylvania's surface coal mining program and federal requirements relating to water supply replacement so that Pennsylvania can retain primary regulatory authority.

01/27/20	#7-552	Administration of the Land Recycling Program	#3251	06/01/20
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Updates the statewide health standard medium-specific concentrations (MSC) pertaining to cleanup of soil and groundwater contamination for many contaminants and adds MSCs for three new contaminants.

04/27/20	#7-544	Control of VOC Emissions from Oil and Natural Gas Sources	#3256	08/26/20
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Adds reasonably available control technology (RACT) requirements and RACT emission limitations for oil and natural gas sources of volatile organic compounds.

06/30/20	#7-553	Water Quality Standard for Manganese and Implementation	#3260	10/26/20
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Amends the water quality standard for manganese and provides two alternatives for compliance with the standard.

09/17/20	#7-525	Control of VOC Emissions from Gasoline Dispensing Facilities (Stage I and Stage II)	#3266	12/30/20
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Amends regulations relating to control of volatile organic compound emissions at gasoline dispensing facilities during loading of underground gasoline storage tanks, filling of motor vehicles at the pump, and during and after decommissioning of Stage II vapor recovery equipment.

10/21/20	#7-559	CO2 Budget Trading Program	#3274	OPEN
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Establishes a program to limit emissions of carbon dioxide from fossil fuel-fired electric generating units with a nameplate capacity equal to or greater than 25 megawatts.

11/10/20	#7-556	Dam Safety and Waterway Management	#3278	OPEN
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Clarifies existing regulations; deletes or updates obsolete requirements and references; incorporates new or revised definitions; and corrects typographical errors.

Department of Human Services

10/22/20	#14-545	Subsidized Child Care Eligibility	#3275	OPEN
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Aligns eligibility requirements with requirements set forth in the Federal Child Care and Development Block Grant.

12/07/20	#14-550	Definitions and Redetermination	#3282	OPEN
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Expands the types of interviews available to Temporary Assistance for Needy Families applicants and recipients to meet application and redetermination requirements.

Department of Labor and Industry

06/16/20	#12-111	Unemployment Compensation; Employee Provisions	#3259	08/26/20
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Amends existing regulations pertaining to active search for work, claims for compensation, and payments to align with state and federal law and current practice, and to allow for implementation of the PA UC Claims System.

Department of State

08/22/18	#16-59	Regulations Implementing the Revised Uniform Law on Notarial Acts	#3212	10/30/20 W2Y
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Implements the provisions of the Revised Uniform Law on Notarial Acts.

Bureau of Professional and Occupational Affairs

10/08/20	#16A-7103	Schedule of Civil Penalties - Crane Operators	#3273	12/23/20
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Proposes a schedule of civil penalties for various violations of the Crane Operator Licensure Act.

State Architects Licensure Board

08/11/20	#16A-4111	Digital Signature and Seal	#3263	10/21/20
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Updates current regulations on seals to be consistent with other design professional boards and incorporates the National Council of Examiners for Engineering and Surveying Model Rule on seals on documents.

State Board of Dentistry

10/29/20	#16A-4634	Fees	#3277	OPEN
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Updates application and biennial renewal fees and rescinds fees for issuance of permits.

State Board of Examiners of Nursing Home Administrators

01/16/20	#16A-6219	Continuing Education	#3250	04/01/20
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Reduces the minimum number of continuing education clock hours from 48 to 36 hours per biennium, clarifies biennial renewal procedures, and addresses continued competence for individuals whose licenses have been expired or inactive for 5 or more years.

State Board of Landscape Architects

08/11/20	#16A-6112	Digital Signature and Seal	#3265	10/21/20
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Updates current regulations on seals to be consistent with other design professional boards and incorporates the National Council of Examiners for Engineering and Surveying Model Rule on seals on documents.

State Board of Medicine

12/22/20	#16A-4947	Orthotic Fitter Temporary Permits and Training	#3286	OPEN
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Streamlines the approval of precertification education programs and amends provisions related to temporary practice permits.

State Board of Occupational Therapy Education and Licensure

10/08/20	#16A-6712	Educational Programs	#3271	NONE
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Clarifies and codifies existing procedures relating to occupational therapy educational program requirements.

State Board of Osteopathic Medicine

02/21/20	#16A-5334	Fees	#3254	05/06/20*
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Increases application fees and all the Board's biennial renewal fees, and proposes graduated biennial renewal fee increases for seven licenses, certificates and registrations.

State Board of Pharmacy

10/08/20	#16A-5429	Administration of Injectable Medications, Biologicals and Immunizations	#3272	12/23/20
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Conforms existing regulations to statutory amendments which allow pharmacists and qualified pharmacy interns to administer influenza immunizations to children ages 9 - 18 and sets forth corresponding liability insurance requirements for pharmacists who administer immunizations, biological and injectable medications.

State Board of Physical Therapy

12/09/20	#16A-6518	Child Abuse Reporting Requirements	#3285	OPEN
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Updates existing regulations on child abuse reporting to be consistent with amendments to the Child Protective Services Law.

State Board of Podiatry

05/18/20	#16A-4417	Continuing Education	#3257	07/29/20
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Reduces the required continuing education credits per biennium from 50 to 45 hours, eliminates the restriction on the number of hours that can be completed via distance learning and courses, and clarifies circumstances under which a person may request an extension for all or a portion of continuing education for a biennium.

State Board of Psychology

12/09/20	#16A-6326	Licensure by Endorsement	#3284	OPEN
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Implements the licensure by endorsement requirements set forth by Act 41 of 2019.

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

11/24/20	#16A-6919	Child Abuse Reporting Requirements	#3281	OPEN
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Updates the Board's existing regulations on child abuse reporting to be consistent with the Child Protective Services Law.

State Board of Vehicle Manufacturers, Dealers and Salespersons

11/24/20	#16A-6011	Out-of-State RV Dealer Registration Fee	#3280	OPEN
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Sets a fee for out-of-state recreation vehicle dealer registrations.

State Registration Board for Professional Engineers, Land Surveyors and Geologists

08/11/20	#16A-4712	Digital Signature and Seal	#3264	10/21/20
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Updates current regulations on seals to be consistent with other design professional boards and incorporates the National Council of Examiners for Engineering and Surveying Model Rule on seals on documents.

Department of Transportation

05/18/20	#18-477	Registration Class Stickers	#3258	07/29/20
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Rescinds Chapter 55 because registration class stickers are no longer relied on to determine the registered weight of trucks, truck tractors, or combinations.

Insurance Department

01/28/20	#11-258	Mental Health Parity Analysis Documentation	#3252	04/08/20
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Requires an insurer to attest to documented analysis of its efforts to comply with mental health and substance use disorder parity requirements and make available for review documentation to demonstrate compliance.

09/10/20	#11-259	Minimum Reserve Standards for Individual and Group Health and Accident Insurance Contracts	#3269	NONE
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Updates the minimum reserve standards to align with the most recent updates to the NAIC Health Insurance Reserves Model Regulation.

Municipal Police Officers' Education and Training Commission

10/08/20	#17-80	Municipal Police Education and Training Act	#3270	12/16/20
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Updates and modernizes existing regulations to ensure that Pennsylvania's municipal police officers are properly trained with a modern curriculum within modern facilities and ensure that MPOETC has adequate mechanisms to exercise its statutory oversight.

Pennsylvania Gaming Control Board

11/15/19	#125-225	Slot Machine Licenses; Accounting and Internal Controls; Compulsive and Problem Gambling Requirements; Casino Self-Exclusion; Table Game Equipment; Credit	#3246	01/29/20
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Alters the procedures for a person to self-exclude from gaming activities and specifies that the procedures apply only to casino and retail sports wagering self-exclusion.

12/05/19	#125-226	Casino Simulcasting; Fantasy Contests	#3248	02/20/20
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Provides Category 2, 3 and 4 casinos with the option to provide live simulcasting of horse racing and associated simulcast wagering; provides a regulatory oversight structure for the conduct of fantasy contests.

07/16/20	#125-229	Interactive Gaming	#3261	10/21/20
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Establishes the regulatory framework for slot machine licensees and qualified gaming entities to offer interactive gaming in the Commonwealth.

08/05/20	#125-230	Video Gaming	#3262	11/04/20
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Establishes the regulatory framework for terminal operators to offer video gaming at truck stop establishments in the Commonwealth.

11/12/20	#125-234	Sports Wagering	#3279	OPEN
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Establishes the regulatory framework for slot machine licensees to obtain sports wagering certificates and offer sports wagering in Pennsylvania, either directly or through a sports wagering operator.

Pennsylvania Liquor Control Board

02/28/20	#54-101	Cleaning of Malt or Brewed Beverage Dispensing Systems	#3255	05/20/20
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Updates regulations relating to the cleaning of malt or brewed beverage dispensing systems.

FINAL REGULATIONS

Date Received	Agency & Regulation #	TITLE	IRRC #	Comments Filed	Final Action
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Department of Banking and Securities

09/10/20	#3-57	Repeal or Amendment of Assorted Chapters and Sections	#3268	N/A	10/06/20 WDN
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Repeals or amends various chapters and sections that have been rendered obsolete or inaccurate because of statutory changes.

Department of Conservation and Natural Resources

01/23/20	#7B-9	Snowmobile and All-Terrain Vehicle Grants	#3188	03/22/18	06/18/20 APP
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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.

Department of Environmental Protection

Environmental Quality Board

12/30/19	#7-534	Triennial Review of Water Quality Standards	#3182	03/19/18	01/31/20 APP
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Updates and revises water quality criteria as required by the federal Clean Water Act.

12/30/19	#7-532	Federal Office of Surface Mining Reclamation and Enforcement Program Consistency	#3217	12/26/18	01/31/20 APP
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Amends existing regulations to address inconsistencies between the Commonwealth's coal mining program and federal regulations.

02/14/20	#7-542	Unconventional Well Permit Application Fee Amendments	#3206	09/12/18	06/18/20 APP
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Increases unconventional well permit application fees.

08/14/20	#7-536	Air Quality Fee Schedule Amendments	#3231	07/17/19	09/17/20 APP
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Amends existing and adds new requirements and fee schedules relating to plan approval and operating permit fees.

02/14/20	#7-546	Revision of the Maximum Allowable Sulfur Content Limit for No. 2 and Lighter Commercial Fuel Oil	#3238	10/09/19	06/18/20 APP
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Reduces the maximum allowable sulfur content limit for No. 2 and lighter commercial fuel oil.

02/14/20	#7-543	Hazardous Waste Generator Improvements Rule	#3253	N/A	06/18/20 APP
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Ensures the alignment of Pennsylvania's hazardous waste regulations with revisions to the federal hazardous waste regulations.

Department of Health

08/12/20	#10-209	Complete Reporting of CD4 T-Lymphocyte, Viral Load and Genotyping Test Results Relating to HIV	#3235	07/24/19	09/17/20 APP
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Requires the reporting of all CD4 T-Lymphocyte cell counts related to HIV infection, as well as viral load test results and genotyping results.

Department of Human Services

09/14/20	#14-542	Child Care Facilities	#3216	12/13/18	10/15/20 APP
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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.

Department of Labor and Industry

10/17/19 12/09/19	#12-106	Minimum Wage	#3202	09/21/18	11/21/19 WDN 01/31/20 AAW
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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.

10/27/20	#12-113	Emergency Backdating	#3276	EC	12/03/20 APP
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Allows unemployment compensation claimants to backdate claims up to 52 weeks during this current period of "high unemployment" as defined in the Pennsylvania Unemployment Compensation Law.

Department of Revenue

12/30/19	#15-460	iLottery Games	#3234	07/03/19	01/31/20 APP
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Establishes permanent rules associated with iLottery implementation.

Department of State

Bureau of Professional and Occupational Affairs

01/16/20	#16A-62	Technical Corrections to Schedules of Civil Penalties	#3249	N/A	02/20/20 APP
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Corrects the underlying statutory and regulatory authority for some violations contained in the civil penalty schedules.

State Board of Certified Real Estate Appraisers

09/03/20	#16A-7023	Appraisal Management Companies - Federally Mandated Revisions	#3267	N/A	10/15/20 APP
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Revises the definitions of "appraiser panel" and "owner" to be consistent with Federal law and regulations.

State Board of Dentistry

02/13/20	#16A-4626	Child Abuse Reporting Requirements	#3198	04/25/18	06/18/20 APP
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Implements amendments to the Child Protective Services Law relating to training in child abuse recognition and reporting.

10/29/20	#16A-4633	Public Health Dental Hygiene Practitioner Practice Sites	#3228	05/22/19	12/03/20 APP
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Clarifies acceptable practice sites and expands the locations at which a public health dental hygiene practitioner may practice.

State Board of Osteopathic Medicine

06/15/20	#16A-5334	Fees	#3254	05/06/20	07/16/20 APP
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Increases application fees and all the Board's biennial renewal fees, and proposes graduated biennial renewal fee increases for seven licenses, certificates and registrations.

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

01/16/20	#16A-6922	Licensed Bachelor Social Worker; Fees	#3196	04/11/18	02/20/20 APP
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Updates existing regulations to address the licensure of bachelor social workers.

Milk Marketing Board

12/12/19	#47-19	Milk Marketing Fees	#3241	10/30/19	01/31/20 APP
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Increases license fees paid by milk dealers, subdealers, haulers, testers and weigher-samplers.

Pennsylvania Gaming Control Board

09/03/20	#125-218	Down Under Blackjack; Table Game Rules of Play	#3213	11/21/18	10/15/20 APP
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Adds Down Under Blackjack to the complement of table games available for play in the Commonwealth.

11/21/19 01/27/20	#125-228	General Table Games Provisions; Table Game Equipment; Electronic Table Games; Gaming Related Gaming Service Providers; Table Game Rules of Play	#3247	N/A	01/03/20 WDN 06/18/20 DIS 08/17/20 WBL
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Changes procedures for approval of table game rules of play and wagering for new games and new features of existing games.

Pennsylvania Public Utility Commission

04/17/20	#57-319	Electricity Generation Customer Choice	#3201	06/21/18	06/18/20 APP
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Amends customer information disclosure regulations.