

# RULES AND REGULATIONS

## Title 4—ADMINISTRATION

### DEPARTMENT OF GENERAL SERVICES

[ 4 PA. CODE CH. 89 ]

#### Death Benefits for Survivors of Emergency and Law Enforcement Personnel

##### *Statutory Authority*

The Department of General Services (Department), acting under sections 506 and 402.2 of The Administrative Code of 1929 (71 P.S. §§ 186 and 631.1) and 4 Pa. Code § 1.191 (relating to implementation), amends Chapter 89, Subchapter A (relating to death benefits for survivors of law enforcement and emergency personnel) to read as set forth in Annex A. The changes are necessary to conform to legislative amendments to the act of June 24, 1976 (P.L. 424, No. 101) (53 P.S. §§ 891—892.1), known as the Emergency and Law Enforcement Personnel Death Benefits Act (act).

##### *Omission of Proposed Rulemaking*

Public notice of intention to amend the regulations under the procedures in sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), known as the Commonwealth Documents Law (CDL), has been omitted as authorized under section 204(1) of the CDL (45 P.S. § 1204(1)) because the changes in the regulations relate to amendments to the act, a self-executing act of the General Assembly. As a result of these legislative amendments the Department's regulations are no longer consistent with the statute and must be amended.

##### *Purpose*

The purpose of this final-omitted rulemaking is to update Chapter 89, Subchapter A as required by the amendments to the act and to provide accurate and clear guidance to eligible beneficiaries and political subdivisions to facilitate the claims process.

##### *Background*

In response to the act, the Department promulgated the regulations in Chapter 89, Chapter A at 7 Pa.B. 3406 (November 25, 1977). The definitions in the regulations in 4 Pa. Code § 89.1 were amended in 1980 at 10 Pa.B. 2039 (May 24, 1980).

The General Assembly amended the act by the act of October 16, 1981 (P.L. 295, No. 102); the act of December 27, 1994 (P.L. 1373, No. 161); the act of April 2, 2002 (P.L. 213, No. 20); the act of October 6, 2005 (P.L. 319, No. 59); the act of July 7, 2006 (P.L. 603, No. 89) and the act of July 2, 2007 (P.L. 71, No. 21).

##### *Overview of Changes to Regulations*

The amendments make the regulations consistent with the act and provide accurate and clear guidance to eligible beneficiaries and political subdivisions to facilitate the claims process.

The act provides for payment of a death benefit to identified survivors of certain emergency and law enforcement personnel, who die in the performance of duties.

##### *Death Benefit*

The published regulations state that the death benefit is \$25,000. See §§ 89.4 and 89.6(a) (relating to amount of

payments; and beneficiary eligibility). The benefit was increased to \$50,000 in 1994, and to \$100,000 in 2005. The benefit is adjusted annually for inflation using the Consumer Price Index. The death benefit for Fiscal Year 2006-2007 is \$103,400. The term "benefit" will now be defined in § 89.1 (relating to definitions) by reference to the "Emergency and Law Enforcement Personnel Death Benefits Act." The Department will provide notice of its computation of the benefit on its website. See § 89.4. By these changes, the regulations will remain accurate despite the annual change in the amount of the benefit.

##### *Identified Survivors*

New § 89.6(d) and § 89.7(c)(4) (relating to claims for death benefits) were necessary to reflect that Act 102 of 1981 added parents to the list of eligible beneficiaries. Definitions of "beneficiary" and "parent" are added to § 89.1. The definitions of "minor children" and "spouse" are amended to conform to other changes in the regulations and for editorial reasons.

##### *Emergency and Law Enforcement Personnel*

The General Assembly has expanded the personnel covered by the act. In § 89.1, definitions were added for "ambulance service or rescue squad member," "emergency medical service," "National Guard member" and the definition of "firemen" was amended so that it is gender-neutral and more descriptive. As a result of Act 21 of 2007, definitions were added defining "certified hazmat response team member," "Hazmat Act" and "public safety answering point." The addition of a definition of "public safety officer," which includes all emergency and law enforcement personnel covered by the act, will enable the application of the regulations to others if the General Assembly continues to expand the list of those covered by the act. Throughout the regulations, references to "law enforcement officer or firemen" are replaced by a reference to "public safety officer."

##### *Performance of Duties*

Statutory amendments redefined the circumstances upon which a death benefit is payable, necessitating that § 89.2 (relating to eligibility) be completely rewritten. Originally, the benefit was payable if the person was "killed in the performance of his duties." The statute now provides for the payment of the benefit when a person "dies as a result of the performance of their duties." Additionally, the General Assembly has "deemed" certain acts to be within the "performance of duties" and has created presumptions that a death resulted from the "performance of duties" in identified circumstances. The new § 89.2 accurately describes the circumstances identified by the General Assembly upon which eligibility for the benefit may be based and eliminates the need for a definition of "performance of duties." Accordingly, the definitions of "killed" and "performance of duties" have been removed.

##### *Clarity and Guidance*

Section 89.5 (relating to payment of benefit by the Commonwealth) has been rewritten to reflect statutory amendments clarifying the payment process and to make the section consistent with other changes to the regulations. Section 89.7 (relating to claims for death benefits) was amended to conform to the other changes in the regulation and to provide detailed guidance on the documentation required in support of a claim. Editorial changes were made to § 89.9 (relating to appeals) and

§ 89.10 (relating to effective date) has been rescinded as obsolete. Section 89.11 (relating to forms) has also been rescinded because the obsolete forms now contained in the regulation have been replaced by online forms.

*Affected Individuals and Organizations*

This final-omitted rulemaking will affect the process followed by survivors of emergency or law enforcement actors to secure the benefit established by the act. These claimants will benefit from removal of inaccurate language in the regulations and insertion of language, which is consistent with the current statute. The final-omitted rulemaking also defines and describes the process for obtaining the death benefit with more detail and clarity.

Commonwealth agencies and political subdivisions of the Commonwealth that report deaths of law enforcement or emergency actors and submit claims for death benefits to the Department will benefit from updated accurate regulations detailing and clarifying the contents of the forms to be submitted and the submission process.

No private businesses are directly affected by this final-omitted rulemaking

*Fiscal Impact*

There will be no fiscal impact.

*Paperwork Requirements*

The final-omitted rulemaking will impose no new paperwork requirements.

*Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on October 1, 2007, the Department submitted a copy of the final-omitted rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Committees on State Government. On the same day, the final-omitted rulemaking was submitted to the Office of the Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

In addition to submitting the final-omitted rulemaking, the Department provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

The Attorney General approved the final-omitted rulemaking on October 26, 2007. Under section 5.1(j.2)(c) of the Regulatory Review Act, the rulemaking was deemed approved by the House and Senate Committees on October 31, 2007. At a hearing on November 1, 2007, IRRC approved the rulemaking.

*Additional Information*

Individuals interested in further information may contact Mary Benefield Seiverling, Assistant Chief Counsel, Department of General Services, 603 North Office Building, Harrisburg, PA 17125, (717) 772-2749.

*Findings*

The Department finds that:

(1) Public notice under the procedures in sections 201 and 202 of CDL of the Department's intention to amend the regulations adopted by this order has been omitted as authorized under section 204(1) of the CDL because the changes in the regulations relate to amendments to the act, a self-executing act of the General Assembly.

(2) The amendment of the regulations in the manner provided in this order is necessary and appropriate.

*Order*

The Department, acting under its statutory authority, orders that:

(a) The regulations of the Department, 4 Pa. Code Chapter 89, are amended by amending §§ 89.1—89.7 and 89.9; and by deleting §§ 89.10 and 89.11 to read as set forth in Annex A.

(b) The Office of the Attorney General and the Office of the General Counsel approved the rulemaking as to the legality and form as required by law.

(c) The Secretary of the Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon final publication in the *Pennsylvania Bulletin*.

JAMES P. CREEDON,  
*Secretary*

**Fiscal Note:** 8-12. No fiscal impact; (8) recommends adoption.

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 37 Pa.B. 6181 (November 17, 2007).)

**Annex A**

**TITLE 4. ADMINISTRATION**

**PART III. GENERAL SERVICES**

**CHAPTER 89. BUREAU OF RISK AND INSURANCE MANAGEMENT**

**Subpart A. DEATH BENEFITS FOR SURVIVORS OF LAW ENFORCEMENT AND EMERGENCY PERSONNEL**

**GENERAL**

**§ 89.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The act of June 24, 1976 (P. L. 424, No. 101), (53 P. S. §§ 891—892.1), known as the Emergency and Law Enforcement Personnel Death Benefits Act.

*Ambulance service or rescue squad member*—

(i) An officially recognized or designated member of an ambulance service or rescue squad, who is an employee of the Commonwealth or a political subdivision or a member of a legally recognized volunteer ambulance service or rescue squad in this Commonwealth.

(ii) The term includes rescue workers, ambulance drivers, paramedics, health-care responders, emergency medical technicians, or other similar workers, who are trained in rescue activity or the provision of emergency medical services and have legal authority and responsibility to engage in rescue activity or provide emergency medical services.

*Beneficiary*—The surviving spouse, minor children or parents of a public safety officer.

*Benefit*—The payment made to the beneficiary as authorized by the act.

*Bureau*—The Bureau of Risk and Insurance Management of the Department.

*Certified hazmat response team member*—A person who is a part of a group of individuals that meets the following requirements:

(i) Is certified and organized by a Commonwealth agency, a local agency or a regional hazardous material organization.

(ii) Is certified, trained and equipped in accordance with the Hazmat Act for the primary purpose of one of the following reasons:

(A) To provide emergency response services to mitigate actual or potential immediate threats to public health and the environment in response to the release or threat of a release of a hazardous material.

(B) To perform stabilization actions needed to remove threats to public health and the environment from hazardous material releases.

*Department*—The Department of General Services of the Commonwealth.

*Emergency medical service*—Provision of first-response emergency medical care (other than in a permanent medical care facility) or transportation of persons, in medical distress or under emergency conditions, to medical care facilities.

*Firefighter*—An individual, who is trained in fire suppression and has the legal authority and responsibility to engage in fire suppression, as an employee of the Commonwealth or a political subdivision or as an individual serving as an officially recognized or designated member of a legally organized volunteer fire department in this Commonwealth.

*Hazmat Act*—The Hazardous Material and Emergency Response Act (35 P. S. §§ 6022.101—6022.307).

*Law enforcement officer*—A peace officer as defined in 18 Pa.C.S. § 501 (relating to definitions), a public servant concerned in the official detention as defined in 18 Pa.C.S. § 5121 (relating to escape), an officer or employee of a State correctional institution, guards or employees of county jails and prisons, or other law enforcement officers of the Commonwealth or any political subdivision thereof.

*Minor children*—Surviving biological or adopted children of a public safety officer, who, at the time of the death of the public safety officer are under 21 years of age.

*National Guard member*—A member of the Pennsylvania National Guard in an official State duty status authorized under 51 Pa.C.S. § 508 (relating to active State duty for emergency).

*Parent*—A surviving biological or adoptive parent of a public safety officer whose parental rights had not been terminated at the time of their child's death.

*Political subdivision*—Any county, city, borough, incorporated town, township, school, vocational school district, or county institution district within this Commonwealth.

*Public safety answering point*—A facility approved by the Pennsylvania Emergency Management Agency under the Public Safety Emergency Telephone Act (35 P. S. §§ 7011—7021.13) as the first point at which calls for emergency assistance from individuals are answered, operated 24 hours a day.

*Public safety officers*—Emergency or law enforcement personnel identified in the act including firefighters, ambulance service or rescue squad members, certified hazmat response team members, law enforcement officers and National Guard members.

*Secretary*—The Secretary of the Department.

*Spouse*—The husband or wife of the deceased public safety officer at the time of death, including a spouse living apart from the individual, other than pursuant to divorce.

### § 89.2. Eligibility.

(a) *General*. Upon the death of a public safety officer who meets the requirements of the act, surviving beneficiaries are eligible for payment of a benefit if the public safety officer dies as a result of the public safety officer's performance of duties.

(b) *Performance of duties*. Performance of duties includes:

(1) Actions which the public safety officer is obligated or authorized by rule, regulation, condition of employment or service, or law to perform.

(2) Participation in a physical training exercise that is a formal part of an official training program whose purpose is to train, prepare or improve the public safety officer in particular activity or actions encompassed within the public safety officer's duties.

(3) Ceremonial functions.

(4) Actions which the act deems to be within the public safety officer's duties.

(c) *Requirements of the act*. At the time of performance of duties:

(1) A member of the National Guard shall be in an official state duty status authorized under 51 Pa.C.S. § 508 (relating to active State duty for emergency).

(2) A certified hazmat response team member shall be dispatched by a public safety answering point to perform services or take actions within the group's primary purpose and may not be any of the following:

(i) Certified and organized by a transporter, a manufacturer, supplier or user of hazardous materials or a private contractor.

(ii) A for-profit team acting as an agent on behalf of the spiller or responsible party.

(iii) A for-profit team responsible for postemergency or nonemergency response.

(d) *Statutory presumption*.

(1) A public safety officer is presumed to have died as a result of the performance of duties, if the individual suffers one of the following:

(i) A fatal heart attack or stroke while on duty.

(ii) A fatal heart attack or stroke suffered not later than 24 hours after participating in a physical training exercise.

(iii) A fatal heart attack or stroke suffered not later than 24 hours after responding to an emergency.

(2) The statutory presumption is overcome when evidence proves to a reasonable degree of medical certainty that circumstances other than the performance of duties were a substantial factor in causing the fatal heart attack or stroke.

### § 89.3. Jurisdiction.

The benefits provided under the act shall be payable whether or not the public safety officer died within the corporate boundaries of the employing municipality or, in the case of the Commonwealth employee, within this Commonwealth, as long as the individual died as a result of the performance of duties.

**§ 89.4. Amount of payments.**

The Department will annually calculate and post the amount of the benefit on its website and will retain the amount on the website for 5 years.

**§ 89.5. Payment of benefit by the Commonwealth.**

Upon approval of a claim for death benefits, the Commonwealth will pay the benefit, as follows:

(1) To the eligible beneficiary of a public safety officer employed by the Commonwealth.

(2) To the political subdivision for the purpose of distribution by the entity to the eligible beneficiary on whose behalf the certifying official filed the report of death for any public safety officer not employed by the Commonwealth.

**§ 89.6. Beneficiary eligibility.**

(a) *Order of priority.* The benefits will be paid by the Commonwealth or the political subdivision to the eligible beneficiary in the following order of precedence:

- (1) To the surviving spouse.
- (2) If there is no surviving spouse, to the minor child or children in equal shares, with payments, when appropriate, being made to the legal guardian or trustee.
- (3) If there is no surviving spouse or minor child, to the parent or parents.

(b) *Determination of relationship of spouse.* Marriage should be established by one or more of the following types of evidence in the order of preference shown:

(1) A copy of the public record of marriage, certified or attested, an abstract of the public record, containing sufficient data to identify the parties, the date and place of the marriage, and the number of prior marriages by either party shown on the official record, issued by the officer having custody of the record, or a certified copy of the religious record of marriage.

(2) The affidavit of the clergyman or magistrate who officiated.

(3) The original certificate of marriage accompanied by proof of its genuineness and the authority of the person to perform the marriage.

(4) The affidavits or sworn statements of two or more eyewitnesses to the ceremony.

(5) If a common law marriage is claimed, the affidavits or certified statements of the spouse setting forth all of the facts and circumstances concerning the alleged marriage, such as the agreement between the parties at the beginning of their cohabitation, the period of cohabitation, places and dates of residences, and whether children were born as a result of the relationship. This evidence should be supplemented by affidavits or certified statements from two or more persons who know as the result of personal observation the reputed relationship which existed between the parties to the alleged marriage including the period of cohabitation, places of residences, whether the parties held themselves out as husband and wife, and whether they were generally accepted as such in the communities in which they lived.

(6) Other evidence which would reasonably support a belief that a valid marriage actually existed.

(7) A copy of separation agreement, when applicable.

(c) *Determination of relationship of child.* Generally, an individual is considered the child of a public safety officer if the birth certificate shows the public safety officer as

the parent. If the birth certificate does not show the relationship, proof may consist of one or more of the following:

(1) Evidence that the public safety officer has been identified as the parent of the child by a judicial decree ordering the public safety officer to contribute to the support of the child or for other purposes.

(2) A certified copy of the public record of birth or a religious record showing that the public safety officer provided information naming the public safety officer as the parent of the child.

(3) Information obtained from a public agency or public records, such as school or welfare agencies, which shows that with the public safety officer's knowledge, the public safety officer was named as the parent of the child.

(4) A certified copy of the decree of adoption or a revised birth certificate to establish the fact of adoption.

(d) *Determination of relationship of parent or parents.* Generally, an individual is considered the parent of a public safety officer if the birth certificate identifies the individual as the parent of the public safety officer. If the birth certificate does not show the relationship, proof may consist of one of the following:

(1) A certified copy of the public record of birth or a religious record showing that the individual was named as the parent of the public safety officer.

(2) A certified copy of the decree of adoption or a revised birth certificate to establish the fact of adoption.

**§ 89.7. Claims for death benefits.**

(a) Claims for death benefits must be on the forms provided by the Bureau. The Department will make these forms available on its website and, upon request, by electronic mail, facsimile transmission or regular mail. The forms, completed in all applicable particulars, shall be forwarded to the Bureau of Risk and Insurance Management, Department of General Services, Post Office Box 1365, Harrisburg, Pennsylvania 17105-1365.

(b) The Claim for Death Benefits may be completed by a claimant, a political subdivision, or a Commonwealth agency but shall be signed by the claimant or authorized representative and be notarized.

(c) The following documents shall be attached to the Claim for Death Benefits:

- (1) Certified copy of the death certificate.
- (2) If payment is to be made to the spouse, evidence shown in § 89.6(b) (relating to beneficiary eligibility).

(3) If payment is to be made to or on behalf of minor children, evidence shown in § 89.6(c) and, if children are under 18 years of age, guardianship papers or court order to make payment.

(4) If payment is to be made to the parent or parents, evidence shown in § 89.6(d).

(d) The Report of Death shall be executed by a political subdivision or Commonwealth agency and be notarized.

(e) The following documents shall be attached to the Report of Death:

(1) A copy of the Workers' Compensation form filed as a result of the death of the public safety officer.

(2) A notarized statement from the supervisor or officer in charge describing in detail the duties being performed

by the public safety officer prior to or at the death and the circumstances under which the death occurred.

(3) Other information which will assist in determining eligibility to include:

(i) An autopsy report or a statement by the political subdivision or Commonwealth agency or coroner explaining that no autopsy was performed.

(ii) Investigation, incident and accident reports.

(iii) A determination of death by another state or Federal agency such as Workers' Compensation or Social Security.

(iv) An attending physician's narrative report containing the conclusion that the public safety officer died as a result of the performance of duties and stating the basis for the conclusion.

(4) Additional documentation for heart attacks and strokes to include:

(i) A detailed statement listing the actions of the public safety officer in the performance of duties during the 24-hour period prior to the onset of the heart attack or stroke.

(ii) Medical records related to the health of the public safety officer, including hospital admission/discharge reports, physician reports, physical examination results, and health risk and wellness evaluations covering the past 3 years.

(5) Additional documentation for death of a volunteer:

(i) A certified copy of documents, which establish that the volunteer ambulance service, volunteer fire company or volunteer rescue company is a nonprofit chartered corporation, association or organization located in this Commonwealth meeting the applicable definition established by the Volunteer Fire Company and Volunteer Ambulance Service Grant Act (35 P. S. §§ 6942.101—6942.903).

(ii) A notarized statement of the political subdivision or Commonwealth agency that the volunteer was an officially recognized or designated member of the volunteer ambulance service, volunteer fire company or volunteer rescue company at the time of the volunteer's death.

(iii) A complete description of deceased volunteer's membership information.

(f) It is recommended that political subdivisions submit claims for determination of eligibility prior to payment.

#### § 89.9. Appeals.

Appeals by a claimant or political subdivision from the decision of the Bureau shall be filed with the Department under the terms of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) within 30 days after notification of the decision.

#### § 89.10. (Reserved).

#### § 89.11. (Reserved).

[Pa.B. Doc. No. 07-2083. Filed for public inspection November 16, 2007, 9:00 a.m.]

## Title 31—INSURANCE

### INSURANCE DEPARTMENT

[ 31 PA. CODE CH. 58 ]

#### Objections and Procedure for Hearing on Reports of Examination

The Insurance Department (Department) hereby deletes Chapter 58 (relating to objections and procedure for hearings on reports of examination), under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412); 2 Pa.C.S. Chapters 1 and 5 (relating to general provisions; and practice and procedure); and section 905 of The Insurance Department Act of 1921 (act) (40 P. S. § 323.5).

Notice of proposed rulemaking is omitted in accordance with section 204(3) of the act of July 31, 1968 (P. L. 769, No. 240) known as The Commonwealth Documents Law (CDL) (45 P. S. § 1204(3)).

#### *Purpose*

The purpose of this final-omitted rulemaking is to eliminate obsolete, unnecessary regulations. The regulations, adopted January 11, 1974, relate to objections and hearings on reports of examinations conducted by the Department. Section 58.2 (relating to requirements for making objections) sets forth requirements that examinees must meet when filing objections to reports of examination and § 58.3 (relating to hearing procedure) describes the procedure for hearings on objections. The sections have been superseded by section 905 of the act added December 18, 1992. In particular, section 905(b) of the act provides that an examinee may "make a written submission or rebuttal with respect to any matters contained in the examination report." The currently effective process for hearings related to examination reports and written rebuttals is found in section 905(c)—(e) of the act, which provides only for a limited, investigatory hearing at the discretion of the Insurance Commissioner's (Commissioner) designee. The provisions in section 905 of the act for finalizing reports of examination through written submissions or rebuttals and a discretionary investigatory hearing are sufficient and are inconsistent with the procedure for "objections" set forth in the regulations, which were promulgated under a prior statutory procedure that was repealed and replaced by the procedure established by section 905 of the act. Therefore, the regulations have been superseded by section 905 of the act and are no longer necessary.

Under section 204(3) of the CDL, notice of proposed rulemaking may be omitted if the agency finds that the notice procedures are impracticable and unnecessary. This deletion of Chapter 58 eliminates obsolete regulations that are no longer applicable to reports of examination conducted by the Department. Furthermore, public comments cannot change the obsolete status of the regulations. Accordingly, the Commissioner finds that the proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) are impracticable and unnecessary in this situation.

#### *Affected Parties*

Because the regulations are obsolete, there are no parties affected by the deletion of the regulations.

#### *Fiscal Impact*

The deletion of the regulations has no fiscal impact.

*Paperwork*

The deletion of the regulations has no impact on paperwork.

*Effectiveness/Sunshine Date*

This order is effective upon publication in the *Pennsylvania Bulletin*. No sunset date has been assigned because the order repeals obsolete regulations.

*Contact Person*

Questions regarding the final-omitted rulemaking may be addressed to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429. Questions may also be e-mailed to psalvatore@state.pa.us or faxed to (717) 772-1969.

*Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), the Department submitted a copy of the rescission with the proposed rulemaking omitted on September 28, 2007, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee. On the same date, the rescission was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

In accordance with section 5.1(j.2) of the Regulatory Review Act, the regulations were deemed approved by the Senate Banking and Insurance Committee on October 31, 2007, and deemed approved by the House Insurance Committee on October 31, 2007 under section 5.1(e). IRRC met on November 1, 2007 and approved the regulations.

*Findings*

The Commissioner finds that:

(1) There is good cause to rescind Chapter 58, effective upon publication with the proposed rulemaking omitted. Deferral of the effective date of these regulations would be impractical and not serve the public interest. Under section 204(3) of the CDL there is no purpose to be served by deferring the effective date.

(2) There is good cause to forego public notice of the intention to rescind Chapter 58, because notice of the amendment under the circumstances is unnecessary and impractical under section 204(3) of the CDL because the authorizing statute was repealed, therefore, the regulations have no effect and create confusion and contradict the current statute.

*Order*

The Commissioner, acting under the authority in sections 206, 506, 1501 and 1502 of The Administrative Code of 1929, orders that:

(1) The regulations of the Department, 31 Pa. Code Chapter 58, are amended by deleting §§ 58.1—58.3 to read as set forth in Annex A.

(2) The Department shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as to form and legality as required by law.

(3) The Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(4) This order shall take effect upon its publication in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Acting Insurance Commissioner*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 37 Pa.B. 6181 (November 17, 2007).)*

**Fiscal Note:** 11-155 final-omitted. No fiscal impact; (8) recommends adoption.

**Annex A**  
**TITLE 31. INSURANCE**  
**PART I. GENERAL PROVISIONS**  
**Subpart F. RULES OF PROCEDURE**  
**CHAPTER 58. (Reserved)**  
**§§ 58.1—58.3. (Reserved).**

[Pa.B. Doc. No. 07-2084. Filed for public inspection November 16, 2007, 9:00 a.m.]