

REGULATORY ANALYSIS FORM

This space for use by IRRC

(1) Agency: Department of Corrections

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Harbison

(2) I.D. Number (Governor's Office Use)

19-3 90F

IRRC Numbers

2010

(3) Short Title

Motivational Boot Camps

(4) PA Code 37 Pa. Code
Section 93.301, et seq.

(5) Agency Contact
Primary Contact
Secondary Contact

Phone Numbers
Tara Freimuth (717) 975-4860
Fluck (717) 731-0444

(6) Type of Rulemaking (Check One)

- Proposed Rulemaking
- Final Order Adopting Regulation
- Final Order, Proposed Rulemaking Omitted

(7) Is a 120 Emergency Certification Attached?

- No.
- Yes: By the Attorney General
- Yes: By the Governor

(8) Briefly explain the regulation in clear and non-technical language.

The regulations govern the operation of Motivational Boot Camps in the Commonwealth of Pennsylvania. The Motivational Boot Camp Act (61 P.S. §1125(c)) requires the Department to promulgate regulations covering the following areas: Inmate Selection Criteria, Establishment of Boot Camp Selection Committees, Program Administration, Inmate Discipline, Curriculum and Supervision. The proposed regulations address all of these areas.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions:

The Motivational Boot Camp Act, P.L. 131, No. 215 (enacted December 19, 1990) (61 P.S. §1121 et seq.).

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Yes, the regulations are mandated by the Motivational Boot Camp Act, 61 P.S. §1121 et seq.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The regulations are mandated by the Motivational Boot Camp Act, 61 P.S. §1121 et seq.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

There are no public health, safety, environmental or general welfare risks associated with non-regulation.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The Department expects the Commonwealth to benefit from motivational boot camps in terms of financial savings. Since inmates who participate in the motivational boot camp will be incarcerated for shorter periods of time, the costs associated with traditional incarceration will be reduced.

The Department also expects inmates to benefit from motivational boot camps. Motivational boot camps are designed to instill a sense of self-discipline and personal responsibility in the inmates who participate in the boot camps to ensure effective and productive reintegration into the community.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The Department does not expect anyone to be adversely affected by the regulations.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply).

The Department and inmates participating in motivational boot camps will be required to comply with the proposed regulations.

(16) Describe the communications with the input from the public in the development and drafting of the regulation. List the persons and/or groups who are involved, if applicable.

The Department did not solicit input from the public in the development and drafting of the regulations.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Since the regulated community will consist of inmates chosen to participate in motivational boot camps, the Department does not expect the proposed regulations to have any fiscal impact on the regulated community.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Since the proposed regulations do not require compliance by local governments, the Department does not expect the proposed regulations to have any fiscal impact on local governments.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

There are no costs or savings associated with these regulations. The regulations will only provide a form of legitimacy to functions already being performed.

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	CURRENT FY YEAR	FY + 1 YEAR	FY + 2 YEAR	FY + 3 YEAR	FY + 4 YEAR	FY + 5 YEAR
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Savings	0	0	0	0	0	0
COSTS:	0	0	0	0	0	0
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Costs	0	0	0	0	0	0
REVENUE LOSSES:	0	0	0	0	0	0
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

(20a) Explain how the cost estimates listed above were derived.

There are no costs or savings associated with these regulations. The regulations will only provide a form of legitimacy to functions already being performed.

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Not applicable.

PROGRAM	FY - 3 (1994)	FY - 2 (1995)	FY - 1 (1996)	Current FY (1997)	Current FY (1998)
Quehanna Boot Camp	5,147,000	5,447,000	5,421,000	6,097,000	6,470,000

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The Department does not expect the proposed regulations to have any adverse affect on the motivational boot camp or to increase the costs of the Department. The regulations, which are mandated by statute, merely codify how the boot camp is currently operated.

(22) Describe the non-regulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

The Department did not consider any alternative regulatory schemes in regard to motivational boot camps. The regulations are mandated by the Motivational Boot Camp Act, 61 P.S. §1121 et seq. The Department's proposed regulations address only those areas specifically required to be covered in the enabling statute.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

Not applicable.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The Department did not compare the proposed regulations with regulations of other states who operate motivational boot camps.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Department does plan to accept public comment on the proposed regulations. However, the Department does not expect to hold any public hearings or informational meetings concerning the proposed regulations.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The proposed regulations will be reviewed on an annual basis once they become effective.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The Department anticipates that the regulations will become effective upon completion of the regulatory review process, all public comment periods and ultimate publication in the Pennsylvania Bulletin. Compliance with the proposed regulations will be required upon the effective date of the regulations.

(31) Provide the schedule for continual review of the regulation.

The Department expects to review the regulations annually.

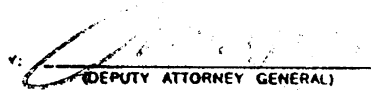
FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

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INDEPENDENT LEGISLATIVE
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General


(DEPUTY ATTORNEY GENERAL)

OCT 05 1998

DATE OF APPROVAL

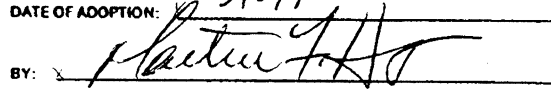
Check if applicable. Copy not approved. Objections attached.

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Department of Corrections
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 19-3

DATE OF ADOPTION: 3/2/98

BY: 

TITLE: Secretary
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.


BY

6/8/98

DATE OF APPROVAL

(Deputy General Counsel)
(Chief Counsel, Independent Agency)
(Strike inapplicable title)

Check if applicable. No Attorney General approval or objection within 30 days after submission.

Title 37 - Law
DEPARTMENT OF CORRECTIONS
[37 PA. CODE CH. 93]
State Correctional Institutions and Facilities

The Department of Corrections (Department) acting under the authority conferred by the Motivational Boot Camp Act, Act of Dec. 19, 1990, P.L. 1391, No. 215 (61 P.S. §1121, et seq.), hereby gives public notice of its intention to promulgate regulations to be included in Title 37, Chapter 93 (relating to state correctional institutions and facilities) pertaining to motivational boot camps to read as set forth in Annex A.

Under section 5(c) of The Motivational Boot Camp Act, 61 P.S. §1125(c), the Secretary of the Department of Corrections is required to promulgate regulations concerning motivational boot camps. At a minimum, the regulations must address inmate discipline, selection criteria, curriculum, supervision, administration and intensive training for all staff prior to their involvement with a motivational boot camp. See 61 P.S. §1125(c).

The proposed regulations will amend Chapter 93 by adding Subchapter C to be entitled "Motivational Boot Camps". Subchapter C will consist of seven new sections beginning with §93.301 and ending with §93.307. §93.301 will contain the minimum criteria required for selection into a motivational boot camp. §93.302 will establish selection committees, which shall be responsible for recommending whether inmates are favorable candidates for placement in a motivational boot camp. §93.303 will establish how motivational boot camps are to be administered by the Department. The supervisory structure of boot camp facilities will be addressed in §93.304. Prescribed curriculum for motivational boot camp inmates will be contained in §93.305. Inmate discipline for boot camp participants will be addressed in §93.306 and staff training will be contained in §93.307.

Compliance with Executive Order 1996-1

The Department has reviewed the proposed regulations and has considered their purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1 (relating to regulatory review and promulgation). The proposed regulations are statutorily mandated and otherwise comply with Executive Order 1996-1.

Statutory Authority

The Department proposes to adopt the regulations under the authority of section 5(c) of the Motivational Boot Camp Act (61 P.S. 1125(c)).

Fiscal Impact and Paperwork Requirements

Since the Department currently operates a motivational boot camp in accordance with the proposed regulations, it does not expect the regulations to have a fiscal impact on or to create new paperwork requirements for the Commonwealth, its political subdivisions or the private sector.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19), (71 P.S. §§745.1 - 745.15), the Department submitted a copy of the proposed regulations to the Independent Regulatory Review Commission ("IRRC") and the Chairmen of the House and Senate Judiciary Committees ("Committees") on March 4, 1999. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

If IRRC has any objections to any portion of the proposed regulations, it will notify the agency within 30 days after the close of the public comment period. Such notification shall specify the regulatory review criteria that have not been met by that portion of the regulations. The Act specifies detailed procedures for review, prior to final publication of the regulation, by the Department, the General Assembly and the Governor of objections raised.

Effective Date

The amendments to Title 37, Chapter 93 shall be effective upon closure of the public comment period, the regulatory review process and subsequent publication in the *Pennsylvania Bulletin*.

Public Comment Period\Contact Person

Written comments concerning the Department's proposed regulations to Title 37, Chapter 93 shall be submitted to Victoria S. Freimuth, Executive Assistant to the Secretary, Pennsylvania Department of Corrections, 2520 Lisburn Road, P.O. Box 598, Camp Hill, PA 17001-0598. Written comments must be received within thirty (30) days of the publication of this Notice of Proposed Rulemaking in the *Pennsylvania Bulletin*.

Martin F. Horn
Secretary

Fiscal Note: 19-3

Annex A
TITLE 37. LAW
PART III. AGENCIES AND OFFICES
CHAPTER 93. STATE CORRECTIONAL INSTITUTIONS AND FACILITIES

Subchapter C. MOTIVATIONAL BOOT CAMPS

§93.301. Selection Criteria.

(a) An eligible inmate, as that term is defined in 61 P.S. §1123, may be selected by the Department of Corrections for participation in a motivational boot camp. In selecting inmates for participation in a motivational boot camp, the selection committee will consider all information relevant to whether the inmate is eligible for placement in a motivational boot camp and likely to perform competently while in the motivational boot camp.

Selection criteria will include, but not be limited to, the following:

1. the written application submitted by the inmate;
2. inmate's participation in a motivational boot camp is consistent with the safety of the community;
3. inmate's participation in motivational boot camp is consistent with the welfare of the inmate;
4. inmate's participation in a motivational boot camp is consistent with the objectives of the Department;
5. the health and physical condition of the inmate;
6. the inmate's criminal history;
7. the inmate's escape history;
8. the inmate's institutional adjustment during current and prior incarcerations;

9. any outstanding detainers and/or parole warrants for the inmate; and

10. the inmate's psychological profile.

(b) No inmate is guaranteed acceptance into a motivational boot camp even if the inmate is eligible and likely to successfully graduate from a motivational boot camp.

§93.302 Selection committee.

(a) There shall be a motivational boot camp selection committee in each diagnostic and classification center operated by the Department of Corrections.

(b) Each selection committee shall be composed of the following individuals:

1. the diagnostic center director and/or a corrections counselor supervisor; and

2. a lieutenant and/or corrections counselor.

(c) The selection committee is only responsible for recommending inmates for participation in a motivational boot camp.

(d) The superintendent of the state correctional institution in which a diagnostic and classification center is operated shall make the final decision as to inmate participation in a motivational boot camp.

§93.303. Administration.

(a) The Department of Corrections shall administer motivational boot camps at sites to be determined by the Department of Corrections.

(b) Each motivational boot camp will operate under the administrative supervision of a Regional Deputy Commissioner or other official designated by the Secretary of the Department of Corrections.

§93.304. Supervision\Organizational Structure.

(a) Each motivational boot camp will be organized as a paramilitary unit with a supervisory structure consisting of a Camp Commander, a Deputy Commander and Area Commanders.

(b) The inmates will be organized into platoons consisting of no more than 50 inmates per platoon.

§93.305. Curriculum.

(a) Each motivational boot camp shall consist of the following curriculum:

1. rigorous physical activity;
2. intensive regimentation and discipline;
3. work on public and community projects;
4. substance abuse treatment;
5. continuing education;
6. vocational training;
7. pre-release counseling; and
8. ventilation therapy.

§93.306. Inmate discipline.

(a) A list of the rules to be followed by inmates participating in a motivational boot camp will be provided to all inmates during their orientation to the motivational boot camp.

(b) Serious rule infractions may result in an inmate's expulsion from a motivational boot camp.

(c) Minor rule infractions will be dealt with according to a three-tiered approach.

(d) Inmates can be suspended or removed from a motivational boot camp for reasons other than violations of disciplinary rules.

§93.307. Staff training.

(a) All staff directly involved with a motivational boot camp shall undergo a minimum of four (4) weeks of intensive training.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P. O. BOX 598
CAMP HILL, PENNSYLVANIA 17001-0598

OFFICE OF THE
SECRETARY OF CORRECTIONS

March 4, 1999

Director Robert Nyce
Independent Regulatory Review Commission
14th Floor, Harrisstown II
Harrisburg, PA 17120

RE: *Motivational Boot Camp Regulations*

Dear Director Nyce:

I am pleased to present for your review and approval the Pennsylvania Department of Corrections' proposed Motivational Boot Camp Regulations. The proposed regulations are promulgated under the authority conferred by the Motivational Boot Camp Act, Act of December 19, 1990, P.L. 1391, No. 215 (61 P.S. §1121, et seq.).

The Department of Corrections is required to promulgate regulations concerning Motivational Boot Camps under Section 5(c) of the Motivational Boot Camp Act, 61 P.S. §1125(c). The proposed regulations will amend Chapter 93 by adding Subchapter C "Motivational Boot Camps." The amendments will consist of seven (7) sections. They will set forth the minimum criteria required for selection into a motivational boot camp. They will establish selection committees responsible for recommending whether inmates are favorable candidates for placement in a motivational boot camp. They will establish how motivational boot camps are to be administered by the Department. They will address the supervisory structure of boot camp facilities, as well as the prescribed curriculum for motivational boot camp inmates, inmate discipline for boot camp participants and staff training.

The Department expects the regulations to have no fiscal impact for the Commonwealth. However, the Commonwealth will continue to benefit from the financial savings associated with inmate participation in motivational boot camps. Such inmates are incarcerated for shorter periods of time and, the costs associated with motivational boot camp participation are significantly less than those associated with traditional incarceration.

Of course, I am available at your convenience to answer any questions or concerns that you or any of the members of the Judiciary Committee may have regarding the regulations.

Very truly yours,

Martin F. Horn
Secretary of Corrections

JCF:jls

cc: Syndi L. Guido, Deputy General Counsel
Sarah B. Vandenbraak, Chief Counsel
Mary Beth Marschik, Director, Office of Legislative Affairs
Victoria S. Freimuth, Executive Assistant to the Secretary
Jill C. Fluck, Assistant Counsel
Jane M. Demko, Office Administrator, Office of General Counsel
File

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 19-3
 SUBJECT: Motivational Boot Camp
 AGENCY: DEPARTMENT OF CORRECTIONS

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 REGULATORY REVIEW COMMISSION

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
3/4/99	<u>Sandra J. Harper</u>	HOUSE COMMITTEE ON JUDICIARY
3/4/99	<u>Jane A. Mendlow</u>	
3/4/99	<u>Nyola Shelburne</u>	SENATE COMMITTEE ON JUDICIARY
3/4/99	<u>Rudy McDowell</u>	
3/4/99	<u>St. Gilbert</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
3/4/99	<u>Mayer Casas</u>	LEGISLATIVE REFERENCE BUREAU