

REGULATORY ANALYSIS FORM

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(1) Agency: Department of Corrections

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

19-4 JCF

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IRRC Numbers

2001

(3) Short Title

County Prisons

(4) 37 Pa. Code § 95.220, et seq.

(5) Agency Contacts & Telephone Numbers

Primary Contact: William M. Resnor, Deputy
Secretary for Intergovernmental Relations (717)
975 4876

Secondary Contact: Mark E. Guzzi (717) 731-0444

(6) Type of Rulemaking (Check One)
Attached?☒ Proposed Rulemaking☐ Final Order Adopting Regulation☐ Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification

☒ No.☐ Yes: By the Attorney General☐ Yes: By the Governor

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

The proposed regulations are designed to update outdated text currently within the regulations, to eliminate many technical requirements of the regulations and to afford county prison administrators with sufficient flexibility to address prison management problems that are strictly local in nature. However, the proposed amendments also establish basic minimum requirements for counties to operate their county prisons in a manner consistent with recognized professional standards. The amendments to Chapter 95 are proposed under the authority of Section 506 of the Administrative Code of 1929 (71 P.S. §186). Under Section 506 of the Administrative Code of 1929, the Department is empowered to prescribe rules and regulations for the performance of the Department's business. A portion of the Department's business includes establishing standards for county jails and prisons, including physical facilities and standards for correctional programs of treatment, education and rehabilitation of inmates. See Section 3 of the Act of October 16, 1972 (P.L. 913, No. 218) (61 P. S. §460.13[3]).

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

Section 3 of the Act of October 16, 1972 (P.L.913, No. 218) (61 P.S. §460.13[3]).

(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.

Under Section 3 of the Act of October 16, 1972 (P.L. 913 No. 218) (61 P.S. §460.13[3]), the Department is mandated to establish standards for county jails and prisons, including physical facilities and standards for correctional programs of treatment, education and rehabilitation of inmates.

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

The proposed amendments are justified by the compelling public interest in the safe and secure operations of county prisons. The proposed amendments establish minimum standards that the Department believes will ensure that county prisons are operated in a safe and secure manner.

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

The public health, safety and general welfare risks associated with non-regulation include the operation of unhealthy, unsafe and unsecured county correctional facilities. The proposed amendments are designed to ensure that county prison staff, inmates and visitors work, live and visit facilities which do not pose a danger to their health and safety. In addition, the proposed amendments seek to protect the general welfare by ensuring that county prisons are managed and operated in the most secure manner possible.

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

All persons associated with county prisons including staff, inmates and visitors will benefit

from the proposed amendments in that county prisons will be required to meet minimum professional standards in regard to their operations. In addition, the public will benefit in that the county prisons will be operated in the most secure manner possible.

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 anticipate that anyone will be adversely affected by the proposed amendments.

(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 persons, groups or entities that will be required to comply with the proposed amendments include county prison administrators and staff and inmates incarcerated in county prisons.

(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 solicited and received significant input from county prison administrators and county commissioners from across the Commonwealth in the development and drafting of the proposed amendments.

(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.

The Department cannot provide a specific estimate of the cost and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required. The regulations are designed to give county officials discretion in meeting the minimum requirements that the proposed amendments mandate. Therefore, the Department is unable to quantify any costs and/or savings associated with the proposed amendments. However, the Department designed the proposed amendments to enable county officials to meet minimum requirements with due consideration being given to budgetary constraints.

(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.

The Department cannot provide a specific estimate of the cost and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required. The regulations are designed to give county officials discretion in meeting the minimum requirements that the proposed amendments mandate. Therefore, the Department is unable to quantify any costs and/or savings associated with the proposed amendments. However, the Department designed the proposed amendments to enable county officials to meet minimum requirements with due consideration being given to budgetary constraints.

(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.

The Department does not expect the state government to incur any costs and/or savings associated with the proposed amendments.

(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						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

As stated previously, the Department cannot estimate what costs will be incurred by counties in implementing the proposed amendments. However, the proposed amendments were designed to give county officials sufficient discretion to meet the minimum requirements in the most cost effective manner possible.

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

PROGRAM	FY - 3 (1994)	FY - 2 (1995)	FY - 1 (1996)	Current FY (1997)
Quehanna Boot Camp	\$	\$	\$	\$

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

Since the Department is unable to provide any costs/benefit information, it is unable to explain how the benefits of the regulation outweigh the adverse effects and costs. However, the Department does not believe that the proposed amendments will have any adverse effects on the regulated community.

(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 non-regulatory alternatives in the costs associated with any such alternatives.

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

The Department did not consider any alternative regulatory schemes or any costs associated with such schemes.

(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 amendments with the regulations of any other states regarding county prisons. The Department does not believe that the proposed amendments will put Pennsylvania at a competitive disadvantage with other states.

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

The Department does not believe that the proposed regulations will effect any existing or proposed regulations of the promulgating agency or other state agencies.

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

The Department does not anticipate to hold any public hearings or informational meetings concerning the proposed amendments. However, such hearings or meetings may be contemplated depending on the comments received on the proposed amendments.

(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.

The proposed amendments will not significantly change existing reporting, record keeping or other paper work requirements.

(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 amendments do not contain any special provisions which have been developed to meet the particular needs of the effective groups or persons including, but not limited to, minorities, elderly persons, small businesses and farmers.

(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 proposed amendments will become effective in early 1999. Compliance will be expected within one year of the anticipated effective date of the proposed amendments.

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

The proposed amendments, once effective, will be reviewed on an annual basis.

FACE SHEET
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WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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LEGISLATIVE
REVIEW COMMISSION

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

[Signature]
(DEPUTY ATTORNEY GENERAL)

SEP 10 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.

19-4

DATE OF ADOPTION:

6/11/98

BY:

[Signature]

TITLE:

Secretary

(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

BY:

[Signature]

6/30/98

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. 95]
County Correctional Institutions

The Department of Corrections (Department) proposes to amend Chapter 95, relating to county correctional institutions, to read as set forth in Annex A. The Department is proposing the amendments under the authority of Section 506 of the Administrative Code of 1929 (71 P.S. §186).

A. Contact Person

Interested persons are invited to submit in writing any comments, suggestions or objections regarding the proposed amendments to Deputy Secretary for Intergovernmental Relations William M. Reznor, 2520 Lisburn Road, P.O. Box 598, Camp Hill, PA 17001-0598, (717) 975-4876.

B. Statutory Authority

The Department proposes the amendments to Chapter 95 under the authority of Section 506 of the Administrative Code of 1929 (71 P.S. §186). Under Section 506 of the Administrative Code of 1929 the Department is empowered to prescribe rules and regulations for the performance of the Department's business. A portion of the Department's business includes establishing standards for county jails and prisons, including physical facilities and standards for correctional programs of treatment, education and rehabilitation of inmates. See Section 3 of the Act of December 27, 1965 (P.L. 1237)(61 P.S. §460.3(3)).

C. Purpose and Background

Under the authority of Executive Order 1996-1 the Department undertook a review of its regulations relating to county correctional institutions. Based on that review, the Department found that many of the regulations are outdated, too technical and do not afford county prison administrators with sufficient flexibility to address prison management problems that are strictly local in nature. While the Department still wants to ensure that county prisons maintain minimum professional standards for prison operations, it wants to provide county prison administrators with the flexibility they need to address strictly local issues in the manner the counties deem most appropriate and cost efficient. Therefore, the Department proposes amendments to Chapter 95 to read as set forth in Annex A.

D. Compliance with Executive Order 1996-1, Regulatory Review and Promulgation

Prior to drafting the proposed amendments contained in Annex A, the Department sought and received input from county prison wardens from across the Commonwealth. In May of 1997, the Department mailed a preliminary survey to the wardens of all sixty-

three (63) counties which asked them to rate the individual sections contained within Chapter 95 and to identify specific areas of concern. The overall response rate to the survey was 59%. The results from the survey were compiled by the Department's Planning and Research Division to develop a standard agenda for regional work sessions that the Department planned to conduct with county prison officials. The survey revealed that twelve sections of Chapter 95 were deemed most worthy of revision by the county wardens that responded to the survey. During the months of July and August 1997, five regional work sessions were conducted with county prison officials to discuss the twelve sections targeted for revision.

The five work sessions were held for the Northwest, Northeast, Southwest, and Southeast regions of the Commonwealth and Philadelphia County. The work sessions were held in centralized locations in an effort to maximize warden participation by minimizing travel inconveniences. A team from the Department, which included representation from the Office of Chief Counsel, Bureau of Operations, Office of Grants and Special Projects, Bureau of Health Care and the Deputy Secretary for Intergovernmental Relations, was assembled to facilitate warden input at each of the work sessions and to develop recommendations for a reduction in the regulations of the targeted sections.

After the work sessions, and with due consideration being given to the input of the county prison officials, the Department drafted proposed amendments to the twelve regulatory sections that were targeted for revision. Those amendments were then submitted to a Wardens' Committee representing the Pennsylvania Prison Wardens Association and the Courts and Corrections committee representing the County Commissioners Association of Pennsylvania for final review and comment. After reviewing the comments submitted by the County Commissioners Association and the Wardens Committee the Department drafted the proposed amendments as set forth in Annex A.

E. Summary of Proposed Amendments

An introductory statement will now precede the regulations of Chapter 95. The introductory statement is intended to impress upon county prison officials the need to develop, utilize and maintain local policies and procedures that are consistent with Pennsylvania law and recognized professional standards. The introductory statement will also exempt compliance with the regulations if a county prison achieves American Correctional Association accreditation using Adult Local Detention Facilities standards. These are the same standards endorsed by the American Jailers Association. In addition, all Chapter 95 regulations governing medical and health care services will be waived if a county prison achieves accreditation from the National Commission on Correctional Health Care.

Twelve sections have been selected for revision based on input from county wardens and prison administrators concerning the most burdensome regulations. Those sections include §95.221, Personnel; §95.222, Admissions; §95.225, Classification;

§95.226, Housing; §95.228 Clothing; §95.231, Personal Hygiene; §95.232, Medical and Health Services; §95.234, Correspondence; §95.236, Library; §95.238, Recreation; §95.239, Commissary and §95.240, Discipline and Punishment. The proposed amendments are designed to reduce the number of technical, burdensome and mandatory requirements that are currently imposed on county prison administrators. The proposed amendments are also designed to provide county prison administrators with sufficient flexibility to address purely local operational concerns within the confines of local budgetary constraints. At the same time, the proposed amendments establish for county prison administrators the minimum general professional standards that should govern county prison operations.

F. Fiscal Impact

The proposed amendments are not expected to have any negative fiscal impact upon the Commonwealth, its political subdivisions or the general public.

G. Paperwork Requirements

The proposed amendments are not expected to have any effect on the paperwork requirements of the Commonwealth, its political subdivisions or the public.

H. Regulatory Review

Under Section 5(a) of the Regulatory Review Act(71 P.S. §745.5(a)), on March 4, 1999, the Department submitted a copy of this notice of proposed rulemaking to the Independent Regulatory Review Commission ("IRRC"), the Chairperson of the House Judiciary Committee and the Chairperson of the Senate Judiciary Committee. In addition to submitting the proposed amendments, the Department provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Improving Government Regulations." A copy of this material is available to the public upon request.

Under Section 5(g) of the Regulatory Review Act (71 P.S. §745.5 (g)), if IRRC has any objection to any portion of the proposed regulation, it will notify the Department within 10 days of the close of the Committee's review period. The notification shall specify the regulatory review criteria which have not been met by the proposed regulation. The Regulatory Review 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.

I. Effective Date

The proposed amendments shall take effect upon completion of the regulatory review process and final publication in the Pennsylvania Bulletin.

Martin F. Horn
Secretary

Fiscal Note: 19-3

Annex A
TITLE 37, LAW
PART III. AGENCIES AND OFFICES
CHAPTER 95. COUNTY CORRECTIONAL INSTITUTIONS

COUNTY [JAILS] PRISONS

§95.220. Purpose

(a) The regulations which follow are designed to encourage all county prisons to develop and utilize local policies and procedures that are in keeping with existing Pennsylvania law and recognized professional standards for all sections addressed in this chapter. Each category sets forth minimum requirements, which are mandatory, and recommended guidelines, which are not mandatory. For those counties achieving American Correctional Association accreditation using Adult Local Detention Facilities standards, the regulations of this chapter shall be waived in their entirety. All regulations pertaining to medical and health services shall be waived for those counties which achieve National Commission on Correctional Health Care accreditation.

§ 95.221. Personnel

(a) Minimum requirements. The following are the minimum requirements applicable to personnel at county [jails] prisons:

(1) An education and [training] awareness program shall seek to impress upon personnel and the public at large that this work is a public service of great importance.

(2) Before being assigned dut[y]ies, all personnel shall be given a course of training in their general and specific responsibilities.

(3) [After entering on duty, and at regular times during their career, personnel shall improve their knowledge and professional capacity by attending in-service training courses.] Full time corrections personnel shall receive training from a training program approved by the Department of Corrections within 12 months of assuming their duties.

(4) [The seeking and dispensing of favors or the unwarranted use of force, whether physical or psychological, shall never be condoned.] Part-time corrections personnel shall be provided training appropriate to their duties under a training program approved by the Department of Corrections. Any part-time corrections personnel who have not completed an approved training program shall not be permitted to work without close supervisory direction.

(5) [All persons shall be enrolled within 6 months of the date they entered on duty in the Bureau of Correction Training School.] Written local policy shall provide for training and staff development for all personnel. Such training shall include, but not be limited to, use of force, prohibition on the seeking and dispensing of favors to and from the inmate population and instruction in the facility's Code of Conduct and Ethics.

(b) *Recommended guidelines.* The following are the recommended guidelines applicable to personnel:

(1) The governing body in control of the [jail] prison should provide for careful selection of all levels of personnel.

(2) [Personnel should be appointed on a full-time basis as career jail officers.] Salaries and employment benefits should be adequate to attract and retain competent and professional men and women.

(3) Personnel should [have civil service status with security of tenure subject only to good conduct, efficiency and physical fitness] always conduct themselves in a professional manner in the presence of inmates.

(4) [Salaries should be adequate to attract and retain suitable men and women.] At no time should an atmosphere of familiarity be allowed to exist between inmates and correctional personnel.

(5) [Employment benefits and conditions of service should be favorable and in line with state employees and other civil servants.] Prison officers should be encouraged to maintain themselves in good physical condition.

[(6) Personnel should, be at all times, conduct themselves and perform their duties in a manner which shall help prisoners form sound attitudes toward productive living in a free society.

(7) The administrator of the jail should be qualified by character, administrative ability, suitable training and experience.

(8) The administrator of the jail should be appointed on a full-time basis.

(9) Prison officers should be given special physical training.

(10) Professional stature should be the goal of all jail personnel.

(11) Respect for the dignity of one's fellow man is absolutely essential for all personnel who work with prisoners.]

§ 95.222. Admission

(a) *Minimum requirements.* The following are the minimum requirements applicable to admissions [procedures]:

(1) [The officer assigned to the admissions desk shall determine that each prisoner being admitted has been] With all admissions to the prison, commitment under proper legal authority and completeness of paperwork shall be verified. [The commitment papers shall be carefully examined for completeness and signature by authorized officials. The identity of the person being admitted should be verified as the person named in the commitment papers.]

(2) [An injured, sick or unconscious prisoner may not be admitted to the jail until medical treatment has been provided and arresting officers produce verification from a medical doctor that the prisoner is not in need of emergency hospitalization. If an injured, sick or unconscious prisoner is admitted to the jail then he shall receive immediate medical attention by a medical doctor.] No inmate shall be admitted into the prison when it is determined that the inmate is in need of medical treatment that cannot be provided by the prison. A written verification of treatment from a medical doctor shall be provided by the transporting authority prior to admittance.

(3) [The clothing of the prisoner shall be carefully searched for contraband.] Intake procedures relating to contraband searches, property disposition, notification and medical assessments and personal hygiene should be described in local policy developed from recognized professional standards.

(4) [Personal property removed from the prisoner shall be listed and described in detail, item by item, in the presence of the prisoner. The admission officer and the prisoner shall both check the listing together, and each sign a duplicate receipt form. One copy of the receipt shall be given to the prisoner and the original filed in the property records.] As part of the intake process, basic personal information shall be obtained for identification and classification purposes. In the event of a transfer, this basic information shall include: name of the inmate; aliases; address; description; occupation; education; offense; religious affiliation; date of commitment; authority for the commitment; previous criminal record; facts of the crime committed; name and address of person to be contacted in event of an emergency; marital status; medical history; and, name and address of attorney.

(5) [Personal property of the prisoner shall be stored in a safe place until the prisoner is released or until he releases their property to persons designated in writing by them. Personal property released to persons designated by the

prisoner shall be transferred only when the prisoner is present.] Upon admission, a copy of the rules of the prison shall be provided to each inmate.

(6) [A telephone should be available within the receiving area. The prisoner shall be permitted to contact an attorney, a bondsman or a family member. If without funds, a phone call shall be provided.] Written local policy shall identify the means by which an inmate will have the opportunity to notify a relative of their whereabouts.

[(7) If it is not possible for a doctor to be in attendance during the admission process, the admission officer should look for injuries, medical tags and question the prisoner to determine if he has any medical problems which need attention. This should include information concerning drug or alcohol abuse.

(8) If a prisoner has any medication on his person at the time of admission, the medical doctor shall decide what use is to be made of the medication.

(9) Prisoners upon admission shall take a shower and be deloused if necessary.

(10) During the receiving process, certain personal history information shall be obtained from the prisoner for identification and classification purposes and so that relatives may be notified in case of emergency. The basic information shall include: name of prisoner, aliases, address, description, occupation, education, offense, religious affiliation, date of commitment, authority for the commitment, previous criminal record, name and address of attorney.]

(b) Recommended guidelines. The following are the recommended guidelines concerning the admission process:

(1) [Each prisoner admitted shall be stripped and searched] Admission procedures may include the unclothed search of inmates for weapons and contraband. The determination for necessity of strip searches should coincide with prevailing laws and statutes. [The search should also include a check for body vermin, and for cuts, bruises, needle scars and other injuries. The] Any strip search should be conducted in a professional [nonhumiliating manner,] fashion and [for security and privacy reasons, the search should be conducted in an area where the prisoner is in view of only those officers in charge of the search] supervised by correctional staff of the same sex as the inmate.

(2) [A matron shall be present when female prisoners are admitted, and the strip search area shall be supervised by female staff members in a private portion of the jail.] All inmates newly committed to the prison should be fingerprinted and photographed at the discretion of the prison administrators.

(3) [Prisoners newly committed to the jail shall be fingerprinted and photographed as soon as possible. Copies of the fingerprint record should be forwarded to the proper State authorities and to the Federal Bureau of Investigation.] For prisons that permit use of personal clothing, inmates should be provided with clean clothing if necessary.

[(4)] Each prisoner shall be provided with clean clothing if his is inappropriate.]

[(5)] (4) If possible, the admission procedure should include a screening interview with a counselor to assist the prisoner with any immediate family or personal problems.

[(6)] (5) Any serious wounds existing at the time of admission should be photographed, documented and referred to the prison medical section for proper attention [and immediately attended by a medical doctor].

[(7)] (6) [Until the medical doctor is able to verify that the prisoner is free of any communicable disease, the prisoner shall be housed in quarantine area separate from the general population for the safety of staff and other prisoners.] Quarantine procedures should be addressed in written local policy and consistently utilized for the safety of staff and other inmates. Whenever possible, the quarantine area should consist of separate cells.

[(8)] Inmates entering the quarantine area shall receive a copy of the rules and regulations of the jail.]

§ 95.225. Classification

(a) [Generally. Every jail in the Commonwealth should use a classification process to coordinate all information about the prisoner so that the decisions concerning security, housing and treatment programs may be made on a basis of knowledge instead of guess. Classification may be an uncomplicated or a very complex process depending upon the size, physical facilities and staff of the jail. The purpose of classification is to help the jail administrator as follows:] Minimum requirement: The following minimum requirement applies to classification:

(1) [Assure the security of the jail.] A written inmate classification plan shall be documented in local policy. In keeping with recognized professional standards, this plan shall establish categories based on the degree of security risk and need for supervision and specify how the classification process is accomplished, what process of appeals exist, the review mechanism utilized and explicit procedures for reclassification.

[(2)] Assure the welfare of the inmates.

(3) Assure the protection of the community by preventing escapes.

(4) Assure the most effective use of the jail, within its limitations, as an instrument of correction and rehabilitation.

(b) *Minimum requirements.* The minimum requirements, as regards classification of prisoners in county jails, are as follows:

(1) To implement a classification process, the jail administrator in counties of the first through fifth class shall form a classification committee composed of representatives of administration, security and treatment. A citizen member of the community may also be of great benefit to the committee.

(2) In determining each prisoner's degree of security needed, housing assignment, job assignment and overall treatment plan, the following items should be considered through the classification process:

- (i) Sex.
- (ii) Age.
- (iii) Crime.
- (iv) Sentence.
- (v) Past criminal history.
- (vi) Medical condition and needs.
- (vii) Mental condition and needs.
- (viii) Education and vocational needs.
- (ix) Special services and program needs.
- (x) Other pertinent information.
- (xi) The thinking and feeling of the prisoner about his life and future plans.

(3) If possible, each prisoner should appear before the classification committee to discuss his case and future life goals.

(4) Each prisoner should be informed of the decision and the reason for the decision of the classification committee.

(5) Classification is an ongoing process and a procedure for reclassification shall be developed and each prisoner shall be informed under what conditions reclassification is possible.

(c) *Recommended guidelines.* Jails of the sixth, seventh and eighth class counties may find that it is unwieldy to have a formal classification committee. In such cases, the administrator should use the classification process himself as a guideline for operating the jail.]

§ 95.226. Housing.

(a) *[Generally.* The immediate problem of housing the new prisoner shall be solved when he enters the jail. Some housing arrangements are required by Pennsylvania law. Few jails have a formal procedure for evaluating new inmates. However, an immediate decision shall be made as to which housing unit he is to be assigned. The housing assignment of a prisoner may have serious consequences for him and for the jail. For example, a violent prisoner may be placed in a double cell with a weaker and older person whom he may assault. Or the youthful prisoner may be placed in a cell with an aggressive homosexual and be raped. The jail administration shall carefully assess the need for segregating prisoners who should be segregated and assure that the housing arrangements required by law are followed, and that all prisoners are handled according to good jail management standards.] Minimum requirements: The following are the minimum requirements applicable to housing:

(1) All decisions involving housing segregation or removal and transfer of seriously ill inmates shall be in keeping with existing laws and national standards.

(2) Any inmate who is mentally ill or known to have a contagious disease shall be separated from the general population.

(3) Female inmates shall be completely separated from male inmates. This does not preclude possible rehabilitative projects and food service assignments where male and female inmates could participate together with proper supervision.

(4) Accommodations for inmates shall meet all requirements of the Pennsylvania Department of Health. In determining housing adequacy, climatic conditions, minimum floor space, lighting, heating and ventilation shall be considered. In addition, the following should also be considered:

(i) Each room shall allow the entrance of fresh air.

(ii) Artificial light sufficient for inmates to read or work without injury to eyesight shall be provided.

(iii) Sufficient toilet facilities are required.

(iv) Bathing facilities shall be provided so that every inmate may use them as frequently as necessary for personal hygiene.

(5) All parts of the prison used by inmates shall be properly maintained and kept clean at all times.

(b) *[Minimum requirements] Recommended guidelines.* The recommended guidelines [minimum requirements] for housing are as follows:

(1) [Some housing arrangements are mandatory. Under the provisions of the act of May 10, 1921 (P.L. 433) (61 P.S. § 1-4), the following is required:] Housing arrangements which achieve necessary separation among populations should be defined in local policy and be consistent with recognized professional standards and applicable laws.

[(i) Prisoners whose physical condition is not considered good or who are suffering from any disease shall be segregated from prisoners considered to be in good physical condition.

(ii) Prisoners who are found to be mentally weak shall be segregated.

(iii) Prisoners considered to be habitual criminals shall be segregated.]

(2) [The act of January 26, 1965 (P.L. 356) (61 P.S. §81) provides that a seriously ill prisoner may be removed from any prison by the court for confinement in some other suitable institution where proper treatment may be administered.] Where applicable, local policies relating to housing should be consistent with any existing local classification policies.

[(3) Women prisoners shall be completely separated from male prisoners. This does not preclude possible rehabilitative projects and food service where male and female residents could participate together with proper supervision.

(4) Accommodations for prisoners shall meet all requirements of the State Health Department. In determining adequacy, climatic conditions, minimum floor space, lighting, heating and ventilation shall be considered. In addition, the following shall also be considered:

(i) Each room shall allow the entrance of fresh air

(ii) Artificial light sufficient for prisoners to read or work without injury to eyesight shall be provided.

(iii) Modern toilet facilities are required.

(iv) Bathing facilities shall be provided so that every prisoner may use them as frequently as necessary for personal hygiene.

(v) All parts of the prison used by prisoners shall be properly maintained and kept clean at all times.

(c) *Recommended guidelines.* The recommended guidelines for housing are as follows:

(1) Prisoners should be housed in single occupancy cells.

(2) If dormitories are used, they should be occupied by prisoners who are carefully selected. The jail staff should determine if prisoners to be assigned for dormitory housing are able to associate with one another in close living arrangements.

(3) Sentenced prisoners should be housed separately from those who are only accused of having committed a crime.

(4) If possible, trustees should not be housed with other prisoners.

(5) Work releases should be housed in separate quarters.

(6) Elderly and infirm prisoners should be housed away from more youthful and aggressive prisoners. They should be located in an area close to the dining room and the place where sick call is held. If at all possible, they should not be required to climb stairs.]

§ 95.228. Clothing.

(a) *[Generally.* Whether or not the jail supplies prisoner clothing is left to county policy. Jail clothing, if provided by the county administration, may be cover-alls, two-piece shirt and trouser outfits, surplus military fatigue trousers and T-shirts, rented uniforms or other suitable clothing. Regardless of the policy, jail inmates should be returned to the community wearing clean clothes. Therefore, if the prisoner has street clothes in need of fumigation and laundering, arrangements should be made to have this done in the jail before the prisoner is discharged. Minimum requirements: The following are the minimum requirements applicable to clothing:

(1) Written local policy shall provide for each inmate to receive suitable clothing including adequate footwear and underwear.

(2) Whether inmates may possess personal clothing shall be stipulated in written local policy.

(3) Whether or not a prison elects to store personal clothing shall be determined in written local policy. Personal clothing, if stored, shall be stored in a sanitary manner.

[(b) Minimum requirements. The following minimum requirements are applicable for clothing:

(1) Prisoners shall be provided footwear, an outfit of clothing, and underwear suitable for the climate and adequate to his good health if they do not provide their own. Jail clothing shall in no manner be degrading or humiliating.

(2) Clothing shall be changed and washed as often as necessary and kept in proper condition for the maintenance of hygiene.

(c) *Recommended guidelines.* Any prisoner who wishes to provide his own clothing should be able to do so, providing it meets the specification of the jail administrator.]

§ 95.231. Personal hygiene.

(a) *Minimum requirements.* The following are the minimum requirements applicable [for] to personal hygiene:

(1) [Prisoners shall bathe no less than twice a week and preferably daily if the physical facilities allow.] All inmates shall be required to maintain proper hygiene standards.

(2) [The jail shall provide all prisoners with soap, clean towels, razor, toothbrush and hot and cold water for bathing and shaving.] All inmates shall bathe no less than twice a week.

(3) [Jail administrators and staff may not enforce their hair styles on prisoners provided that the hair of the prisoner is clean and well groomed, unless there is a definite health hazard.] Any inmate determined to be indigent shall be provided with articles to attain satisfactory personal hygiene.

(4) [Female prisoners shall be provided articles for feminine hygiene when needed.] Inmate hair styles shall comply with sanitation and security policies of the prison.

(5) [The jail shall furnish laundry facilities for personal clothing, with capacity to provide laundry services on a weekly basis for the personal garments of each inmate.] All female inmates shall be provided articles for feminine hygiene when needed.

(6) Written local policy and procedure shall provide a means for inmates to obtain clean clothing on a weekly basis.

§ 95.232. Medical and health services.

(a) *Minimum requirements.* The following are the minimum requirements applicable [for] to medical and health services:

(1) [Persons admitted to jail shall, within 48 hours after his admission, be examined as to his physical condition and also as to his mental condition.] Written local policy shall specify that all inmates admitted to the prison receive a health care screening performed and recorded by a person with health care training within twenty-four (24) hours of admission. A record of the result of the

examination shall be kept as a part of the permanent [jail] prison documents. Reference should be made to act of May 10, 1921 (P.L. 433) (61 P.S. §§ 1-4).

(2) [A competent physician shall be available to take care of the medical needs of the prisoners. The arrangements for medical services shall vary greatly with the size of the prisoner population and the community. Therefore, it is suggested that the jail should have one of the following arrangements for medical services:] Any inmate determined upon admission not to be in good health shall be assessed by a health care professional within 24 hours.

[(i) A contract with a local physician for full time coverage on specified hours and for emergencies.

(ii) A contract with a local physician to be on call, to conduct sick call, for emergencies and to examine newly received prisoners.

(iii) Arrangements with a local hospital to provide all medical services needed.]

(3) [Jails having an average daily prisoner population of over 125 shall have a registered nurse or licensed practical nurse or a medically trained technician to provide adequate medical services.] Following review of the initial commitment screening by the prison medical personnel, a medical history and physical shall be performed by the prison medical provider no later than 14 days following admission.

(4) [Any medical supplies kept in the jail should be stored in a locked cabinet and dispensed only by the jail physician or by jail staff in accordance with the advice of the doctor.] Written local policy shall specify routine screening procedures utilized for infectious diseases, acute illness and suicide risk.

(5) [Medication should be given to the inmate one dose at a time and he or she should be required to take each dose in the presence of the doctor or jail staff.] Written local policy shall designate a health provider/authority responsible for control of the delivery of health care services. This authority shall have sole province on matters involving medical judgement.

(6) [The most stringent controls should be placed on all dangerous drugs.] Written local policy shall provide that the health provider/authority report on the health care delivery system in writing and review findings with prison administrators on a routine basis.

(7) [As a minimum requirement, all jails shall provide dental service for extractions and other work of an emergency nature. Jails housing long term inmates should provide all remedial services as needed.] Written local policy shall provide for an annual documented review of a prison's health care delivery system and when necessary, revisions shall be made to each health care procedure and program by the appropriate health care authority.

(8) [An individual medical record should be kept for each prisoner showing his condition at the time of admission. As much of his prior medical history as can be obtained, any illness or injury occurring during confinement and any medical treatment provided, and his condition at time of discharge.] Written local policy shall provide for access to emergency care twenty-four hours a day for all inmates. A written plan shall outline on site treatment, evacuation, transportation and security procedures and designate emergency facilities to be utilized.

(9) [Jails involved in medical research shall comply with existing Commonwealth and Federal law and follow standards developed by the American Correctional Association for the safety and well being of the jail population.] Written local policy shall specify ongoing access to medical care for all inmates. A written plan shall specify management of treatment by appropriate credentialed professionals.

(10) [Unless the jail maintains its own hospital, there shall be a standing arrangement with some local hospital whereby prisoners may be admitted without delay.] Written local policy shall specify ongoing access to mental health care for all inmates. A written plan shall outline management of treatment by appropriate credentialed professionals.

(11) Written local policy shall provide for the management of all pharmaceuticals in accordance with existing federal and state laws.

(12) Written local policy shall provide for a suicide prevention and intervention program and shall outline the program review mechanisms utilized and staff training procedures for program implementation.

[(b) Recommended guidelines. The following are the recommended guidelines for medical and health services:

(1) Jails having an average daily prisoner population of 75 to 124 should have a registered nurse or licensed practical nurse or medically trained technician to provide adequate medical services.

(2) Jails should have an infirmary for sick prisoners not requiring hospitalization, and equipment for the jail physician to use in examining and treating prisoners.

(3) Psychiatric services should be provided on a contractual basis where full-time psychiatrists are impractical or in case they are not attracted to full-time duty.]

§ 95.234. [Correspondence] Inmate mail privileges.

(a) *Minimum requirements.* The following are the minimum requirements [shall apply to correspondence] applicable to inmate mail privileges:

(1) [Soon after being admitted to the jail, all prisoners shall be given a free letter if they desire to notify the immediate family or other close relative of their whereabouts and to instruct them on how they may write or visit.] Inmates shall be permitted to send and receive mail consistent with the following:

(i) All incoming and outgoing mail may be examined for contraband.

(ii) Incoming and outgoing mail to and from public officials, courts and attorneys shall not be opened for purposes of examining for contraband unless the interested inmate is present.

(iii) Incoming and outgoing mail to any person or entity may be read by the prison warden if reasonable grounds exist to believe that receipt of the mail is likely to jeopardize prison security and/or public safety and welfare.

(iv) The sending and receipt of mail shall be restricted or prohibited for valid penological reasons.

[(2) Prisoners shall be able to correspondence with the family members and approved friends as often as desired.

(3) Prisoners shall receive all letters sent to them.

(4) Incoming packages shall be carefully examined for contraband.

(5) Inmates shall be permitted to seal letters addressed to county commissioners, the Commissioner of Correction, other government officials and attorneys.

(6) Incoming and outgoing letters, with the exception of those outgoing letters addressed to public officials and, therefore sealed, may be opened and examined for contraband. They may not be read.

(7) Incoming mail from attorneys, courts, Bureau of Correction personnel and other public officials shall be opened and examined for contraband in the presence of the addressee.

(8) There may not be a limit placed on the number of incoming or outgoing letters.

(b) *Recommended guidelines.* Good jail administration requires that a record be kept of all outgoing mail.]

§ 95.236. [Library] Access to legal resources.

(a) *Minimum requirements.* [Every jail shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books. The library should be open during the prisoner's idle hours.] The following are the minimum requirements applicable to access to legal resources:

(1) In order to enable inmates to exercise their right of access to the courts, they shall be permitted access to adequate legal resources. Written local policy shall provide a means of assistance for any inmate that does not speak English.

(2) County wardens shall have discretion in determining the type of legal resources to be made available to ensure inmates can exercise their right to access to the courts.

[(b) *Recommended guidelines.* The following are the recommended guidelines for the library.

(1) All jails should have a copy of Purdon's Titles 12, 17, 18, 19, 60 and 61 in the library, and other additional legal research materials as may be required.

(2) The jail administrator should actively seek community help in developing a library from the state and local library, colleges, civic groups, bookstores, publishers, interested citizens, Goodwill Industries, Salvation Army and the Volunteers of America.

(3) For guidelines in developing a jail library, the jail administrator should consult the Manual of Correctional Standards published by the American Correctional Association.]

§ 95.238. Recreation.

(a) *Minimum requirements.* The following are the minimum requirements [are] applicable [for] to recreation:

(1) [Jails shall provide all prisoners at least 2 hours daily, physical exercise in the open, weather permitting, if the weather is inclement, each inmate shall have 2 hours physical exercise daily indoors.] Written local policy shall describe the prison's recreational programming for inmates.

(2) [Jail administrators shall develop an organized recreational program to meet the needs of all prisoners, regardless of age and sex] All prisons shall provide general population inmates with at least one (1) hour of access to out of cell activity on a daily basis.

(3) Physical exercise schedules for males, females and juveniles shall have to be arranged so as to provide segregation. Jail administrators may separate inmates further based on age, vulnerability and other appropriate security criteria.

(4) [The jail administrator should refer to the Manual of Correctional Standards published by the American Correctional Association for guidelines in developing an organized recreational program.] Inmates under disciplinary status (segregation), shall receive one (1) hour of outdoor activity five (5) days a week, weather permitting.

[(5) The jail administrator should actively seek help from responsible citizens in the community to help develop an ongoing recreation program in the jail.]

§ 95.239. Commissary

(a) *Minimum requirements.* The following are the minimum requirements that are applicable [applies] to commissaries.

(1) [The jail administrator shall establish, maintain and operate a commissary in conjunction with the jail. For this purpose, the jail administrator should purchase confectionery, tobacco, postage and writing materials, and toilet articles and supplies. The jail administrator should sell the goods, articles and supplies to the prisoners in the jail.] County prisons may provide commissary services if the county so chooses.

(2) [The sale prices of articles offered in the commissary shall be fixed at amounts that make the commissary self-supporting and, in addition, may provide a small margin of profit.] All funds associated with commissary services shall be audited and reported on an annual basis by an independent party using generally accepted accounting procedures.

[(3) The margin of profit from the sale of commissary items may not be excessive.

(4) Any profit from the sale of commissary items shall be deposited in a prisoner welfare fund. The money in the prisoner welfare fund shall be spent solely for the benefit and welfare of the prisoners.

(5) Records of the commissary shall be audited annually by the county controller or a recognized public or private agency qualified to do so.]

§ 95.240. [Discipline and punishment.] Inmate disciplinary procedures.

(a) *Minimum requirements.* The following are the minimum requirements applicable [apply] to [discipline and punishment] inmate disciplinary procedures.

(1) [A formal report shall be written if the infraction jeopardizes the security of the jail, threatens the safety or stall or prisoners, or is a violation of State law.] County prisons shall operate a disciplinary process that provides clear notice of prohibited behavior and consistently applied sanctions for violations of prison rules.

(2) [The disposition of a disciplinary report, whatever the action taken, shall be documented.] Violation of prison rules may result in the imposition of discipline. Discipline shall not be imposed unless the prisoner has been informed of the offense charged in writing, has had an opportunity to present a defense and has been found guilty of the charge by an impartial party or board designated by the prison administrator.

(3) [Confinement is punishment, therefore no further punishment is permitted unless the prisoner violates the rules and regulations of the prison or violate State law.] Findings of guilt or innocence shall be made by an impartial party to be designated by the prison administrator. Findings shall be expressed in writing and based on information presented. Written findings of guilt shall state the reasons for the finding.

(4) [The objectives of jail discipline are as follows:] All disciplinary charges and written findings shall be recorded and made a permanent part of an inmate's prison file.

- [(i) To achieve order in the jail.
- [(ii) To assist prisoners in achieving self-control.
- [(iii) To provide personnel with guidelines for judging the behavior of prisoners.
- [(iv) To achieve fairness in the administration of discipline.]

(5) [In a jail having an average daily inmate population of more than ten, the administrator shall appoint a board consisting of a minimum of three persons to hear and dispose of disciplinary cases.] Disciplinary sanctions imposed after a finding of guilt may include but not be limited to loss of privileges, segregation, and/or any other sanction as set forth in written local policy.

(6) [In a jail having an average daily inmate population of less than ten, the administrator may determine guilt and decide the disciplinary action to be taken.] The imposition of discipline shall not violate an inmate's right to be free from cruel and unusual punishment.

(7) A prisoner may not be punished unless he has been informed of the offense alleged against him and given an opportunity to present his defense. In addition, the following shall apply:

- (i) The hearing shall be staffed by an impartial tribunal.
- (i) The hearing shall be preceded by notice to the prisoner, in writing, of the charges against him.
- (ii) The decision reached shall be based upon evidence raised at the hearing.
- (iii) The decision-makers shall state the reason for their determination of guilt if that is the decision reached.

(8) All disciplinary actions shall be recorded and made a part of the permanent files of the jail.

(9) Punishment may fall into the two following categories:

- (i) Loss of privileges.
- (ii) Segregation.

(10) Conditions in segregation shall be as follows:

- (i) The cell shall be clean, well lighted, heated, ventilated and sanitary.
- (ii) The cell shall be furnished with a mattress, bedding and toilet facilities.
- (iii) Except in special circumstances, as for example, a suspected suicide threat, the prisoner shall be allowed to wear regular clothing.
- (iv) Three meals a day shall be provided, identical with meals provided the remainder of the jail population.
- (v) A bathing and shaving schedule shall be maintained including the minimum of twice weekly opportunities.
- (vi) Toilet tissue and drinking water shall be provided.
- (vii) The prisoner shall have an opportunity to exercise.

- (viii) A regular review of segregated prisoners shall be practiced. The time interval should not exceed 5 days.
- (ix) The segregation unit shall be adequately supervised.
- (x) Writing privileges shall not be denied to prisoners in segregation.
- (xi) The chaplain shall be permitted to visit regularly.
- (11) The medical officer shall visit all prisoners in segregation on his regularly scheduled visit to the prison.
- (12) Corporal punishment, punishment by placing in a dark cell and cruel, inhuman or degrading punishments shall be completely prohibited.
- (13) If a serious criminal offense is committed in a jail, the two main considerations should be the following:
 - (i) Identify and isolate the offender as a matter of internal security, discipline and morale.
 - (ii) With due regard to constitutional protection of the prisoner's rights, once a suspect is identified and isolated, no further questioning by jail staff shall be permitted. The suspect shall be isolated until the arrival of police investigators.
- (b) *Recommended guidelines.* Visiting privileges should not be denied to prisoners in segregation.]



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, Harrisburg II
Harrisburg, PA 17120

RE: *Amendments to County Correctional Institutions Regulations*

Dear Director Nyce:

I am pleased to present for your review and approval the Pennsylvania Department of Corrections' proposed amendments to its County Correctional Institutions Regulations. The proposed amendments are promulgated under the authority of Section 506 of the Administrative Code of 1929, Act of April 29, 1929, P.L. 177, art. V, §506, 71 P.S. §186.

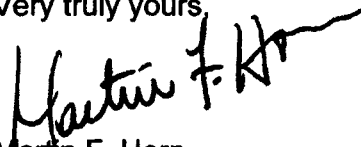
The amendments are intended to update existing regulations and to make them less technical so as to afford county prison administrators sufficient flexibility to address prison management problems that are strictly local in nature. Although the Department still wishes to ensure that county prisons maintain minimum professional standards for prison operations, it wishes to provide county prison administrators with the flexibility they need to address strictly local issues in the manner the counties deem most appropriate and cost efficient.

Prior to drafting the proposed amendments, the Department sought and received input from county prison wardens from across the Commonwealth. The amendments have been drafted with input from a Wardens' Committee representing the Pennsylvania Prison Wardens' Association and a Courts and Corrections Committee representing the County Commissioners' Association of Pennsylvania.

The proposed amendments contained an introductory statement intended to impress upon county prison officials the need to develop, utilize and maintain local policies and procedures that are consistent with Pennsylvania law and recognize professional standards. Twelve sections of the regulations have been selected for revision, including personnel, admissions, classification, housing, clothing, personal hygiene, medical and health services, correspondence, library, recreation, commissary and discipline and punishment. The proposed amendments are designed to reduce the number of technical, burdensome and mandatory requirements that are currently imposed on county prison administrators. The proposals are not expected to have any negative fiscal impact upon the Commonwealth, its subdivisions or the general public.

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,

A handwritten signature in black ink, appearing to read "Martin F. Horn", with a stylized flourish at the end.

Martin F. Horn
Secretary of Corrections

JCF:jls

cc: Syndi L. Guido, Deputy General Counsel
William Reznor, Deputy Secretary for Intergovernmental Relations
Sarah B. Vandenbraak, Chief Counsel
Mary Beth Marschik, Director, Office of Legislative Affairs
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: 19-4
SUBJECT: County Prisons
AGENCY: Department of Corrections

RECEIVED
99 MAR -4 PM 2:44
INDEPENDENT REGULATORY
REVIEW COMMISSION

TYPE OF REGULATION

- X 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. Hoyer</u>	HOUSE COMMITTEE ON JUDICIARY
3/4/99	<u>Jan A. Mendlow</u>	
3/4/99	<u>Nyoka Shelburne</u>	SENATE COMMITTEE ON JUDICIARY
3/4/99	<u>Rudy McDowell</u>	
3/4/99	<u>Dr. Belmont</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL
3/4/99	<u>Mayra Garas</u>	LEGISLATIVE REFERENCE BUREAU

September 16, 1998