

REGULATORY ANALYSIS FORM

This space for use by IRRC

(1) Agency: Department of Corrections

2001 OCT 22 AM 11:30

REVIEW COMMISSION

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

19-5

IRRC Numbers

2196

(3) Short Title

Administration, State Correctional Institutions and Facilities, Release and Prerelease Programs

(4) 37 Pa. Code §91.1, et seq.

(5) Agency Contacts & Telephone Numbers

Primary Contact: John S. Shaffer, Ph.D (717) 731-4998

Secondary Contact: Jill C. Fluck (717) 731-0444

(6) Type of Rulemaking (Check One)

(7) Is a 120-Day Emergency Certification Attached?

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

- 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 administration and operation of the state correctional institutions and facilities. The amendments will revise outdated material.

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

Section 506 of the Administrative Code of 1929 (71 P.S. §186).

(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.

No.

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

The revisions will update outdated language to better inform the public of Department policies and will enhance the security of Department facilities.

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

The Department believes that the revisions will enhance public safety. Non-regulation would not derive that benefit.

(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 general public will benefit by having a clear understanding of Department policy and by enhanced public safety as a result of better security.

(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 revisions.

(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).

State correctional inmates and members of the general public seeking to contact them.

(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.

The Department does not expect the revisions 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.

The revisions do not require compliance by local governments; therefore, the Department does not expect the regulations to have any fiscal impact on them.

(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 revisions.

(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.

None expected.

	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.

Not applicable.

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

Not applicable.

PROGRAM	FY - 3	FY - 2	FY - 1	Current FY
	\$	\$	\$	\$

(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 any adverse effects or costs.

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

The Department does not believe that non-regulatory alternatives exist to inform the public of its policies that have an affect on the public.

(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 has not specifically compared these regulations with other states but the Department believes that there is no competitive disadvantage.

(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, except to the extent that these revisions amend or repeal existing regulations.

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

No.

(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.

Not applicable.

(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 revisions will become effective upon completion of the regulatory review process and publication in the Pennsylvania Bulletin. Compliance with the revisions will be required upon the effective date.

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

The Department plans to review the regulations annually.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

#2196

DO NOT WRITE IN THIS SPACE

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

(DEPUTY ATTORNEY GENERAL)

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. 19-5

DATE OF ADOPTION: 10-11-01

BY: *J. Beard*

TITLE: Jeffrey A. Beard, Ph.D.
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)
Secretary of Corrections

Copy below is hereby approved as to
form and legality. Executive or Independ-
ent Agencies.

BY: *Fred L. Guida*

10/15/01
DATE OF APPROVAL

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

Check if applicable. No Attorney Gen-
eral approval or objection within 30
days after submission.

Title 37 - Law
DEPARTMENT OF CORRECTIONS
[37 PA. CODE CHS. 91, 93 AND 94]

Administration, State Correctional Institutions and Facilities, and Release and Prerelease Programs

The Department of Corrections (Department) hereby amends Chapters 91, 93 and 94 (relating to administration, State correctional institutions and facilities, and release and prerelease programs) to read as set forth in Annex A. The Department is acting under the authority of Section 506 of The Administrative Code of 1929 (71 P.S. §186). The regulations are amended to revise outdated material and delete regulations that do not affect the public.

Purpose

Chapter 91 is amended to update the sections on definitions, reception of inmates and catchment areas.

Chapter 93 is amended to revise the section on inmate correspondence to provide for additional security. The section on inmate visiting privileges is amended to delete and replace terms that are technically inconsistent with newly defined terms. The section on purchases for inmates by family and friends is updated. The section on incoming publications is merged into the section on inmate correspondence. The section on religious activities is updated. The section on telephone calls is updated to refer to the monitoring of calls. The sections on inmate complaints and inmate discipline are amended to consistently refer to the Department. The section on housing is updated. The section on the boot camp is amended to delete and replace terms that are technically inconsistent with newly defined terms.

Chapter 94 is amended to delete and replace terms that are technically inconsistent with newly defined terms.

Explanation of Regulatory Requirements

The amended regulations substantially mirror existing Department practices with the exception of the increased security requirements for incoming mail. The new section requires mail from an attorney to be sealed in the presence of the attorney or their staff and delivered to an inmate in the sealed envelope.

Comment and Response Summary

The following responses are made to the comments of the Independent Regulatory Review Commission. Only one public comment was received. That comment, from the Pennsylvania Prison Wardens Association, is addressed in the response to comment in section 2 below.

1. Section 91.1. Definitions. - Clarity.

COMMENT:

Department

This defined term is not used consistently in Chapter 93. For example, Section 93.6(a) contains three references and Section 93.9(a) contains two references to the "Department of Corrections." Section 93.10(a) and

Section 93.11(b) also refer to the "Department of Corrections." These references should be replaced with the defined term "Department."

RESPONSE:

References to Department of Corrections have been changed to Department. Response to this comment has required changes to sections that were not previously being amended by the Department in this proposal.

COMMENT:

Facility and Institution

The distinction between these two terms is not clear from the definitions. The Department should determine which term will be retained and delete the other term from this section.

Further, the retained term should be used consistently throughout Chapters 91 and 93. For example, Section 93.2(c)(1)(i)(B) as printed in the *Pennsylvania Bulletin*, refers to "State correctional institution." This reference should be changed to the defined term of "institution" or "facility." Also, Sections 93.2(c)(1)(i)(D) and 93.2(c)(1)(ii) should refer to "facility" (the defined term) rather than "State correctional facility."

RESPONSE:

The broader term "facility" will be used. The definition of institution is deleted. The definitions of facility and facility manager are revised. Response to this comment has required changes to sections that were not previously being amended by the Department in this proposal.

COMMENT:

Facility Manager

This term is also not used consistently in Chapter 93. For example, Sections 93.3(a), (d) and (h)(7) and Section 93.6(b)(1) all refer to "superintendent" instead of the defined term "facility manager." This should be corrected in the final-form regulation.

RESPONSE:

References to Superintendent have been changed to Facility Manager. Response to this comment has required changes to sections that were not previously being amended by the Department in this proposal.

COMMENT:

Regional director

As printed in the *Pennsylvania Bulletin*, this definition uses the term "corrections centers" rather than the defined term "community corrections centers." This should be corrected in the final-form regulation.

RESPONSE:

The Pennsylvania Bulletin staff made this change. The final-form regulation will correct this.

2. **Section 91.3. Reception and discharge of inmates. - Clarity.**

COMMENT:

The last sentence states, "To ensure compliance with State and Federal laws, it is expected the discharge process can be completed within 2 business days." We have two concerns.

First, it is unclear which state and federal laws must be complied with. Specific citations should be added.

Second, is compliance with these laws required, rather than expected? If compliance is required, then it would be appropriate to state, "...the discharge process shall be completed within 2 business days."

RESPONSE:

There is no law that requires the discharge process to be completed in two days. The reference here was to various legal issues that can arise prior to a release such as DNA collection or detainers from other states. This language has been deleted, as those laws do not need to be referenced in the Department's regulations. A comment was also received from Vincent A. Guarini, Chairman of the Legislative Committee of the Pennsylvania Prison Wardens Association. He suggested the term "sufficient" be deleted and replaced with a reference to Act 84 of 1998, which sets forth what specific information shall be provided. This change has been made.

3. **Section 91.4. Catchment areas. - Clarity.**

COMMENT:

In Subsections (a) and (b), how will a person know what facilities are specifically designated? Does the Department publish a list?

In Subsection (c), the words "of the Department" should be deleted since the defined term is "Secretary."

RESPONSE:

The Department will notify counties of any change in its current practice. The Department has a Deputy Secretary for Intergovernmental Relations who will coordinate any changes with the counties. The words "of the Department" have been deleted from Subsection (c).

4. **Section 93.2. Inmate correspondence. - Clarity.**

COMMENT:

Subsection (c) Incoming mail

This subsection is unclear. We have four concerns.

First, the opening paragraph discusses both "all incoming mail" and "sealed documents." Since the standards for opening these documents differ, their respective requirements should be placed in separate subsections or paragraphs.

Second, the order of the sentences is confusing. A sentence in the middle of the subsection references the requirements listed in Paragraphs (c)(1) to (3). Whereas, the concluding sentence refers to Subsection (e) relating to "Scrutiny of correspondence."

Third, the last sentence states "They may be read only as set forth in Subsection (e)." Does "they" refer to "sealed" or "retained" documents?

Fourth, the last sentence does not specify who is reading the documents. This could be interpreted to also require the inmate readers of documents to comply with Subsection (e) rather than just the institution as specified in Subsection (e). Also, who in the institution is authorized to read the inmates' mail? This should be clarified in the regulation.

RESPONSE:

This section has been rewritten to clarify that there is a distinction between mail sent to a facility and mail sealed pursuant to the requirements of this section. The cross-reference to section (e) has been deleted as it relates to reading rather than opening of mail.

COMMENT:

Subsection (c)(2)

This subsection defines "contraband" by stating "Coins, currency or other negotiable instruments concealed in correspondence are contraband..." This language should be removed from this section and the term "contraband" should be defined in Section 91.1.

RESPONSE:

The term contraband has been defined in the definition section.

COMMENT:

Subsection (c)(3)

This subsection states "Other contraband will be returned to the sender, destroyed or transferred...." What qualifies as "other contraband"? Further, it is not clear under what circumstances the contraband will be returned, destroyed or transferred.

RESPONSE:

Subsection (c)(2) has been revised to clarify what will be done with contraband. It is not possible to further clarify under what circumstances contraband will be returned, destroyed or transferred because of the multitude of types of contraband that are received. The Department believes that the regulation provides the public adequate notice of what items constitute contraband and that it is possible that any contraband that they send to a facility may be destroyed or transferred to a criminal justice agency.

COMMENT:

Subsection (e) Scrutiny of correspondence

Subsections (1) and (2) are vague. We have three questions.

First, under what circumstances "may" the institution read the mail in Subsection (1)?

Second, and similar to the comment on Section 93.2(c), who in the institution does the Department permit to read the inmates' mail?

Third, do these subsections refer to outgoing or incoming correspondence or mail or both?

RESPONSE:

Subsection (e) has been revised to state who may read mail, to elaborate under what circumstances mail may be read and to clarify that this subsection applies to both incoming and outgoing mail.

COMMENT:

Subsection (f) Incoming publications

Paragraph (1) defines "publications." This term should be defined in Section 91.1.

Paragraph (2) provides that "all publications must be received from the original source." Since a magazine is included in the definition of "publications," the sentence in Paragraph (3) that states that "magazines shall be mailed directly from the original source" is redundant and should be deleted.

Paragraph (5) states publications "sent directly ... will usually be deemed to have come from the original source." We have two questions. First, who is responsible when this section states "will usually be deemed"? Deemed by whom? Second, under what circumstances would be publication not "be deemed" to be from the original source?

Paragraph (6) states that newsletters "shall be delivered to the inmate even if mailed at less tha[t] (sic) first or second-class mail rates." The phrase in Paragraph (6) is redundant and should be deleted because Paragraph (1) provides for newsletters "regardless of the postal rate"

We have two questions relating to Paragraph (7). First, the paragraph states "publications containing *potentially prohibited material or questionable content* ..." The language in this sentence is vague as it is not clear what is meant by "potentially prohibited material" or "questionable content." Second, Paragraph (7) refers to an "incoming publication review committee (IPRC)." Who are the members of this committee and to whom does it report?

For clarity, Paragraph (12) should be merged with Paragraph (9).

Paragraph (13) allows for appeal of an IPRC decision. It appears the right to appeal applies to IPRC decisions regarding all inmate correspondence. Therefore, this provision should be a separate subsection and a specific reference to Department policy or regulations relating to grievances should be included.

RESPONSE:

This section has been rewritten for clarity. The definition of publication has been removed. The reference to original source has been removed. The language regarding the postal rate has been deleted. The membership and authority of the Incoming Publication Review Committee has been clarified. The reference to an appeal in former paragraph 13 has been removed as it is redundant to §93.9. It was also confusing because it does not apply to all complaints about inmate correspondence as suggested in the Commission's comment.

COMMENT:

Subsection (g)

We have three concerns relating to this section. First, as printed in the *Pennsylvania Bulletin*, this subsection does not have a heading.

Second, how did the Department determine that it is reasonable to retain a rejected letter for "at least 7 days" as opposed to 10 days or 30 days? Is it seven business or calendar days?

Third, how soon must a protest be filed?

RESPONSE:

This language has been moved to subsection (f) and a heading has been added. The operative language is in the current regulation and is not being changed.

5. Section 93.7. Telephone calls. - Clarity.

COMMENT:

This section contains the phrase, "in accordance with applicable law." What is the applicable law? If there are none, this phrase should be deleted. Otherwise, to facilitate compliance and improve clarity, this phrase should be replaced with a specific reference to the applicable laws and regulations.

RESPONSE:

A cite to the applicable statute has been added.

Cost and Paperwork Requirements

Since the Department currently operates the state prison system in accordance with the amendments, it does not expect this rulemaking to have a substantial fiscal impact on, or to create substantially new paperwork requirements for, the Commonwealth, its political subdivisions or the private sector.

Effective Date

The amendments shall be effective upon final publication in the *Pennsylvania Bulletin*.

Contact Person

The contact person is John S. Shaffer, Ph.D., Deputy Secretary for Administration, 2520 Lisburn Road, P.O. Box 598, Camp Hill, PA 17001-0598.

Regulatory Review

Under section 5(a) of the Regulatory Review Act, the Act of June 25, 1997 (P.L. 242, No. 24), (71 P. S. § 745.1 – 745.15), as amended by Act 24 of 1997, the Department submitted a copy of the Notice of Proposed Rulemaking, published at 31 Pa. B. 2476 on May 12, 2001, on May 1, 2001 to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Judiciary Committees (Committees) for review and comment. In compliance with Section 5 (b.a), the Department provided IRRC and the Committees with a copy of all comments received.

The final form regulation was approved by the House Committee on _____ and approved by the Senate Committee on _____. The Commission met on _____ and approved the regulation in accordance with Section 5(c) of the Act.

Findings

The Department of Corrections finds that:

- (1) Notice of proposed rule making was published at 31 Pa. B. 2476 as required by §§201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§1201 and 1202) and the regulations thereunder, 1 Pa. Code §§7.1 and 7.2.
- (2) A public comment period was provided as required by law and the Department for consideration received only one public comment.
- (3) The adoption of these amendments in the manner provided by this order is necessary and appropriate for the administration of the Department of Corrections.

Order

- a. The regulations of the Department of Corrections, 37 Pa. Code Chapters 91, 93 and 94, are amended to read as set forth in Annex A.
- b. The Department shall submit this order, and Annex A to the Office of General Counsel and to the Office of Attorney General for approval as required by law.
- c. The Secretary of Corrections shall certify this order, 31 Pa.B. 2476 and Annex A and deposit them with the Legislative Reference Bureau for publication in the Pennsylvania Bulletin as required by law.
- d. This order shall take effect upon publication in the Pennsylvania Bulletin.

Jeffrey A. Beard, Ph.D.
Secretary

ANNEX A
TITLE 37. LAW
PART III. AGENCIES AND OFFICES
SUBPART B. DEPARTMENT OF CORRECTIONS
CHAPTER 91 ADMINISTRATION,
CHAPTER 93 STATE CORRECTIONAL INSTITUTIONS AND FACILITIES
AND
CHAPTER 94 RELEASE AND PRERELEASE PROGRAMS

§ 91.1. Definitions.

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

* * * * *

[*Bureau*—Pennsylvania Bureau of Corrections.]

[*Center Director*—Administrator of a Bureau ~~Department~~ of Corrections Community Service Corrections Center.]

Community [Service] corrections center—A minimum security community-oriented facility operated by the [Bureau] Department for the purpose of facilitating special programs.

CONTRABAND – MATERIAL LISTED AS CONTRABAND IN 18 PA.C.S. §§ 5122 AND 5123, THE COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS INMATE HANDBOOK, OR ANY DEPARTMENT DOCUMENT THAT IS DISSEMINATED TO INMATES, SUCH AS MATERIAL THAT AN INMATE IS PROHIBITED FROM POSSESSING OR MATERIAL THAT AN INMATE IS PERMITTED TO POSSESS THAT HAS BEEN ALTERED OR IS BEING USED FOR SOMETHING OTHER THAN ITS INTENDED PURPOSE.

Department—The Pennsylvania Department of Corrections.

Diagnostic and classification center—Facilities [located within some State correction institutions,] designated to receive and classify persons who have been [transferred] committed to the custody of the [Bureau] Department.

Facility—An institution, motivational boot camp or community corrections center operated by the Department.

Facility Manager—The chief administrator of a facility, that is, the superintendent of an institution, the commander of a motivational boot camp, or the director of a community corrections center.

Inmate—A person committed to the custody of or confined by the [Bureau] Department.

[*Institution*—A correctional institution or regional correctional facility operated by the Bureau Department.]

[*Regional Director*—The supervisor of a group of community service ~~corrections~~ Centers.]

Resident—An inmate assigned to a community [service] corrections center.

Secretary—The Secretary of the Department.

Special Housing—~~Housing units, that is, restricted housing units, special management units, long term segregation units, and the like, operated to house inmates who require specialized services or a higher level of supervision than provided in general population housing.~~

[*Superintendent*—The chief administrator of an institution.]

§ 91.2. Agency purpose.

It is the goal of the [Bureau] Department to operate its institutions and programs so as to provide protection to the community, a safe and humane environment and opportunities for rehabilitation for the inmates. ~~protect the public by confining persons committed to our custody in safe, secure facilities, and to provide opportunities for inmates to acquire the skills and values necessary to become productive law-abiding citizens, while respecting the rights of crime victims~~

§ 91.3. Reception and discharge of inmates.

The [Bureau] Department will accept and confine those persons committed to it under lawful court orders which conform to 42 Pa.C.S. § 9762 (relating to sentencing proceeding; place of confinement) when sufficient information has been provided to the Department as required by law 42 PA.C.S. § 9764. The [agency] Department will also accept persons for whom transfer from other correctional facilities has been approved in advance by the [Commissioner or Deputy Commissioner of Correction] Secretary or designee, under [the act of March 24, 1921 (P. L. 48, No. 23) (61 P. S. § § 78-80) and] SECTION 1 OF the act of July 11, 1923 (P. L. 1044, No. 425) (61 P. S. § [§] 72[-77a]). Commitments and transfers will be accepted only during the [institution's] facility's normal business hours, except upon prior approval of the [Superintendent] facility manager or [his] a designee. ~~Orders discharging an inmate will be processed during normal business hours. To ensure compliance with state and federal laws it is expected that the discharge process can be completed within two business days.~~

§ 91.4. Catchment areas.

[(a)] Male inmates committed to the custody of the [Bureau from the following counties will] Department SHALL be received at [the Eastern Diagnostic and Classification Center at the State Correctional Institution at Graterford: Berks, Bucks, Carbon, Chester, Delaware, Lackawanna, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Philadelphia, Pike, Schuylkill and Wayne] ~~facilities designated as Diagnostic and Classification Centers for male inmates~~ MALE DIAGNOSTIC AND CLASSIFICATION CENTERS AND FEMALE INMATES SHALL BE RECEIVED AT FEMALE DIAGNOSTIC AND CLASSIFICATION CENTERS UNLESS GRANTED PERMISSION IN ADVANCE BY THE SECRETARY OR A DESIGNEE.

[(b)] Male inmates committed to the custody of the Bureau from the following counties will be received at the Central Diagnostic and Classification Center at the State Correctional Institution at Camp Hill: Adams, Bedford, Blair, Bradford, Centre, Clinton, Columbia, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Sullivan, Susquehanna, Tioga, Union, Wyoming and York.

- (c) Male inmates committed to the custody of the Bureau to serve terms of confinement less than 2 years from the following counties will be received at the State Regional Correctional Facility at Greensburg: Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Washington and Westmoreland.
- (d) Male inmates committed to the custody of the Bureau to serve terms of confinement less than 2 years from the following counties will be received at the State Regional Correctional Facility at Mercer: Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Potter, Venango and Warren.
- (e) Male inmates committed to the Bureau from the following counties will be received at the Western Diagnostic and Classification Center at the State Correctional Institution at Pittsburgh: Allegheny, Armstrong, Beaver, Butler, Cambria, Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Potter, Somerset, Venango, Warren, Washington and Westmoreland.
- (f) Female inmates committed to the Bureau will be received at the State Correctional Institution at Muncy.
- (g) The Deputy Commissioner of Corrections may grant permission for an inmate to be received at an institution other than as designated in subsections (a)-(f).]

§ 93.1. General.

Those portions of some Department [of Corrections] directives and policy statements which concern the interaction of Department [of Corrections] inmates and employes with the community at large are published. Full text of the directives and other policy statements are maintained in [the institutions and] all Department facilities.

§ 93.2. Inmate correspondence.

* * * * *

(b) *Restrictions.* The following restrictions apply:

(1) Correspondence with inmates of other [institutions] FACILITIES, former inmates, probationers or victims of the criminal acts of the inmate will not be permitted except upon special approval of the [Superintendent] facility manager.

* * * * *

(5) Mail addressed to an inmate organization will not be accepted unless the facility manager has approved the organization and the name of a member of the organization is included in the address IT IS ADDRESSED TO THE STAFF COORDINATOR OF THE ORGANIZATION.

(c) *Incoming mail.* All [incoming] mail[,] ~~regardless of its source,~~ SENT TO A FACILITY will be opened and examined for contraband in the Department's FACILITY'S mailroom or other area designated by the

~~Department for the examination of mail. Sealed written communications that will be opened in the presence of an inmate shall be permitted only as set forth below. All sealed documents shall be opened in the presence of the inmate and searched for contraband. Documents retained by an inmate may be searched at any time. They may be read only as set forth in section (e) below~~

~~(1) Due to prison security concerns, limited staff resources and the availability of alternate means for confidential communications, the Department will permit sealed mail to be opened in the presence of an inmate only in the following very limited circumstances:~~

- ~~(i) an attorney unable to communicate through alternate means for confidential communication may hand deliver, in person or by an authorized representative of the attorney's office, documents for sealed delivery to an inmate. The person making the delivery must present valid identification and information sufficient to allow institution staff to verify that the person is an attorney or is an authorized representative of an attorney. The person shall present unsealed and unbound documents to designated staff at any state correctional institution during times established by the institution. The documents will be inspected in the presence of the person presenting them. The documents will then be sealed in that person's presence for delivery to an inmate at any state correctional facility or designated community corrections center.~~
- ~~(ii) Under no circumstance shall documents filed in a court of public record (other than those sealed by court order) be required to be opened in the presence of an inmate. Any court may direct by specific order that court documents sealed from public disclosure be delivered sealed to an inmate to be opened in the inmate's presence. A court representative shall deliver such sealed documents to any state correctional facility along with a copy of the specific order requiring sealed delivery.~~

~~DESIGNATED AREA EXCEPT WHEN PERMITTED PURSUANT TO SECTION (1) BELOW. -~~

~~(1) THE DEPARTMENT MAY PERMIT SEALED MAIL TO BE OPENED IN THE PRESENCE OF AN INMATE UNDER THE FOLLOWING CONDITIONS.~~

~~(i) AN ATTORNEY OR AUTHORIZED REPRESENTATIVE/DESIGNEE MAY HAND-DELIVER A SEALED CONFIDENTIAL CLIENT COMMUNICATION TO AN INMATE IF THE ATTORNEY IS UNABLE TO COMMUNICATE THROUGH ALTERNATIVE MEANS, PROVIDED:~~

~~(A) THE PERSON MAKING THE DELIVERY DOES SO DURING NORMAL BUSINESS HOURS UNLESS GRANTED PERMISSION IN ADVANCE BY THE SECRETARY OR A DESIGNEE.~~

~~(B) THE PERSON MAKING THE DELIVERY SHALL PROVIDE VALID IDENTIFICATION AND INFORMATION SUFFICIENT TO VERIFY THAT THE PERSON IS THE INMATE'S ATTORNEY OR AUTHORIZED REPRESENTATIVE OF THE ATTORNEY.~~

(C) THE PERSON MAKING DELIVERY SHALL PRESENT THE DOCUMENTS FOR INSPECTION FOR CONTRABAND, UNSEALED AND UNBOUND.

(D) UPON INSPECTION, THE DOCUMENTS WILL BE SEALED AND DELIVERED TO THE INMATE WHERE THEY WILL BE UNSEALED AND SEARCHED AGAIN FOR CONTRABAND.

(ii) A COURT MAY DIRECT DELIVERY OF COURT DOCUMENTS SEALED FROM PUBLIC DISCLOSURE TO AN INMATE BY SPECIFIC ORDER. THE COURT'S REPRESENTATIVE SHALL DELIVER THE SEALED DOCUMENTS AND THE SPECIFIC COURT ORDER TO THE FACILITY. UNDER NO CIRCUMSTANCES WILL DOCUMENTS FILED IN A COURT OF PUBLIC RECORD BE DELIVERED SEALED TO AN INMATE.

(2) CONTRABAND IN THE FORM OF money orders, certified checks, cash or other negotiable instruments will be recorded indicating the nature of the receipt, the sender, the amount received and the date. Personal checks, unless certified, will be returned to THE sender. The [institution] FACILITY is not responsible for cash sent through the mails. [Letters containing contraband may be held for further inspection and disposition. Coins, currency or other negotiable instrument concealed in correspondence is ~~are~~ contraband and will be confiscated.] Confiscated coins and currency will be deposited in the [Inmates'] Inmate General Welfare Fund. CONTRABAND NOT SPECIFICALLY ADDRESSED IN THIS SECTION WILL BE RETURNED TO THE SENDER OR DESTROYED AT THE INMATE'S OPTION UNLESS IT IS TRANSFERRED TO APPROPRIATE CRIMINAL JUSTICE AGENCIES AT THE DISCRETION OF THE MAILROOM OR SECURITY STAFF.

~~(3) Other contraband will be returned to sender, destroyed or transferred to appropriate criminal justice agencies.~~

(d) *[Privileged correspondence.*

(1) Correspondence, which is marked as described in paragraph (2) to and from the following persons should be considered privileged:

(i) Elected or appointed Federal, State or local officials.

(ii) Attorneys.

(2) Privileged correspondence must be clearly marked on the envelope with the name and title of the privileged correspondent. Only privileged correspondence may be so marked.

(3) Privileged correspondence received by the institution will be delivered to the housing unit officer and opened by the officer in the presence of the addressee. It will be checked for contraband.]

Outgoing mail. Sealed outgoing mail from an inmate will not be searched EXAMINED except as set forth in section (g), below SUBSECTION (E).

(e) *Scrutiny of correspondence.*

(1) [The institution] THE FACILITY MANAGER OR A DESIGNEE may read [nonprivileged] INCOMING OR OUTGOING mail, EXCEPT MAIL SEALED IN ACCORDANCE WITH SECTION (C)(1), [upon the approval of the Superintendent when there is a reason to believe that security may be impaired or that this section is being abused] ~~facility manager~~ WHEN THERE IS REASON TO BELIEVE THAT IT MAY REVEAL OR DISCUSS ILLEGAL OR UNAUTHORIZED ACTIVITY OR FOR REASONS SET FORTH IN ANY DEPARTMENT DOCUMENT THAT IS DISSEMINATED TO INMATES.

(2) [The institution] THE FACILITY MANAGER OR A DESIGNEE may read [privileged] sealed mail SEALED IN ACCORDANCE WITH SECTION (C)(1), only upon the written order of the [Superintendent] Facility Manager with the written approval of the [Commissioner] Secretary [of Corrections] when there is reason to believe that there is a threat to ~~institutional~~ FACILITY security[,] or criminal activity [, or this section is being abused].

[(3)](f) *REJECTION OF CORRESPONDENCE*. An item of correspondence which appears to violate [this section] SECTION (B) may be [reviewed] REJECTED by [the institution] FACILITY MAILROOM STAFF. The inmate and the sender, in cases where the inmate is not the sender, will be notified when the letter is rejected. The letter may be held for at least 7 days after mailing of the notification to permit reasonable opportunity to protest the decision. If the letter is rejected, it will be returned to the sender.

[*Inmate organizations*. Mail addressed to an inmate organization will not be accepted unless the organization has been approved by the Superintendent and the name of a member of the organization is included in the address.]

(g) *Incoming publications*.

- ~~(1) — Publications for the purpose of this section will include printed material that is circulated for the public conveying information or to which the inmate is entitled under state or federal law or the Pennsylvania or United States Constitutions. This includes newspapers, magazines, hardcover or paperback books, pamphlets and newsletters, regardless of postal rate, that are not specifically intended for the purpose of advertising or selling merchandise.~~
- ~~(2) — All publications must be received from the original source. Covers of hardbound publications may be damaged through examination or removed where inspection of the cover is deemed necessary and no reasonable available alternative form of inspection is adequate.~~
- ~~(3) — Magazines must be mailed directly from the original source. Small letter sized pamphlets may be received in regular correspondence.~~
- ~~(4) — Newspapers must be mailed directly to the facility.~~
- ~~(5) — Publications that are sent directly from a publisher, bookstore, book club, distributor or department store will usually be deemed to have come from the original source.~~
- ~~(6) — Newsletters and other mail from recognized non-profit religious and charitable organizations,~~

~~when addressed to an individual inmate shall be delivered to the inmate even if mailed at less than first or second class mail rates.~~

- ~~(7) Publications containing potentially prohibited material and/or questionable content will be reviewed by the facility's Incoming Publication Review Committee (IPRC).~~
- ~~(8) The IPRC will determine whether written or printed material is a publication.~~
- ~~(9) Publications may be disapproved that contain information regarding the manufacture of explosives, incendiaries, weapons, escape devices or other contraband, instructions regarding the ingredients or manufacture of poisons, drugs or intoxicating beverages, writings which advocate violence, insurrection or guerrilla warfare against the government or any of its institutions or which create a clear and present danger within the context of the correctional facility, materials which are obscene as that term is defined in 18 Pa.C.S.A. 5903 or which portray, depict or expressly encourage violent or assaultive sexual conduct or involuntary deviant sexual conduct, or writings which advocate, assist or are evidence of criminal activity or misconduct.~~
- ~~(10) Pursuant to 18 Pa. C.S.A. §5903, the Department will not distribute any obscene or explicit sexual materials to inmates under the age of 18.~~
- ~~(11) A publication will not be prohibited solely on the basis that the publication is critical of penal institutions in general, of a particular institution, of a particular institutional staff member, of an official of the Department, or of a correctional or penological practice in this or any other jurisdiction.~~
- ~~(12) The criteria set forth in subsection (9) should not be interpreted so broadly as to require disapproval of recognized textbooks in chemistry, physics or the social sciences.~~
- ~~(13) The inmate shall have the right to appeal any decision of the IPRC in accordance with Department policy for inmate grievances.~~
- ~~(14) An inmate may receive more than one copy of any publication only with the approval of the Incoming Publication Review Committee.~~

- (1) AN INCOMING PUBLICATION REVIEW COMMITTEE (IPRC) CONSISTING OF STAFF DESIGNATED BY AND REPORTING TO THE FACILITY MANAGER OR A DESIGNEE SHALL DETERMINE WHETHER AN INMATE MAY RECEIVE A PUBLICATION.
- (2) ALL PUBLICATIONS SHALL BE RECEIVED DIRECTLY FROM A PUBLISHER, BOOKSTORE, BOOK CLUB, DISTRIBUTOR OR DEPARTMENT STORE. NEWSPAPERS SHALL BE MAILED DIRECTLY FROM THE PUBLISHER.
- (3) PUBLICATIONS MAY NOT BE RECEIVED BY AN INMATE IF THEY:
 - (i) CONTAIN INFORMATION REGARDING THE MANUFACTURE OF EXPLOSIVES, INCENDIARIES, WEAPONS, ESCAPE DEVICES, POISONS, DRUGS OR INTOXICATING BEVERAGES OR OTHER CONTRABAND;

- (ii) ADVOCATE, ASSIST OR ARE EVIDENCE OF CRIMINAL ACTIVITY, INMATE MISCONDUCT, VIOLENCE, INSURRECTION OR GUERRILLA WARFARE AGAINST THE GOVERNMENT;
 - (iii) THREATEN THE SECURITY OF A FACILITY;
 - (iv) CONTAIN OBSCENE MATERIAL AS DEFINED IN 18 PA.C.S. § 5903,
 - (v) CONSTITUTE A BULK MAILING SPECIFICALLY INTENDED FOR THE PURPOSE OF ADVERTISING OR SELLING MERCHANDISE.
- (4) AN INMATE UNDER 18 YEARS OF AGE SHALL NOT RECEIVE EXPLICIT SEXUAL MATERIALS AS DEFINED IN 18 PA.C.S. §5903.
- (5) A PUBLICATION WILL NOT BE PROHIBITED SOLELY ON THE BASIS THAT THE PUBLICATION IS CRITICAL OF PENAL INSTITUTIONS IN GENERAL, OF A PARTICULAR FACILITY, STAFF MEMBER, OR OFFICIAL OF THE DEPARTMENT, OR OF A CORRECTIONAL OR PENOLOGICAL PRACTICE IN THIS OR ANY OTHER JURISDICTION.
- (6) AN INMATE MAY RECEIVE ONLY ONE COPY OF ANY PUBLICATION UNLESS GRANTED PERMISSION BY THE IPRC.
- (7) SMALL LETTER SIZED PAMPHLETS MAY BE RECEIVED IN REGULAR CORRESPONDENCE.
- (8) COVERS OF HARDBOUND PUBLICATIONS MAY BE DAMAGED OR REMOVED DURING INSPECTION IN THE DISCRETION OF MAILROOM STAFF.

§ 93.3. Inmate Visiting Privileges.

(a) *Approved list of visitors.* A list of approved visitors may contain up to 20 names. Inmates who can show that they have more than 20 regular visitors may be permitted to add additional names to their approved lists. Members of a family living at the same address may be counted as one name. Except for members of an inmate's immediate family, a minor's name may be placed on the approved list only with permission of the minor's parents or guardian. Children under 12 years of age may visit only when accompanied by an adult and need not be placed separately on the official list. A person may not be on more than one inmate's visiting list except in cases where the person is part of the immediate family of more than one inmate, unless special permission is granted by the [Superintendent] FACILITY MANAGER. Changes or additions to the approved list may be made in accordance with established procedures. The name of a visitor may be removed for good cause upon authorization by the [Superintendent] FACILITY MANAGER.

* * * * *

(c) *Attorneys.*

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(2) An attorney who has been designated by an inmate as his legal advisor may permit persons, such as law students or investigators to visit the inmate to act as the attorney's agents. Each person shall present to the [institution] FACILITY at the time of the visit a written statement signed by the attorney on the letterhead of his firm identifying each person as the attorney's agent and attesting that the visit is for the purpose of a legal consultation.

* * * * *

(d) *Former inmates.* A former inmate may visit only with special permission of the [Superintendent] FACILITY MANAGER.

(e) *Prerelease inmates.* Inmates in prerelease status may visit other inmates only with the approval of the [Deputy Commissioner of Corrections] SECRETARY OR A DESIGNEE. Application for permission to visit shall be made by both inmates through their respective [Superintendents or Center Directors] FACILITY MANAGERS.

(f) *Registering of visitors.* Visitors shall register in and out of the [institution] FACILITY.

* * * * *

(h) *Number, time and place of visits.* Inmates shall be permitted to have visits as often as the situation at the [institution] FACILITY will allow.

* * * * *

(7) *Special visit.* Provisions will be made for the approval of a special visit by persons who may not be on the approved list who have come a substantial distance and [for] OF a family visit to a seriously ill or injured inmate. Special visits will be approved only by the [Superintendent or Deputy Superintendent] FACILITY MANAGER OR A DESIGNEE. Absent this approval, only those persons on the approved visiting list may visit.

(i) *Restriction of visitation privileges.*

(1) If a visit is a threat to the security and order of the [institution] FACILITY, the visit may be terminated or disallowed.

* * * * *

(3) A visitor who cannot produce identification or who falsifies [identifying] IDENTIFYING information will not be allowed in the [institution] FACILITY.

* * * * *

(5) Restriction of visiting privileges will not be used as a disciplinary measure for an unrelated [institutional] FACILITY rule infraction. However, [visitation] VISITING privileges may be restricted as a result of changes in housing or program status made as a result of unrelated infractions.

* * * * *

(j) *Media representatives.* Media representatives will have the same visiting privileges as visitors on an inmate's approved list of visitors as described in Department [of Corrections' (Department)] policy concerning inmate visitation. A media representative will not be in addition to the names on the approved list and will be counted against the total of 20.

* * * * *

(2) Media representatives and inmates will abide by all applicable rules, regulations and policies of the Department while on [State correctional institution] FACILITY property. Violations of any rules, regulations or policies of the Department may result in the visit being denied, termination of the visit, suspension of visiting privileges or revocation of visiting privileges.

* * * * *

§ 93.4. Purchase for inmates by family and friends.

(a) Family and friends, who are on the inmate's approved visiting list, may purchase approved items for inmates under this section. The [institution] FACILITY may disapprove and decline to accept any purchase which does not meet this section.

(b) Only those items listed on the current [Catalogue Purchase list] Approved Master Commissary List may be purchased from approved vendors. Copies of the list are provided to the inmates. Publications may be purchased via this procedure, but shall be subject to §[93.5] 93.2 (relating to [incoming publications] inmate correspondence).

(c) Purchases shall be approved prior to the time the item is received by the [institution] FACILITY. [Requests for outside purchase shall be initiated by the inmate and reviewed by a designated institution official who will approve or disapprove the request.]

(d) Only those items shipped directly from the vendor to the [institution] FACILITY will be accepted, [except typewriters which may be brought from home.

(e) Packages delivered to the institution will be opened and searched. Any contraband contained in any package will be confiscated. Coins, currency or other negotiable instrument concealed in any package received by the institution is contraband. Confiscated coins, currency or other negotiable instruments will be deposited in the Inmates' General Welfare Fund.

(f) Packages shall be addressed to the inmate. The address on the package shall contain the inmate's name, institution number and the full name of the correctional institution in which the inmate is confined. The institution may decline to accept any package which is not appropriately addressed.

(g) The institution retains the right to require identification of the purchaser of any outside purchase and to decline to accept any package which does not conform to this section.

(h) (e) Unauthorized or disapproved items will be returned to the sender at the expense of the inmate [or purchaser].

§ 93.5. [Incoming publications] (Reserved).

[(a) Publications for the purpose of this section will include newspapers, magazines, hard or paperback books, newsletters, pamphlets or any other written or printed material which is distributed for the purpose of conveying information. Printed or written material which is to be used solely for identification purposes will be considered property and will be subject to all Department of Corrections rules governing property. Correspondence will be governed by § 93.2 (relating to inmate correspondence).

(b) Publications, except newspapers and magazines, may be received from any source. Covers of hard-bound publications received from sources other than the original source, may be damaged or removed where inspection of the cover is deemed necessary and no reasonably available alternative form of inspection is adequate. Magazines and newspapers must be mailed directly from the original source. Small letter-sized pamphlets may be received in regular correspondence from family members, friends or religious advisors. Publications which are sent directly from a publisher, bookstore, distributor or department store will usually be deemed to have come from the original source.

(c) The Publications Review Committee will determine whether written or printed material is a publication and will rule on publications within 10 days after the material is received. Property will be forwarded to the property officer for processing. The committee will communicate its decision to the inmate, with reasons if a publication is disapproved.

(d) Receipt of publications may be disapproved when the publications contain the following:

(1) Information regarding the manufacture of explosives, incendiaries, weapons, escape devices or other contraband.

(2) Instructions regarding the ingredients or manufacture of poisons, drugs or intoxicating beverages.

(3) Writings which advocate violence, insurrection or guerrilla warfare against the government or any of its institutions or which create a clear and present danger within the context of the correctional institution.

(4) Materials which portray, depict or expressly encourage violent or assaultive sexual conduct or involuntary deviant sexual conduct.

(5) Writings which advocate, assist or are evidence of criminal activity or institution misconduct.

(e) A publication will not be prohibited solely on the basis that the publication is critical of penal institutions in general, of a particular institution, of a particular institutional staff member, of an official of the Department of Corrections, or of a correctional or penological practice in this or any other jurisdiction.

(f) The criteria set forth in subsection (d) should not be interpreted so broadly as to require disapproval of recognized textbooks in chemistry, physics or the social sciences.

(g) An inmate may receive more than one copy of a publication only with special approval of the Publications Review Committee.]

§ 93.6. Religious activities.

(a) *Policy.* It is the policy of the Department [of Corrections] to permit each inmate to satisfy the needs of his religious life, consistent with the security needs and orderly administration of the [institution] FACILITY. The Department [of Corrections] will provide chapel facilities at each [institution] FACILITY. The Department [of Corrections] will also permit inmates to possess approved religious items and make reasonable accommodation for dietary restrictions.

(b) *Religious advisors.*

(1) If the [institution] FACILITY contains a sufficient number of inmates of the same faith, a qualified representative of that faith from the outside community will be appointed or approved by the [Superintendent] FACILITY MANAGER and will be permitted to hold regular services in the [institution] FACILITY. Qualified representative will mean a person from the outside community who has received endorsement from his [recognized] faith group authority.

(2) Each inmate will be permitted to select a religious advisor from the outside community who has received endorsement from the [recognized] faith group authority. This person will be permitted to visit the inmate on an individual basis in accordance with general rules governing visitation.

(c) *[Recognition] Accommodation of faiths.* Requests for [recognition by] accommodation of faiths [that are not well known] will be handled as follows:

(1) [Institutional] FACILITY officials will secure written information from the [recognized] outside faith group authority, including publications which describe the goals, beliefs and practices of the group.

(2) Information material will be forwarded to the Director of Chaplaincy Services for the Department [of Corrections who will determine the authenticity and religious needs of the group] for evaluation.

§ 93.7. Telephone calls.

(a) Inmates may make [collect] phone calls [to persons who are willing to accept the charges subject to institution rules and procedures] in accordance with applicable law 66 PA.C.S. § 2907. All phone calls, except confidential communications between attorneys and inmates shall be subject to monitoring in accordance with 18 Pa. C.S. Chapter 57 (relating to wiretapping and electronic surveillance).

(b) Phone calls to inmates will be permitted only if approved in advance by the [Superintendent] Facility Manager or [his] A designee.

§ 93.9. Inmate complaints.

(a) The Department [of Corrections] will maintain an inmate grievance system which will permit any inmate to seek review of problems which he experiences during the course of his confinement. The system will provide for review and resolution of inmate grievances at the most decentralized level possible. It will also provide for review of the initial decisionmaking and for possible appeal to the Central Office of the Department [of Corrections]. An inmate will not be disciplined for the good faith use of the grievance systems. However, an inmate who submits a grievance for review which is false or

malicious may be subject to appropriate disciplinary procedures. Copies of the directive governing grievance procedures will be made available to the inmates.

(b) Inmates may also pursue available remedies in State and Federal court.

§ 93.10. Inmate discipline.

(a) Rules which define expectations and prohibitions for inmate behavior will be established by the Department [of Corrections] and distributed to the inmate population. There shall be two classes of misconduct charges, Class I and Class II.

* * * * *

(b) Written procedures which conform to established principles of law for inmate discipline including the following will be maintained by the [Bureau] Department and distributed to the inmate population:

* * * * *

§ 93.11. Housing.

(a) [No] An inmate [shall] does not have a right to be housed in a particular [institution] facility or in a particular area within [an institution] a facility.

(b) Confinement in a Restricted Housing Unit (RHU), other than under procedures established for inmate discipline, will not be done for punitive purposes. The Department [of Corrections] will maintain written procedures which describe the reasons for housing an inmate in the RHU and require due process in accord with established principles of law for an inmate who is housed in the RHU. All inmates confined in the RHU will be reviewed periodically by [institution] FACILITY staff.

§ 93.301. Definitions.

* * * * *

[Department--The Department of Corrections of the Commonwealth.

Diagnostic and classification center--A State correctional institution that receives inmates and assigns them custody levels through a classification process that evaluates the inmates' backgrounds and reasons for incarceration before assigning them to a State correctional institution according to their custody level and needs.

Secretary--The Secretary of the Department.]

* * * * *

§ 93.303. Selection committee.

* * * * *

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

§ 93.304. Administration.

* * * * *

(b) Each motivational boot camp will operate under the administrative supervision of [a regional deputy commissioner or other official designated by the Secretary] **THE SECRETARY OR A DESIGNEE.**

* * * * *

CHAPTER 94. RELEASE AND PRERELEASE PROGRAMS

§ 94.1. Purpose.

It is the goal of the Department [of Corrections] to administer its [institutions] **FACILITIES** and design programs so as to provide protection to society through the control and rehabilitation of offenders. In furtherance of that objective and the authority granted to the Department [of Corrections] by the act of July 16, 1968 (P. L. 351, No. 173) (61 P. S. §§ 1051- -1054), prerelease programs have been established. These programs are designed to provide opportunities for qualified inmates to have access to community resources, to demonstrate self-control and individual responsibility and to begin reintegration into the community. Criteria for participation in prerelease programs are designed to insure that the inmates who are selected to participate are those who will present the least risk to the community, and benefit most from the program, and to offer the opportunities to as many inmates as possible.

§ 94.2. Prerelease programs.

(a) *Work/educational/vocational training release.*

(1) *Work release.* This is a program which enables an inmate to leave the [institution] **FACILITY** and work in the community. The inmate is required to return to the [institution] **FACILITY** at a designated time after the work day.

(2) *Educational/vocational training release.* This is a program which enables an inmate to leave the [institution] **FACILITY** and participate in educational or vocational-technical training. The inmate is required to return to the [institution] **FACILITY** at a designated time after completion of training for the day.

(b) *Temporary home furlough.* This is the authorized leave for an inmate from a[n institution] **FACILITY** for a period not to exceed 7-consecutive days for the purpose of furthering an inmate's rehabilitative programs. The inmate is required to return to the [institution] **FACILITY** at a designated time after the furlough.

(c) *Community [services] CORRECTIONS.*

(1) *Community [Service] CORRECTIONS Center Residency.* This is a program operated as a continuum of the rehabilitative services provided in the [institutions] FACILITIES. Community [Service] CORRECTIONS Centers are residences in the community with custodial structure and strong emphasis on guidance and counseling. These centers serve those inmates who qualify and who should benefit from a gradual reintegration into society.

(2) *Group home residency.* This is a program which complements Community [Service] CORRECTIONS Center residency and consists of publicly or privately owned agencies approved by the Department [of Corrections] for use by its residents. These residences provide specialized residential treatment, for example, drug and alcohol treatment, and include 24-hour supervision, living quarters and special services for selected residents, and provisions for continued jurisdiction by Community [Services] CORRECTIONS. An exception to this paragraph must have prior approval by the Director, Community [Services] CORRECTIONS Division and final approval by the [Deputy Commissioner of Correction] SECRETARY OR A DESIGNEE.

(3) *Community [services] CORRECTIONS furlough program.* This is a program which complements Community [Service] CORRECTIONS Center residency and is permitted with the approval of the Community [Service] CORRECTIONS Center staff. It is the authorized leave of an inmate from a Community [Service] CORRECTIONS Center or Group Home for a period not to exceed 7-consecutive days for the purpose of furthering the inmate's reintegration into the community. The inmate is required to return to the Center or Group Home at a designated time.

§ 94.3. Procedures for participation in prerelease programs.

* * * * *

(2) Time-served requirements are as follows:

(i) To be time-eligible for placement in a Community [Service] CORRECTIONS Center or Group Home, the inmate must have completed at least one half of his minimum sentence, be within 1 year of completing his minimum sentence, have no outstanding detainers, and have served at least 9 months in a [State Institution] FACILITY. Exceptions may be made with written approval of the [Deputy Commissioner for Treatment] SECRETARY OR DESIGNEE, when early transfer is necessary to assist in the inmate's access to medical or mental health care or to provide longer period of participation for an inmate who has been confined for an unusually long period of time. A contact may not be made with the court until the approval is obtained.

(ii) For other prerelease programs, the inmate is time-eligible after he has completed one-half of his minimum sentence or one-half of the period ending with anticipated release date of an indeterminate sentence and has served at least 9 months in a [state institution] FACILITY. The inmate may have no detainers lodged against him for an untried offense or for a sentence with a maximum term in excess of 2 years. Inmates who are otherwise time-eligible who have detainers lodged against them for less than 2 years can be time-eligible for a prerelease program except Community [Services]

CORRECTIONS Center or Group Home upon written approval of the [Deputy Commissioner of Correction] SECRETARY OR A DESIGNEE. No contact may be made with the court until the approval is obtained.

(3) The inmate shall have favorable recommendation of the correctional facility staff--for example, counselor, work supervisor, housing officer, education/vocational supervisor and deputy [superintendents] FACILITY MANAGERS for treatment and operations.

* * * * *

(5) The inmate shall obtain a medical clearance by the [institution] FACILITY medical officer.

(6) The inmate's application shall be approved by the [institution Superintendent] FACILITY MANAGER.

(7) If the inmate has not completed his minimum sentence, the notice process in § 94.5 (relating to notification process) shall be followed.

(8) Applications for transfer to Community [Services] CORRECTIONS require evaluation and concurrence by the staff of the appropriate Region of Community [Services] CORRECTIONS and approval by the Director of Community [Services] CORRECTIONS.

(9) The inmate shall execute a written agreement which requires him to abide by the rules and regulations of the prerelease program. In the case of Community [Service] CORRECTIONS placement, the written agreement shall be signed prior to transfer.

(10) After transfer into a prerelease program, the inmate may continue to participate in the program only while adequate resources are available to provide care, custody and control for the inmate within the program to which he has been admitted. The inmate's privilege to participate in prerelease programs may be suspended or revoked for administrative or disciplinary reasons. The Department [of Corrections] will establish procedures to govern the revocation of prerelease privileges.

(b) The process of obtaining prerelease transfer is initiated when an inmate submits an application to his counselor for participation in work/educational/vocational release, or for a temporary home furlough or for transfer to a Community [Services] CORRECTIONS placement. No inmate may be granted prerelease transfer for any purpose unless the inmate satisfies all of the criteria in this section. Satisfying the eligibility criteria for prerelease transfer does not mean the inmate will automatically be permitted to participate in prerelease programs. Other considerations such as the staff's evaluation of the inmate's progress, the relevancy of the particular prerelease program to the inmate's reintegration, the safety of the community and the victim of the inmate's crime and the availability of space will be taken into consideration. Approval for participation in one prerelease program does not imply clearance for, or preclude application for participation in any other program. The application shall specify a particular prerelease program.

(c) Special exception to subsection (a) or (b), other than subsection (a)(1), (2)(ii), (6)--(9) may be recommended in writing by [the Superintendent of a correctional facility] A FACILITY MANAGER to the [Deputy Commissioner] SECRETARY OR A DESIGNEE.

(d) Inmates serving Federal sentences in [State Correctional Institutions or Regional Correctional] Facilities shall be eligible for prerelease transfer under rules and regulations established by the United States Department of Justice, Federal Bureau of Prisons, and subject to subsections (a) and (b), and the subsequent approval of Federal and State authorities.

* * * * *

§ 94.4. Application process.

Application for prerelease programming shall be initiated by the inmate to his counselor, or if necessary, on the inmate's behalf by the counselor. Criteria in § 94.3(a)(1), (3), (4), (5), (8) and (9) (relating to the procedures for participation in prerelease programs) shall be met prior to submission to the [Superintendent] FACILITY MANAGER for his approval. The process may begin a reasonable time prior to the time the inmate becomes time-eligible.

§ 94.5. Notification process.

(a) If the [Superintendent] FACILITY MANAGER approves an inmate's application for prerelease transfer, the [Superintendent] FACILITY MANAGER shall notify the sentencing judge or if he is unavailable, the sentencing court, and the prosecuting district attorney's office by certified mail, of the inmate's proposed prerelease program. Comments will be considered.

(b) If the inmate has not finished his minimum sentence and an objection is received from the judge or court, if the judge is unavailable, within 30 days of his receipt of the proposed prerelease plan, representatives of the Department [of Corrections] will contact the judge or court and if necessary arrange for a meeting to attempt to resolve the disagreement. If, within 20 days of the [Department of Corrections'] DEPARTMENT'S receipt of the objections, the judge or court does not withdraw the objection and the Department [of Corrections] does not withdraw its proposal for transfer, or the judge and the Department [of Corrections] do not agree on an alternate proposal for transfer, the Department [of Corrections] will refer the matter to the Board [of Pardons] for arbitration.

§ 94.6. Staff responsibilities.

(b) It is the primary responsibility of the classification and treatment manager to coordinate the staff evaluation and recommendation process.

(1) The classification and treatment manager will chair a meeting of designated [institutional] FACILITY staff who shall make recommendations regarding prerelease programs. The inmate shall be present at this staff meeting for input.

(2) The staff's findings, recommendations and rationale shall be forwarded to the [Superintendent] FACILITY MANAGER through both the Office of the Deputy Superintendent for Treatment and the Deputy Superintendent for Operations, with comments by both.

(c) It is the responsibility of the [Superintendent] FACILITY MANAGER to give final approval or disapproval of recommendations regarding prerelease programs. The inmate will be advised by the classification and treatment manager, in the presence of the inmate's counselor, of the final decision and its rationale. The decision and rationale will be documented in the cumulative adjustment record.

(d) Letters to judges and district attorneys shall be signed by the [Superintendent] FACILITY MANAGER.

* * * * *



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

OFFICE OF THE
SECRETARY OF CORRECTIONS

October 22, 2001

VIA HAND DELIVERY

Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
14th Floor, Harrisstown 2
333 Market Street
Harrisburg, PA 17101

RE: *Fiscal Note No. 19-5*
Amendment of Regulations in 37 Pa. Code Chapter 91 (relating to administration),
Chapter 93 (relating to State correctional institutions and facilities) and Chapter 94
(relating to release and prerelease programs.)

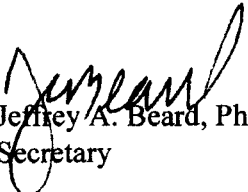
Dear Executive Director Nyce:

I am pleased to present for review and approval the Pennsylvania Department of Corrections' final-form amendments to its regulations on Administration, State Correctional Facilities and Release and Prerelease Programs. The amendments are promulgated under the Department's authority pursuant to section 506 of the Administrative Code of 1929 (71 P.S. §186).

The proposed regulations amend Chapter 91 to update the sections on definitions, agency purpose, reception of inmates and catchment areas. Chapter 93 is amended to revise the sections on inmate correspondence to provide for additional security. The sections on inmate visiting privileges and purchase for inmates by family and friends are updated. The section on incoming publications is merged into the provision on inmate correspondence. The section on religious activities is updated. The section on telephone calls is updated to refer to the monitoring of calls. The sections on inmate complaints, inmate discipline and housing are updated. The section on the boot camp is amended to delete inconsistent definitions. Chapter 94 is amended to delete and replace terms that are technically inconsistent with newly defined terms. The amendments 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 may have regarding the proposed regulations.

Very truly yours,



Jeffrey A. Beard, Ph.D.
Secretary

JCF/jls

Enclosure

cc: John S. Shaffer, Ph.D., Deputy Secretary for Administration
Dennis R. Erhard, Deputy Secretary
Thomas A. Fulcomer, Deputy Secretary
William J. Love, Deputy Secretary - Specialized Facilities & Programs
William M. Reznor, Deputy Secretary for Intergovernmental Relations
J.D. Shutt, Director, Bureau of Standards, Practices & Security
Mary Beth Marschik, Director, Office of Legislative Affairs
Michael A. Farnan, Chief Counsel
Jill C. Fluck, Assistant Counsel
Syndi L. Guido, Deputy General Counsel
Jill M. Strouss, Assistant General Counsel
Jane M. Demko, Office Administrator, Office of General Counsel
Karen Mitchell, Administrative Assistant, Governor's Policy Office
Lois M. Hein, Director, Bureau of Legislative & Regulatory Analysis, Office of the Budget
File

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

I.D. NUMBER: 19-5

SUBJECT: Administration; State Correctional Institutions and Facilities; Release and Prerelease Programs

AGENCY: DEPARTMENT OF CORRECTIONS

RECEIVED
 DEPARTMENT OF CORRECTIONS
 10/15/01 11:13 AM

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
10/22/01	<i>Sandra J. Harper</i>	HOUSE COMMITTEE ON JUDICIARY
10/22/01	<i>Susan Thomas</i>	
10/23/01	<i>Nyoka Shelburne</i>	SENATE COMMITTEE ON JUDICIARY
10/22/01	<i>Benny Craig</i>	
10/22/01	<i>St. Gelmet</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL
_____	_____	LEGISLATIVE REFERENCE BUREAU

October 15, 2001