

REGULATORY ANALYSIS FORM

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(1) Agency: Department of Corrections

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REVIEW COMMISSION

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

19-5

IRRC Numbers

2196

(3) Short Title

Administration, State Correctional Institutions and Facilities

(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)

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

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

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

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

The regulations govern the 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 The amendments will revise outdated material.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The revisions will update outdated language to better inform the public of Department policies and will enhance the security of Department facilities.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).

The general public seeking to contact state correctional inmates and state correctional inmates.

(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)

RECORDED
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REVIEW DIVISION

2196

DO NOT WRITE IN THIS SPACE

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

Martin J. Caputo
DEPUTY ATTORNEY GENERAL

MAR 22 2001

DATE OF APPROVAL

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:

BY: *Martin F. Horn*

TITLE: Martin F. Horn, Secretary
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Check if applicable
Copy not approved. Objections attached.

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

BY: *James R. Bevilacqua*

11/2/00
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.

BY: *Jeffrey A. Beard*

TITLE: Jeffrey A. Beard, Ph.D., Secretary
(Executive Officer, Chairman or Secretary)

Title 37 - Law
DEPARTMENT OF CORRECTIONS
[37 PA. CODE CH. 91, 93]
Administration and State Correctional Institutions and Facilities

The Department of Corrections (Department) gives public notice of its intention to amend and repeal regulations in Chapter 91 (relating to administration) and Chapter 93 (relating to State correctional institutions and facilities) 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 will be amended to revise outdated material and repeal those regulations that do not affect the public.

Purpose

The proposed regulations will amend Chapter 91 to update the sections on definitions, agency purpose, reception of inmates and catchment areas.

Chapter 93 will be amended to revise the sections on inmate correspondence to provide for additional security. The section on purchase for inmates by family and friends will be updated. The section on incoming publications has been merged into the provision on inmate correspondence. The section on religious activities will be updated. The section on telephone calls will be updated to refer to the monitoring of calls. The section on housing will be updated.

Compliance with Executive Order 1996-1

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

Fiscal Impact and Paperwork Requirements

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

Effective Date

The proposed regulations shall be effective upon closure of the public comment period, the regulatory review process and final publication in the *Pennsylvania Bulletin*.

Public Comment Period/Contract Person

Written comments concerning the Department's proposed regulations shall be submitted to John S. Shaffer, Ph.D., Deputy Secretary for Administration, 2520 Lisburn Road, P.O. Box 598, Camp Hill, PA 17001-0598. Written comments must be received within 30 days of the publication of this notice of proposed rulemaking in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 1, 2001, the Department submitted a copy of the proposed regulations to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Judiciary Committees (Committees). In addition to submitting the proposed regulations, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed regulations, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by that portion of the proposed regulations. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Department, the General Assembly and the Governor of objections raised.

Jeffrey A. Beard, Ph.D.
Secretary of Corrections

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

§ 91.1. Definitions.

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

Board—Pennsylvania Board of Probation and Parole.

[*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.

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—A State Correctional Institution, Regional Correctional Facility, Motivational Boot Camp, or Community Corrections Center operated by the Department.

Facility Manager—The chief administrator of a facility, i.e., the Superintendent of a State Correctional Institution or Regional Correctional Facility, 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 of Corrections.

Special Housing—Housing units, i.e., Restricted Housing Units, Special Management Units, Long Term Segregation Units, etc., 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 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 [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].

§ 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 (Act of December 30, 1974 (P.L. 1052, No. 345) 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. 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] 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] 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] Department [from the following counties] will 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.

[(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] b) Female inmates committed to the [Bureau] Department will be received at [the State Correctional Institution at Muncy] facilities designated as Diagnostic and Classification Centers for female inmates.

([g] c) The [Deputy Commissioner] Secretary of [Corrections] the Department or designee may grant permission for an inmate to be received at a[n institution] facility other than as designated in subsections (a)-([f] b).

§ 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.

(a) *Permitted correspondence.* Inmates are permitted to correspond with friends, family members, attorneys, news media, legitimate business contacts and public officials. There may be no limit to the number of correspondents.

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

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

(2) Correspondence containing threatening or obscene material, as well as correspondence containing criminal solicitation or furthering a criminal plan or institution misconduct is prohibited.

(3) An inmate shall refrain from writing to persons who have stated in writing that they do not wish to receive mail from the inmate; however, this will not be interpreted to restrict the right of inmates to correspond with public officials with respect to the official duties of the latter.

(4) Correspondence with prohibited parties through a third party is also prohibited.

(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.

(c) Incoming mail. All incoming mail, regardless of its source, will be opened and examined for contraband in the Department'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.

(2) 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 sender. The institution 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 instruments concealed in correspondence [is] are contraband and will be confiscated. Confiscated coins and currency will be deposited in the Inmate[s] General Welfare Fund.

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

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

[(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.]

(e) *Scrutiny of correspondence.*

(1) The institution may read [nonprivileged] mail upon the approval of the Facility Manager [Superintendent when there is a reason to believe that security may be impaired or that this section is being abused].

(2) The institution may read [privileged] sealed mail only upon the written order of [Superintendent] the 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 security[,] or criminal activity[, or this section is being abused].

[(3)]

(f) *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.

(g) An item of correspondence which appears to violate this section may be reviewed by the institution. 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.

[(f) *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.]

§ 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 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 (relating to incoming publications).] 2 (relating to inmate correspondence).

(c) Purchases shall be approved prior to the time the item is received by the institution. [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.

(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. The Department of Corrections will provide chapel facilities at each institution. 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 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 and will be permitted to hold regular services in the institution. 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 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. All phone calls, except confidential communications between attorneys and inmates shall be subject to monitoring in accordance with the Wiretapping and Electronic Surveillance Control Act. 18 Pa. C.S. §5701, et seq.

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

§ 93.11. Housing.

(a) No inmate shall 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 accordance 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 staff.



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

OFFICE OF THE
SECRETARY OF CORRECTIONS

May 1, 2001

VIA HAND DELIVERY

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

Re: *Proposed Amendments to Department of Corrections' Regulations
on Administration and State Correctional Facilities*

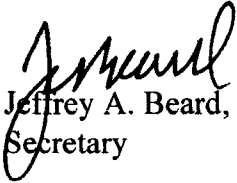
Dear Executive Director Nyce:

I am pleased to present for review and approval the Pennsylvania Department of Corrections' proposed amendments to its regulations on Administration and State Correctional Facilities. 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 will amend Chapter 91 to update the sections on definitions, agency purpose, reception of inmates and catchment areas. Chapter 93 will be amended to revise the section on inmate correspondence to provide for additional security. The section on purchase for inmates by family and friends will be updated. The section on incoming publications has been merged into the provision on inmate correspondence. The section on religious activities will be updated. The section on telephone calls will be updated to refer to the monitoring of calls. The section on housing will be updated. 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 or any of the members of the Judiciary Committee may have regarding the proposed regulations.

Very truly yours,


Jeffrey A. Beard, Ph.D.
Secretary

JCF/jls

Enclosure

cc: Syndi L. Guido, Deputy General Counsel
Dennis R. Erhard, Deputy Secretary
Thomas A. Fulcomer, Deputy Secretary
William J. Love, Deputy Secretary - Specialized Facilities & Programs
John S. Shaffer, Ph.D., Deputy Secretary for Administration
William M. Reznor, Deputy Secretary for Intergovernmental Relations
J.D. Shutt, Director, Bureau of Standards, Practices & Security
Sarah V. Hart, Chief Counsel
Mary Beth Marschik, Director, Office of Legislative Affairs
Jill C. Fluck, Assistant 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

RECEIVED

I.D. NUMBER: 19-5
SUBJECT: Administration and State Correctional Institutions and Facilities
AGENCY: DEPARTMENT OF CORRECTIONS

2001 MAY -1 PM 12: 03

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
5/1/01	<i>Sandra Harper</i>	HOUSE COMMITTEE ON JUDICIARY
5/1/01	<i>CH</i>	
5-1-01	<i>R. Dennis</i>	SENATE COMMITTEE ON JUDICIARY
5-1-01	<i>Dinny Gaig</i>	
5/1/01	<i>J. Helms</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
5/1/01	<i>C. Lee-Brown</i>	LEGISLATIVE REFERENCE BUREAU