

Regulatory Analysis Form

This space for use by IRRC

(1) Agency

PA Department of Environmental Protection (DEP)

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

7-406

IRRC Number: 2589

(3) Short Title: Notification of Proximity to Airports

(4) PA Code Cite

25 Pa. Code Chapters 271, 279, 287 and 293

(5) Agency Contacts & Telephone Numbers

Primary Contact: Marjorie Hughes, 783-8727

Secondary Contact: Michele Tate, 772-4768

(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 nontechnical language.

The Environmental Quality Board (EQB) proposes to amend the definition of airport in 25 Pa. Code §§271.1 and 287.1 (relating to definitions) by adding the term "military airport" to the definition of "airport" and add new sections 279.112 and 293.112 to require applicants for waste transfer facilities and expansions to notify airports if the proposed facility will be located within six (6) miles of the airport runway. The proposed rulemaking is in response to the petition and communications with the Department of Defense (DOD). The Bureau of Aviation of the Pennsylvania Department of Transportation (PennDOT), the Federal Aviation Association (FAA) and the airport are the entities that will receive the proposed notification. Copies of these notifications and responses to the notifications must be included in the permit application that is submitted to the Department.

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

- The Solid Waste Management Act (SWMA), (35 P.S. §§ 6018.101-6018.1003). Section §105(a) of SWMA grants the EQB the power and the duty to adopt the rules and regulations of the Department to accomplish the purposes and carry out the provisions of the SWMA. 35 P.S. §6018.105(a).
- Section 102(4) of SWMA states a purpose of the Act is to protect the public health, safety and welfare from the short and long-term dangers of transportation, processing, treatment, storage, and disposal of all wastes. 35 P.S. §6018.102.
- Section 104(6) of the SWMA provides the Department with the power and the duty to regulate the storage, collection, transportation, processing, treatment and disposal of solid waste. 35 P.S. §6018.104.

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- The Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101), (53 P.S. §§4000.101 - 4000.1904). Section 302 of Act 101 gives the EQB the power and duty to adopt the regulations of the Department to accomplish the purposes and carry out the provisions of Act 101. 53 P.S. §4000.302.
- Section 102(b)(3) of Act 101 states a purpose of the Act is to protect the public health, safety and welfare from the short- and long-term dangers of transportation, processing, treatment, storage, and disposal of municipal waste. 53 P.S. §4000.102.
- Section 301(6) of Act 101 provides the Department with the power and the duty to abate public nuisances. 53 P.S. §4000.301.
- The Administrative Code of 1929 (71 P.S. §§510-1 - 510-27). Section 1917-A authorizes and requires the Department to protect the people of this Commonwealth from unsanitary conditions and other nuisances, including any condition that is declared to be a nuisance by any law administered by the Department. 71 P.S. §510-17. Section 1920-A grants the EQB the power and the duty to formulate, adopt, and promulgate such rules and regulations as may be determined by the EQB for the proper performance of the work of the Department. 71 P.S. §510-20.

(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 notification required by the proposed regulations will alert airports when a new or expanded transfer station or municipal waste landfill is proposed within six miles of the airport. The airport can then evaluate whether the proposed facility will impact the operation of the airport and associated aircraft. This evaluation will potentially increase the level of protection from bird strikes or obstructions created by the operation of the facilities and therefore increase military and public safety.

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

Permitted waste transfer facilities normally operate in enclosed structures. However, there is a concern that waste transfer activities, such as waste loading, unloading and storage, may still occur outside of an enclosed building and pose a risk to aircraft approaching or departing from nearby airports. This is a risk to public health and safety, and includes military personnel and people living in the area. The risk of bird strikes to aircraft becomes negligible when the airport runway is greater than six (6) miles from the waste transfer facility.

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(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 military and public will benefit from the notification as the evaluation of the potential harms from the operation of the proposed facility will ultimately affect the level of safety of persons operating aircraft and persons in the surrounding community.

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

There are no adverse effects resulting from the regulation. The amendment will require additional notification to be sent by permit applicants. On an annual basis, the number of facilities that have to provide these notifications is estimated at less than 13.

(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.)

Applicants for new or expanding transfer stations and landfills will be required to provide notice if the airport runway is within six miles of the proposed operation. The Department is estimating less than 13 applications per year, but in reality believes that very few will be within six miles of an airport runway.

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

The proposed rulemaking is in response to the petition and communications with DOD. The proposed amendments were presented and discussed with the Solid Waste Advisory Committee (SWAC) on July 14, 2005. Some SWAC members, who represent the interests of the waste industry, contend that the hazard of bird strikes from waste transfer operations is not an issue, as these operations are typically conducted in enclosed structures. SWAC is also concerned about whether the Bureau of Aviation at PennDOT, FAA and the applicable airport would timely respond to the notice and the impact of an untimely response on the Department, which could result in a delay of permit issuance. Other concerns expressed were the intent of the petition and whether the proposed amendment will apply to a large number of facilities. The SWAC concerns were discussed with the DOD prior to going forward with the proposed amendments. DEP met with SWAC again on May 11, 2006, reiterating its intent to move the proposed amendments forward. SWAC voted against the proposal.

(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 cost to notify the Bureau of Aviation of PennDOT, the FAA and the airport that would be imposed on an applicant for a new or expanding waste transfer facility or landfill located within six (6) miles of an airport runway is estimated at approximately \$50. As waste transfer operations are conducted in enclosed structures, there may be no additional mitigation required by proposed new facilities or expansions in case their proposals are within six (6) miles of an airport runway.

Regulatory Analysis Form

(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.

None.

(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 and/or savings associated with implementation of the regulation, other than those associated with the time needed to review copies of the notices. Any additional workload that would result from these amendments would be absorbed by existing staff.

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

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	None	None	None	None	None	None
Local Government	None	None	None	None	None	None
State Government	None	None	None	None	None	None
Total Savings	None	None	None	None	None	None
COSTS:						
Regulated Community	1,800	1,890	1,984.50	2,083.73	2,187.92	2,297.32
Local Government	None	None	None	None	None	None
State Government	None	None	None	None	None	None
Total Costs	1,800	1,890	1,984.50	2,083.73	2,187.92	2,297.32
REVENUE LOSSES:	None	None	None	None	None	None
Regulated Community	None	None	None	None	None	None
Local Government	None	None	None	None	None	None
State Government	None	None	None	None	None	None
Total Revenue Losses	None	None	None	None	None	None

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

The approximate total cost for proposed notification (by certified mail with return receipt) to the Bureau of Aviation of PennDOT, the FAA and the airport is estimated at \$50 per notification. Given that three notifications are needed for each application, and the total number of anticipated applications for new or expanded waste transfer and landfill applications is less than 13 annually (and probably far fewer would actually be proposed within six miles of an airport runway), the \$150/application is multiplied by 12 for a total cost to the regulated community of \$1,800 per year. A Consumer Price Index of 5% is used to calculate the cost for each year thereafter.

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

Program	FY-3	FY-2	FY-1	Current FY
Environmental Program Management	\$43,679,000	\$37,594,000	\$37,049,000	\$36,868,000
Environmental Protection Operations	76,393,000	\$85,898,000	87,897,000	89,847,000

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

The costs associated with the proposed amendments are minimal with no adverse effects to the regulated community, except drafting and mailing a notice to the Bureau of Aviation of PennDOT, the FAA and the airport.

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

The Department considered adding the notification requirement to Form D (relating to environmental assessment) by listing the Bureau of Aviation of PennDOT, the FAA and the airport in the Form's list of state and federal agencies that must be contacted during the completion of the assessment. The legal authority for this option was not clear, so regulations were proposed as requested by the DOD.

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

No other regulatory schemes were considered.

(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.

Although there are federal standards for airport notification that apply to municipal waste landfills that have been adopted in the Department's regulations, there are no equivalent notification requirements at the federal level for waste transfer facilities. The proposed rulemaking has resulted from the DOD petition to the EQB requesting that notification requirements be imposed on applicants for new and expanded landfill facilities and waste transfer operations. The federal DOT does not provide a definition for "public airports" or "military airport." The addition of "military airport" to the definition of "airport" provides the regulations more specificity.

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

No.

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

Yes. The proposed regulations, when adopted as final rulemaking by the EQB, will amend the existing regulation in 25 Pa. Code §271.1 and §287.1 by including the term "military airports" in the definition of "airport." By changing the definition of "airport," 25 Pa. Code §271.127 and 287.127 will require an environmental assessment to consider military airports. Pursuant to 25 Pa. Code §§273.121, 277.121, 288.128 and 289.128, the airport notification requirement for municipal waste landfills, construction and demolition waste landfills, residual waste landfills and residual waste disposal impoundments will extend to military airports. The siting criteria listed in 25 Pa. Code §§273.202, 288.422, 288.522, 288.622, 289.422 and 289.522 for municipal waste landfills, residual waste landfills and residual waste disposal impoundments will also apply to military airports.

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

On adoption as proposed rulemaking by the EQB, there will be a 30-day comment period. No public hearings or informational meetings are planned.

(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.

As part of its permit application, an applicant for a new or expanding waste transfer facility, municipal and residual waste landfills, construction and demolition waste landfills and residual waste disposal impoundments will be required to send to the Department copies of responses received to the notices from the two agencies and the airport.

(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.

None.

(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?

It is anticipated that the proposed regulations will be published in the *Pennsylvania Bulletin* for a 30-day public comment period in late summer. The final rulemaking will become effective when published, which is anticipated to occur in Spring 2007.

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

The regulation will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE
BUREAU**

(Pursuant to Commonwealth Documents Law)

2581

DO NOT WRITE IN THIS SPACE

RECEIVED
2006 DEC -7 AM 11:
INDEPENDENT LEGISLATIVE
REFERENCE BUREAU

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

By: *Angela Elliott*
(Deputy Attorney General)

DEC 01 2006

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached.

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

DEPARTMENT OF ENVIRONMENTAL
PROTECTION
ENVIRONMENTAL QUALITY BOARD

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-406

DATE OF ADOPTION October 17, 2006

By: *Kathleen A. McGinty*

TITLE **KATHLEEN A. MCGINTY
CHAIRPERSON**

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

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

By: *Andrew C. Clark*
Andrew C. Clark

DATE OF APPROVAL

OCT 19 2006

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

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

NOTICE OF PROPOSED RULEMAKING

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY BOARD**

Notification of Proximity to Airports

25 Pa. Code, Chapter 271, 279, 287, and 293

ENVIRONMENTAL QUALITY BOARD
[25 Pa. Code Chapters 271, 279, 287, and 293]

Notification of Proximity to Airports

PREAMBLE

The Environmental Quality Board (Board) proposes to amend 25 Pa. Code, Chapters 271, 279, 287 and 293 (relating to municipal waste and residual waste management). The amendments are based on a petition by the Department of Defense (DOD), requesting that the Department address the potential hazards posed to military aircraft from bird strikes near waste landfill and transfer facilities. The amendments would broaden the definition of *airport* to include military airports, extend existing airport notification requirements for waste landfills to military airports and impose an airport notification requirement on waste transfer facilities.

This proposal was adopted by the Board at its meeting of October 17, 2006.

A. Effective Date

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. Contact Persons

For further information contact Stephen Socash, Chief, Division of Municipal and Residual Waste, P.O. Box 8472, Rachel Carson State Office Building, Harrisburg, PA 17105-8472, (717) 787-7381, or Susan Seighman, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section I of this preamble. Persons with a disability may use the AT&T Relay Service by calling 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users). This proposal is available electronically through the DEP Website (<http://www.depweb.state.pa.us>).

C. Statutory Authority

The proposed rulemaking is being made under the authority of the following:

The Solid Waste Management Act (SWMA) (35 P.S. §§6018.101 - 6018.1003), as amended, which in Section 105(a) (35 P.S. §6018.105 (a)) grants the Board the power and the duty to adopt the rules and regulations of the Department to accomplish the purposes and carry out the provisions of the SWMA. Sections 102(4) and 104(6) of SWMA (35 P.S. §§ 6018.102 and 104) provide the Department with the power and duty

to regulate the storage, collection, transportation, processing, treatment and disposal of solid waste to protect the public health, safety and welfare.

The Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§4000.101 - 4000.1904), which in Section 302 (53 P.S. §4000.302) gives the Board the power and duty to adopt the regulations of the Department to accomplish the purposes and carry out the provisions of this act. Sections 102(b)(3) and 301(6) of Act 101 (53 P.S. §§ 102 and 301) state the intent of protecting the public health, safety and welfare from the dangers associated with transportation, processing, treatment, storage and disposal of municipal waste and provide the Department with the power and duty to abate public nuisances.

The Administrative Code of 1929 (71 P.S. §§510-1 - 510-27), which in Section 1917-A (71 P.S. §510-17) authorizes and requires the Department to protect the people of this Commonwealth from unsanitary conditions and other nuisances, including any condition that is declared to be a nuisance by any law administered by the Department, and, which in Section 1920-A (71 P.S. §510-20) grants the Board the power and the duty to formulate, adopt and promulgate such rules and regulations as may be determined by the Board for the proper performance of the work of the Department.

D. Background and Purpose

Current municipal and residual waste regulations require applicants for municipal and residual waste landfills, construction and demolition waste landfills and residual waste disposal impoundments to notify public airports if a new or expanded facility is proposed within six (6) miles of an airport runway. There is no similar notification requirement for municipal or residual waste transfer facilities because these operations are primarily conducted in enclosed structures. The DOD maintains and the Department concurs that there is a concern that waste transfer activities, such as waste loading, unloading and storage, may still occur outside of an enclosed building and pose a risk to aircraft approaching or departing from nearby airports. This is a risk to public health and safety, and includes military personnel and people living in the area. The risk of bird strikes to aircraft becomes negligible when the airport runway is greater than six (6) miles from the waste transfer facility. Accordingly, DOD petitioned the Department on July 28, 2004, to require an airport notification from waste transfer facilities. Furthermore, since the current definition of "airport" in §271.1 and §287.1 does not include the term "military airports," the petition also requests that the Department include this term in the definition.

The Board accepted the petition for further study on October 19, 2004. The Department agreed with the petition and submitted a Petition Report to the Board on April 19, 2005, recommending that the municipal and residual waste regulations be amended as requested by the DOD.

Adding the term "military airport" to the definition of "airport" in §§271.1 and 287.1 will broaden the definition to address DOD airfields as well as public airports.

With the exception of two strictly military airports in Pennsylvania, many public airports also serve as military airports. The addition of new §§279.112 and 293.112 will require a new or expanding waste transfer facility to provide notification to airports, including military airports, if the facility is within six (6) miles of the airport runway. By including military airports in the definition of “airport,” the notification requirements are also being extended to military airports for new or expanded landfills.

The proposed amendments were presented to the Solid Waste Advisory Committee (SWAC) on July 14, 2005. Some members of the SWAC, representing the interests of the waste industry, opposed these amendments. These members asserted that, unlike landfills, waste transfer facilities do not attract birds as the activities are primarily conducted in enclosed structures. Another industry concern was the potential lack of a timely response to the notice from the airport, which might delay permit issuance. Other concerns expressed were the intent of the petition; the additional notification burden imposed on the waste industry; the airport not responding in a timely fashion or commenting on non-technical issues; and this requirement applying to a large number of facilities.

The Department, in agreement with the petition filed by the DOD, maintains that these amendments, as proposed, will provide for increased safety for both military and non-military personnel operating aircraft from airports located in the vicinity of waste transfer facilities and landfills. The Department further discussed its position with SWAC on May 11, 2006, but SWAC voted against the proposed amendments.

E. Summary of Regulatory Requirements

A description of the proposed regulations is as follows:

Articles VIII. Municipal Waste Management and Article IX. Residual Waste Management

Chapter 271. Municipal Waste Management—General Provisions Chapter 287. Residual Waste Management—General Provisions

Sections 271.1 and 287.1 Definitions.

The term “airport” is proposed to be amended in these sections by adding “military airport” to the definition. By including “military airport” within the definition of “airport,” all regulatory requirements that relate to airports, current and proposed, will apply to military airports.

Chapter 279. Transfer Facilities Chapter 293. Transfer Facilities for Residual Waste

Subchapter B. Application Requirements for Transfer Facilities

Sections 279.112 and 293.112. Notification of proximity to airport.

These new sections would require applicants to notify the Bureau of Aviation of the Pennsylvania Department of Transportation (PennDOT), the Federal Aviation Agency (FAA) and the applicable airport if the proposed new or expanding municipal waste transfer facility will be located within six (6) miles of the airport runway. These amendments would also require the applicant to include copies of these notifications in the permit application. The proposed amendments would not affect most existing transfer facilities; it would apply only to new facilities and expansions of existing facilities.

Since there are no comparable federal regulations that address waste transfer facilities, these proposals are considered to be more stringent than federal requirements.

The proposed amendments will have a minimal economic impact on the regulated community. Waste landfill and transfer facility applicants will incur the costs associated with notifying the Bureau of Aviation of PennDOT, the FAA and the airport. It is anticipated that the cost of each notification will not exceed \$50, with the total cost therefore not exceeding \$150 per application. These costs represent estimated charges for certified mail to the three entities listed above. No additional DEP permit fees are being imposed on the applicant through the proposed amendments.

The proposed amendments will be available for public review and comment following their publication in the *Pennsylvania Bulletin*, as provided under the public participation provisions required by regulation and as described in Section I of this preamble. The public comment period will extend for thirty (30) days. Public comments will be addressed in a comment and response document prepared by the Department after the comment period has expired.

F. Benefits, Costs and Compliance

Benefits

The proposed amendments will benefit both military and non-military personnel operating and traveling in aircraft near waste landfill and transfer facilities, as they either approach or depart the airport runway, by reducing the potential risk of bird strikes to their aircraft, which can cause hazards to surrounding communities, as well.

Compliance Costs

The proposed amendments will minimally increase the application cost, via the proposed notification requirement, only for a new or expanding waste landfill or transfer facility and in these cases, only for those facilities that are proposed within six (6) miles of an airport runway. As applications for new or expanding landfills are estimated at less than ten, and new and expanding transfer facilities at a frequency of two or three per year, this minimal application cost increase will not affect the several hundred municipal and

residual waste transfer facilities that are currently permitted in Pennsylvania. The applicant will be required to notify the relevant airport, the Bureau of Aviation of PennDOT and the FAA. The cost of each notice, sent by certified mail including a request for a return receipt, is estimated to be no more than \$50 current value, with the total cost of notification for each applicant estimated at \$150. The total cost per year, therefore, for up to 12 applicants sending notification to the two agencies and the airport is estimated at \$1,800.

There are no additional permit fees associated with the proposed amendment and no indirect cost to the regulated community or the Department.

Compliance Assistance Plan

Since the amendments would impose notification requirements only, a compliance assistance plan is not required.

Paperwork Requirements

As part of its permit application, an applicant for a new or expanding waste landfill or transfer facility will be required to send copies of responses received from the two agencies and airport in response to the notices, to the Department. This is not expected to increase compliance costs.

G. Sunset Review

This regulation will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

H. Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on December 7, 2006, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

Under Section 5(g) of the Regulatory Review Act (71 P.S. §745.5(g)), IRRC may convey any comments, recommendations or objections to the proposed regulations within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Act specifies detailed procedures for review of these issues by the Department, the General Assembly and the Governor prior to final publication of the regulations.

I. Public Comments

Written Comments - Interested persons are invited to submit comments, suggestions, or objections regarding the proposed regulation to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be postmarked by January 22, 2007. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be postmarked by January 22, 2007. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic Comments - Comments may be submitted electronically to the Board at RegComments@state.pa.us and must be received by the Board by January 22, 2007. A subject heading of the proposal and a return name and address must be included in each transmission.

KATHLEEN A. MCGINTY
Chairperson
Environmental Quality Board

ANNEX A

**TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION
SUBPART D. ENVIRONMENTAL HEALTH AND SAFETY
ARTICLE VIII. MUNICIPAL WASTE**

**CHAPTER 271. MUNICIPAL WASTE MANAGEMENT –
GENERAL PROVISIONS**

Subchapter A. GENERAL

§ 271.1. Definitions.

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

* * * * *

Airport— “Public airport,” as defined in 67 Pa. Code § 471.2 (relating to definitions). [**The term does not include heliports.**]

(i) The term includes military airports.

(ii) The term does not include heliports.

* * * * *

CHAPTER 279. TRANSFER FACILITIES

**Subchapter B. APPLICATION REQUIREMENTS FOR
TRANSFER FACILITIES**

GENERAL

Sec.

- 279.101. General requirements.
- 279.102. Operating plan.
- 279.103. Maps and related information.
- 279.104. Plan for access roads.
- 279.105. Soil erosion and sedimentation control plan.

- 279.106. Soil and groundwater monitoring plan.
- 279.107. Nuisance control plan.
- 279.108. Litter control plan.
- 279.109. Contingency plan.
- 279.110. Radiation protection action plan.
- 279.111. Daily volume.

279.112. Notification of proximity to airport.

§279.112. Notification of proximity to airport.

An applicant shall notify the Bureau of Aviation of the Pennsylvania Department of Transportation, the Federal Aviation Administration and the airport if a proposed transfer facility or expansion is within six miles of an airport runway. The application shall include a copy of each notification and each response to each notification received by the applicant.

ARTICLE IX. RESIDUAL WASTE MANAGEMENT

**CHAPTER 287. RESIDUAL WASTE MANAGEMENT –
GENERAL PROVISIONS**

Subchapter A. GENERAL

§ 287.1. Definitions.

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

* * * * *

Airport— A public airport, as defined in 67 Pa. Code § 471.2 (relating to definitions). [The term does not include heliports.]

(i) The term includes military airports.

(ii) The term does not include heliports.

* * * * *

**CHAPTER 293. TRANSFER FACILITIES FOR
RESIDUAL WASTE**

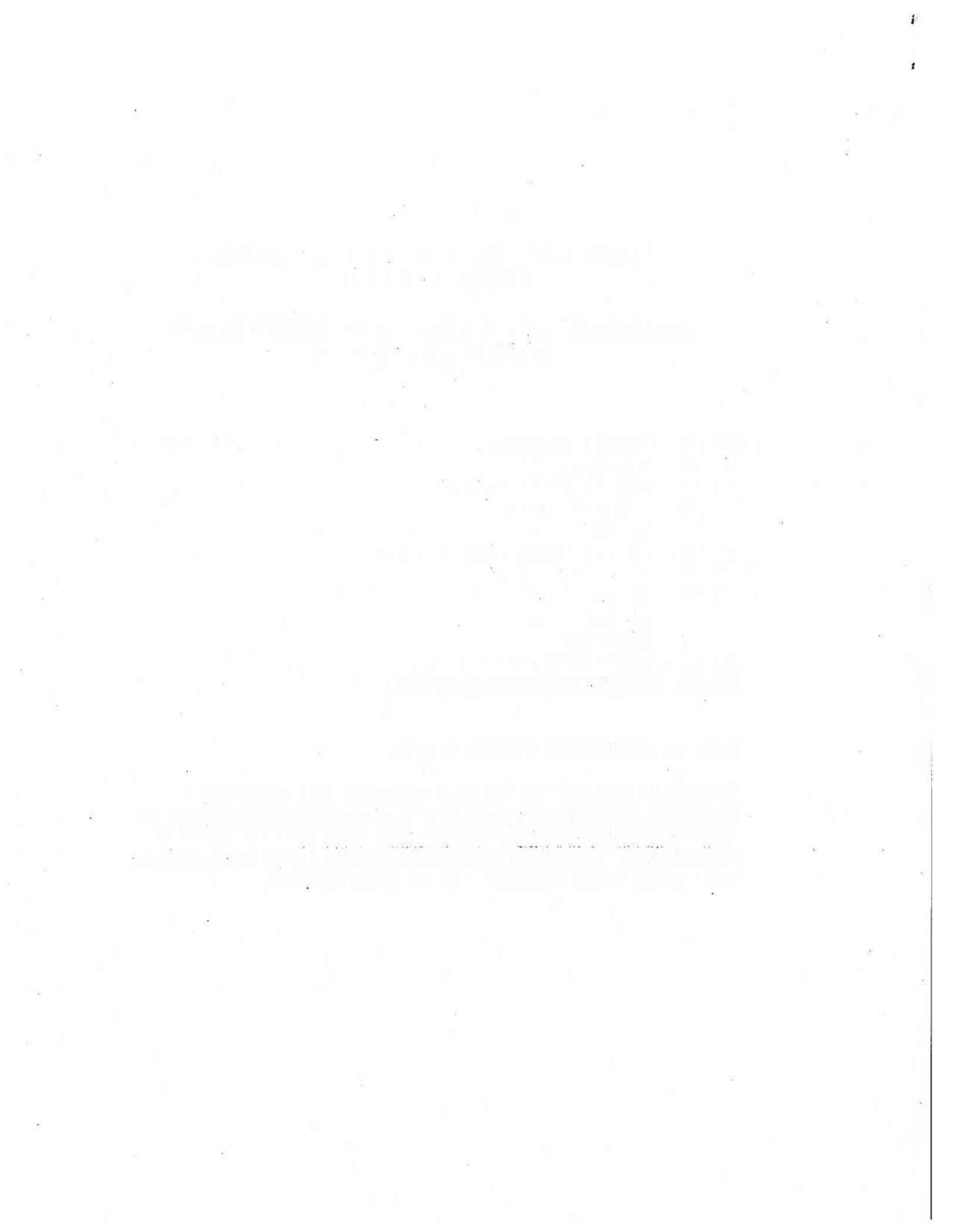
**Subchapter B. APPLICATION REQUIREMENTS FOR
TRANSFER FACILITIES**

Sec.

- 293.101. General requirements.
- 293.102. Operating plan.
- 293.103. Maps and related information.
- 293.104. Plan for access roads.
- 293.105. Soil plan.
- 293.106. Soil and groundwater monitoring plan.
- 293.107. Nuisance control plan.
- 293.108. Litter control plan.
- 293.109. Contingency plan.
- 293.110. Daily volume.
- 293.111. Radiation protection action plan.
- 293.112. Notification of proximity to airport**

§293.112. Notification of proximity to airport.

An applicant shall notify the Bureau of Aviation of the Pennsylvania Department of Transportation, the Federal Aviation Administration and the airport if a proposed transfer facility or expansion is within six miles of an airport runway. The application shall include a copy of each notification and each response to each notification received by the applicant.





Pennsylvania Department of Environmental Protection

Rachel Carson State Office Building

P.O. Box 2063

Harrisburg, PA 17105-2063

December 7, 2006

Policy Office

717-783-8727

Kim Kaufman, Executive Director
Independent Regulatory Review Commission
14th Floor, Harrisstown #2
333 Market Street
Harrisburg, PA 17120

Re: Notification of Proximity to Airports (#7-406)

Dear Mr. Kaufman:

Enclosed is a copy of a proposed regulation for review and comment by the Independent Regulatory Review Commission pursuant to Section 5(a) of the Regulatory Review Act. This proposal is scheduled for publication as a proposed rulemaking in the *Pennsylvania Bulletin* on December 23, 2006 with a 30-day public comment period. The Environmental Quality Board adopted this proposal at its October 17, 2006 meeting.

These amendments to 25 Pa. Code, §§271.1, 279.112, 287.1, and 293.112 were prepared in response to a petition submitted to the Board by the Department of Defense (DOD) to address its concerns about potential hazards to military aircraft from bird strikes caused by birds attracted to transfer stations and landfills. With the proposed amendments the airport notification requirements would apply to new and expanded municipal and residual waste landfills and transfer facilities, construction and demolition waste landfills and residual waste disposal impoundments.

The Department will provide assistance as necessary to facilitate the Commission's review of this proposed regulation under Section 5.1(e) of the Regulatory Review Act.

Please contact me if you would like additional information.

Sincerely,

Marjorie L. Hughes
Regulatory Coordinator
Policy Office

Enclosures



THE HISTORY OF THE

REPUBLIC OF THE UNITED STATES OF AMERICA

The history of the United States is a story of growth, struggle, and progress. From the first European settlers to the present day, the nation has evolved through various challenges and triumphs. The early years were marked by the search for a better life, leading to the establishment of colonies. The American Revolution was a pivotal moment, as the colonies fought for independence from British rule. This was followed by a period of westward expansion, where the frontier spirit shaped the national character. The Civil War was a defining event, as the nation grappled with the issue of slavery and the preservation of the Union. The Reconstruction era that followed sought to rebuild the South and integrate African Americans into the fabric of the nation. The late 19th and early 20th centuries saw rapid industrialization and the rise of a powerful middle class, but also the emergence of social and economic inequalities. The Progressive Era sought to address these issues through reform. The 20th century was a time of global conflict, with the United States playing a leading role in World War II. The post-war period saw the nation's emergence as a superpower, leading to the Cold War and the space race. The 1960s and 70s were a time of social upheaval, with the Civil Rights Movement and the Vietnam War. The 1980s and 90s saw economic growth and technological advancement, but also the challenges of globalization and the environment. The 21st century has brought new challenges, including the 9/11 attacks, the global financial crisis, and the rise of digital technology. The United States continues to shape the world, and its history remains a source of inspiration and reflection.