

RULES AND REGULATIONS

Title 22—EDUCATION

HIGHER EDUCATION ASSISTANCE AGENCY

[22 PA. CODE CH. 121]

Loan Program Amendments

The Higher Education Assistance Agency (Agency), under authority contained in section 4 of the act of August 7, 1963 (P. L. 549, No. 290) (24 P. S. § 5104), section 1 of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5151), the act of July 18, 1974 (P. L. 483, No. 174) (24 P. S. §§ 5181—5189), the act of July 1, 1988 (P. L. 1259, No. 155) (24 P. S. §§ 5191—5197) and the act of June 26, 1992 (P. L. 322, No. 64) (24 P. S. §§ 5198.1—5198.7) is amending Chapter 121 (relating to student financial aid).

The changes affect the State Grant Program (24 P. S. § 5152.1), Institutional Assistance Grants Program (24 P. S. §§ 5181—5197), Loan Programs (24 P. S. § 5104), Urban and Rural Teacher Loan Forgiveness Program (24 P. S. §§ 5191—5197) and the Agricultural Education Loan Forgiveness Program (24 P. S. §§ 5198.1—5198.7).

Public Comment

Written comments, suggestions and objections were solicited within a 30-day period after the publication date. As a result of the comments received from the Independent Regulatory Review Commission (IRRC) and the standing committees, numerous revisions were made to the proposed amendments. These final-form regulations now include language revisions to clarify the meaning of various sections. The revisions do not, however, enlarge the original purpose of the proposed rulemaking.

Summary of Changes

Comments

1. Comment:

The House Education Committee (Committee) inquired into the potential fiscal impact upon the Commonwealth due to the adoption and implementation of these amendments.

Response:

There should be no additional impact upon the Commonwealth due to the adoption and implementation of these amendments.

2. Comment:

The Committee inquired as to whether the Agency planned to promulgate regulations for the Keystone Stafford Loan Program.

Response:

No additional regulations will be promulgated in relation to the Keystone Stafford Loan Program.

3. Comment:

The Committee and IRRC recommended including within the final-form regulations provisions relating to the eligibility of part-time students for State Grants, and addressing the qualifications for scholarship awards as provided for by the General Assembly under Act 1994-83.

Response:

The Agency has complied with these recommendations by including within the final-form version of these

amendments to §§ 121.5, 121.6 and 121.49 (relating to enrollment; denial of eligibility for financial assistance; and duration of State higher education grants).

4. Comment:

Section 121.1. Definitions—IRRC made a number of recommendations including: that the Agency define the acronym “PLUS”; that the Agency delete the term “Executive Director” and replace it with the term “President and Chief Executive Officer”; that the Agency modify the definition of “full-time basis”; that the Agency establish a separate definition for the “Federal Family Education Loan Program” in the final-form version of the rulemaking; and, that the Agency add a definition of “emergency action.”

Response:

“Federal PLUS Loan”—Federal legislation no longer contains a reference to “PLUS” as an acronym; therefore, the definition as written complies with Federal law and regulations.

“President and Chief Executive Officer”—The Agency has complied with IRRC’s recommendations.

“Full-time basis (except for purposes of the Federal Stafford Loan and the Federal PLUS Loan Programs)”—The Agency has deleted this term from the definition section, and included in § 121.5 of the final rulemaking the substantive provisions referenced by IRRC.

“Federal Family Education Loan (FFEL) Program”—The Agency has added a definition of “Federal Family Education Loan Program.”

“Emergency action”—The Agency has added a definition to § 121.1.

5. Comment:

Section 121.31. Approved institutions in Federal Stafford Loan and Federal PLUS Loan Programs. Section 121.91. Approved lending institutions in Federal Stafford Loan, Federal PLUS Loan, Federal Consolidation Loan Programs. IRRC and the Committee had several comments concerning these sections, including that the Agency include provisions for standards of conduct in §§ 121.31 and 121.191 of the proposed amendments; that the Agency delineate with greater specificity the additional administrative requirements with which institutions are required to comply; that the Agency provide that institutions requesting a hearing may do so at least 5 business days prior to the effective date of the suspension; that the Agency indicate that § 121.191(h)(2) refers specifically to lending institutions; that the Agency indicate the manner in which decisions to limit, suspend or terminate institutional participation will be conveyed; that the section provides the Board of Directors the authority to order oral argument; that the section provide that the decision of the Board of Directors is final upon mailing; and, that the section provides that notices of appeal are to be filed within 30-calendar days after the entry of the order from which the appeal is taken.

Response:

The Agency has incorporated into these final-form regulations the recommendations made by the Committee and IRRC.

6. *Comment:*

Section 121.32. Approved institutions in higher education grant program. The Committee and IRRC recommended that the Agency provide greater specificity in the regulation as to additional administrative requirements that the Agency will promulgate. IRRC expressed concerns with subsection (b)(1) requiring that colleges and universities outside this Commonwealth be operated not-for-profit and subsection (b)(3) which requires that trade, technical or business schools located outside this Commonwealth be operated not-for-profit. IRRC indicated that the proposal is silent on not-for-profit requirements for colleges and universities within this Commonwealth, hospital schools of nursing within this Commonwealth and outside this Commonwealth, and for trade, technical or business schools located within this Commonwealth. The Commission requested that the Agency explain the purpose of the not-for-profit requirement and the rationale for its application to institutions located outside this Commonwealth.

Response:

The Agency has, within these final-form regulations, clarified the additional administrative requirements. As to the Commission's concern with the exclusion of profit-making schools located outside this Commonwealth, the rationale for this distinction is based upon the Agency's historical concern with the absence of adequate oversight of the such out-of-State institutions on a National basis. Within this Commonwealth, the oversight is provided by the State Board of Private Licensed Schools and the Department of Education. Moreover, the Commonwealth has a legitimate interest in enhancing the ability of residents to elect enrollment in a Pennsylvania postsecondary institution. Under its enabling legislation, the Board of Directors has the authority to establish program parameters. Furthermore, the Agency notes that this section is consistently applied to institutions located within this Commonwealth and to those located outside this Commonwealth, although it is not the same for both.

7. *Comment:*

Section 121.34. Institutional appeals and hearings (other than the Federal Family Educational Loan Program). This section provides for appeals and hearings by an educational institution in cases where the Agency suspends the processing of student aid requests or ceases disbursement of funds to the institution. IRRC recommended that the Agency establish a time frame within which to schedule appeals.

Response:

The Agency has modified this section in the final rulemaking to provide that appeals will be scheduled for hearing within 30 days from the date on which the appeal is filed.

8. *Comment:*

Section 121.61. Submission and processing of applications. This section provides direction to a student in obtaining a loan application packet. IRRC recommended that the language of this provision be modified to indicate that the information provided on the form will be used to determine the eligibility of the applicant to receive a Federal Stafford Loan. IRRC also recommended that the title of Subchapter C, Loan Guaranty Program, be replaced with the subchapter title "Federal Stafford Loan Program" which would be consistent with the name change provided in the subchapter.

Response:

The Agency has complied with IRRC's recommendations.

9. *Comment:*

Section 121.131. Submission and processing of applications. Section 121.181. Submission and processing of applications. These sections provide direction for submission and processing of applications for the PLUS Program and the Consolidation Loan Program, respectively. IRRC recommended a change to this provision to clarify that it is the information provided on the form that is used to determine the eligibility of the applicant rather than the form itself. IRRC additionally recommended that § 121.181 set forth language indicating that a lender shall provide an adverse action notice to the borrower if loan assistance is denied.

Response:

The Agency has complied with the Commission's recommendations.

10. *Comment:*

Section 121.201. Application of Existing Agency Regulations. This provision states that the regulations contained in Subchapters A and B apply to applicants in the Urban and Rural Teacher Loan Forgiveness Program "except those provisions which are inconsistent with this subchapter." The Commission recommended that the Agency either specifically cite to inconsistent provisions or delete this phrase from the final form version of the rulemaking.

Response:

The Agency has deleted this phrase from the final-form version of the rulemaking.

11. *Comment:*

Section 121.204. Teaching Commitment. IRRC recommended that the Agency refine in the final-form version the reference to "other criteria for eligibility."

Response:

The Agency has revised this subsection to address IRRC's concerns.

12. *Comment:*

Section 121.302. Application of existing Agency Regulations. This section states that enumerated sections of the higher education grant regulations apply to applicants in the Agricultural Loan Forgiveness Program "except those provisions which are inconsistent with this subchapter." IRRC recommended that inconsistent provisions either be specifically cited, or that this phrase be deleted from the final-form version of the rulemaking.

Response:

The Agency has deleted this provision from the final-form version of the rulemaking.

13. *Comment:*

Section 121.304. Loan forgiveness. This section contains provisions for eligibility for payment of loans by the Agency. Applicants engaged in the mixed practice of veterinary medicine are required to spend a portion of their activity in the protection and enhancement of agricultural animal health and productivity. IRRC recommended that the Agency add a provision to this section clarifying that the Agency will forgive a proportional part of the applicant's loan commensurate with the portion of

activity conducted in the protection and enhancement of agricultural animal health and productivity.

Response:

The Agency has indicated that the portion of work devoted to farm animals defines only the eligibility requirements of the applicant; there is no correlation in the statute between the amount of time the applicant spends working with farm animals and the payment of a portion of the debt by the Agency. Therefore, the section in its proposed form is consistent with the statute. The Agency has interpreted the term "a proportional part of the applicant's loan" to mean the maximum amount permitted by law or some amount less than the maximum, depending on the outstanding loan balance. The Department of Agriculture agrees with the Agency's interpretation of the act.

14. *Comment:*

Section 121.305. Employment verification. IRRC recommended that the statement "other criteria for eligibility" as contained in § 121.305 either be deleted or that any additional criteria for eligibility be clearly stated.

Response:

The Agency has revised the section to address the Commission's concerns.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 2, 1995, the Agency submitted a copy of the notice of proposed rulemaking, published at 25 Pa.B. 1860 (May 13, 1995), to IRRC and the House Education Committee and the Senate Education Committee for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Agency also provided IRRC and the Committees with copies of the comments received as well as other documentation.

In preparing these final-form regulations, the Agency has considered the comments received from IRRC, the Committees and the public.

In accordance with section 5(c) of the Regulatory Review Act, these final-form regulations were deemed approved by the House Education Committee and the Senate Education Committee on April 29, 1996. IRRC met on May 2, 1996, and approved the regulations.

Findings

The Agency finds that:

(1) Public notice of the Agency's intention to adopt the amendments was given under sections 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) The amendments adopted by this order are necessary and appropriate for the administration of the act.

Order

The Agency, acting under its authorizing statute, therefore, orders that:

(a) The regulations of the Agency, 22 Pa. Code Chapter 121, are amended by amending §§ 121.1—121.3, 121.5, 121.6, 121.31, 121.32, 121.34, 121.35, 121.44, 121.49, 121.50, 121.55, 121.61, 121.65, 121.69, 121.70, 121.72, 121.121, 121.123, 121.124, 121.131, 121.135, 121.137, 121.139—121.142, 121.181—121.184 and 121.191; by deleting §§ 121.66 and 121.136; and by adding §§ 121.201—121.207 and 121.301—121.306, to read as set forth in Annex A.

(b) The Agency shall submit this order and Annex A to the Office of Attorney General for approval as required by law.

(c) The Agency shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall be effective upon publication in the *Pennsylvania Bulletin*.

MICHAEL H. HERSHOCK,
President and Chief Executive Officer

(Editor's Note: The following sections, amended in this document, were not included in the proposal at 25 Pa.B. 1860 (May 13, 1995): §§ 121.5, 121.6, 121.49 and 121.50.

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 2369 (May 18, 1996).)

Fiscal Note: Fiscal Note 58-22 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 22. EDUCATION

PART VIII. HIGHER EDUCATION ASSISTANCE AGENCY

CHAPTER 121. STUDENT FINANCIAL ASSISTANCE

Subchapter A. GENERAL PROVISIONS

MISCELLANEOUS

§ 121.1. Definitions.

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

Academic term—A semester, trimester or quarter.

Academic year—A period that begins on the first day of classes or examinations and that is a minimum of 30 weeks of instructional time during which, for an undergraduate educational program, a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at a school which measures program length in credit hours or at least 900 clock hours at a school which measures program length in clock hours.

Agency or PHEAA—The Pennsylvania Higher Education Assistance Agency.

Board—The Board of Directors of the Agency.

Emergency action—Immediate action undertaken against institutions by the President and Chief Executive Officer in a manner consistent with § 121.31(d) (relating to approved institutions in Federal Stafford Loan and Federal PLUS Loan Programs) to withhold the processing of loan applications of the institution; and in a manner consistent with § 121.191(d) (relating to administrative loan collection review procedures) against a lending institution to withhold the processing of loan applications for students borrowing through the institution.

Federal Consolidation Loan—A loan made in accordance with section 428C of the Higher Education Act of 1965 (20 U.S.C.A. § 1078-3).

Federal Family Education Loan (FFEL) Program—The loan program (formerly called the Guaranteed Student Loan (GSL) Program) authorized by Title IV-B of the

Higher Education Act of 1965 (20 U.S.C.A. §§ 1071—1087-2), including the Federal Stafford Loan, Federal PLUS, Federal Supplemental Loans for Students (Federal SLS) and Federal Consolidation Loan Programs, in which lenders use their own funds to make loans to enable students or their parents to pay the costs of the student's attendance at eligible institutions.

Federal PLUS Loan—A loan made in accordance with section 428B of the Higher Education Act of 1965 (20 U.S.C.A. § 1078-2).

Federal Stafford Loan—A loan made in accordance with section 428, if subsidized, or section 428H, if unsubsidized, of the Higher Education Act of 1965 (20 U.S.C.A. §§ 1078 and 1078-8).

Full-time basis (except for purposes of the Federal Stafford Loan and Federal PLUS Loan Programs)—The equivalent of 12 semester credits or 450 clock hours of instruction per academic term. If the schedule of a program of study offered on a clock-hour basis does not permit the equivalent of 450 clock hours of instruction per term, full-time enrollment shall be defined as 24 clock hours of instruction per week.

Full-time basis (for purposes of the Federal Stafford Loan and Federal PLUS Loan Programs only)—To be considered enrolled on a full-time basis, a student shall be carrying a full-time academic work load (other than by correspondence) as determined by the institution under a standard applicable to the students enrolled in a particular educational program. The student's work load may include any combination of courses, work, research or special studies that the institution considers sufficient to classify the student as a full-time student. For undergraduate students, an institution's minimum standard shall equal or exceed one of the following minimum requirements:

(i) Twelve semester hours or 12 quarter hours per academic term in an educational program using a semester, trimester or quarter system.

(ii) Twenty-four semester hours or 36 quarter hours per academic year in an educational program using credit hours but not using a semester, trimester or quarter system or the prorated equivalent for a program of less than 1 academic year.

(iii) Twenty-four clock hours per week for an educational program using clock hours.

(iv) A series of courses or seminars that equals 12 semester hours or 12 quarter hours in a maximum of 18 weeks.

(v) The work portion of a cooperative education program in which the amount of work performed is equivalent to the academic work load of a full-time student.

(vi) Other requirements as prescribed by Federal regulations.

Guaranteed Student Loan Program—A Federal loan guaranty program administered by the Agency that enables qualified students to secure long-term educational loans to meet the costs of postsecondary education. On July 23, 1992, Federal law (Pub.L. No. 102-325), the Higher Education Amendments of 1992, changed the name of the program to The Federal Family Education Loan Program. Whenever the term is used in this chapter, it refers to and shall be regarded as, "The Federal Family Education Loan Program."

Guardian—For purposes of determining domicile, a person other than a parent with whom an applicant has

lived and in whose continuous direct care and control the applicant has been for a period of at least 2 years.

Half-time basis—At least 1/2 the work load of a full-time student, except students enrolled solely in an eligible program of study by correspondence cannot be considered more than half time.

Hearing examiner—A neutral third party, not an employe or staff member of the Agency, appointed by a designated Agency official to conduct hearings on Agency matters, consider written materials, weigh the evidence presented and issue impartial decisions.

Parent (for purposes of borrowing under the Federal PLUS Loan Program)—A student's mother or father or legal guardian. An adoptive parent is considered to be the person's mother or father.

President and Chief Executive Officer—The President and Chief Executive Officer of the Agency.

Quarter—A period of approximately 11 weeks normally comprising 1/3 of the academic year.

SAT—The College Entrance Examination Board's Scholastic Assessment Test.

Semester—A period of approximately 17 weeks normally comprising 1/2 of the academic year.

Trimester—A period of approximately 15 weeks normally comprising 1/2 of the academic year.

Veteran—A person who engaged in active service in the United States Army, Navy, Air Force, Marines or Coast Guard and was released under a condition other than dishonorable, or will be by June 30 of the academic year for which the application is made, or who was a National Guard or Reserve enlistee who participated in Operation Desert Shield/Storm and was discharged from active duty. ROTC students, cadets or midshipmen at the service academies, National Guard or Reserve enlistees participating in Operation Desert Shield/Storm and not yet discharged from active duty, National Guard or Reserve enlistees who were not activated for duty, or those currently serving in the United States Armed Forces and will continue to serve through June 30 of the academic year for which application is made are not considered veterans.

§ 121.2. Citizenship.

To be eligible for a Federal Family Education Loan, a student or parent borrower shall be, on or before the date of filing the loan guaranty application, one of the following:

(1) A citizen or National of the United States.

(2) In the United States for other than a temporary purpose and intending to become a permanent resident thereof; except that a student who is a permanent resident alien attending an educational institution outside the United States is not eligible to receive a Federal Stafford Loan or to have the parent of the student receive a Federal PLUS Loan on behalf of the student. For the purposes of this paragraph, the United States includes the District of Columbia, Puerto Rico, Virgin Islands, Guam, American Samoa, the Trust Territories of the Pacific and the Northern Mariana Islands.

§ 121.3. Discrimination prohibited.

The race, religious creed, color, sex, National origin, ancestry, handicap, age or marital status of a student or parent applicant will not be factors of consideration for eligibility except to the extent that adjustments or allowances based on marital status may be necessary within

the State Higher Education Grant and the Federal Family Education Loan Programs to properly reflect the ability of the family to finance costs of education.

§ 121.5. Enrollment.

(a) *Student and parent loans.* For a student or a parent of a student to be eligible for a loan guaranty, a student shall be or be about to be enrolled in an approved institution of higher learning on at least a half-time basis and be maintaining satisfactory progress as determined by the school.

(b) *Higher education grants.* To be eligible for a State higher education grant, a student shall be or be about to be enrolled in an approved institution of higher learning on at least a half-time basis. In addition, the President and Chief Executive Officer may treat students as full time if unusual circumstances would not permit the student to comply with the exact full-time basis requirements as defined in § 121.1 (relating to definitions). In these instances, the President and Chief Executive Officer will thereafter notify the Board of his action.

§ 121.6. Denial of eligibility for financial assistance.

(a) To be eligible for a State higher education grant, a student applicant or recipient shall have and maintain satisfactory character. In determining whether an applicant or recipient has satisfactory character, the Agency may consider, among other factors, convictions of any of the following offenses:

(1) A criminal offense which under the laws of the United States or any state constitutes a felony.

(2) A criminal offense which under the laws of the Commonwealth constitutes murder of the first degree, felony of the first degree, felony of the second degree, felony of the third degree, misdemeanor of the first degree, misdemeanor of the second degree or misdemeanor of the third degree.

(3) A violation of section 13 of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-113), except for section 13(a)(31) (35 P. S. § 780-113(a)(31)) thereof.

(b) If a State grant applicant is incarcerated, which shall be interpreted to mean confinement in a prison but to exclude residence in a "halfway house" under a so-called prerelease program, the applicant will not be eligible for State grant aid until the applicant has been released from incarceration.

(c) An applicant for any form of financial assistance may be denied eligibility if the Agency determines that the applicant or another member of the applicant's family upon whom the applicant depends for support has submitted fraudulent information to the Agency.

(d) An applicant for any form of financial assistance may be denied eligibility if the Agency determines that the applicant has used educational loan funds for other than educational purposes.

(e) Eligibility for financial assistance may be denied to a person who owes a refund in a grant program as described in the Higher Education Act of 1965, act of November 8, 1965 (Pub.L. No. 89-329, 79 Stat. 1219), or on a State higher education grant.

(f) Nothing in this section limits the freedom of a student to verbal or other lawful expression of individual views or opinions.

(g) A student denied financial assistance under this section shall be afforded full recourse through an appeal

to the Committee on Appeals, the Board and the courts to seek reinstatement of assistance if the assistance is determined to have been improperly denied.

EDUCATIONAL INSTITUTIONS

§ 121.31. Approved institutions in Federal Stafford Loan and Federal PLUS Loan Programs.

(a) To be approved, an institution shall comply with the following:

(1) The institution shall be approved by the United States Secretary of Education as an eligible institution for participation in the Federal Stafford Loan or Federal PLUS Loan Programs.

(2) The institution shall have executed an Assurance of Compliance with 42 U.S.C.A. § 2000d-1 (1974) and filed it with the United States Secretary of Education.

(3) The institution shall have executed and filed with the Agency an agreement, on a form provided by the Agency, to report to or advise the Agency if the institution has knowledge of the name and address of Commonwealth resident students who are recipients or beneficiaries of Agency-administered aid who have been convicted in any court of record of any criminal offense which under the laws of the United States or of the Commonwealth would constitute a felony committed after October 29, 1969. Institutional knowledge shall be facts contained in the academic, disciplinary or financial student records of the institution and facts known to the dean of students, director of financial aid and president of the institution or persons occupying these positions by titles designated by the institution.

(b) The institution shall comply with 34 CFR 668.82 (relating to standard of conduct) and other laws and regulations governing the Federal Stafford Loan and PLUS Loan Programs.

(c) Mailing dates and receipt dates referenced in this section shall be evidenced by United States Postal Service receipts. If an institution refuses or fails to accept a notice mailed as set forth in this section, the Agency shall consider the notice as being received on the date that the institution refuses or fails to accept the notice as noted by the United States Postal Service.

(d) The following provisions deal with emergency action:

(1) The President and Chief Executive Officer may take emergency action as follows against an institution under which the processing of loan applications for students at the institution is withheld if the President and Chief Executive Officer:

(i) Receives information, determined by an Agency official to be reliable, that the institution is violating applicable laws, regulations, special arrangements, agreements or limitations.

(ii) Determines that immediate action is necessary to prevent misuse of funds of the programs authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C.A. §§ 1071—1099c-1).

(iii) Determines that the likelihood of loss outweighs the importance of awaiting completion of procedures set forth for suspension, limitation or termination in subsection (e).

(2) The Agency will begin an emergency action by notifying the institution by certified mail, with return receipt requested, of the emergency action and the basis on which the action is taken. The institution shall have

an opportunity to show cause that the emergency action is unwarranted via submission of written documentation to the President and Chief Executive Officer. The effective date of the action shall be the date on which the notice is mailed to the institution.

(3) An emergency action may not exceed 30 calendar days unless a suspension, limitation or termination proceeding is begun under this section before the expiration of that period. In this case, the period may be extended until the completion of that proceeding, including any appeal to the Board of Directors.

(e) The following provisions deal with suspension, limitation or termination:

(1) The President and Chief Executive Officer may suspend the eligibility of an institution to participate in the Federal Stafford Loan and Federal PLUS Loan Programs if the institution violates any applicable laws, regulations, special arrangements or agreements. The suspension may not exceed 60-calendar days unless the institution and the President and Chief Executive Officer agree to an extension if the institution has not requested a hearing or the Agency begins a limitation or termination proceeding under this section.

(i) A designated Agency official will notify the institution by certified mail, with return receipt requested, of the Agency's intent to suspend the institution from the Federal Stafford Loan and Federal PLUS Loan Programs, citing the consequences of that action and identifying the alleged violations on which the proposed action is based. The initially designated beginning date of suspension shall be at least 20-calendar days from the date the letter of intent is mailed.

(ii) The institution subject to the suspension notice may request in writing a hearing before a hearing examiner or submit written material for consideration by the designated Agency official. If the institution submits written material or requests a hearing at least 5-calendar days prior to the effective date of suspension, the designated suspension date shall automatically be delayed until after a final determination is made.

(iii) If the institution does not request a hearing but submits written material, the designated Agency official will review the material and notify the institution that either the proposed suspension is dismissed or the suspension is effective as of a specified date.

(iv) If the institution requests a hearing at least 5-calendar days prior to the effective date of suspension, the date of the hearing will be scheduled at least 15-calendar days after receipt of the request.

(A) A hearing examiner selected by the President and Chief Executive Officer will conduct the hearing at the Agency's principal office, and a written record shall be made.

(B) The hearing examiner will consider the written material presented before the hearing and the evidence presented at the hearing.

(C) The hearing examiner will issue a decision to either uphold the suspension or to dismiss it and inform the President and Chief Executive Officer and institution of this decision in writing within 30-calendar days of the conclusion of the hearing.

(D) The hearing examiner's decision is final unless appealed under subsection (g). If the decision is in favor of suspension, the Agency will send a notice to the institution which sets forth the effective date of the suspension.

(E) If the Agency begins a limitation or termination proceeding before the suspension period ends, the suspension period may be extended until the completion of the new proceeding.

(F) The President and Chief Executive Officer will inform the United States Department of Education of actions taken or decisions made by the Agency in regard to the suspension so the United States Department of Education can take appropriate action.

(v) In accordance with 1 Pa Code §§ 35.111—35.116 (relating to prehearing conferences), at any time prior to or during the hearings, the Agency may schedule a conference with the parties.

(2) If the institution violates any applicable laws, regulations, special arrangements or agreements, the President and Chief Executive Officer may limit the number or percentage of borrowers who may receive loan guaranties to attend an institution; may limit, for a stated period of time, the percentage of an institution's total receipts from tuition and fees derived from loan guaranties; may impose a requirement that an institution obtain a bond in a specified amount to assure its ability to meet its financial obligations to borrowers who receive loan guaranties; or may impose other conditions deemed to be reasonable and appropriate.

(i) A designated Agency official will notify the institution by certified mail, with return receipt requested, of the Agency's intent to limit the institution's participation in the Federal Stafford Loan and Federal PLUS Loan Programs, citing the consequences of that action and identifying the alleged violations on which the proposed action is based. The initially designated beginning date of limitation shall be at least 20-calendar days from the date the letter of intent is mailed.

(ii) The institution subject to the limitation notice may request in writing a hearing before a hearing examiner or submit written material for consideration by the designated Agency official. If the institution submits written material or requests a hearing at least 5-calendar days prior to the effective date of the limitation, the designated limitation date shall automatically be delayed until after a final determination is made.

(iii) If the institution does not request a hearing but submits written material, the designated Agency official will review the material and notify the institution that either the proposed limitation is dismissed or the limitation is effective as of a specified date.

(iv) If the institution requests a hearing at least 5-calendar days prior to the effective date of limitation, the date of the hearing shall be at least 15-calendar days after receipt of the request.

(A) A hearing examiner selected by the President and Chief Executive Officer will conduct the hearing at the Agency's principal office, and a written record shall be made.

(B) The hearing examiner will consider the written material presented before the hearing and the evidence presented at the hearing.

(C) The hearing examiner will issue a decision to either uphold the limitation or to dismiss it and inform the President and Chief Executive Officer and the institution of this decision in writing within 30-calendar days of the conclusion of the hearing.

(D) The hearing examiner's decision is final unless appealed under subsection (g). If the decision is in favor

of limitation, the Agency will send a notice to the institution which sets forth the effective date of the limitation.

(E) If the Agency begins a termination proceeding before the limitation period ends, the limitation period may be extended until completion of the new proceeding.

(F) The President and Chief Executive Officer will inform the United States Department of Education of actions taken or decisions made by the Agency in regard to the limitation so the United States Department of Education can take appropriate action.

(v) In accordance with 1 Pa. Code §§ 35.111—35.116, at any time prior to or during the hearings, the Agency may schedule a conference with the parties.

(3) The President and Chief Executive Officer may terminate an institution's eligibility to participate in the Federal Stafford Loan and Federal PLUS Loan Programs, if the institution violates any applicable laws, regulations, special arrangements or agreements. Termination prohibits the future guaranty of Federal Stafford Loans and Federal PLUS Loans to borrowers attending the institution.

(i) A designated Agency official will notify the institution by certified mail, with return receipt requested, of the Agency's intent to terminate the institution from the Federal Stafford Loan and Federal PLUS Loan Programs, citing the consequences of that action and identifying the alleged violations on which the proposed action is based. The initially designated beginning date of termination shall be at least 20-calendar days from the date the letter of intent is mailed.

(ii) The institution subject to the termination notice may request in writing a hearing before a hearing examiner or submit written material for consideration by the designated Agency official. If the institution submits written material or requests a hearing no less than 5-calendar days prior to the effective date of termination, the designated termination date shall automatically be delayed until after a final determination is made.

(iii) If the institution does not request a hearing but submits written material, the designated Agency official will review the material and notify the institution that either the proposed termination is dismissed or the termination is effective as of a specified date.

(iv) If the institution requests a hearing at least 5-calendar days prior to the effective date of termination, the date of the hearing shall be at least 15-calendar days after receipt of the request.

(A) A hearing examiner selected by the President and Chief Executive Officer will conduct the hearing at the Agency's principal office, and a written record shall be made.

(B) The hearing examiner will consider the written material presented before the hearing and the evidence presented at the hearing.

(C) The hearing examiner will issue a decision to either uphold the termination or to dismiss it and inform the President and Chief Executive Officer and institution of this decision in writing within 30-calendar days of the conclusion of the hearing.

(D) The hearing examiner's decision is final unless appealed under subsection (g). If the decision is in favor of termination, the Agency will send a notice to the institution which sets forth the effective date of termination.

(E) The President and Chief Executive Officer will inform the United States Department of Education of any actions taken or decisions made by the Agency in regard to the termination so the United States Department of Education can take appropriate action.

(v) In accordance with 1 Pa. Code §§ 35.111—35.116, at any time prior to or during the hearings, the Agency may schedule a conference with the parties.

(f) An institution may lose its eligibility to participate in the Federal Stafford Loan and Federal PLUS Loan Programs through other than emergency action, suspension, limitation or termination. This may occur under one or more of the following conditions:

(1) Change in ownership, administration or directorship of the institution that results in a change of control, in which case the loss of eligibility continues until the institution reestablishes eligibility as determined by the United States Secretary of Education.

(2) Permanent closure of the institution or its termination of approved educational programs.

(3) Action taken by the United States Secretary of Education under applicable Federal regulations to limit, suspend or terminate the institution's eligibility.

(g) The Agency and the institution have the right to appeal the decision of the hearing examiner to the Board of Directors of the Agency within 20-calendar days after the receipt of a copy of the decision, which shall be done by certified mail.

(1) Written notice of appeal and the material submitted in support shall be addressed to the Chairperson of the Board of Directors at the Agency's principal address, with a copy to the other party.

(2) The appealing party has 20-calendar days from the date of the notice of appeal to submit exceptions to the hearing examiner's decision and supporting briefs and statements.

(3) The opposing party has 20-calendar days from receipt of the appealing party's exceptions and brief to respond.

(4) When the Chairperson of the Board receives notice of an appeal, the Chairperson will place the appeal on the meeting agenda of the Board at a time in the future that the Board has received a record of the hearing and the briefs and supporting materials and has had an opportunity to review the record. Before issuing a final order, the Board of Directors will review the record and hearing examiner's decision and may order oral argument.

(5) Notice of a final order by the Board of Directors will be mailed promptly to the institution, the Agency and the United States Department of Education.

(6) The decision of the Board of Directors will become final upon mailing. Within 30-calendar days after the decision of the Board of Directors becomes final, the institution may file an appeal with Commonwealth Court.

(h) An institution whose eligibility to participate was limited may not apply for removal of the limitation before the expiration of 12 months from the effective date of the limitation.

(1) After the minimum limitation period, the institution may request removal of the limitation. The request shall be in writing and be supported by documented evidence that the institution has corrected the violations on which the limitation was based.

(2) Within 60-calendar days after receipt of the request, the President and Chief Executive Officer will respond to the institution by granting the request, denying the request or granting the request subject to other limitation.

(i) An institution whose eligibility to participate has been terminated may file a request of reinstatement 18 months after the effective date of the termination. To be reinstated, an institution shall:

(1) Demonstrate to the President and Chief Executive Officer's satisfaction that it has corrected the violations on which termination was based and repaid funds which it had improperly received.

(2) Meet the requirements for participation in the Federal Stafford Loan and Federal PLUS Loan Programs.

(3) Enter into a new participation agreement with the Agency.

§ 121.32. Approved institutions in Higher Education Grant Program.

(a) To be eligible for a State higher education grant, an applicant shall enroll in a program approved under § 121.33 (relating to approved program of study in Higher Education Grant Program) and shall attend an institution of higher education approved by the Agency for enrollment of grant recipients under the State Higher Education Grant Program.

(b) To be approved, an institution shall be other than a school of theology or a theological seminary as determined by the Agency, shall be located in the United States, the Canal Zone, Puerto Rico, the Virgin Islands, American Samoa or Guam and shall comply with the following:

(1) If the institution is a college or university located within this Commonwealth, the institution shall be approved by the Department of Education and shall be accredited or a recognized candidate for accreditation with an accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation; if the college or university is located outside this Commonwealth, the institution shall be degree-granting, shall be operated not-for-profit and shall be fully accredited by the regional institutional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation responsible for accreditation in the state where the college or university is conducting its educational program.

(2) If the institution is a hospital school of nursing located within this Commonwealth, the institution shall be initially, provisionally or fully approved by the State Board of Nursing and shall be accredited by the National League for Nursing; if located outside this Commonwealth, the institution shall be accredited by the National League for Nursing.

(3) If the institution is a trade, technical or business school located within this Commonwealth, the institution shall be approved by the Department of Education or shall currently be, and shall have been throughout the preceding 24 months, licensed by the State Board of Private Licensed Schools and shall be accredited by an accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation, except that this requirement for licensure and accreditation may be waived by the President and Chief Executive Officer for branch campuses of an institution that has been operating satisfactorily in this Commonwealth for 2 years or more; if the institution is located outside this Commonwealth, it shall be degree-granting, shall be operated

not-for-profit and shall be fully accredited by the regional institutional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation responsible for accreditation in the state where the institution is conducting its educational program.

(4) The institution shall have executed an Assurance of Compliance with section 602 of the Civil Rights Act of 1964 (42 U.S.C.A. § 2000d-1 (1974)) and filed it with the United States Secretary of Education.

(5) The institution shall have executed and filed with the Agency an agreement on a form provided by the Agency to report or advise the Agency if the institution has knowledge of the name and address of Commonwealth resident students who are recipients of Agency-administered aid who have been convicted in a court of record of a criminal offense which under the laws of the United States or of the Commonwealth would constitute a felony committed after October 29, 1969. Institutional knowledge shall be facts contained in the academic, disciplinary or financial student records of the institution and facts known to the dean of students, director of financial aid and president of the institution or persons occupying these positions by whatever titles designated by the institution.

(6) When a change in ownership of an approved institution occurs, the new owner shall notify the Agency in writing of the change in ownership within 30 days of the effective date of the change. The new owner shall execute and file with the Agency an agreement on a form provided by the Agency to assume responsibility for repayment of State grant funds to the Agency or payment of State grant funds to eligible students, as designated by the Agency, made necessary by the failure of the previous owner to follow Agency procedures and requirements. An institution that fails to execute this agreement will be required to wait 24 months before being considered for approval in the State Grant Program.

(7) The institution shall comply with other administrative requirements the Agency may legally promulgate, as shall be set forth in the *State Grant Certification Procedures* and the *State Grant Program Policy Manual* which will be made available to institutions on an annual basis.

(c) Approved institutions for an academic year shall be those on record as of the preceding August 1 for the ensuing academic year.

(d) Approval of an institution after August 1 will become effective the following August 1 with two exceptions:

(1) To be effective for the ensuing summer term, approval shall be obtained prior to May 1.

(2) In light of the particular circumstances related to the institution's approval and the funding and application processing conditions of the Agency, the President and Chief Executive Officer may make the approval effective on a date prior to August 1.

(e) The President and Chief Executive Officer may suspend the processing of aid request forms of State grant applicants or cease further disbursement of State grant funds to an approved institution, or both, when, in the judgment of the President and Chief Executive Officer, the institution's compliance with the conditions required for approval or the institution's continued eligibility or operation is in question and the action is deemed necessary to protect the interests of the student aid applicants, the Commonwealth or the Agency. This subsection may also be invoked upon a change in ownership, administration or directorship of the institution.

(f) An institution's approved status may be terminated by the President and Chief Executive Officer when any of the conditions required for approval cease to be met.

(g) In suspending or withdrawing the approval of an institution, the President and Chief Executive Officer may authorize continuation of eligibility determination and grant disbursement for State grant renewal applicants.

§ 121.34. Institutional appeals and hearings (for other than the Federal Family Education Loan Programs).

(a) If the President and Chief Executive Officer suspends the processing of student aid request forms for students at an approved institution or ceases disbursement of funds to an approved institution, the institution will be notified in writing of the action and the grounds therefor and will be afforded an opportunity to contend to the Agency that the processing of aid request forms or disbursement of funds should be resumed and to submit relevant data in support of this contention.

(b) If the President and Chief Executive Officer of the Agency determines that an institution is not an eligible institution within the meaning of this chapter for a program administered by the Agency, the institution will be notified in writing of the determination, the grounds therefor and its right to appeal from the decision.

(c) An institution which is aggrieved by the determination of the President and Chief Executive Officer that it is not an eligible institution may file an appeal of that determination to the Board. This subsection supersedes 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

(d) An appeal shall be filed on or before the 15th day after the date on which notification of the determination by which the institution was aggrieved was mailed to it at its post office address registered with the Agency.

(e) The appeal may be heard by the Board or, at its direction, by a hearing examiner appointed by the Chairperson of the Board or, in the event of the unavailability of the Chairperson, by the Vice Chairperson of the Board, from a list maintained by the President and Chief Executive Officer. The hearing examiner or the Board will schedule the appeal for hearing within 30 days from the date on which the appeal is filed and will give the institution at least 7 days' notice of the hearing. The notice will specify the date, hour and place of hearing.

(f) Hearings will be held at the offices of the Agency in Harrisburg, Pennsylvania. During the hearing, the institution will be given the opportunity to submit relevant evidence in support of its contentions. The institution shall also have the right to present oral and written argument and to cross-examine witnesses which are offered by the Agency. This subsection supplements 1 Pa. Code § 35.126 (relating to presentation by the parties).

(g) The hearing examiner or the Board will prepare or cause the preparation of a verbatim transcript of the hearing. When the appeal is heard by a hearing examiner, findings of fact and conclusions of law shall also be prepared, and the transcript, findings and conclusions shall be forwarded directly to the Board for review and a final decision by the Board. This subsection supplements 1 Pa. Code § 35.131 (relating to recording of proceedings) and supersedes 1 Pa. Code § 35.202 (relating to proceedings in which proposed reports are prepared).

(h) The Board will make an order or determination as shall appear just and proper from all the evidence submitted. Notice of the decision of the Board will be mailed promptly to the institution at the post office address which is registered with the Agency.

(i) The decision of the Board will become final 10 days after the date thereof. Within 30 days after the decision of the Board becomes final, the institution may file an appeal therefrom with Commonwealth Court.

§ 121.35. Payment of interest on Federal Stafford Loans and Federal PLUS Loans.

(a) The Agency will require an educational institution to repay to the appropriate lending institution the interest that has accrued on Federal Stafford Loan or Federal PLUS Loan funds under the following circumstances:

(1) A borrower receives loan assistance for which he is not eligible because of the educational institution's negligent or willful false certification of a student's loan eligibility.

(2) If the educational institution violates State or Federal regulations in its release of Federal Stafford Loan or Federal PLUS Loan funds to a borrower.

(3) If the educational institution is required to make a loan refund as specified in Federal regulations and does not make the refund within the time frame specified in the regulations.

(b) The interest amount that the Agency will require to be repaid under the circumstances described in subsection (a) will be based on the maximum interest rate allowed under Federal law governing the particular loan and will be calculated over the following time periods:

(1) For the condition described in subsection (a)(1), from the date of disbursement of the loan funds until the date the ineligible principal portion is repaid.

(2) For the condition described in subsection (a)(2), from the date of release of the loan funds until the date the principal portion of the loan funds in question is repaid.

(3) For the condition described in subsection (a)(3), from the latest date, as specified in Federal regulations, that a refund should have been made until the date the refund actually is made.

(c) Educational institutions required to pay interest will receive written notice as to the reason the interest is owed and the amount to be remitted to the Agency. The educational institution will have a maximum of 60 days from the date of the written notice to respond to the Agency.

(d) Failure of the educational institution to respond to the notice specified in subsection (c) or to repay the particular interest amount requested will lead the Agency to refer the case to the United States Secretary of Education for further enforcement action.

Subchapter B. HIGHER EDUCATION GRANT PROGRAM

§ 121.44. Required family financial data.

(a) *General.* The applicant, the applicant's parents and stepparents, and the applicant's spouse shall submit financial data that the Agency requests and, further, shall be required to authorize the Director of the State Personal Income Tax Bureau and the District Director of the

Internal Revenue Service to release to the Agency, upon request of the Agency, a copy or extract of the State or Federal Income Tax Return filed by the applicant, the applicant's parents and stepparents, and the applicant's spouse for the tax years the Agency designates. The Agency may in addition require the applicant, the applicant's parents and stepparents, and the applicant's spouse to submit a copy of the tax returns directly to the Agency.

(b) *Exceptions.* The Agency may determine the eligibility of the applicant without regard to the parents' financial data, waiving its submission, in the following cases:

- (1) If the applicant is a veteran as defined in § 121.1 (relating to definitions).
- (2) If the applicant is at least 24 years of age by January 1 prior to the academic year for which application is made.
- (3) If the applicant is an orphan or ward of the court.
- (4) If the applicant is married or separated.
- (5) If the applicant has legal dependents other than a spouse.
- (6) If the applicant is in compliance with other criteria established by the Agency for the processing of applicants without regard to parental financial data.
- (7) Other exceptions may be granted by the Administrative Review Committee or the Committee on Appeals in turn on an individual case basis.

(c) *Severe casualty losses.* If, as a result of fire, storm or other casualty, the family of a higher education grant applicant has suffered severe losses not fully covered by insurance, the post-loss value of assets normally taxed in the eligibility determination may be used in processing the application in order to reflect the family's reduced ability to finance educational costs. If the family's loss is covered by insurance (whether fully or partially), the Agency, in processing the application, may elect to use either the preloss value of the assets or the insurance benefits received because of the loss. If the loss is not fully covered by insurance, the Agency may also elect to subtract from family income the amount of the casualty losses not covered by insurance, to waive the normal application filing deadline and to afford other special treatment of the application that may be merited.

§ 121.49. Duration of State higher education grants.

(a) State higher education grants are awarded for undergraduate school study and student eligibility shall terminate with the receipt of the baccalaureate degree or 4 undergraduate academic year State higher education grants, whichever occurs first, except as provided in subsections (b)—(d).

(b) In the case of students enrolled in Agency-approved bona fide 5-year programs of study in approved institutions, student eligibility shall terminate with the receipt of the baccalaureate degree or 5 academic year State higher education grants, whichever occurs first.

(c) In the case of students enrolled in Agency-approved 5-year work study programs in approved institutions, student eligibility shall terminate with the receipt of the baccalaureate degree or 5 academic year State higher education grants, whichever occurs first. However, the total higher education grant funds awarded during 5

years will not exceed the amount to which the student would have been entitled as determined by the Agency had his educational program been completed in a period of 4 years.

(d) State higher education grant eligibility for undergraduate students enrolled in other than baccalaureate degree programs shall terminate with the receipt of 4 academic year State higher education grants or with the end of the normal course of study, whichever occurs first.

§ 121.50. Disbursement of State higher education grants.

(a) Payments on behalf of students of their State higher education grants to institutions on a semester or trimester calendar shall be made twice during the academic year in an amount equal to 1/2 of the annual grant. Similar payments to institutions on a quarter calendar shall be made three times during the academic year in an amount equal to 1/3 of the annual grant. Grants shall be sent to the appropriate institution to the credit of the account of the recipient for payment of tuition, room, board, books or institutional fees. Payments may be made to the recipients when the Agency deems the action necessary to protect the interests of the students, the Commonwealth or the Agency.

(b) Students who accelerate their academic progress by reason of attendance in a year-round program of study shall be eligible to receive additional payments of their State higher education grant but in no event may the payments result in violation of § 121.49 (relating to duration of State higher education grants).

§ 121.55. Recipients on probation.

A recipient placed on academic or disciplinary probation shall remain eligible for a higher education grant if the institution of higher learning permits him to continue his studies on at least a half-time basis.

Subchapter C. FEDERAL STAFFORD LOAN PROGRAMS

§ 121.61. Submission and processing of applications.

(a) *Applicant.* A student desiring to secure a Federal Stafford Loan shall obtain from a participating lender, a participating school or Agency a loan application packet containing the application/promissory note form for the Federal Stafford Loan Program. The information provided on the form will be used to determine the eligibility of the applicant to receive a Federal Stafford Loan. The applicant shall complete the loan application, which includes the affidavit in which the applicant agrees to use the loan proceeds solely for educational expenses. The applicant shall also read, sign and date the promissory note that is part of the loan application form. After completing the loan application, including the promissory note, the applicant shall retain a copy of the form and forward the remaining copies of these forms as referenced on the form.

(b) *Educational institution.* The institution shall certify the loan application according to instructions provided by the Agency.

(c) *Processing by the Agency.* The Agency will check the application/promissory note form for completeness. If not complete, the Agency will obtain from the applicant the missing data items.

(d) *Completion of processing.* Upon receipt of missing information, the Agency will complete the processing of the loan application and determine the amount of loan assistance the applicant is entitled to obtain. The Agency will then inform the lender of the amount of the guaranty by sending the lender a Loan Guaranty Notice and Disclosure Statement.

(e) *Action by lender.* The lender shall provide the applicant with a copy of the Loan Guaranty Notice and Disclosure Statement and disburse the funds by means of a check or electronic funds transfer. If the lender does not wish to make the loan, the lender shall mark denied on the Loan Guaranty Notice and Disclosure Statement or report the denial by the computer terminal. An adverse action notice shall be provided to the borrower by the lender if loan assistance is denied.

§ 121.65. Federal Stafford Loan guaranty limits.

The Agency will guarantee loans to the maximum amounts specified in the following table:

	<i>Subsidized/ Unsubsidized Loan</i>	<i>Additional Unsubsidized Eligibility for Independent Students*</i>
Annual Loan Limits:		
1st Year Undergraduate:		
Full academic year	\$2,625	\$4,000
2/3 academic year	\$1,750	\$2,500
1/3 academic year	\$ 875	\$1,500
2nd Year Undergraduate:		
Full academic year	\$3,500	\$4,000
2/3 academic year	Prorated**	\$2,500
1/3 academic year	Prorated**	\$1,500
3rd Year, 4th Year or 5th Year Undergraduate:		
Full academic year	\$5,500	\$5,000
Less than full academic year	Prorated**	Prorated**
Graduate/Professional Student	\$8,500	\$10,000
Aggregate Limits:		
Undergraduate	\$46,000	
Graduate/Professional	\$138,500 (includes borrowings at the undergraduate level)	

* Or dependent students whose parents cannot borrow a Federal PLUS loan. The amount an independent student or eligible dependent student can borrow under the unsubsidized Federal Stafford Loan Program during an academic year is: (a) the amount indicated in the first column minus the subsidized loan amount for which the student is eligible, plus (b) the amount indicated in the second column.

**Straight proration applies if the final portion of the program of study is less than a full academic year. The prorated loan amount must bear the same ratio to the full-academic year loan amount as the remainder of the program bears to 1 academic year.

§ 121.66. (Reserved).

§ 121.69. Cancelled debt.

The indebtedness of a borrower who dies, who becomes totally and permanently disabled, whose loans are discharged in bankruptcy, who is enrolled at an institution that closes or who has his eligibility to borrow falsely certified by the institution, shall be cancelled upon the acceptance of proper documentation by the lender or holder of the loan.

§ 121.70. Default.

Except as otherwise provided in § 121.67 (relating to repayment), a note shall be declared in default at the following times:

(1) One hundred eight days, or as otherwise established by the Agency to comply with Federal statutes or regulations, after the date on which a monthly payment was scheduled to be made by a student borrower under a repayment schedule, if the borrower fails to make the monthly payment within 180 days of its due date, or as otherwise established by the Agency to comply with Federal statutes or regulations.

(2) Two hundred forty days, or as otherwise established by the Agency to comply with Federal statutes or regulations, after the date on which a quarterly payment of nonsubsidized interest was scheduled to be made by a student borrower under a quarterly interest repayment

schedule, if the borrower fails to make the quarterly payment within 240 days of its due date, or as otherwise established by the Agency to comply with Federal statutes or regulations.

§ 121.72. Loan residency.

(a) A student applicant shall be a resident of this Commonwealth at the time the student applies for a Federal Stafford Loan or to renew a loan guaranty. Establishment of residency may be based upon any one of the following:

(1) A student applicant who is under 18 years of age at the time the student applies for a Federal Stafford Loan or to renew a loan guaranty shall have a supporting parent or guardian who has been a bona fide domiciliary of this Commonwealth for at least 30 days immediately preceding the date of receipt by the Agency of the loan guaranty application or renewal application.

(2) A student applicant who is 18 years of age or older at the time the student applies for a Federal Stafford Loan or to renew the guaranty shall have been a bona fide domiciliary of this Commonwealth for at least 30 days immediately preceding the date of receipt by the Agency of the loan guaranty application or renewal application.

(3) A student applicant who is accepted for enrollment in or is attending an approved institution of higher

education located in this Commonwealth is considered a bona fide domiciliary of this Commonwealth except in cases where the student is enrolled in a correspondence (home study) course, in which case the student shall be a bona fide domiciliary of this Commonwealth as described in paragraphs (1) and (2).

(b) For purposes of determining domicile, a guardian shall be one of the following:

(1) A person appointed by a court.

(2) A person other than a parent with whom the applicant has lived and in whose continuous direct care and control the applicant has been for at least 2 years.

(c) Military status of persons and their dependents who reside in the civilian community rather than on a military installation will not alone be grounds for determining an applicant ineligible.

(d) Persons and their dependents who leave this Commonwealth on military or foreign assignments, such as missionaries, United States military service personnel and representatives of domestic companies or government agencies, shall be presumed to maintain their domicile in this Commonwealth for purposes of satisfying the loan guaranty residence requirement.

(e) In the case of a student attending an institution of higher education in another state who is under 18 years of age whose parents or guardians move from this Commonwealth after the agency has issued a loan guaranty, the eligibility of the applicant continues to the end of the applicant's program of study.

(f) A student who transfers to an approved institution of higher education located outside of this Commonwealth after having received guaranteed student loan assistance while attending a Commonwealth institution of higher education is eligible to have the loan guaranty renewed.

(g) A student applicant filing a loan guaranty renewal application who has outstanding loans with the Agency and whose domicile has changed from this Commonwealth due to the relocation of the applicant or supporting parents or guardian shall continue to be eligible for guaranteed student loan assistance until the end of the applicant's program of study.

(h) The Agency will make the final decision in all matters pertaining to residency or domicile, or both.

Subchapter G. INSTITUTIONAL ASSISTANCE GRANTS PROGRAM

§ 121.121. Application of existing agency regulations.

The Agency higher education grant regulations contained in Subchapters A, B and F (relating to general provisions; Higher Education Grant Program; and POW/MIA's Education Program) apply to the determination of eligible recipients for the accounting of funds to be disbursed to each eligible institution of higher learning in the Institutional Assistance Grants Program, except those regulations which are inconsistent with this subchapter.

§ 121.123. Determination of institutional assistance grants.

(a) Institutional assistance grants, established by dividing the total funds available for institutional grants in this program by the number of Pennsylvania State grant recipients certified to the Agency by the participating institutions, will be paid to an eligible institution in either a lump sum or in installments at the discretion of the Agency. The institutional assistance grants shall be in

a number equal to the number of full-time students receiving assistance from the Pennsylvania Higher Education Grant Program or the POW/MIA's Education Program certified as enrolled during the academic year except those intra-year transfer students from any other eligible institution. The following are examples:

(1) If a student enrolls in eligible institution A, the institution shall receive an institutional assistance grant by reason of the enrollment if, as of the date of the Eligibility Certification Listing, the student either had been enrolled at least half time for at least one complete semester, trimester or quarter of the academic year or is enrolled at least half time for the current semester, trimester or quarter.

(2) If a student enrolls in eligible institution B during the academic year as a transfer student from an institution other than an eligible institution, institution B shall receive an institutional assistance grant by reason of the enrollment if, as of the date of the Eligibility Certification Listing, the student had been enrolled at least half time for at least one complete semester, trimester or quarter of the academic year or is enrolled at least half time for the current semester, trimester or quarter.

(3) If a student enrolls in eligible institution B during the academic year as a transfer student from eligible institution A, institution B will not receive an institutional assistance grant during the academic year if by reason of the student's enrollment an institutional assistance grant has been paid or will be paid to eligible institution A by reason of the student's previous enrollment in institution A during the same academic year.

(b) For purposes of this section, an Eligibility Certification Listing is defined as a listing created by the Agency for the institution to use in certifying the enrollment of students for the purpose of determining the institution's enrollment to institutional assistance grants.

§ 121.124. Participation agreement.

(a) Each participating institution shall execute through its authorized representative an Agreement with the Agency which shall contain the following:

(1) Assurance that auditable records are maintained.

(2) Assurance against discrimination of any Commonwealth resident applicant for admission because the applicant does not apply or qualify for assistance under the Pennsylvania Higher Education Grant Program or the POW/MIA's Education Program.

(3) Assurance that institutional assistance grant moneys will only be used for, or in connection with, expenses incurred for educational costs other than expenses for sectarian and denominational instruction, the construction or maintenance of sectarian and denominational facilities, or for any other sectarian and denominational purpose or activity.

(b) To be entitled to share in the distribution of the Institutional Assistance Grants Program funds of a particular fiscal year, an institution shall have submitted a properly signed participation agreement to the Agency by August 1 of that same fiscal year. The President and Chief Executive Officer may extend this deadline if an extension would not cause undue interference with the operation of the Institutional Assistance Grants Program, though an institution may not share in the Institutional Assistance Grants Program funds of a particular fiscal year if that institution has not submitted a properly signed participation agreement to the Agency by the time

of the first disbursement of the Institutional Assistance Grants Program funds of that particular fiscal year.

Subchapter H. FEDERAL PLUS PROGRAM

§ 121.131. Submission and processing of applications.

(a) *Applicant.* A parent of a dependent student desiring to secure a guaranty of a Federal PLUS Loan shall obtain from a participating lender, a participating school or Agency a loan application packet containing the application/promissory note form for the Federal PLUS Loan. The information provided on the form will be used to determine the eligibility of the applicant to receive a PHEAA Federal PLUS Loan. The student for whom the loan funds shall be used to meet educational expenses shall complete the information requested on the student's portion of the Federal PLUS Loan application, including the affidavit in which the student authorizes the school and the lender named on the Federal PLUS Loan application form to release information contained in the student's file that is relevant to the eligibility of the student for the Federal PLUS Loan Program. The applicant shall complete the appropriate section of the application, including the affidavit in which the applicant agrees to use the loan proceeds solely for the educational expenses of the student named in the application. The applicant shall also read, sign and date the promissory note included on the loan application form. After completing the appropriate section of the Federal PLUS Loan application form, the applicant shall retain one copy of the form and forward the remaining copies of the application/promissory note form as referenced on the form.

(b) *Educational institution.* The institution shall certify the Federal PLUS Loan application according to the instructions provided by the Agency.

(c) *Processing by the Agency.* The Agency will check the application/promissory note form for completeness. If not complete, the Agency will obtain from the applicant the missing data items.

(d) *Completion of processing.* Upon receipt of missing information, the Agency will complete the processing of the loan application and determine the amount of loan assistance the borrower is entitled to obtain. The Agency will inform the lender of the amount of the guaranty by sending the lender the appropriate Loan Guaranty Notice and Disclosure Statement.

(e) *Action by lender.* The lender shall provide the applicant with a copy of the Loan Guaranty Notice and Disclosure Statement and disburse the funds by means of a check or electronic funds transfer. If the lender does not wish to make the loan, the lender shall mark "Denied" on the Loan Guaranty Notice and Disclosure Statement or report the denial of the loan by the computer terminal. An adverse action notice shall be provided to the borrower by the lender if loan assistance is denied.

§ 121.135. Federal Plus Loan guaranty limits.

The Agency will guarantee a Federal PLUS Loan for the difference between cost minus other financial assistance.

§ 121.136. (Reserved).

§ 121.137. Repayment.

(a) A Federal PLUS Loan is due for repayment within 60 days of the date of the final disbursement of the loan.

(b) A borrower shall repay in substantially equal monthly installment payments at least \$600 per year, including principal and interest. If the total of the

insured loans would not be repaid in less time with minimum payments of \$600 per year, the repayment schedule shall provide for repayment in not less than 5 years, nor more than 10 years. The lender and the borrower may agree to monthly payments of less than \$50 over not more than a 10-year repayment schedule.

(c) Upon proper notice to the lender, repayment of principal may be deferred in accordance with, and during periods specified in, the Higher Education Act of 1965 (Pub. L. No. 89-329, 79 Stat. 1219) and Federal regulations based on this act. The borrower is responsible for the interest that accrues during any period principal repayment is deferred.

§ 121.139. Cancelled debt.

The obligation to repay the indebtedness of a Federal PLUS Loan borrower who dies, who becomes totally and permanently disabled, whose loans are discharged in bankruptcy or who has his eligibility to borrow falsely certified by the school, shall be cancelled upon the acceptance of proper documentation by the lender or holder of the loan. The obligation to repay the indebtedness of a Federal PLUS Loan borrower shall be cancelled upon the acceptance of proper documentation by the lender or holder of the loan of the death of the student on whose behalf the parent borrowed the Federal PLUS Loan or closure of the school at which the student on whose behalf the parent borrowed the Federal PLUS loan is enrolled.

§ 121.140. Default.

Except as otherwise provided in § 121.137 (relating to repayment), a note shall be declared in default at the following times:

(1) One hundred eighty days after the date on which a monthly payment was scheduled to be made by the borrower under a repayment schedule, if the borrower fails to make the monthly payment within 180 days after its due date.

(2) Two hundred forty days after the date on which a quarterly payment of interest was scheduled to be made by the borrower under a quarterly interest payment schedule, if the borrower fails to make the quarterly payment within 240 days after its due date.

§ 121.141. Loan residency.

(a) A parent applicant shall, at the time the parent applies for a Federal PLUS Loan or to renew a Federal PLUS Loan guaranty, be a resident of this Commonwealth. The parent applicant, to be considered a resident of this Commonwealth, shall be the parent of a student who is accepted for enrollment in or is attending an approved institution of higher education located in this Commonwealth. In the case of the parent of a student who is enrolled in or attending a non-Pennsylvania school or participating in a correspondence (home study) course through a Pennsylvania institution, the parent applicant shall be a bona fide domiciliary of this Commonwealth for at least 30 days immediately preceding the date of receipt by the Agency of the Federal PLUS Loan application to obtain a loan for such a student.

(b) For purposes of determining domicile, a guardian is:

(1) A person appointed by a court.

(2) A person other than a parent with whom the applicant has lived and in whose continuous direct care and control the applicant has been for at least 2 years.

(c) Military status of persons and their dependents who reside in the civilian community rather than on a military installation may not alone be grounds for determining an applicant ineligible.

(d) Persons and their dependents who leave this Commonwealth on military or foreign assignments, such as missionaries, United States military service personnel and representatives of domestic companies or government agencies, shall be presumed to maintain their domicile in this Commonwealth for the purposes of satisfying the Federal PLUS Loan guaranty residency requirement.

(e) In the case of a parent borrower who moves from this Commonwealth after the Agency has issued a loan guaranty for the academic year for a student attending an institution of higher education in another state, the loan guaranty eligibility of the applicant shall continue to the end of the student's program of study.

(f) If a student transfers to an approved institution located outside of this Commonwealth after the borrower for the student has received loan assistance while the student was attending a Commonwealth institution of higher education, the borrower for the student is eligible to have the loan assistance renewed.

(g) The Agency will make the final decision in all matters pertaining to residency or domicile, or both.

§ 121.142. Co-maker/co-signer.

(a) *Co-makers.* Two eligible borrowers may take out one loan on behalf of one student under the Federal PLUS Loan Program. As co-makers, both borrowers shall meet the eligibility criteria, both borrowers are equally liable for the repayment of the loan and both must qualify in order for any special benefits associated with the loan, such as deferment or cancellation, to be received.

(b) *Co-signers.* A borrower may have another party as a co-signer to a Federal PLUS Loan. The borrower assumes the primary liability and is fully responsible for repaying the debt. The co-signer is secondary liable. Only if the person with primary liability fails to honor the repayment obligation shall the lender attempt to collect from the co-signer. The co-signer does not have to be an eligible borrower. If the borrower qualifies for a deferment under § 121.137 (relating to repayment) or cancellation under § 121.139 (relating to cancelled debt), the loan is deferred or cancelled. A co-signer who signs the Federal PLUS Loan Promissory Note is not eligible for deferment or cancellation.

Subchapter J. CONSOLIDATION LOAN PROGRAM

§ 121.181. Submission and processing of applications.

(a) *Applicant.* An applicant desiring to secure a Federal Consolidation Loan guaranty shall obtain from a participating lender or from the Agency a loan application packet containing the Federal Consolidation Loan Application/Promissory Note form. The information provided on the form will be used to determine the eligibility of the applicant to receive a Federal Consolidation Loan. The applicant shall complete the loan application and read, sign and date the promissory note that is part of the loan application form. After completing this form, the applicant shall retain a copy and forward the remaining copies of the form to the lender or to the Agency as instructed on the form.

(b) *Lender.* If the form is sent to the lender, the lender shall make sure the applicant has completed the application/promissory note and signed and dated the

form. The lender shall obtain loan payoff data concerning the loans to be consolidated from the creditors holding the loans. The lender shall determine to its satisfaction that each loan being consolidated is a legal, valid and binding obligation of the borrower, that each loan was made and serviced in compliance with applicable law and regulations, and, in the case of Federal Family Education Loans that the guaranty on the loan is still in effect. The lender shall electronically or by other means forward a copy of the application/promissory note form to the Agency.

(c) *PHEAA.* The Agency will complete processing of the loan application and make a final determination of the amount of loan assistance the applicant is entitled to obtain. The Agency will then electronically or by other means inform the lender of the amount of the guaranty.

(d) *Lender.* The lender shall provide the borrower with a Federal Consolidation Loan Repayment Schedule Disclosure Statement and issue sufficient loan disbursement checks to discharge the borrower's liability on the loans selected and approved for consolidation. An adverse action notice will be provided to the borrower by the lender if Federal Consolidation Loan assistance is denied.

§ 121.182. Lender eligibility.

A bank, Federal or State savings and loan association, mutual savings bank, Federal or State credit union or other lender approved by the United States Secretary of Education and by the Agency which executes a Lender Participation Agreement for Federal Consolidation Loans with the Agency shall become an eligible lender.

§ 121.183. Repayment.

(a) A loan is due for repayment within 60 days after the date upon which all holders of the loans consolidated have discharged the borrower's liability for these loans.

(b) The borrower shall repay a Federal Consolidation Loan according to the repayment schedule provided by the lender. The repayment schedule shall provide for repayment in monthly installments and over a term as specified in Federal statutes and regulations.

(c) Upon proper notice to the lender, repayment of principal may be deferred in accordance with, and during periods specified in, the Higher Education Act of 1965, the act of November 8, 1965 (Pub.L. No. 89-329, 79 Stat. 1219) and Federal regulations based on this act. The borrower is responsible for interest not paid by the Federal government that accrues during any period principal repayment is deferred. If the borrower has consolidated subsidized Federal Stafford Loans, the interest that accrues during a period of deferment will be paid by the Federal government.

§ 121.184. Cancelled debt.

The obligation to repay the indebtedness of a Federal Consolidation Loan borrower who dies, who becomes totally and permanently disabled, or whose loans are discharged in bankruptcy, shall be cancelled upon the acceptance of proper documentation by the lender or holder of the loan of the deceased, disabled or bankrupt borrower.

Subchapter K. LENDING INSTITUTIONS

§ 121.191. Approved lending institutions in Federal Stafford Loan, Federal Plus Loan and Federal Consolidation Loan Programs.

(a) To be approved, a lending institution shall comply with the following:

(1) The lending institution shall be approved by the Agency as an eligible institution for participation in the

Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs.

(2) The lending institution shall meet the United States Department of Education definition of "eligible lender" contained in section 435(d) of the Higher Education Act of 1965 (20 U.S.C.A. § 1085(d)).

(3) The lending institution shall have executed and filed with the Agency an agreement, on a form provided by the Agency, to make the loan program available to eligible students enrolled or accepted for enrollment in an approved educational institution to the extent of its resources available for these loans.

(b) The lending institution shall comply with the Federal laws and regulations governing the Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs.

(c) Mailing dates and receipt dates referenced in this section shall be evidenced by United States Postal Service receipts. If a lending institution refuses or fails to accept a notice mailed as set forth in this section, the Agency will consider the notice as being received on the date that the lending institution refuses or fails to accept the notice as noted by the United States Postal Service.

(d) The following provisions deal with emergency action:

(1) The President and Chief Executive Officer may take emergency action as follows against a lending institution under which the processing of loan applications for students borrowing through the institution is withheld if the President and Chief Executive Officer:

(i) Receives information, determined by an Agency official to be reliable, that the lending institution is in violation of applicable laws, regulations, special arrangements, agreements or limitations.

(ii) Determines that immediate action is necessary to protect the interest of applicants, the United States, the Commonwealth or the Agency.

(iii) Determines that the likelihood of loss outweighs the importance of following the procedures set forth for suspension, limitation or termination in subsection (e).

(2) The Agency will begin an emergency action by notifying the lending institution by certified mail, with return receipt requested, of the emergency action and the basis on which the action is taken. The lending institution shall have an opportunity to show cause that the emergency action is unwarranted by submission of written documentation to the President and Chief Executive Officer. The effective date of the action shall be the date on which the notice is mailed to the lending institution.

(3) An emergency action may not exceed 30-calendar days unless a suspension, limitation or termination proceeding is begun under this section before the expiration of that period. In this case, the period may be extended until the completion of that proceeding, including an appeal to the Board.

(e) The following provisions deal with suspension, limitation or termination:

(1) The President and Chief Executive Officer may suspend the eligibility of a lending institution to participate in the Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs if the lending institution violates applicable laws, regulations, special arrangements or agreements. The suspension may not exceed 60-calendar days unless the lending institution and the President and Chief Executive Officer agree to an

extension if the lending institution has not requested a hearing or the Agency begins a limitation or termination proceeding under this section.

(i) A designated Agency official will notify the lending institution by certified mail, with return receipt requested, of the Agency's intent to suspend the participant from the Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs, citing the consequences of that action and identifying the alleged violations on which the proposed action is based. The initially designated beginning date of suspension shall be at least 20-calendar days from the date the letter of intent is mailed.

(ii) The lending institution subject to the suspension notice may request in writing a hearing before a hearing examiner or submit written material for consideration by the designated Agency official. If the lending institution submits written material or requests a hearing at least 5-calendar days prior to the effective date of the suspension, the suspension date shall automatically be delayed until after a final determination is made.

(iii) If the lending institution does not request a hearing but submits written material, the designated Agency official will review the material and notify the lending institution that either the proposed suspension is dismissed or the suspension is effective as of a specified date.

(iv) If the lending institution requests a hearing at least 5-calendar days prior to the effective date of suspension, the date of the hearing shall be at least 15-calendar days after receipt of the request.

(A) A hearing examiner selected by the President and Chief Executive Officer will conduct the hearing at the Agency's principal office, and a written record will be made.

(B) The hearing examiner will consider all written material presented before the hearing and the evidence presented at the hearing.

(C) The hearing examiner will issue a decision to either uphold the suspension or to dismiss it and inform the President and Chief Executive Officer and lending institution of this decision in writing within 30-calendar days of the conclusion of the hearing.

(D) The hearing examiner's decision is final unless appealed under subsection (g). If the decision is in favor of suspension, the Agency will send a notice to the lending institution which sets forth the effective date of the suspension.

(E) If the Agency begins a limitation or termination proceeding before the suspension period ends, the suspension period may be extended until completion of the new proceeding.

(F) The President and Chief Executive Officer will inform the United States Department of Education of actions taken or decisions made by the Agency in regard to the suspension so the United States Department of Education can take appropriate action.

(v) In accordance with 1 Pa. Code §§ 35.111—35.116 (relating to prehearing conferences), at any time prior to or during the hearings, the Agency may schedule a conference with the parties.

(2) The President and Chief Executive Officer may limit the number or percentage of borrowers who may

receive loan guaranties if the lending institution violates any applicable laws, regulations, special arrangements or agreements.

(i) A designated Agency official will notify the lending institution by certified mail, with return receipt requested, of the Agency's intent to limit the lending institution's participation in the Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs, citing the consequences of that action and identifying the alleged violations on which the proposed action is based. The initially designated beginning date of limitation shall be at least 20-calendar days from the date the letter of intent is mailed.

(ii) The lending institution subject to the limitation notice may request a hearing before a hearing examiner or submit written material for consideration by the designated Agency official. If the lending institution submits written material or requests a hearing at least 5-calendar days prior to the effective date of the limitation, the designated limitation date shall automatically be delayed until after a final determination is made.

(iii) If the lending institution does not request a hearing but submits written material, the designated Agency official will review that material and notify the lending institution that either the proposed limitation is dismissed or the limitation is effective as of a specified date.

(iv) If the lending institution requests a hearing at least 5-calendar days prior to the effective date of limitation, the date of the hearing shall be at least 15-calendar days after receipt of the request.

(A) A hearing examiner selected by the President and Chief Executive Officer will conduct the hearing at the Agency's principal office, and a written record will be made.

(B) The hearing examiner will consider the written material presented before the hearing and the evidence presented at the hearing.

(C) The hearing examiner will issue a decision to either uphold the limitation or to dismiss it and inform the President and Chief Executive Officer and lending institution of this decision in writing within 30-calendar days of the conclusion of the hearing.

(D) The hearing examiner's decision is final unless appealed under subsection (g). If the decision is in favor of limitation, the Agency will send a notice to the lending institution which sets forth the effective date of the limitation.

(E) If the Agency begins a termination proceeding before the limitation period ends, the limitation period may be extended until completion of the new proceeding.

(F) The President and Chief Executive Officer will inform the United States Department of Education of actions taken or decisions made by the Agency in regard to the limitation so the United States Department of Education can take appropriate action.

(v) In accordance with 1 Pa. Code §§ 35.111—35.116, at any time prior to or during the hearings, the Agency may schedule a conference with the parties.

(3) The President and Chief Executive Officer may terminate a lending institution's eligibility to participate in the Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs if the lending institution violates applicable laws, regulations, special arrangements or agreements. Termination prohibits the future guaranty of Federal Stafford Loans, Federal PLUS

Loans and Federal Consolidation Loans to borrowers applying through the lending institution.

(i) A designated Agency official will notify the lending institution by certified mail, with return receipt requested, of the Agency's intent to terminate the lending institution from the Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs, citing the consequences of that action and identifying the alleged violations on which the proposed action is based. The initially designated beginning date of termination shall be at least 20-calendar days from the date the letter of intent is mailed.

(ii) The lending institution subject to the termination notice may request in writing a hearing before the hearing examiner or submit written material for consideration by the designated Agency official. If the lending institution submits written material or requests a hearing at least 5-calendar days prior to the effective date of termination, the designated termination date shall automatically be delayed until after a final determination is made.

(iii) If the lending institution does not request a hearing but submits written material, the designated Agency official will review the material and notify the lending institution that either the proposed termination is dismissed or the termination is effective as of a specified date.

(iv) If the lending institution requests a hearing at least 5-calendar days prior to the effective date of termination, the date of the hearing shall be at least 15-calendar days after receipt of the request.

(A) A hearing examiner selected by the President and Chief Executive Officer will conduct the hearing at the Agency's principal office, and a written record will be made.

(B) The hearing examiner will consider all written material presented before the hearing and the evidence presented at the hearing.

(C) The hearing examiner will issue a decision to either uphold the termination or to dismiss it and inform the President and Chief Executive Officer and the lending institution of this decision in writing within 30-calendar days of the conclusion of the hearing.

(D) The hearing examiner's decision is final unless appealed under subsection (g). If the decision is in favor of termination, the Agency will send a notice to the lending institution which sets forth the effective date of termination.

(E) The President and Chief Executive Officer will inform the United States Department of Education of actions taken or decisions made by the Agency in regard to the termination so the United States Department of Education can take appropriate action.

(v) In accordance with 1 Pa. Code §§ 35.111—35.116, at any time prior to or during the hearings, the Agency may schedule a conference with the parties.

(f) A lending institution may lose its eligibility to participate in the Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs through other than emergency action, suspension, limitation or termination. This may occur under one or more of the following conditions:

(1) Permanent closure of the lending institution.

(2) Action taken by the United States Secretary of Education under applicable Federal regulations to limit, suspend or terminate the lending institution's eligibility.

(g) The Agency and the lending institution have the right to appeal the decision of the hearing examiner to the Board within 20-calendar days after the receipt or a copy of the decision, which shall be done by certified mail.

(1) Written notice of appeal and the materials submitted in support shall be addressed to the Chairperson of the Board at the Agency's principal address, with a copy to the other party.

(2) The appealing party has 20-calendar days from the date of the notice of appeal to submit exceptions to the hearing examiner's decision and supporting briefs and statements.

(3) The opposing party has 20-calendar days from receipt of the appealing party's exceptions and brief to respond.

(4) When the Chairperson of the Board receives notice of an appeal, the Chairperson will place the appeal on the meeting agenda of the Board at a time in the future that the Board has received a record of the hearing and the briefs and supporting materials and has had an opportunity to review the record. Before issuing a final order, the Board of Directors will review the record and hearing examiner's decision and may order oral argument.

(5) Notice of a final order by the Board of Directors will be mailed promptly to the lending institution, the Agency and the United States Department of Education.

(6) The decision of the Board of Directors will become final upon mailing. Within 30-calendar days after the decision of the Board of Directors becomes final, the lending institution may file an appeal with Commonwealth Court.

(h) A lending institution whose eligibility to participate was limited may not apply for removal of the limitation before the expiration of 12 months from the effective date of the limitation.

(1) After the minimum limitation period, the lending institution may request removal of the limitation. The request shall be in writing and be supported by documented evidence that the institution has corrected the violations on which the limitation was based.

(2) Within 60-calendar days after receipt of the request, the President and Chief Executive Officer will respond to the lending institution by granting the request, denying the request or granting the request subject to other limitation.

(i) A lending institution whose eligibility to participate has been terminated may file a request for reinstatement 18 months after the effective date of the termination. To be reinstated, a lending institution shall:

(1) Demonstrate to the President and Chief Executive Officer's satisfaction that it has corrected the violations on which termination was based and repaid any funds which it had improperly received.

(2) Meet the requirements for participation in the Federal Stafford Loan, Federal PLUS Loan and Federal Consolidation Loan Programs.

(3) Enter into a new participation agreement with the Agency.

Subchapter L. URBAN AND RURAL TEACHER LOAN FORGIVENESS PROGRAM

Sec. 121.201. Application of existing Agency regulations.

- 121.202. Qualified applicant.
- 121.203. Loan forgiveness.
- 121.204. Teaching commitment.
- 121.205. Eligible public school districts.
- 121.206. State certification.
- 121.207. Classroom teaching.

§ 121.201. Application of existing Agency regulations.

The following higher education grant regulations contained in Subchapters A and B (relating to general provisions; and the State Higher Education Grant Program) apply to applicants in the Urban and Rural Teacher Loan Forgiveness Program:

- (1) Section 121.1 (relating to definitions).
- (2) Section 121.3 (relating to discrimination prohibited).
- (3) Section 121.4(a) (relating to denial of eligibility to loan defaulters).
- (4) Section 121.6 (relating to denial of eligibility for financial assistance).
- (5) Section 121.7 (relating to notice of denial and preliminary review procedures).
- (6) Section 121.8 (relating to applicant and recipient appeals and hearings).

§ 121.202. Qualified applicant.

A qualified applicant in the Urban and Rural Teacher Loan Forgiveness Program shall be a person who meets the following requirements. The person:

- (1) Is certified by the Department of Education to teach in a preschool, elementary school or secondary school located in this Commonwealth.
- (2) Is in the first year of full-time, permanent classroom teaching at the time of application.
- (3) Is a classroom teacher at an eligible urban or rural public school district or at a nonprofit, nonpublic school in a district at which students may fulfill compulsory attendance requirements.
- (4) Has borrowed through the Agency-administered Federal Family Education Loan Programs.

§ 121.203. Loan forgiveness.

Qualified applicants who are selected for the Urban and Rural Loan Forgiveness Program in accordance with the policies established by the Agency are eligible for payment by the Agency of the PHEAA-approved indebtedness in the Agency-administered Federal Family Education Loan Programs, including interest charges, if the indebtedness is at least \$500. The indebtedness may not include loans advanced by relatives of the borrower and other individuals. For each academic year that the teaching commitment is fulfilled, and based upon the availability of funds, the forgiveness rate shall be the greater of either a maximum 25% of the PHEAA-approved indebtedness or the minimum annual payment required in order to keep each PHEAA-approved loan in good standing. Forgiveness may not exceed \$2,500 for each year that the teaching commitment is fulfilled and no more than \$10,000 will be forgiven for any participant. The payment shall be made in accordance with the procedures established by the Agency.

§ 121.204. Teaching commitment.

Qualified applicants for the Urban and Rural Teacher Loan Forgiveness Program shall be required to submit documentation the Agency may require as proof that the individual:

- (1) Has spent the major portion of the school day during the school year teaching in a classroom at an eligible urban or rural school district.
- (2) Has received a satisfactory rating by the district or nonpublic school for the academic year.
- (3) Is in compliance with all other criteria for eligibility, as are legally promulgated and made available by the Agency on an annual basis.

§ 121.205. Eligible public school districts.

(a) A rural public school district shall be one that has a population of less than 300 per square mile and one of the following:

- (1) More than 8% of the pupils in average daily membership are low-income pupils as defined in section 2502.11 of the Public School Code of 1949 (24 P. S. § 25-2502).
- (2) The market value/income aid ratio, as defined in section 2501 of the Public School Code of 1949 (24 P. S. § 2501), is greater than 7/10.

(b) An urban public school district shall be one that has a population greater than 850 per square mile and one of the following:

- (1) More than 8% of the pupils in average daily membership are low-income pupils as defined in section 2502.11 of the Public School Code of 1949.
- (2) The market value/income aid ratio, as defined in section 2501 of the Public School Code of 1949, is greater than 7/10.

(c) The definitions in subsections (a) and (b) also apply to an intermediate unit or area vocational-technical school if the composite data for all participating school districts meet the criteria specified in this section.

§ 121.206. State certification.

For the purposes of the Urban and Rural Teacher Loan Forgiveness Program, State certification means Pennsylvania public school certification that qualifies a professional educator to provide classroom instruction in the grade level and content area specified for that certificate. State certification does not mean an Educational Specialist Certificate whose primary responsibility is to render professional service other than classroom teaching.

§ 121.207. Classroom teaching.

(a) For the purposes of the Urban and Rural Teacher Loan Forgiveness Program, classroom teaching means providing instruction in the grade level and content area specified on the teacher's State certificate and shall be for the major portion of the school day, which shall be at least 1/2 of the available periods used for instruction.

(b) Classroom teaching shall be on a full-time, permanent basis and does not include any form of substitute teaching.

Subchapter M. AGRICULTURE EDUCATION LOAN FORGIVENESS PROGRAM

Sec.

- 121.301. Definitions.
 121.302. Application of existing agency regulations.
 121.303. Qualified applicant.
 121.304. Loan forgiveness.

121.305. Employment verification.

121.306. Eligible place of employment.

§ 121.301. Definitions.

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

Agricultural products—Crops, livestock and livestock products, and commodities, including:

(i) Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.

(ii) Fruits, including apples, peaches, grapes, cherries and berries.

(iii) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, onions and mushrooms.

(iv) Horticultural specialties, including nurse stock, ornamental shrubs, ornamental trees and flowers.

(v) Cattle, sheep, hogs, goats, horses, poultry, fur-bearing animals, milk, eggs and furs.

(vi) Timber, wood and other wood products derived from trees.

(vii) Aquatic plants and animals and their by-products.

(viii) Products derived from one or more of the items listed in subparagraphs (i)—(vii) and other products derived from the business of farming, including other products manufactured, derived or prepared from the products mentioned in subparagraphs (i)—(vii), raw or processed, which are used as food for humans or animals.

Immediate family member—A spouse, child, stepchild, parent, stepparent, grandparent, brother, stepbrother, sister, stepsister or like relative-in-law of an owner of real property.

Mixed practice of veterinary medicine—As described by the American Veterinary Medical Association, that type of clinical veterinary practice or consultation which deals with more than one categorical species, including, but not limited to, agricultural animals.

United States Department of Agriculture Certification—Certification by the United States Department of Agriculture that a graduate veterinarian has successfully passed an examination and is certified to sign health certificates allowing the interstate commerce of agricultural animals and animal products as well as the ability to certify regulatory testing such as bovine tuberculosis and brucellosis.

Veterinary practice—The practice in the field of veterinary medicine by a person qualified by educational training and experience in the science and techniques of veterinary medicine and who is currently licensed to practice veterinary medicine by the State Board of Veterinary Medicine under the Veterinary Medicine Practice Act (63 P. S. §§ 485.1—485.33).

§ 121.302. Application of existing Agency regulations.

The following higher education grant regulations contained in Subchapters A and B (relating to general provisions; and the State Higher Education Grant Program) apply to applicants in the Agriculture Education Loan Forgiveness Program:

(1) Section 121.1 (relating to definitions).

(2) Section 121.3 (relating to discrimination prohibited).

(3) Section 121.4(a) (relating to denial of eligibility to loan defaulters).

(4) Section 121.6 (relating to denial of eligibility for financial assistance).

(5) Section 121.7 (relating to notice of denial and preliminary review procedures).

(6) Section 121.8 (relating to applicant and recipient appeals and hearings).

§ 121.303. Qualified applicant.

A qualified applicant in the Agriculture Education Loan Forgiveness Program shall be a person who meets the following requirements. The person:

- (1) Is a resident of this Commonwealth.
- (2) Holds a degree in a field related to the production of agricultural products or in the field of veterinary medicine, from an institution of higher education located within this Commonwealth.
- (3) Is in the first year of full-time employment or work on a family farm or in the practice of veterinary medicine. A portion of this activity shall be for the protection and enhancement of agricultural animal health and productivity, on or after July 1, 1991.
- (4) Has borrowed through the Agency-administered Federal Family Education Loan Programs.

§ 121.304. Loan forgiveness.

Qualified applicants who are selected for the Agriculture Education Loan Forgiveness Program in accordance with the policies established by the Agency shall be eligible for payment by the Agency of the PHEAA-approved indebtedness in the Agency-administered Federal Family Educational Loan Programs, including interest charges, if the indebtedness is at least \$500. The indebtedness may not include loans advanced by relatives of the borrower and other individuals. For each year that the participant is employed full time on a family farm or works full time on a family farm, a portion of which shall be located within this Commonwealth, or is engaged in the mixed practice of veterinary medicine within this Commonwealth, a portion of which activity shall be for the protection and enhancement of agricultural animal health and productivity, and who has obtained United States Department of Agriculture certification, and based upon the availability of funds, the repayment shall be up to \$2,000 per year. Forgiveness may not exceed \$2,000 for each year that the employment is fulfilled and no more than \$10,000 will be forgiven for any participant. The payment shall be made in accordance with the procedures established by the Agency.

§ 121.305. Employment verification.

Qualified applicants selected for the Agriculture Education Loan Forgiveness Program shall be required to submit documentation the Agency may require as proof that the individual has spent at least 35 hours per week working full time on a family farm or a family farm corporation, and is in compliance with all other criteria for eligibility as are annually made public by the Agency. The veterinarian shall provide proof that he is accredited by the United States Department of Agriculture/Animal, Plant, Health Inspection Service to perform accredited tasks in this Commonwealth and show that a portion of the applicant's activities are devoted to farm animals and are consistent with the American Veterinary Medical Association definition of "mixed practice of veterinary

medicine" (see § 121.301 (relating to definitions)). The veterinarian shall also be in compliance with the other criteria for eligibility.

§ 121.306. Eligible place of employment.

For the purposes of the Agriculture Education Loan Forgiveness Program, a family farm shall be the real property of a farm owned by members of an immediate family or by a family farm corporation used for the production, for commercial purposes, of agricultural products. A family farm corporation shall be a corporation of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of each class of stock of the corporation is continuously owned by members of the immediate family.

[Pa.B. Doc. No. 96-1135. Filed for public inspection July 12, 1996, 9:00 a.m.]

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[L-950101]

[52 PA.CODE CH. 57]

Electric Energy Emergency Notification Procedures

The Pennsylvania Public Utility Commission (Commission) on February 22, 1996, adopted an order to promulgate the final regulation which adds subsection (c) to § 57.52 (relating to emergency load control and energy conservation by electric utilities) setting forth notification procedures and contact responsibilities for electric utilities in the event of either a load emergency situation or an emergency conservation situation, as defined under § 57.52(a). During energy-related emergencies, the affected utility must notify the Commission as soon as practical when a potential exists for widespread service disruptions which could adversely affect the public's health, safety or general well being. The regulation addresses the timing and method of initial notification and flow of information during the emergency. The contact persons are Blaine Loper, Bureau of Conservation, Economics, Energy and Planning, (717) 787-3810 and Patricia Krise Burket, Law Bureau, (717) 787-3464.

Executive Summary

As a result of the January 1994 electric energy emergency, by order dated February 3, 1994, at Docket No. M-00940031, the Commission established interim emergency notification requirements and contact responsibilities for electric utilities and directed staff to prepare a rulemaking that proposes appropriate amendments to § 57.52 to address issues of notification and information flow.

On March 16, 1995, the Commission adopted an order to promulgate this amendment. On May 22, 1995, a copy of the proposed rulemaking was submitted to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure. The proposed amendments were published at 25 Pa.B. 2186 (June 3, 1995) with a 60-day comment period.

On February 22, 1996, the Commission adopted an order which amends § 57.52 by adding subsection (c) establishing emergency notification procedures for electric utilities.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Commission submitted a copy of the final rulemaking, which was published as proposed at 25 Pa.B. 2186, and served on May 22, 1995, to IRRC and the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Commission also provided IRRC and the Committees with copies of the comments received, as well as other documentation.

In preparing this final-form regulation, the Commission has considered the comments received from IRRC, the Committees and the public.

This final-form regulation was deemed approved by the House Committee on Consumer Affairs and was approved by the Senate Committee on Consumer Protection and Professional Licensure, and was approved by IRRC on May 16, 1996, in accordance with section 5(c) of the Regulatory Review Act.

Commissioners present: John M. Quain, Chairperson; Lisa Crutchfield, Vice Chairperson; John Hanger; David W. Rolka; and Robert K. Bloom

Public Meeting held
February 22, 1996

Final Rulemaking Order

By the Commission:

Following the January 1994 electric energy emergency, by order dated February 3, 1994, at Docket No. M-00940031, the Commission established interim emergency notification requirements and contact responsibilities for electric utilities and directed staff to prepare a rulemaking that proposes appropriate amendments to § 57.52 that address issues of notification and information flow.

On March 16, 1995, the Commission adopted an order to promulgate this amendment. On May 22, 1995, a copy of the proposed rulemaking was submitted to IRRC and to the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure. The proposed amendment was published at 25 Pa.B. 2186 with a 60-day comment period.

Comments were timely received from IRRC, the Honorable David R. Wright (Representative Wright), Pennsylvania Power Company (Penn Power), Pennsylvania Power & Light Company (PP&L), PECO Energy Company (PECO), UGI Utilities, Inc. (UGI) and the Pennsylvania Telephone Association (PTA). These comments constitute the record in this proceeding.

This order discusses the final-form amendment to § 57.52 set forth in Annex A which have resulted from the comments received.

Most of the comments focused on clarifying our notification requirements under subsection (c). In order to address these concerns, some provisions have been deleted and others have been rearranged in a more logical order.

IRRC believes that, although the Commission's points of contact must be made clear to the utilities, such

designation is an internal Commission matter which, depending on circumstances, may need to be changed in the future. IRRC recommends a more general requirement for utilities to notify the Commission. A more detailed internal procedure would provide specific points of contact and emergency telephone numbers which could be distributed to the utilities on a regular basis. We agree with this recommendation and have revised the amendment by replacing "Secretary or designee" with "the Commission" consistently throughout the final-form regulation.

PECO, UGI and IRRC commented on a discrepancy between the proposed subsection (c), which refers to an emergency situation defined under subsection (a), and subsection (c)(1), which refers to widespread service disruptions. Although these emergency situations have the obvious potential for widespread service disruptions, in order to alleviate any perceived discrepancy and avoid confusion, we have deleted the proposed subsection (c)(1) and have renumbered the remaining paragraphs.

IRRC recommended that additional details be added to the requirement for notification of the implementation of emergency procedures and for the submittal of status reports. The new subsection (c)(1) sets forth Commission notification and utility reporting requirements during a load emergency situation. Initial and subsequent notices of the implementation of emergency procedures are to be provided by the affected utility to the Commission by telephone. Additional emergency related information is to be faxed to the Commission at least every 3 hours, commencing with the initial notification. In response to IRRC's suggestion, we have listed specific information which must be included in the written report, such as generating unit availability and reserve capacity. This is information similar to that which the utilities have provided to the Commission in the past during load emergency situations.

Penn Power objected to the requirement to notify the Commission at the time either voluntary or involuntary load curtailments are first anticipated during a load emergency situation. Penn Power has contracted with numerous interruptible industrial customers to interrupt for both economic and emergency reasons. Thus, Penn Power suggested that notification should be required only when firm customers are directly impacted. We agree, and have revised the language in the new subsection (c)(1) to accommodate this suggestion.

The new subsection (c)(2) sets forth similar requirements applicable during energy conservation emergencies. Emergency related information to be provided by fax to the Commission includes fuel inventories, fuel deliveries and burn rates.

PP&L and UGI objected to the proposed requirement to provide notice during energy conservation emergencies "prior to the implementation of measures...". Since circumstances may dictate immediate action by the utility, there may not be time to provide the Commission with advance notice. Certainly, we do not want to hinder utilities in their response to emergency situations. Furthermore, we do not expect utilities to seek and obtain our permission prior to the implementation of emergency measures. In order to alleviate this concern, we have revised the amendment to require notice to telephone at the time of initial implementation of conservation measures.

Subsection (c)(3) requires utilities to provide the Commission with up-to-date lists of emergency contacts. This

requirement was previously included in subsection (c)(3) of the proposed amendment.

Subsection (c)(4), which was paragraph (1)(iii) of our originally proposed amendment, requires notification on a pool-wide basis, if applicable. We have added the phrase "or similarly integrated bulk power system with a single system operator" to accommodate other existing or future tightly integrated multi-utility operating structures. The phrase "in lieu of individual utility notification" has also been added to clarify the point that individual utility notification is not required if pool-wide notification is applicable.

In our proposed revisions to § 67.1, we attempted to clarify the applicability of the reporting requirements contained therein. Judging from the comments, the proposed revisions do not achieve the intended result. Thus, we have deleted the proposed amendment to § 67.1 and have added a new subsection (c)(5) which simply states that the reporting requirements of § 67.1 do not apply to the two types of emergency situations addressed under § 57.52.

In its comments, IRRC discusses the flow of information between the Commission and the Pennsylvania Emergency Management Agency (PEMA) or other representatives of the executive branch during an emergency. IRRC recommended that our final rule identify how the Commission will provide emergency information to PEMA and to whom informational requests from PEMA should be directed. We believe that IRRC's point with respect to the internality of the Commission's designated point of contact is equally valid here. The Commission's relationship with PEMA and other governmental agencies should not be the subject of regulations directed toward our jurisdictional utilities. Nevertheless, we have added subsection (c)(6) which states that the Commission will provide information to PEMA during emergency situations. Our originally proposed subsection (c)(4), which provided for an internal Commission energy monitoring team, has been deleted in the final rule. We have also added subsection (c)(7) indicating the Commission's intention to designate emergency contact individuals and provide the current list of contacts to the utilities and PEMA.

Representative Wright urges the Commission to incorporate recommendations contained in the House Consumer Affairs Committee's *Report on the Energy Emergency During the Week of January 17, 1994* in the final rule. IRRC avered that these concerns were beyond the limited scope of the emergency notification procedures regulation. We agree. We also point out that a majority of the recommendations contained in the Committee's report were addressed in the Commission's Electric Energy Emergency Investigation at Docket No. I-00940031 and subsequently acted upon by the electric utilities.

In the event of either a load emergency situation or an emergency energy conservation situation, the Commission is obligated to be knowledgeable and to act as a source of advice and counsel to other civil authorities. The promulgation of final regulations establishing emergency notification procedures is in the public interest. Accordingly, under sections 501, 504 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501, 504 and 1501, and the Commonwealth Documents Law (45 P.S. § 1201 et seq.) and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1—7.4, we amend § 57.52 as noted in this Preamble in the manner set forth in Annex A; *Therefore,*

It is Ordered That:

1. Section 57.52 is amended by adding subsection (c) establishing emergency notification procedures for electric utilities as set forth in Annex A.
2. The Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality.
3. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.
4. The Secretary shall submit this order and Annex A for formal review by the designated standing committees of both Houses of the General Assembly, and for formal review by IRRC.
5. The Secretary shall deposit this order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
6. This amendment shall become effective upon publication in the *Pennsylvania Bulletin*.
7. The interim emergency notification requirements set forth in the Commission's order dated February 3, 1994, at Docket No. M-00940031 are rescinded upon publication of this order in the *Pennsylvania Bulletin*.
8. Copies of this order and Annex A be served upon all jurisdictional electric utilities, the Office of Consumer Advocate, the Office of Small Business Advocate and all other parties of record.

JOHN G. ALFORD,
Secretary

(Editor's Note: The proposal to amend § 67.1, included in the proposal at 25 Pa.B. 2186 (June 3, 1995), has been withdrawn by the Commission.

For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 2669 (June 1, 1996).)

Fiscal Note: Fiscal Note 57-157 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 57. ELECTRIC SERVICE

Subchapter E. EMERGENCY REGULATIONS

§ 57.52. Emergency load control and energy conservation by electric utilities.

(a) An electric public utility subject to the jurisdiction of the Commission shall include in its electric tariff rules and regulations filed with the Commission the following provision:

- (1) RULE _____ EMERGENCY LOAD CONTROL.
 - (i) A load emergency situation exists whenever:

(A) The demands for power on all or part of the utility's system exceed or threaten to exceed the capacity then actually and lawfully available to supply the demands.

(B) System instability or cascading outages could result from actual or expected transmission overloads or other contingencies.

(C) The conditions exist in the system or another public utility or power pool with which the utility's system is interconnected and cause a reduction in the capacity available to the utility from that source or threaten the integrity of the utility's system.

(ii) In this case, the utility shall take the reasonable steps as the time available permits to bring the demands within the then-available capacity or to otherwise control load. The steps shall include, but are not limited to, reduction or interruption of service to one or more customers, in accordance with the utility's procedures for controlling load.

(2) RULE _____ EMERGENCY ENERGY CONSERVATION. An emergency energy conservation situation exists whenever events result or, in the judgment of the utility, threaten to result in a restriction of the fuel supplies available to the utility or its energy vendors, so that the amount of electric energy which the utility is able to supply is or will be adversely affected. In the event of an emergency energy conservation situation, the utility shall take reasonable measures that it believes necessary and proper to conserve available fuel supplies. The measures may include, but are not limited to, reduction, interruption or suspension of service to one or more of its customers or classes of customers in accordance with the utility's procedure for emergency energy conservation.

(b) A utility shall establish procedures for controlling load and emergency conservation.

(1) These procedures shall include schedules of load shedding priorities to be followed in compliance with subsection (a).

(2) These procedures may be revised by the utility, and shall be revised if required by the Commission.

(3) A copy of the procedures or of the revision currently in effect shall be kept available for public inspection at the office at which the utility maintains a copy of its tariff for public inspection, and another copy shall be kept on file with the Commission's Bureau of Conservation, Economics and Energy Planning.

(c) In the event of either a load emergency situation or an emergency energy conservation situation, as defined under subsection (a), the following emergency notification procedures apply:

(1) During load emergencies, initial notice shall be provided by telephone to the Commission no later than the time a voltage reduction warning is issued on the electric system. If a utility does not have the capability to implement system-wide automatic voltage reductions, notice shall be provided to the Commission prior to the implementation of emergency measures which would have a direct impact on firm customers. Notification shall be provided to the Commission as each subsequent load control procedure is either implemented or cancelled. During the course of the load emergency situation, the affected utility shall provide other emergency related information to the Commission that the Commission determines to be necessary. Information shall be provided by fax at a minimum of every 3 hours commencing with initial notification of an emergency situation and shall include the following:

(i) System operating capacity.

(ii) Current system load.

(iii) Projected system peak load and hour.

(iv) System operating reserve capacity.

(v) Capacity transactions.

(vi) Unavailable generating units.

(vii) Status of implementation of emergency operating procedures.

(viii) Customers and loads affected by manual load shedding, if applicable.

(2) During energy conservation emergencies, notice shall be provided by telephone to the Commission at the time of initial implementation of measures which the utility determines to be necessary to conserve available fuel supplies and which would have a direct impact on firm customers. Notification shall be provided to the Commission as each subsequent emergency conservation procedure is either implemented or cancelled. During the course of the emergency energy conservation situation, the affected utility shall provide other emergency related information to the Commission that the Commission determines to be necessary. Information shall be provided by fax at a minimum of every 3 hours commencing with initial notification of an emergency situation and shall include the following:

(i) Fuel inventories.

(ii) Fuel deliveries.

(iii) Burn rates.

(iv) Curtailment schedules, if applicable.

(3) The utility shall designate emergency contact individuals from which emergency information may be obtained and provide the Commission with a current list of contacts.

(4) Utilities which operate within a power pool or similarly integrated bulk power system with a single system operator shall provide notification and other emergency related information to the Commission through their designated representative if the emergency situation affects the entire integrated system, in lieu of individual utility notification.

(5) Section 67.1 (relating to general provisions) does not apply to either load emergency situations or emergency energy conservation situations.

(6) The Commission will provide information to the Pennsylvania Emergency Management Agency during emergency situations.

(7) The Commission will designate emergency contact individuals to be contacted by the utilities to meet the requirements of this section. The Commission will provide the current list of Commission contacts to the utilities and the Pennsylvania Emergency Management Agency.

[Pa.B. Doc. No. 96-1136. Filed for public inspection July 12, 1996, 9:00 a.m.]