

THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 1]

[EXECUTIVE ORDER NO. 2003-5]

Upper Delaware Federal Scenic River

June 22, 2003

Whereas, the Commonwealth of Pennsylvania is one of the foremost states in the Nation in the battle to improve the quality of our environment; and

Whereas, there is a need to ensure the wise use of the valuable and unique natural resources of Pennsylvania; and

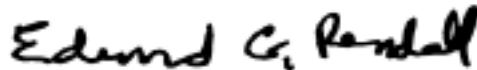
Whereas, the Wild and Scenic Rivers Act, as amended, (P. L. 90-542, 16 U.S.C. § 1271) provides the Congressional declaration that certain selected rivers of the Nation, with their immediate environment, possess outstandingly remarkable scenic recreation, geologic, fish, wildlife, historic, cultural, and other similar values shall be preserved in a free flowing condition and they and their immediate environment shall be protected for the benefit and enjoyment of future generations; and

Whereas, the Commonwealth of Pennsylvania supports the designation of the Upper Delaware as a component of the Federal Scenic Rivers System; and

Whereas, the Upper Delaware Amendments (P. L. 95-625, 16 U.S.C. § 1274) provide that the Secretary of Interior shall publish land and water use control measures to be developed and implemented by the appropriate officials of the states of New York and Pennsylvania; and

Whereas, several state departments and agencies have authority for enforcing rules and regulations affecting the Upper Delaware Scenic River Management Plan.

Now, Therefore, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, and in furtherance of the purposes and policies of the Pennsylvania Constitution, Article I, Section 27, and the Pennsylvania Scenic Rivers Act (P. L. 1277, Act 283, as amended by Act 110, Section 8, P. L. 379, May 7, 1982), do hereby designate the Department of Conservation and Natural Resources as the lead agency for implementing and administering the state aspects of the Upper Delaware Federal Scenic River designation for the Commonwealth of Pennsylvania.



Governor

Fiscal Note: GOV 03-6. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 1. AGENCY OPERATION AND ORGANIZATION

Subchapter MM. UPPER DELAWARE FEDERAL SCENIC RIVER

§ 1.471. (Reserved).

§ 1.472. **Program objectives.**

(a) The objectives of the Upper Delaware Federal Scenic River designation are to:

(1) Protect and maintain the unique scenic, cultural and natural qualities of the Upper Delaware River corridor including its rare and endangered plant and animal species and rare and natural habitats.

(2) Maintain and enhance the corridor's social and economic vitality and its diversity consistent with efforts to protect the recognized values of the river corridor.

(3) Conserve the resources of the Upper Delaware primarily through the use of existing local and State land use controls and voluntary private landowner actions with local land use ordinances.

(4) Protect private property rights and allow for the use and enjoyment of the river corridor by both year-round and seasonal residents.

(5) Provide for planned growth consistent with local ordinances to ensure optimum use of existing public services while maintaining and conserving the essential character of the river valley.

(6) Maintain and improve fisheries and wildlife habitat to ensure the continued public enjoyment of hunting, fishing and trapping consistent with State laws.

(7) Foster a public recognition of the Upper Delaware River Valley as a place with its own identity, continuing history and destiny to be shaped by its residents.

(8) Provide for the continued public use and enjoyment of a full range of recreation activities as is compatible with the other goals.

(9) Encourage maximum local government official, private landowner, private group and citizen involvement in the management of the Upper Delaware.

(b) The program will involve affected State agencies to ensure that existing authorities are used to implement the policies and management techniques identified as necessary for river management purposes.

§ 1.473. Upper Delaware Council.

The Secretary of the Department of Conservation and Natural Resources is the Commonwealth's appointed representative to the Upper Delaware Council.

§ 1.474. Cooperation by State agencies.

(a) The Department of Conservation and Natural Resources is the single State agency to receive and administer Federal grants for implementing the management program of the Upper Delaware Federal Scenic River.

(b) The Department of Conservation and Natural Resources, Division of Greenways and Conservation Partnership, shall provide technical advice and assistance in the administration of this program, coordinate its activities with other agencies involved in the program, and act as a forum for conflict resolution among agencies in connection with their responsibilities under this subchapter.

(c) To the maximum extent permitted by law, all administrative departments, independent administrative boards and commissions, and other State agencies shall act consistently with the goals, policies and objectives of the Upper Delaware Scenic River Management Plan and provide for adequate consideration of the National interest involved in planning for and siting of facilities and the use of resources in the Upper Delaware Scenic River corridor when the planning, siting and uses are of more than local interest.

(d) Each administrative department, independent administrative board and commission, and other State agencies shall notify the Department of Conservation and Natural Resources, Division of Greenways and Conservation Partnership, of proposed activities having an affect upon Delaware River resources.

(e) Conflicts among fiscal, development, service or regulatory activities of State agencies which have a direct and significant impact on the Upper Delaware River resources and cannot be resolved through available administrative mechanisms will be resolved by the Governor.

§ 1.475. Force and effect.

This subchapter shall remain in effect as long as the Upper Delaware Scenic River Management Plan is in effect.

§ 1.476. Rescission.

Executive Order 1989-2 is rescinded.

[Pa.B. Doc. No. 03-1394. Filed for public inspection July 18, 2003, 9:00 a.m.]

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 5]

[EXECUTIVE ORDER NO. 2003-7]

Governor's Advisory Commission on African-American Affairs

June 22, 2003


Whereas, the history of African-Americans in Pennsylvania reflects a diverse and unique blend of cultural, social, and economic influences which have had and continue to have a beneficial impact on life in the Commonwealth; and

Whereas, African-American citizens continue to gain access to avenues of economic development, including access to capital for business formation, educational opportunities necessary for effective business development and growth, and to established networking relationships, as well as to innovative techniques designed to encourage and promote minority business ownership; and

Whereas, to ensure numerous gains achieved over the years that have resulted in increased access to political, economic, and institutional systems, expanded opportunities in education and employment, and the passage and enforcement of important antidiscrimination legislation, African-Americans are still confronted with systemic conditions that disproportionately affect this segment of our population adversely and limit opportunities; and

Whereas, a forum is required within which the unique needs and issues of concern that are prevalent in the African-American community and integrity of all of the citizens of our Commonwealth can be articulated and addressed.

Now, Therefore, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby reestablish, in the Office of the Governor, the Governor's Advisory Commission on African-American Affairs (hereinafter referred to as "Commission") as the Commonwealth's advocate agency for its African-American citizens as hereinafter set forth.



Governor

Fiscal Note: GOV 03-8. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 5. COUNCILS AND COMMITTEES

Subchapter YY. GOVERNOR'S ADVISORY COMMISSION ON
AFRICAN-AMERICAN AFFAIRS**§ 5.701. Functions.**

The functions of the Governor's Advisory Commission on African-American Affairs is to:

(1) Advise the Governor on policies, procedures, legislation and regulations that affect the African-American community and that will enable the Commonwealth to be responsive to the needs of the African-American community.

(2) Develop, review and recommend to the Governor policies in the areas of health and human services, housing, education, employment, business formation and development, public accommodations, and in contracting practices and procedures.

(3) Provide appropriate assistance and advice to the Pennsylvania Minority Business Development Authority, as may be necessary, to assist the authority in its statutory duties and functions as the principal State agency for the promotion and encouragement of minority economic development within this Commonwealth.

(4) Serve as a liaison to Federal, State and local agencies to ensure that programs affecting African-Americans are effectively utilized and that benefits accrue equitably to members of the African-American community.

(5) Work with the Governor's Office and the African-American community to promote legislation that ensures the equitable treatment of all citizens of this Commonwealth.

(6) Serve as a resource for community groups on African-American issues, programs, sources of funding and compliance requirements within State government for the benefit and advancement of African-Americans.

(7) Assist local African-American community groups in developing strategies and programs that will expand and enhance the social, cultural and economic status of the African-American community.

(8) Work with the Bureau of Equal Employment Opportunity to strengthen the enforcement of the Commonwealth's antidiscriminatory hiring, retention and promotion policies.

(9) Promote the cultural arts in their various forms within the African-American community through coordinated efforts and advocacy.

§ 5.702. Composition of the Governor's Advisory Commission on African-American Affairs.

(a) The Commission consists of 15 members to be appointed by the Governor who are representatives of the Commonwealth's African-American community.

(b) The Governor will designate one Commission member to serve as chairperson and one to serve as vice-chairperson of the Commission. The chairperson and vice-chairperson serve at the pleasure of the Governor.

(c) The Governor will appoint an Executive Director and a Deputy Executive Director of the Commission who will serve at the Governor's pleasure.

§ 5.703. Terms of membership.

(a) Members are appointed for a term of 2 years. The members shall serve at the pleasure of the Governor.

(b) If a vacancy occurs on the Commission due to resignation, disability or death of a member, a successor may be appointed by the Governor to serve the duration of the unexpired term. A successor so appointed may thereafter be reappointed.

§ 5.704. Compensation.

Members of the Commission receive no compensation for their service, except that members may be reimbursed for actual travel and related expenses in accordance with Commonwealth policy.

§ 5.705. Relationship with other agencies.

To implement the purpose of this subchapter, the Commission may request and receive from any department, division, board, bureau, commission, or other agency of the Commonwealth or political subdivision thereof or public authority, the cooperation, assistance, information and data needed by the Commission to properly carry out its powers and duties.

§ 5.706. Reports.

The Commission shall submit reports, as it deems necessary, on issues affecting African-Americans in this Commonwealth.

§ 5.707. Procedures.

(a) The Commission is authorized to establish subcommittees and rules and procedures for the effective implementation of its functions consistent with this subchapter.

(b) The Commission may hold public hearings to evaluate the effectiveness of Commonwealth services and programs to the African-American community.

§ 5.708. Rescission.

Executive Order 1996-3 is rescinded.

[Pa.B. Doc. No. 03-1395. Filed for public inspection July 18, 2003, 9:00 a.m.]

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 5]

[EXECUTIVE ORDER No. 2003-6]

Pennsylvania Commission for Women

June 22, 2003

Whereas, over 50 percent of the population of Pennsylvania is female; and

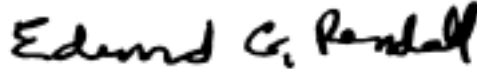
Whereas, the need for a strong advocate for the rights of women in all areas of the Commonwealth is no less today than it was upon creation of the Pennsylvania Commission for Women more than a quarter of a century ago; and

Whereas, further measures should be taken to increase State efforts to ensure that women have full and equal opportunity to serve in every capacity as citizens of the Commonwealth, free of gender discrimination; and

Whereas, women must be informed, educated and advised so that they might better protect themselves, their families and their children.

Now, Therefore, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby reestablish

the Pennsylvania Commission for Women (hereinafter referred to as "Commission") to perform the powers, duties, and functions set forth herein.



Governor

Fiscal Note: GOV 03-7. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 5. COUNCILS AND COMMITTEES

Subchapter F. PENNSYLVANIA COMMISSION FOR WOMEN

§ 5.61. Functions.

The Pennsylvania Commission for Women shall:

- (1) Monitor women's educational and employment needs and opportunities.
- (2) Promote job training, educational programs and upward mobility for women.
- (3) Encourage the development of and access to funding for small business enterprises owned or operated by women.
- (4) Promote women for appointed positions in State government, the judicial system and local government.
- (5) Maintain a current directory of programs affecting women that are administered by agencies of the Commonwealth.
- (6) Issue periodically a report on new State laws, regulations and governmental policies affecting women.
- (7) Serve as a liaison between government and nongovernmental groups and organizations whose purposes relate to the interests of women.
- (8) Assist women's groups to institute local self-help activities designed to meet educational, employment and related needs.
- (9) Using the Commission's web site, toll-free hotline, and other current technologies, serve as a data bank for collecting and disseminating information, including information regarding proposed legislation, regulations and other governmental policies that would affect women.
- (10) At times and in the manner as the Commission might deem appropriate, provide to the Governor and the General Assembly reports and recommendations for legislative or other governmental action.
- (11) Perform other functions that it deems appropriate in furtherance of its responsibilities.

§ 5.62. Composition.

(a) The Pennsylvania Commission for Women (Commission) consists of members appointed by the Governor, in the number the Governor deems appropriate. The majority and minority leaders of both chambers of the General Assembly shall each provide a list to the Governor of four candidates, and the Governor will appoint two members of the Commission from each list. The members shall, to the extent practicable, represent diverse geographic, racial and ethnic groups and shall have expertise in fields such as aging, health care, business, education, agriculture, public welfare, child care, insurance and finance, labor, law and corrections.

(b) The Governor will, in consultation with the Commission members, designate one Commission member to serve as chairperson and one Commission member to serve as vice-chairperson. The chairperson and vice-chairperson serve at the pleasure of the Governor.

(c) The Governor will appoint an Executive Director of the Commission, who will serve at the pleasure of the Governor. The Executive Director shall report to the Governor and shall act at the Governor's direction in taking action to initiate and implement the purposes of this subchapter and to implement the actions of the Commission. The Chairperson of the Commission shall act as liaison between the Commission and the Executive Director.

(d) The Executive Director shall, with the approval of the Governor, employ other persons as needed for the proper administration of the Commission.

§ 5.63. Terms of membership.

(a) Members shall be appointed for terms of 2 years and thereafter until their respective successors are appointed and qualified, but for no longer than 6 months after the conclusion of the 2-year term. A member may be reappointed. Members serve at the pleasure of the Governor.

(b) If a vacancy occurs on the Commission due to resignation, disability or death of a member, the Governor will appoint a successor as expeditiously as possible. The successor shall serve the duration of the unexpired term.

(c) A member who is absent from two consecutive meetings of the Commission without excuse shall forfeit membership on the Commission.

§ 5.64. Compensation.

Members of the Pennsylvania Commission for Women receive no compensation for their service, except that members may be reimbursed for actual travel and related expenses in accordance with Commonwealth policy.

§ 5.65. Relationship with other agencies.

To implement the purpose of this subchapter, the Commission may request and receive from any department, division, board, bureau, commission, or any other agency of the State or any political subdivision thereof or public authority, cooperation, assistance, information, and data needed by the Commission to properly carry out its powers and duties hereunder.

§ 5.66. (Reserved).

§ 5.67. Procedures.

(a) The Commission meets quarterly and a majority of the Commissioners serving at any time constitutes a quorum.

(b) The Commission is authorized to establish subcommittees and rules and procedures for the effective implementation of its functions consistent with this subchapter.

§ 5.68. Effective date.

This order is effective June 22, 2003, and shall continue in effect unless revised or modified by the Governor.

§ 5.69. Rescission.

Executive Order 1997-3 is rescinded.

[Pa.B. Doc. No. 03-1396. Filed for public inspection July 18, 2003, 9:00 a.m.]

PART I. GOVERNOR'S OFFICE
[4 PA. CODE CH. 7]
[EXECUTIVE ORDER No. 2003-2]
Agricultural Land Preservation Policy

March 20, 2003

Whereas, Pennsylvania is the most productive agricultural state in the Northeast with more than 50,000 farms and 7.7 million acres of crop and pasture land; and

Whereas, the Commonwealth's abundant supply of agricultural land has sustained farm families, farm operations, and rural communities in Pennsylvania for generations; and

Whereas, Pennsylvania farmers are a vital component of the Commonwealth's economy, a leading economic enterprise in the Commonwealth, generating over \$4.5 billion annually in cash receipts, supporting a \$45 billion a year economic activity and employing nearly one-fifth of Pennsylvania's workforce; and

Whereas, increased land development and farm costs have caused Pennsylvania to lose more than 46 percent of its farmland since 1950; and

Whereas, Pennsylvania's future generations need to be assured a reliable source of food and fiber; and

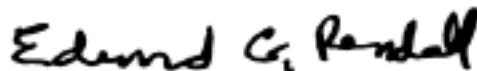
Whereas, federal, state, and local governments, along with individual landowners, are valuable partners in the effort to identify and preserve critical farmlands; and

Whereas, from 1988 through 2003, the Commonwealth of Pennsylvania and participating counties have invested over \$510 million, and preserved almost 250,000 acres of agricultural land under the Agricultural Conservation Easement Purchase Program; and

Whereas, part of the Commonwealth's continuing efforts is to conserve its farmland, assist farm operations, and preserve the quality of life in rural communities, it is in the best interest of all Pennsylvanians that the Commonwealth continue its Agricultural Land Preservation Policy; and

Whereas, all state agencies under the Governor's jurisdiction should work together to preserve agricultural lands with a common definition of prime agricultural land and a common vision.

Now, Therefore, be it resolved that I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby order and direct all agencies under my jurisdiction seek to mitigate and protect against the conversion of prime agricultural land and adopt policies herewith.



Governor

Fiscal Note: GOV 03-3. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 7. MISCELLANEOUS PROVISIONS

Subchapter W. AGRICULTURAL LAND PRESERVATION POLICY

§ 7.301. Policy.

It is the policy of the Commonwealth to protect through the administration of all agency programs and regulations, the Commonwealth's "prime

agricultural land” from irreversible conversion to uses that result in its loss as an environmental and essential food and fiber resource.

§ 7.302. Conversion.

Commonwealth funds and Commonwealth-administered Federal funds will not be used to encourage the conversion of “prime agricultural land” to other uses when feasible alternatives are available.

§ 7.303. Protected agricultural lands.

(a) The prime agricultural land to be protected under this subchapter includes lands:

- (1) In active agricultural use (not including the growing of timber).
- (2) Devoted to active agricultural use the preceding 3 years.

(3) Which fall into at least one of the categories of agricultural land in subsection (b).

(b) State agencies shall provide protection to prime agricultural land under this subchapter based upon the following levels of priority:

(1) *Preserved farmland (highest priority)*. Preserved farmland includes lands that fit into one of the following categories:

(i) Farmland that is restricted to agricultural use by an agricultural conservation easement that has been recorded in the appropriate county land records office. These easements include:

(A) Easements owned by the Commonwealth or county, and township under the authority of the Agricultural Area Security Law (3 P. S. §§ 901—915).

(B) Easements owned by any other “qualified conservation organization,” as that term is defined in section 170(h)(3) of the Internal Revenue Code (26 U.S.C.A. § 170(h)(3)). Qualified conservation organizations may include private nonprofit land conservation organizations, in addition to local governments and State governments.

(ii) Farmland that is restricted to agricultural use by deed restrictions that have been imposed under the authority of the act of January 19, 1968 (1967) (P. L. 992, No. 442) (32 P. S. §§ 5001—5013) and that have been recorded in the appropriate county land records office.

(2) *Farmland in agricultural security areas (second highest priority)*. Farmland approved by local government units after public review and comment according to the procedures in the Agricultural Area Security Law.

(3) *Farmland enrolled in the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (Clean and Green) (Act 319) programs or the act of January 13, 1966 (1965) (P. L. 1292, No. 515) (16 P. S. §§ 11941—11947) (Act 515) programs (third highest priority)*. Farmland enrolled for preferential tax assessments as land in “agriculture use” (Act 319) or “farmland” (Act 515).

(4) *Farmland planned for agriculture use and subject to effective agricultural zoning (fourth highest priority)*. Farmland designated for agricultural use in a comprehensive plan and zoning ordinance adopted in the Pennsylvania Municipalities Planning Code (53 P. S. §§ 10101—70105) that delineates an area of agriculturally valuable soils and existing farms.

(5) *Land capability Classes I, II, III and IV farmland and unique farmland (fifth highest priority)*. Land capability Classes I, II, III and IV farmland are mapped by the United States Department of Agriculture (USDA) Natural Resources Conservation Service (formerly Soil Conservation Service) and published in county soil surveys. “Unique farmland” is defined by the USDA Natural Resources Conservation Service as land other than prime farmland that is used for the production of specific high value food and fiber crops. The USDA Natural Resources Conservation Service has established a mechanism under which unique farmland is identified and mapped by interested county committees.

§ 7.304. Agricultural Land Condemnation Approval Board (ALCAB) review.

The ALCAB shall consider this policy in its review of agricultural lands proposed for condemnation authorized under section 306 of The Administrative Code of 1929 (71 P. S. § 106) (Act 100) and the Agricultural Security Law (3 P. S. §§ 901—915). Act 100 requires ALCAB's approval for the condemnation of agricultural lands for highways and solid and liquid waste disposal facilities. The Agricultural Security Law (3 P. S. §§ 901—915) requires ALCAB's approval for condemnation of land in agricultural security areas and land protected by agricultural conservation easements.

§ 7.305. Guidance documents.

Agencies under the Governor's jurisdiction shall amend their individual documents titled "Guidance for Implementation of the Agricultural Land Preservation Policy" within 6 months of the date of this subchapter. The amended guidance document shall be submitted to the Governor's Policy Office and the Department of Agriculture. This guidance document shall include:

- (1) A listing of agency actions including land acquisitions, planning, construction, permit review and financial assistance that may directly or indirectly impact prime agricultural lands.
- (2) A statement of agency guidelines and procedures which have been or will be instituted to eliminate or minimize impacts detrimental to the continued use of prime agricultural lands.
- (3) A description of any changes in statutes or regulations needed to implement the intent of this subchapter.

§ 7.306. Interagency committee.

The following Commonwealth agencies will participate in an interagency committee, chaired by the Department of Agriculture, to solve mutual problems in meeting the objectives of this subchapter:

- (1) The Governor's Policy Office.
- (2) The Governor's Budget Office.
- (3) The Department of Agriculture.
- (4) The Department of Community and Economic Development.
- (5) The Department of Conservation and Natural Resources.
- (6) The Department of Corrections.
- (7) The Department of Education.
- (8) The Department of Environmental Protection.
- (9) The Department of General Services.
- (10) The Department of Transportation.
- (11) The Pennsylvania Infrastructure Investment Authority.

§ 7.307. Cooperation by State agencies.

The Department of Agriculture is the lead agency for implementing this subchapter. Agencies under the Governor's jurisdiction shall fully support this agricultural land preservation policy and cooperate with the Secretary of Agriculture by providing assistance and information, as necessary, to carry out the function and responsibilities in this subchapter.

§ 7.308. Rescission.

Executive Order 1997-6 is rescinded.

[Pa.B. Doc. No. 03-1397. Filed for public inspection July 18, 2003, 9:00 a.m.]

PART I. GOVERNOR'S OFFICE
[4 PA. CODE CH. 7]
[EXECUTIVE ORDER NO. 2003-4]
Workplace Policy for HIV/AIDS

May 5, 2003

Whereas, the number of Pennsylvanians directly and indirectly affected by HIV infection and AIDS continues to grow, touching every segment of the population and all geographic areas of the State; and Pennsylvania is devoting significant resources and energies in the fight against HIV and AIDS; and

Whereas, the Human Immunodeficiency Virus (HIV) that causes AIDS is transmissible from person to person only in limited ways and is not transmissible through casual contact; and

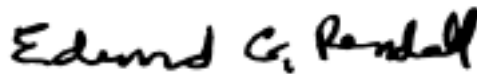
Whereas, currently there is no known cure for HIV/AIDS, available treatments have a positive effect on the course of the disease, and the scientific community has found that HIV/AIDS is a manageable, long-term, chronic fatal disease; and

Whereas, personal behavior changes and continuous public education, as well as the use of safe practices known as "universal precautions" or "standard precautions" during potential contact with blood and body fluids, are the best means currently available to prevent transmission of HIV; and

Whereas, other diseases related to HIV/AIDS, such as tuberculosis, are a significant workplace concern; and

Whereas, State employees must be prepared to work effectively with members of the public, clients, and coworkers with HIV or AIDS or who may be potentially infected or perceived to be infected with HIV or AIDS.

Now, Therefore, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby order and direct the establishment of the workplace policy for HIV/AIDS.



Governor

Fiscal Note: GOV 03-5. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 7. MISCELLANEOUS PROVISIONS

Subchapter FF. WORKPLACE POLICY FOR HIV/AIDS

§ 7.431. Overall HIV/AIDS and related disease workplace policy.

(a) This administration's policy is to provide a nondiscriminatory environment that positively addresses the needs of persons with HIV/AIDS, takes steps to reduce the spread of HIV and ensures a safe working environment for staff who work with persons with HIV/AIDS.

(b) Persons with HIV or AIDS are to be treated with respect and dignity and not to be denied any government service due to them. State agencies, consistent with the services they provide, are to take steps to address HIV/AIDS within the workplace or work environment, including educating employees about the disease and working with clients on behavior changes that reduce the chance of transmission of HIV and related diseases. State employees and persons served by the Commonwealth are not to be discriminated against on the basis of their actual or perceived HIV or AIDS

status. This prohibition is reaffirmed by the Americans With Disabilities Act of 1990 (42 U.S.C.A. §§ 12101—12213) and the Pennsylvania Human Relations Act (43 P. S. §§ 951—963). The confidentiality of persons with HIV/AIDS will be protected by State agencies.

(c) Commonwealth agencies will take steps to minimize the chance of on-the-job exposure to HIV through procedures known as universal or standard precautions. These steps also will reduce the chance of transmission of other diseases which are spread through blood or body fluids, such as Hepatitis B and Hepatitis C.

§ 7.432. Detailed provisions of HIV/AIDS and related diseases workplace policy.

(a) Individuals or State employees with HIV infection or AIDS, or perceived to have these conditions, will not be discriminated against with regard to State services and with regard to appointment, transfer, promotion or other employment action. The Americans With Disabilities Act of 1990 (42 U.S.C.A. §§ 12101—12213) and the Pennsylvania Human Relations Act (43 P. S. §§ 951—963) prohibit this discrimination, as does section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. § 794), The Civil Rights Restoration Act of 1987 (Pub. L. No. 100-259) (102 Stat. 28) and court decisions.

(b) No current or prospective State employee will be required to receive an HIV or AIDS antibody test, or other diagnostic test associated with HIV/AIDS, or reveal the results thereof as a condition of employment unless Federal or State law or regulations require this disclosure.

(c) State employees with HIV infection or AIDS may continue in their current jobs and work assignments as long as their health permits. If an employee with HIV/AIDS is unable to carry out essential job functions because of the illness, the employee will be afforded the same considerations as any other employee whose disability prevents the performance of essential job functions. Requests for reasonable accommodations should be honored to the extent practicable, consistent with the Americans With Disabilities Act of 1990 and the Commonwealth's Personnel Rules. State employees with HIV or AIDS who request a transfer or reassignment due to their medical condition should have these requests considered, consistent with agency needs.

(d) Managers, supervisors and employees should be given the name of a contact person within their agency who will operate as the agency HIV/AIDS coordinator providing information and assistance on HIV/AIDS-related issues and questions.

(e) Agencies will provide ongoing education and information to employees about HIV/AIDS and related diseases. Effective education should be directed at improving services to the public and reducing chances of transmission of disease in Commonwealth work settings. Of particular concern is education for those State employees who provide health care and counseling to clients at risk for HIV, those in law enforcement and criminal justice, and those who make or advise on policy decisions concerning HIV/AIDS and related diseases.

(f) Federal guidelines for protection against exposure to blood and body fluids shall be adopted by Commonwealth agencies. These guidelines are issued by the United States Public Health Service, Centers for Disease Control and Protection (CDC). Agencies shall take steps to ensure that staff who have the potential to be exposed to blood or body fluids implicated in the transmission of HIV follow specific Federal guidelines.

(g) State employees in need of more information on HIV/AIDS should contact their agency HIV/AIDS coordinator or human resource office. Additional information can be obtained from the Department of Health HIV/AIDS Factline, State and other public health centers and local HIV/AIDS support groups. State employees wanting an HIV or AIDS antibody test should be referred to the Department of Health's testing centers.

(h) If an HIV or AIDS antibody test is desired by an employee due to a documented incident in the workplace, the test can be conducted during paid work hours and if there is a charge, costs will be reimbursed by the Commonwealth.

(i) HIV and AIDS-related information concerning State employees, dependents and clients shall be handled with strict confidentiality by agencies. Employee records that include HIV/AIDS-related information may not be filed in the Official Personnel Folder. Supervisory and management staff shall assure confidentiality when handling HIV/AIDS-related information, whether regarding employees or in the course of providing agency services. Agencies shall follow the Confidentiality of HIV-Related Information Act (35 P. S. §§ 7601—7612) and applicable regulations related to protected health information.

§ 7.433. Agency HIV/AIDS policies.

State agencies that develop agency-specific workplace policies on HIV/AIDS or related diseases, either centrally or for field facilities, should ensure that their policies are consistent with Commonwealth policy. These policies are to be approved, in writing, by the Secretary of Administration and Secretary of Health before issuance.

§ 7.434. (Reserved).

§ 7.435. Responsibilities.

(a) The Secretary of Administration is responsible for updating and providing detail on the overall HIV/AIDS workplace policy for the Commonwealth and for coordinating education efforts for employees and contractors of State agencies on HIV/AIDS and related diseases.

(b) The Secretary of Health is responsible for establishing overall public health policy for the Commonwealth regarding HIV/AIDS and related diseases and for informing Commonwealth agencies of Federal and State public health requirements and guidelines for preventing transmission of HIV and related diseases in the workplace.

§ 7.436. Rescission.

Executive Order 1996-12, Workplace Policy for HIV/AIDS, is rescinded.

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