

## CHAPTER 7. MISCELLANEOUS PROVISIONS

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**Subchapter A. [Reserved]**

**Subchapter B. [Reserved]**

**Subchapter C. APPALACHIA PROGRAM**

- Sec.  
 7.21. Basic Commonwealth responsibilities.  
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**Authority**

The provisions of this Subchapter C issued under section 701 of the act of April 9, 1929 (P.L. 177, No. 175) (71 P.S. § 241), unless otherwise noted.

**Source**

The provisions of this Subchapter C adopted by Executive Directive No. 18, dated April 12, 1967, unless otherwise noted.

**§ 7.21. Basic Commonwealth responsibilities.**

Basic Commonwealth responsibilities mandated by the Appalachian Regional Development Act (40 U.S.C.A. § 1 et seq.) are to:

- (1) Have a State Member and an Alternate to be designated by the Governor on the Appalachian Regional Commission.
- (2) Certify any Development District established under Federal or State law in the Commonwealth. This shall be done by the Governor or his designated State Member.

(3) Certify any Development District Organization in a Development District established under Federal or State Law in the Commonwealth. This is to be done by the Governor or his designated State Member.

(4) Determine areas in this Commonwealth which have a significant potential for growth and in which the expected return for public investments will be the greatest.

(5) Be responsible for recommending Commonwealth and local projects within this State which will receive assistance under the Appalachian Program.

(6) Submit project proposals made by Commonwealth agencies, municipalities, and development districts for a grant or for other assistance for an Appalachian Program or project to the Appalachian Regional Commission through the State Member. The State Member is the person who, on behalf of the Governor, shall coordinate, review, assign priorities to, approve, and submit all project proposals to the Commission. Only project proposals which have been approved by the State Member shall be considered or approved by the Appalachian Regional Commission.

(7) Make recommendations, through the State Member, to the Appalachian Regional Commission concerning programs to be undertaken in this Commonwealth.

#### **Cross References**

This section cited in 4 Pa. Code § 7.23 (relating to responsibilities of State Member).

### **§ 7.22. State Member designation.**

(a) The Secretary of Commerce shall be the State Member for this Commonwealth who shall serve on the Appalachian Regional Commission.

(b) The Director of the Bureau of State and Federal Economic Aid, Department of Commerce, shall serve as Alternate State Member on the Appalachian Regional Commission.

### **§ 7.23. Responsibilities of State Member.**

(a) The State Member shall be responsible for Appalachian Policy development and analysis, and for exercising the responsibilities listed in § 7.21 (relating to basic Commonwealth responsibilities).

(b) The State Member on the Appalachian Regional Commission shall be responsible for obtaining information concerning Appalachian policies, programs, and projects from the Appalachian Regional Commission and from Federal, State and local agencies, and for disseminating such information as may be appropriate.

**§ 7.24. Responsibilities of Alternate State Member.**

The Alternate State Member shall, under appropriate policy direction by the State Member, be responsible for the daily administration and coordination of the Appalachia Program in this Commonwealth.

**§ 7.25. Project proposals.**

(a) A Commonwealth department or agency, municipality or development district shall be able to propose projects to be undertaken under the Appalachia Program. Projects shall be proposed to the State Member.

(b) The State Member shall refer the project proposals to the Executive Director of the State Planning Board for review and comment. The Executive Director of the State Planning Board, using State Planning Board Appalachia Staff, shall review the project proposal in reference to "A Plan for Public Investment in Appalachia Pennsylvania," and in relationship to development objectives established in the State Planning process, the Capital Program of the Commonwealth, and to proposals affecting the non-Appalachian area of this Commonwealth.

**§ 7.26. Project approval.**

(a) Projects shall be analyzed in conformity with "Appalachia Project Review Procedure in the Commonwealth of Pennsylvania."

(b) The State Member shall approve, disapprove or modify the project proposal and, if approved, transmit it to the Appalachia Regional Commission.

(c) If a project proposal involves expenditure of Commonwealth funds, as determined at the time of State Planning Board Staff review, the State Member shall act only after the project proposal has been reviewed and approved as to budget impact by the Budget Secretary.

**§ 7.27. Advise by State Planning Board.**

The State Planning Board shall advise the State Member in the following:

(1) Determining which areas in Appalachia within this Commonwealth have a significant potential for growth and where the expected return for the public investments made will be the greatest.

(2) Recommending general development priorities, policies and criteria for areas in Appalachia within this Commonwealth.

(3) Undertaking research, compiling and disseminating appropriate data to help Federal, State and local agencies.

**§ 7.28. Advise by Department of Community Affairs.**

The Department of Community Affairs shall advise and coordinate with the State Member in the following:

(1) Local government and community problems, plans and programs affecting Appalachia programs in each district, and relating to overall development of each district.

(2) Non-Appalachia-funded Federal and State programs administered in the district.

(3) Organizational structuring and jurisdictional boundaries of local development districts, recognizing that such districts represent multipurpose planning and development institutions for comprehensive community development objectives over and beyond Appalachia program objectives, and recognizing that these districts serve as uniform substate units for interdepartmental planning and administration in physical, economic and human resource development.

**§ 7.29. Departmental liaison.**

Each Commonwealth department or agency and the State Planning Board shall designate a liaison person for Appalachian program activities. The liaison persons shall constitute an ad hoc committee with the State Member serving as Vice Chairman. Meetings shall be held to discuss program policies and specific departmental approaches to development objectives. The liaison person shall be at the program policy level in his department or agency.

**§ 7.30. Substate development district.**

(a) The State Member shall certify a particular geographical entity as a substate development district using criteria approved by the Governor. He shall certify one particular organization to facilitate economic development in the substate district.

(b) The State Member shall encourage and approve formation of substate development districts to serve a particular geographic area and formation of one organization in each district to provide for overall economic development.

**§ 7.31. Federal grants for development districts.**

Since the substate development district concept is evident in several pieces of Federal legislation and in order to obtain a maximum coordination at the State level:

(1) A development district organization in the Commonwealth which seeks a Federal grant for administrative expenses shall submit its application to the State Member for his review and approval. The State Member shall then transmit it to the proper Federal authorities.

(2) A redevelopment area organization in the Commonwealth which seeks a Federal grant for administrative expenses shall submit its application, with the knowledge of the development district organization in whose geographical bounds the redevelopment area is located, to the State Member for his review and comment. The State Member shall transmit it to the Federal authorities.

(3) Upon Federal approval of administrative assistance, the grant shall be transmitted to the applicant through the State Member.

#### **Subchapter D. DISPLAY OF THE FLAG OF THE UNITED STATES**

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| Sec.  |   |
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| 7.42. | Where and when to display the flag.                       |
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| 7.46. | General prohibitions.                                     |
| 7.47. | Conduct during hoisting, lowering or passing of the flag. |

#### **Source**

The provisions of this Subchapter D adopted June 16, 1970, 1 Pa.B. 5, amended October 31, 1980, effective November 1, 1980, 10 Pa.B. 4248. Immediately preceding text appears at serial pages (34439) to (34444), inclusive, unless otherwise noted.

#### **§ 7.41. Applicability.**

This subchapter is in accordance with the act of March 4, 1970 (P. L. 128, No. 49) (44 P. S. § 48) and governs the display of the flag of the United States from a public ground or building of the Commonwealth, of a board, commission or authority of the Commonwealth created by the General Assembly, of a political subdivision of the Commonwealth, of a school district of the Commonwealth or from a ground or building of an institution which is State owned or receives State aid from the Commonwealth.

#### **§ 7.42. Where and when to display the flag.**

- (a) The flag shall be displayed:
  - (1) Daily, on or near the main administration building of every public institution.
  - (2) In or near every polling place on election days.
  - (3) During school days in or near every schoolhouse.
- (b) It is the universal custom to display the flag only from sunrise to sunset on buildings and on stationary flagstuffs in the open. However, when a patriotic effect is desired, the flag may be displayed 24 hours a day if properly illuminated during the hours of darkness.
- (c) The flag shall be hoisted briskly and lowered ceremoniously.
- (d) The flag may not be displayed on days when the weather is inclement, except when an all weather flag is displayed.
- (e) The flag shall be displayed on all days, especially on the following days:
  - (1) New Year's Day, January 1.
  - (2) Inauguration Day, January 20.

- (3) Lincoln's Birthday, February 12.
- (4) Washington's Birthday, third Monday in February.
- (5) Easter Sunday.
- (6) Mother's Day, second Sunday in May.
- (7) Armed Forces Day, third Saturday in May.
- (8) Memorial Day, half-staff until noon, the last Monday in May.
- (9) Flag Day, June 14.
- (10) Independence Day, July 4.
- (11) Labor Day, first Monday in September.
- (12) Constitution Day, September 17.
- (13) Columbus Day, second Monday in October.
- (14) Navy Day, October 27.
- (15) Veterans Day, November 11.
- (16) Thanksgiving Day, fourth Thursday in November.
- (17) Pennsylvania's Birthday, as a State, December 12.
- (18) Christmas Day, December 25.
- (19) Such other days as may be proclaimed by the President of the United States or the Governor of this Commonwealth.

**Source**

The provisions of this § 7.42 amended September 21, 1984, effective April 25, 1981, 14 Pa.B. 3424. Immediately preceding text appears at serial pages (55473) to (55474).

**§ 7.43. Location in relation to other flags.**

- (a) No other flag or pennant shall be placed above or, if on the same level, to the right of the flag of the United States.
- (b) No person may display the flag of the United Nations or another national or international flag equal, above or in a position of superior prominence or honor to, or in place of, the flag of the United States at any place within this Commonwealth.
- (c) The flag of the United States, when it is displayed with another flag against a wall from crossed staffs shall be on the right, the flag's own right, and its staff shall be in front of the staff of the other flag.
- (d) The flag of the United States shall be at the center and at the highest point of the group when a number of flags of States or localities or pennants of societies are grouped and displayed from staffs.
- (e) When flags of States, cities or localities or pennants of societies are flown on the same halyard with the flag of the United States, the latter shall always be at the peak. When the flags are flown from adjacent staffs, the flag of the United States shall be hoisted first and lowered last. No such flag or pennant may be placed above or to the right of the flag of the United States.
- (f) When flags of two or more nations are displayed, they shall be flown from separate staffs of the same height. The flags should be of approximately

equal size. International usage forbids the display of the flag of one nation above that of another nation in time of peace.

(g) When carried in a procession with another flag or flags, the flag of the United States shall be on the marching right, that is, the flag's own right, or, if there is a line of other flags, in front of the center of that line.

**§ 7.44. Manner of display.**

(a) The flag may not be:

(1) Displayed on a float in a parade except from a staff; or

(2) Draped over the hood, top, sides, or back of a vehicle or of a railroad train or a boat. When the flag is displayed on a motorcar, the staff shall be fixed firmly to the chassis or clamped to the right fender.

(b) When the flag of the United States is displayed from a staff projecting horizontally or at an angle from a window sill, balcony, or front of a building, the union of the flag shall be placed at the peak of the staff unless the flag is at half-staff. When the flag is suspended over a sidewalk from a rope extending from a house to a pole at the edge of a sidewalk, the flag shall be hoisted out, union first, from the building.

(c) When used on a speaker's platform, the flag, if displayed flat, shall be displayed above and behind the speaker. When displayed from a staff in a church or public auditorium, the flag of the United States should hold the position of superior prominence, in advance of the audience, and in the position of honor at the right of the clergyman or speaker as he faces the audience. Another flag so displayed should be placed on the left of the clergyman or speaker or to the right of the audience.

(d) When displayed either horizontally or vertically against a wall, the union shall be uppermost and to the flag's own right, that is, to the left of the observer. When displayed in a window, the flag shall be displayed in the same way, with the union or blue field to the left of the observer in the street.

(e) When the flag is displayed over the middle of a street, it shall be suspended vertically with the union to the north in an east and west street or to the east in a north and south street.

(f) When the flag is suspended across a corridor or lobby in a building with only one main entrance, it shall be suspended vertically with the union of the flag to the left of the observer when entering. If the building has more than one main entrance, the flag shall be suspended vertically near the center of the corridor or lobby with the union to the north, when entrances are to the east and west or to the east when entrances are to the north and south. If there are entrances in more than two directions, the union shall be to the east.

(g) The flag should form a distinctive feature of the ceremony of unveiling a statue or monument, but it shall not be used as the covering for the statue or monument.



(h) When the flag is used to cover a casket, it shall be so placed that the union is at the head and over the left shoulder. The flag may not be lowered into the grave or allowed to touch the ground.

**§ 7.45. Display of flag at half-staff.**

(a) The flag, when flown at half-staff, shall be first hoisted to the peak for an instant and then lowered to the half-staff position. The flag shall be again raised to the peak before it is lowered for the day.

(b) On Memorial Day, the flag shall be displayed at half-staff until noon only, then raised to the top of the staff.

(c) By order of the President, the flag shall be flown at half-staff upon the death of principal figures of the United States Government and the Governor of a State, territory, or possession, as a mark of respect to their memory.

(d) In the event of the death of other officials or foreign dignitaries, the flag is to be displayed at half-staff according to Presidential instructions or orders, or in accordance with recognized customs or practices not inconsistent with law.

(e) The flag shall be flown at half-staff upon the death of the Governor from the day of death until interment.

(f) In the event of the death of a present or former official of the government of this Commonwealth, the Governor may proclaim that the National flag shall be flown at half-staff.

(g) The flag shall be flown at half-staff for the period indicated upon the death of any of the following officials of the United States:

(1) The President or a former President, for 30 days from the day of death.

(2) The Vice President, the Chief Justice or a retired Chief Justice of the United States or the Speaker of the House of Representatives, for 10 days from the day of death.

(3) An Associate Justice of the Supreme Court, a Secretary of an executive or military department, a former Vice President or the Governor of a State, territory or possession, from the day of death until interment.

(4) A Member of Congress, on the day of death and the following day.

(h) Special days designated in accordance with this section for flying the flag at half-staff may be proclaimed by the Governor in a manner that he deems appropriate.

**§ 7.46. General prohibitions.**

(a) No disrespect may be shown to the flag of the United States; the flag may not be dipped to any person or thing. Regimental colors, state flags and organizational or institutional flags may be dipped as a mark of honor.

(b) The flag may not:

(1) Be displayed with the union down, except as a signal of dire distress in instances of extreme danger to life or property.

- (2) Touch anything beneath it, such as the ground, the floor, water or merchandise.
  - (3) Be carried flat or horizontally, but always aloft and free.
  - (4) Be used as wearing apparel, bedding or drapery. It shall never be festooned, drawn back, nor up in folds, but always allowed to fall free. Bunting of blue, white, and red, always arranged with the blue above, the white in the middle, and red below, shall be used for covering a speaker's desk, draping the front of a platform, and for decoration in general.
  - (5) Be fastened, displayed, used, or stored in such a manner as to permit it to be easily torn, soiled, or damaged in any way.
  - (6) Be used as a covering for a ceiling.
  - (7) Have placed upon it nor on a part of it, nor attached to it a mark, insignia, letter, work, figure, design, picture or drawing of any nature.
  - (8) Be used as a receptacle for receiving, holding, carrying or delivering anything.
  - (9) Be used for advertising purposes in any manner whatsoever. It shall not be embroidered on such articles as cushions or handkerchiefs and the like, printed or otherwise impressed on paper napkins or boxes or anything that is designed for temporary use and discard. Advertising signs may not be fastened to a staff or halyard from which the flag is flown.
  - (10) Be used as a costume or athletic uniform. However, a flag patch may be affixed to the uniform of military personnel, firemen, policemen and members of patriotic organizations.
- (c) When a flag is in such condition that it is no longer a fitting emblem for display, it shall be destroyed in a dignified way, preferably by burning.

#### **§ 7.47. Conduct during hoisting, lowering or passing of the flag.**

During the ceremony of hoisting or lowering the flag or when the flag is passing in a parade or in review, all persons present, except those in uniform, shall face the flag and stand at attention with the right hand over the heart. Those present in uniform shall render the military salute. When not in uniform, men shall remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Aliens shall stand at attention. The salute to the flag in a moving column shall be rendered at the moment the flag passes.

#### **Subchapter E. [Reserved]**

##### **Source**

The provisions of this Subchapter E adopted by Proclamation dated August 31, 1970, 1 Pa.B. 265; reserved November 6, 1987, effective November 7, 1987, 17 Pa.B. 4551. Immediately preceding text appears at serial page (120061).

§§ 7.61—7.63. [Reserved].

**Subchapter F. [Reserved]**

**Source**

The provisions of this Subchapter F adopted by Executive Order dated April 29, 1971, 1 Pa.B. 1265, amended by Executive Order No. 1978-7, as amended, dated March 20, 1978, 8 Pa.B. 1148; reserved by Executive Order No. 1980-18, dated September 3, 1980, effective September 3, 1980, 10 Pa.B. 4180. Immediately preceding text appears at serial page (41453).

§ 7.71. [Reserved].

§ 7.72. [Reserved].

**Subchapter G. [Reserved]**

**Subchapter H. [Reserved]**

**Subchapter I. [Reserved]**

**Subchapter J. [Reserved]**

Sec.  
7.111. [Reserved].  
7.112. [Reserved].  
7.113. [Reserved].  
7.114. [Reserved].  
7.115. [Reserved].  
7.116. [Reserved].  
7.117. [Reserved].  
7.118. [Reserved].  
7.131. [Reserved].  
7.132. [Reserved].  
7.133. [Reserved].  
7.134. [Reserved].  
7.135. [Reserved].  
7.136. [Reserved].  
7.137. [Reserved].  
7.141. [Reserved].  
7.142. [Reserved].  
7.143. [Reserved].  
7.144. [Reserved].

- 7.145. [Reserved].
- 7.146. [Reserved].
- 7.147. [Reserved].
- 7.148. [Reserved].

**Source**

The provisions of this Subchapter J amended through March 29, 1974, 4 Pa.B. 576, unless otherwise noted.

**§ 7.111. [Reserved].**

**Source**

The provisions of this § 7.111 adopted by Executive Order No. 1979-1, dated February 6, 1979, effective February 6, 1979, 9 Pa.B. 543; amended by Executive Order No. 1987-11, dated May 13, 1987, effective May 13, 1987, 17 Pa.B. 3103; amended by Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076; reserved by Executive Order No. 2020-03, dated June 17, 2020, 50 Pa.B. 3200. Immediately preceding text appears at serial page (380748).

**§ 7.112. [Reserved].**

**Source**

The provisions of this § 7.112 adopted by Executive Order No. 1979-1, dated February 6, 1979, effective February 6, 1979, 9 Pa.B. 543; amended by Executive Order No. 1987-11, dated May 13, 1987, effective May 13, 1987, 17 Pa.B. 3103; amended by Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076; reserved by Executive Order No. 2020-03, dated June 17, 2020, 50 Pa.B. 3200. Immediately preceding text appears at serial pages (380748) to (380750).

**§ 7.113. [Reserved].**

**Source**

The provisions of this § 7.113 adopted by Executive Order No. 1979-1, dated February 6, 1979, effective February 6, 1979, 9 Pa.B. 543; amended by Executive Order No. 1987-11, dated May 13, 1987, effective May 13, 1987, 17 Pa.B. 3103; amended by Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076; reserved by Executive Order No. 2020-03, dated June 17, 2020, 50 Pa.B. 3200. Immediately preceding text appears at serial page (380750).

**§ 7.114. [Reserved].**

**Source**

The provisions of this § 7.114 adopted by Executive Order No. 1979-1, dated February 6, 1979, effective February 6, 1979, 9 Pa.B. 534; amended by Executive Order No. 1983-4, dated February 17, 1983, effective February 17, 1983, 13 Pa.B. 952; amended by Executive Order No. 1987-11, dated May 13, 1987, effective May 13, 1987, 17 Pa.B. 3103; reserved by Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial page (127753).

**§ 7.115. [Reserved].****Source**

The provisions of this § 7.115 adopted by Executive Order No. 1979-1, dated February 6, 1979, effective February 6, 1979, 9 Pa.B. 543; amended by Executive Order No. 1987-11, dated May 13, 1987, effective May 13, 1987, 17 Pa.B. 3103; reserved Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial page (127753).

**§ 7.116. [Reserved].****Source**

The provisions of this § 7.116 adopted by Executive Order No. 1979-1, dated February 6, 1979, effective February 6, 1979, 9 Pa.B. 543; amended by Executive Order No. 1987-11, dated May 13, 1987, effective May 13, 1987, 17 Pa.B. 3103; amended by Executive Order 1987-11 (Revised), dated July 10, 1987, effective July 10, 1987, 17 Pa.B. 3187; reserved Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial pages (127753) to (127754).



**§ 7.117. [Reserved].****Source**

The provisions of this § 7.117 adopted by Executive Order No. 1979-1, dated February 6, 1979, effective February 6, 1979, 9 Pa.B. 543; amended by Executive Order No. 1987-11, dated May 13, 1987, effective May 13, 1987, 17 Pa.B. 3103; reserved Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial pages (127754) to (127755).

**§ 7.118. [Reserved].****Source**

The provisions of this § 7.118 adopted by Executive Order No. 1987-11, dated May 13, 1987, effective May 13, 1987, 17 Pa.B. 3103; reserved Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial page (127755).

**§ 7.131. [Reserved].****Source**

The provisions of this § 7.131 adopted March 29, 1974, 4 Pa.B. 576; amended by Executive Order No. 1979-4, dated June 7, 1979, effective June 30, 1979, 9 Pa.B. 2144; amended by Executive Order No. 1987-17, dated August 28, 1987, effective August 28, 1987, 18 Pa.B. 2288; reserved by Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial page (127755).

**§§ 7.132 and 7.133. [Reserved].****Source**

The provisions of these §§ 7.132 and 7.133 adopted March 29, 1974, 4 Pa.B. 576; amended by Executive Order No. 1979-4, dated June 7, 1979, effective June 30, 1979, 9 Pa.B. 2144; amended by Executive Order No. 1987-17, dated August 28, 1987, effective August 28, 1987, 18 Pa.B. 2288; reserved by Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial pages (127755) to (127756).

**§ 7.134. [Reserved].****Source**

The provisions of this § 7.134 adopted March 29, 1974, 4 Pa.B. 576; amended by Executive Order No. 1979-4, dated June 7, 1979, effective June 30, 1979, 9 Pa.B. 2144; amended by Executive Order No. 1979-4, dated September 12, 1979, effective October 6, 1979, 9 Pa.B. 3362; amended by Executive Order No. 1987-17, dated August 28, 1987, effective August 28, 1987, 18 Pa.B. 2288; reserved by Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial page (127756).

**§ 7.135. [Reserved].****Source**

The provisions of this § 7.135 adopted March 29, 1974, 4 Pa.B. 576; amended by Executive Order No. 1979-4, dated June 7, 1979, effective June 30, 1979, 9 Pa.B. 2144; amended February 17, 1983, 13 Pa.B. 952; amended by Executive Order No. 1987-17, dated August 28, 1987, effective August 28, 1987, 18 Pa.B. 2288; reserved by Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial pages (127756) to (127757).

**§ 7.136. [Reserved].****Source**

The provisions of this § 7.136 adopted March 29, 1974, 4 Pa.B. 576; amended by Executive Order No. 1979-4, dated June 7, 1979, effective June 30, 1979, 9 Pa.B. 2144; amended by Executive Order No. 1987-17, dated August 28, 1987, effective August 28, 1987, 18 Pa.B. 2288; reserved by Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial page (127757).

**§ 7.137. [Reserved].****Source**

The provisions of this § 7.137 adopted March 29, 1974, 4 Pa.B. 576; amended by Executive Order No. 1979-4, dated June 7, 1979, effective June 30, 1979, 9 Pa.B. 2144; amended by Executive Order No. 1987-17, dated August 28, 1987, effective August 28, 1987, 18 Pa.B. 2288; reserved by Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial pages (127757) to (127758).

**§ 7.138. [Reserved].****Source**

The provisions of this § 7.138 adopted by Executive Order No. 1987-17, dated August 28, 1987, effective August 28, 1987, 18 Pa.B. 2288; reserved by Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial page (127758).

**§ 7.141. [Reserved].****Source**

The provisions of this § 7.141 adopted by Executive Order No. 1988-2, dated February 26, 1988, effective February 26, 1988, 18 Pa.B. 1821; amended by Executive Order No. 1988-2, dated March 2, 1988, effective March 2, 1988, 18 Pa.B. 1823; corrected May 20, 1988, effective February 26, 1988, 18 Pa.B. 2287; reserved by Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial page (127758).



**§§ 7.142 and 7.143. [Reserved].****Source**

The provisions of these §§ 7.142 and 7.143 adopted by Executive Order No. 1988-2, dated February 26, 1988, effective February 26, 1988, 18 Pa.B. 1821; corrected May 20, 1988, effective February 26, 1988, 18 Pa.B. 2287; reserved by Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial page (160999).

**§ 7.144. [Reserved].****Source**

The provisions of this § 7.144 adopted by Executive Order No. 1988-2, dated February 26, 1988, effective February 26, 1988, 18 Pa.B. 1821; corrected May 20, 1988, effective February 26, 1988, 18 Pa.B. 2287; amended by Executive Order No. 1988-2, dated June 14, 1991, effective June 14, 1991, 21 Pa.B. 3133; reserved by Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial pages (160999) to (161000).

**§ 7.145. [Reserved].****Source**

The provisions of this § 7.145 adopted by Executive Order No. 1988-2, dated February 26, 1988, effective February 26, 1988, 18 Pa.B. 1821; corrected May 20, 1988, effective February 26, 1988, 18 Pa.B. 2287; reserved by Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial page (161000).

**§ 7.146. [Reserved].****Source**

The provisions of this § 7.146 adopted by Executive Order No. 1988-2, dated February 26, 1988, effective February 26, 1988, 18 Pa.B. 1821; amended by Executive Order No. 1988-2, dated March 2, 1988, effective March 2, 1988, 18 Pa.B. 1823; corrected May 20, 1988, effective February 26, 1988, 18 Pa.B. 2287; amended by Executive Order No. 1988-2, dated June 14, 1991, effective June 14, 1991, 21 Pa.B. 3133; reserved by Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial pages (161000) to (161001).

**§§ 7.147 and 7.148. [Reserved].****Source**

The provisions of these §§ 7.147 and 7.148 adopted by Executive Order No. 1988-2, dated February 26, 1988, effective February 26, 1988, 18 Pa.B. 1821; reserved by Executive Order No. 1995-1, dated February 27, 1995, 25 Pa.B. 1076. Immediately preceding text appears at serial page (161001).

**Subchapter K. CODE OF CONDUCT FOR APPOINTED OFFICIALS  
AND STATE EMPLOYEES**

**RESTRICTED ACTIVITIES: CONFLICTS OF INTEREST**

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- 7.179. Rescissions.

**Source**

The provisions of this Subchapter K adopted by Executive Order No. 1974-6 dated April 10, 1974, 4 Pa.B. 798, amended by Executive Order No. 1980-18 dated September 3, 1980, effective September 3, 1980, 10 Pa.B. 4020, unless otherwise noted.

**Cross References**

This subchapter cited in 7 Pa. Code § 106.3 (relating to eligibility); 7 Pa. Code § 106.44 (relating to conflict of interest); 7 Pa. Code § 106.109 (relating to conflict of interest); 7 Pa. Code § 106.140 (relating to conflict of interest); 7 Pa. Code § 106.170 (relating to conflict of interest); 7 Pa. Code § 130c.4 (relating to conflict of interest); 7 Pa. Code § 138i.9 (relating to conflict of interest); 7

Pa. Code § 138j.9 (relating to conflict of interest); 7 Pa. Code § 138k.9 (relating to conflict of interest); 22 Pa. Code § 233.111 (relating to code of conduct and Commissioners' rights); and 25 Pa. Code § 269a.111 (relating to conflict of interest).

## RESTRICTED ACTIVITIES: CONFLICTS OF INTEREST

### Notes of Decisions

Contract entered into between expert and High Speed Intercity Rail Passenger Commission did not violate Governor's Code of Conduct since Commission was a legislative and not executive agency. *Department of Commerce v. Casey*, 624 A.2d 247, 253 (Pa. Commw. 1993).

### § 7.151. Adverse pecuniary interest.

An employee, appointee or official in the Executive Branch of the Commonwealth may not do the following:

- (1) Engage directly or indirectly in business transactions or private arrangement for profit which accrues from or is based upon his official position of authority.
- (2) Participate in the negotiation of our decision to award contracts, the settlement of claims or charges in contracts, the making of loans, the granting of subsidies, the fixing of rates, or the issuance of permits, certificates, guarantees or other things of value to, with or for an entity in which he has a financial or personal interest.
- (3) Hold any pecuniary interest in, or own shares or securities issued by, an entity regulated by 4 Pa.C.S. Part II (relating to the Pennsylvania Race horse Development and Gaming Act) (herein, a "regulated gaming entity"). This provision does not apply to interests held:
  - (i) In mutual funds when the value of the interest owned does not exceed 1% of the total fair market value of the regulated gaming entity.
  - (ii) Through defined benefit pension plans.
  - (iii) Through a deferred compensation plan organized and operated under section 457 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 457).
  - (iv) Through a tuition account plan organized and operated under section 529 of the Internal Revenue Code (26 U.S.C.A. § 529).
  - (v) Through a plan described in section 401(k) of the Internal Revenue Code (26 U.S.C.A. § 401(k)).
  - (vi) In an employer profit-sharing plan qualified under the Internal Revenue Code.
  - (vii) In a regulated gaming entity prior to July 6, 2004, by individuals other than the following:
    - (A) Employees of the Pennsylvania State Police or the Department of Revenue whose duties include any aspect of the gaming industry.
    - (B) Members of the State Horse Racing Commission or the State Harness Racing Commission and their respective staff.
    - (C) Public officials appointed by the Governor and Commonwealth employees under the Governor's jurisdiction.

(D) Members of the board of the Public School Employees Retirement System and its employees.

(E) Members of the board of the State Employees Retirement System and its employees.

(F) Members of the board of the Independent Regulatory Review Commission and its employees.

**Source**

The provisions of this § 7.151 amended by Executive Order No. 1980-18, Revision No. 2, dated July 5, 2004, 34 Pa.B. 4013; amended by Executive Order No. 1980-18 Revision No. 3, dated April 25, 2005, 36 Pa.B. 4168; amended by Executive Order No. 1980-18 Revision 3 amended, dated May 9, 2007, 38 Pa.B. 2230. Immediately preceding text appears at serial pages (322315) to (322316).

**Cross References**

This section cited in 4 Pa. Code § 7.159 (relating to enforcement).

**§ 7.152. Representation of interests.**

No employe, appointee or official in the Executive Branch of the Commonwealth may represent or act as agent for a private interest, whether for compensation or not, in a transaction in which the State has a direct and substantial interest and which could be reasonably expected to result in a conflict between a private interest of the official or employe and his official State responsibility.

**Cross References**

This section cited in 4 Pa. Code § 7.159 (relating to enforcement).

**§ 7.153. Gifts and favors.**

(a) *Policy.*

(1) No employee, appointee or official of the Executive Branch of the Commonwealth shall accept or solicit cash or cash equivalent; a gift or other item of more than nominal or de minimis value; admission to a recreational event; a personal loan; or a personal or professional service in connection with their employment, from another person or entity whom the employee, appointee or official knows:

(i) Is seeking to obtain business or an outcome from or has financial relations with the Commonwealth.

(ii) Conducts operations or activities that are regulated by the Commonwealth.

(iii) Is engaged, either as principal or attorney, in proceedings before the Commonwealth or in court proceedings in which the Commonwealth is an adverse party.

(iv) Has interests that may be substantially affected by the performance or nonperformance of the official duty of the employee, appointee or official.

(b) *Limited exceptions.*

(1) Ordinary social hospitality may be accepted only when incidental to officially sanctioned Commonwealth trainings (for example, approved continuing education and working lunches); or in connection with an official government function or other event in which the employee, appointee or official is representing the Commonwealth in an official capacity.

(2) Gifts from a friend, parent, spouse, child or other close relative may be accepted when the circumstances make it clear that the motivation for the action is a family or personal relationship.

(3) Receipt of a plaque, certificate or other similar item of de minimis value may be accepted for recognition of the employee's, appointee's or official's professional work or personal community service.

(4) Tangible items, benefits or discounts which are unsolicited may be accepted when the same or similar benefit or discount is available to members of the general public.

(5) Food or refreshment of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meetings may be accepted and recreation, entertainment, food or refreshments of nominal value in the furtherance of a charitable event may be accepted.

(6) Unsolicited advertising or promotional material, such as pens, pencils, note pads, mugs, t-shirts, calendars and other items of nominal intrinsic value may be accepted.

(7) Bona fide reimbursement for actual expenses for travel and other necessary subsistence may be received if it is compatible with other restrictions set forth in this section and if no Commonwealth payment or reimbursement is made. However, an employee, appointee or official may not be reimbursed and payment may not be made on his/her behalf for excessive personal living expenses, gifts, entertainment or other personal benefits nor may an employee, appointee or official be reimbursed by a person for travel on official business under Commonwealth orders.

(8) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement from a charitable, religious, professional, social, fraternal or nonprofit educational, recreational, public service or civic organization is permitted.

(9) A voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness or retirement may be accepted.

(10) The Commonwealth reserves the right to make determinations regarding the appropriate application of these exceptions in its sole discretion.

(c) *Applicability.* The limited exceptions contained in subsection (b) are not applicable to any gifts, cash, cash equivalent, discounts, loans, services or any other items or other benefits of any kind or of any value received from a lobbyist, lobbying firm or principal as those terms are defined by 65 Pa.C.S. § 13A03 (relating to definitions).

(d) *Personal time.* This policy does not prohibit attendance at or acceptance of ordinary social hospitality in accordance with the guidelines set forth in this policy, at functions, events or fundraisers scheduled on the employee's, appointee's or official's personal time unrelated to the individual's Commonwealth employment.

(e) *Financial disclosure forms.* Nothing in this policy shall override an employee's, appointee's or official's duty to comply with and timely file Federal, State or local, financial disclosure forms.

(f) *Definitions.*

(1) *Cash equivalent.* An asset that is readily convertible to cash (for example, credit/debit card, prepaid gift card for any commercial establishment, foreign currency, certified check, cashier's check, money order or similar negotiable instrument).

(2) *De minimis.* An item of nominal value or a meal which is equal to or less in value than that of ordinary social hospitality.

(3) *Gift.* A gratuity, entertainment, loans or any other thing of monetary value, including in-kind gifts offered to an employee, during the course of their employment.

(4) *Ordinary social hospitality.* The value of food or refreshment not to exceed the General Services Administration rate for the applicable time period and location.

(5) *Person.* An individual, partnership, corporation, non-profit organization, political subdivision or other entity, but does not include State agencies or agencies of the United States government.

(6) *Personal loan.* A temporary financial assistance requiring repayment to an individual or organization, with or without interest.

(7) *Personal or professional service.* An intangible service of economic value or benefit performed by a person or business.

(8) *Recreational event.* A professional or semi-professional sports event, theater event, musical concert or similar event, including transportation thereto and therefrom.

(9) *Tangible item.* A material item or item of more than nominal or de minimis intrinsic value.

#### Source

The provisions of this § 7.153 amended by Executive Order No. 2015-01, dated January 20, 2015, 45 Pa.B. 655; amended by Executive Order No. 2023-04, dated January 20, 2023, 53 Pa.B. 821. Immediately preceding text appears at serial pages (376106) to (376107).

#### Cross References

This section cited in 4 Pa. Code § 7.159 (relating to enforcement).

### § 7.154. Misuse of information.

No employe, appointee or official in the Executive Branch of the Commonwealth may for his own personal gain or for the gain of others, use an information obtained as a result of service or employment with the Commonwealth and not available to the public at large or divulge the information in advance of the time prescribed for its authorized release.

#### Cross References

This section cited in 4 Pa. Code § 7.159 (relating to enforcement).

**§ 7.155. Misuse of office facilities and equipment.**

No employe, appointee or official in the Executive Branch of the Commonwealth shall use any Commonwealth equipment, supplies or properties for his own private gain or for other than officially designated purposes.

**Cross References**

This section cited in 4 Pa. Code § 7.159 (relating to enforcement).

**§ 7.156. Supplementary employment.**

No employe, appointee or official in the Executive Branch of the Commonwealth shall engage in or accept private employment or render services for a private interest unless such employment or service is approved in advance by the Head of the Agency to which the affected person is assigned. Supplementary employment may be undertaken only when not in conflict with the conditions of employment regulations promulgated by the Executive Board and, if applicable, the Civil Service Commission. Furthermore, supplementary employment may be undertaken only when not in conflict with the conditions of employment or regulations promulgated by the government agency by which such official or employe is employed. This section shall not prohibit individuals appointed to serve part time on Boards and Commissions from pursuing their usual occupation; however, they will not perform services or receive compensation from persons or institutions which they regulate or otherwise conduct themselves in a manner inconsistent with the impartial administration of their official duties.

**Notes of Decisions**

Since this section prohibits outside employment without advance agency head approval, failure by an agency head to act on an approval application within the 15 working day period provided for in Management Directive 515-18 does not constitute constructive approval. *Sever v. Department of Environmental Resources*, 514 A.2d 656, 658 (Pa. Commw. 1986).

**Cross References**

This section cited in 4 Pa. Code § 7.159 (relating to enforcement).

**§ 7.157. Honoraria.**

No employe, appointee or official in the Executive Branch of the Commonwealth shall accept honoraria, speaking fees or any other valuable consideration. Nor shall any appointed official or State employe receive compensation for consultation which draws upon ideas or data derived from his official duties. However, Commonwealth officials or employes may designate nonprofit, charitable organizations to be recipients of honoraria or speaking fees offered to such Commonwealth employes or officials by groups which customarily offer such honoraria to guest speakers. This paragraph does not apply to individuals appointed to serve on Boards and Commissions who may not, however, accept such honoraria from groups that are regulated by the Board or Commission on which they serve,

or which could otherwise raise a legitimate question about their ability to fairly and impartially perform their official duties.

**Cross References**

This section cited in 4 Pa. Code § 7.159 (relating to enforcement).

**§ 7.158. Political activity.**

No employe, appointee or official in the Executive Branch of the Commonwealth may:

- (1) Engage in any political activity such as campaigning, fundraising, canvassing or poll watching during his specified working hours, or which is determined by the Secretary of Administration to conflict or interfere with the ability of the affected official or employe to effectively and efficiently carry out the duties and functions of his position.
- (2) In any manner coerce another person in government service or employ to contribute time, money or services to a political candidate or campaign.

**Source**

The provisions of this § 7.158 amended by Executive Order No. 1980-18, dated and effective May 16, 1984, 14 Pa.B. 2036. Immediately preceding text appears at serial page (55488).

**Cross References**

This section cited in 4 Pa. Code § 7.159 (relating to enforcement).

**§ 7.159. Enforcement.**

Officials, appointees or employes who refuse or fail to comply with the regulations set forth in §§ 7.151—7.158 (relating to restricted activities: conflicts of interest) shall be subjected to disciplinary action including, but not limited to, reprimands, suspensions and termination.

**FINANCIAL DISCLOSURE**

**§ 7.161. Executive branch—statements of financial interest.**

The following officials and employes of the Commonwealth shall file statements of financial interest with the personnel office of their respective department, agency, board or commission, or other office as designated in the following:

- (1) Governor.
- (2) Lieutenant Governor.
- (3) Heads of agencies and departments, their respective deputy secretaries, all Commonwealth officials or employes at the level of division chief and above, and all attorneys, press secretaries, legislative liaisons, and executive and special assistants.
- (4) Chairpersons and members of compensated boards and commissions under the Governor's jurisdiction.



(5) Executive directors, counsel and administrative secretaries of compensated boards and commissions under the Governor's jurisdiction.

(6) Employees of all classes required by the Office of Administration to file financial disclosure under the act of October 4, 1978 (P. L. 883, No. 170) (65 P. S. §§ 401—413).

**Source**

The provisions of this § 7.161 amended by Executive Order No. 1980-18, dated and effective May 16, 1984, 14 Pa.B. 2036. Immediately preceding text appears at serial page (55489).

**§ 7.162. Additional filings.**

The Governor may require other officials or employees of the Commonwealth in the executive branch to file financial disclosure statements.

**§ 7.163. Filing procedure.**

(a) Financial disclosure statements shall be filed on forms promulgated by the Secretary of Administration and provided by the Office of Personnel of the department or agency to which the affected official or employee is assigned, which office shall receive, compile and maintain copies of the statements. Personnel offices shall provide necessary assistance in assuring that financial disclosure statements are filed properly, accurately and completely. Copies of statements filed shall be forwarded to the department or agency head and their chief counsel for review. If either of them determines a statement is not in compliance with the disclosure requirements of this order, or that a conflict of interest could exist, copies of the statement shall be forwarded to the secretary of the department, the Secretary of Administration, and the General Counsel, who shall determine whether the statement is in compliance or whether a conflict exists and take appropriate action.

(b) Cabinet officials, as well as the Governor and Lieutenant Governor, shall submit statements of financial interest to the Secretary of Administration and the General Counsel. The Secretary and Counsel shall review the statements and take appropriate action to insure compliance and to insure against any conflict of interest.

(c) The Secretary of Administration and the General Counsel shall submit statements to the Governor.

(d) Financial statements filed under this section may not be open to persons for commercial purposes; however, they shall be available, upon request, for inspection by accredited reporters employed by general news organizations, as well as the Secretary of Administration and the General Counsel, and, in the case of the Department of Transportation, the Inspector General. Persons required to file statements under this section shall do so within 30 days from the date they assume office, and shall file the statements on May 1 of each year thereafter, for the preceding calendar year, for the duration of their term of office.

(e) In the event a covered person fails or refuses to file a financial statement, the appropriate official shall notify the person of his noncompliance within 10 days of the date of notice. Failure of a covered person to comply after receipt of the notice may be a basis for removal from office. The head of the department or agency involved shall report failure of any person to comply to the Secretary of Administration and the General Counsel.

**Source**

The provisions of this § 7.163 amended by Executive Order No. 1980-18, dated and effective May 16, 1984, 14 Pa.B. 2036. Immediately preceding text appears at serial pages (55489) and (63828).

**§ 7.164. Required disclosures.**

A person subject to this subchapter shall disclose the following information, as well as information as may be required by the State Ethics Commission:

(1) *Real estate property interests.* In-State and out-of-State real estate property interests including revenue-producing leased facilities and interests in gas, oil, coal or other mineral royalty or lease. The home of principal residence is to be excluded. The required schedule must include, for each disclosed interest:

(i) The name and nature of the property, its street or mailing address and a description thereof.

(ii) The nature and extent of the interest held, including conditions or encumbrances upon the property interest and partners in the interest.

(iii) The identity of the person from whom the interest was acquired, the data thereof and the manner of the transfer or conveyance.

(iv) The transfer of real property interest since the last required report was filed or since appointment or election, whichever occurs later. A description of the transferred interest, consideration received for it and the identity of the transferee is required.

(2) *Personal economic interests.* Investments, including, but not limited to, stocks, notes, bonds, consulting arrangements and the like, in an in-State or out-of-State business entity, whether or not the entity is involved in a transaction involving the Commonwealth. The required schedule must include for each interest:

(i) The name and address of the principal office of the business entity.

(ii) The nature of interest held, including conditions and encumbrances.

(iii) The transfer of an interest or portion of an interest since the last required report was filed or since appointment or election, whichever is later. A description of the transferred interest and the identity of the transferee must be required.

(3) *Business interests.* Interests, including, but not limited to, stocks, notes, bonds, partnerships, joint ownerships, proprietorships and the like in a business entity or not-for-profit entity doing business with the Commonwealth, if known. For purposes of this schedule, the term includes not only a personal

economic interest but also interests such as nonpaid memberships on boards of directors of business entities or not-for-profit entities. The required schedule shall include for each interest:

- (i) The name and address of the principal office of the business entity.
- (ii) The nature and dollar value of interest held, including conditions and encumbrances on it.
- (iii) The transfer of an interest or portion of an interest since the last required report was filed or since appointment or election, whichever is later. A description of the transferred interest and the identity of the transferee is required.

(4) *Gifts.* Gifts of a value in excess of \$100, including the forgiveness of a debt, received since the last required report was filed or since appointment or election, whichever is later. For the purposes of this section, a gift from a family member is not required to be disclosed. The required schedule must include:

- (i) The nature and value of the gift.
- (ii) The identity of the person from whom, or on behalf of whom directly or indirectly, the gift was received.

(5) *Employment—excluding Commonwealth employment.* Payments, compensation or consideration of any nature for services rendered or to be rendered. Payments, compensation or consideration includes, but is not limited to, offices, directorships, salaried employment, consultant fees, honoraria, travel and related expenses and other fees earned since the last required report was filed or since appointment or election, whichever is later. This required report must include:

- (i) The name and address of the office of the person for whom the services are or will be rendered.
- (ii) The title or nature of the service.
- (iii) The total amount of compensation or consideration received.

(6) *Liabilities.* Liabilities owed to a person or institution since the last required report was filed, or since appointment or election, whichever is later, excluding retail credit accounts, commercial banks, savings and loan and finance companies. This required schedule must include:

- (i) The identity of the person or institution to whom the liability is owed.
- (ii) The terms of payment of the liability.
- (iii) The amount of liability.
- (iv) The manner in which the liability was secured.
- (v) Changes in the nature or amount of a liability since the last required report was filed.

(7) *Severance arrangements and proceeds received.* In addition to the information in paragraphs (1)—(6), individuals required to file statements of financial interest shall, within 30 days from the date they assume office, disclose severance payments received or to be received, or proceeds received or

to be received from the sale or redemption of their interest in a corporation— which represents 5% or more of the common stock or assets of the corporation—professional corporation, partnership or other entity, which payments or proceeds result from the termination of employment or withdrawal from a corporation, professional corporation, partnership or other entity upon the assumption of public office. The individual shall file with the statement of financial interest copies of agreements relating to the receipt of the severance payments or proceeds.

(8) *Severance arrangements concluded 30 days after assuming office.* If a severance arrangement or sale or redemption of an interest specified in paragraph (7) is concluded more than 30 days following the date on which an individual assumes office, he shall, within 10 days following the conclusion of this transaction, update the information provided under paragraph (7) by disclosing payments or proceeds received or to be received and filing agreements relating to the payments or proceeds.

(9) *Current officeholders or employees.* Individuals required to file statements of financial interest, currently holding office or employed by the Commonwealth, who have not previously filed the information required under paragraphs (7) and (8), shall file the information by November 3, 1987.

(10) *Lobbying disclosure.*

(i) *Scope.* The Governor may require lobbyists to file lobbying disclosure statements and expense reports with respect to their activities and attempts to influence Commonwealth employees under the jurisdiction of the Governor who have decision-making authority over certain decisions and administrative actions.

(ii) *Lobbyist registration and financial disclosure.*

(A) *Registration requirement.* A lobbyist, as of March 15, 2006, or anytime prior to March 31, 2006, shall register with the Office of Administration within 5 days after March 31, 2006. After March 31, 2006, a lobbyist required to register under this paragraph shall register within 5 days prior to lobbying an employee. Registrations must be in electronic form, except as provided in subparagraph (iii). An individual who engages in lobbying activities with respect to the executive branch shall register as a lobbyist whether or not the corporation, firm or principal with whom he is employed or engaged has registered or employs other registered lobbyists. Registration shall be biennial, except for calendar year 2006, and shall expire on November 30 of each even-numbered year. The required registration must include the name of the lobbyist, the lobbyist's business address, employer, and daytime telephone number, and the name, principal business address and daytime telephone number of each principal the lobbyist represents. Any subsequent change in the registration information, including a termination of representation, shall be made within 14 days of the change.

(B) *Previous employment.* The lobbyist shall include information about any previous employment by any Commonwealth agency or the General Assembly.

(C) *Lobbying coalition.* If the lobbyist is a member of a lobbying coalition as defined in this paragraph, the lobbyist shall register his participation in the lobbying coalition, and shall list the names of all lobbyists and organizations participating in the coalition and the subject matter of the action that they are attempting to influence.

(D) *Exclusion from registration.* The following individuals and activities are exempt from registration and reporting under this paragraph:

(I) An individual who limits lobbying activities to preparing testimony and testifying before an agency within the executive branch.

(II) An individual who is an employee of an entity engaged in the business of publishing, broadcasting or televising while engaged in the gathering and dissemination of news and comment thereon to the general public in the ordinary course of business.

(III) Any of the following:

(-a-) An individual who does not receive compensation, other than traveling expenses, for lobbying.

(-b-) An individual whose compensation for lobbying, from all principals represented, does not exceed \$2,500 in the aggregate during any calendar quarter of the previous 24 months.

(-c-) An individual who engages in lobbying on behalf of the individual's employer and whose lobbying activity involves expense less than \$2,500 of the value of the employee's time during any calendar quarter of the previous 24 months, based on an hourly proration of the employee's annual compensation.

(-d-) An individual, other than a lobbyist, whose total expenses for lobbying purposes do not exceed \$2,500 during any reporting period.

(IV) Any of the following:

(-a-) An elected State officer acting in an official capacity.

(-b-) A State executive officer appointed by the Governor acting in an official capacity.

(-c-) An elected or appointed official or employee of a political subdivision of this Commonwealth acting in an official capacity.

(-d-) An employee of the Commonwealth or independent agency of the Commonwealth acting in an official capacity.

(V) Submitting material in connection with the Regulatory Review Act (71 P. S. §§ 745.1—745.15) or similar statute when comments are already subject to public scrutiny.

(VI) An employee, who is not a registered lobbyist, of a corporation, which meets the following conditions:

(-a-) Is a principal under this rule.

(-b-) Has one or more registered lobbyists.

(-c-) Includes that employee's expenses related to lobbying in the reports of the registered lobbyists.

(VII) Any individual representing a bona fide church of which the individual is a member who engages in lobbying solely for the purpose of protecting the constitutional right to the free exercise of religion.

(E) *Expense reports.*

(I) A registered lobbyist shall, under oath or affirmation, file in electronic form (except as provided in subparagraph (iii)) quarterly expense reports with the Secretary of the Office of Administration. Expense reports must list, by each principal represented by the lobbyist, the general subject matters or issues being lobbied, including the legislative bill number, if any. A quarterly expense report shall be filed no later than 30 days following the end of each calendar quarter reflecting expenses incurred during the preceding calendar quarter beginning with the quarter ended June 30, 2006. A lobbyist shall retain all documents reasonably necessary to substantiate the reports to be made under this section for at least 4 years from the date of filing the subject report. Upon request by the Secretary, these materials shall be made available for inspection within a reasonable period of time. Expense reports must include the following categories for each principal and by subject matter, including, the legislative bill number when applicable:

(-a-) A single aggregate good faith estimate of the total amount spent for personnel and office expenses related to lobbying all Commonwealth employees subject to this paragraph.

(-b-) A single aggregate good faith estimate of the total amount spent for direct communication to all Commonwealth employees subject to this paragraph.

(-c-) A single aggregate good faith estimate of the total amount spent for indirect communication to all Commonwealth employees subject to this paragraph.

(-d-) The total costs for gifts, entertainment, meals, transportation, lodging and receptions, given or provided to all employees subject to this paragraph; together with a description of the assumptions or methodology used to make the estimate required by items (-a-)—(-c-). Each estimate must be based on reasonable allocations of costs consistently applied.

(II) The expense report must also identify, by name, position and each occurrence, a Commonwealth employee subject to this paragraph who receives from a lobbyist anything of value, including in-kind gifts, which must be included in the statement under 65 Pa.C.S. § 1105(b)(6) and (7) (relating to statement of financial interests) as implemented by 65 Pa.C.S. § 1105(d). For the purpose of this paragraph, the amount

referred to in 65 Pa.C.S. § 1105(b)(7) shall be considered an aggregate amount per year. Written notice shall be given to each Commonwealth employee subject to this paragraph referenced in the expense report within 7 days of the report's submission to the Office of Administration. A notice must include the information which will enable the Commonwealth employee subject to this paragraph to comply with 65 Pa.C.S. § 1105(b)(6) and (7).

(III) Nothing in this paragraph prohibits a lobbyist from reporting expenses in greater detail than required by this rule nor from reporting information not required by this paragraph.

(iii) *Registry and forms.*

(A) The Office of Administration shall create a lobbyist registry in electronic form which shall be the repository for all registration statements and expense reports for lobbyists required to register under this subparagraph. The Secretary shall develop and make available forms and procedures for registration in electronic form of lobbyists and lobbying coalitions, and quarterly expense reports to be filed electronically. If, at any time, the Office of Administration does not have registration and expense report forms available, lobbyists shall provide the basic information listed in subparagraph (ii) to the Office of Administration on the lobbyist's letterhead.

(B) The Secretary shall publish this paragraph and the entire Code of Conduct on the Commonwealth's Internet website, and shall send a notice to every lobbyist currently registered with the Senate, notifying the lobbyist of the requirements of this paragraph.

(IV) *Public access.* By September 11, 2006, and in the absence of legislation which may provide similar or greater reporting requirements than this paragraph, the Secretary shall:

(-a-) Make all lobbying registration forms, lobbying coalition forms and expense reports available for public inspection, and provide copies of these documents at a price which may not exceed the actual cost of copying.

(-b-) Maintain and from time to time but not less than annually publish a listing of registered lobbyists.

(-c-) Develop a database on the basis of information reported under subparagraph (iii), and make the database available to the public on the Commonwealth's Internet website. The database must be capable of being searched according to any of the following categories: lobbyist, principal and subject matter, including legislative bill number.

(V) *Definitions.* The following words and terms, when used in this paragraph, have the following meanings, unless the context clearly indicates otherwise:



*Agency*—A Commonwealth agency, board, commission, authority or department within the executive branch under the Governor's jurisdiction or to which the Governor makes nominations or appointments, or both.

*Contact*—Direct or indirect contact with a lobbyist, and initiated by a lobbyist, the purpose of which is to influence a decision or administrative action for which the employee has decision-making authority or a duty to act.

*Decision or administrative action*—A matter over which an employee has decision-making authority or influence and which is currently pending or expected to occur in the future, including, but not limited to:

- (i) Legislative-related matters, including:
  - (A) The Governor's approval, veto or consideration of legislation.
  - (B) Negotiation of the elements of, or support or opposition to, legislation with any members or staff of the General Assembly.
  - (C) Any action by a Commonwealth employee which is intended to influence or attempt to influence the decisions of the General Assembly.
- (ii) Budgetary matters, including:
  - (A) The inclusion or exclusion of items in the Governor's Budget.
  - (B) Any expenditure of funds after enactment of the Budget.
  - (C) Any expenditure of capital funds.
- (iii) Administrative matters, including:
  - (A) Implementation of a statute.
  - (B) Proposal, consideration, promulgation, amendment, approval, rejection or rescission of a regulation.
  - (C) Development or modification of a guideline or a statement of policy or any amendment thereto.
  - (D) The Governor's proposal, consideration, promulgation, amendment, approval, rejection or rescission of an executive order.
  - (E) The nomination or appointment by the Governor of an individual as an officer or employee or appointee of the Commonwealth.
  - (F) Seeking to influence the awarding, rejection or rescission of a grant, loan, or contract or any amendment thereto.
  - (G) Seeking to influence an employee with respect to decisions before independent agencies, boards or commissions, including those over which the Governor has the power to appoint one or more members.

*Decision-making authority*—The responsibility and authority to act on behalf of the Commonwealth involving the exercise of discretion and not mere performance of a ministerial duty.

*Direct communication*—An effort, whether written, oral or by any other medium, made or commissioned by a lobbyist, directed to a member or employee of the executive branch, the purpose or foreseeable effect of which is to influence executive branch decisions or administrative actions.

*Employee*—Any of the following officials and employees of the Commonwealth who have decision making authority:



- (i) The Governor.
- (ii) The Lieutenant Governor.
- (iii) Heads of agencies and departments, their respective deputy secretaries, all Commonwealth officials or employees at the level of division chief and above, and all attorneys, press secretaries, legislative liaisons, and executive and special assistants.
- (iv) Chairpersons and members of boards, councils, and commissions or the like, under the Governor's jurisdiction, except those serving on advisory boards having no authority to expend funds or otherwise exercise the power of the Commonwealth.
- (v) Executive directors, counsel and administrative secretaries of compensated boards and commissions under the Governor's jurisdiction.
- (vi) Employees of all classes required to file financial disclosure under 65 Pa.C.S. Chapter 11 (relating to Public Official and Employee Ethics Act).

*Indirect communication—*

- (i) An effort, whether written, oral or by any medium other than direct communication, made or commissioned by a lobbyist or a principal, to encourage others, including the general public, to take action, the purpose or foreseeable effect of which is to directly influence executive branch decisions or administrative action.
- (ii) The term includes letter-writing campaigns, mailings, telephone banks, print and electronic media advertising, billboards, publications and educational campaigns on public issues.
- (iii) The term does not include regularly published periodic newsletters primarily designed for and distributed to members of a bona fide association or charitable or fraternal nonprofit corporation.

*Lobbying—*Action taken for the purpose of influencing the exercise of discretion by an employee with respect to a decision or administrative action.

*Lobbyist—*

- (i) Any individual, firm, association, lobbying coalition, corporation, partnership, business trust or business entity that engages in lobbying on behalf of a principal for economic consideration.
- (ii) For purposes of this paragraph, the term includes any person or entity that has registered as a lobbyist in compliance with the Rules of the Senate or with the Rules of the House of Representatives, if so required, and an attorney who engages in activities which are not the practice of law, but which are lobbying and which may be regulated consistent with 204 Pa. Code Rule 1.19 (relating to lawyers acting as lobbyists) of the Rules of Professional Conduct of the Supreme Court.

*Lobbyist coalition—*

- (i) Three or more lobbyists or principals, or both, who are formally acting together to influence a decision or administrative action.

(ii) The term includes, but is not limited to, a group of three or more persons formed primarily to influence legislative or administrative action, whose members make payments to the coalition for the purpose of sharing the expenses of employing a lobbyist or contracting for the services of a lobbyist.

*Principal*—Any individual, firm, association, corporation, partnership, business trust or business entity who expends more than \$2,500 on lobbying per quarter during any quarter of a reporting 24-month period and meets one of the following conditions:

(i) On whose behalf a lobbyist influences or attempts to influence a decision or administrative action.

(ii) Who engages in lobbying on his own behalf.

*Secretary*—The Secretary of the Office of Administration.

#### Source

The provisions of this § 7.164 amended by Executive Order No. 1980-18, dated and effective May 16, 1984, 14 Pa.B. 2036; amended by Executive Order No. 1980-18, dated and effective September 28, 1987, 17 Pa.B. 4183; amended by Executive Order No. 1980-18, revised No. 4, dated March 15, 2006, 36 Pa.B. 1633. Immediately preceding text appears at serial pages (289818) to (289820).

## CRIMINAL CHARGES

### § 7.171. Procedures.

Procedures to be followed by agencies under the jurisdiction of the Governor in regard to employes, and officials appointed by the Governor, who are formally charged with criminal conduct are set forth in §§ 7.172—7.178.

#### Notes of Decisions

##### *General Comment*

The Governor's Code of Conduct is an executive order which does not have the force of law sufficient to confer a personal or property interest in continued employment upon a discharged employe. *Werner, Jr. v. Zazyczny*, appeal denied 651 A.2d 546 (Pa. Cmwlth. 1994); affirmed Cmwlth. Ct. order dismissing Petition for Review, 681 A.2d 1331 (Pa. 1996).

#### Cross References

This section cited in 4 Pa. Code § 39.12 (relating to criminal cases).

### § 7.172. Definitions.

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

*Agency*—Departments, boards, commissions and other government units under the Governor's jurisdiction.

*Criminal conduct related to his employment with the Commonwealth*—Conduct by an employe in violation of a criminal law arising in the course of or from the performance of an official duty or function; including, but not limited to, violations of law constituting misfeasance or malfeasance in office.

*Employee*—Individuals employed by, or appointed to serve on, an agency, board, commission or department of the Commonwealth. The term employe does not include those individuals who are members of the Pennsylvania National Guard who are not otherwise employed by the Commonwealth.

*Formally charged with criminal conduct*—An employe shall be deemed to be formally charged with criminal conduct when he has been arrested or named as a defendant in an indictment or information or, in the case of a private complaint, the complaint has been approved by the prosecuting authority.

*Sufficient reason for disciplinary action*—Shall be determined by the exercise of discretion of the head of the agency which employs the person, or his designee; except that, to the extent required by statute or contract, for those employes within the classified service or those employes covered by provisions of a collective bargaining agreement, sufficient reason for disciplinary action means “just cause.”

#### Source

The provisions of this § 7.172 amended by Executive Order No. 1980-18, dated and effective May 16, 1984, 14 Pa.B. 2036. Immediately preceding text appears at serial pages (55492) to (55493).

#### Cross References

This section cited in 4 Pa. Code § 7.171 (relating to procedures); and 4 Pa. Code § 39.12 (relating to criminal cases).

### § 7.173. Required action when an employe is formally charged with criminal conduct related to his employment with the Commonwealth or which constitutes a felony.

As soon as practicable after an employe has been formally charged with criminal conduct related to his employment with the Commonwealth or which constitutes a felony, the employe shall be suspended without pay. If the charge results in conviction in a court of law, the employe shall be terminated.

#### Source

The provisions of this § 7.173 amended by Executive Order No. 1980-18, dated and effective May 16, 1984, 14 Pa.B. 2036. Immediately preceding text appears at serial page (55493).

#### Notes of Decisions

##### *Administrative Hearings*

An at-will public employe does not have a property interest or privilege in continued employment such that the employe would be entitled to an administrative hearing on the dismissal from employment. *Werner, Jr. v. Zazyczny*, 681 A.2d 1331 (Pa. 1996).

##### *Benefits for Work-Related Injury*

Because § 7.173 requires suspension without pay and termination of employment, it was proper to terminate the employe’s benefits (that is wages) for her work-related injury. Since the Department’s actions were mandatory, and the employe no longer had any right to be paid wages of any sort by the employer, she had no property interest that required notice and a hearing prior to terminating those benefits. *Roman v. Department of Corrections*, 808 A.2d 304 (Pa. Cmwlth. 2002).

*Constitutionality*

The State did not violate the Due Process Clause of the Fourteenth Amendment by failing to provide a suspension notice or hearing prior to suspending a tenured public employe who had been arrested on criminal drug charges. *Gilbert v. Homar*, 117 S. Ct. 1807 (1997).

*Construction with Statutes*

The provisions of this Governor's Executive Order did not take precedence over contrary statutory provisions. *Department of Corrections v. Brunfield*, 594 A.2d 852 (Pa. Cmwlth. 1991).

*Suspension Proper*

State employee under criminal indictment for felony was properly suspended under this regulation pending disposition of the charges. *Boykin v. Bloomsburg University*, 893 F. Supp. 378 (Pa. 1995); aff'd 91 F.3d 122 (3d) (Cir. 1996); cert. denied *Mirin v. Eyerly*, 117 S. Ct. 739, 136 L. Ed. 2d 678 (U. S. 1997).

Mine inspector's felony conviction for copyright infringement could call into question the inspector's integrity and adversely affect the inspector's reputation with the general public with whom he dealt with and, therefore, the inspector was justly dismissed for just cause. *Aiello v. Department of Environmental Resources*, 551 A.2d 664 (Pa. Cmwlth. 1988).

**Cross References**

This section cited in 4 Pa. Code § 7.171 (relating to procedures); and 4 Pa. Code § 39.12 (relating to criminal cases).

**§ 7.174. Required action when an employe is formally charged with criminal conduct other than a felony and not related to his employment with the Commonwealth.**

As soon as practicable after an employe is formally charged with criminal conduct other than a felony and not related to his employment with the Commonwealth, the head of the agency which employs the person or his designee, shall conduct an inquiry and make a preliminary determination as to whether or not the employe should continue to perform his duties pending the outcome of the investigation and final determination under §§ 7.175 and 7.176 (relating to investigation; and final determination).

(1) *Purpose.* The purpose of the preliminary determination is to allow the agency to minimize the effect which the accusation of the commission of a crime by one of its employes may have upon the agency's ability to function pending an investigation and final determination by the appointed authority or his designee as to the existence of sufficient reason for disciplinary action against the employe.

(2) *Making the preliminary determination.* In making a preliminary determination, the agency head or his designee shall select one of the three following alternatives and implement it as regards the employe:

(i) Allow the employe to continue to perform duties pending the outcome of the investigation and final determination.

(ii) Reassign the employe to other, less sensitive duties within the agency pending the outcome of the investigation and final determination.

(iii) Suspend the employe without pay pending the outcome of the investigation and final determination.

(3) *Factors to be considered in making the preliminary determination.* In making the preliminary determination, the agency head shall consider, among other factors, the following:

(i) The employe's explanation, if available.

(ii) The extent to which allowing the employe to continue in his position would be detrimental to the physical well-being of the employe, his fellow workers or other persons.

(iii) The nature of the employe's duties, including the amount of discretion exercised as part of those duties.

(iv) The nature, weight, basis and source of the accusations against him.

(v) The relationship of the accusations to the employe's duties.

(vi) The extent to which the employe deals directly with the public.

(vii) The extent to which the accusations of wrongdoing may affect the public's trust and confidence in the employe, the agency and State government.

(viii) An undue hardship to the employe which would result from his temporary reassignment.

(4) *Contact with law enforcement agency.* In considering the nature, weight, and source of the accusations against an employe, the agency shall contact the law enforcement agency involved in the accusations against the employe to verify the charge and to obtain available information as to the charges against the employe.

(5) *Employe status.* After the preliminary determination is made, employes shall remain in the status selected pending the outcome of the investigation and final determination under §§ 7.175 and 7.176. This status shall be temporary, pending the outcome of the investigation by the agency, and may in no way bear upon the agency head's final determination.

**Source**

The provisions of this § 7.174 amended by Executive Order No. 1980-18, dated and effective May 16, 1984, 14 Pa.B. 2036. Immediately preceding text appears at serial pages (55493) to (55495).

**Cross References**

This section cited in 4 Pa. Code § 7.171 (relating to procedures); 4 Pa. Code § 7.175 (relating to investigation); and 4 Pa. Code § 39.12 (relating to criminal cases).

**§ 7.175. Investigation.**

An employe formally charged with criminal conduct, as referred to in § 7.174 (relating to required action when an employe is formally charged with criminal conduct other than a felony and not related to his employment with the Commonwealth), shall be subject to an immediate investigation conducted by the agency head or his designee.

(1) *Purpose.* The purpose of the investigation shall be to determine whether sufficient reason exists for disciplinary action including, but not limited to, suspension without pay, demotion or dismissal.

(2) *Conduct of investigation.* In the investigation, the relevant facts shall be promptly gathered and considered. The agency's chief counsel may assist the agency head or his designee in making the investigation. The investigation shall be completed within 12 working days from the date on which the Secretary of Administration is notified under § 7.176 (relating to final determination). An extension of this period may be granted only by the Secretary of Administration, in writing, and only on a showing, in writing, by the agency head or his designee of a conscientious effort to meet the deadline and an explanation of the reasons why the deadline cannot be met. Only one extension may be granted, which extension may not exceed 12 working days.

(i) *Law enforcement agencies.* In the investigation, the agency head or his designee may request the assistance of a law enforcement agency involved in the matter; however, this may not relieve the appointing authority or his designee of the responsibility to make an independent evaluation.

(ii) *Employe contact.* In the investigation, the agency head or his designee shall afford the employe an opportunity to explain the accusations made against him, and the opportunity to have representation during meetings which relate to the investigation, if representation is requested, and the opportunity to submit additional information the employe may wish to provide.

**Source**

The provisions of this § 7.175 amended by Executive Order No. 1980-18, dated and effective May 16, 1984, 14 Pa.B. 2036. Immediately preceding text appears at serial pages (55495) to (55496).

**Cross References**

This section cited in 4 Pa. Code § 7.171 (relating to procedures); 4 Pa. Code § 7.174 (relating to required action when an employe is formally charged with criminal conduct other than a felony and not related to his employment within the Commonwealth); and 4 Pa. Code § 39.12 (relating to criminal cases).

**§ 7.176. Final determination.**

(a) After completion of the investigation, the agency head shall have 5 working days to make a final determination as to whether the results of the investigation establish sufficient reason for disciplinary action and, if established, what disciplinary action shall be taken. The Secretary of Administration and the General Counsel shall review this decision and ratify the decision of the agency head absent an abuse of discretion. An extension of this period may be granted only by the General Counsel or his designee, in writing, and only on a showing, in writing, by the agency head of a conscientious effort to meet the deadline and an explanation of the reasons why that deadline cannot be met. Only one extension may be granted, which extension shall not exceed 5 working days.

(b) In determining whether sufficient reason for disciplinary action exists, the agency head shall consider, among other factors, all of the following:

- (1) The employe's explanation, if available.
- (2) The extent to which allowing the employe to continue in his position would be detrimental to the physical well-being of the employe, his fellow workers or other persons.
- (3) The nature of the employe's duties, including the amount of discretion exercised as part of those duties.
- (4) The nature, weight and source of the accusations against him.
- (5) The relationship of the accusations to the employe's duties.
- (6) The extent to which the employe deals with the public.
- (7) The extent to which the accusations of wrongdoing may affect the public's trust and confidence in the employe, the agency or State government.

(c) If sufficient reason for disciplinary action is determined to exist, the agency head shall immediately take appropriate disciplinary action including, but not limited to, suspension of pay, demotion or dismissal, which action shall be reviewed by the Secretary of Administration and the General Counsel and ratified by them absent a finding of abuse of discretion.

(d) If, based on information available at that time, a finding of sufficient reason is not made, the employe shall be notified of the disposition and shall retain or be retroactively reinstated to his previous position.

(e) The subsequent availability of pertinent information shall require an appointing authority or his designee to reconsider the previous disposition and renew investigation into the conduct at issue.

**Source**

The provisions of this § 7.176 amended by Executive Order No. 1980-18, dated and effective May 16, 1984, 14 Pa.B. 2036. Immediately preceding text appears at serial pages (55496) to (55497).

**Cross References**

This section cited in 4 Pa. Code § 7.171 (relating to procedures); 4 Pa. Code § 7.174 (relating to required action when an employe is formally charged with criminal conduct other than a felony and not related to his employment within this Commonwealth); and 4 Pa. Code § 7.175 (relating to investigation); 4 Pa. Code § 39.12 (relating to criminal cases).

**§ 7.177. Notification of the Secretary of Administration.**

When an employe has been charged with criminal conduct, the agency head or his designee shall immediately notify the Secretary of Administration of the name and position of the employe, the criminal charges against the employe, and of the initiation of any agency investigation. Action taken with regard to the employment status of the employe and the disposition of the criminal charges shall also be reported to the Secretary of Administration.

**Source**

The provisions of this § 7.177 amended by Executive Order No. 1980-18, dated and effective May 16, 1984, 14 Pa.B. 2036. Immediately preceding text appears at serial page (55497).

**Cross References**

This section cited in 4 Pa. Code § 7.171 (relating to procedures).

**§ 7.178. Criminal charges against the head of an agency.**

Whenever a criminal charge involves the head of an agency, the steps set forth in this part shall be followed as in the case of any other agency employe or official, except that the determinations and actions required shall be performed by the Secretary of Administration and subject to review by the Governor and the General Counsel.

**Source**

The provisions of this § 7.178 amended by Executive Order No. 1980-18, dated and effective May 16, 1984, 14 Pa.B. 2036. Immediately preceding text appears at serial pages (55497) and (61798).

**Cross References**

This section cited in 4 Pa. Code § 7.171 (relating to procedures); and 4 Pa. Code § 39.12 (relating to criminal cases).

**RESCISSIONS****§ 7.179. Rescissions.**

- (a) Executive Orders 1974-6 and 1978-7 are rescinded. This amended Order replaces Executive Order 1980-18, dated September 3, 1980, and revised 1—9 thereto. Executive Order 1980-18 Revision No. 2, date July 5, 2004, is rescinded.
- (b) Executive Order 2015-01 is rescinded by Executive Order 2023-04.



**Source**

The provisions of this § 7.179 amended by Executive Order No. 1980-18, dated May 16, 1984, 14 Pa.B. 2036; amended by Executive Order No. 1980-18 Revision 3 amended, dated May 9, 2007, 38 Pa.B. 2230; amended by Executive Order No. 2023-04, dated January 20, 2023, 53 Pa.B. 821. Immediately preceding text appears at serial pages (333872) to (333873).

**Subchapter L. [Reserved]****Subchapter M. SCHEDULING OF BOND AND  
NOTE ISSUE SALES**

|        |                   |
|--------|-------------------|
| Sec.   |                   |
| 7.181. | General.          |
| 7.182. | Responsibilities. |
| 7.183. | Rescission.       |

**Source**

The provisions of this Subchapter M adopted October 22, 1976, 6 Pa.B. 2640, unless otherwise noted.

**§ 7.181. General.**

The uncoordinated sale of bonds and notes by the Commonwealth and its agencies, authorities and commissions may lead to marketing conflicts between the various issuers. The conflicts may result in increased interest costs to the Commonwealth.

**Source**

The provisions of this § 7.181 amended by Executive Order No. 1981-3, dated January 30, 1981, effective January 30, 1981, 11 Pa.B. 1926. Immediately preceding text appears at serial page (55498).

**§ 7.182. Responsibilities.**

- (a) Avoidance of uncoordinated sales and their adverse effect on the costs and marketability of these bonds and notes shall be the responsibility of debt issuers.
- (b) The Secretary of the Budget shall be responsible for coordinating and scheduling bond and note sales of Commonwealth issuers.
- (c) Agencies, authorities and commissions issuing notes or bonds, either in a public or private sale, shall notify the Secretary of the Budget in advance of each bond or note sale planned. The sale of bonds and notes shall be advertised only after receiving approval of the proposed sale date from the Secretary of the Budget.

**Source**

The provisions of this § 7.182 amended by Executive Order No. 1981-3, dated January 30, 1981, effective January 30, 1981, 11 Pa.B. 1926. Immediately preceding text appears at serial pages (55498) and (55499).

**§ 7.183. Rescission.**

Executive Order 1975-11 is rescinded.

**Source**

The provisions of this § 7.183 adopted by Executive Order No. 1981-3, dated January 30, 1981, effective January 30, 1981, 11 Pa.B. 1926.

**Subchapter N. [Reserved]****Subchapter O. LIST OF SALARIED EMPLOYEES**

Sec.

7.201. Access to list of salaried employes.

**Source**

The provisions of this Subchapter O adopted December 23, 1976, 6 Pa.B. 3148, unless otherwise noted.

**§ 7.201. Access to list of salaried employes.**

Under section 3 of the act of June 21, 1957 (P. L. 390, No. 212) (65 P. S. § 66.3), a list of salaried employes under the jurisdiction of the Governor, having been declared public information by section 603 of The Administrative Code of 1929 (71 P. S. § 223), will be made accessible to citizens of the Commonwealth as follows:

- (1) The list shall be available, without written request, during regular business hours at the Government Publications Section, State Library, Room 116 Education Building, Commonwealth Avenue and South Drive, Harrisburg, Pennsylvania 17120.
- (2) A citizen of the Commonwealth may inspect, extract, photograph or copy all or any part of the list. Rules of the State Library as to access, copying and charges for copying will apply.

**Subchapter P. CIVIL DISORDER AND EMERGENCY**

|        |                            |
|--------|----------------------------|
| Sec.   |                            |
| 7.211. | Command and control.       |
| 7.212. | Planning and coordination. |
| 7.213. | [Reserved].                |
| 7.214. | [Reserved].                |
| 7.215. | [Reserved].                |

**Source**

The provisions of this Subchapter P adopted by Executive Order No. 78-8, dated April 4, 1978, 8 Pa.B. 1096, unless otherwise noted.

**§ 7.211. Command and control.**

(a) The Governor will retain command of State peacekeeping forces during a civil disorder. The Governor may designate the Lieutenant Governor or a member of the Governor's staff as the on-the-scene representatives with the power and authority the Governor may deem necessary.

(b) The General Counsel, after consultation with the Commissioner of the State Police, the Adjutant General or the Pennsylvania Emergency Management Agency will prepare, for issuance by the Governor as required by law, Executive Orders and proclamations necessary or appropriate for the activation and employment of their forces and for the conduct of peacekeeping and law enforcement operations in the disorder area. The Orders and proclamations shall contain the general constraints and objectives applicable to the conduct of State Police and National Guard operations in the disorder area.

(c) The Commissioner of the State Police and the Adjutant General of Pennsylvania and the forces under their respective commands will be directly responsible to the Governor for the implementation of the Orders and guidance that the Governor may provide. Implementing orders necessary or appropriate for the designation and employment of forces under the command of the Commissioner of State Police or the Adjutant General, and for the conduct of their operations in the disorder area, shall be prepared by the Commissioner or the Adjutant General. The content of their orders shall be in accordance with Executive Orders and proclamations issued by the Governor.

(d) In the event of disorder, no officer other than the State Police, consistent with their established policy, or local police in the normal course of their duty, will carry loaded weapons. Weapons carried by the National Guard will not be loaded nor will bayonets be fixed without the specific order of the Governor, except that trained antismiper teams and military police of the National Guard may be armed with loaded weapons whenever National Guard troops are deployed.

(e) Field commanders of the State Police and National Guard are authorized to act independently in emergency situations when failure to act would seriously

aggravate the disturbance, gravely undermine the effort to restore order or jeopardize the lives of law enforcement officers, troops or of civilians. These actions shall be consistent with the principles of application of only the minimum force necessary for the circumstances.

**Source**

The provisions of this § 7.211 amended by Executive Order No. 1993-2, dated April 9, 1993, 23 Pa.B. 2309. Immediately preceding text appears at serial pages (120086) to (120087).

**§ 7.212. Planning and coordination.**

(a) In the event of disorder, the Pennsylvania Emergency Management Council will convene under the Emergency Management Services Code to prepare for and coordinate planning and preparation between local and State government support agencies.

(b) If a proclamation of disaster emergency is required to activate other emergency response agencies, to authorize the transfer of unused appropriations, to waive time-consuming bid and contract procedures or to invoke the assistance of the Federal government, the proclamation will be prepared by the Pennsylvania Emergency Management Agency.

(c) Commonwealth agencies under the jurisdiction of the Governor will make every effort to cooperate in planning for and in implementing this subchapter, and shall provide assistance requested by the Governor or a designated representative to prevent civil disorder and restore peace and order. The coordination of support from State agencies will be the responsibility of the Pennsylvania Emergency Management Agency. Agencies will lend every assistance to reduce tensions and to help alleviate the causes of disorder, and will use resources at their command as may be needed to establish and maintain lines of communication to an aggrieved community when called upon to do so.

(d) If assistance of Federal agencies is necessary or appropriate, the Pennsylvania Emergency Management Agency will also be responsible for coordinating acceptance and delivery of their assistance.

**Source**

The provisions of this § 7.212 amended by Executive Order No. 1993-2, dated April 9, 1993, 23 Pa.B. 2309. Immediately preceding text appears at serial page (120087).

**§ 7.213. [Reserved].**

**Source**

The provisions of this § 7.213 reserved by Executive Order No. 1993-2, dated April 9, 1993, 23 Pa.B. 2309. Immediately preceding text appears at serial page (120087).

**§ 7.214. [Reserved].****Source**

The provisions of this § 7.214 reserved by Executive Order No. 1993-2, dated April 9, 1993, 23 Pa.B. 2309. Immediately preceding text appears at serial page (120088).

**§ 7.215. [Reserved].****Source**

The provisions of this § 7.215 reserved by Executive Order No. 1993-2, dated April 9, 1993, 23 Pa.B. 2309. Immediately preceding text appears at serial page (120088).

**Subchapter Q. STATE EMPLOYEE COMBINED APPEAL****Source**

The provisions of this Subchapter Q adopted by Executive Order No. 1978-11, dated August 15, 1978, 8 Pa.B. 2421; reserved by Executive Order No. 1985-1, dated September 13, 1985, 15 Pa.B. 3627. Executive Order No. 1985-1 rescinded by Executive Order No. 2001-2, dated February 14, 2001, 31 Pa.B. 1456. Immediately preceding text appears at serial pages (41466) to (41467).

**§ 7.224. Payroll contributions.**

(a) The use of payroll deductions by Commonwealth employees for charitable contributions through SECA has been authorized by the Governor.

(b) Consistent with that authorization, the Secretary of Administration is delegated the authority to administer, through the Directives Management System, the structure of SECA and the responsibilities of the Commonwealth to SECA.

(c) Executive Order 1985-1, published at 15 Pa.B. 3627 (October 12, 1985) is rescinded.

**Source**

The provisions of this § 7.224 adopted by Executive Order No. 2001-2, dated February 14, 2001, 31 Pa.B. 1456.

**Subchapter R. FISCAL NOTES**

|        |                   |
|--------|-------------------|
| Sec.   |                   |
| 7.231. | Policy.           |
| 7.232. | Definitions.      |
| 7.233. | [Reserved].       |
| 7.234. | Responsibilities. |
| 7.235. | [Reserved].       |

**Source**

The provisions of this Subchapter R adopted January 12, 1979, 9 Pa.B. 129; amended December 14, 2001, effective December 15, 2001, 31 Pa.B. 6799, unless otherwise noted.

**§ 7.231. Policy.**

Administrative departments, boards, commissions and authorities receiving money from the State Treasury shall provide fiscal notes with every regulatory action and administrative procedure published in the *Pennsylvania Bulletin*.

**Cross References**

This section cited in and 4 Pa. Code § 7.234 (relating to responsibilities).

**§ 7.232. Definitions.**

Regulatory actions and administrative procedures consist of the following:

- (1) Executive orders of the Governor, except those which have no general applicability and legal effect or are effective only against Commonwealth agencies or persons in their capacity as officers, agents or employees thereof.
- (2) Administrative and other regulations.
- (3) Statements of policy which are general and permanent in nature.
- (4) Notice of rule changes and notices related to Federally required changes and changes in fee structure.

**§ 7.233. [Reserved].****§ 7.234. Responsibilities.**

(a) Agencies required by § 7.231 (relating to policy) to publish fiscal notes are to establish procedures to insure that fiscal notes are included with regulatory actions and administrative procedures as follows:

- (1) Agencies that are required to submit a regulatory analysis form to the Independent Regulatory Review Commission under the Regulatory Review Act (71 P. S. §§ 745.1—745.14) shall submit one copy of a regulatory analysis form and one copy of the regulatory action or administrative procedure, or changes thereto, to the Office of the Budget prior to the time that the regulatory action or administrative procedure, is deposited with the Legislative Reference Bureau.
- (2) Agencies that are not required to submit a regulatory analysis form to the Independent Regulatory Review Commission for a regulatory action or administrative procedure shall submit the following information to the Office of the Budget:
  - (i) One copy of each regulatory action or administrative procedure.
  - (ii) The designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made and the line item, if any, of the General Appropriation Act or other appropriation act out

of which expenditures or losses of Commonwealth funds will occur as a result of the action or procedures.

(iii) The probable cost for the fiscal year the program is implemented and a projected cost estimate of the program for each of the 5 succeeding fiscal years.

(iv) The probable loss of revenue for the fiscal year of its implementation and a projected loss of revenue from the program for each of the 5 succeeding fiscal years.

(v) The 3-year fiscal history of the program for which expenditures are to be made.

(b) The Secretary of the Budget will review or have reviewed each fiscal note before publication in the *Pennsylvania Bulletin*. The Secretary will, as appropriate, include recommendations and the reasons therefore.

(c) The Legislative Reference Bureau shall publish information contained in fiscal notes required by this subchapter.

**§ 7.235. [Reserved].**

**Subchapter S. [Reserved]**

**Source**

The provisions of this Subchapter S adopted June 27, 1979, 9 Pa.B. 2247; reserved by Executive Order 1984-2, dated May 16, 1984, 14 Pa.B. 1935, unless otherwise noted. Immediately preceding text appears at serial page (50700).

**§ 7.241. [Reserved].**

**§ 7.242. [Reserved].**

**Subchapter T. [Reserved]**

**Source**

The provisions of Subchapter T adopted by Executive Order No. 1980-4, dated February 27, 1980, effective July 1, 1980, 10 Pa.B. 1297; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993, unless otherwise noted. Immediately preceding text appears at serial pages (380753) to (380754).

**§§ 7.261—7.265. [Reserved].**

**Subchapter U. [Reserved]**

**Source**

The provisions of this Subchapter U adopted by Executive Order 1980-7, dated February 29, 1980, effective April 21, 1980, 10 Pa.B. 1298; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993, unless otherwise noted. Immediately preceding text appears at serial pages (380754) and (198501) to (198502).

**§§ 7.271—7.274. [Reserved].**

**Subchapter V. PENNSYLVANIA STATE DATA CENTER**

- Sec.  
7.291. Designation.  
7.292. Use.  
7.293. Rescission.

**Source**

The provisions of this Subchapter V adopted by Executive Order No. 1981-14, dated November 13, 1981, effective November 13, 1981, 11 Pa.B. 4154, unless otherwise noted.

**§ 7.291. Designation.**

The Pennsylvania State University at Harrisburg, The Capital College, is the Pennsylvania State Data Center.

**Source**

The provisions of this § 7.291 adopted by Executive Order No. 1981-14, dated November 13, 1981, effective November 13, 1981, 11 Pa.B. 4154; amended by Executive Order No. 1988-8, dated July 12, 1988, effective July 12, 1988, 18 Pa.B. 3329. Immediately preceding text appears at serial page (120094).

**§ 7.292. Use.**

(a) State agencies wishing to obtain demographic and economic data and related services shall do so through the Pennsylvania State Data Center.

(b) Local government units, planning commissions, businesses, academic institutions and other interested users wishing to obtain demographic and economic data are encouraged to use the Pennsylvania Data Center.

**Source**

The provisions of this § 7.292 adopted by Executive Order No. 1981-14, dated November 13, 1981, effective November 13, 1981, 11 Pa.B. 4154; amended by Executive Order No. 1988-8, dated July 12, 1988, effective July 12, 1988, 18 Pa.B. 3329. Immediately preceding text appears at serial page (120094).

**§ 7.293. Rescission.**

Executive Order 1981-14 is rescinded.

**Source**

The provisions of this § 7.293 adopted by Executive Order No. 1988-8, dated July 12, 1988, effective July 12, 1988, 18 Pa.B. 3329.

**Subchapter W. AGRICULTURAL LAND PRESERVATION POLICY**

- Sec.  
7.301. Policy.  
7.302. Conversion.  
7.303. Protected agricultural land.  
7.304. Agricultural Land Condemnation Approval Board (ALCAB) review.  
7.305. Guidance documents.  
7.306. Interagency committee.  
7.307. Cooperation by State agencies.  
7.308. Rescission.



**Source**

The provisions of this Subchapter W adopted by Executive Order No. 1982-3, dated October 29, 1982, 12 Pa.B. 3804; amended by Executive Order No. 1994-3, dated May 9, 1994, 24 Pa.B. 2789; amended by Executive Order No. 1997-6, dated October 14, 1997, 28 Pa.B. 356; amended by Executive Order No. 2003-2, dated March 20, 2003, 33 Pa.B. 3483, unless otherwise noted. Immediately preceding text appears at serial pages (255527) to (255528) and (240647) to (240648).

**Cross References**

This subchapter cited in 7 Pa. Code § 130d.45 (relating to prohibited applications); 25 Pa. Code § 71.21 (relating to content of official plans); and 25 Pa. Code § 269a.50 (relating to environmental assessment considerations).

**§ 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.

**Notes of Decisions**

Proposed construction of waste treatment facility on property being put to agricultural use did not contemplate disposal of solid or liquid waste and prior approval of Agricultural Lands Condemnation Approval Board was not, therefore, necessary. *In re New Garden Township*, 579 A.2d 459 (Pa. Cmwlth. 1990).

**§ 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.

**Subchapter X. [Reserved]**

|                  |             |
|------------------|-------------|
| Sec.             |             |
| 7.321.           | [Reserved]. |
| 7.322.           | [Reserved]. |
| 7.323.           | [Reserved]. |
| 7.323a.          | [Reserved]. |
| 7.323b.          | [Reserved]. |
| 7.323c.          | [Reserved]. |
| 7.324.           | [Reserved]. |
| 7.325.           | [Reserved]. |
| 7.326.           | [Reserved]. |
| 7.327 and 7.328. | [Reserved]. |
| 7.329.           | [Reserved]. |
| 7.331—7.338.     | [Reserved]. |

**Source**

The provisions of this Subchapter X adopted by Executive Order No. 1986-3, effective June 10, 1986, 16 Pa.B. 2277, unless otherwise noted.

**§ 7.321. [Reserved].****Source**

The provisions of this § 7.321 amended by Executive Order No. 1986-5, dated October 17, 1986, effective October 18, 1986, 16 Pa.B. 3920; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993. Immediately preceding text appears at serial pages (240649) to (240650).

**§ 7.322. [Reserved].****Source**

The provisions of this § 7.322 reserved by Executive Order No. 1986-5, dated October 17, 1986, effective October 18, 1986, 16 Pa.B. 3920. Immediately preceding text appears at serial pages (109820) to (109821).

**§ 7.323. [Reserved].****Source**

The provisions of this § 7.323 amended by Executive Order No. 1986-5, dated October 17, 1986, effective October 18, 1986, 16 Pa.B. 3920; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993. Immediately preceding text appears at serial page (198509).

**§ 7.323a. [Reserved].****Source**

The provisions of this § 7.323a adopted by Executive Order No. 1986-5, dated October 17, 1986, effective October 18, 1986, 16 Pa.B. 3920; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993. Immediately preceding text appears at serial page (198509).

**§ 7.323b. [Reserved].****Source**

The provisions of this § 7.323b adopted by Executive Order No. 1986-5, dated October 17, 1986, effective October 18, 1986, 16 Pa.B. 3920; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993. Immediately preceding text appears at serial page (198510).

**§ 7.323c. [Reserved].****Source**

The provisions of this § 7.323c adopted by Executive Order No. 1986-5, dated October 17, 1986, effective October 18, 1986, 16 Pa.B. 3920; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993. Immediately preceding text appears at serial pages (198510) to (198511).

**§ 7.324. [Reserved].****Source**

The provisions of this § 7.324 reserved by Executive Order No. 1986-5, dated October 17, 1986, effective October 18, 1986, 16 Pa.B. 3920. Immediately preceding text appears at serial page (109821).

**§ 7.325. [Reserved].****Source**

The provisions of this § 7.325 amended by Executive Order No. 1986-5, dated October 17, 1986, effective October 18, 1986, 16 Pa.B. 3920; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993. Immediately preceding text appears at serial page (198511).

**§ 7.326. [Reserved].****Source**

The provisions of this § 7.326 reserved by Executive Order No. 1986-5, dated October 17, 1986, effective October 18, 1986, 16 Pa.B. 3920. Immediately preceding text appears at serial page (109822).

**§§ 7.327 and 7.328. [Reserved].****Source**

The provisions of these §§ 7.327 and 7.328 amended by Executive Order No. 1986-5, dated October 17, 1986, effective October 18, 1986, 16 Pa.B. 3920; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993. Immediately preceding text appears at serial pages (109822) to (109823).

**§ 7.329. [Reserved].****Source**

The provisions of this § 7.329 adopted by Executive Order No. 1986-5, dated October 17, 1986, effective October 18, 1986, 16 Pa.B. 3920; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993. Immediately preceding text appears at serial pages (198512) and (229823).

**§§ 7.331—7.338. [Reserved].****Source**

The provisions of these §§ 7.331—7.338 adopted by Executive Order No. 1987-1, dated January 7, 1987, effective January 1, 1987, 17 Pa.B. 240; corrected February 6, 1987, 17 Pa.B. 626; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993. Immediately preceding text appears at serial pages (229823) to (229826).

**Cross References**

These sections cited in 12 Pa. Code § 63.2 (relating to provisions of the Tax-Exempt Bond Allocation Act suspended).

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**Subchapter Y. ALCOHOLIC BEVERAGE CONTROL  
COORDINATING COUNCIL**

Sec.

- 7.341. Alcoholic Beverage Control Coordinating Council.
- 7.342. Phase-out plan.
- 7.343. Divestment of State Stores and initial private licensing.
- 7.344. Long-term plan for the regulation of alcoholic beverages.
- 7.345. Continuation of licenses issued by the Board.
- 7.346. Terminated statutory functions and duties of the Board.
- 7.347. Laws relating to alcoholic beverages and intoxicating liquors unaffected by the termination of the Board.

**Source**

The provisions of the Subchapter Y adopted by Executive Order 1986-7, dated December 1, 1986, effective December 13, 1986, 16 Pa.B. 4774, unless otherwise noted.

**§ 7.341. Alcoholic Beverage Control Coordinating Council.**

(a) The Alcoholic Beverage Control Coordinating Council (Council) is hereby created as an advisory agency within the Executive Office of the Governor to supervise the administration, implementation and enforcement of the laws of this Commonwealth relating to alcoholic beverages which have not been terminated together with the Board (as set forth in § 7.346 (relating to terminated statutory functions and duties of the Board)) and to perform the powers and duties assigned to the Council pursuant to this subchapter.

(b) The Council shall consist of the Secretary of Agriculture, the Secretary of the Budget, the Secretary of Environmental Resources, the Secretary of General Services, the Secretary of Health, the Secretary of Revenue, the Commissioner of the State Police and the Majority and Minority Leaders of the Senate and the House of Representatives or their designees. The Governor shall designate a member of the Council to serve as chairman. The Council may appoint any staff necessary to assist it in the discharge of its duties and responsibilities.

(c) All State agencies are hereby directed to assist and cooperate with the Council and are authorized pursuant to section 501 of The Administrative Code of 1929 (71 P. S. § 181) to perform duties on behalf of the Council or request the Council to perform duties on their behalf.

(d) The function of the Council shall be to provide for planning, oversight and coordination of the activities of State agencies involved in the regulation of alcoholic beverages following the termination of the Board. The Council shall not permanently assume any direct responsibilities for the administration, regulation and control of alcoholic beverages.

**§ 7.342. Phase-out plan.**

(a) No operations, activities or functions of the Board, including the operation of State liquor stores, shall be discontinued, no employees of the Board shall

be transferred or furloughed and no property or records of the Board shall be disposed of except as provided by this order and pursuant to a phase-out plan developed by the Board in consultation with the Council.

(b) The Council shall, by February 28, 1987, develop a preliminary proposal to wind-up and conclude the affairs of the Board. The plan shall include, but not be limited to, the following provisions:

(1) The plan shall provide for the transfer of appropriate employees to separate bureaus within the Department of Revenue responsible for licensing and hearings and appeals, and to a liquor law enforcement bureau supervised by the State Police Commissioner. All transfers of employees and any necessary and appropriate property and records shall be complete by June 30, 1987.

(2) The plan shall provide for the transfer of all the property, inventory records and employees of the State Store system and the liquor wholesale distribution system to the Department of General Services on or before June 30, 1987, for appropriate disposition as provided by § 7.343 (relating to divestment of State Stores and initial private licensing).

(3) The plan shall provide a schedule whereby all employees of the Board not transferred to the Department of Revenue, the State Police or the Department of General Services shall be made available as soon as possible for transfer to fill existing vacancies in other State agencies and to augment the activities of other State agencies.

(4) The plan shall provide for the transfer of all other property and records, on or before June 30, 1987, to the Department of General Services for appropriate disposition.

(c) The Council shall present its proposals to the Board on March 2, 1987, and shall assist in winding-up and concluding its affairs as provided by section 9 of the Sunset Act (71 P. S. §§ 1795.1—1795.14).

(d) The Council shall develop plans for the establishment of the following bureaus.

(1) A Liquor Licensing Bureau shall be created within the Department of Revenue to permanently assume the responsibility to issue licenses for the sale of wine and liquor for off-premises consumption and for wholesale wine and liquor distribution and to assume the responsibilities of the Board with regard to the issuance, renewal, transfer, exchange, suspension or revocation of licenses preserved by § 7.345 (relating to continuation of licenses issued by the Board).

(2) A Liquor Licensing Hearing Bureau shall be created within the Department of Revenue to conduct adjudications regarding any refusals to issue, renew, transfer or exchange a license or any suspension or revocation of licenses. Initial decisions of the Hearing Bureau shall be made by hearing examiners learned in the law and may be appealed to a three person Hearing Board established within the Hearing Bureau by the Council. Final decisions of the Bureau may be reviewed by the courts of this Commonwealth in the man-



ner provided by laws preserved by § 7.347 (relating to laws relating to alcoholic beverages and intoxicating liquors unaffected by the termination of the Board).

(3) A Liquor Law Enforcement Bureau shall be created under the supervision and control of the State Police Commissioner to assume the responsibilities of the Board with regard to the prosecution of licensees for violations of the laws and regulations of this Commonwealth. Alleged criminal violations shall be prosecuted by the Attorney General or local district attorneys before the Courts of Common Pleas in the manner provided by the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506). License suspensions, revocations, bond forfeitures and other civil fines and penalties shall be prosecuted before the Liquor Licensing Hearing Bureau. Prior notice regarding any proposed license issuance, renewals, transfers, exchanges, suspensions or revocations shall be provided by the Licensing Bureau to the Liquor Law Enforcement Bureau. In all hearings before the Hearing Bureau the Enforcement Bureau shall be a party and shall advocate vigorous and strict compliance with the laws and regulations of this Commonwealth. Employees of the Liquor Law Enforcement Bureau shall not be members of the State Police but shall be administratively organized into a separate bureau consisting of Liquor Law Enforcement Officers.

(e) The Council shall develop plans to be approved by the Secretary of Administration for the transfer to other State agencies of all employees of the Board not transferred to the Department of Revenue, the State Police or the Department of General Services. Within the limits of available Commonwealth resources, the plan shall provide for the placement of all employees of the Board and shall not result in the furlough or reduction in pay for any employees of the Board.

#### Cross References

This section cited in 4 Pa. Code § 7.344 (relating to long-term plan for the regulation of alcoholic beverages); and 4 Pa. Code § 7.345 (relating to continuation of licenses issued by the Board).

### § 7.343. Divestment of State Stores and initial private licensing.

(a) The Council shall, by June 30, 1987, develop a plan to provide for the divestment of the State Store system by the Department of General Services and the issuance by the Department of Revenue of initial licenses for the private retail and wholesale distribution of liquor within this Commonwealth. The plan may include, but shall not be limited to, the following provisions.

(1) *Auction of State Store assets.* The Department of General Services shall, between July 1, 1987, and March 31, 1988, sell by auction to the highest qualified bidder the right to purchase, upon the cessation of their operations the inventory, tangible property and fixtures of each State Store. The Department shall establish a minimum bid for each auction equal to at least \$10,000 more

than the book value of the assets of any store plus the wholesale cost of anticipated surplus inventories at the time the State Store ceases operation. The Department shall guarantee to each bidder a minimum specified stock of surplus inventory. In order to be qualified to bid for the assets of State Stores, each bidder must agree to accept a license for the operation of a private retail wine and liquor store as provided by paragraph (2) of this subsection and to commence the operation of a private store pursuant to the conditions provided by this section.

(2) *Issuance of private licenses.* In order to maximize the proceeds of the auction of State Store assets and to facilitate the orderly transition to a private system for the retail sale of wine and liquor, the Department of Revenue shall issue to the successful bidder for the assets of each State Store a private license for the sale of wine and liquor for off the premises consumption within the service territory of each State liquor store. The privately licensed operations shall provide product availability, hours of operation and customer services at least equivalent to that offered by State Stores. Within areas of this Commonwealth defined as "urbanized" by the United States Census Bureau, the privately licensed establishments must operate within a one mile radius of the State Store replaced by the licensee, within portions of communities defined by the Census Bureau as "Standard Metropolitan Statistical Areas" and which are not classified as "urbanized" the privately licensed establishment must be located within a four mile radius of the State Store and in other areas the privately licensed establishment must be within a ten mile radius. The licensee shall commence full commercial operations within 90 days of the issuance of a license pursuant to this paragraph.

(3) *Termination of State Store operations.* The Department of General Services shall develop a plan for the disposition of the State Store system which provides for the continued operation of each State-owned liquor store for up to 90 days following the auction of the right to purchase the property of the store. The Department shall further provide for the continued operation of liquor wholesale distribution for a maximum period of twelve months to the extent necessary to provide an adequate supply of consumer products and services during the phase-in of operations of private retail outlets and wholesale distributors. Each State-owned liquor store may remain in operation for not more than 45 days, but not later than June 30, 1988, following the opening of the substitute privately licensed wine and liquor store in order to assure adequate continuity of services to the public. Upon the termination of operations of any State Store, its property, fixtures and surplus inventory shall be sold to the successful bidder upon the terms of the winning bid at the auction provided by paragraph (1) of this subsection.

(4) *Wholesale licenses.* Effective July 1, 1987, the Department of Revenue shall provide for the issuance of licenses to all liquor importers, distilleries and wineries licensed by the Board and to other applicants qualified pursuant to the

laws preserved by § 7.346 (relating to terminated statutory functions and duties of the Board) for sales to the Department of General Services, for private wholesale liquor distribution to supply the private retail liquor stores to be licensed pursuant to subsection (a)(2) of this section and to all retail liquor licensees.

(5) *Disposition of other property.* On or prior to July 1, 1988, the Department of General Services shall dispose of all of the inventory, tangible property, fixtures and other assets of the liquor wholesale distribution system and any other remaining property previously held by the Board pursuant to the provisions of section 2405 of The Administrative Code of 1929 (71 P. S. § 635) (relating to the sale of unserviceable property).

(b) Applicants for licenses issued pursuant to subsection (a)(2) of this section for private retail wine and liquor stores shall be qualified to participate in the auction provided by subsection (a)(1) of this section only upon a demonstration that the applicants meet the following qualifications:

(1) *Financial interests.* The names and addresses of all parties with any direct or indirect legal or equitable ownership interest in the operations of the licensed establishment proposed to be operated by the applicant shall be listed in the license application including all interested individuals, general or limited partners, all stockholders of any closed corporation and all stockholders owning five percent or more of the voting stock of a public corporation. As provided by section 404 of the Liquor Code (47 P. S. § 4-404), parties not listed in a license application or amendment thereof shall not have any ownership interest in a licensed business.

(2) *Interlocking interests.* Neither the applicant nor any party with a direct or indirect legal or equitable ownership interest in the operations of the licensed establishment proposed to be operated by the applicant shall be a licensed distributor, importing distributor, importer, distiller, winery, limited winery, manufacturer, retail liquor licensee, retail dispenser or hold, directly or indirectly, more than two other licenses issued pursuant to subsection (a)(2) of this section.

(3) *Criminal history.* Applicants and all parties with any direct or indirect interests in the operation of licensed establishments proposed to be operated by the applicant shall be of good repute and shall demonstrate satisfactory compliance with the laws of this Commonwealth and other jurisdictions as evidenced by a detailed criminal history evaluation conducted by the State Police and the Federal Bureau of Investigation. No license shall be granted to any applicant if any person with a direct or indirect ownership interest in the activities of the applicant has been convicted of any crime involving fraud, moral turpitude or racketeering or within a period of five years immediately preceding the date of any application has been convicted of any felony.

(4) *Financial responsibility.* Applicants shall post bonds, cash, negotiable securities or letters of credit equal to the minimum bidding price established by

the Department and shall further post bonds to assure compliance with the provisions of this order in the amount of \$25,000, or at a greater amount if determined to be necessary by the Department of Revenue, for each place at which the licensee has applied to engage in business. Applicants shall demonstrate, by submitting audited financial statements, that they possess sufficient financial resources to operate a licensed establishment, pay all taxes due and owing to the Commonwealth and assume liability for the safe operation of the licensed premises. Bonds and letters of credit shall be posted and are subject to forfeiture for violations of this order in the same manner as provided by sections 465 and 466 of the Liquor Code (47 P. S. §§ 4-465 and 4-466).

(5) *Tax clearance certificates.* All applicants shall file a certificate obtained from the Department of Revenue indicating whether the applicant has any current tax deficiencies due and owing the Commonwealth. No applicant shall be permitted to participate in the auction if the applicant has any tax assessments or deficiencies outstanding except for amounts subject to proper appeal.

(c) Licenses shall be issued pursuant to subsection (a)(2) of this section to successful bidders upon a demonstration that the licensee shall comply with the following terms and conditions and licenses shall be subject to suspension or revocation for any violations of the following requirements.

(1) *Financial interests.* Notice shall be given to the Department within 15 days of any change in financial interests as provided by subsection (b)(1).

(2) *Criminal violations.* Notice shall be given to the Department within 15 days of any criminal indictments or convictions as provided by subsection (b)(3) and the ownership interest of any parties subject to such convictions shall be totally divested by the licensee within 30 days of the date of any conviction, guilty plea or plea of nolo contendere.

(3) *Financial responsibility.* Licensees shall continue to maintain the bonding for the operation of a facility required by subsection (b)(3) of this section.

(4) *Tax collection.* Licensees shall collect and remit to the Department of Revenue the Emergency Liquor Tax as provided by the act of June 9, 1936 (P. L. 13, No. 4, Ex. Sess.) (47 P. S. §§ 794 and 795) and the Sales and Use Tax as provided by Article II of the Act of Tax Reform Code of 1971 (71 P. S. §§ 7201—7282).

(5) *Wholesale purchases.* Licensees shall acquire wine and liquor exclusively from either the Board, the Department of General Services or wholesale licensees as authorized pursuant to subsection (a)(4) (relating to divestment of State Stores and initial private licensing) and shall keep a detailed log of all wholesale wine and liquor transactions.

(6) *Interlocking businesses.* Licensees, and all parties with any direct or indirect interests in the operation of licensed establishments, shall comply with the provisions of sections 411 and 443 of the Liquor Code (47 P. S. §§ 4-411 and 4-443) and shall not have any direct or indirect interest in the activities of any distributor, importing distributor, importer, distiller, winery, manufacturer,

retail liquor licensee, retail dispenser or more than three other licenses issued pursuant to subsection (a)(2) of this section.

(7) *Inventory control.* Licensees shall establish adequate security provisions to protect their inventory from unauthorized sale or diversion and prevent its unauthorized distribution.

(8) *Hours of operation.* Licensees shall limit their hours of operation in a manner to be determined by the Council.

(9) *Sales to minors.* Licensees shall establish procedures to ensure that sales of wine and liquor are not made to minors, intoxicated individuals or mentally ill or incompetent persons.

(10) *On-premises consumption.* No licensee shall permit the consumption of alcoholic beverages on the premises of the licensed establishment, except for the sampling or tasting of products as approved by the Council.

(11) *Employes.* Licensees shall comply with the provisions of section 493(13) of the Liquor Code (47 P. S. § 4-493) regarding the employment of minors in any capacity which involves the sale, handling or distribution of alcoholic beverages.

(12) *Local regulations.* Licensees shall operate only at locations for which they were authorized to conduct business and shall operate only at locations for which they have all required local approvals for their intended business activities including zoning approvals and business permits.

(13) *Local option.* No licensee shall make retail sales of wine and liquor in any municipality which has prohibited the operation of a State Store or prohibited the sale of malt or brewed beverages for off-premises consumption pursuant to section 472 of the Liquor Code (47 P. S. § 4-472).

(14) *Related business activities.* No licensee shall engage in any separate business activities upon any licensed premises without prior approval of the Department of Revenue.

(15) *Sales of motor fuel.* No license shall be issued for a place of business where the principal business will be the sale of liquid fuels or oil.

(16) *Business locations.* No license shall be granted if the proposed location to be licensed is within 300 feet of any church, hospital, charitable institution, school or public playground unless the activities of the licensee will not interfere with the operation of such church, hospital, charitable institution, school or public playground and no license shall be granted if the proposed business is located in any area which will be detrimental to the welfare, health, peace or morals of the inhabitants of the neighborhood within 500 feet of the place to be licensed.

(17) *Amusement places.* No licensee shall operate any theater, circus, museum or other place of amusement or any bowling alley, game room, video arcade or other recreational area or have any passageway or communication between a licensed premise and a place of amusement or recreation.

(18) *Consumer services.* Licensees may make deliveries, accept checks and credit cards and provide other consumer services except to the extent restricted by the Council.

(d) Licenses issued pursuant to subsection (a)(2) of this section shall be non-transferable prior to July 1, 1988. In the event the licensee ceases to conduct commercial operations or fails to provide the consumer service required by this order, the Department of Revenue shall revoke the license and as soon as practicable issue a replacement license. On or after July 1, 1988, such licenses shall be transferable, but only upon the prior approval of the Department to persons complying with the provisions of this order.

#### Cross References

This section cited in 4 Pa. Code § 7.342 (relating to phase-out plan).

### § 7.344. Long-term plan for the regulation of alcoholic beverages.

(a) The Council shall, by June 30, 1988, prepare and submit to the Governor a long-term plan for the regulation of alcoholic beverages following the transition period provided by § 7.342 (relating to phase-out plan). The long-term plan may provide for the issuance of additional numbers and types of private retail wine and liquor licenses or may provide recommendations for legislation to establish a new statutory wine and liquor control system.

(b) In developing a long-term plan the Council shall consider the advisability of issuing the following additional types of licenses.

(1) *Incidental wine sales.* The Council shall consider whether to provide for the issuance to qualified holders of restaurant, golf course, hotel and club liquor licenses of permits to make incidental retail sales of wine and wine products for off the premises consumption. The Council may develop and propose reasonable volume limitations for such sales consistent with the operations and activities of the permit holders.

(2) *Wine sales.* The Council shall consider whether to provide for the issuance to qualified applicants of permits to make retail sales of wine and wine products for off the premises consumption subject to the terms and conditions and additional requirements to be proposed by the Council acting on behalf of the Departments of Agriculture, Environmental Resources and Revenue.

(3) *Retail liquor licenses.* The Council shall consider whether to provide for the issuance to qualified applicants of permits to make retail sales of liquor and wine or wine only for off the premises consumption upon a demonstration that the applicant can satisfy the requirements of this order and any additional requirements established by the Council acting on behalf of the Departments of Agriculture, Environmental Protection and Revenue.

(c) The Council shall conduct public hearings and shall meet with liquor control officials of surrounding states to evaluate alternative methods for licensing the private sale of wine and liquor.

**§ 7.345. Continuation of licenses issued by the Board.**

(a) Pursuant to section 10 of the Sunset Act (71 P. S. § 1795.10), all licenses, permits, registrations, and certificates issued by the Board prior to January 1, 1987, shall continue in full force and effect and shall not be impaired by the termination of the Board. Licenses, permits, registrations and certifications contained in full force and effect include, but are not limited to, the following:

- (1) Restaurant, hotel, club, airport, golf course and caterers licenses as provided by section 401 of the Liquor Code (47 P. S. § 4-401).
- (2) Sunday sales permits as provided by section 406 of the Liquor Code (47 P. S. § 4-406).
- (3) Approvals of secondary service areas as provided by section 406.1 of the Liquor Code (47 P. S. § 4-406.1).
- (4) Public service licenses as provided by section 408 of the Liquor Code (47 P. S. § 4-408).
- (5) Trade show or convention licenses as provided by section 408.1 of the Liquor Code (47 P. S. § 4-408.1).
- (6) City-owned stadia licenses as provided by section 408.2 of the Liquor Code (47 P. S. § 4-408.2).
- (7) Performing arts facilities licenses as provided by section 408.3 of the Liquor Code (47 P. S. § 4-408.3).
- (8) Special occasion permits as provided by section 408.4 of the Liquor Code (47 P. S. § 4-408.4).
- (9) City-owned art museum and non-profit art museum licenses as provided by section 408.5 of the Liquor Code (47 P. S. § 4-408.5).
- (10) Performing arts facility licenses as provided by section 408.6 of the Liquor Code (47 P. S. § 4-408.6).
- (11) Performing arts facility licenses as provided by section 408.7 of the Liquor Code (47 P. S. § 4-408.7).
- (12) Trade show and convention licenses as provided by section 408.8 of the Liquor Code (47 P. S. § 4-408.8).
- (13) Stadium and restaurant licenses as provided by section 408.9 of the Liquor Code (47 P. S. § 4-408.9).
- (14) Sacramental wine licenses as provided by section 409 of the Liquor Code (47 P. S. § 4-409).
- (15) Liquor importers licenses and warehouse permits as provided by section 410 of the Liquor Code (47 P. S. § 4-410).
- (16) Malt and brewed beverage manufacturers, distributors and importing distributors licenses as provided by section 431 of the Liquor Code (47 P. S. § 4-431).
- (17) Hotel, eating place, golf course and club retail dispenser's licenses as provided by section 432 of the Liquor Code (47 P. S. § 4-432).



(18) Public service licenses as provided by section 433 of the Liquor Code (47 P. S. § 4-333).

(19) Stadium or arena permits as provided by section 433.1 of the Liquor Code (47 P. S. § 4-433.1).

(20) National veterans organizations licenses as provided by section 461.1 of the Liquor Code (47 P. S. § 4-461.1).

(21) Amusement permits as provided by section 463 of the Liquor Code (47 P. S. § 4-463).

(22) Sunday permits as provided by section 492 of the Liquor Code (47 P. S. § 4-492).

(23) Distillery, winery, bonded warehouse, bailee for hire and transporters licenses as provided by section 501 of the Liquor Code (47 P. S. § 4-501).

(24) Alcohol, physician, pharmacist and other exception permits as issued as provided by section 502 of the Liquor Code (47 P. S. § 4-502).

(25) Denatured ethyl alcohol permits as provided by section 502.1 of the Liquor Code (47 P. S. § 4-502.1).

(26) Limited winery licenses as provided by section 505.2 of the Liquor Code (47 P. S. § 4-505.2).

(27) Distillery certificate broker permits as provided by section 702 of the Liquor Code (47 P. S. § 4-702).

(28) Agents registrations as provided by section 722 of the Liquor Code (47 P. S. § 4-722).

(b) Except as otherwise provided by this subchapter, licensees, permittees, registrants and certificate holders operating after the termination of the Board shall be limited to the powers, duties and responsibilities vested in the licensee pursuant to the Liquor Code (47 P. S. §§ 1-101—9-902) and any rules, regulations or orders of the Board. The Board may, with the advice and assistance of the Council, until June 30, 1987, supervise the activities of licensees and ensure compliance with the terms and conditions of licensed activities. Thereafter, the activities of licensees shall be supervised and regulated as provided by § 7.342 (relating to phase-out plan).

(c) Licenses, permits, registrations and approvals may be transferred, renewed or exchanged as provided by provisions of the Liquor Code preserved by § 7.347 (relating to laws relating to alcoholic beverages and intoxicating liquors unaffected by the termination of the Board).

(d) Licensees, permittees, registrants and certificate holders shall pay any fees as provided by provisions of the Liquor Code preserved by § 7.347. Such fees shall be paid to the Department of Revenue.

#### Cross References

This section cited in 4 Pa. Code § 7.342 (relating to phase-out plan).



**§ 7.346. Terminated statutory functions and duties of the Board.**

The continuation of the following functions and duties of the Board conflict irreconcilably with the termination of the Board and upon the termination of the Board, therefore, the following acts and parts of acts relating to the statutory functions and duties of the Board are terminated and cannot be enforced except to the extent otherwise provided by this subchapter.

(1) The act of December 20, 1933 (1933-34 Sp.Sess., P. L. 89, No. 15) (47 P. S. §§ 744-907—744-907c) insofar as the act authorizes the Board to expend monies in the State Stores Fund and authorizes the Board to direct payments of monies in the fund.

(2) The act of December 20, 1933 (1933-34 Sp.Sess., P. L. 90, No. 16) (47 P. S. §§ 744-908 and 744-909) insofar as the act limits transfers into the General Fund based upon the gross sales volume of State Stores.

(3) The act of June 9, 1936 (Ex. Sess., P. L. 13, No. 4) (47 P. S. §§ 794 and 795) insofar as the act designates the Board as the Commonwealth agency responsible for collecting the tax.

(4) The act of June 24, 1939 (P. L. 806, No. 358) insofar as the act authorizes the Board to issue any new licenses.

(5) The Liquor Code as follows:

Section 104(c) (47 P. S. § 1-104(c)) (Interpretation of act) insofar as the section prohibits the manufacturer of and transactions in liquor except under the control of the Board.

Section 201 (47 P. S. § 2-201) (Appointment of members; terms; salaries).

Section 202 (47 P. S. § 2-202) (Qualifications of members).

Section 203 (47 P. S. § 2-203) (Chairman of Board).

Section 204 (47 P. S. § 2-204) (Secretary of Board).

Section 205 (47 P. S. § 2-205) (Bonds required of members and secretary).

Section 206 (47 P. S. § 2-206) (Board subject to Administrative Code).

Section 207 (47 P. S. § 2-207) (General powers of Board).

Section 208 (47 P. S. § 2-208) (Specific subjects on which Board may adopt regulations).

Section 209 (47 P. S. § 2-209) (Officers and investigators of the Board to be peace officers; powers) except as preserved by § 7.347 (relating to laws relating to alcoholic beverages and intoxicating liquors unaffected by the termination of the Board).

Article III (Pennsylvania Liquor Stores) (47 P. S. §§ 3-301—3-306).

Section 401 (47 P. S. § 4-401) (Authority to issue liquor licenses to hotels, restaurants and clubs) insofar as the section authorizes the Board to issue new hotel, restaurant, club and caterers licenses.

Section 402 (47 P. S. § 4-402) (License districts; license year; hearings) insofar as the section authorizes the Board to establish license districts and license years and appoint hearing examiners.

Section 403 (47 P. S. § 4-403) (Applications for hotel, restaurant and club liquor licenses) insofar as the section authorizes the Board to receive and process new applications for licenses and to receive and process applications for the transfer of licenses.

Section 404 (47 P. S. § 4-404) (Issuance of hotel, restaurant and club liquor licenses) insofar as the section authorizes the Board to issue licenses.

Section 405 (47 P. S. § 4-405) (License fees) insofar as the section requires the transmittal of fees to the Board and authorizes the Board to impose penalties for dishonored checks.

Section 406.1 (47 P. S. § 4-406.1) (Secondary service area) insofar as the section authorizes the Board to review and approve secondary service areas.

Section 408 (47 P. S. § 4-408) (Public service liquor licenses) insofar as the section authorizes the Board to issue new public service licenses, revoke licenses and receive monthly reports from licensees.

Section 408.1 (47 P. S. § 4-408.1) (Trade show and convention licenses) insofar as the section authorizes the Board to issue licenses to new trade shows and convention centers in cities of the first or second class.

Section 408.2a (47 P. S. § 4-408.2a) (City-owned stadia) insofar as the section authorizes the Board to issue licenses to new stadia.

Section 408.3 (47 P. S. § 4-408.3) (Performing arts facilities) insofar as the section authorizes the Board to issue licenses to new performing arts facilities in cities of the first and second class.

Section 408.4 (47 P. S. § 4-408.4) (Special occasion permits) insofar as the section designates the Board as the Commonwealth agency authorized to issue special occasion permits.

Section 408.5 (47 P. S. § 4-408.5) (Licenses for city-owned art museums, cities first class and art museums maintained by certain non-profit corporations in cities of the second class) insofar as the section authorizes the Board to issue licenses to new art museums.

Section 408.6 (47 P. S. § 4-408.6) (Performing arts facilities) insofar as the section authorizes the Board to issue licenses to new performing arts facilities in cities of the third class.

Section 408.7 (47 P. S. § 4-408.7) (Performing arts facilities) insofar as the Board is required to approve transfers of performing arts facility licenses in cities of the first and second class.

Section 408.8 (47 P. S. § 4-408.8) (Trade shows and convention licenses; cities of the third class) insofar as the section authorizes the Board to issue licenses to new trade shows and convention centers in cities of the third class.

Section 408.9 (47 P. S. § 4-408.9) (Stadium and restaurant licenses in third class cities) insofar as the section authorizes the Board to issue any new restaurant licenses.

Section 409 (47 P. S. § 4-409) (Sacramental wine license; fees; privileges; restrictions) insofar as the section authorizes the Board to issue new sacramental wine licenses and to revoke such licenses.

Section 410 (47 P. S. § 4-410) (Liquor importers' licenses; fees; privileges; restrictions) insofar as the section authorizes the Board to issue new liquor importers' licenses and warehouse permits, restricts sales to the Board and requires the consignment of shipments to the Board.

Section 431 (47 P. S. § 4-431) (Malt and brewed beverages manufacturers', distributors' and importing distributors' licenses) insofar as the section authorizes the Board to issue new licenses and inspect licensees.

Section 432 (47 P. S. § 4-432) (Malt and brewed beverages retail licenses) insofar as the section authorizes the Board to issue new licenses and revoke or suspend licenses.

Section 433 (47 P. S. § 4-433) (Public service licenses) insofar as the section authorizes the Board to issue new public services licenses, revoke licenses and receive monthly reports.

Section 433.1 (47 P. S. § 4-433.1) (Stadium or arena permits) insofar as the section authorizes the Board to issue new special permits in certain classes of municipalities and school districts.

Section 434 (47 P. S. § 4-434) (License year) insofar as the section authorizes the Board to revise license renewal periods.

Section 435 (47 P. S. § 4-435) (Filing of applications for distributors', importing distributors' and retail dispensers' licenses; filing fee) insofar as the section establishes procedures and filing applications for new licenses and requires applications for renewals or transfers to be filed with the Board.

Section 436 (47 P. S. § 4-436) (Application for distributors', importing distributors' and retail dispensers' licenses) insofar as the section designates the content of applications for new licenses.

Section 437 (47 P. S. § 4-437) (Prohibitions against the grant of licenses) insofar as the section relates to the grant of new licenses.

Section 439 (47 P. S. § 4-439) (Malt or brewed beverage license fees) insofar as the section relates to new licenses and requires fees to be remitted to the Commonwealth through the Board.

Section 440 (47 P. S. § 4-440) (Sales by manufacturers of malt or brewed beverages; minimum quantities) insofar as the Board is authorized to approve new types of containers.

Section 444 (47 P. S. § 4-444) (Malt or brewed beverages manufactured outside this Commonwealth) insofar as the section authorizes the Board to issue new reciprocal regulations and orders and designates the Board as the agency responsible for the receipt of fees, seizure and disposal of contraband, conducting certain hearings, imposing fines and entering orders.

Section 461 (47 P. S. § 4-461) (Limiting number of retail licenses to be issued in each municipality) insofar as the section authorizes the Board to grant new retail licenses.

Section 461.1 (47 P. S. § 4-461.1) (Incorporated units of National Veterans' Organizations) insofar as the section authorizes the Board to issue new licenses.

Section 462 (47 P. S. § 4-462) (Licensed places may be closed during period of emergency) insofar as the section empowers the Board to take certain actions.

Section 463 (47 P. S. § 4-463) (Places of amusement not to be licensed; penalty) insofar as the section authorizes the issuance of new licenses.

Section 464 (47 P. S. § 4-464) (Hearings upon refusal of licenses, renewals or transfers; appeals) insofar as the section deals with the issuance of new licenses and designates the Board as the agency responsible for conducting certain hearings.

Section 465 (47 P. S. § 4-465) (All licensees to furnish bond) insofar as the section deals with the issuance of new licenses and authorizes the Board to approve, accept, retain and order the forfeiture of bonds.

Section 466 (47 P. S. § 4-466) (Disposition of cash and securities upon forfeiture of bond) insofar as the section authorizes the Board to order the forfeiture of bonds.

Section 468 (47 P. S. § 4-468) (Licenses not assignable; transfers) insofar as the section designates the Board as responsible for reviewing, approving or disapproving the transfer of licenses.

Section 469 (47 P. S. § 4-469) (Applications for transfer; fees) insofar as the section requires the filing of applications with the Board and the payment of fees to the Commonwealth through the Board.

Section 470 (47 P. S. § 4-470) (Renewal of licenses; temporary provisions for licenses in armed service) insofar as the section designates the Board as the agency responsible for the receipt, processing, approval or disapproval of renewal applications and requires fees due the Commonwealth to be paid through the Board and requires bonds to be deposited with the Board.

Section 470.1 (47 P. S. § 4-470.1) (Renewal of hotel liquor licenses; special provisions) insofar as the section authorizes the Board to provide new special exemptions from renewal requirements not heretofore granted for specific licensees.

Section 471 (47 P. S. § 4-471) (Revocation and suspension of licenses; fines) insofar as the section authorizes the Board as the agency responsible for revoking or suspending licenses, conducting hearings and imposing fines.

Section 472 (47 P. S. § 4-472) (Local option) insofar as the section deals with the operation of State Stores.

Section 472.2 (47 P. S. § 4-472.2) (Granting of liquor licenses in certain municipalities) insofar as the section authorizes the Board to issue new licenses.

Section 472.3 (47 P. S. § 4-472.3) (Exchange of certain licenses) insofar as the section designates the Board as the agency responsible for exchanging certain licenses.

Section 474 (47 P. S. § 4-474) (Surrender of club licenses for benefit of licensees) insofar as the section designates the Board as the agency to which club licenses may be surrendered and which may revoke club licenses at the termination of the surrender period.

Section 491 (47 P. S. § 4-491) (Unlawful acts relative to liquor, alcohol and liquor licenses) as follows:

Subsection (1) (47 P. S. § 4-491(1)) (Sales of liquor) insofar as the subsection restricts certain sales of liquor for off-premise consumption to State Stores and authorizes the Board to adopt new regulations;

Subsection (2) (47 P. S. § 4-491(2)) (Possession or transportation of liquor or alcohol) insofar as the subsection requires certain liquor and alcohol to be acquired only from State Stores;

Subsection (3) (47 P. S. § 4-491(3)) (Purchase of liquor or alcohol);

Subsection (4) (47 P. S. § 4-491(4)) (Possession and use of decanters) insofar as the subsection authorizes the Board to adopt new regulations;

Subsection (7) (47 P. S. § 4-491(7)) (Sales of liquor by manufacturers and licensed importers) insofar as the subsection restricts certain sales only to the Board and State Stores;

Subsection (8) (47 P. S. § 4-491(8)) (Importation and sales of alcohol) insofar as the subsection restricts certain sales only to the Board or State Stores;

Subsection (9) (47 P. S. § 4-491(9)) (Possession of alcohol) insofar as the subsection requires certain alcohol to be acquired from State Stores;

Subsection (10) (47 P. S. § 4-491(10)) (Fortifying, adulterating or contaminating liquor) insofar as the subsection authorizes the Board to adopt new regulations; and

Subsection (13) (47 P. S. § 4-491(13)) (Violation of certain rules and regulations of the Board).

Section 492 (47 P. S. § 4-492) (Unlawful acts relative to malt or brewed beverages and licensees) as follows:

Subsection (5) (47 P. S. § 4-492(5)) (Sales of malt or brewed beverages by hotels, eating places or public service licensees during prohibited hours) insofar as the subsection requires notice to the Board regarding daylight savings time;

Subsection (8) (47 P. S. § 4-492(8)) (Transportation of malt or brewed beverages) insofar as the subsection authorizes the Board to issue licenses and permits, requires fees payable to the Commonwealth to be paid through the Board and directs certain bonds to be deposited with the Board;

Subsection (10) (47 P. S. § 4-492(10)) (Importing or transporting malt or brewed beverages without tax stamps) insofar as the subsection authorizes the Board to issue new rules and regulations;

Subsection (11) (47 P. S. § 4-492(11)) (Delivery of malt or brewed beverages with other commodities) insofar as the subsection authorizes the Board to approve the delivery of certain commodities; and

Subsection (12) (47 P. S. § 4-492(12)) (Distributors and importing distributors engaging in other business) insofar as the subsection authorizes the Board to issue new rules and regulations.

Section 493 (47 P. S. § 4-493) (Unlawful acts relative to liquor, malt or brewed beverages and licensees) as follows:

Subsection (2) (47 P. S. § 4-493(2)) (Purchase or sale of liquor or malt or brewed beverages on credit) insofar as the subsection authorizes the Board to adopt new rules and regulations;

Subsection (9) (47 P. S. § 4-493 (9)) (Retail licensees furnishing free lunch, etc.) insofar as the subsection authorizes the Board to approve the sale of certain articles of food not heretofore approved or to adopt new rules and regulations;

Subsection (10) (47 P. S. § 4-493(10)) (Entertainment on licensed premises (except clubs); permits; fees) insofar as the subsection authorizes the Board to issue new entertainment permits and collect permit fees due the Commonwealth;

Subsection (12) (47 P. S. § 4-493(12)) (Failure to have records on premises) insofar as the subsection grants the Board access to licensed premises;

Subsection (13) (47 P. S. § 4-493(13)) (Retail licenses employing minors) insofar as the subsection authorizes the Board to adopt new rules and regulations;

Subsection (14) (47 P. S. § 4-493(14)) (Permitting undesirable persons or minors to frequent premises) insofar as the subsection requires notice of certain gatherings to be provided to the Board;

Subsection (21) (47 P. S. § 4-493(21)) (Refusing right of inspection) insofar as the subsection applies to the Board or its authorized employees; and

Subsection (25) (47 P. S. § 4-493(25)) (Employment of females in licensed premises) insofar as the subsection authorizes the Board to revoke or refuse licenses.

Section 495 (47 P. S. § 4-495) (Identification cards) insofar as the section authorizes the Board to issue new identification cards and allows the examination of files by any officer, agent or employe.

Section 496 (47 P. S. § 4-496) (Reporting of worthless checks) insofar as the section requires reports to be made to the Board.

Section 502 (47 P. S. § 5-502) (Exceptions) insofar as the section authorizes the Board to specify new types of exceptions.

Section 502.1 (47 P. S. § 5-502.1) (Production of denatured ethyl alcohol) insofar as the section requires annual registration fees due the Commonwealth to be paid through the Board and provides that required records and monthly production and utilization reports must be filed with the Board.

Section 504 (47 P. S. § 5-504) (Applications; filing fees) insofar as the section applies to the issuance of new licenses except for new denatured ethyl alcohol licenses.

Section 505 (47 P. S. § 5-505) (Licenses issued) insofar as the section applies to the issuance of new licenses.

Section 505.2 (47 P. S. § 5-505.2) (Limited wineries) insofar as the section authorizes the Board to enforce its rules and regulations and to adopt new rules and regulations.

Section 505.3 (47 P. S. § 5-505.3) (Distilleries) insofar as the section authorizes the Board to adopt new rules and regulations.

Section 506 (47 P. S. § 5-506) (Bonds required) insofar as the section provides that bonds, cash and securities in lieu of bonds and confessions of judgment required by the section must be filed with the Board and bonds may be forfeited by the Board.

Section 507 (47 P. S. § 5-507) (Hearings upon refusal of licenses) insofar as the section relates to the issuance of new licenses and designates the Board as the agency responsible for conducting hearings regarding license renewals.

Section 509 (47 P. S. § 5-509) (License must be posted; business hours) insofar as the section requires the issuance of licenses by the Board.

Section 512 (47 P. S. § 5-512) (Records to be kept) insofar as the section authorizes the Board to prescribe new record-keeping requirements or adopt new rules and regulations.

Section 513 (47 P. S. § 5-513) (Premises and records subject to inspection) insofar as the section designates the Board and persons designated or authorized by the Board as responsible for conducting inspections.

Section 514 (47 P. S. § 5-514) (Suspension and revocation of licenses) insofar as the section designates the Board as the agency responsible for the suspension and revocation of licenses and conducting hearings.

Section 516 (47 P. S. § 5-516) (Compromise penalty in lieu of suspension) insofar as the section designates the Board as the agency responsible for accepting compromise penalties.

Section 517 (47 P. S. § 5-517) (Expiration of licenses; renewals) insofar as the section designates the Board as the Commonwealth agency for renewing licenses and receiving reports regarding changes in officers of licensee corporations.

Section 519 (47 P. S. § 5-519) (Penalties) insofar as the section authorizes the Board to inspect or designate persons to inspect licensed activities.

Article VI, Subdivision (A) (Forfeitures) (47 P. S. §§ 6-601—6-605) insofar as the subdivision designates the Board as the Commonwealth agency with discretion to initiate forfeiture proceedings.

Section 703 (47 P. S. § 7-703) (Authority to issue permits to distillery certificate brokers) insofar as the section authorizes the Board to issue new distillery certificate permits.

Section 704 (47 P. S. § 7-704) (Application for permit; filing fee) insofar as the section applies to applications for new permits and requires fees payable to the Commonwealth to be remitted through the Board.



Section 705 (47 P. S. § 7-705) (Issuance of permits) insofar as the section deals with the issuance of new permits and designates the Board as the Commonwealth agency responsible for renewing permits.

Section 707 (47 P. S. § 7-707) (Permit fee; permits not assignable; display of permit; term of permit) insofar as the section requires annual fees due the Commonwealth to be paid through the Board.

Section 708 (47 P. S. § 7-708) (Records to be kept) insofar as the section authorizes the Board to designate new record-keeping requirements and designates the Board as the Commonwealth agency responsible for inspecting records.

Section 709 (47 P. S. § 7-709) (Renewal of permits) insofar as the section designates the Board as the Commonwealth agency responsible for the renewal of permits.

Section 710 (47 P. S. § 7-710) (Permit hearings; appeals from refusal of the Board to issue or renew permits) insofar as the section deals with the issuance of new permits and designates the Board as the Commonwealth agency responsible for conducting hearings regarding the renewal of permits.

Section 711 (47 P. S. § 7-711) (Procedure of appeal; record to be certified; cost of preparing record; appeal to supreme court) insofar as the section designates the Board as the Commonwealth agency responsible for representing the Commonwealth in appeals, certifying the record and receiving the payment of certain costs.

Section 712 (47 P. S. § 7-712) (Revocation and suspension of permit) insofar as the section designates the Board as the Commonwealth agency responsible for the revocation or suspension of permits.

Section 722 (47 P. S. § 7-722) (Registered agents) insofar as the section designates the Board as the Commonwealth agency with which distillery certificate brokers shall register their agents.

Section 724 (47 P. S. § 7-724) (Registration and issuance of identification card) insofar as the section designates the Board as the Commonwealth agency responsible for registering the agents of distillery certificate brokers and issuing identification cards to such agents.

Section 725 (47 P. S. § 7-725) (Hearings upon refusal of the board; appeals) insofar as the section deals with the issuance of new licenses and designates the Board as the Commonwealth agency responsible for conducting hearings regarding the renewal of distillery certificate broker permits.

Section 726 (47 P. S. § 7-726) (Revocation and suspension of agents' registrations) insofar as the section designates the Board as the Commonwealth agency responsible for the revocation or suspension of agents' registrations.

Section 727 (47 P. S. § 7-727) (Identification cards) insofar as the section designates the Board as the Commonwealth agency responsible for issuing identification cards to agents, changing registrations, receiving certain notifications and receiving surrendered identification cards.



Section 741 (47 P. S. § 7-741) (Duties of Board) insofar as the section designates the Board as the Commonwealth agency responsible for the administration and enforcement of Article VII and conducting investigations.

Section 801 (47 P. S. § 8-801) (Monies paid into liquor license fund and returned to municipalities) insofar as the section designates the Board as the Commonwealth agency to which fees shall be paid and which shall make payments to municipalities and authorizes the Board to appropriate monies in the Liquor License Fund for refunds and to deduct from payments to municipalities certain amounts.

(6) The Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506) insofar as the act designates the Board as an independent agency and pursuant to Chapter 4 (71 P. S. §§ 732-401—732-403) authorizes the Board to appoint and fix the compensation of counsel, authorizes counsel of the Board to assume certain duties and powers and authorizes the Board to supersede and intervene in certain actions.

(7) Any other acts or parts of acts relating to the statutory functions and duties of the Board except insofar as the acts or parts thereof relate to rights vested or accrued prior to December 31, 1986, impose general penal provisions, restrictions or regulatory requirements, enact taxes or otherwise contain provisions the continuation of which is not irreconcilably inconsistent with the termination of the Board.

#### Cross References

This section cited in 4 Pa. Code § 7.341 (relating to Alcoholic Beverage Control Coordinating Council); 4 Pa. Code § 7.342 (relating to phase-out plan); 4 Pa. Code § 7.343 (relating to divestment of State Stores and initial private licensing); and 4 Pa. Code § 7.347 (relating to laws relating to alcoholic beverages and intoxicating liquors unaffected by the termination of the Board).

### § 7.347. Laws relating to alcoholic beverages and intoxicating liquors unaffected by the termination of the Board.

All acts or parts of acts by which rights were vested or accrued prior to December 31, 1986, which impose penal provisions or general requirements or restrictions, enact taxes or which contain provisions relating to intoxicating liquors the continuation of which is not irreconcilably inconsistent with the termination of the Board are preserved in full force and effect. Such statutes preserved include, but are not limited to, the following acts or parts of acts.

- (1) Sections 203, 727 and 1207 of the Fiscal Code (72 P. S. §§ 203, 727 and 1207).
- (2) The Malt Beverage Tax Law (47 P. S. §§ 103—120.3).
- (3) The Spirituous and Vinous Liquor Tax Law (47 P. S. §§ 745—767).
- (4) The act of December 20, 1933 (1933-34 Sp.Sess., P. L. 89, No. 15) (47 P. S. §§ 744-907—744-907c) insofar as the act authorizes the expenditure of monies in the State Stores Fund by Commonwealth agencies other than the

Board, authorizes the transfer of monies into the General Fund and requires the Governor to approve expenditures paid out of the fund.

(5) The act of December 20, 1933 (1933-34 Sp.Sess., P. L. 90, No. 16) (47 P. S. §§ 744-908 and 744-909) relating to the transfer and utilization of monies in the General Fund and the State Stores Fund except as terminated pursuant to § 7.346 (relating to terminated statutory functions and duties of the Board).

(6) The act of June 9, 1936 (Ex. Sess., P. L. 13, No. 4) (47 P. S. §§ 794 and 795) imposing an Emergency Liquor Tax except as terminated pursuant to § 7.346.

(7) The act of May 25, 1939 (P. L. 191, No. 99) (47 P. S. §§ 744-910 and 744-911) relating to the transfer of monies between the General Fund and the State Stores Fund.

(8) The act of June 24, 1939 (P. L. 806, No. 358) relating to the quota system except as terminated pursuant to § 7.346.

(9) The Liquor Code as follows:

Section 101 (47 P. S. § 1-101) (Short title).

Section 102 (47 P. S. § 1-102) (Definitions).

Section 103 (47 P. S. § 1-103) (Saving clause).

Section 104 (47 P. S. § 1-104) (Interpretation of act) except insofar as section 104(c) prohibits the manufacture of and transactions in liquor except under the control of the Board.

Section 209 (47 P. S. § 2-209) (Officers and investigators of the Board to be peace officers; powers) except insofar as the section authorizes the Board to designate employes as enforcement officers.

Section 210 (47 P. S. § 2-210) (Restrictions on members of the Board and employes of the Commonwealth) insofar as the section restricts the activities of employes of this Commonwealth.

Section 401 (47 P. S. § 4-401) (Authority to issue liquor licenses to hotels, restaurants and clubs) insofar as the section delineates the rights and responsibilities of hotel, restaurant, club and caterer licensees.

Section 402 (47 P. S. § 4-402) (License districts; license year; hearings) insofar as the section establishes times at which licensees must pay license renewal fees and grants licensees rights to hearings before examiners.

Section 403 (47 P. S. § 4-403) (Applications for hotel, restaurant and club liquor licenses) insofar as the section establishes the right of licensees to transfer licenses, imposes requirements for the transfer of licenses, imposes citizenship and incorporation requirements, restricts the activities of club licensees, establishes public notice requirements and declares the making of intentional false statements to be a misdemeanor.

Section 404 (47 P. S. § 4-404) (Issuance of hotel, restaurant and club licenses) insofar as the section restricts pecuniary interests in licenses, requires the posting of bonds and the payment of fees, prohibits operations within 300 feet of a

church, hospital, charitable institution, school or public playground, prohibits the sale of liquid fuels or oil by licensees, prohibits activities detrimental to the public health and welfare, restricts transfers to parties convicted of felonies and imposes other requirements and conditions upon the operation of licensees and the transfer of licenses.

Section 405 (47 P. S. § 4-405) (License fees) insofar as the section requires licensees to pay fees to this Commonwealth and establishes a penalty for the attempted payment of fees with dishonored checks.

Section 406 (47 P. S. § 4-406) (Sales by liquor licensees; restrictions).

Section 406.1 (47 P. S. § 4-406.1) (Secondary service area) insofar as the section requires licensees to pay fees for the use of secondary service areas, restricts the size and nature of secondary service areas and permits specified activities within secondary service areas.

Section 407 (47 P. S. § 4-407) (Sale of malt or brewed beverages by liquor licensees).

Section 408 (47 P. S. § 4-408) (Public service liquor licenses) insofar as the section specifies rights, responsibilities and limitations upon the activities of public service licensees, requires licensees to file monthly reports and requires the payment of fees.

Section 408.1 (47 P. S. § 4-408.1) (Trade show or convention licenses) insofar as the section specifies rights, responsibilities and limitations upon activities of trade show and convention licenses, requires the posting of bonds and the payment of fees, authorizes the periodic renewal of licenses and the renewal of licenses upon the selection of new concessionaires and upon the reissuance of contracts.

Section 408.2 (47 P. S. § 4-408.2) (Effect of other laws).

Section 408.2a (47 P. S. § 4-408.2a) (City-owned stadia) insofar as the section specifies the rights, responsibilities and limitations upon activities of stadia licensees, requires the posting of bonds and payment of fees, authorizes the periodic renewal of licenses and the renewal of licenses upon the selection of new concessionaires and the reissuance of contracts.

Section 408.3 (47 P. S. § 4-408.3) (Performing arts facilities) insofar as the section specifies the rights, responsibilities and limitations upon activities of performing arts facility licensees in cities of the first and second class, requires the posting of bonds and the payment of fees, authorizes the periodic renewal of licenses and the renewal of licenses upon the selection of new concessionaires and the reissuance of contracts.

Section 408.4 (47 P. S. § 4-408.4) (Special occasion permits) insofar as the section specifies the rights, responsibilities and limitations upon activities of persons issued special occasion permits, authorizes the issuance of special occasion permits, and establishes penalties for violation of the terms of special occasion permits.

Section 408.5 (47 P. S. § 4-408.5) (Licenses for city-owned art museums, cities first class and art museums maintained by certain nonprofit corporations in cities of the second class) insofar as the section specifies the rights, responsibilities and limitations upon the activities of licensees, requires the posting of bonds and the payment of fees, authorizes the periodic renewal of licenses and the renewal of licenses upon the selection of new concessionaires and the reissuance of contracts.

Section 408.6 (47 P. S. § 4-408.6) (Performing arts facilities) insofar as the section specifies the rights, responsibilities and limitations upon the activities of performing arts facility licensees in cities of the third class, requires the posting of bonds and the payment of fees, authorizes the periodic renewal of licenses and the renewal of licenses upon the selection of new concessionaires and the reissuance of contracts.

Section 408.7 (47 P. S. § 4-408.7) (Performing arts facilities) insofar as the section authorizes performing arts facility licensees in cities of the first and second class to transfer their licenses, specifies the rights, responsibilities and limitations upon the activities of transferees, requires the posting of bonds and the payment of fees, authorizes the periodic renewal of licenses upon the selection of new concessionaires or the reissuance of contracts.

Section 408.8 (47 P. S. § 4-408.8) (Trade show and convention licenses; cities of the third class) insofar as the section specifies the rights, responsibilities and limitations upon activities of trade show and convention licensees, requires the posting of bonds and the payment of fees, authorizes the period renewal of licenses and the renewal of licenses upon the selection of new concessionaires and the reissuance of contracts.

Section 408.9 (47 P. S. § 4-408.9) (Stadium and restaurant licenses in third class cities) insofar as the section authorizes activities by restaurant licensees operating on the same parcel of land as the stadium in cities of the third class.

Section 409 (47 P. S. § 4-409) (Sacramental wine license; fees; privileges; restrictions) insofar as the section delineates the privileges and restrictions upon the operation of sacramental wine licensees, requires the posting of bonds and payment of fees, provides for the revocation of licenses and establishes procedures for license revocations.

Section 410 (47 P. S. § 4-410) (Liquor importers' licenses; fees; privileges; restrictions) insofar as the section delineates the privileges and restrictions upon the activities of liquor licenses and holders of warehouse permits, requires the posting of bonds and the payment of fees, imposes citizenship and incorporation requirements, requires the retention of records, provides for the revocation of licenses and establishes procedures for license revocation.

Section 411 (47 P. S. § 4-411) (Interlocking business prohibited).

Section 431 (47 P. S. § 4-431) (Malt and brewed beverages manufacturers', distributors' and importing distributors' licenses) insofar as the section delineates the privileges and restrictions upon the operation of manufacturers, distributors

and importing distributors, requires the posting of bonds and the payment of fees, establishes citizenship and incorporation requirements and regulates business practices among licensees.

Section 432 (47 P. S. § 4-432) (Malt and brewed beverages retail licenses) insofar as the section delineates the privileges and restrictions upon the operation of malt and brewed beverage licensees, requires the posting of bonds and the payment of fees, authorizes the renewal and transfer of licenses, establishes citizenship and incorporation requirements, restricts activities within certain municipalities, restricts activities within 300 feet of any church, hospital, charitable institution, school or public playground, prohibits the sale of liquid fuels or oil, prohibits practices detrimental to the public health and welfare, revokes licenses of persons convicted of felonies, requires the posting of public notices, and restricts hours and types of operations.

Section 433 (47 P. S. § 4-433) (Public service licenses) insofar as the section specifies rights, responsibilities and limitations upon the activities of public service licensees, requires licensees to file monthly reports, provides for the revocation or suspension of licenses and permits parties to file appeals.

Section 433.1 (47 P. S. § 4-433.1) (Stadium or arena permits) insofar as the section authorizes activities by holders of special permits in certain classes of municipalities and school districts and provides for privileges and restrictions upon the operation of permittees.

Section 434 (47 P. S. § 4-434) (License year) insofar as the section designates the annual renewal period for licensees.

Section 435 (47 P. S. § 4-435) (Filing of applications for distributors', importing distributors' and retail dispensers' licenses; filing fees) insofar as the section establishes procedures and imposes fees for the transfer or renewal of licenses.

Section 436 (47 P. S. § 4-436) (Application for distributors', importing distributors' and retail dispensers' licenses) insofar as the section designates the content of applications to transfer licenses, restricts the activities of applicants for transfers and declares intentional false statements to be a misdemeanor.

Section 437 (47 P. S. § 4-437) (Prohibitions against the grant of licenses) insofar as the section relates to the transfer, renewal and exchange of licenses and imposes quota restrictions upon the transfer of licenses.

Section 438 (47 P. S. § 4-438) (Number and kind of licenses allowed same licensee).

Section 439 (47 P. S. § 4-439) (Malt or brewed beverage license fees) insofar as the section requires the payment of fees to the Commonwealth for the renewal of licenses.

Section 440 (47 P. S. § 4-440) (Sales by manufacturers of malt or brewed beverages; minimum quantities) except as terminated by § 7.346.

Section 441 (47 P. S. § 4-441) (Distributors' and importing distributors' restrictions on sales, storage, etc.).

Section 442 (47 P. S. § 4-442) (Retail dispensers' restrictions on purchases and sales).

Section 443 (47 P. S. § 4-443) (Interlocking businesses prohibited).

Section 444 (47 P. S. § 4-444) (Malt or brewed beverages manufactured outside this Commonwealth) insofar as the section imposes fees and restrictions on out-of-State manufacturers and Pennsylvania licensees, requires compliance with reciprocal regulations or orders previously issued by the Board, declares certain beverages to be contraband and authorizes their confiscation and disposal, permits the initiation of actions to enjoin violations, imposes fines, prohibits the importation of certain beverages, declares certain violations to be misdemeanors and requires written opinions.

Section 461 (47 P. S. § 4-461) (Limiting number of retail licenses to be issued in each municipality) insofar as the section permits the transfer of certain retail licenses.

Section 461.1 (47 P. S. § 4-461.1) (Incorporated units of National Veterans' Organizations) insofar as the section defines terms, provides for the suspension or revocation of licenses and restricts transfers.

Section 462 (47 P. S. § 4-462) (Licensed places may be closed during period of emergency) insofar as the Governor shall assume emergency responsibilities previously exercised by the Board and recognizes daylight savings time orders and regulations previously issued by the Board.

Section 463 (47 P. S. § 4-463) (Places of amusement not to be licensed; penalty) insofar as the section restricts the activities of existing licensees, restricts the transfer of licenses and declares certain actions to be a misdemeanor.

Section 464 (47 P. S. § 4-464) (Hearings upon refusal of licenses, renewals or transfers; appeals) insofar as the section requires hearings for license renewals, transfers, suspensions or revocations, establishes procedures for hearings, provides for appeals and governs jurisdiction.

Section 465 (47 P. S. § 4-465) (All licensees to furnish bonds) insofar as the section imposes bonding requirements upon existing licensees and their transferees, requires a confession of judgment and authorizes the revocation and forfeiture of bonds.

Section 466 (47 P. S. § 4-466) (Disposition of cash and securities upon forfeiture of bond) insofar as the section delineates certain duties of the State Treasurer.

Section 467 (47 P. S. § 4-467) (Display of license).

Section 468 (47 P. S. § 4-468) (Licenses not assignable; transfers) insofar as the section prohibits the assignment of licenses, authorizes and imposes restrictions, limitations and conditions upon the transfer of licenses and defines terms.

Section 469 (47 P. S. § 4-469) (Applications for transfers; fees) insofar as the section requires the filing of transfer applications and the payment of fees.

Section 470 (47 P. S. § 4-470) (Renewal of licenses; temporary provisions for licensees in armed forces) insofar as the section authorizes license renewals,

imposes fees, requires the posting of bonds, and establishes restrictions and limitations upon license renewals.

Section 470.1 (47 P. S. § 4-470.1) (Renewal of hotel liquor licenses; special provisions) insofar as the section restricts the transfer of certain licenses.

Section 471 (47 P. S. § 4-471) (Revocation and suspension of licenses; fines) insofar as the section provides for the revocation and suspension of licenses in certain instances, designates procedures for suspensions and revocations, imposes fines, provides for appeals and governs jurisdiction.

Section 472 (47 P. S. § 4-472) (Local option) except insofar as the section deals with the operation of State Stores.

Section 472.1 (47 P. S. § 4-472.1) (Clubs) insofar as the section restricts the activities of certain clubs.

Section 472.2 (47 P. S. § 4-472.2) (Granting liquor licenses in certain municipalities) insofar as the section restricts the activities of certain licensees and limits the transfer of licenses.

Section 472.3 (47 P. S. § 4-472.3) (Exchange of certain licenses) insofar as the section authorizes the exchange of certain licenses, imposes requirements upon the exchange of licenses and provides an exemption from the quota system.

Section 474 (47 P. S. § 4-474) (Surrender of club licenses for benefit of licensees) insofar as the section allows club licenses to be surrendered for certain periods, provides for the revocation of licenses at the conclusion of such period and restricts transfers.

Section 491 (47 P. S. § 4-491) (Unlawful acts relative to liquor, alcohol and liquor licenses) as follows:

Subsection (1) (47 P. S. § 4-491(1)) (Sales of liquor) insofar as the subsection restricts sales of liquor contrary to preserved sections of the Liquor Code and the provisions of this subchapter;

Subsection (2) (47 P. S. § 4-491(2)) (Possession or transportation of liquor and alcohol) insofar as the subsection restricts the acquisition of liquor pursuant to preserved sections of the Liquor Code and the provisions of this subchapter;

Subsection (4) (47 P. S. § 4-491(4)) (Possession and use of decanters) except insofar as the section authorizes the Board to adopt new regulations;

Subsection (5) (47 P. S. § 4-491(5)) (Failure to break empty liquor containers);

Subsection (6) (47 P. S. § 4-491(6)) (Sales by restaurant and hotel liquor licensees);

Subsection (7) (47 P. S. § 4-491(7)) (Sales by manufacturers and licensed importers) insofar as the subsection restricts sales by manufacturers and licensed importers contrary to preserved provisions of the Liquor Code and the provisions of this subchapter;

Subsection (8) (47 P. S. § 4-491(8)) (Importation and sales of alcohol) insofar as the section applies to the importation of alcohol and restricts sales in the manner provided by preserved provisions of the Liquor Code and the requirements of this subchapter;



Subsection (9) (47 P. S. § 4-491(9)) (Possession of alcohol) insofar as the subsection restricts the possession of alcohol to alcohol acquired in conformity with the preserved sections of the Liquor Code and the requirements of this subchapter;

Subsection (10) (47 P. S. § 4-491(10)) (Fortifying, adultering or contaminating liquor) except insofar as the subsection authorizes the Board to adopt new regulations;

Subsection (11) (47 P. S. § 4-491(11)) (Importation of liquor);

Subsection (12) (47 P. S. § 4-491(12)) (Delivery of liquor of certain licensees); and

Subsection (14) (47 P. S. § 4-491(14)) (Offering commission or gift to members of the Board or State employe).

Section 492 (47 P. S. § 4-492) (Unlawful acts relative to malt or brewed beverages and licensees) except as terminated by § 7.346.

Section 493 (47 P. S. § 4-493) (Unlawful acts relative to liquor, malt and brewed beverages and licensees) except as terminated by § 7.346.

Section 494 (47 P. S. § 4-494) (Penalties).

Section 495 (47 P. S. § 4-495) (Identification cards) insofar as the section permits the use of identification cards previously issued by the Board, allows the use of photo drivers' license or identification cards issued by the Department of Transportation, requires licensees to maintain certain files, requires the presentation of identification cards or the completion of alternative identification certificates, declares certain acts to be unlawful and imposes penalties and provides certain defenses in civil and criminal prosecutions.

Section 497 (47 P. S. § 4-497) (Liability of licensees).

Section 501 (47 P. S. § 5-501) (License required).

Section 502 (47 P. S. § 5-502) (Exceptions) except as terminated by § 7.346.

Section 502.1 (47 P. S. § 5-502.1) (Production of denatured ethyl alcohol) insofar as the section permits certain persons to manufacture, distill, hold in storage or use denatured ethyl alcohol, requires the payment of an annual fee to the Commonwealth, restricts the sale of denatured ethyl alcohol, requires the maintenance of records and the filing of reports with the Commonwealth and establishes penalties for violations.

Section 503 (47 P. S. § 5-503) (Qualifications for license).

Section 504 (47 P. S. § 5-504) (Applications; filing fees) insofar as the section applies to the renewal of existing licenses and the issuance of new denatured ethyl alcohol licenses.

Section 505 (47 P. S. § 5-505) (Licenses issued) insofar as the section applies to the renewal of existing licenses.

Section 505.1 (47 P. S. § 5-505.1) (Bonded warehouse license privilege restrictions).

Section 505.2 (47 P. S. § 5-505.2) (Limited wineries) except as terminated by § 7.346.



Section 505.3 (47 P. S. § 5-505.3) (Distilleries) except as terminated by § 7.346.

Section 506 (47 P. S. § 5-506) (Bond required) except as terminated by § 7.346.

Section 507 (47 P. S. § 5-507) (Hearings upon refusal of licenses) insofar as the section provides for hearings regarding the renewal of licenses and establishes the procedure for such hearings.

Section 508 (47 P. S. § 5-508) (License fees).

Section 509 (47 P. S. § 5-509) (License must be posted; business hours) except as terminated by § 7.346.

Section 510 (47 P. S. § 5-510) (Containers to be labeled).

Section 511 (47 P. S. § 5-511) (License to specify each place authorized for use).

Section 512 (47 P. S. § 5-512) (Records to be kept) except as terminated by § 7.346.

Section 513 (47 P. S. § 5-513) (Premises and records subject to inspection) except as terminated by § 7.346.

Section 514 (47 P. S. § 5-514) (Suspension and revocation of licenses) insofar as the section provides for suspensions and revocations, requires hearings and bond forfeiture and establishes procedures for revocation and suspension proceedings.

Section 515 (47 P. S. § 5-515) (Appeals) insofar as the section establishes a procedure for appealing license suspensions, revocations or non-renewals.

Section 516 (47 P. S. § 5-516) (Compromise penalty in lieu of suspension) insofar as the section allows the Commonwealth to accept a compromise penalty.

Section 517 (47 P. S. § 5-517) (Expiration of license renewals) insofar as the section provides for the expiration and renewal of licenses and requires licensees to file with the Commonwealth notice of changes of corporate officers.

Section 518 (47 P. S. § 5-518) (Unlawful acts).

Section 519 (47 P. S. § 5-519) (Penalties) except as terminated by § 7.346.

Article VI, Subdivision (A) (47 P. S. §§ 6-601—6-605) (Forfeitures) except insofar as the subdivision designates the Board as the agency with discretion regarding the initiation of forfeiture proceedings.

Article VI, Subdivision (B) (47 P. S. § 6-611) (Nuisances).

Section 701 (47 P. S. § 7-701) (Definitions and interpretation).

Section 702 (47 P. S. § 7-702) (Unlawful to act as a distillery certificate broker or to buy or sell distillery bonded warehouse certificate without permit).

Section 703 (47 P. S. § 7-703) (Authority to issue permits to distillery certificate brokers) insofar as the section deals with the renewal of previously issued permits.

Section 704 (47 P. S. § 7-704) (Application for permit; filing fee) insofar as the section applies to the renewal of permits, imposes fees, establishes application requirements and declares certain offenses to be a misdemeanor.

Section 705 (47 P. S. § 7-705) (Issuance of permits) insofar as the section establishes requirements for the renewal of permits.

Section 706 (47 P. S. § 7-706) (Office of place of business to be maintained).

Section 707 (47 P. S. § 7-707) (Permit fee, permits not assignable or transferable; term of permit) except as terminated pursuant to § 7.346.

Section 708 (47 P. S. § 7-708) (Records to be kept) except as terminated pursuant to § 7.346.

Section 709 (47 P. S. § 7-709) (Renewal of permits) except as terminated pursuant to § 7.346.

Section 710 (47 P. S. § 7-710) (Permit hearings; appeals from refusal of the Board to issue or renew permits) insofar as the section authorizes hearings regarding the renewal of permits and establishes procedures for the conduct of hearings.

Section 711 (47 P. S. § 7-711) (Procedure of appeal; record to be certified; cost of preparing record; appeal to supreme court) except as terminated pursuant to § 7.346.

Section 712 (47 P. S. § 7-712) (Revocation and suspension of permit) except as terminated pursuant to § 7.346.

Section 722 (47 P. S. § 7-722) (Registered agents) except as terminated pursuant to § 7.346.

Section 723 (47 P. S. § 7-723) (Registration fee).

Section 724 (47 P. S. § 7-724) (Registration and issuance of identification card) except as terminated pursuant to § 7.346.

Section 725 (47 P. S. § 7-725) (Hearings upon refusal of Board; appeals) insofar as the section requires a hearing upon the nonrenewal of a distillery certificate brokers' permit.

Section 726 (47 P. S. § 7-726) (Revocation and suspension of agents' registrations) except as terminated pursuant to § 7.346.

Section 727 (47 P. S. § 7-727) (Identification cards) except as terminated pursuant to § 7.346.

Article VII, Subdivision (D) (47 P. S. §§ 7.731—7.733) (Exemptions).

Section 741 (47 P. S. § 7-741) (Duties of Board) insofar as the duties specified in the section are transferred to another agency pursuant to this order.

Section 751 (47 P. S. § 7-751) (Penalties).

Section 801 (47 P. S. § 8-801) (Moneys paid into liquor license fund and returned to municipalities) insofar as the section requires fees to be paid into the Liquor License Fund, authorizes the payment of monies to certain municipalities and authorizes the use of monies in the fund for refunds.

Section 802 (47 P. S. § 8-802) (Moneys paid into the state stores fund for use of the Commonwealth).

Section 803 (47 P. S. § 8-803) (Alcohol tax moneys paid into General Fund).

Section 902 (47 P. S. § 9-902) (General repeal clause).

(10) Sections 201 and 204 of the Tax Reform Code of 1971 (72 P. S. §§ 7101—10004).

**Cross References**

This section cited in 4 Pa. Code § 7.342 (relating to phase-out plan); 4 Pa. Code § 7.345 (relating to continuation of licenses issued by the Board); and 4 Pa. Code § 7.346 (relating to terminated statutory functions and duties of the Board).

**Subchapter Z. [Reserved]**

Sec.  
7.361—7.363. [Reserved].  
7.364—7.366. [Reserved].  
7.367. [Reserved].

**Source**

The provisions of this Subchapter Z adopted by Executive Order No. 1987-4, dated February 4, 1987, effective February 14, 1987, 17 Pa.B. 711; amended by Executive Order No. 2001-4, dated June 5, 2001, 31 Pa.B. 3516; reserved by Executive Order No. 2011-03, dated May 3, 2011, 45 Pa.B. 656, unless otherwise noted. Immediately preceding text appears at serial pages (280875) to (280876).

**§§ 7.361—7.363. [Reserved].**

**§§ 7.364—7.366. [Reserved].**

**Source**

The provisions of these §§ 7.364—7.366 reserved by Executive Order No. 2001-4, dated June 5, 2001, 31 Pa.B. 3516. Immediately preceding text appears at serial pages (198546) to (198547).

**§ 7.367. [Reserved].**

**Subchapter AA. STATE HOUSING CREDIT AGENCY**

Sec.  
7.381. Designation of State housing credit agency.  
7.382. Allocation of State housing credit authority.  
7.383. Allocation procedure.

**Source**

The provisions of this Subchapter AA adopted by Executive Order No. 1987-9, dated April 22, 1987, 17 Pa.B. 1802, unless otherwise noted.

**§ 7.381. Designation of State housing credit agency.**

The Housing Finance Agency is hereby designated the housing credit agency for the Commonwealth for purposes of carrying out the provisions of section 42 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 42) and regulations thereunder.

**§ 7.382. Allocation of State housing credit authority.**

The State housing credit authority for calendar year 1987 and each succeeding calendar year shall be allocated to the Housing Finance Agency.

**§ 7.383. Allocation procedure.**

Requests to apply the housing credit authority shall be submitted to the Housing Finance Agency and will be reviewed by and subject to the approval of the Agency in accordance with a low-income housing tax credit program to be established by the Board of Directors of the Housing Finance Agency. Allocations shall be made by the Housing Finance Agency to maximize the use of the State-housing credit ceiling and to promote the objectives of affordable housing throughout the Commonwealth, and other objectives of the Housing Finance Agency Law (35 P. S. §§ 1680.101—1680.603a).

**Subchapter BB. PENNSYLVANIA JUDICIAL  
REFORM COMMISSION**

|        |                                 |
|--------|---------------------------------|
| Sec.   |                                 |
| 7.391. | Creation.                       |
| 7.392. | Purpose.                        |
| 7.393. | Membership.                     |
| 7.394. | Powers and duties.              |
| 7.395. | Relationship to other agencies. |
| 7.396. | Expenses.                       |
| 7.397. | Termination date.               |

**Source**

The provisions of this Subchapter BB adopted by Executive Order No. 1987-14, dated July 16, 1987, effective July 16, 1987, 17 Pa.B. 3188, unless otherwise noted.

**§ 7.391. Creation.**

The Pennsylvania Judicial Reform Commission is created to perform the functions of an advisory panel set forth in this subchapter.

**§ 7.392. Purpose.**

The Commission is established to examine issues related to the judicial branch and to recommend changes in law and procedure it finds advisable.

**§ 7.393. Membership.**

The Commission will consist of 23 members appointed by the Governor.

**§ 7.394. Powers and duties.**

The Commission will:

- (1) Review Commonwealth laws and regulations pertaining to the judiciary.
- (2) Consider proposed legislation, including constitutional amendments, which would reform and improve the judiciary.

- (3) Examine reform efforts in other states relating to the judiciary.
- (4) Actively seek out information and recommendations from the judiciary, the legal profession and the public at large.
- (5) Make specific findings and recommendations for proposed reforms.

**§ 7.395. Relationship to other agencies.**

Staff support for the Commission shall be provided by the Department of State. Executive agencies shall cooperate to the fullest extent with the Commission in fulfilling its mandate under this subchapter.

**§ 7.396. Expenses.**

Members of the Commission will not be compensated for their services, but are entitled to reimbursement for expenses necessarily incurred, in accordance with procedures established by the Office of the Governor.

**§ 7.397. Termination date.**

The Commission will communicate its findings and recommendations to the Governor on or before January 15, 1988, and the provisions of this subchapter will terminate on that date.

**Subchapter CC. [Reserved]**

**Source**

The provisions of this Subchapter CC adopted by Executive Order No. 1987-12, dated May 27, 1987, effective May 27, 1987, 17 Pa.B. 3398; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993, unless otherwise noted. Immediately preceding text appears at serial pages (198549) to (198550).

**§ 7.401. [Reserved].**

**§ 7.402. [Reserved].**

**Subchapter DD. [Reserved]**

**Source**

The provisions of this Subchapter DD issued under Executive Order No. 1987-19, dated December 21, 1987, effective December 22, 1987, 18 Pa.B. 7; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993, unless otherwise noted. Immediately preceding text appears at serial page (198550).

**§§ 7.411—7.413. [Reserved].**

**Subchapter EE. [Reserved]**

Sec.  
7.421—7.423. [Reserved].  
7.424. [Reserved].

**Source**

The provisions of this Subchapter EE adopted by Executive Order No. 1988-9, dated July 26, 1988, terminated December 31, 1994, 18 Pa.B. 3800, unless otherwise noted.

**§§ 7.421—7.423. [Reserved].****§ 7.424. [Reserved].****Source**

The provisions of this § 7.424 adopted by Executive Order No. 1988-9, dated July 26, 1988, 18 Pa.B. 3800; amended by Executive Order No. 1988-9, dated July 18, 1989, 19 Pa.B. 3757; amended by Executive Order No. 1988-9, Revision No. 2, dated December 26, 1990, 21 Pa.B. 221; amended by Executive Order No. 1988-9, dated December 18, 1991, terminated December 31, 1994, 22 Pa.B. 572. Immediately preceding text appears at serial page (155614).

**Subchapter FF. WORKPLACE POLICY FOR HIV/AIDS****Sec.**

- 7.431. Overall HIV/AIDS and related disease workplace policy.
- 7.432. Detailed provisions of the HIV/AIDS and related diseases workplace policy.
- 7.433. Agency HIV/AIDS policies.
- 7.434. [Reserved].
- 7.435. Responsibilities.
- 7.436. Rescission.

**Source**

The provisions of this Subchapter FF adopted by Executive Order No. 1989-5, dated May 8, 1989, 19 Pa.B. 2425; amended by Executive Order No. 1996-12, dated December 20, 1997, 27 Pa.B. 1785; amended by Executive Order No. 2003-4, dated May 5, 2003, 33 Pa.B. 3486, unless otherwise noted. Immediately preceding text appears at serial pages (228416) to (228419).

**§ 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.



**Subchapter GG. POLICY ON SUBSTANCE ABUSE  
IN THE WORKPLACE**

|        |                                  |
|--------|----------------------------------|
| Sec.   |                                  |
| 7.451. | Prohibited acts.                 |
| 7.452. | Disciplinary action.             |
| 7.453. | Notification of conviction.      |
| 7.454. | Rehabilitation program.          |
| 7.455. | Self disclosure.                 |
| 7.456. | Educational training programs.   |
| 7.457. | Dissemination of information.    |
| 7.458. | Office of Administration duties. |
| 7.459. | Rescission.                      |

**Source**

The provisions of this Subchapter GG adopted by Executive Order No. 1989-6, dated July 18, 1989, effective March, 1989, 19 Pa.B. 4054; amended by Executive Order No. 1989-6, dated June 14, 1991, effective June 14, 1991, 21 Pa.B. 3134; amended by Executive Order No. 1996-13, dated December 20, 1996, 27 Pa.B. 1005, unless otherwise noted. Immediately preceding text appears at serial pages (198554) to (198556).

**§ 7.451. Prohibited acts.**

The unlawful manufacture, distribution, dispensation, possession or use of alcohol and other controlled substances by a State employe, either while on duty or in any Commonwealth workplace, is prohibited. This conduct shall subject the employe to appropriate disciplinary action.

**§ 7.452. Disciplinary action.**

An employe determined to be unfit either while on duty, or in a Commonwealth workplace, as a result of alcohol or other controlled substances shall be subject to appropriate disciplinary action.

**§ 7.453. Notification of conviction.**

An employe who is convicted of violating a statute governing the unlawful manufacture, distribution, dispensation, possession or use of alcohol or other controlled substances in a Commonwealth workplace shall notify his supervisor of the conviction, in writing, no later than 5 days after the conviction. A conviction means a finding of guilt (including a plea of nolo contendere, disposition in lieu of trial, probation without verdict or accelerated rehabilitative disposition) or imposition of sentence, or both, by any judicial body charged with responsibility to determine violations of the Federal or State criminal drug statutes.

**§ 7.454. Rehabilitation program.**

An employe convicted of drug abuse violations occurring in the workplace shall satisfactorily participate in the State Employe Assistance Program or other rehabilitation program approved for those purposes by a Federal, State, or local health, law enforcement, or other appropriate agency. Any employe convicted of

drug abuse violations occurring in the workplace who refuses to participate in the State Employee Assistance Program shall be subject to appropriate disciplinary action.

**§ 7.455. Self disclosure.**

An employee who has self disclosed a problem with alcohol or other drugs shall be advised to contact the State Employee Assistance Program for assistance.

**§ 7.456. Education and training programs.**

Education and training about the inappropriate use of alcohol and other controlled substances are important components of this policy. The Office of Administration shall provide for and initiate these education and training programs in State agencies. Education and training programs shall be consistent with this subchapter, Management Directives 505.22, State Employee Assistance Program and 505.25, Substance Abuse in the Workplace and Subchapter K (relating to code of conduct for appointed officials and State employees).

**§ 7.457. Dissemination of information.**

The Office of Administration is responsible for assuring that the Commonwealth's Policy on Substance Abuse in the Workplace and information about the State Employee Assistance Program are furnished to all employees.

**§ 7.458. Office of Administration duties.**

The Office of Administration shall:

- (1) Monitor and review the implementation of this policy and assure compliance with State and Federal statutes and regulations.
- (2) Coordinate the implementation and revision of this subchapter with representatives of State labor organizations.

**§ 7.459. Rescission.**

Executive Order 1989-6, Commonwealth of Pennsylvania's Policy on Substance Abuse in the Workplace, is rescinded.

**Subchapter HH. [Reserved]**

**Source**

The provisions of this Subchapter HH adopted by Executive Order No. 1989-8, dated October 17, 1989, effective October 17, 1989, 19 Pa.B. 4598; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993, unless otherwise noted. Immediately preceding text appears at serial pages (336054) and (198557) to (198559).

**§§ 7.471—7.476. [Reserved].****Notes of Decisions**

An Executive Order which grants rulemaking authority to an agency under the Governor is invalid since the Governor does not have the Constitutional or statutory authority to issue an Executive Order which conflicts with statutes which regulate the disposal of solid waste. *National Solid Wastes Management Association v. Casey*, 600 A.2d 260 (Pa. Cmwlth. 1991); affirmed 619 A.2d 1063 (Pa. 1993).

**Subchapter II. [Reserved]****Source**

The provisions of this Subchapter II adopted by Executive Order No. 1990-1, dated March 14, 1990, effective March 14, 1990, 20 Pa.B. 1792; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993, unless otherwise noted. Immediately preceding text appears at serial pages (198559) to (198560).

 **§ 7.491. [Reserved].** **§ 7.492. [Reserved].****Subchapter JJ. CONTRACTOR RESPONSIBILITY PROGRAM**

## Sec.

- 7.501. Development.
- 7.502. Consultation with General Counsel and State Inspector General.
- 7.503. Centralized system to collect information.
- 7.504. Implementation of program.
- 7.505. Cooperation among agencies.

**Source**

The provisions of this Subchapter JJ adopted by Executive Order No. 1990-3, dated August 17, 1990, effective August 17, 1990, 20 Pa.B. 3964, unless otherwise noted.

 **§ 7.501. Development.**

The Secretary of the Budget and the Secretary of General Services shall coordinate the development of a Contractor Responsibility Program designed to identify, evaluate and sanction appropriately, contractors that do not meet the standards of responsibility, that render deficient performance, or that engage in wrongdoing, or other activity adversely affecting their fitness to contract with Commonwealth agencies.

 **§ 7.502. Consultation with General Counsel and State Inspector General.**

The Secretaries of the Budget and General Services shall consult with the General Counsel and the State Inspector General in developing and implementing this program.

**§ 7.503. Centralized system to collect information.**

The Secretaries of the Budget and General Services shall cooperate in the development and maintenance of a centralized system to collect from and disseminate to Commonwealth agencies information concerning a contractor's lack of responsibility, deficient performance, wrongdoing or other activity adversely affecting its fitness to contract with Commonwealth agencies, including sanctions imposed against a contractor under this program.

**§ 7.504. Implementation of program.**

The Secretaries of the Budget and General Services shall promulgate directives, rules or regulations necessary to develop and implement this program. The directives, rules or regulations shall:

- (1) Provide standards and procedures for the determination by Commonwealth agencies of contractor responsibility.
- (2) Provide for the investigation and evaluation of reports of deficient performance or other wrongdoing by contractors.
- (3) Provide standards and procedures for the determination of deficient performance or other wrongdoing by contractors.
- (4) Mandate the reporting of instances where a contractor lacks responsibility, engages in wrongdoing or renders deficient performance.
- (5) Provide for the imposition of appropriate sanctions against contractors that have engaged in wrongdoing, rendered deficient performance or otherwise lack responsibility, including suspension and debarment from the privilege of contracting with a Commonwealth agency.
- (6) Provide for the use of informal means, if appropriate, to improve the responsibility, performance and conduct of the Commonwealth's contractors.
- (7) Provide for the centralized collection and dissemination of reports relating to contractor wrongdoing, deficient performance, lack of responsibility or other activity adversely affecting fitness to contract with Commonwealth agencies.
- (8) Provide for the centralized collection and dissemination of information concerning sanctions imposed against contractors.
- (9) Provide for the collection of information regarding contractor responsibility from independent agencies and sources outside of Commonwealth government, such as other states, the Federal government, local governments and private industry.

**§ 7.505. Cooperation among agencies.**

Agencies, officers and employees under the Governor's jurisdiction shall cooperate fully in the development and implementation of this program. Independent agencies and their officers and employees are also encouraged to participate.

**Subchapter KK. [Reserved]****Source**

The provisions of this Subchapter KK adopted by Executive Order No. 1990-4, adopted August 17, 1990, effective August 17, 1990, 20 Pa.B. 4951; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993, unless otherwise noted. Immediately preceding text appears at serial page (328554).

**§ 7.521. [Reserved].****Subchapter LL. COMMONWEALTH AUTOMOTIVE  
FLEET EFFICIENCY INITIATIVE**

|        |                   |
|--------|-------------------|
| Sec.   |                   |
| 7.551. | Goal.             |
| 7.552. | Policy.           |
| 7.553. | Responsibilities. |
| 7.554. | Scope.            |
| 7.555. | Effective Date.   |

**Source**

The provisions of this Subchapter LL adopted by Executive Order No. 1991-3, dated February 27, 1991, effective February 27, 1991, 21 Pa.B. 1161; amended Executive Order 2007-3, dated May 9, 2007, 37 Pa.B. 3362. Immediately preceding text appears at serial pages (198562) and (289829).

**§ 7.551. Goal.**

The goal of the Commonwealth Automotive Fleet Efficiency Initiative is to establish policies and practices governing the procurement, deployment and operations of Commonwealth automotive resources that will enable agencies, boards and commissions to successfully complete their assigned duties at the lowest reasonable cost.

**§ 7.552. Policy.**

The Department of General Services (DGS) will provide central management, control, and oversight of all Commonwealth automotive resources, except those purchased for the Department of Transportation using moneys from the Motor License Fund in accordance with the Constitution of the Commonwealth and section 2407 of The Administrative Code of 1929 (71 P.S. § 637).

**§ 7.553. Responsibilities.**

- (a) The Department of General Services will:
- (1) Provide agencies, boards and commissions, through a combination of owned and leased resources, with access to the automotive equipment they require to carry out their assigned duties.
  - (2) Hold regular meetings with agency, board and commission automotive officers to identify and disseminate best practices.
  - (3) Review agency, board and commission fleet deployments, rotation plans, expenditures and policies to ensure that services are provided in a man-

ner consistent with the goals of the Commonwealth Automotive Fleet Efficiency Initiative (Initiative) and the Pennsylvania Management and Productivity Improvement Initiative.

(4) Immediately revise and reissue policies governing the Commonwealth automotive fleet through the Directives Management System on subjects including, but not limited to, overall fleet size, vehicle assignment criteria, appropriate use of automotive resources, and repair and maintenance of fleet equipment.

(5) Review all agency, board and commission automobile assignments to determine whether removal or reassignment, or both, is appropriate. The Secretary of General Services will have sole responsibility and authority to remove or reassign, or both, any vehicle that is not needed or not being used efficiently.

(b) Agencies, boards and commissions will:

(1) Provide data upon request to DGS and the Governor's Office of Management and Productivity in support of their efforts to advance the Initiative.

(2) Monitor, at regular intervals, vehicle assignments and utilization patterns, fuel card activity and reimbursements made to employees for miles traveled in personal vehicles to ensure that Commonwealth resources are being deployed in the most cost-effective manner.

(3) Share expertise and resources with other agencies, boards and commissions through meetings of automotive officers and other appropriate means.

(4) Reduce lifecycle costs by developing rotation plans for low-mileage vehicles. When applicable, the Bureau of Vehicle Management will work with agencies leasing DGS vehicles in preparing these plans.

#### **§ 7.554. Scope.**

Officers and employees of all administrative departments, boards and commissions under the Governor's jurisdiction shall cooperate fully in implementing this subchapter.

#### **§ 7.555. Effective date.**

This subchapter takes effect immediately and rescinds Executive Order 1991-3, dated February 27, 1991.

### **Subchapter MM. COMMONWEALTH DISABILITY-RELATED POLICIES**

|        |  |
|--------|--|
| Sec.   |  |
| 7.571. | Individuals with disabilities.             |
| 7.572. | Programs offered by Commonwealth agencies. |
| 7.573. | Direction for disability-related policy.   |
| 7.574. | Coordination of meetings.                  |
| 7.575. | Rescission.                                |

7.576. [Reserved].

7.577. [Reserved].

#### Source

The provisions of this Subchapter MM adopted by Executive Order No. 1992-3, dated July 22, 1992, 22 Pa.B. 4622; amended by Executive Order No. 1996-11, dated December 20, 1996, 27 Pa.B. 1781; amended by Executive Order No. 2002-5, dated May 3, 2002, 32 Pa.B. 2987, unless otherwise noted. Immediately preceding text appears at serial pages (228421) to (228422) and (257119).

#### § 7.571. Individuals with disabilities.

A Commonwealth agency under the Governor's jurisdiction may not discriminate against an individual with a disability because of his disability. Individuals with disabilities shall be treated with respect and dignity and shall be provided access to Commonwealth services, programs, activities and employment opportunities.

#### § 7.572. Programs offered by Commonwealth agencies.

Commonwealth agencies under the Governor's jurisdiction shall ensure that the programs they offer to the public are nondiscriminatory, accessible and address the particular challenges faced by persons with disabilities.

#### § 7.573. Direction for disability-related policy.

Direction for disability-related policy will be assigned as follows:

(1) The Secretary of Administration, as required by Federal law and court decisions, is responsible for ensuring compliance with the employment provisions of the Americans With Disabilities Act of 1960 (act) (42 U.S.C.A. §§ 12101—12213), sections 504 and 508 of the Rehabilitation Act of 1973 (42 U.S.C.A. §§ 794 and 794d) and the Pennsylvania Human Relations Act (43 P.S. §§ 951—963), relating to Commonwealth employment and for ensuring public access to Commonwealth programs and services.

(2) The Secretary of General Services is responsible for ensuring compliance with Title II of the act (42 U.S.C.A. §§ 12131—12165) and other applicable laws relating to Commonwealth buildings and facilities and contract compliance.

(3) The Governor's Policy Office coordinates the implementation of Commonwealth disability-related policies and assesses the effectiveness of those policies.

(4) The Office of General Counsel provides direction and guidance to executive agency legal counsel on handling disability-related litigation and reviews proposed disability-related rules and regulations of executive agencies before they are deposited with the Legislative Reference Bureau as required by sections 102, 201—208 and 602 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1102, 1201—1208 and 1602), known as the Commonwealth Documents Law.

**§ 7.574. Coordination of meetings.**

The Governor's Policy Office shall coordinate regular meetings of the responsible agencies to discuss disability-related policy and resolve issues that may arise.

**§ 7.575. Rescission.**

Executive Order 1996-11, Disability-Related Policy dated December 20, 1996, is rescinded.

**§ 7.576. [Reserved].****§ 7.577. [Reserved].****Subchapter NN. [Reserved]****Source**

The provisions of this Subchapter NN adopted by Executive Order No. 1993-1, dated March 26, 1993, 23 Pa.B. 2111; amended by Executive Order No. 1996-14, dated December 20, 1996, 27 Pa.B. 921; amended by Executive Order No. 1999-3, dated May 13, 1999, 29 Pa.B. 3066; amended by Executive Order No. 2002-4, dated May 3, 2002, 32 Pa.B. 2988; reserved by Executive Order No. 2021-04, dated June 15, 2021, 51 Pa.B. 3594, unless otherwise noted. Immediately preceding text appears at serial pages (384936) to (384948).

**§§ 7.591—7.601. [Reserved].****Subchapter OO. STATE LAND USE PLANNING—  
GOALS AND OBJECTIVES**

- Sec.  
7.611. General.  
7.612. Goal 1: Establish efficient land use patterns by encouraging growth which is consistent with existing infrastructure.  
7.613. Goal 2: Preserve the Commonwealth's natural resources and protect the people's Constitutional right to clean air, pure water and the preservation of the natural, scenic, historic and aesthetic values of the environment.  
7.614. Goal 3: Establish consistent and coordinated land use practices Statewide.  
7.615. Goal 4: Encourage the development of an adequate supply of affordable housing.  
7.616. Cooperation.  
7.617. Consultation.  
7.618. Reports.



**Source**

The provisions of this Subchapter OO adopted by Executive Order 1993-3, dated August 31, 1993, 23 Pa.B. 4486, unless otherwise noted.

**§ 7.611. General.**

Commonwealth agencies under the jurisdiction of the Governor are hereby directed to consider and aspire to the land use goals and objectives listed in this subchapter whenever developing new policies and programs, reviewing existing policies and programs or implementing policies or programs which affect land use.

**§ 7.612. Goal 1: Establish efficient land use patterns by encouraging growth which is consistent with existing infrastructure.**

- (a) *Objective 1.* Maximize the use of existing infrastructure.
- (b) *Objective 2.* Support land development activities that occur in the context of adequate infrastructure.
- (c) *Objective 3.* Stimulate economic development in areas where growth would be efficient and beneficial.
- (d) *Objective 4.* Preserve key transportation corridors.
- (e) *Objective 5.* Encourage the consolidation of municipalities and municipal services.

**§ 7.613. Goal 2: Preserve the Commonwealth's natural resources and protect the people's Constitutional right to clean air, pure water and the preservation of the natural, scenic, historic and aesthetic values of the environment.**

- (a) *Objective 1.* Preserve the Commonwealth's prime agricultural land.
- (b) *Objective 2.* Protect the Commonwealth's environmentally sensitive land.
- (c) *Objective 3.* Encourage planning that protects or improves the quality of this Commonwealth's air and water.
- (d) *Objective 4.* Provide incentives to develop and reuse previously occupied "industrial sites" which have suffered some environmental degradation.

**§ 7.614. Goal 3: Establish consistent and coordinated land use practices Statewide.**

- (a) *Objective 1.* Encourage municipalities to engage in land use planning.
- (b) *Objective 2.* Integrate Pennsylvania's planning requirements, processes and activities to make them consistent and coordinated among all levels of government.
- (c) *Objective 3.* Integrate Pennsylvania's State, county and local planning processes to make them more efficient.
- (d) *Objective 4.* Develop more efficient systems to ensure expeditious decision making in the administration of State rules and regulations.

**§ 7.615. Goal 4: Encourage the development of an adequate supply of affordable housing.**

- (a) *Objective 1:* Develop incentives to encourage adequate housing at a reasonable cost close to employment and transportation.
- (b) *Objective 2:* Remove regulatory obstacles that hinder efforts to build affordable housing.

(c) *Objective 3:* Develop incentives to provide adequate housing in new development areas.

**§ 7.616. Cooperation.**

Agencies shall fully cooperate with the State Planning Board to implement this subchapter.

**§ 7.617. Consultation.**

Commonwealth agencies shall consult with one another and the State Planning Board when their land use planning programs or policies are in conflict.

**§ 7.618. Reports.**

Commonwealth agencies under the jurisdiction of the Governor shall report annually to the State Planning Board on the status of their efforts to bring programs and policies into compliance with this subchapter.

**Subchapter PP. [Reserved]**

**Source**

The provisions of this Subchapter PP adopted by Executive Order 1994-2, 24 Pa.B. 2075; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993, unless otherwise noted. Immediately preceding text appears at serial pages (225506) and (362733).

**§§ 7.621—7.624. [Reserved].**

**Subchapter QQ. [Reserved]**

**Source**

The provisions of this Subchapter QQ, adopted by Executive Order 1994-5, dated November 4, 1994, 24 Pa.B. 5734; reserved by Executive Order No. 2016-08, dated December 5, 2016, 46 Pa.B. 7993, unless otherwise noted. Immediately preceding text appears at serial pages (362733) to (362734).

**§§ 7.641—7.643. [Reserved].**

**Subchapter RR. [Reserved]**

**Source**

The provisions of this Subchapter RR adopted by Executive Order 1995-5, dated August 23, 1995, 25 Pa.B. 3964; reserved by Executive Order No. 2012-11, dated July 24, 2012, 42 Pa.B. 5148, unless otherwise noted. Immediately preceding text appears at serial pages (198570) to (198572) and (234977).

**§§ 7.651—7.659. [Reserved].**

**Appendix A. [Reserved].**

[Next page is 7-113.]

**Subchapter SS. 21st CENTURY ENVIRONMENT COMMISSION**

|        |                                |
|--------|--------------------------------|
| Sec.   |                                |
| 7.661. | Mission.                       |
| 7.662. | Functions.                     |
| 7.663. | Composition of the Commission. |
| 7.664. | Terms of membership.           |
| 7.665. | Compensation.                  |
| 7.666. | Reports.                       |
| 7.667. | Meetings and communication.    |
| 7.668. | Executive agencies.            |
| 7.669. | Termination date.              |

**Source**

The provisions of this Subchapter SS adopted by Executive Order No. 1997-4, dated July 1, 1997, 27 Pa.B. 3784, unless otherwise noted.

**§ 7.661. Mission.**

To recommend methods and policies to improve the environmental quality of this Commonwealth and measure the results, while allowing for enhanced economic and social progress.

**§ 7.662. Functions.**

The functions of the 21st Century Environment Commission are to:

- (1) Recommend environmental priorities as the Commonwealth enters the next century guided by the principle of providing a better environment for future generations without inhibiting their ability to prosper.
- (2) Propose strategies to meet the environmental priorities. Strategies should incorporate the most cost effective approaches founded in good science, considering all levels of government, institutions and the private sector, including proposed Legislative and regulatory changes.
- (3) Propose evaluation criteria by which to measure progress toward the established environmental goals. Initiate an annual environmental report card using scientifically valid environmental indicators.
- (4) Involve the citizens of this Commonwealth during the completion of the tasks in paragraphs (1)—(4).

**§ 7.663. Composition of the Commission.**

(a) The Commission shall consist of no more than 40 members, including environmental, business, academic, elected officials, government and community leaders, who are appointed by and serve at the pleasure of the Governor. The Majority and Minority leaders of both chambers of the General Assembly shall each provide a list to the Governor of eight candidates and the Governor will appoint four members of the Commission one from each list.

(b) The Governor will designate two members to serve as co-chairpersons.



(c) Each Commissioner may designate a person to represent him on the Commission.

(d) Thirteen of the members will serve ex officio. These ex officio members will be the Governor's Director of Policy, the Secretaries of Agriculture, Community and Economic Development, Conservation and Natural Resources, Education, Environmental Protection, Health, and Transportation, the Physician General, and four Legislative members.

**Source**

The provisions of this § 7.663 amended by Executive Order No. 1997-4, dated September 9, 1997, 27 Pa.B. 5244. Immediately preceding text appears at serial pages (233852) to (233853).

**§ 7.664. Terms of membership.**

(a) Members shall be appointed for terms commensurate with the life of this subchapter. 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, the Governor will appoint a successor as expeditiously as possible and the successor shall serve the duration of the unexpired term. A successor so appointed may thereafter be reappointed.

**§ 7.665. Compensation.**

Members of the Commission will not receive compensation for their service, except that the members may be reimbursed for actual travel and related expenses in accordance with Chapter 40 (relating to travel and subsistence).

**§ 7.666. Reports.**

The Commission will issue a final report which will be presented to the Governor on or before September 15, 1998, and will include environmental goals, recommended strategies for implementation and environmental indicators.

**§ 7.667. Meetings and communication.**

The Commissioners will meet on a regular basis during the life of the Commission. The Commission shall inform the public of the Commission's activities and solicit advice and direction by holding forums around this Commonwealth and through the use of the Internet. The Commission may appoint advisors or advisory committees, from within or outside the Commonwealth, as it deems necessary to accomplish its objective.

**§ 7.668. Executive agencies.**

Agencies under the Governor's jurisdiction shall cooperate with and provide assistance as needed by the Commission in performing its functions. The Commission will receive administrative services from the Department of Environmen-

tal Protection and will be served by an Executive Director employed by the Department of Environmental Protection.

**§ 7.669. Termination date.**

This subchapter will terminate on December 31, 1998, unless reestablished or sooner rescinded.

**Subchapter TT. LAND USE PLANNING**

Sec.

- 7.771. Commonwealth land use policies.
- 7.772. Responsibilities of Governor's Center for Local Government Services.
- 7.773. Community and Economic Development Enhancement Act.
- 7.774. Green Government Council.
- 7.775. Geographic information system.

**Source**

The provisions of this Subchapter TT issued by Executive Order No. 1999-1, dated January 7, 1999, 29 Pa.B. 806, unless otherwise noted.

**§ 7.771. Commonwealth land use policies.**

- (a) Soundly planned growth is in the best long-term interest of the Commonwealth and should be encouraged at all levels of government.
- (b) Farmland and open space are valued Commonwealth natural resources and reasonable measures for their preservation should be promoted.
- (c) Development should be encouraged and supported in areas that have been previously developed or in locally designated growth areas.
- (d) Because land use decisions made at the local level have an impact that expands beyond municipal boundaries, regional cooperation among local governments should be encouraged.
- (e) The constitutional private property rights of Pennsylvanians must be preserved and respected.
- (f) The Commonwealth will work to improve the understanding of the impact of land use decisions on the environmental, economic and social health of communities.
- (g) Sustaining the economic and social vitality of Pennsylvania's communities must be a priority of State government.
- (h) Infrastructure maintenance and improvement plans should be consistent with sound land use practices.

**§ 7.772. Responsibilities of Governor's Center for Local Government Services.**

To support the land use goals of the Commonwealth, the Governor's Center for Local Government Services (Center) is designated as the principal State entity responsible for land use assistance and monitoring. The Center is charged to:

- (1) Develop an inventory of sound land use practices and make the inventory available to interested local governments and developers.
- (2) Assist local governments seeking to implement the land use objectives of the Commonwealth.
- (3) Advise local governments of the existing tools available to manage growth within their communities.
- (4) Encourage local governments to cooperate with neighboring municipalities and the county when planning and zoning.
- (5) Assist, in conjunction with the Governor's Green Government Council, other State agencies in identifying laws, regulations, practices or policies, including the disbursement of public funds, that will advance the Commonwealth's land use objectives.
- (6) Partner with the Department of Education to identify opportunities for local education agencies to incorporate land use education into curricula.
- (7) Work in conjunction with the Governor's Greenway Commission to support the incorporation of the Statewide Greenways Plan into local and regional land use planning strategies.
- (8) Form an advisory committee that will help the Center develop and disseminate the inventory of sound land use practices.
- (9) Report annually to the Governor on land use trends in this Commonwealth and make recommendations, if appropriate, regarding changes in law or policy to support the land use policy goals of the Commonwealth.

**§ 7.773. Community and Economic Development Enhancement Act.**

Consistent with Chapter 5 of the Community and Economic Development Enhancement Act (71 P. S. §§ 1709.501—1709.506), the Governor's Center for Local Government Services is authorized to have access to the information, services, functions and other resources in the possession of executive agencies under the Governor's jurisdiction deemed necessary to fulfill the responsibilities identified in this subchapter.

**§ 7.774. Green Government Council.**

The Governor's Green Government Council, as the environmental performance manager of State government operations, shall work within its purview to ensure that State agencies are acting consistently with the land use objectives of the administration in their operations, acquisitions and practices.

**§ 7.775. Geographic information system.**

The Department of Environmental Protection (Department) shall establish a Statewide geospatial data clearinghouse which would provide for the sharing of common geospatial data among State agencies and local governments. The Department shall use this clearinghouse to provide information to local governments on how land use decisions may impact air quality, water quality and quantity, soil erosion and other natural resources.

**Subchapter UU. PA OPEN FOR BUSINESS**

Sec.

- 7.781. Purpose.
- 7.782. Strategic objectives.
- 7.783. PA Open for business governance structure.

**Source**

The provisions of this Subchapter UU adopted by Executive Order No. 2002-6, dated June 6, 2002, 32 Pa.B. 3070, unless otherwise noted.

**§ 7.781. Purpose.**

The PA Open for Business initiative will serve to enhance economic growth in this Commonwealth by making information exchange between business and government, and across government agencies faster, easier and less expensive. The overall mission of this initiative is to become and sustain the Commonwealth as the National leader for online transactions between and among government and business.

**§ 7.782. Strategic objectives.**

PA Open for Business will:

- (1) Serve as the “single face of government” for Internet communications between businesses and government in this Commonwealth.
- (2) Personalize content to each business user’s individual needs.
- (3) Take full advantage of the Internet for all communications.

**§ 7.783. PA Open for business governance structure.**

The PA Open for Business governance structure consists of a Steering Committee and the Project Office, with oversight roles by the Executive Council and the Governor’s Office as follows:

- (1) *Steering Committee.*
  - (i) *Objectives.* The objectives of the Steering Committee are to:
    - (A) Develop fiscal year goals for each of the Governor’s strategic objectives, in consultation with the PA Open for Business Project Office.



(B) Oversee effective implementation of fiscal year goals by the PA Open for Business Project Office and participating agencies.

(ii) *Responsibilities.* The Steering Committee shall:

(A) Make binding decisions and reach consensus on policy matters that cannot be resolved by the PA Open for Business Project Office.

(B) Seek timely resolution from the Governor's Director of Policy on any issue that cannot be adequately resolved by a consensus of the Steering Committee.

(C) Meet at least once every 2 months.

(D) Approve PA Open for Business timelines and project management plans as developed by the PA Open for Business Project Office.

(E) Serve as the liaison between the PA Open for Business Project Office and the participating cabinet secretaries.

(F) Create subcommittees to provide technical/process expertise in support of the PA Open for Business Project Office's tactical plan.

(iii) *Composition.* The Steering Committee consists of deputy secretary-level appointees, or an equivalent senior manager, who reports directly to the cabinet secretary, has decision-making authority, and embraces a Commonwealth "enterprise" perspective from the Departments of Labor and Industry, Revenue, State, Community and Economic Development, and the Office of Administration's Office of Information Technology, the Center for Customer Service and Innovation, and other designees as appointed by the Governor.

(iv) *Chairperson of the Steering Committee.* The responsibilities of the Chairperson are to:

(A) Lead the PA Open for Business initiative and achieve the Governor's strategic objectives.

(B) Preside over all PA Open for Business Steering Committee meetings and official business for the initiative.

(C) Serve a 1-year, renewable term at the pleasure of the Governor.

(D) Serve as the primary point of contact for the Governor's Director of Policy and the Cabinet Secretaries on PA Open for Business matters.

(E) Serve as chief spokesperson for the PA Open for Business within and outside of State government.

(2) *PA Open for Business Project Office.*

(i) *Objectives.* The objectives of the Business Project Office are to:

(A) Develop an annual project plan for each fiscal year to achieve the goals established by the Steering Committee.

(B) Direct day-to-day project management of the PA Open for Business initiative including supervision of contractors, technical support and process management at all levels of detail.

(ii) *Responsibilities.* The PA Open for Business Project Office shall deliver a written report twice annually on the status of the PA Open for Business initiative to the Governor's Director of Policy and participating agency cabinet secretaries.

(iii) *Composition.* The PA Open for Business Project Office shall consist of:

(A) A Director appointed by the Steering Committee and the Office of Administration.

(B) Appropriate staff within the Office of Administration as determined by the Director, in consultation with the Office of Administration's Deputy Secretaries for Human Resources and Management and Information Technology, and the PA Open for Business Steering Committee.

(C) Co-located personnel from participating agencies as necessary to support PA Open for Business technical or business process management needs.

(iv) *Organizational location.* The PA Open for Business Project Office is located within the Office of Administration, Office for Information Technology, and reports to the Deputy Secretary for Information Technology for administrative purposes, except for co-located employees working full-time on PA Open for Business from participating agencies who will remain under the jurisdiction of the participating agency.

(3) *Governor's Director of Policy.*

(i) *Objective.* The Governor's Director of Policy interprets and clarifies the Governor's purpose and strategic objectives for the PA Open for Business initiative for the Steering Committee.

(ii) *Responsibilities.* The Governor's Director of Policy, or equivalent member of senior staff:

(A) Consults with the Offices of Budget, Information Technology and General Counsel, as necessary, to make timely, binding "enterprise" decisions for the PA Open for Business initiative. This role includes responsibility for the resolution of interagency disputes that cannot be resolved by the Steering Committee, as well as any other matters of importance as identified by participating parties.

(B) Is the primary point of contact within the Governor's Office for the Steering Committee.

(C) Receives a written report, twice annually, on the status of the PA Open for Business initiative, and upon review, determines whether the Governor's overall strategic objectives are being met, and issues new guidance as necessary.

(D) Reports, as needed, to the Governor on progress toward the initiative's strategic objective.

(E) Makes recommendations to the Governor concerning agency representation and chairmanship of the Steering Committee.

(4) *Executive Council.*

(i) *Objective.* The objective of the Executive Council is to provide broad guidance for the PA Open for Business initiative on matters relating to State agency functions and processes.

(ii) *Responsibilities.* The Executive Council shall receive a written report, twice annually, on the status of PA Open for Business and ensure that the project is compatible with the core missions of each agency.

(iii) *Composition.* The Executive Council consists of the cabinet secretary of each of the participating agencies, and will be chaired by the Secretary of Administration.

### **Subchapter VV. INTEGRATING MEDIATION INTO STATE GOVERNMENT**

- Sec.  
7.791. Use of mediation.  
7.792. Mediation coordinator.

#### **Source**

The provisions of this Subchapter VV adopted by Executive Order No. 2002-7, dated June 14, 2002, 32 Pa.B. 3199, unless otherwise noted.

#### **§ 7.791. Use of mediation.**

Each department, board, commission, council and agency under the jurisdiction of the Governor shall become familiar with mediation, when and how it might be used and regularly explore, encourage and facilitate its use.

#### **§ 7.792. Mediation coordinator.**

Each department, board, commission, council and agency under the jurisdiction of the Governor shall designate a mediation coordinator who shall encourage and facilitate the use of mediation and report directly to the secretary, director, commissioners or other designated officials.

### **Subchapter WW. PROPOSED KEYSTONE OPPORTUNITY IMPROVEMENT SUB-ZONES**

- Sec.  
7.801. Proposed KOIZ sites.  
7.802. Definition.  
7.803. Time frame.  
7.804. Designation.  
7.805. Relationship with other agencies.

**Source**

The provisions of this Subchapter WW adopted by Executive Order No. 2002-13, dated December 31, 2002, 33 Pa.B. 3989, unless otherwise noted.

**§ 7.801. Proposed KOIZ sites.**

The following parcels of property are hereby designated by the Governor as Proposed Keystone Opportunity Improvement Sub-zones:

- (1) In the City of Philadelphia, Philadelphia County, a 25.6 acre site located at 2000 Kubach Road sitting at the end of a cul-de-sac and bound by railroad lines and undeveloped land.
- (2) In Falls Township, Bucks County, a net 1,258.90 acres of developable land with river frontage bounded by wetlands and owned by U. S. Steel.
- (3) In Harbor Creek Township, Erie County, a 15.01 acre site known as lots 3 and 4 of the Knowledge Park at Penn State University, Erie Campus.
- (4) In the City of Erie, Erie County, a site of approximately 115 acres on the north side of East Lake Road overlooking Lake Erie, formerly the site of International Paper's Hammermill Plant.
- (5) In Tionesta Borough, Forest County, an 11 acre site listed as tax parcel number 19-01-103 and located on State Route 62 formerly owned by Evenflo juvenile products.
- (6) In Coudersport Borough, Potter County, three sites: on Bank Street, parcel 062-001-014; Main Street, parcel 062-003-074A, and North Main Street, parcels 061-001-34 and 061-005-094.
- (7) In Walker Township, Juniata County, a 114.04 acre site bounded by the Juniata River and State Route 3005, currently owned by Empire Kosher Poultry.
- (8) In the City of Philadelphia, Philadelphia County, a 385 acre site located at League Island Boulevard and South Broad Street on the Delaware River within the former Naval Shipyard, the site of the proposed Philadelphia Naval Business Center.
- (9) In the City of Philadelphia, Philadelphia County, a cluster of sites in the western fringes of the city including the former Abbots Dairy property at 31st and Chestnut Streets, a building owned by Lincoln University at 31st and Market Streets, the main Post Office complex at 30th and Market Streets, the remaining Science Center redevelopment parcels at 38th and Market Streets, a 60 acre site bordered by Arch Street, the Schuylkill River, Spring Garden Street, and the westernmost railbed abutting 31st Street including the proposed Cira Centre site, and the Civic Center properties including Convention Hall, Museum, and Pennsylvania Hall.
- (10) In Burrell Township, Indiana County, a 65.66 acre site comprised of lots 1, 2, 3, 4, 5, 6, 10, 11, 12, 13, 14, 15, 18, 19 and 21 within the Corporate Campus Business Park which is located at the intersection of U. S. Route 119 and 22.

(11) In Green and Letterkenny Townships, Franklin County, an approximate 50 acre site owned by the United States Army bounded by Pennsylvania Avenue, Letterkenny-Carbaugh Road, Old Letterkenny-Texas Road and PA Route 977 merging with Sunset Pike.

#### **Cross References**

This section cited in 4 Pa. Code § 7.803 (relating to time frame); and 4 Pa. Code § 7.804 (relating to designation).

#### **§ 7.802. Definition.**

For purposes of this subchapter, the term “improvement sub-zone” means “a clearly defined geographic area consisting of deteriorated property as designated by the Governor.”

#### **§ 7.803. Time frame.**

Each Proposed Keystone Opportunity Improvement Sub-zone listed in § 7.801 (relating to proposed KOIZ sites), with the exception of § 7.801(7), is eligible for the tax exemptions, deductions, abatements or credits provided by the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act (73 P. S. §§ 820.101—820.1309), amended by Act 217 of 2002, for 15 years from the date of its designation as a Keystone Opportunity Improvement Sub-zone by the Department of Community and Economic Development. The designation of Walker Township, Juniata County, in § 7.801(7) is eligible for the benefits in this section for 5 years from the date of its designation.

#### **§ 7.804. Designation.**

The Department of Community and Economic Development shall designate the parcels of property listed in § 7.801 (relating to proposed KOIZ sites) as Keystone Opportunity Improvement Sub-zones, in accordance with the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act (73 P. S. §§ 820.101—820.1309), amended by Act 217 of 2002, following the timely submission of completed applications by each of the political subdivisions located within the parcel.

#### **§ 7.805. Relationship with other agencies.**

Agencies under the Governor’s jurisdiction shall cooperate with and provide assistance to the Keystone Opportunity Improvement Sub-zones in performing their revitalization functions.

**Subchapter XX. ANTI-SWEATSHOP PROCUREMENT POLICY**

|        |   |
|--------|---|
| Sec.   |   |
| 7.811. | Scope.                                  |
| 7.812. | Contractor certification.               |
| 7.813. | Contents of bids and proposals.         |
| 7.814. | Responsibility determination.           |
| 7.815. | Notice of changes during contract term. |
| 7.816. | Remedies and sanctions.                 |
| 7.817. | Applicable law.                         |
| 7.818. | Waiver.                                 |
| 7.819. | Definitions.                            |
| 7.820. | Effective date.                         |

**Source**

The provisions of this Subchapter XX adopted by Executive Order No. 2004-4, dated March 18, 2004, 34 Pa.B 3238, unless otherwise noted.

**§ 7.811. Scope.**

This subchapter applies to all apparel procured by or for Commonwealth agencies and all laundering services provided through contract to Commonwealth agencies. This subchapter does not apply to apparel manufactured by, or laundered by, inmates of any Pennsylvania Department of Corrections correctional institution and provided to Commonwealth agencies for their use.

**§ 7.812. Contractor certification.**

(a) A Commonwealth agency may not enter into a contract for the procurement of apparel or apparel laundering services until the contractor certifies and agrees that every employee engaged in the manufacture of the apparel, or the laundering of apparel, shall be or has been:

(1) Compensated by his employer at an hourly rate at least equivalent to the poverty threshold.

(2) Provided with working conditions that meet or exceed the International Labor Organization (ILO) Conventions' standards governing forced labor, child labor, payment of wages, hours of work, occupational health, occupational safety and nondiscrimination and that are in compliance with applicable Federal, State and local laws of the locality of manufacture, except when the conditions are preempted by Federal or State law.

(b) In the alternative, the contractor can certify that a collective bargaining agreement is in effect, and will remain in effect, during the manufacture of the apparel between the operator of the manufacturing facility and the employees engaged in the manufacture of the apparel and that the employees are represented by a responsible organization that is not influenced or controlled by management.

**Cross References**

This section cited in 4 Pa. Code § 7.813 (relating to contents of bids and proposals); 4 Pa. Code § 7.814 (relating to responsibility and determination); and 4 Pa. Code § 7.816 (relating to remedies and sanctions).

**§ 7.813. Contents of bids and proposals.**

(a) A Commonwealth agency shall require that each bid or proposal submitted for a contract for the procurement of apparel or apparel laundering services includes the following:

(1) A list of each proposed facility to be utilized in the manufacture of the apparel or the laundering of the apparel, including any subcontractors, with the business name, address, contact person and telephone number for each facility.

(2) The certification required by § 7.812 (relating to contractor certification).

(b) The information provided by bidders and offerors in response to the requirements of this section will be made available to the public (excluding other offerors and their representatives and agents) when requested, but subject to non-disclosure requirements.

**Cross References**

This section cited in 4 Pa. Code § 7.815 (relating to notice of changes during contract term).

**§ 7.814. Responsibility determination.**

A Commonwealth agency may not enter into a contract for the procurement of apparel or apparel laundering services until the agency determines that the apparel will not be manufactured in a facility that utilizes sweatshop conditions. In making the determination, the Commonwealth agency may do one or more of the following:

(1) Consider the contractor certifications required by § 7.812 (relating to contractor certification).

(2) Request further information and documentation from the contractor or the manufacturing or laundering facility.

(3) Seek and receive information from workers, labor unions, manufacturers, consumer groups, international organizations and groups, and other parties.

**§ 7.815. Notice of changes during contract term.**

A Commonwealth agency shall contractually require that each vendor awarded a contract to furnish apparel or apparel laundering services shall provide written notice to the purchasing Commonwealth agency of any changes during the term of the contract to the information provided in compliance with § 7.813 (relating to contents of bids and proposals).

**§ 7.816. Remedies and sanctions.**

(a) The Department of General Services shall pursue appropriate remedies and sanctions against a bidder, contractor, manufacturer or other party for any of the following:

- (1) Failure to comply with the requirements of the bid or the contract.
- (2) False certifications.
- (3) Any retaliation or attempt to retaliate against employees who report alleged violations of this subchapter or noncompliance with a contract.
- (4) Any other violation of this subchapter.

(b) Remedies may include rejection of a bid or proposal, termination of an award or contract, and collection of damages. Sanctions may include suspension or debarment, or both, from the privilege of contracting with any Commonwealth agency and possible criminal prosecution. A bidder may escape sanctions if, prior to submission of its bid, it obtains signed certifications from its subcontractors, meeting the requirements under § 7.812 (relating to contractor certification). This will not limit the Commonwealth agency's ability to terminate the award or the contract, upon 30 days notice of violation of this subchapter, after giving the vendor a reasonable right to cure.

**§ 7.817. Applicable law.**

Unless otherwise specified, applicable laws for purposes of this subchapter shall be determined as follows:

- (1) Employers in this Commonwealth shall be in compliance with applicable Pennsylvania law and Federal law.
- (2) Employers based in other states in the United States shall be in compliance with applicable laws of their states and Federal law.
- (3) For employers whose locations for manufacture or assembly are outside the United States, those employers shall be in compliance with applicable laws of countries where the facilities are located.

**§ 7.818. Waiver.**

Specific requirements of this subchapter may be waived by the head of any Commonwealth agency when it is determined, in writing, that there is no vendor able to meet those specific requirements.

**§ 7.819. Definitions.**

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

*Apparel*—Products manufactured, woven, cut, sewn or otherwise similarly processed by mechanical or human effort from fabrics, leather or cloth made for use as clothing, shoes or other attire.



*Commonwealth agency*—An executive or independent agency as defined by 62 Pa.C.S. § 103 (relating to definitions).

*Employer*—The operator of a facility at which individuals are employed in the manufacture or laundering, or both, of apparel.

*Poverty threshold*—The poverty threshold for a family of three, as published by the United States Department of Health and Human Resources, plus an additional 20% in wages if health benefits are not provided, and reduced by any mandatory deductions in employee pay for housing, transportation, meals or required job equipment. For non-United States facilities, the Commonwealth purchasing agency may adjust the United States Department of Health and Human Resources' poverty threshold to reflect the country's level of economic development by using a factor such as purchasing power parity or relative standard of living.

*Procure*—To buy, purchase, rent, lease or otherwise acquire through an employee uniform allowance or voucher program.

*Sweatshop conditions*—Work conditions, as determined by the purchasing Commonwealth agency, where the following apply:

(i) Employees are compensated by their employer at an hourly rate below the poverty threshold.

(ii) Employees are not provided with working conditions that meet or exceed the International Labor Organization (ILO) Conventions' standards governing forced labor, child labor, payment of wages, hours of work, occupational health, occupational safety, and nondiscrimination and that are in compliance with applicable Federal, State and local laws of the locality of manufacture, except when the conditions are preempted by Federal or State law.

*Working conditions*—Conditions in the workplace such as hours of employment, cause for termination of employment, child labor, discrimination, environmental health and safety, freedom of association and assembly and applicable building and fire codes.

#### § 7.820. Effective date.

This subchapter is effective for all invitations for bids and requests for proposals issued after March 18, 2004, and for all contracts awarded 30 days or more after March 18, 2004.

#### Subchapter YY. [Reserved]

##### Source

The provisions of this Subchapter YY adopted by Executive Order No. 2006-3, dated April 12, 2006, 36 Pa.B. 4170; reserved by Executive Order No. 2011-06, dated September 15, 2011, 41 Pa.B. 5350, unless otherwise noted. Immediately preceding text appears at serial pages (321484) and (332241).

#### §§ 7.821—7.827. [Reserved].

**Subchapter ZZ. CONTRACTOR SOCIAL RESPONSIBILITY AND  
OFFSHORE SERVICES**

|        |                                      |
|--------|--------------------------------------|
| Sec.   |                                      |
| 7.831. | Additional solicitation requirement. |
| 7.832. | Certification.                       |
| 7.833. | Evaluation.                          |
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| 7.835. | Audit.                               |

**Source**

The provisions of this Subchapter ZZ adopted by Executive Order No. 2006-8 dated September 14, 2006, 38 Pa.B. 474, unless otherwise noted.

**§ 7.831. Additional solicitation requirement.**

Every entity submitting a bid or proposal to provide services to a Commonwealth executive agency shall clearly identify which, if any, elements of the service it proposes to perform outside of the United States in the bid or proposal documents as required under § 7.832 (relating to certification), either directly or through other contracts. In developing the criteria for evaluating proposals and selecting contractors, the Commonwealth executive agency shall consider the extent to which each potential contractor proposes to perform elements of the service being procured outside of the United States to the extent permitted by the laws and treaties of the United States and clearly state the criteria being used to make evaluation in all requests for proposals or other bidding documents. This requirement applies to contracts issued under 62 Pa.C.S. §§ 513 and 517 (relating to competitive sealed proposals; and multiple awards).

**§ 7.832. Certification.**

Potential contractors who propose to perform contracted services provide a signed, written certification with their bid or proposal as to those elements or services which will be provided physically or by contract outside of the geographical boundaries of the United States. This requirement applies to contracts issued under 62 Pa.C.S. §§ 513 and 517 (relating to competitive sealed proposals; and multiple awards).

**Cross References**

This section cited in 4 Pa. Code § 7.831 (relating to additional solicitation requirement); 4 Pa. Code § 7.833 (relating to evaluation); and 4 Pa. Code § 7.385 (relating to audit).

**§ 7.833. Evaluation.**

In the selection process, the Commonwealth executive agency shall award points commensurate with the amount of contracted services performed in the United States relative to amount of contracted services performed in the United States by other offerors or contractors. Those offerors or contractors who do not

provide the certification required under § 7.832 (relating to certification) will not receive any of the points allotted for this criterion/evaluation factor.

**§ 7.834. Remedies.**

Any contractor or subcontractor who is found to have falsely certified that services covered under a proposed contract will be performed within the United States or who fails to otherwise conform to the certification by providing services outside of the United States which had been certified as being provided within the United States shall be subject to one or more of the following:

- (1) The contract at issue may be cancelled.
- (2) The contractor may be debarred from doing business with the Commonwealth.
- (3) Criminal action may be taken for filing a false certification with a public official.
- (4) Payment may be withheld by the Commonwealth purchasing agency.
- (5) The Commonwealth purchasing agency may take action to recover any payments made.

**§ 7.385. Audit.**

The Commonwealth purchasing agency shall reserve the contractual right to audit the books and records of a contractor or any subcontractor under any contract or subcontract to ensure compliance with the certification submitted by the contractor or subcontractor under § 7.832 (relating to certification).

**Subchapter AAA. JUDICIAL ADVISORY COMMISSION**

|        |  |
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| Sec.   |  |
| 7.841. | Judicial Advisory Commission.            |
| 7.842. | Powers and duties.                       |
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| 7.845. | Composition.                             |
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| 7.850. | Effective date.                          |
| 7.851. | Supersession.                            |

**Source**

The provisions of this Subchapter AAA adopted by Executive Order No. 2020-03, dated June 17, 2020, 50 Pa.B. 3200, unless otherwise noted.

**§ 7.841. Judicial Advisory Commission.**

There is hereby established a Judicial Advisory Commission that shall be an advisory commission appointed by the Governor to assist the General Counsel in identifying qualified applicants for consideration by the Governor for appointment to the courts of the Commonwealth.

**§ 7.842. Powers and duties.**

(a) The Judicial Advisory Commission (Commission) shall conduct interviews of applicants who have been determined to initially meet all requirements of qualification for appointment.

(b) The Commission shall evaluate the applicants and determine which are best qualified to serve in a judicial office.

(c) The Commission shall provide a report to the General Counsel that includes the names and summaries of qualifications of those applicants that the Commission has found qualified to hold judicial office and that a majority of the Commission recommends for appointment.

(d) The Commission shall not designate an applicant as qualified unless the applicant possesses all of the qualifications mandated by the Constitution and laws of the Commonwealth and possesses the personal qualifications of character, integrity, experience, competence and temperament necessary to qualify fully for the judiciary.

**§ 7.843. Procedures.**

The Judicial Advisory Commission may establish procedures as may be needed to effectively implement the powers and duties included in this subchapter and to ensure consistency and fairness in the application process.

**§ 7.844. Confidentiality.**

The Judicial Advisory Commission shall keep confidential their proceedings, recommendations and reports.

**§ 7.845. Composition.**

The Judicial Advisory Commission (Commission), unless otherwise provided by the Governor, shall consist of nine members who represent a diverse population within the Commonwealth, appointed as follows:

(1) The General Counsel or his designee shall serve as a member and chairperson of the Commission ex officio.

(2) Six members, appointed by the Governor, shall be members of the bar of the Supreme Court of Pennsylvania, in good standing, with experience practicing before the courts of the Commonwealth.

(3) Two members, appointed by the Governor, shall be citizens of the Commonwealth who are not lawyers.

(4) The Governor shall designate a member of the Commission as vice-chairperson to perform the duties of chair in the absence of the chairperson.

**§ 7.846. Terms of membership.**

(a) Members shall be appointed for terms of 1 year and shall continue to serve thereafter until their successors have been appointed. A member may be reappointed for one or more additional terms. All members serve at the pleasure of the Governor.

(b) Should a vacancy occur on the Judicial Advisory Commission, the Governor will appoint a successor; and the successor shall serve the remainder of the unexpired term.

**§ 7.847. Compensation and expenses.**

Members of the Judicial Advisory Commission shall not be compensated for their services but shall be entitled to reimbursement for expenses necessarily incurred in accordance with procedures established by the Office of General Counsel. See Chapter 40 (relating to travel and subsistence).

**§ 7.848. Restrictions.**

No member of the Judicial Advisory Commission may be considered for appointment to the court.

**§ 7.849. Duties of the Office of General Counsel.**

(1) The Office of General Counsel shall develop and announce a process for the acceptance of applications for recommendation for appointment to fill a judicial vacancy.

(2) The Office of General Counsel shall accept and consider applications for recommendation for appointment and perform an initial review of all applicants to determine whether they meet the minimum qualifications for appointment as required by the Constitution and the laws of the Commonwealth.

(3) The Office of General Counsel shall provide assistance and support as needed by the Judicial Advisory Commission (Commission) to carry out its functions effectively.

(4) The Office of General Counsel shall review the report of the Commission and recommend to the Governor the names of the applicants who, in the General Counsel's judgment, are qualified for appointments to fill judicial vacancies.

**§ 7.850. Effective date.**

This subchapter shall take effect immediately and shall remain in effect until amended or rescinded by the Governor.

**§ 7.851. Supersession.**

This subchapter supersedes Executive Orders 1995-1, 1987-11 and Revision 1, 1987-17, 1988-2 and Revisions 1 and 2.

**Subchapter BBB. PENNSYLVANIA STATE LAW ENFORCEMENT  
CITIZEN ADVISORY COMMISSION**

|        |   |
|--------|---|
| Sec.   |   |
| 7.861. | Purpose.  |
| 7.862. | Covered agencies.   |
| 7.863. | Terms and definitions.  |
| 7.864. | Pennsylvania State Law Enforcement Citizen Advisory Commission. |
| 7.865. | Composition.  |
| 7.866. | Terms of membership.  |
| 7.867. | Removal.  |
| 7.868. | Vacancies and membership.                                       |
| 7.869. | Duties and responsibilities of the chairperson.                 |
| 7.870. | Procedures.   |

- 7.871. Compensation.
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- 7.873. Reports.
- 7.874. Public statements.
- 7.875. Implementation.
- 7.876. General provisions.
- 7.877. Effective date.

#### Source

The provisions of this Subchapter BBB adopted by Executive Order No. 2020-04, dated July 17, 2020, unless otherwise noted.

#### § 7.861. Purpose.

The purpose of the Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission) is to improve policing practices within law enforcement agencies under the Governor's jurisdiction. The Commission is comprised of citizens of this Commonwealth focused on promoting transparency, fairness and accountability among the Commonwealth's State law enforcement agencies by examining events and conducting reviews of policies, practices and procedures.

#### § 7.862. Covered agencies.

All law enforcement agencies under the Governor's jurisdiction, including, but not limited to, the Pennsylvania State Police, the Department of General Services Capitol Police, and the Department of Conservation and Natural Resources Park Rangers.

#### § 7.863. Terms and definitions.

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

*Administrative adjudication*—The completion of any internal investigation, with an administrative finding of “sustained,” “not-sustained” or “unfounded” or the agency equivalent thereof, where all disciplinary penalties have been imposed and all contractual remedies, including grievance and arbitration proceedings, have been exhausted.

*Criminal History Record Information Act (CHRIA) information*—All information that cannot be disclosed to non-criminal justice agencies pursuant to CHRIA, 18 Pa.C.S. Chapter 91 (relating to criminal history record information), including but not limited to criminal history information, intelligence information, investigative information as defined by CHRIA, 18 Pa.C.S. Chapter 91.

*Criminal Justice Information Services (CJIS) information*—Any information that is obtained or derived from a CJIS system, including, but not limited to, information from the Interstate Identification Index System (III System), the National Crime Information Center (NCIC) and the International Justice and Public Safety Information Sharing Network (NIlets).

*Completed internal investigative findings*—The final administrative determination by the covered agency that the Pennsylvania State Law Enforcement Citizen Advisory Commission is authorized to review after a case has been fully investigated and adjudicated (both criminally, when warranted, and administratively, through and including any arbitration proceedings), and where no civil litigation has commenced, and where all applicable statutes of limitation have elapsed or all civil and civil rights litigation has concluded. Where civil action commences during the pendency of a review, this review shall cease until the litigation has concluded.

*Criminal adjudication*—Either a determination by the applicable prosecutor to decline prosecution or all judicial procedures up to and including sentencing and applicable appeals periods have occurred.

*Injury*—As it relates to § 7.864(b) (relating to Pennsylvania State Law Enforcement Advisory Commission), those injuries which require advanced medical treatment beyond basic first aid.

*Law Enforcement Sensitive (LES) information*—Information that if disclosed could harm, jeopardize or threaten the investigations, operations or other law enforcement/public safety activities of a law enforcement agency as determined by that agency.

*Non-public information*—Any information that is exempt from public disclosure under section 708(b) of the Right-to-Know Law (65 P.S. § 67.708(b)), including, but not limited to, records that would threaten a public safety activity or related to a criminal or internal investigation.

*Personal Identifiable Information (PII)*—Information that, when used alone or with other relevant data, can identify an individual. PII may contain direct identifiers (such as, passport information) that can identify a person uniquely or quasi-identifiers (such as, race) that can be combined with other quasi-identifiers (such as, date of birth) to successfully identify an individual.

*Primary jurisdiction*—An area where the Pennsylvania State Police (PSP) provides full police services for a political subdivision that is without the protection of an organized police department and the PSP responds to all calls for police assistance.

*Random sampling*—A sampling of completed internal investigative findings for lower level uses of force chosen by way of random selection of a predetermined number of cases without specific knowledge of the persons involved or incident details.

#### Cross References

This section cited in 4 Pa. Code § 7.686 (relating to vacancies and membership); and 4 Pa. Code § 7.869 (relating to duties and responsibilities of the chairperson).

**§ 7.864. Pennsylvania State Law Enforcement Advisory Commission.**

(a) The Pennsylvania State Law Enforcement Advisory Commission (Commission) is established within the Office of State Inspector General, which shall provide administrative support and assistance to the Commission.

(b) *Authority and responsibilities.*

(1) *Reviews of completed investigative findings:* The Commission is authorized to perform reviews of the covered agencies' completed internal investigative findings related to allegations and incidents related to use of force and bias-based policing in the following categories:

(i) All investigations of police-involved shootings resulting in injury or death of civilians conducted by covered agencies; and

(ii) A representative, random sampling of investigations of lower level uses of force resulting in injury or death, including arrest and control techniques, baton strikes and conducted energy weapon deployments; and

(iii) All investigations related to allegations of racial or ethnic discrimination and other bias-based policing or external complaints of bias or discrimination during interactions with covered agencies' law enforcement officers. The term "bias-based policing" means the unreasonable use of race, ethnicity, national origin, gender or religion by a law enforcement officer in deciding to initiate an enforcement action. It is not racial or other biased-based policing when race, ethnicity, national origin, gender or religion is used in combination with other identifying factors as part of a specific individual description to initiate an enforcement action.

(2) *Scope of review:* The Commission shall review the completed investigative findings set forth in subsection (b)(1) to determine:

(i) Whether the investigations were prompt, fair, impartial, and complete, and performed in a manner consistent with applicable policies or regulations, or both.

(ii) Whether the findings and discipline were reasonable under applicable law enforcement protocol, including but not limited to the covered agency's just cause standard, rules and regulations, collective bargaining agreements, past disciplinary precedent or grievance, or both, and arbitration decisions.

(iii) To the extent the review identifies a perceived policy or training deficiency, the Commission shall provide a recommendation to correct the perceived deficiency for consideration by the covered agency.

(3) *Methodology of review:*

(i) The covered agencies will provide the Commission with a comprehensive written summary and oral presentation of the completed internal investigative findings. The summary shall include a description of all investigative activities, relevant dates, a summary of the facts as determined by the investigation, and criminal and administrative adjudications, excluding all PII; CHRIA information; CJIS information; or other information restricted by State or Federal law.

(ii) The Commission's requests for additional supporting documents shall be limited to information directly related to the investigative findings



under review by the Commission and shall be redacted of all PII, CHRIA, CJIS information or other information restricted by State or Federal law.

(4) *Review results and recommendations:* The Commission shall prepare a report of each review and include recommendations based upon its review, if warranted. Recommendations must be approved by a majority of the voting members of the Commission. Covered agencies will review the recommendations and provide the Commission with a written response including what, if any, recommendations it may implement. If recommendations cannot or will not be implemented, the covered agency will provide an explanation.

(c) *Prerequisite training for members.* Prior to performing any functions as a member of the Commission, each voting member shall complete the following training, including, but not limited to: use of force; stop, search and arrest; traffic enforcement; bias-based policing; internal affairs process; all covered agencies' discipline procedures (including the disciplinary provisions of collective bargaining agreements and administrative processes, administrative proceedings, and burdens of proof); covered agencies' rules and regulations for its law enforcement officers; Governor's Code of Conduct, and constitutional law. A Commission member who fails to complete the prerequisite training is prohibited from attending covered agencies presentations, as well as reviewing and voting on completed investigative findings.

#### Cross References

This section cited in 4 Pa. Code § 7.863 (relating to terms and definitions); and 4 Pa. Code § 7.869 (relating to duties and responsibilities of the chairperson).

### § 7.865. Composition.

The Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission) shall consist of the following:

(a) *Voting members.* Fifteen members appointed by the Governor, which shall include one representative from each of the Pennsylvania State Police (PSP) current Troop geographic areas, and specifically from areas of the PSP's primary jurisdiction, and six additional citizen members chosen at large.

(b) *Ex-officio members.* Six non-voting members:

- (1) Appointee from the Office of the Governor;
- (2) The General Counsel or designee;
- (3) Commissioner of PSP or designee;
- (4) Chief of Capitol Police or designee;
- (5) Secretary of the Department of Conservation and Natural Resources or designee; and
- (6) Chair of the Pennsylvania Commission on Crime and Delinquency or designee.

(c) *Chairperson.* The Deputy Inspector General or designee appointed by the Inspector General will chair the Commission.

### § 7.866. Terms of membership.

Voting members shall serve the terms of their appointment and until a successor is appointed. Members may serve no more than two terms. Initially, 11 voting members shall be appointed for a term of 2 years, and 10 voting members shall

be appointed for an initial term of 3 years, the initial terms to be served beginning from the effective date of this subchapter. Thereafter, all terms shall be 4 years.

**§ 7.867. Removal.**

A Pennsylvania State Law Enforcement Commission member may be removed by the Governor, including for cause.

**§ 7.868. Vacancies and membership.**

Should a vacancy occur among the Governor's appointees on the Pennsylvania State Law Enforcement Commission (Commission), the Governor will appoint a successor to complete the term of the vacancy.

(a) Commission membership shall reflect the diversity of this Commonwealth and include individuals who have experience and interest in building trust and legitimacy among law enforcement and the citizens they serve.

(b) Commission members shall not use any information (including any confidential or protected information as defined in in § 7.863 (relating to terms and definitions) obtained through the fulfillment of Commission responsibilities for any other purpose. No Commission member may be a party to or represent any party in litigation involving any of the covered agencies.

**§ 7.869. Duties and responsibilities of the chairperson.**

(a) The chairperson will be responsible for convening meetings, producing the annual report described in § 7.873 (relating to reports) and other administrative responsibilities of the Pennsylvania State Law Enforcement Advisory Commission.

(b) The chairperson will establish committees to conduct the review functions identified in § 7.864(b) (relating to Pennsylvania State Law Enforcement Commission).

**§ 7.870. Procedures.**

(a) The Pennsylvania State Law Enforcement Commission (Commission) may establish subcommittees, rules and procedures necessary to effectively implement its authority and responsibilities included in this subchapter. Subcommittees may only include voting and ex officio members of the Commission. All committees shall be chaired by a voting member of the Commission.

(b) A majority of voting members of the Commission shall constitute a quorum.

(c) The Commission shall meet four times a year, unless otherwise determined by the chairperson.

(d) Commission members may attend meetings in person or remotely by electronic or telephonic means. In-person and remote participation shall be considered attendance for purposes of constituting a quorum.

**§ 7.871. Compensation.**

Members of the Pennsylvania State Law Enforcement Advisory Commission shall receive no compensation for their service, except that members may be

reimbursed for travel and related expenses in accordance with Commonwealth policy. See Chapter 40 (relating to travel and subsistence).

**§ 7.872. Responsibilities.**

The Pennsylvania Commission on Crime and Delinquency may assist the Office of State Inspector General, as requested.

**§ 7.873. Reports.**

The Pennsylvania State Law Enforcement Advisory Commission shall prepare and submit an annual report to the Governor or the Governor's designee, and other reports as may be requested by the Governor. The annual report shall be published on the web site of the Office of State Inspector General. Publicly accessible reports may not include any information that is personal or sensitive in nature or confidential, or both, privileged, protected, or otherwise prohibited or exempt from public disclosure by law, regulation or judicial order, including but not limited to any PII, any non-public information, CHRIA information, CJIS information or other information restricted by State or Federal laws or deemed by the affected covered agency to be law enforcement sensitive.

**§ 7.874. Public statements.**

Outside of statements required 65 Pa.C.S. Chapter 7 (relating to Sunshine Act), the Pennsylvania State Law Enforcement Advisory Commission (Commission) meetings and required reports, no member of the Commission shall make any individual public statements regarding any deliberations, discussions, debate, or review of any of the completed internal investigative findings of the covered agencies or recommendations of the Commission.

**§ 7.875. Implementation.**

(a) All covered agencies shall cooperate and provide assistance to the Pennsylvania State Law Enforcement Advisory Commission (Commission) as needed to perform its functions. Notwithstanding any document retention periods, all covered agencies must take affirmative steps to preserve any and all records and information relating to covered agencies' completed internal investigations that fall within the Commission's purview for the time period necessary for the Commission to complete its review.

(b) All Commonwealth agencies under the Governor's jurisdiction are directed to take all steps necessary to implement this subchapter.

**§ 7.876. General provisions.**

Nothing in this subchapter shall be construed to impair or otherwise affect the authority granted by law to an executive department, agency or the head thereof. This subchapter is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Commonwealth, its departments, agencies, or entities, its officers, employees, or agents or any other person.

**§ 7.877. Effective date.**

This subchapter shall take effect immediately and shall remain in effect until amended or rescinded by the Governor.

**Subchapter CCC. PROHIBITION OF SEXUAL HARASSMENT IN THE COMMONWEALTH**

Sec.

- 7.881. Prohibition.
- 7.882. Prohibited actions.
- 7.883. Disciplinary action.
- 7.884. Retaliation.
- 7.885. Education.
- 7.886. Workplace environment.
- 7.887. Complaint mechanism.
- 7.888. Oversight and resolution of complaints and appeals.
- 7.889. Commonwealth policy.
- 7.890. Cooperation by State agencies.
- 7.891. Effective date.
- 7.892. Rescission.

**Source**

The provisions of this Subchapter CCC added by Executive Order No. 2021-04, dated June 15, 2021, 51 Pa.B. 3594, unless otherwise noted.

**§ 7.881. Prohibition.**

A department, board, office, commission or other agency under the Governor's jurisdiction may not tolerate sexual harassment by a Commonwealth employee against another employee, applicant for employment, contractor, intern or client or other person receiving services from or conducting business with the Commonwealth. Sexual harassment while conducting the business of the Commonwealth is strictly forbidden. Further, a department, board, office, commission or other agency under the Governor's jurisdiction may not tolerate acts of sexual harassment by individuals not employed by the Commonwealth within Commonwealth offices or upon employees of the Commonwealth in the performance of their duties. Sexual harassment is a violation of Federal and State law. Therefore, all Federal and State laws relating to sexual harassment or sex discrimination, or both, shall be enforced.

**§ 7.882. Prohibited actions.**

(a) Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal, non-verbal, visual or physical conduct of a sexual nature, if:

- (1) Submission to or rejection of the conduct is made either explicitly or implicitly a term or condition of an individual's employment or receipt of public services; or
- (2) Submission to or rejection of the conduct by an individual is used as a basis for decisions affecting the individuals; or

(3) The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or receipt of public services, or creating an intimidating, hostile or offensive work environment.

(b) Prohibited sexual harassment may include actions by members of the opposite sex of an employee as well as members of an employee's own sex. Prohibited sexual harassment may include actions which are overtly sexual or facially neutral if those actions constitute gender, gender identity, gender expression or sexual orientation-based discrimination. Prohibited sexual harassment may include unwanted or unwelcome discussion of an individual's sexual activity or history, sexual orientation or gender identity or gender expression.

**§ 7.883. Disciplinary action.**

A Commonwealth employee who engages in or knowingly permits or condones sexual harassment during the course of conducting their Commonwealth duties shall be subject to disciplinary action, up to and including dismissal.

**§ 7.884. Retaliation.**

Retaliation in any form against an individual who exercises their right to make a good faith complaint under this policy or who cooperates in an investigation of any complaint is strictly prohibited and shall itself be cause for appropriate disciplinary action.

**§ 7.885. Education.**

Commonwealth employees shall be educated in sexual harassment issues. Education may consist of written materials, formal training, educational videos, orientation sessions, workplace discussions or individual counseling. Commonwealth employees shall be provided with a copy of this policy and must sign an acknowledgement that they have received and reviewed the policy.

**§ 7.886. Workplace environment.**

Agency heads shall create a respectful and safe workplace environment which encourages discussion of sexual harassment issues, where employees are educated in sexual harassment prevention and sensitized to sexual harassment and where an individual with sexual harassment questions or complaints is provided with a response which is clear, impartial and timely.

**§ 7.887. Complaint mechanism.**

The Secretary of Administration shall require each agency to have an effective complaint mechanism which ensures that an employee does not have to complain to the alleged harasser, and which provides for prompt and effective investigation of complaints. The Secretary of Administration shall also have the authority to issue Management Directives and establish rules necessary to carry out the mandates of this subchapter.

**§ 7.888. Oversight and resolution of complaints and appeals.**

The Office of Administration, Bureau of Equal Employment Opportunity, shall provide appropriate oversight and resolution of complaints.

**§ 7.889. Commonwealth policy.**

This subchapter and Management Directive 505.30, Prohibition of Sexual Harassment in Commonwealth Work Settings, constitute the Commonwealth's sexual harassment policy.

**§ 7.890. Cooperation by State agencies.**

Commonwealth departments, boards, offices, commissions and other agencies under the Governor's jurisdiction shall cooperate fully with the Secretary of Administration and provide assistance and information, as needed, in the implementation of this subchapter.

**§ 7.891. Effective date.**

This subchapter shall take effect immediately.

**§ 7.892. Rescission.**

Executive Order 2002-04, Prohibition of Sexual Harassment in the Commonwealth, is rescinded.

**Subchapter DDD. NO SURPRISES ACT IMPLEMENTATION**

Sec.

- 7.901. Definitions.
- 7.902. Designation of lead agency.
- 7.903. Cooperation by State agencies.
- 7.904. Independent agencies, State-affiliated entities and State-related entities participation.
- 7.905. Effective date.

**Source**

The provisions of this Subchapter DDD added by Executive Order No. 2021-08, dated December 20, 2021, 52 Pa.B. 336, unless otherwise noted.

**§ 7.901. Definitions.**

The words and phrases used in this subchapter have, unless the context clearly indicates otherwise, the meanings given to them in the No Surprises Act and the regulations issued thereunder by the United States Department of Health and Human Services, United States Department of Labor, United States Department of Treasury and the United States Office of Personnel Management. The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

*Insurance Department*—The Insurance Department of the Commonwealth.

*Licensee*—An individual or entity licensed or otherwise authorized by an agency of this Commonwealth to engage in business in this Commonwealth.

*No Surprises Act*—Div. BB, Title I of the Consolidated Appropriations Act of 2021 (Pub.L. No. 116-260) enacted December 27, 2020.

**§ 7.902. Designation of lead agency.**

The Insurance Department is hereby designated as the lead agency under the Governor's jurisdiction to coordinate implementation of the No Surprises Act within the Commonwealth.

**§ 7.903. Cooperation by State agencies.**

(a) The Insurance Department, the Department of State, the Department of Health and the Department of Drug and Alcohol Programs shall exercise their statutory and regulatory responsibilities to ensure that consumers are protected and licensees are compliant with their responsibilities under the No Surprises Act.

(b) All Commonwealth departments, boards, offices, commissions and other agencies under the Governor's jurisdiction shall cooperate fully and provide assistance and information, as needed, in the implementation of this subchapter.

(c) Additional interagency cooperation may include:

- (1) Adoption of policies to support the Commonwealth's implementation and enforcement of the No Surprises Act.
- (2) Dissemination of educational materials and information.
- (3) Receipt of inquiries and complaints.

**§ 7.904. Independent agencies, State-affiliated entities and State-related entities participation.**

Independent agencies, State-affiliated entities and State-related entities are encouraged to participate in the goals and provisions of this subchapter.

**§ 7.905. Effective date.**

This subchapter shall take effect immediately and remain in effect until amended or rescinded by the Governor.

**Subchapter EEE. REPRODUCTIVE HEALTH CARE**

Sec.

- |        |  |
|--------|--|
| 7.911. | Definitions.   |
| 7.912. | No assistance from Executive Agencies.   |
| 7.913. | Protection of health care and other professionals licensed in this Commonwealth. |
| 7.914. | Communication about reproductive health care services.                           |
| 7.915. | Unavailability of interstate extradition.  |
| 7.916. | Implementation.  |
| 7.917. | General.   |
| 7.918. | Effective date.  |

**Source**

The provisions of this Subchapter EEE added by Executive Order No. 2022-01, dated July 12, 2022, 52 Pa.B. 4227, unless otherwise noted.

**§ 7.911. Definitions.**

For the purposes of this subchapter, "reproductive health care services" includes all medical, surgical, counseling or referral services relating to the

human reproductive system, including, but not limited to, services relating to pregnancy, contraception or the termination of a pregnancy.

**§ 7.912. No assistance from Executive Agencies.**

Except as required by an order of a court of competent jurisdiction, no agency, board, commission or council under the Governor's jurisdiction (Executive Agency), and no employee, appointee, officer or other person acting on behalf of any Executive Agency, may provide any information or expend or use time, money, facilities, property, equipment, personnel or other Commonwealth resources in furtherance of any investigation or proceeding initiated in or by another state that seeks to impose civil or criminal liability or professional discipline upon a person or entity for:

- (1) the provision, securing or receiving of, or any inquiry concerning, reproductive health care services that are legal in this Commonwealth; or
- (2) any assistance given to any person or entity that relates to the provision, securing or receiving of, or any inquiry concerning, reproductive health care services that are legal in this Commonwealth.

This restriction shall not apply to any investigation or proceeding where the conduct that is subject to potential liability under the investigation or proceeding initiated in or by the other state would be subject to civil or criminal liability or professional discipline under the laws of the Commonwealth if committed in this Commonwealth or if action is required by Federal law. Notwithstanding the general prohibition of this section, Executive Agencies and individuals acting on their behalf may provide information or assistance in connection with such an investigation or proceeding in response to the written request of a person or entity that is the subject of such an investigation or proceeding.

**§ 7.913. Protection of health care and other professionals licensed in this Commonwealth.**

Executive Agencies are directed to work with the boards of professional licensure operating under their respective supervision to consider whether to implement policies that will ensure that no person shall be disqualified from licensure or subject to discipline by a Commonwealth board of professional licensure for providing or assisting in the provision of reproductive health care services or as a consequence of any judgment, discipline, or other discipline threatened or imposed under the laws of another state so long as the services as provided would have been lawful and consistent with standards for good professional practice in this Commonwealth.

**§ 7.914. Communication about reproductive health care services.**

Executive Agencies, consistent with applicable law, are directed to consider implementing steps that would help inform the public about reproductive health care, including:

- (1) communicating directly with the public on matters pertaining to reproductive health care services;



- (2) providing comprehensive information about the current cost and availability of reproductive health care in a manner that is easily accessed and understood by the public; and
- (3) educating the public about the protection of health care information stored or accessed on personal devices.

**§ 7.915. Unavailability of interstate extradition.**

The Governor shall decline any request received from the executive authority of any other state to issue a warrant for the arrest or surrender of any person charged with a criminal violation of a law of that other state where the violation alleged involves the provision or receipt of or assistance with reproductive health care services unless the acts forming the basis of the prosecution of the crime charged would also constitute a criminal offense under the laws of the Commonwealth. Consistent with the requirements of the United States Constitution, this limitation shall not apply in the circumstance where the person who is the subject of the request for arrest or surrender was physically present in the requesting state at the time of the commission of the alleged offense and thereafter fled from that state.

**§ 7.916. Implementation.**

Executive Agencies shall take all steps necessary to implement this subchapter.

**§ 7.917. General.**

This subchapter shall be implemented consistent with applicable law. Nothing in this subchapter shall be construed to impair or otherwise affect the authority granted by law to an Executive Agency, or the head thereof. This subchapter is not intended to, and does not create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Commonwealth, its departments, agencies or entities, its officers, employees or agents, or any other person.

**§ 7.918. Effective date.**

This subchapter will take effect immediately and shall remain in effect unless revised or rescinded by the Governor.

**Subchapter FFF. PROTECTING PENNSYLVANIANS FROM  
CONVERSION THERAPY AND SUPPORTING LGBTQIA+  
PENNSYLVANIANS**

- |        |  |
|--------|--|
| Sec.   |  |
| 7.921. | Responsibilities of Commonwealth agencies. |
| 7.922. | Implementation.                            |
| 7.923. | General provisions.                        |
| 7.924. | Effective date.                            |

**Source**

The provisions of this Subchapter FFF added by Executive Order 2022-02, dated August 16, 2022, 52 Pa.B. 5788, unless otherwise noted.

**§ 7.921. Responsibilities of Commonwealth agencies.**

(a) Agencies under the Governor's jurisdiction are directed to pursue opportunities and coordinate with each other to protect Commonwealth residents, particularly children, youth and vulnerable adults, from conversion therapy to the fullest extent of their authority.

(b) To protect the mental health of and well-being of Commonwealth residents, especially children, the Department of Human Services, the Insurance Department, the Department of State and any other applicable agencies are directed to explore and implement all options to ensure State funds, programs, contracts and other resources are not used for the purposes of providing, authorizing, endorsing, reimbursing for or referring for conversion therapy, to the extent permitted by law.

(c) The Department of Human Services is directed to receive and investigate any reports of claims that have been paid for conversion therapy through the Medical Assistance Program and the Children's Health Insurance Program.

(d) The Department of State is directed to inform licensed health care practitioners in this Commonwealth that the Commonwealth discourages the provision of and reimbursement for conversion therapy, and the Department of State shall inform the public of the mechanisms available to report licensed professionals that cause harm to patients as a result of conversion therapy.

(e) The Insurance Department is directed to commit to discouraging commercial insurers from providing reimbursement for conversion therapy, to the extent permitted by law. The Insurance Department is also directed to receive and investigate any reports of commercial insurance claims that have been paid for conversion therapy. To prohibit unlawful discrimination, the Insurance Department shall also receive and investigate any complaints that insurers are discriminating against consumers by automatically or categorically denying or excluding coverage of gender-related care in violation of Federal law.

(f) To support LGBTQIA+ children, youth and their families, the Department of Human Services is directed to develop resource guides that outline science and evidence-based best practices on family preservation and available community and local LGBTQIA+ affirming entities and services for families to support an LGBTQIA+ child or youth, as well as resources for caring for LGBTQIA+ children and youth within the child welfare system, including caring for their physical and mental health and well-being. The Department of Human Services shall ensure that child welfare staff and contracted providers have available resources and training to provide family preservation, pre-placement, placement and adoption and permanency services to LGBTQIA+ children and youth and their families.

(g) To ensure the Commonwealth is a premier employer, the Office of Administration is directed to review and update, as necessary, employee trainings and make available to Commonwealth employees, managers and supervisors training about supporting LGBTQIA+ employees, including employees who may transition or voluntarily disclose that they are seeking gender-affirming care during their employment, and provide information regarding the privacy and protection of personal health information.

(h) To ensure the Commonwealth provides high-quality and inclusive customer service, the Governor's Office, the Pennsylvania Commission on LGBTQ Affairs, the Department of Human Services and the Office of Advocacy and Reform are directed to convene a group of Commonwealth residents with lived experience navigating health care and government systems through a gender identity transition to help inform the Commonwealth's customer service transformation initiative regarding that process as well as any issues related to the experience of LGBTQIA+ Commonwealth residents navigating State government systems.

(i) Further, agencies under the Governor's jurisdiction shall regularly review and update, if necessary, the following:

(1) Forms to use gender-neutral language whenever practical in external documents, including but not limited to using gender-neutral terms and pronouns or drafting to eliminate the need for pronouns or gendered language.

(2) Forms and online systems that collect voluntary demographic information to allow for submission of inclusive gender identity and sexual orientation data, to the extent permitted by law.

#### **§ 7.922. Implementation.**

Commonwealth agencies under the Governor's jurisdiction are directed to take all steps necessary to implement this subchapter. Independent agencies are also strongly encouraged to implement this subchapter.

#### **§ 7.923. General provisions.**

This subchapter shall be implemented consistent with applicable law. This subchapter is not intended to, and does not create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Commonwealth, its departments, agencies or entities, its officers, employees or agents, or any other person.

#### **§ 7.924. Effective date.**

This subchapter shall take effect immediately and shall remain in effect until amended or rescinded by the Governor.

### **Subchapter GGG. EXPANSION OF VOTER REGISTRATION OPPORTUNITIES**

|        |   |
|--------|---|
| Sec.   |   |
| 7.931. | Definitions.  |
| 7.932. | Designation of voter registration distribution agencies.  |
| 7.933. | Duties of voter registration distribution agencies.       |
| 7.934. | Prohibitions on voter registration distribution agencies. |
| 7.935. | Coordination with Federal agencies.                       |
| 7.936. | Designation of lead agency to implement this subchapter.  |
| 7.937. | Voter registration month.                                 |
| 7.938. | General.  |
| 7.939. | Effective date.   |

**Source**

The provisions of this Subchapter GGG added by Executive Order 2022-03, dated September 7, 2022, 52 Pa.B. 6140, unless otherwise noted.

**§ 7.931. Definitions.**

The words and phrases used in this subchapter shall have the following meanings:

*Department of State*—The Commonwealth of Pennsylvania Department of State.

*Voter registration distribution coordinator (coordinator)*—An individual designated at each identified Voter Registration Distribution Agency, who serves as the point of contact for the Department of State for any training, reporting, or other related items and manages the implementation of the voter registration distribution process. Coordinators will also participate in the Department of State NVRA Working Group and all trainings provided by the Department of State.

*Voter registration materials*—An official voter registration mail application not specific to any county registration office, an accompanying non-postage paid envelope, and instructions as to where the completed voter registration application is to be sent, all of which are to be provided by the Department of State.

*Voter registration signage*—Nonpartisan signs or posters that indicate official voter registration materials are available on the premises.

**§ 7.932. Designation of voter registration distribution agencies.**

The following Commonwealth agencies and programs are hereby designated as voter registration distribution agencies and shall have the duties as set forth in § 7.933 (relating to duties of voter registration distribution agencies): Department of State, Department of Agriculture, Department of Conservation and Natural Resources, Bureau of Community Corrections at the Department of Corrections, Department of Education, Labor and Industry programs at PA CareerLink<sup>®</sup> offices and Department of Military and Veterans Affairs.

**§ 7.933. Duties of voter registration distribution agencies.**

Voter registration distribution agencies are directed to do the following:

- (1) designate a voter registration distribution coordinator;
- (2) make voter registration materials available on the premises;
- (3) provide voter registration materials to any individual interacting with voter registration distribution agencies who shall request voter registration materials;
- (4) display prominently in a conspicuous location voter registration signage;
- (5) work with the Office of Administration to establish a timeline for implementation of the Department of State's voter registration web application into voter registration distribution agencies' customer facing portal(s) as appropriate;

- (6) provide a link to the Pennsylvania online voter registration application on their internet home page until the time that the voter registration web application has been implemented in customer facing portal(s); and
- (7) provide statistical information to the Department of State quarterly to assess the effectiveness of this voter registration program.

#### **Cross References**

This section cited in 4 Pa. Code § 7.932 (relating to designation of voter registration distribution agencies); 4 Pa. Code § 7.934 (relating to prohibitions on voter registration distribution agencies); and 4 Pa. Code § 7.935 (relating to coordination with Federal agencies).

#### **§ 7.934. Prohibitions on voter registration distribution agencies.**

Employees of voter registration distribution agencies, in fulfilling their duties set forth under § 7.933 (relating to duties of voter registration distribution agencies), shall not:

- (1) seek to influence any individual's political preference or party registration or display any political preference or party allegiance;
- (2) make any statement to any individual or take any action the purpose or effect of which is to discourage anyone from registering to vote; or
- (3) make any statement or take any action the purpose or effect of which is to lead an individual to believe that a decision to register or not to register has any bearing on or will impact in any way the availability of services or benefits provided to the individual by said agency.

#### **§ 7.935. Coordination with Federal agencies.**

The Department of State shall work with the Federal government to identify Federal agencies that interact with residents in this Commonwealth and are authorized to enter agreements with these Federal agencies by which those agencies will provide voter registration materials as described in § 7.933 (relating to duties of voter registration distribution agencies), consistent with all applicable laws.

#### **§ 7.936. Designation of lead agency to implement this subchapter.**

The Department of State is hereby designated as the lead agency under the Governor's jurisdiction to coordinate implementation of this subchapter.

#### **§ 7.937. Voter registration month.**

This subchapter designates September as voter registration month and encourages all NVRA Agencies or voter registration distribution agencies to engage with the Department of State in encouraging voters to register, or if they are registered, to review and update their voter registration during the month of September. The Department of State will provide materials and lead coordination of voter registration month efforts.

#### **§ 7.938. General.**

This subchapter shall be implemented consistent with applicable law. This subchapter is not intended to, and does not create, any right or benefit, substantive

or procedural, enforceable at law or in equity by any party against the Commonwealth, its departments, agencies or entities, its officers, employees or agents, or any other persons.

**§ 7.939. Effective date.**

This subchapter shall take effect immediately and shall remain in effect until revised or rescinded by the Governor.

**Subchapter HHH. CREATING OPPORTUNITIES BY PRIORITIZING  
WORK EXPERIENCE FOR STATE GOVERNMENT JOBS**

Sec.

- 7.951. Job postings.
- 7.952. Job classifications review.
- 7.953. Implementation.
- 7.954. General provisions.
- 7.955. Effective date.

**Source**

The provisions of this Subchapter HHH added by Executive Order No. 2023-03, dated January 18, 2023, 53 Pa.B. 705, unless otherwise noted.

**§ 7.951. Job postings.**

Effective immediately, 92% of all Commonwealth jobs do not require a 4-year college degree, roughly equivalent to 65,000 jobs. Consistent with this Administration's commitment to emphasizing skills and experience, job postings will begin with equivalent experience needed in lieu of a college degree whenever possible.

**§ 7.952. Job classifications review.**

The Secretary of Administration, for the remaining 8% of Commonwealth jobs, shall identify the job classifications within the Commonwealth's classification plan that require applicants to possess a college degree. Thereafter, the Secretary of Administration shall conduct a review to determine which job classifications are appropriate to include practical experience, in lieu of, or in addition to, a 4-year college degree requirement. In conducting the review, the Secretary of Administration shall work with subject matter experts from the affected Commonwealth agencies under the Governor's jurisdiction. Upon completion of the review, the Secretary of Administration shall recommend to the Executive Board revisions to the Commonwealth's classification plan.

**§ 7.953. Implementation.**

Commonwealth agencies under the Governor's jurisdiction shall take all steps necessary to implement this subchapter.

**§ 7.954. General provisions.**

This subchapter shall be implemented consistent with applicable law. Nothing in this subchapter shall be construed to impair or otherwise affect the authority granted by law to an executive agency, or the head thereof. This subchapter is not

intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Commonwealth, its departments, agencies or entities, its officers, employees or agents, or any other person.

**§ 7.955. Effective date.**

This subchapter shall take effect immediately and shall remain in effect unless amended or rescinded.

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(413270) No. 582 May 23

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