

US EPA ARCHIVE DOCUMENT

§ 65.4. Transcripts or certified copies

Transcripts or certified copies of such copies, records, reproductions and replacements, shall be considered as transcripts or certified copies of the originals.

1949, May 11, P.L. 1076, § 4.

§ 65.5. Correction, alteration, endorsement or entry

In any case where any record or replacement thereof in the office of any such officer is produced by such process, any correction, alteration, endorsement, or entry, required or authorized to be made of or on any instrument or paper or on the record thereof, may be made by filing or inserting copies or recopies produced by the same process, of the pages, page, or part of the page, so corrected, altered, or on which such endorsement or entry is made, next to the place wherein the copy or record of such instrument or paper is contained or in such other manner as such officer shall deem advisable or practicable.

1949, May 11, P.L. 1076, § 5.

INSPECTION AND COPYING OF RECORDS**Library References**

Executive privilege, government records, see West's Pa. Prac. vol. 1, Evidence, Packel and Poulin, § 511.

§ 66.1. Definitions

In this act the following terms shall have the following meanings:

(1) "Agency." Any department, board or commission of the executive branch of the Commonwealth, any political subdivision of the Commonwealth, the Pennsylvania Turnpike Commission, or any State or municipal authority or similar organization created by or pursuant to a statute which declares in substance that such organization performs or has for its purpose the performance of an essential governmental function.

(2) "Public Record." Any account, voucher or contract dealing with the receipt or disbursement of funds by an agency or its acquisition, use or disposal of services or of supplies, materials, equipment or other property and any minute, order or decision by an agency fixing the personal or property rights, privileges, immunities, duties or obligations of any person or group of persons: Provided, That the term "public records" shall not mean any report, communication or other paper, the publication of which would disclose the

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institution, progress or result of an investigation undertaken by an agency in the performance of its official duties, except those reports filed by agencies pertaining to safety and health in industrial plants; it shall not include any record, document, material, exhibit, pleading, report, memorandum or other paper, access to or the publication of which is prohibited, restricted or forbidden by statute law or order of a decree of court, or which would operate to the prejudice or impairment of a person's reputation or personal security, or which would result in the loss by the Commonwealth or any of its political subdivisions or commissions or State or municipal authorities of Federal funds, excepting therefrom however the record of any conviction for any criminal act.

1957, June 21, P.L. 390, § 1. Amended 1971, June 17, P.L. 160, No. 9, § 1.

Cross References

Open meeting law, see 65 Pa.C.S.A. § 701 et seq.

Law Review and Journal Commentaries

Pennsylvania's Right-to-Know Act: it needs to be changed. 33 Duq.L.Rev.
How it is used to discourage, delay and 127 (1994).
deny access to public documents and why

Library References

Records 50.
WESTLAW Topic No. 326.
C.J.S. Records §§ 93, 96.

United States Supreme Court

Freedom of information

Ass'n, 1997, 117 S.Ct. 795, 519
U.S. 355, 136 L.Ed.2d 825.

Addresses of agency employees, see
U.S. Dept. of Defense v. Federal
Labor Relations Authority, 1994,
114 S.Ct. 1006, 510 U.S. 487, 127
L.Ed.2d 325.

Law enforcement exemption, confi-
dential sources, presumptions, see
U.S. Dept. of Justice v. Landano,
U.S.N.J.1993, 113 S.Ct. 2014, 508
U.S. 165, 124 L.Ed.2d 84, on re-
mand 873 F.Supp. 884.

Public interest test, Bureau of Land
Management Mailing List, see Bi-
bles v. Oregon Natural Desert

Personnel and medical files exemption,
similar files, interviews of Haitian nation-
als returned to Haiti, invasion of privacy,
see U.S. Dept. of State v. Ray, U.S.Fla.
1991, 112 S.Ct. 541, 502 U.S. 164, 116
L.Ed.2d 526.

Public records, law enforcement pur-
poses exemption, time of compilation, see
John Doe Agency v. John Doe Corp.,
U.S.N.Y.1989, 110 S.Ct. 471, 493 U.S.
146, 107 L.Ed.2d 462, rehearing denied
110 S.Ct. 884, 493 U.S. 1064, 107
L.Ed.2d 966.

Notes of Decisions

Account, public record 3

Agency 1

Burden of proof, public record 10

Components of agency decision, public
record 7

Contract, public record 4

Damage to reputation, public record 11

Impairment of reputation or personal se-
curity, public record 9

Investigation by agency, public record

fectured by knowledge of their receipt of payments from sources such as public assistance, unemployment compensation or disability funds. *Anders v. Com., Dept. of Treasury*, 585 A.2d 568, 137 Pa. Cmwlth. 111, Cmwlth. 1991.

12. — Loss of federal funds, public record

Contracts to which the Pennsylvania Higher Education Assistance Authority was a party were not exempt from disclosure under the definition of "public record" contained in the Right to Know Act because disclosure would result in loss of federal funds where no federal law or regulation mandated that federal funds be cut off if public access to contracts was allowed. *Ryan v. Com., Pennsylvania Higher Educ. Assistance Agency*, 448 A.2d 669, 68 Pa. Cmwlth. 123, Cmwlth. 1982.

Unclaimed uncashed check list of Department of Treasury was not precluded from being disclosed as being within exception to definition of "public record" in this act for documents, which if disclosed, would result in loss of federal funds; disclosure of list would not include information which would reveal payee's participation in federal programs. *Anders v. Com., Dept. of Treasury*, 585

A.2d 568, 137 Pa. Cmwlth. 111, Cmwlth. 1991.

Unclaimed uncashed check list of Department of Treasury was not precluded from being disclosed as being within exception to definition of "public record" in this act for documents, which if disclosed, would result in loss of federal funds; disclosure of list would not include information which would reveal payee's participation in federal programs. *Anders v. Com., Dept. of Treasury*, 585 A.2d 568, 137 Pa. Cmwlth. 111, Cmwlth. 1991.

Contract between successful bidder on government contract and Department of Transportation (DOT) to provide emissions testing was not exempt from disclosure under Right to Know Act under any exemption, including exemption for loss of federal funds, potential damage to company's reputation, or prohibition of disclosure by statute or order or decree of court; statute requiring testing did not provide withholding of funds if information in contract implementing program was disclosed, and threat of unfair competition did not invoke exemption. *Envirotest Partners v. Com., Dept. of Transp.*, 664 A.2d 208, Cmwlth. 1995.

§ 66.2. Examination and inspection

Every public record of an agency shall, at reasonable times, be open for examination and inspection by any citizen of the Commonwealth of Pennsylvania.

1957, June 21, P.L. 390, § 2.

Library References

Records — 51, 60.
WESTLAW Topic No. 326.
C.J.S. Records §§ 97, 111.

United States Supreme Court

District court tax decisions as agency records of Department of Justice, alternative sources, see *U.S. Dept. of Justice v. Tax Analysts*, U.S. Dist. Col. 1989, 109 S.Ct. 2841, 492 U.S. 136, 106 L.Ed.2d 112.

Law enforcement exemption, FOIA, FBI rap sheet, personal privacy interest,

see *U.S. Dept. of Justice v. Reporters Committee For Freedom of Press*, U.S. Dist. Col. 1989, 109 S.Ct. 1468, 489 U.S. 749, 103 L.Ed.2d 774.

65 P.S. § 66.2

Note 18

Commonwealth Court's standard of review in license suspension cases is limited to determining whether trial court's findings are supported by competent evidence, whether errors of law have been committed, or whether trial court committed manifest abuse of discretion. *Dalley v. Com.*, Dept. of Transp., Bureau of Driver Licensing, 722 A.2d 772, Cmwlt. 1999.

Commonwealth Court's scope of review of denial by Department of Labor and Industry of request for information pursuant to right to know law was limited to determination of whether request for information was for just and proper cause. *Aronson v. Pennsylvania Dept. of Labor and Industry*, 693 A.2d 262, Cmwlt. 1997.

Original jurisdiction of Commonwealth Court extends only to adjudication of appeal from an agency's refusal under Right-to-Know Law (65 P.S. § 66.1 et seq.) to permit examination of its public records; thus, the Court did not have jurisdiction over matters raised by land-

PUBLIC OFFICERS

owners who failed to first request desired information from Department of Environmental Resources. *Graham v. Com.*, Dept. of Environmental Resources, 469 A.2d 709, 79 Pa.Cmwlt. 403, Cmwlt. 1984.

Where issue of exclusiveness of statutory remedy for denial of request to examine and inspect public records was raised for first time on appeal and was not considered by trial court, Supreme Court could consider appeal on its merits. *Barton v. Penco*, 436 A.2d 1222, 292 Pa.Super. 202, Super.1981.

In city's action against "John Doe" seeking declaration that it be entitled to disclose list of delinquent real estate taxpayers, homeowners association, which responded to advertisement of the petition, participated sufficiently in presenting an interest contrary to relief sought by the city and adversely affected by order to acquire standing to appeal order granting public access to the records. *City of Philadelphia v. Doe*, 405 A.2d 1317, 45 Pa.Cmwlt. 225, Cmwlt.1979.

§ 66.3. Extracts, copies, photographs or photostats

Any citizen of the Commonwealth of Pennsylvania shall have the right to take extracts or make copies of public records and to make photographs or photostats of the same while such records are in the possession, custody and control of the lawful custodian thereof or his authorized deputy. The lawful custodian of such records shall have the right to adopt and enforce reasonable rules governing the making of such extracts, copies, photographs or photostats.

1957, June 21, P.L. 390, § 3.

Library References

Records ☞ 61, 63.

WESTLAW Topic No. 326.

C.J.S. Records §§ 95, 99, 112, 113, 115, 118, 119, 121, 122, 124, 127, 128, 130, 131.

Notes of Decisions

In general 1

Citizen 2

Copying charge 3

1. In general

With respect to litigants able to pay, procedure which Public Utility Commission (PUC) adopted and enforced under

its regulation for persons to obtain copies of transcripts in Commission proceedings, requiring person to obtain copies at price which court reporting firm with which Commission had contracted charged, rather than allowing person to pay mere reproduction costs, was reasonable and satisfied requirements of Right-to-Know Act section governing extracts, copies, photographs, or photostats. (Per

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Leadbetter, J., with President Judge and one Judge concurring and one Judge concurring in result.) *Sierra Club v. Pennsylvania Public Utility Com'n*, 702 A.2d 1131, Cmwlth.1997, appeal granted 719 A.2d 748, 553 Pa. 710, affirmed 731 A.2d 133, 557 Pa. 11.

Although Department of Corrections' Code of Ethics was public record under Right-to-Know Act, Department did not have obligation to make copy of Code and furnish it to inmate; Department was required only to make Code available for examination and inspection, even though inmate was unable to travel and inspect it. *Owens v. Horn*, 684 A.2d 208, Cmwlth.1996, reargument denied.

Agency had discretion to determine method by which information sought under Right-To-Know Law could best be transmitted to applicant. *Hoffman v. Com., Pennsylvania Game Com'n*, 455 A.2d 731, 71 Pa.Cmwlth. 99, Cmwlth. 1983.

While a citizen has the right to examine school records under the Right-to-Know Act, 65 P.S. § 66.3, and the Public School Code, 24 P.S. § 4-408, a school district is not required to furnish 600 copies of documents requested by a citizen even though he agrees to pay for the copies; however, the school district must permit the citizen to make copies on his own machine. *Township of Shenango v. West Middlesex Area School Dist.*, 33 Pa. D. & C.3d 515 (1984).

The Department of Records, in promulgating rules and regulations covering the inspection and copying of documents, should incorporate therein a procedure whereby a person who has been aggrieved by a decision of the department with respect to this Act will have a right to an administrative hearing, so that a record can be made of the proceeding and certified to the court upon a writ of certiorari. *City of Philadelphia v. Ruczynski*, 24 Pa. D. & C.2d 478 (1961).

In absence of any promulgated rules and regulations by the Department of Records for inspection and copying, the department was directed to permit petitioner to make mechanical reproductions of such documents. *City of Philadelphia v. Ruczynski*, 24 Pa. D. & C.2d 478 (1961).

2. Citizen

Department of Corrections (DOC), by failing to raise any challenge to requester's status as citizen when it denied his requests for access to information, waived right to raise such challenge on appeal. *Hunt v. Pennsylvania Dept. of Corrections*, 698 A.2d 147, Cmwlth.1997.

3. Copying charge

Right-to-Know Act was not violated by borough's notice period of up to five days prior to inspection of public documents or by copying charge of \$.25 per page. *Baravordeh v. Borough Council of Prospect Park*, 699 A.2d 789, Cmwlth.1997, appeal denied 725 A.2d 183, 555 Pa. 733.

§ 66.4. Appeal from denial of right

Any citizen of the Commonwealth of Pennsylvania denied any right granted to him by section 2 or section 3 of this act,¹ may appeal from such denial. If such court determines that such denial was not for just and proper cause under the terms of this act, it may enter such order for disclosure as it may deem proper.

1957, June 21, P.L. 390, § 4. Affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1323], effective June 27, 1978.

¹ 65 P.S. §§ 66.2, 66.3.

Library References

Records ⇨ 63, 68.
WESTLAW Topic No. 326.

C.J.S. Records §§ 100, 104, 113, 120,
122, 131.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF LAND RECYCLING AND WASTE MANAGEMENT

Coordination #



FORM E CONTRACTUAL CONSENT OF LANDOWNER

This form must be fully and accurately completed. All required information must be typed or legibly printed in the spaces provided herein. Improperly completed forms may be rejected by the Department, may be considered to be violations of the Department's Rules and Regulations, and may result in assessment of fines and penalties.

DEP USE ONLY

Application or Facility ID# _____
(Assigned by DEP)

Stamp Date Application Received

Check Type(s) of Facility/Activity

- ☐ Hazardous
☐ Municipal
☐ Residual

General References: 25 Pa. Code, Section 271.123, 287.123 or 75.265 (z)(10)(v)

Instructions: This form should be completed by *each* owner owning a parcel of land within the permit area. The parcel relative to *this* form and the outline of the entire proposed permit area should be identified on the map, to be attached.

SECTION A. APPLICANT IDENTIFIER

SECTION B. SECOND PARTY APPLICATIONS

Complete this part if person/municipality operates the facility on the land which is owned by someone else.

(I)(We), the undersigned, being the landowner(s) of _____ acres of land located in

(Name and Type of Municipality)

(Name of County)

County,

Pennsylvania, as described in the deed(s) recorded in the Record of Deeds Office at Deed Book(s) and page(s) _____

(Deed Book and Page)

_____ and shown by crosshatched

lines on the map attached hereto which is signed in the original by the landowner upon which _____

(Solid Waste Management Facility Applicant)

_____, (hereinafter "waste management facility applicant"), proposes to engage in waste storage, treatment, processing, disposal, or associated pollution abatement or pollution prevention activities, (hereinafter "waste management activities"), for which application for permit will be made to the Department of Environmental Protection (hereinafter "The Department") under The Pennsylvania Solid Waste Management Act, Act 97 of July 7, 1980 (P.L. 380, 35 P.S. §6018.101 et seq., hereinafter "the Act"), and of which application this consent will be made a part, DO HEREBY ACKNOWLEDGE THAT THE SOLID WASTE MANAGEMENT FACILITY APPLICANT AND HIS/HER AGENTS AND REPRESENTATIVES HAVE THE RIGHT TO ENTER UPON AND USE THE LAND FOR THE PURPOSES OF CONDUCTING WASTE MANAGEMENT ACTIVITIES. The right the landowner grant herein _____ the subject of

(is/is not)

pending civil litigation. Furthermore, (I)(We), the undersigned, do hereby irrevocably grant to the Commonwealth of Pennsylvania or any of its authorized agents, or employees, and grant to solid waste management facility applicant the right to enter upon the aforesaid land before the initiation of the solid waste management activities or operations, for the duration of the solid waste management activities or operations, and for a period of up to ten (10) years after final closure certification, for the purposes of inspection, monitoring, and maintenance and for the purpose of conducting such pollution abatement or pollution prevention activities required by the Act, or deemed necessary by the Department to carry out any purpose of the Act, the regulations promulgated thereunder and the terms of the permit as the Department deems necessary. (I)(We) do hereby grant in addition to the Commonwealth, for the aforesaid period of time, a right of entry across any adjoining or contiguous lands owned by (us)(me) in order to have access to the land described herein. It is specifically agreed and understood that this Contractual Consent gives the Commonwealth the right to enter, inspect the premises, and abate or prevent pollution as a matter within the police power but does not obligate the Commonwealth to do so, does not constitute any ownership interest by the Commonwealth in the aforesaid land, and does not affect or limit any rights available to the Commonwealth under applicable law.

THE LANDOWNER _____

(Agrees or Does Not Agree)

TO ALLOW THE ABOVE-NAMED SOLID WASTE MANAGEMENT

APPLICANT TO TRANSFER OR ASSIGN, BY WRITTEN AGREEMENT, THIS CONTRACTUAL CONSENT TO ANOTHER SOLID WASTE MANAGEMENT FACILITY APPLICANT.

APPENDIX 6 - 2

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SECTION B.

This Consent shall terminate and become null and void if the solid waste management facility applicant does not apply to the Department of Environmental Protection for a permit to conduct solid waste management activities on the aforesaid land within _____ year(s) from the date of this Consent. (Number of years)

Nothing in this Consent shall preclude or limit the landowner's authority to terminate the right or privilege of the solid waste management facility applicant to conduct waste management activities on the aforesaid land. In the event of said termination, the landowner shall allow the solid waste management facility applicant ample time to bring to closure all waste management activities. When necessary, the landowner shall allow the the solid waste management facility applicant access to the land to carry out pollution prevention or pollution abatement activities as required by the Act or deemed necessary by the Department to carry out any purpose of the Act.

This Contractual Consent shall be deemed to be a recordable document. Prior to the initiation of solid waste management facility operations under the permit, this Consent shall be recorded by _____

(Landowner or Waste Management Facility Applicant)

and entered into the deed book (d.b.v.) index at the office of the recorder of deeds in the county(ies) in which the solid waste management facility is to be located.

SECTION C. SINGLE PARTY APPLICATIONS

Complete this part if person/municipality operates the facility on his/her/its own land.

(I)(We), the undersigned, being the landowner(s) of _____ acres of land located in _____

(Name and Type of Municipality)

(Name of County)

County, Pennsylvania, as described

in the deed(s) recorded in the Recorder of Deeds Office at Deed Book(s) and page(s) _____ and shown by crosshatch _____
(Deed Book and Page)

lines on the map attached hereto which is signed in the original by the landowner upon which waste storage, treatment, processing, beneficial use, disposal, or associate pollution abatement or pollution prevention activities, (hereinafter "waste management activities"), will be engaged in under the Pennsylvania Solid Waste Management Act, Act of July 7, 1980 (P.L. 380, 35 P.S. §6018.101 et seq., hereinafter "the Act"), and of which application this consent will be made a part, hereby irrevocably grant to the Commonwealth of Pennsylvania or any of its authorized agents, or employees, the right to enter upon the aforesaid land. The right of entry applies before the initiation of the solid waste management activities or operations, for the duration of the solid waste management activities or operations at the facility, and for a period of up to 10 years after final closure certification, for the purposes of inspection, monitoring and maintenance and for the purpose of conducting such pollution abatement or pollution prevention activities required by the Act, or deemed necessary by the Department to carry out any purpose of the act, the regulations promulgated thereunder and the terms of the permit as the Department deems necessary.

(I)(We) do hereby grant in addition to the Commonwealth, for the aforesaid period of time, a right of entry across any adjoining or contiguous lands owned by (us)(me) in order to have access to the land described herein. It is specifically agreed and understood that this contractual consent gives the Commonwealth the right to enter, inspect the premises, and abate or prevent pollution as a matter within the police power but does not obligate the Commonwealth to do so, does not constitute any ownership interest by the Commonwealth in the aforesaid land, and does not affect or limit any rights available to the Commonwealth under applicable law.

This Consent shall terminate and become null and void if the solid waste management facility applicant does not apply to the Department of Environmental Protection for a permit to conduct solid waste management activities on the aforesaid land within _____ year(s) from the date of this Consent. (Number of years)

This Contractual Consent shall be deemed to be a recordable document. Prior to the limitation of solid waste management facility operations under the permit, this Consent shall be recorded by _____

(Landowner)

and entered into the deed book (d.b.v.) index at the office of the recorder of deeds in the county(ies) in which the solid waste management facility is to be located.

APPENDIX 6 - 3

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SECTION C.

In witness whereof and intending to legally bind (myself) (ourselves), (my) (our) heirs, legal representatives, successors and assigns,
(I) (we) have hereunto set (my) (our) hand(s) and seal this _____ day of _____, 19 ____.

If the Landowner is an Individual:

(Print Name of Landowner)

ATTEST:

(Signature of Witness)

(Signature of Witness)

(Printed or Typed Name of Witness)

(Printed or Typed Name of Witness)

If the Landowner is a Corporation:

ATTEST:

By: _____
(Signature of Secretary or Treasurer)

By: _____
(Signature of President or V.P.)

(Printed or Typed Name)

(Printed or Typed Name)

(Title)

(Title)

Affix Corporate Seal:

APPENDIX 6 - 4

2540-PM-LRWM0353 Rev. 5/97 (Form E)

SECTION D.

ACKNOWLEDGEMENT OF INDIVIDUALS OR PARTNER

STATE OF

:

: SS

COUNTY OF

:

On _____, before me, the undersigned Notary, personally appeared _____
(DATE) (NAME(S))

_____ known to me (or satisfactorily proven) to be the person whose name is subscribed
to this instrument, and who acknowledged that _____ executed the same and desires it to be recorded.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL) _____ My Commission Expires: _____
NOTARY PUBLIC (DATE)

ACKNOWLEDGEMENT OF CORPORATIONS

STATE OF

:

: SS

COUNTY OF

:

On _____, before me, the undersigned Notary, personally appeared _____
(DATE) (NAME)

_____ who acknowledged (herself) (himself) to be the _____
of _____, a corporation, and that s(he), as such officer, being authorized to do so, executed
the foregoing instrument on behalf of the said corporation and desires that this instrument be recorded.

IN WITNESS WHEREOF, I have hereunder set my hand and official seal.

(SEAL) _____ My Commission Expires: _____
NOTARY PUBLIC (DATE)

This instrument has been recorded in _____ County, Pennsylvania, this _____ day of _____,
at Book _____, Page(s) _____.

(SIGNED + PRINT NAME)

(SEALED)