

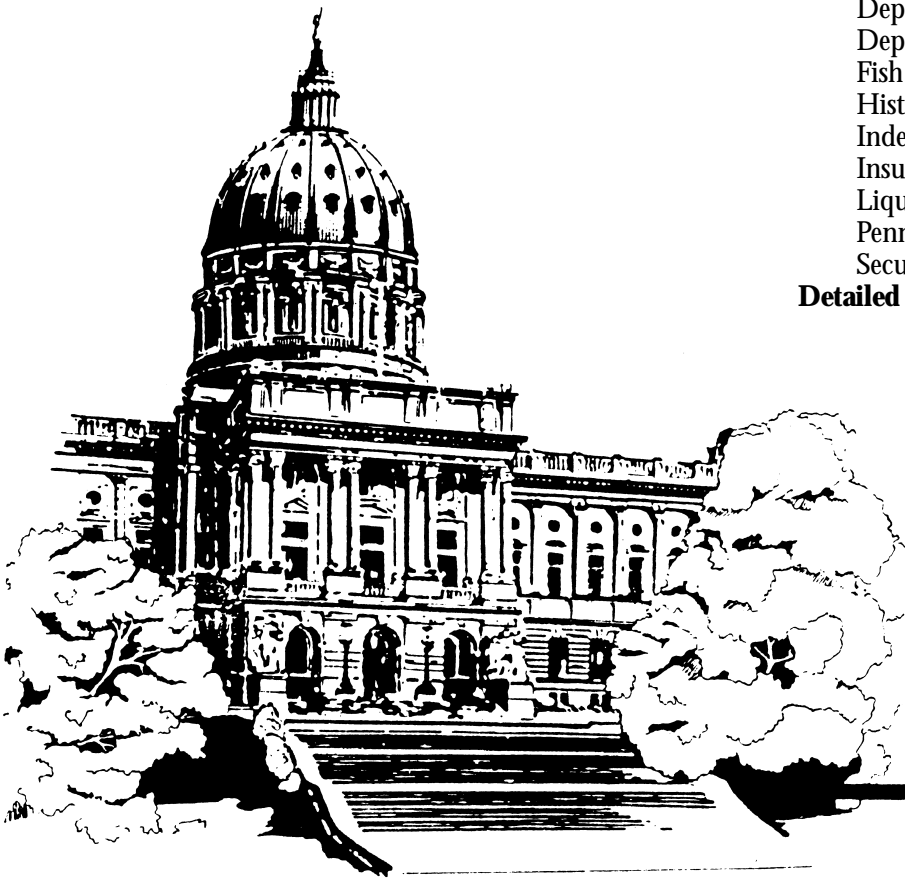
PENNSYLVANIA BULLETIN

Volume 31
Saturday, August 11, 2001 • Harrisburg, Pa.
Number 32
Pages 4383—4518

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Department of Banking
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Resources
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Historical and Museum Commission
Independent Regulatory Review Commission
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Securities Commission

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No. 321, August 2001

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BULLETIN

(ISSN 0162-2137)

published weekly by Fry Communications, Inc. for the Commonwealth of Pennsylvania, Legislative Reference Bureau, 647 Main Capitol Building, State & Third Streets, Harrisburg, Pa. 17120, under the policy supervision and direction of the Joint Committee on Documents pursuant to Part II of Title 45 of the Pennsylvania Consolidated Statutes (relating to publication and effectiveness of Commonwealth Documents). Subscription rate \$82.00 per year, postpaid to points in the United States. Individual copies \$2.50. Checks for subscriptions and individual copies should be made payable to "Fry Communications, Inc." Periodicals postage paid at Harrisburg, Pennsylvania.

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Mechanicsburg, Pennsylvania 17055-3198
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(800) 524-3232 ext. 2340 (toll free, in State)

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Pennsylvania Bulletin

The *Pennsylvania Bulletin* is the official gazette of the Commonwealth of Pennsylvania. It is published every week and includes a table of contents. A cumulative subject matter index is published quarterly.

The *Pennsylvania Bulletin* serves several purposes. First, it is the temporary supplement to the *Pennsylvania Code*, which is the official codification of agency rules and regulations and other statutorily authorized documents. Changes in the codified text, whether by adoption, amendment, repeal or emergency action must be published in the *Pennsylvania Bulletin*. Further, agencies proposing changes to the codified text do so in the *Pennsylvania Bulletin*.

Second, the *Pennsylvania Bulletin* also publishes: Governor's Executive Orders; State Contract Notices; Summaries of Enacted Statutes; Statewide and Local Court Rules; Attorney General Opinions; Motor Carrier Applications before the Public Utility Commission; Applications and Actions before the Department of Environmental Protection; Orders of the Independent Regulatory Review Commission; and other documents authorized by law.

The text of certain documents published in the *Pennsylvania Bulletin* is the only valid and enforceable text. Courts are required to take judicial notice of the *Pennsylvania Bulletin*.

Adoption, Amendment or Repeal of Regulations

Generally an agency wishing to adopt, amend or repeal regulations must first publish in the *Pennsylvania Bulletin* a Notice of Proposed Rulemaking. There are limited instances where the agency may omit the proposal step; they still must publish the adopted version.

The Notice of Proposed Rulemaking contains the full text of the change, the agency contact person, a fiscal note required by law and background for the action.

The agency then allows sufficient time for public comment before taking final action. An adopted proposal must be published in the *Pennsylvania*

Bulletin before it can take effect. If the agency wishes to adopt changes to the Notice of Proposed Rulemaking to enlarge the scope, they must re-propose.

Citation to the *Pennsylvania Bulletin*

Cite material in the *Pennsylvania Bulletin* by volume number and page number. Example: Volume 1, *Pennsylvania Bulletin*, page 801 (short form: 1 Pa.B. 801).

Pennsylvania Code

The *Pennsylvania Code* is the official codification of rules and regulations issued by Commonwealth agencies and other statutorily authorized documents. The *Pennsylvania Bulletin* is the temporary supplement to the *Pennsylvania Code*, printing changes as soon as they occur. These changes are then permanently codified by the *Pennsylvania Code Reporter*, a monthly, loose-leaf supplement.

The *Pennsylvania Code* is cited by title number and section number. Example: Title 10 *Pennsylvania Code*, § 1.1 (short form: 10 Pa.Code § 1.1).

Under the *Pennsylvania Code* codification system, each regulation is assigned a unique number by title and section. Titles roughly parallel the organization of Commonwealth government. Title 1 *Pennsylvania Code* lists every agency and its corresponding *Code* title location.

How to Find Documents

Search for your area of interest in the *Pennsylvania Code*.

The *Pennsylvania Code* contains, as Finding Aids, subject indexes for the complete *Code* and for each individual title, a list of Statutes Used As Authority for Adopting Rules and a list of annotated cases. Source Notes give you the history of the documents. To see if there have been recent changes, not yet codified, check the List of *Pennsylvania Code* Chapters Affected in the most recent issue of the *Pennsylvania Bulletin*.

The *Pennsylvania Bulletin* also publishes a quarterly List of Pennsylvania Code Sections Affected which lists the regulations in numerical order, followed by the citation to the *Pennsylvania Bulletin* in which the change occurred.

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Printing Format

Material proposed to be added to an existing rule or regulation is printed in **bold face** and material proposed to be deleted from such a rule or regulation is enclosed in brackets [] and printed in **bold face**. Asterisks indicate ellipsis of *Pennsylvania Code* text retained without change. Proposed new or additional regulations are printed in ordinary style face.

Fiscal Notes

Section 612 of The Administrative Code of 1929 (71 P. S. § 232) requires that the Office of Budget prepare a fiscal note for regulatory actions and administrative procedures of the administrative departments, boards, commissions or authorities receiving money from the State Treasury stating whether the proposed action or procedure causes a loss of revenue or an increase in the cost of programs for the Commonwealth or its political subdivisions; that the fiscal note be published in the *Pennsylvania Bulletin* at the same time as the proposed change is advertised; and that the fiscal note shall provide the following information: (1) the designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made; (2) the probable cost for the fiscal year the program is implemented; (3) projected cost estimate of the program for each of the five succeeding fiscal years; (4) fiscal history of the program for which expenditures are to be made; (5) probable loss of revenue for the fiscal year of its implementation; (6) projected loss of revenue from the program for each of the five succeeding fiscal years; (7) line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds shall occur as a result of the action or procedures; (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

The required information is published in the foregoing order immediately following the proposed change to which it relates; the omission of an item indicates that the agency text of the fiscal note states that there is no information available with respect thereto. In items (3) and (6) information is set forth for the first through fifth fiscal years; in that order, following the year the program is implemented, which is stated. In item (4) information is set forth for the current and two immediately preceding years, in that order. In item (8) the recommendation, if any, made by the Secretary of Budget is published with the fiscal note. See 4 Pa. Code § 7.231 *et seq.* Where "no fiscal impact" is published, the statement means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended.

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THE COURTS

Title 246—MINOR CIVIL COURT RULES

PART I. GENERAL

[246 PA. CODE CH. 100]

Order Amending Rule 113 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices; No. 128; Magisterial Doc. No. 1; Book No. 2

Introductory Statement

The Minor Court Rules Committee has prepared a Final Report explaining the amendment to Rule 113 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices, effective September 1, 2001. This rule change deletes from the rule the list of specific documents that require an original signature thereby alleviating the necessity of amending the rule every time the Committee recommends that a document be added to or deleted from the list of documents approved for facsimile signature. The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 23rd day of July, 2001, upon the recommendation of the Minor Court Rules Committee; the proposal having been published before adoption at 30 Pa.B. 3265 (July 1, 2000), and a Final Report to be published with this Order:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 113 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices is amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective September 1, 2001.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 100. RULES AND STANDARDS WITH RESPECT TO OFFICES OF DISTRICT JUSTICES

Rule 113. Use of Facsimile Signature.

A district justice may authorize the use of a facsimile signature in lieu of an original signature on certain documents listed by the Administrative Office of Pennsylvania Courts. Such list [shall include, but not be limited to, district justice time payment orders, notices of hearing or judgment and DL-38 forms. An original signature shall be required on all checks, reports, dispositions, affidavits, arrest and search warrants, subpoenas, commitments, complaints, court orders, emergency protection from abuse orders and certifications] shall be maintained by the Administrative Office of Pennsylvania Courts. All documents not so designated and maintained by the Administrative Office of Pennsylvania Courts shall require an original signature.

Adopted May 3, 1999, imd. effective; amended July 23, 2001, effective September 2, 2001.

FINAL REPORT¹

Amendment to Rule 113 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices

On July 23, 2001, effective September 1, 2001, upon the recommendation of the Minor Court Rules Committee, the Supreme Court of Pennsylvania amended Rule 113 (Use of Facsimile Signature) of the Rules of Conduct, Office Standards and Civil Procedure for District Justices.

I. Background

The Committee undertook a review of Rule 113 after it became apparent to the Committee that certain documents listed in the Rule as requiring an original signature were appropriate for a facsimile signature. Specifically, after Rule 113 became effective in 1999, the Committee received numerous requests from district justices to authorize the use of the facsimile signature on subpoenas. After careful consideration the Committee agreed that such a use was appropriate. However, Rule 113 specifically set forth that certain documents required an original signature, including subpoenas. Therefore, the Committee and the Administrative Office of Pennsylvania Courts were unable to authorize the use of the facsimile signature on subpoenas without recommending to the Supreme Court that the Court amend the rule. The Committee recognized that it would be burdensome to the Court and the Committee to amend the rule every time a new form is developed or circumstances change that may warrant the use or the discontinuance of use of the facsimile signature. Accordingly, the Committee recommended that the Court amend the rule so that the rule would no longer list the specific documents that require an original signature, thereby alleviating the necessity of amending the rule every time the Committee recommends that a form be added to or deleted from the list of documents approved for facsimile signature.

II. Discussion of Rule Change

As stated above, the Committee desired to amend Rule 113 to remove the list of specific documents requiring an original signature. To accomplish this, the Committee recommended that the list in the second sentence be deleted and substituted with general language that simply makes reference to a list of documents on which the facsimile signature is permitted. The list is to be maintained by the Administrative Office of Pennsylvania Courts. The amended rule makes clear that documents not on the list shall require an original signature. It is the intent of the rule that the Administrative Office would add documents to or delete documents from the list in consultation with the Committee.

[Pa.B. Doc. No. 01-1451. Filed for public inspection August 10, 2001, 9:00 a.m.]

¹ The Committee's Final Report should not be confused with the official Committee Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee's Notes or the contents of the Committee's explanatory Final Reports.

[246 PA. CODE CHS. 400 AND 500]

Order Amending Rules 403, 515, 516 and 519 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Pa. Rs.C.P.D.J. Nos. 403, 515, 516, and 519 to provide for the reissuance of an order of execution or order for possession after a supersedeas has been terminated or a stay has been lifted; to establish time limitations to request the issuance or reissuance of an order for possession in cases arising from residential leases, and; to make other technical or "housekeeping" amendments to these rules. The Committee has not submitted this proposal for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. The Committee's Report should not be confused with the official Committee Notes to the rules. The Supreme Court does not adopt the Committee's Notes or the contents of the explanatory Reports.

The text of the proposed changes precedes the Report.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel,

Michael F. Krimmel, Counsel
 Supreme Court of Pennsylvania
 Minor Court Rules Committee
 5035 Ritter Road, Suite 700
 Mechanicsburg, PA 17055

or e-mail to: minorcourt.rules@supreme.court.state.pa.us
 no later than September 10, 2001.

By the Minor Court Rules Committee

FRED A. PIERANTONI, III,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 400. EXECUTION OF JUDGMENTS FOR THE PAYMENT OF MONEY

Rule 403. Issuance and Reissuance of Order of Execution.

* * * * *

B. (1) Upon written request filed by the plaintiff within five years from the date of entry of the judgment, an order of execution [may] shall be reissued at any time and any number of times [except that any request for reissuance must be filed within five (5) years from the date of the judgment] .

(2) If an order of execution is superseded by an appeal, writ of certiorari, supersedeas, or a stay pursuant to a bankruptcy proceeding, and

(a) the appeal, writ of certiorari, or supersedeas is stricken, dismissed, or otherwise terminated; or

(b) the bankruptcy stay is lifted; and

(c) the plaintiff wishes to proceed with the order of execution,

the plaintiff must file with the district justice a written request for reissuance of the order of execution in accordance with subparagraph (1).

Official Note:

* * * * *

Subdivision B will permit the reissuance of an order of execution upon written request of the plaintiff timely filed. Compare Pa.R.C.P. No. 3106(b). The written request for reissuance may be in any form and may consist of a notation on the permanent copy of the request for order of execution form, "Reissuance of order of execution requested", subscribed by the plaintiff. The district justice shall mark all copies of the reissued order of execution, "Reissued. Request for reissuance filed _____ (time and date)". A new form [or new form sets] may be used upon reissuance, those portions retained from the original being exact copies although signatures may be typed or printed with the mark "/s/". There is no filing fee for reissuing an order of execution, for the reissuance is merely a continuation of the original proceeding. **However, there may be additional server fees for service of the reissued order of execution.**

If the plaintiff files a written request for reissuance of the order of execution pursuant to subparagraph B(2), the request should be accompanied by a copy of the court order or other documentation striking, dismissing, or terminating the appeal, writ of certiorari, or supersedeas, or lifting the bankruptcy stay.

Amended Jan. 29, 1976, effective in 30 days; amended effective March 24, 1977; April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; March 27, 1992, effective June 25, 1992 [**The March 27, 1992, Order provided in part: "In promulgating this order, the Court recognizes that the District Justice Automation Project will be affected by said Rule changes and that, therefore, those Rules which affect the Project will become effective as the District Justice offices are brought on-line**]; amended July 16, 2001, effective August 1, 2001; amended _____, effective _____ .

CHAPTER 500. ACTIONS FOR THE RECOVERY OF POSSESSION OF REAL PROPERTY

Rule 515. Request for Order for Possession.

A. If the district justice has rendered a judgment arising out of a non-residential lease that the real property be delivered up to the plaintiff, the plaintiff may, after the [**fifteenth (15th)**] 15th day following the date of the entry of the judgment, file with the district justice a request for an order for possession on a form [**which shall be**] prescribed by the [**State Court Administrator**] state court administrator. The request [**form shall be attached to the order, and**] shall include a statement of the judgment amount, return, and all other matters required by these rules.

B. (1) [**If**] **Except as otherwise provided in subparagraph (2), if the district justice has rendered a judgment arising out of a residential lease that the real property be delivered up to the plaintiff, the plaintiff may after the [tenth (10th)] 10th day but before the 121st day following the date of the entry of the judgment, file with the district justice a request for an order for possession on a form [which shall be] prescribed by the [State Court Administrator] state court admin-**

istrator. The request [**form shall be attached to the order, and**] shall include a statement of the judgment amount, return, and all other matters required by these rules.

(2) In a case arising out of a residential lease, if before the plaintiff requests an order for possession,

(a) an appeal or writ of certiorari operates as a supersedeas; or

(b) proceedings in the matter are stayed pursuant to a bankruptcy proceeding; and

(c) the supersedeas or bankruptcy stay is subsequently stricken, dismissed, lifted, or otherwise terminated so as to allow the plaintiff to proceed to request an order for possession,

the plaintiff may request an order for possession only within 120 days of the date the supersedeas or bankruptcy stay is stricken, dismissed, lifted, or otherwise terminated.

Official Note:

The fifteen days in subdivision A of this rule, [**plus**] when added to the [**sixteen days**] 16 day period provided for in Rule [**519.A.**] 519(A), will give the defendant time to obtain a supersedeas within the appeal period. [**See Pa. R.C.P.D.J. Nos.**] See Rules 1002, 1008, 1009, and 1013.

The 1995 amendment to [**§**] section 513 of [**the**] The Landlord [**/**] and Tenant Act of 1951, 68 P. S. § 250.513, [**(Act No. 1995-33)**] established a [**ten day**] ten-day appeal period [**of time for an appeal**] from a judgment for possession of real estate arising out of a residential lease; therefore, the filing of the request for order of possession in [**subdivision B**] subparagraph B(1) is not permitted until after the appeal period [**of time for appeal**] has expired. In cases arising out of a residential lease, the request for order for possession generally must be filed within 120 days of the date of the entry of the judgment.

Subparagraph B(2) provides that in a case arising out of a residential lease, if a supersedeas (resulting from an appeal or writ of certiorari) or bankruptcy stay is stricken, dismissed, lifted, or otherwise terminated, thus allowing the plaintiff to proceed with requesting an order for possession, the request may be filed only within 120 days of the date the supersedeas or bankruptcy stay is stricken, dismissed, lifted, or otherwise terminated.

The time limits in which the plaintiff must request an order for possession imposed in subdivision B apply only in cases arising out of residential leases and in no way affect the plaintiff's ability to execute on the money judgment. See Rule 516, Note, and Rule 521(A).

Amended June 1, 1971; amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; March 27, 1992, effective June 25, 1992 [**The March 27, 1992, Order provided in part: "In promulgating this order, the Court recognizes that the District Justice Automation Project will be affected by said Rule changes and that, therefore, those Rules which affect the Project will become effective as the District Justice offices are brought**

on-line]]; March 28, 1996, effective March 29, 1996; **amended** _____ , **effective** _____ .

Rule 516. Issuance **and Reissuance** of Order for Possession.

A. Upon the **timely** filing of the request form, the district justice shall issue the order for possession and shall deliver it for service and execution to the sheriff of, or any **certified** constable in, the county in which the office of the district justice is situated. **If this service is not available to the district justice, service may be made by any certified constable of the Commonwealth.** The order shall direct the officer executing it to deliver actual possession of the real property to the plaintiff. **The district justice shall attach a copy of the request form to the order for possession.**

B. (1) **Except as otherwise provided in subdivision C, upon written request of the plaintiff the district justice shall reissue an order for possession for one additional 60 day period.**

(2) **If an order for possession is issued and subsequently superseded by an appeal, writ of certiorari, supersedeas, or a stay pursuant to a bankruptcy proceeding, and**

(a) the appeal, writ of certiorari, or supersedeas is stricken, dismissed, or otherwise terminated; or

(b) the bankruptcy stay is lifted; and

(c) the plaintiff wishes to proceed with the order for possession,

the plaintiff must file with the district justice a written request for reissuance of the order for possession in accordance with subparagraph (1).

C. In a case arising out of a residential lease a request for reissuance of an order for possession may be filed only within 120 days of the date of the entry of the judgment or, in a case in which the order for possession is issued and subsequently superseded by an appeal, writ of certiorari, supersedeas, or a stay pursuant to a bankruptcy proceeding, only within 120 days of the date the appeal, writ of certiorari, or supersedeas is stricken, dismissed, or otherwise terminated, or the bankruptcy stay is lifted.

Official Note:

The order for possession deals only with delivery of possession of the real property and not with a levy for money damages. [**When the**] A plaintiff who seeks execution of the money judgment part of the judgment [**,** he will have to] must proceed under Rule [**521A**] 521(A), using the forms and procedure there prescribed. The reason for making this distinction is that the printed notice requirements on the two forms, and the procedures involved in the two matters, differ widely.

Subdivision B provides for reissuance of the order for possession for one additional 60 day period. However, pursuant to subdivision C, in cases arising out of a residential lease, the request for reissuance of the order for possession must be filed within 120 days of the date of the entry of the judgment or, in a case in which the order for possession is issued and subsequently superseded by an appeal, writ of certiorari, supersedeas, or a stay pursuant to a bankruptcy proceeding, only within 120 days of the date the appeal, writ of certiorari, or supersedeas is stricken, dismissed, or

otherwise terminated, or the bankruptcy stay is lifted. The additional 60 day period need not necessarily immediately follow the original 60 day period of issuance. The written request for reissuance may be in any form and may consist of a notation on the permanent copy of the request for order for possession form, "Reissuance of order for possession requested," subscribed by the plaintiff. The district justice shall mark all copies of the reissued order for possession, "Reissued. Request for reissuance filed _____ (time and date)." A new form may be used upon reissuance, those portions retained from the original being exact copies although signatures may be typed or printed with the mark "/s/." There is no filing fee for reissuing an order for possession, for the reissuance is merely a continuation of the original proceeding. However, there may be additional server fees for service of the reissued order for possession.

If the plaintiff files a written request for reissuance of the order for possession after an appeal, writ of certiorari, or supersedeas is stricken, dismissed, or otherwise terminated, or a bankruptcy stay is lifted, the request should be accompanied by a copy of the court order or other documentation striking, dismissing, or terminating the appeal, writ of certiorari, or supersedeas, or lifting the bankruptcy stay.

The time limits in which the plaintiff must request reissuance of an order for possession imposed in subdivision C apply only in cases arising out of residential leases and in no way affect the plaintiff's ability to execute on the money judgment. See Rule 521(A).

Amended June 30, 1982, effective 30 days after July 17, 1982; amended July 16, 2001, effective August 1, 2001; amended _____, effective _____.

Rule 519. Forcible Entry and Ejectment.

* * * * *

C. No order for possession [shall] may be executed [on or] after [sixty (60)] 60 days following its issuance or reissuance. [An order for possession shall be reinstated for one (1) additional sixty (60) day period upon written request for order for possession to the district justice. (See Pa. R.C.P.D.J. No. 515).]

Official Note:

The differing lengths of notices set for nonresidential leases and residential leases are made necessary by reason of the 1995 amendment to [Section] section 513 of the Landlord [/] and Tenant Act of 1951, 68 P. S. § 250.513. [See Note following Pa. R.C.P.D.J. No. 515.] See Rule 515, Note.

[Subdivision C of this Rule will permit the reinstatement, upon written request of the plaintiff of an order for possession which has not been executed on or after sixty (60) days following its issuance. The written request for reinstatement may be in any form and may consist of a notation on the permanent copy of the order for possession form "Reinstatement of order requested," subscribed by the plaintiff. The district justice shall mark all copies of the reinstated order for possession "Order Reinstated. Request for reinstatement

filed on _____ (Date)." If it is necessary to use a new form or new form sets for the reinstated order for possession, the reinstated order for possession, except for service portions thereof, shall be an exact copy of the original order for possession, although signatures may be typed with the mark "/s/" indicating an actual signature. Since a reinstated order for possession is merely a continuation of the original action, there is no filing fee for reinstating an order for possession.]

Amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; March 27, 1992, effective June 25, 1992 [The March 27, 1992, Order provided in part: "In promulgating this order, the Court recognizes that the District Justice Automation Project will be affected by said Rule changes and that, therefore, those Rules which affect the Project will become effective as the District Justice offices are brought on-line]; March 28, 1996, effective March 29, 1996; amended _____, effective _____.

REPORT

*Proposed Amendments to Pa. Rs.C.P.D.J.
Nos. 403, 515, 516, and 519*

Issuance and Reissuance of Order of Execution or Order for Possession After Supersedeas is Terminated or Stay is Lifted; Time Limits for Requesting Issuance or Reissuance of Order for Possession in Cases Arising from Residential Leases

I. Background

The Committee undertook a review of various issues related to the issuance and reissuance of orders of execution and orders for possession on its own initiative. The Committee wished to clarify the procedures for the reissuance of an order of execution or order for possession after a supersedeas is terminated or a stay is lifted. Further, the Committee wished to establish a time limit for a plaintiff to request the issuance or reissuance of an order for possession in cases arising from residential leases.

The proposed amendments providing for the reissuance of an order of execution or order for possession after a supersedeas is terminated or a stay is lifted are necessary to make clear the Committee's position that a plaintiff must request a reissuance of the order of execution or order for possession and may not simply proceed with the previously issued order.

Further, the Committee believes it is necessary to amend the rules to impose a specific time limitation on the plaintiff to request the issuance or reissuance of an order for possession, in cases arising from residential leases, to prevent the plaintiff (landlord) from requesting and executing an order for possession at any time after judgment even though the plaintiff may have led the defendant (tenant) to believe that the defendant could remain in the leased premises under arrangements to pay the back rent. Rule 518 (Satisfaction of Order By Payment of Rent and Costs) provides that "the defendant may, in a case for the recovery of possession solely because of failure to pay rent, satisfy the order for possession by paying . . . the rent actually in arrears and the costs of the proceedings." Pa. R.C.P.D.J. No. 518. This "pay and stay" rule enables defendants to avoid eviction by paying back rent in full before the order for possession is executed. The Committee has learned, however, that in many cases even if the defendant is unable to pay the full

rent in arrears to avoid eviction, the plaintiff, having received a judgment from the district justice, may allow the defendant to stay in the premises on the condition that the defendant pay the back rent in accordance with some payment plan. Because of the serious and sensitive issues surrounding one being evicted from one's home, the Committee proposes to impose a time limit for the plaintiff to request the issuance or reissuance of an order for possession.

In conjunction with proposed amendments to the rules regarding orders of execution and orders for possession, the Committee also recognized the need for several technical or "housekeeping" amendments to these rules.

II. Discussion of Rule Changes

A. Reissuance of Orders After Supersedeas Is Terminated or Stay Lifted

1. Rule 403

The Committee proposes an amendment to Rule 403 (Issuance and Reissuance of Order of Execution) to add a subparagraph B(2) to provide for the reissuance of an order of execution upon the disposition of an appeal, writ of certiorari, or bankruptcy stay that had superseded or stayed the original order of execution.

The Committee recognized that in most cases an appeal or writ of certiorari will not operate as a supersedeas against an order of execution, because normally the appeal or writ will be filed before an order of execution may be issued because of the 30 day waiting period for requesting an order of execution prescribed by Rule 402(A). However, the Committee believed it necessary to provide for this possibility because of the provision in Rule 1002 allowing for an appeal to be filed after the 30 day appeal period with leave of court; and the provision in Rule 1009 allowing for the filing at any time of a writ of certiorari claiming lack of personal or subject matter jurisdiction.

The new subparagraph would require a plaintiff who wishes to proceed with an order of execution after a supersedeas has been terminated or a stay lifted to request a reissuance of the order in accordance with the existing rule.

The Committee also proposes a revision to the Note to Rule 403 to make clear that, although there is no filing fee for a reissued order of execution, there may be additional server fees. Further, the Note would make clear that a party requesting a reissuance of an order after a supersedeas is terminated or a stay is lifted should provide the court with an order or other documentation striking, dismissing, terminating, or lifting the supersedeas or stay.

2. Rule 516

The Committee is proposing a similar amendment to Rule 516 (Issuance of Order for Possession) to add a subparagraph B(2) to provide for the reissuance of an order for possession upon the disposition of an appeal, writ of certiorari, or bankruptcy stay that had superseded or stayed the original order for possession. However, the proposed amendment to Rule 516 differs from the Rule 403 proposal in that the request for reissuance, in cases arising from residential leases, would be subject to a 120 day time limit from the date the appeal, writ, supersedeas, or stay is terminated or lifted. This time limitation will be discussed in greater detail below.

The Committee recognized that in most cases an appeal or writ of certiorari will not operate as a supersedeas

against an order for possession, because normally the appeal or writ will be filed before an order for possession may be issued because of the waiting periods for requesting an order for possession prescribed by Rule 515. However, the Committee believed it necessary to provide for this possibility because of the provision in Rule 1002 allowing for an appeal to be filed after the normal appeal period with leave of court; and the provision in Rule 1009 allowing for the filing at any time of a writ of certiorari claiming lack of personal or subject matter jurisdiction.

The Committee also proposes a revision to the Note to Rule 516 to make clear that, although there is no filing fee for a reissued order for possession, there may be additional server fees. Further, the Note would make clear that a party requesting a reissuance of an order after a supersedeas is terminated or a stay lifted should provide the court with an order or other documentation striking, dismissing, terminating, or lifting the supersedeas or stay.

B. Time Limitation on Issuance and Reissuance of Order for Possession in Cases Arising From Residential Leases

1. Rule 515

The Committee is proposing that subdivision B of Rule 515 (Request for Order For Possession) be amended to impose a 120 day time limit for the plaintiff to request an order for possession in cases arising from residential leases. Under the proposed subparagraph B(1), dealing with residential leases, the plaintiff would be permitted to request an order for possession after the 10th day but before the 121st day. Also, the Committee proposes the addition of a subparagraph B(2) to provide for a 120 day time limit for the plaintiff to request an order for possession, in a case arising from a residential lease, after a supersedeas or bankruptcy stay is terminated or lifted, thus allowing the plaintiff to proceed with the initial request for an order for possession.

The Note to the rule would make clear that the time limitation applies only to the request for order for possession in a case arising from a residential lease, and in no way affects the plaintiff's ability to execute on the money judgment.

2. Rule 516

The Committee is also proposing a 120 day time limit on requests for the reissuance of orders for possession in cases arising from residential leases. The Committee proposes that Rule 516 (Issuance of Order For Possession) be amended to add a subparagraph B(1) as the general rule for reissuance of order for possession. (See discussion of Rule 519 below.) As under the current rules, the proposed Rule 516(B)(1) would allow for an order for possession to be reissued for one additional 60 day period. A new subdivision C would, however, require that the request for reissuance of the order for possession in a case arising from a residential lease be filed within 120 days of the date of the entry of the judgment or within 120 days of the date an appeal, writ of certiorari, or supersedeas is stricken, dismissed, or otherwise terminated, or a bankruptcy stay is lifted. Also, the Committee proposes that the title of Rule 516 be changed to "ISSUANCE AND REISSUANCE OF ORDER FOR POSSESSION" to more accurately reflect its content and to be consistent with its counterpart in the civil action rules, Rule 403.

The Note to the rule would make clear that the time limitation applies only to the order for possession in cases

arising from residential leases and in no way affects the plaintiff's ability to execute on the money judgment.

C. Correlative Rule Change to Rule 519

Reissuance of orders for possession is currently provided for in Rule 519 (Forcible Entry and Ejectment). The Committee proposes that reissuance of orders for possession be handled under Rule 516 as described above, and that Rule 519 be amended accordingly. This change would make the rules relating to landlord and tenant actions more closely parallel the civil action rules (see Pa. R.C.P.D.J. No. 403), and would more appropriately arrange the subject matter of the rules.

D. Technical and "Housekeeping" Amendments

Finally, the Committee proposes minor changes to Rules 403, 515, 516, and 519 to correct citation form, to address gender neutrality issues in the rules, and to make other minor clarifications.

[Pa.B. Doc. No. 01-1452. Filed for public inspection August 10, 2001, 9:00 a.m.]

**Title 255—LOCAL
COURT RULES
SOMERSET COUNTY**

Consolidated Rules of Court; No. 52 Misc. 2001

Adopting Order

And Now, this 19th day of July, 2001, it is hereby Ordered:

1. The following designated Somerset County Rules of Criminal Procedure (Som.R.Crim.P.) are rescinded, effective thirty (30) days after publication in the *Pennsylvania Bulletin*:

Som.R.Crim.P. 130. Procedure In Court Cases Initiated By Arrest Without Warrant.

Som.R.Crim.P. 1123. Post-Verdict Motions.

2. The following Somerset County Rules of Criminal Procedure are amended to read in their entirety, and renumbered, as reflected in copies of Rules following hereto, effective thirty (30) days after publication in the *Pennsylvania Bulletin*:

	<i>Existing Rule</i>	<i>New Rule No.</i>
4.	Citation Of Rules	102
30.	District Justices. Transmission Of Copy Of Criminal Complaint To Court.	20
107.	Approval Of Police Complaints And Arrest Warrant Affidavits.	507
176.	Accelerated Rehabilitative Disposition. Motions And Criteria.	310
177.	ARD. Procedure.	311
182.	ARD. Conditions Of The Program.	316
200.	Grand Jury Abolished.	220
303.	Arraignment.	571
303.1	Form Of Notice Of Arraignment And Trial.	571.1
303.2	Form Of Notice To Appear For Pleading And For Trial.	571.2
303.3	Form Of Notice To Appear For Trial.	571.3

	<i>Existing Rule</i>	<i>New Rule No.</i>
303.4	Form Of Appearance And Waiver Of Arraignment.	571.4
316.	District Justices. Transmission Of Public Defender Applications To Court.	122
319.	Guilty Plea.	590
1100.1	Criminal Trial Scheduling.	600.1
1100.2	Criminal Trial Scheduling Conference.	600.2
1100.3	Criminal Trial Schedule.	600.3
1100.4	Selection Of Criminal Juries.	600.4
1116.	Trial Procedure And Order Of Proof.	604
1409.	Revocation Petition.	708
1409.1	Revocation Procedure. Detention.	708.1
1409.2	Revocation Procedure If Detention Not Warranted.	708.2
1409.3	Revocation Hearing.	708.3
1409.4	Temporary Detainer.	708.4
1409.5	Revocation Process.	708.5
1409.6	Revocation. Waiver Of Time.	708.6
1409.7	Form. Petition For Revocation.	708.7
1409.8	Form. Process Motion.	708.8
1409.9	Form. Scheduling Motion For Revocation Hearing.	708.9
2002A	Approval Of Search Warrant Application By Attorney For The Commonwealth.	202
9020.	Scheduling Of Argument And Hearing On Motions.	574
9020.1	Preparation And Form Of Orders And Decrees.	574.1
9040.	Briefs.	1200

3. The Somerset County Court Administrator is directed to:

A. File seven (7) certified copies of this Order and the following Rules with the Administrative Office of Pennsylvania Courts.

B. Distribute two (2) certified copies of this Order and the following Rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

C. File one (1) certified copy of this Order and the following Rules with the Pennsylvania Criminal Procedural Rules Committee.

D. File proof of compliance with this Order in the docket for these Rules, which shall include a copy of each transmittal letter.

By the Court

EUGENE E. FIKE, II,
President Judge

RULES OF COURT

District Justices—Procedure

Som. R.Crim.P. 20. District Justices. Transmission Of Copy Of Criminal Complaint To Court.

Each District Justice shall transmit to the Clerk of Courts the District Attorney's copy of each criminal complaint, promptly after the same is filed with the District Justice. The Clerk of Courts shall promptly transmit to the District Attorney a copy thereof as provided in Som. R.J.A. 4001.B.

Citation of Rules.**Som. R.Crim.P. 102. Citation of Rules.**

These Rules shall be known as the Somerset County Rules of Criminal Procedure and shall be cited as "Som. R. Crim. P."

Public Defender—Applications**Som. R.Crim.P. 122. District Justices. Transmission Of Public Defender Applications To Court.**

Each District Justice shall transmit to the Office of the Public Defender all applications for assignment of counsel in criminal cases, promptly after the same are received by the District Justice. The Public Defender shall be responsible for filing the same with the Clerk of Courts promptly following return of the case to court.

Search Warrant.**Som. R.Crim.P. 202. Approval Of Search Warrant Applications By Attorney For The Commonwealth.**

The District Attorney of Somerset County having filed a certification pursuant to Pa. R.Crim.P. 202, search warrants in the following circumstances: Search warrants the application for which is filed in Somerset County, shall not hereafter be issued by any judicial officer unless the search warrant application has the approval of an attorney for the Commonwealth prior to filing.

Grand Jury**Som. R.Crim.P. 220. Grand Jury Abolished.**

The indicting Grand Jury is abolished.

Note: See No. 71 Miscellaneous 1973.

ARD**Som. R.Crim.P. 310. Accelerated Rehabilitative Disposition. Motions And Criteria.**

A. A separate written motion shall be prepared for each docketed case for which ARD disposition is recommended. After filing in the office of the Clerk of Courts, the motions shall be presented to the court in accordance with Motions Judge practice, prior to scheduling the case for ARD hearing.

B. Motions for ARD disposition shall contain the following:

1. A statement of all offenses with which defendant is presently charged in this court; and
2. A statement of all offenses with which defendant is presently charged in any other jurisdiction which are known; and
3. Written statements of the criminal and motor vehicle records of the accused, if any, and if none, so stating, certified respectively by the appropriate official of the Department of Transportation, and the Clerk of Courts or other public official or authorized deputy having official custody of defendant's records, provided that in lieu of attaching such written statements to the motion, the same may be retained in the District Attorney's file and furnished to court when requested; and

4. Any other facts considered relevant to consideration of the motion.

C. ARD motions will be reviewed ex parte by the Motions Judge to determine whether the motion complies with these rules and warrants hearing, as follows:

1. If it appears from the face of the motion that: (a) defendant is a first offender as defined in subparagraph

D. of this rule, and that (b) the offense qualifies for ARD treatment, consistent with subparagraph E. of this rule, the Motions Judge will by endorsement thereon approve the same for scheduling and transmit it to the court clerk.

2. If additional facts are necessary to make the determination, the District Attorney shall furnish a written statement, if requested, containing such additional facts as the court may request, which shall be attached to the motion.

3. If defendant is not a first offender, or if the offense charged does not qualify for ARD treatment, the Motions Judge shall disapprove the motion for scheduling unless there are exceptional and compelling reasons set forth in the motion or in an amendment or supplement thereto.

4. ARD motions disapproved for scheduling shall be so endorsed by the Motions Judge and transmitted to the court clerk.

D. A first offender within the meaning of these rules is a person who:

1. Has no criminal or motor vehicle record, or has a record which can fairly be classified as insignificant, and
2. Has not previously been admitted into the ARD program or similar dismissal program.

E. The following offenses do not qualify for ARD treatment:

1. Crimes causing death, or endangering life, or causing or threatening serious intentional personal violence. Eg. Robbery, forcible rape, assault, involuntary manslaughter, pointing a deadly weapon, etc.;
2. Any motor vehicle violation causing serious personal injury to another;
3. Drug cases which are felonies under the Controlled Substance, Drug, Device and Cosmetic Act;
4. Serious morals offenses involving children. Eg: statutory rape, incest, corruption of minors or children involving serious offenses, etc.;
5. Any offense specifically excluded by statute or Rule of Court from participation in ARD.

Som. R.Crim.P. 311. ARD Procedure.

Upon receipt of an endorsed ARD motion, the court clerk shall make an appropriate docket entry of the endorsed order, and shall then transmit it to the District Attorney.

If the motion has been approved for scheduling, the District Attorney shall place the case on an argument list for transmission to the court as provided in Som. R.J.A. 1011.

If the motion has been disapproved for scheduling, either party may request a conference with the court respecting the propriety of scheduling at which conference counsel for both parties shall be present.

Som. R.Crim.P. 316. ARD Conditions Of The Program.

A. Prevailing policies of this court respecting conditions of probation, including monetary payments for program administration, upon fair and realistic payment terms, will be followed at the ARD hearing and if unacceptable will result in denial of the motion in such cases.

B. Nothing herein shall impair or affect the availability of the provisions of the Controlled Substance, Drug,

Device and Cosmetic Act, providing for probation without verdict, disposition in lieu of trial, and expunging of criminal records.

Complaints and Warrants—Approval

Som. R.Crim.P. 507. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth.

A. The District Attorney of Somerset County having filed a certification pursuant to Pennsylvania Rule of Criminal Procedure 507, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging the following offenses, shall not hereafter be accepted by any judicial officer unless the complaint and affidavit have the approval of the attorney for the Commonwealth prior to filing:

1. Criminal Homicide in violation of Section 2501 of the Crimes Code, 18 Pa. C.S.A. § 2501;
2. Murder in any degree in violation of Section 2502 of the Crimes Code, 18 Pa. C.S.A. § 2502;
3. Voluntary Manslaughter in violation of Section 2503 of the Crimes Code, 18 Pa. C.S.A. § 2503;
4. Involuntary Manslaughter in violation of Section 2504 of the Crimes Code, 18 Pa. C.S.A. § 2504;
5. Homicide by Vehicle in violation of Section 3732 of the Vehicle Code, 75 Pa. C.S.A. § 3732; and
6. Homicide by Vehicle While Driving Under the Influence in violation of Section 3735 of the Vehicle Code, 75 Pa. C.S.A. § 3735.

Arraignment And Notice

Som. R.Crim.P. 571. Arraignment.

A. Arraignment shall be scheduled not later than twenty (20) days after the information is filed, except that later arraignment may be scheduled for cause.

Note: For general scheduling procedures, see Som. R.J.A. 1030 et seq.

B. The purposes of arraignment are to assure that defendant is advised of the charges against him; to have counsel enter an appearance, or, if defendant has no counsel, to consider defendant's right to counsel; to commence the period of time within which to initiate pretrial discovery and to file other pretrial requests and

motions; to insure defendant has been provided a copy of the information; and to afford defendant an opportunity to plead to the information.

C. After filing the information, the District Attorney shall notify defendant and defense counsel of arraignment and trial in the manner specified by Pa. R.Crim.P. 113. A copy of the information shall accompany the notice. The notice of arraignment and trial shall be in substantially the form prescribed in Som. R.Crim.P. 571.1.

In addition, however, the District Attorney shall in all cases mail a copy of the information and notice to defendant, by first class mail. The District Attorney shall also mail a copy of the notice to the bondsman, at least ten (10) days before the arraignment date.

D. Defendant shall appear personally before the court at arraignment and plead to the information, unless defendant or his attorney at or before arraignment, files with the Clerk of Courts and delivers a copy to the District Attorney, a written formal appearance, waiver and agreement to appear, signed by both defendant and defense counsel, in substantially the form specified in Som. R.Crim.P. 571.4.

E. When a case is continued to another term after the notice of arraignment and trial has been given, said notice need not again be given unless it appears that the notice was not received by defendant and the Commonwealth has obtained another address for defendant. Instead, the Commonwealth may notify defendant as follows:

1. If defendant has not pleaded to all charges, notification to appear on the first day of any argument week as selected by the District Attorney which occurs at least ten days after such notice is mailed, (but not later than the next regular call of the criminal trial list) to plead to the information and stating the date, time and place of trial, in substantially the form set forth in Som. R.Crim.P. 571.2.
2. If defendant has pleaded not guilty to all charges, notification to appear on the specified date, time and place for trial, in substantially the form specified in Som. R.Crim.P. 571.3.

F. The District Attorney shall keep an appropriate office record of the names and addresses of persons notified, the date of mailing and text of the notice.

Som. R.Crim.P. 571.1. Form Of Notice Of Arraignment And Trial.

COMMONWEALTH OF PENNSYLVANIA	)	IN THE COURT OF COMMON PLEAS
	)	OF
V.	)	SOMERSET COUNTY, PENNSYLVANIA
(Defendant)	)	NO. CRIMINAL

NOTICE OF ARRAIGNMENT AND TRIAL

To the defendant above named:

1. You have been formally charged with committing the criminal offense or offenses described in the Information which has been filed against you, copy of which is enclosed.
2. The date, time and place of arraignment on said criminal charges are as follows: _____, the _____ day of _____, _____, at 9:30 a.m. at the Courthouse, Somerset, Pennsylvania.
3. *If you are not represented by an attorney, you must personally appear before the Court at the date, time, and place above stated in paragraph 2 of this Notice to plead guilty or not guilty to the charges. If you are represented by an attorney, you must personally appear before the Court at the date, time, and place above stated in paragraph 2 of this Notice to plead guilty or not guilty to the charges, unless (1) you and your attorney sign a waiver of appearance at arraignment in the form specified in Som.R.Crim.P. 571.4, and (2) you agree to appear personally instead at the Call of*

the Criminal Trial List on _____, the _____ day of _____, _____, at 9:30 o'clock, a.m., at the Somerset County Courthouse in Somerset, Pennsylvania, to plead guilty or not guilty to the charges.

4. You have a right to the assistance of an attorney at all stages of these proceedings; if you cannot afford an attorney, one will be appointed for you without cost if you file an application for counsel. You may obtain an application form from the Clerk of Courts, District Attorney, Sheriff, or any District Justice of Somerset County, Pennsylvania. It is important that you obtain an attorney promptly to assist you in these proceedings, if you do not already have one.

5. You may request pretrial discovery of information, and inspection of articles or documents, in the possession of the District Attorney, pertaining to your case, if you file a written request in the Court within fourteen (14) days after the arraignment date specified above in paragraph 2 of this Notice.

6. You may file an omnibus motion for pretrial relief for any of the following purposes: continuance (postponement) of the trial date, severance (separate trial) of one or more of the charges against you, suppression of evidence illegally obtained, psychiatric examination, quashing (dismissing) the information for legal defects, disqualification of a Judge, pretrial conference with the Court, approval of settlement of the charges, or any other appropriate pretrial relief or assistance, if the motion is filed in the Court within thirty (30) days after the arraignment date specified above in paragraph 2 of this Notice.

7. You will lose your rights to file a request for pretrial discovery and inspection, and to file an omnibus motion for pretrial relief, unless a written request or motion is filed within the required period of time stated above in paragraphs 5 and 6 of this Notice, calculated from the arraignment date specified above in paragraph 2 of this Notice, or unless the period of time is extended by special Court Order for good cause.

8. If you plead not guilty to any of the charges against you, your trial will be scheduled for _____, the _____ day of _____, _____, at 9:30 o'clock a.m., at the Courthouse in Somerset, Pennsylvania, when and where you must appear with your attorney and your witnesses prepared for trial, and must remain until the trial is completed.

9. If you fail to appear when required, a warrant will be issued for your arrest.

District Attorney

Som. R.Crim.P. 571.2. Form Of Notice To Appear For Pleading And For Trial.

COMMONWEALTH OF PENNSYLVANIA) IN THE COURT OF COMMON PLEAS
) OF
 V.) SOMERSET COUNTY, PENNSYLVANIA
)
) NO. CRIMINAL

(Defendant)

NOTICE TO APPEAR FOR PLEADING AND FOR TRIAL

To the defendant above named:

You are hereby notified that you must appear before the Court on _____, the _____ day of _____, _____, at 9:30 o'clock a.m., at the Courthouse in Somerset, Pennsylvania, to plead guilty or not guilty to the criminal charges described in the Information filed against you in the above entitled proceedings.

If you plead not guilty to any of the charges, your trial will be scheduled for _____, the _____ of _____, _____, at 9:30 o'clock a.m., at the Courthouse in Somerset, Pennsylvania, when and where you must appear with your attorney and your witnesses prepared for trial, and must remain until the trial is completed.

If you do not appear when required, a warrant will be issued for your arrest.

District Attorney

Som. R.Crim.P. 571.3. Form Of Notice To Appear For Trial.

COMMONWEALTH OF PENNSYLVANIA) IN THE COURT OF COMMON PLEAS
) OF
 V.) SOMERSET COUNTY, PENNSYLVANIA
)
) NO. CRIMINAL

(Defendant)

NOTICE TO APPEAR FOR TRIAL

To the defendant above named:

Your trial on the criminal charge or charges, to which you have pleaded not guilty in the above entitled proceedings is scheduled for _____, the _____ day of _____, _____, at 9:30 o'clock a.m.

Trial Procedure**Som. R.Crim.P. 600.1. Criminal Trial Scheduling.**

A. The call of the criminal trial list shall be held on the second Monday preceding the beginning of the trial session, or at such other time established by the court.

B. At the call of the criminal trial list, all trial counsel must, unless excused by the court for cause, be present to report readiness for trial, and all defendants who have not previously pleaded to all charges shall be present for that purpose, unless the court grants, or has granted, leave to plead on another date.

C. At the call of the list, the report of readiness for trial means that: All parties, witnesses, and counsel will (barring unexpected subsequent causes) be available, prepared and present for trial, on the scheduled trial date and throughout the trial session until the case is called and trial completed. The readiness report is a professional commitment to the court and to all others in the case as above defined. Therefore, the readiness report certifies that reporting counsel has made the necessary recent inquiries of parties and witnesses in advance so that the readiness report will be informed and dependable.

Accordingly, if readiness is qualified in any way for any reason, the court must be informed thereof at the time of the call of the list, and facts which existed and should have been discovered before the readiness report are not cause for later continuance.

Trial Procedure**Som. R.Crim.P. 600.2. Criminal Trial Scheduling Conference.**

A scheduling conference shall be held on the Wednesday preceding the beginning of the trial session. All trial counsel must, unless excused by the court for cause, be present to report on scheduling. If readiness is qualified in any way for any reason, the court must be informed thereof, and facts which existed and should have been discovered before the scheduling conference are not cause for later continuance.

Som. R.Crim.P. 600.3. Criminal Trial Schedule.

A. Not later than Friday of the week preceding the beginning of the trial session, the Court Administrator shall issue a criminal trial schedule for the session.

B. All juries will be selected on the first day of the trial session. Further trial proceedings, however, shall be conducted on the dates and times shown on the trial schedule, or as soon thereafter as the preceding case is concluded.

Som. R.Crim.P. 600.4. Selection Of Criminal Juries.

Juries for all criminal jury trials shall be selected in accordance with the following procedure:

A. Juries for all cases on the trial schedule shall be selected on the first day of the trial session.

B. The jury will not be sworn until the date scheduled for commencement of testimony.

C. Before the jury is sworn, counsel will be permitted additional voir dire, upon request.

Note: For general scheduling procedures, see Som. R.J.A. 1030, et seq.

Som. R.Crim.P. 604. Trial Procedure And Order Of Proof

A. The order in which evidence is presented by a party within the party's case-in-chief, or within rebuttal or

surrebuttal, rests primarily with trial counsel; but no evidence shall be presented otherwise out of order without prior notice to the opponent and consent of the Trial Judge.

B. Trial counsel shall have all witnesses and other evidence present and available in court when needed, without delaying the trial, unless other arrangements are specially made in advance with the Trial Judge after notice to the opponent. If witnesses are excused from attendance at trial without prior approval of the Trial Judge, sanctions may be imposed, which may include exclusion of the witness' testimony.

C. Trial sessions shall begin at the date and time shown on the court schedule, unless otherwise ordered by the Trial Judge. Duration of trial sessions will be determined by the Trial Judge as the trial progresses. Counsel shall not rely on any particular time of day for recess or adjournment unless and until announced by the Trial Judge.

D. Counsel are encouraged to consult with the Trial Judge and other counsel concerning trial logistical problems as soon as the problem arises or becomes probable.

Probation And Parole.**Som. R.Crim.P. 708. Revocation Petition.**

A. Whenever a probation officer or the District Attorney has reason to believe that a probationer or parolee of this court has violated any condition of his probation or parole which warrants revocation, he shall prepare a petition for revocation setting forth:

1. The name of the sentencing Judge;
2. The date of the order of probation or parole and the term thereof;
3. The offense or offenses in which probation or parole was granted;
4. The specific condition or conditions violated and the facts of violation;
5. The name of defense counsel of record.

B. If the District Attorney is not the petitioner, the petition shall (except in juvenile cases) bear approval of the District Attorney or his designated assistant unless the court approves the filing without such approval.

C. The probation officer shall consult with the District Attorney or his designated assistant and seek his advice and counsel concerning the propriety of, and grounds for, revocation of probation or parole. Such consultation shall be arranged according to procedures mutually agreeable to said officers, preferably before preparation of the petition when time permits.

Note: See Som. R.Crim.P. 708.7 for suggested form of revocation petition.

Som. R.Crim.P. 708.1. Revocation Procedure. Detention.

If in the opinion of petitioner the violation warrants detention of defendant pending revocation hearing on the merits of the petition, the following procedures shall be followed:

A. Petitioner shall present to the court the petition and a motion for process. Following the court's action on the motion, the petition and motion and order thereon shall be delivered to the Court Administrator for filing and distribution sec reg, provided that the copies for defendant and his counsel shall be delivered promptly to petitioner for service as hereinafter provided.

Note: For suggested form of motion and order for process, see Som. R.Crim.P. 708.8.

B. If process is denied, the case shall proceed without pre-hearing detention as prescribed in Som. R.Crim.P. 708.2.

C. If process is awarded, defendant shall be arrested and detained, provided, however, that:

1. Defendant shall not be detained for more than ten (10) days (72 hours for a juvenile) after incarceration in the Somerset County Jail on such process, without a detention hearing to determine whether there is reasonable cause to believe that defendant has violated a condition or conditions of probation or parole and that continued detention pending revocation hearing is warranted; and

2. Defendant shall not continue to be detained for revocation hearing for more than thirty (30) days (10 days for a juvenile) after the detention hearing; and

3. Defendant may at any time make application to the court for release on bail.

D. When defendant is placed in custody on the process, petitioner shall promptly present to the Court Administrator a motion to schedule a detention hearing which the Administrator shall promptly grant by making a scheduling order in behalf of the court, scheduling detention hearing within ten (10) days (72 hours if a juvenile) after defendant was placed in custody in the Somerset County Jail on the process.

Note: For suggested form of motion and order for scheduling, see Som. R.Crim.P. 708.9.

E. Upon making the scheduling order, the Administrator shall file the motion and order in the clerk's office, and shall make distribution of copies thereof sec reg provided that copies for defendant and his counsel shall be promptly delivered to petitioner for service.

F. Petitioner shall promptly serve or cause to be served upon defendant personally a copy of the revocation petition and motions and orders for process and hearing, and shall promptly furnish a copy thereof to defendant's counsel.

G. At the detention hearing, the court shall determine from the evidence presented whether there is reasonable cause to believe that defendant has violated a condition or conditions of his probation or parole and whether under the circumstances, continued detention pending the revocation hearing is warranted.

1. If it is determined that there is not reasonable cause to believe that defendant has violated a condition of his probation or parole, the petition shall be dismissed and defendant discharged.

2. If it is determined that there is reasonable cause to believe that defendant has committed such a violation, the court shall:

a. Fix a date and time for revocation hearing which shall not be earlier than ten (10) days after service of the petition upon defendant and his counsel, and

b. Order defendant's continued detention or his release on bail or his discharge from custody until revocation hearing. If detention is continued, the revocation hearing shall be scheduled and held not more than thirty (30) days after the detention hearing (10 days for a juvenile).

Som. R.Crim.P. 708.2. Revocation Procedure If Detention Not Warranted.

If in the opinion of petitioner the violation does not warrant detention of defendant pending revocation hearing, or if a motion for process is denied, the following procedure shall be followed:

A. Petitioner shall present to the Court Administrator the petition accompanied by a motion to schedule a revocation hearing which the Administrator shall promptly grant by making a scheduling order in behalf of the court, scheduling such hearing sec reg. unless prompt hearing is requested by petitioner. The Administrator shall file and distribute the petition, motion and order sec reg. provided that copies for defendant and his counsel shall be delivered promptly to petitioner for service on defendant and his counsel as hereinafter provided.

B. Petitioner shall serve or cause to be served upon defendant personally a copy of the revocation petition and hearing order and furnish a copy thereof to his counsel, at least ten (10) days prior to the hearing date.

Som. R.Crim.P. 708.3. Revocation Hearing.

At the revocation hearing, the court shall determine from evidence presented whether defendant has violated a condition or conditions of probation or parole which warrants revocation thereof. If revocation is refused, the petition shall be dismissed and defendant discharged. If revocation is ordered, the petition shall be granted and an order of revocation made. If probation is revoked, sentence may be deferred for a reasonable time to obtain a pre-sentence investigation report or for other cause.

Note: "The focus of a probation violation hearing . . . is whether the conduct of the probationer indicates that the probation has proven to be an effective vehicle to accomplish rehabilitation and a sufficient deterrent against future anti-social conduct." *Commonwealth v. Kates*, 452 Pa. 102, 114-5 (1973).

Som. R.Crim.P. 708.4. Temporary Detainer.

In case of a clear emergency when no Judge of the court is available to make an order awarding process, a probation officer may without court order issue a temporary detainer as process for detention of defendant pending further proceedings, provided that the officer shall, if possible, obtain oral approval of a Judge or, if the Judge is unavailable, of his immediate supervisor. Such temporary detainer shall be valid only until a Judge of the court is available when the petition and motion for process shall be presented as herein provided.

In case of a probation violation when no Judge of the court is available to make an order awarding process, the petitioning officer may without court order issue a temporary detainer not to exceed 48 hours as process for incarceration of defendant. A written report will be submitted to the sentencing Judge within 24 hours or the next working day. If possible, the officer will obtain oral approval from either Judge to incarcerate the defendant under a detainer.

Som. R.Crim.P. 708.5. Revocation Process.

Process may be applied for and issued for cause at any time in aid of revocation proceedings, subject to detention hearing and restrictions as above provided in Som. R.Crim.P. 708.1, and subject to defendant's right to apply for bail at any time.

Som. R.Crim.P. 708.6. Revocation. Waiver Of Time.

The time and other restrictions imposed upon revocation proceedings in these rules may be voluntarily waived by the parties with approval of the court.

Som. R.Crim.P. 708.7. Form. Petition For Revocation.

The petition for revocation shall be in substantially the following form:

COMMONWEALTH	)	IN THE COURT OF COMMON PLEAS
	)	OF
V.	)	SOMERSET COUNTY, PENNSYLVANIA
)	
_____	)	NO. CRIMINAL

PETITION FOR REVOCATION OF PROBATION/PAROLE

TO THE HONORABLE JUDGES OF SAID COURT:

This petition respectfully represents:

1. Petitioner is _____ .
(State name and title of officer seeking revocation)
 2. Defendant named above was placed on probation/parole by _____, J., on the _____ day of _____, _____, for a term of _____ years on charges of _____, in the above captioned proceedings.
 3. Defendant has violated his probation/parole as follows (state specific conditions violated and facts of violation):

 4. Counsel for defendant of record is _____, Esquire.
- WHEREFORE, petitioner prays the court after hearing to revoke defendant's probation/parole.

Sworn and subscribed before me
this _____ day of _____, _____.

Petitioner

District Attorney

Som. R.Crim.P. 708.8. Form. Process Motion.

The motion and order for process shall be in the following form:

COMMONWEALTH	)	IN THE COURT OF COMMON PLEAS
	)	OF
v.	)	SOMERSET COUNTY, PENNSYLVANIA
)	
_____	)	NO. CRIMINAL

MOTION FOR PROCESS

NOW, this _____ day of _____, _____, petitioner believing that detention of defendant pending hearing on the petition for revocation of probation/parole filed in the above proceedings is warranted because of

- [] the seriousness of the alleged violation;
- [] the likelihood of defendant's nonappearance for hearing;
- [] other _____.

petitioner moves the court to award process for defendant's arrest and detention pending hearing on the revocation petition.

Petitioner

ORDER FOR PROCESS

NOW, this _____ day of _____, _____, process is awarded as prayed for and a warrant is issued for defendant's arrest.

BY THE COURT:

J.

Som. R.Crim.P. 708.9. Form. Scheduling Motion For Revocation Hearing.

The motion to schedule hearing and scheduling order shall be in substantially the following form:

COMMONWEALTH	)	IN THE COURT OF COMMON PLEAS
	)	OF
V.	)	SOMERSET COUNTY, PENNSYLVANIA
_____	)	NO. CRIMINAL

MOTION TO SCHEDULE HEARING

NOW, this _____ day of _____, _____, petitioner moves the court to fix a date and time for hearing on the petition for revocation of probation/parole filed in the above proceedings as follows:

[] A detention hearing within ten (10) days of _____, _____, when defendant was incarcerated in the Somerset County Jail on process awarded in this proceeding; or

[] A revocation hearing to be held [] sec reg/ [] promptly, preliminary detention not presently contemplated.

Petitioner

SCHEDULING ORDER

NOW, this _____ day of _____, _____, the petition for revocation of probation/parole is scheduled for

[] detention hearing

[] revocation hearing

on _____, the _____ day of _____, _____, at _____ a.m. in Courtroom No. ____ at the Courthouse in Somerset, Pennsylvania, when and where all parties shall appear with their witnesses.

BY THE COURT:

_____ J.

ATTEST: _____
Court Administrator

Briefs

Som. R.Crim.P. 1200. Briefs.

A. Hearings on Suppression or Omnibus Pre-Trial Motions. The moving party shall include in the motion, or shall file a separate memorandum containing, a summary of the legal issues involved or citation of authorities relied upon, stating the principle of law for which each authority is cited. If separate memorandum is utilized, it shall be filed not later than 10 days before the scheduled hearing date or at the hearing if earlier scheduled. The opponent shall file a response not later than calling of the case for hearing.

B. In all other cases, briefs shall be filed when ordered by the court. Unless the Order specifies otherwise, the moving party's brief shall be filed within 20 days of the Order and the reply brief within 10 days thereafter.

[Pa.B. Doc. No. 01-1453. Filed for public inspection August 10, 2001, 9:00 a.m.]

RULES AND REGULATIONS

Title 19—CORPORATIONS AND BUSINESS ASSOCIATIONS

DEPARTMENT OF STATE
[19 PA. CODE CH. 3]
UCC Fees

The Secretary of the Commonwealth amends § 3.30 (relating to Uniform Commercial Code) pertaining to filings under 13 Pa.C.S. §§ 1101—9507 (relating to the Uniform Commercial Code) (UCC) by revising certain fees of the Department of State (Department) to read as set forth in Annex A.

Purpose and Need for the Amendment

Section 9525(d) of the Uniform Commercial Code Modernization Act of 2001, 13 Pa.C.S. § 9525(d) (Act 2001-18) requires the Department to promulgate regulations that establish UCC filing fees sufficient to generate revenue equivalent to the amounts collected by the counties from UCC filings in calendar year 2000 and the general fund from UCC filings in Fiscal Year 1999-2000. These fee regulations are intended to hold the general fund fiscally harmless and all of the counties fiscally harmless when taken in the aggregate. The fees for UCC filings made at the Department are being increased substantially to account for the elimination by section 18 of Act 2001-18, of the 75% that the general fund currently receives from UCC filings made with the county prothonotary offices provided for under 15 Pa.C.S. § 153(a)(8)(vi) (relating to fee schedule).

The following table outlines the affected application fees and proposed changes:

<i>Service</i>	<i>Proposed Fee</i>	<i>Current Fee</i>
Financing statement filed with the county recorder of deeds office	\$95	\$59.50
Financing statement filed with the Department of State	\$84	\$12 per debtor name

The current fees are in 15 Pa.C.S. § 153(a)(8)(i) for the Department and the basic county fee. The county fee has been increased to reflect the provisions of 15 Pa.C.S. § 153(a)(8)(vii) which provides for the increase of the county fee, beginning on January 1, 1994, by the percentage of increase in the Consumer Price Index for Urban Workers for the immediate preceding calendar year.

Public notice of intention to amend the section under the procedures specified in sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) (CDL) has been omitted as authorized under section 204(3) of the CDL (45 P. S. § 1204(3)), because the Department finds that these procedures are, under the circumstances, unnecessary. Public comment is unnecessary because section 9525(d) of Act 2001-18 requires the Department to promulgate the fee regulation and specifically states that changes in the fees shall be promulgated as a final regulation with proposed rulemaking omitted as provided for in the Regulatory Review Act (71 P. S. §§ 745.1—745.14).

Compliance with Executive Order 1996-1

The Department reviewed this rulemaking under the directives of Executive Order 1996-1. Given that under section 9525(d) of Act 2001-18 the Department is mandated to promulgate the fee regulation and that the rulemaking must be promulgated as a final regulation with proposed rulemaking omitted, the Department has concluded that the regulation complies with the order.

Statutory Authority

The amendments are mandated under section 9525(d) of Act 2001-18.

Fiscal Impact and Paperwork Requirements

This rulemaking is intended to prevent an adverse fiscal impact on the Commonwealth and the counties when taken in the aggregate. Based upon an analysis of the county filing fees in calendar year 2000, provided by the Governor's Office of the Budget based upon figures supplied by the Department of Revenue, it has been determined that the counties are held fiscally harmless, in the aggregate, with a recorder of deeds fixture filing fee of \$95. However, while the counties are held fiscally harmless in the aggregate with this proposed fee, the majority of counties (41) will experience a reduction in revenues. Of these losses, estimated losses range from a low of \$184 to a high of \$16,650. To avoid all possible losses to individual counties, a recorder of deeds fixture filing fee of \$286 would be necessary. To hold the general fund fiscally harmless to offset the elimination of the 75% of the county fees that are remitted to the Commonwealth, a State UCC financing statement fee of \$84 must be established. Overall, the rulemaking will benefit the Commonwealth and the counties by helping the Commonwealth to avoid a loss of about \$9.3 million per year and an estimated \$1.3 million loss for the counties.

While these fees will have a fiscal impact on those members of the private sector who file financing statements under the provisions of the UCC, this outcome is unavoidable based upon the statutory requirements of section 9525(d) of Act 2001-18.

This rulemaking imposes no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), the Department submitted a copy of the final-omitted regulation on June 26, 2001, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House State Government Committee and the Senate State Government Committee. On the same date, the final-omitted regulation was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

In accordance with section 5.1(d) and (e) of the Regulatory Review Act, the final-omitted regulation was deemed approved by the House and Senate Committees on July 16, 2001. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 26, 2001, and approved the final-omitted regulation. A copy of the material is available to the public upon request.

Additional Information

Individuals who desire information are invited to submit inquiries to Ken Rapp, 308 North Office Building, Harrisburg, PA 17120-0029, (717) 783-9210.

Findings

The Secretary finds that:

(1) Public notice of the Department's intention to amend its regulation as adopted by this order, under the procedures specified in sections 201 and 202 of the CDL, has been omitted under the authority contained in section 204(3) of the CDL because the Department has, for good cause, found that the procedures specified in sections 201 and 202 of the CDL are in this circumstance, unnecessary because section 9525(d) of Act 2001-18 mandates the Department to promulgate the fee regulation and that the rulemaking must be promulgated as a final-omitted regulation.

(2) The amendment of the regulation of the Department in the manner provided in this order is necessary and appropriate for the administration of its authorizing statute.

Order

The Secretary, acting under her authorizing statute, orders that:

(a) The regulations of the Department, 19 Pa. Code Chapter 3, are amended by amending § 3.30 to read as set forth in Annex A.

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

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

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

KIM PIZZINGRILLI,
Secretary of the Commonwealth

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 31 Pa.B. 4503 (August 11, 2001).)

Fiscal Note: 16-27. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 19. CORPORATIONS AND BUSINESS ASSOCIATIONS****PART I. DEPARTMENT OF STATE****Subpart A. PRELIMINARY PROVISIONS****CHAPTER 3. FEES AND CHARGES****FEES****§ 3.30. Uniform Commercial Code.**

(a) The fee for filing a financing statement with the Department of State under 13 Pa.C.S. (relating to the Uniform Commercial Code) is \$84 regardless of the number of debtors or pages.

(b) The fee for filing a financing statement with the county recorder of deeds offices under 13 Pa.C.S. (relating

to Uniform Commercial Code) is \$95 regardless of the number of debtors or pages.

[Pa.B. Doc. No. 01-1454. Filed for public inspection August 10, 2001, 9:00 a.m.]

Title 31—INSURANCE**INSURANCE DEPARTMENT****[31 PA. CODE CH. 25]****Insurance Holding Company Systems**

The Insurance Department (Department) by this order amends Chapter 25 (relating to rules and procedural requirements for insurance holding company systems) to read as set forth in Annex A. This final-form rulemaking sets forth rules, procedural requirements and reporting forms relating to acquisitions of control of, or mergers with, insurers and transactions within insurance holding company systems.

Purpose

The purpose of this final-form rulemaking is to update the chapter to be consistent with current Commonwealth law and financial reporting standards established by the National Association of Insurance Commissioners (NAIC) and to improve upon the clarity and efficiency of standards and reporting requirements for insurance holding company systems.

In 1994, Article XIV of The Insurance Company Law of 1921 (act) (40 P. S. §§ 991.1401—991.1413) was amended to: (1) bring health maintenance organizations within the scope of the act; and (2) update provisions relating to dividends and other material transactions to meet minimum financial regulation standards adopted by NAIC. See the act of February 17, 1994, (P. L. 92, No. 9). This final-form rulemaking includes revisions needed to update the chapter to reflect the 1994 amendments to the act.¹

This final-form rulemaking also includes a prescribed form for providing notice of the potential competitive impact of a proposed merger or acquisition under section 1403 of the act (40 P. S. § 991.1403). The new form (Form E) is consistent with a model form adopted by the NAIC and will provide the Department with information needed to determine whether a proposed merger or acquisition would violate the competitive standard of section 1403(d) of the act.

In addition, this final-form rulemaking includes amendments to clarify a number of existing procedural and reporting requirements and eliminate other requirements deemed to be unnecessary or duplicative.

Statutory Authority

This final-form rulemaking is adopted under the authority of section 337.8 of the act (40 P. S. § 459.8) and Article XIV of the act.

Comments

Notice of proposed rulemaking was published at 29 Pa.B. 5392 (October 16, 1999) with a 30-day public comment period.

No comments were received from the standing committees. Comments were received during the 30-day public

¹The final-form rulemaking also includes technical changes to reflect amendments to the act in Act 132, effective February 17, 2001.

comment period from the American Insurance Association (AIA); The Harleysville Insurance Companies (Harleysville); the Insurance Federation of Pennsylvania, Inc. (IFP); the Pennsylvania Association of Mutual Insurance Companies (PAMIC); and PHICO Insurance Company (PHICO). The Independent Regulatory Review Commission (IRRC) submitted its comments and recommendations to the Department on December 16, 1999. The Department has responded to all comments in this final-form rulemaking.

In addition, the Department has revised the final-form rulemaking to reflect amendments to the act of December 20, 2000 (P. L. 967, No. 132) (Act 132), effective February 17, 2001. These changes reflect: (1) the addition of limited liability companies to the definition of "person"; and (2) the addition of pledges of assets to the types of material transactions involving affiliates in insurance holding company systems that must be reported to the Department before the transactions occur.

The following is a discussion of comments and summary of changes in the final-form rulemaking.

Section 25.1. Definitions.

Definition of "NAIC"

IRRC commented that the reference to a successor organization in the definition of "NAIC" was inconsistent with the definition in section 1401 of the act (40 P. S. § 991.1401). In response to IRRC's comment, the Department has deleted the reference to a successor organization.

Definition of "surplus"

The proposed rulemaking included a new definition of "surplus." The definition was added to provide a common meaning of the term for purposes of compliance with this chapter. IRRC requested the Department clarify the reference to "accounting practices and procedures manuals adopted by NAIC as required by the Commissioner" in the definition. Specifically, IRRC commented that the definition was unclear as to how many and which specific NAIC manuals were encompassed by the definition and that the phrase "as required by the Commissioner" was confusing. IRRC also asked why the accounting practices and procedures were not included in the proposed rulemaking.

Under section 320 of the act (40 P. S. § 443), section 11 of the Health Maintenance Organization Act (40 P. S. § 1561) and § 152.21 (relating to financial statements and examinations), the various types of insurers subject to this chapter (life/health, property/casualty, health maintenance organizations and, as of February 17, 2001, preferred provider organizations) are required to file annual financial statements with the Department in the form required by the Commissioner. Each year the Commissioner provides all insurers with specific financial statement filing instructions. The instructions identify the NAIC forms, instructions and manual to be used in the preparation of annual and quarterly financial statements and include information about any Commonwealth specific laws, regulations or orders that apply to financial statements filed with the Department for that year. The form, instructions and accounting rules used by insurers to prepare financial statements for State insurance regulators encompass a large body of very detailed material that is updated continually to address changing business practices and solvency regulation concerns. The NAIC's process for development and maintenance of statutory accounting principles is comparable to the process fol-

lowed by the American Institute of Certified Public Accountants for generally accepted accounting principles.

Although as of 2001, all insurers are using a single accounting practices and procedures manual, the various types of insurers continue to use different NAIC financial statement forms and instructions. Those forms and instructions continue to use terms specific to the type of insurer or the purpose of a particular accounting entry, such as "surplus," "unassigned funds (surplus)" and "surplus as regards policyholders." Therefore, the Department has included the definition of "surplus" not to provide accounting guidance but to establish a common meaning of the term for the specific purpose of compliance with this chapter.

In response to IRRC's comments and in recognition of the implementation of the new codified manual in 2001, the Department has clarified and expanded the definition of "surplus" in this final-form rulemaking to reference "the annual statement instructions and accounting practices and procedures manual prescribed by the NAIC or as otherwise required by the Commissioner for annual financial statements filed with the Department."

Definition of "ultimate controlling person"

IRRC suggested the Department define the term "registrant" used in the definition of "ultimate controlling person." In response to IRRC's comment, the Department has clarified the definition by replacing "registrant" with "another person" consistent with the first sentence of the definition.

IRRC also commented that the Department should explain the distinction between "direct" and "indirect" control for purposes of the definition. Section 1401 of the act defines "control" for purposes of the act and this chapter. In general, control means the direct or indirect possession of the power to direct or cause the direction of the management and policies of another person. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing 10% or more of the voting securities of another person. However, control also may exist by contract or otherwise, unless the power is the result of an official position or corporate office. Control is determined on a case-by-case basis for purposes of the act. Whether control is direct or indirect may be determined by the relative positions of persons within a holding company structure. In general, indirect control exists when power is exerted or ownership attained through a business relationship or interest in an intermediary. Because the definition of "control" in section 1401 of the act applies to this chapter and establishes that control may exist directly or indirectly, the Department has clarified the definition of "ultimate controlling person" by eliminating the unnecessary reference to direct or indirect control.

The Department also has clarified the definition by replacing the term "limited liability corporation" with the term "limited liability company" consistent with 15 Pa.C.S. § 8903 (relating to definitions) and the use of the term in Act 132.

Section 25.2. Purpose.

The Department further clarifies that § 25.2 is being deleted solely because it does not provide information that is necessary to understand the meaning and intent of the provisions of the chapter. The deletion does not affect the purpose of or the Department's responsibilities under the act.

*Section 25.11. Expenses.**Purpose and title*

Section 25.11 is being amended to include standards relating to costs of outside experts or consultants retained to assist the Department in the evaluation of filings made under this chapter. The standards are consistent with Chapter 12 (relating to costs of Insurance Department examinations) and the Commonwealth's procedures for retaining the services of outside parties. IRRC commented the Department should add a reference to experts and consultants to the title of the section. In response to IRRC's comment, the Department has expanded the title of the section to read "Expenses of experts and consultants" in the final-form rulemaking.

Advance notice of retention of outside experts

Harleysville suggested § 25.11(a) be amended to add provisions for written notice to the person filing the statement, including the name of the outside expert, the terms of the engagement and an estimate of the fees. Harleysville commented the notice would allow the person filing to estimate future costs and suggest possible cost-saving alternatives to the Department. IRRC commented the Department should explain the process for questioning the costs of an outside expert.

When the Department identifies the need to retain an outside expert from its list of prequalified vendors, the Department negotiates the scope and cost of the specific assignment with the vendor, and the terms are established in a written engagement letter. The engagement letter is then sent to the person filing the statement. Upon receipt of the engagement letter, the person filing may contact the Department to express concerns about the scope or cost of the engagement. Therefore, consistent with current practice and in response to comments by Harleysville and IRRC, the Department has added language as suggested by Harleysville to § 25.11(a) in this final-form rulemaking.

Costs of engagement of outside experts

Under sections 1402(f)(3) and 1405(a)(4) of the act (40 P. S. §§ 991.1402(f)(3) and 991.1405(a)(4)), § 25.11(b) states that the costs of outside experts will be charged to and paid by the person filing or a designee of the person acceptable to the Department. Section 25.11(c) states the Department will require per diem charges for outside experts to be "comparable" to prevailing rates for the services. IFP recommended that § 25.11(b) be amended to provide that the "reasonable" cost of experts be charged to and paid by the person filing, and that § 25.11(c) refer to "reasonable" rather than "comparable" and prevailing rates. IRRC asked how the Department determines prevailing rates.

The Department uses the Commonwealth's request for qualifications (RFQ) procurement process established under 62 Pa.C.S. (relating to Commonwealth Procurement Code) (Act 57) to determine which vendors qualify to provide consulting services. The RFQ procurement process is the method by which services are retained in a fair and reasonable manner. The process also enables the Department to determine prevailing rates in the industry. The specific cost and scope of each engagement is then determined by negotiations between the Department and the qualified vendor and disclosed to the person filing in the engagement letter. Therefore, the Department determines prevailing rates in the RFQ evaluation process, and the cost of each engagement is then negotiated considering the nature and scope of the particular services being retained. The Department believes the term

"comparable" provides a stronger, more objective standard than "reasonable" for purposes of the procurement and engagement process, and therefore has retained the term "comparable" in this final-form rulemaking.

Harleysville further recommended § 25.11(b) provide that costs billed by an outside expert be assessed against the person filing within a reasonable time of the completion of the engagement and that billings provide adequate itemization to enable the person filing to conclude that the services being billed were reasonable and accomplished within the terms of the engagement. Harleysville also recommended that a new subsection (e) be added to provide that, within 30 days of receipt of a billing, the person filing may object in writing to the charges "based on an assertion that a charge is excessive or unreasonable, not directly related to the evaluation of the filing, or outside the provisions set forth in the letter of engagement." A Department representative would then meet with the person filing to consider the basis for the objection and render a determination that reflects "those assertions which are adequately substantiated."

Consistent with the RFQ process and current practice in retaining outside experts, and as now stated in § 25.11(a), the person filing may contact the Department upon receipt of an advance copy of an engagement letter to discuss any concerns about the scope and cost of a specific engagement. The Department considers any possible cost-saving alternatives offered by the person filing at that time, as well as any objections raised by the person upon receipt of the billing for services rendered. Of course, the persons filing can, and do, contact the Department at any point in the review of filings to request information or express concerns relating to the Department's review. However, an outside expert is retained by the Department to provide expertise independent of the influence or interests of the person filing. The person filing is not a party to the engagement and should not be in a position to delay or otherwise obstruct the Department's ability to meet its responsibilities in evaluating filings made under the act. The Department believes the regulations, as clarified in this final-form rulemaking, allow for appropriate cost objections by the person filing while preserving the independence of the Department's review of the filing for compliance with the act and this chapter. Therefore, the Department has not included the additional language suggested by Harleysville in this final-form rulemaking.

IRRC, IFP and Harleysville questioned whether the reference to "per diem" charges in § 25.11(c) is appropriate for the engagement of outside experts. The Department agrees with the commentators and has replaced "per diem" with "hourly" charges in this final-form rulemaking.

Section 25.11(d) provides for travel, lodging and food expenses of outside experts to be made in accordance with provisions set forth in letters of engagement. IFP commented § 25.11(d) should provide that travel, lodging and food expenses of outside experts be limited to the same expenses that apply to Department employees. Harleysville commented that the Department should certify or confirm to the person filing that charges are reasonable and in accordance with the terms of the letter of engagement. IRRC commented that it appeared obvious that charges of these expenses must be made according to the letter of engagement and asked why the subsection is necessary.

The Department added § 25.11(d) to clarify that the cost of retaining outside experts includes travel, lodging

and food expenses in addition to the hourly rate. In negotiating letters of engagement, the Department requires these charges to be comparable to prevailing rates for similar services provided in the marketplace, not to rates for the services provided by Department employees. As previously explained, the services of outside experts are retained in accordance with Act 57. The services are retained independent of the person filing. Therefore, the certification recommended by Harleysville is unnecessary and inconsistent with the purpose and intent of the Department's statutory authority to retain independent outside experts to assist in the Department's independent review of filings under the act. However, in response to these comments, the Department has clarified § 25.11(d) and included a statement that the Department will require travel, lodging and food expenses of outside experts to be comparable to prevailing rates for similar services.

Section 25.12. Forms—general requirements.

Allowance for electronic filings

Section 25.12(b) is being amended to require one rather than two copies of Forms B, C and D, permit filings by facsimile or other form of electronic transmission acceptable to the Department and eliminate the reference to manual signatures. These amendments are intended to provide the Department with the flexibility to accept electronic filings. PAMIC commented that the changes are helpful. IRRC recommended the Department further amend the section to specifically permit electronic signatures if Senate Bill 555 (relating to Uniform Electronic Transactions) were enacted prior to submission of this final-form rulemaking. Senate Bill 555, now Act 69-1999, was enacted December 16, 1999. The Department is currently reviewing all forms and filing requirements to formulate a policy for implementation of electronic commerce with proper safeguards. As a result of this review and in response to IRRC's comment, the Department has further amended the section by deleting the notary requirement for biographical affidavits in Item 3 of Form A and Item 4 of Form B. The Department believes these amendments will permit electronic signatures at the point the required technology and procedures are in place.

Confidentiality of filings

Section 25.12(c) provides persons filing with instructions for making assertions that information included or referenced within filings relating to acquisitions or mergers of insurers (Forms A and E) is confidential, proprietary or privileged. IRRC questioned the Department's statutory authority to apply these instructions to Form E filings. The Department agrees that Form E filings are strictly confidential under section 1403(c)(1) of the act and has deleted the reference to Form E in § 25.12(c) in this final-form rulemaking.

IFP recommended that § 25.12(c) be amended to provide for the confidentiality of biographical statements and financial statements of ultimate controlling persons who are not public companies. While certain information in biographical statements would be confidential, for example, the social security number and home address of the person filing the statement, other information in the statement may be public. Therefore, the Department believes that the process in § 25.12(c) for asserting confidentiality is appropriate for biographical statements. However, the Department agrees that the section should provide for the confidentiality of personal financial statements of nonpublicly held ultimate controlling persons and has so amended § 25.12(c) in this final-form rulemaking.

Sections 25.13—25.16 and Form B. Clarity.

The last sentence of § 25.13(a) (relating to forms—incorporation by reference, summaries and omissions) begins with the term "Matter." IRRC commented the term is vague and confusing and suggested the Department use a more descriptive term. In response to IRRC's comment, the Department has clarified the subsection by deleting the last sentence and adding an introductory sentence stating that information required in forms may be incorporated by reference as provided in the subsection unless the incorporation would make the form incomplete, unclear or confusing.

Section 25.15(a) (relating to forms—additional information and exhibits) requires the person filing to provide further material information, if any, as necessary to make the information expressly required in the form not misleading. IRRC commented the phrase "not misleading" is vague and recommended the Department clarify what type of additional information the Department may require to verify information contained in the form. Filings under the act often relate to complex corporate and financial transactions involving diverse affiliated entities. Because transactions within holding company systems are unique to the structure and financial dealings of the various affiliated entities, the forms are developed as standard guides to be used in the submission of filings under the act, not lists of all of the information that may be material to a particular transaction. Therefore, § 25.12(a) states that Forms A—E are guides in the preparation of the statements required by the act and are not intended to be blank forms that are to be filled in. Section 25.15(a) is intended to clarify further that persons filing may not withhold information material to a filing on the basis that the form may not expressly name that particular information, especially when the absence of the information would misinform or serve to lead the reviewer to an erroneous conclusion. In response to IRRC's comment, the Department has replaced "not misleading" with a statement that "the person filing shall provide further material information, if any, as necessary for the completion or clarity of the information expressly required in the form."

Subsection 25.16(b) (relating to acquisition of control—statement filings) provides that Form A is not required when filing a request for an exemption from section 1402 of the act. IRRC recommended the Department break § 25.16(b) into subparagraphs to improve readability and clarity. IRRC also recommended the Department clarify what information is required to determine that a transaction will not change or influence the control of a domestic insurer and therefore should not be subject to Form A filing requirements. In response to IRRC's comments, the Department has divided § 25.16(b) into subparagraphs in this final-form rulemaking. As discussed in the Department's response to comments relating to the definition of "ultimate controlling person," section 1401 of the act defines "control" for purposes of the act and this chapter. Control is determined on a case-by-case basis and involves consideration of the relative positions of persons within a holding company structure and how ownership or power to direct or cause the direction of the management and policies of another person is attained or exerted. Because acquisition filings may be complicated business transactions, the information required to determine whether a transaction changes or influences control

would depend on the unique circumstances and business relationships of the entities involved in the transaction. Therefore, the Department has not added language to specify what information is required to make that determination.

The Department also made an editorial change to the amendment of Form B, Item 8.B. to clarify the statement that financial statements are required whether an ultimate controlling person is an individual, corporation or other type of business organization.

Section 25.16(e). Notice of changes in acquisition filings.

Section 25.16(e) requires a person filing to submit a material change in the facts in Form A or E to the Department within 2 business days after learning of the change. Section 25.16(e) is being added to clarify that, if the acquiring person is not an individual, a material change includes changes in directors, executive officers or owners of 10% or more of the voting securities of the acquiring person. IFP recommended that 5 rather than 2 days be allowed for notice of changes in officers or directors.

Section 1402(f)(1) of the act sets forth conditions under which the Department may not approve a merger or other acquisition of control. One of the conditions relates to the competence, experience and integrity of the persons who would control the operation of the insurer. See section 1402(f)(1)(v) of the act. An assessment of the key individuals involved in a merger or acquisition is crucial to the Department's review of a Form A filing. Therefore, the Department believes that changes in directors, executive officers or owners may have a material effect on the disposition of a filing and should be disclosed within 2 business days as required under section 1402(d) of the act.

Section 25.18. Filings in other jurisdictions.

Section 25.18 (relating to summary of registration—statement filing) of the proposed rulemaking included an amendment requiring an insurer to file a copy of Form C with another jurisdiction within 15 days from receipt of a written request from the chief insurance regulatory official of the jurisdiction. IRRC questioned the Department's statutory authority to establish filing requirements for another jurisdiction. IRRC recommended the Department amend § 25.18 to correspond with section 1404(a)(1) and (2) of the act (40 P. S. § 991.1404(a)(1) and (2)) and to be consistent with section 4B of the NAIC model regulations.

Section 25.18 currently refers to an insurer's duty to file a copy of Form C in each state in which the insurer is authorized to do business, if requested by the Commissioner of that state. The current language is consistent with section 4B of the NAIC model regulations. In response to IRRC's concerns, the Department has deleted its proposed revision to establish a specific time frame for filings requested by another jurisdiction.

Section 25.21. Changes in reported transactions.

Under section 1405(a)(2) of the act, an insurer may not enter into certain material transactions unless the insurer has provided at least 30 days notice to the Department of its intention to enter into the transactions and the Department has not disapproved the transactions. Section 25.21 (relating to transactions subject to prior notice—notice filing.) requires notice of these transactions to be furnished on Form D as prescribed by the chapter. IRRC commented on provisions in § 25.21(c) of the proposed rulemaking relating to the Department's ability to withdraw prior approval of a transaction or take other

regulatory action as a result of a material change in the information furnished on Form D. IRRC asked what other regulatory action was contemplated and stated the Department should amend this provision to reflect clearly its intent that an insurer may not deviate materially from an approved transaction without notifying the Department and receiving approval.

The Department's approval of a material transaction, or any other filing made under the act, constitutes an approval of a specific transaction based on the facts as presented by the person filing. If the facts change either before or after the transaction is approved, the Department must be made aware of the change so it may consider whether the change is material and, if so, whether the transaction continues to meet the standards and conditions for approval under the act and this chapter. In response to IRRC's comments, the Department has revised § 25.21(b) to provide that any changes in information furnished on Form D, including a change in the effective date of the transaction, must be reported as an amendment to Form B within 15 days after the end of a month in which the transaction is effectuated. Further, § 25.21(c) has been revised to replace the statement relating to withdrawal of prior approval as a result of a material change with a statement prohibiting an insurer from entering into a reported transaction if a material change occurs unless the insurer has filed an amended Form D and the Department has not disapproved the amended transaction within the prescribed time period.

Section 25.22. Dividends and other distributions.

Section 25.22 (relating to all dividends and other distributions) is being amended to broaden its application to all types of dividends and all other distributions reported under the act. IRRC commented the Department should explain the need to apply this section to all dividends. The amendments to this section will establish consistent reporting standards for all types of dividends required to be reported under the act. The information is needed to determine the impact of a dividend on the insurer's financial condition and whether or not a dividend has triggered the filing requirements for extraordinary dividends or dividends and other distributions to be paid from other than unassigned or surplus funds. The consistent, comprehensive instructions prescribed in this chapter will make it easier for insurers to identify and comply with reporting requirements for all dividends. A consistent reporting format also will facilitate the Department's efforts to identify and act quickly on these important, time-sensitive filings.

Section 25.22(a) of the proposed rulemaking required insurers to include interim balance sheets and statements of income with reports of all dividends and other distributions to shareholders unless the Commissioner granted a waiver from providing the information for ordinary dividends. AIA, IFP, PHICO and IRRC questioned the need for interim balance sheets and statements of income for reports of ordinary dividends and recommended the provision for obtaining a waiver be replaced with a provision excluding the information from reports of all ordinary dividends. In response to the recommendations, the Department has amended § 25.22(a) to limit the requirement to include interim balance sheets and statements of income to reports of extraordinary dividends, dividends and other distributions to be paid from other than unassigned funds. Section 25.22(b) provides instructions for requesting the Department's approval to pay dividends and other distributions from other than unassigned

funds (surplus) under section 337.8 of the act. IRRC commented that the phrase "unassigned funds (surplus)" is unclear and recommended the Department explain the difference between that term and the term "surplus" as defined in § 25.1. In response to IRRC's comment, the Department has amended § 25.22(b) to delete the term "surplus" and refer to the definition in section 337.8(e) of the act.

AIA, IRRC and PAMIC commented on the provisions in § 25.22(f) relating to the Department's ability to withdraw its prior approval of a dividend or other distribution and require the transaction to be reversed or take other regulatory action as a result of a material change in information reported under the section. PAMIC commented the provisions seemed to state the obvious. IRRC asked what other regulatory action was contemplated and stated the Department should amend this provision to reflect clearly its intent that an insurer may not deviate materially from an approved transaction without notifying the Department and receiving approval. In response to these comments and consistent with the revisions to § 25.21(c), the Department has revised § 25.22(f) to replace the statement relating to withdrawal of prior approval as a result of a material change with a statement prohibiting an insurer from paying an extraordinary dividend or other dividend or distribution from other than surplus funds if a material change occurs unless the insurer has filed an amended report and the Department has not disapproved the amended report within the prescribed time period.

Forms A and B. Biographical affidavits.

The proposed rulemaking included amendments to Form A, Item 3 and Form B, Item 4 (relating to identity and background of individuals associated with the applicant; biographical information) to eliminate the need to include a biographical affidavit with the forms if an affidavit furnished within the immediately preceding 3 years is currently on file with the Commissioner. IFP recommended revisions to allow copies of biographical affidavits to be filed with the forms and to eliminate the need for updated affidavits every 3 years. IRRC asked why copies of biographical affidavits would not be acceptable. IRRC also asked the Department to consider requiring an annual affidavit attesting to the accuracy of a biographical affidavit on file instead of requiring updated biographical affidavits every 3 years.

The Department relies on biographical affidavits for information relative to the financial condition, competence, experience and integrity of an applicant or controlling person. Biographical information also is critical in determining whether persons may be required to obtain specific written consent to engage or participate in the business under The Violent Crime Control and Law Enforcement Act of 1994 (18 U.S.C.A. § 1033(e)). In response to comments, the Department has revised Form A, Item 3 and Form B, Item 4 to allow applicants to file copies of original, signed biographical affidavits filed with another jurisdiction within the immediately preceding 3 years if the applicant provides the identity of the official holding the original affidavit and the date of the original filing. The Department also has considered IRRC's suggestion for annual filings attesting to the accuracy of biographical affidavits on file. However, the Department has concluded that requiring updated biographical affidavits every 3 years is a more efficient, effective approach to assuring that the Department has the information it needs to meet its responsibilities under the act and Federal law relating to persons engaged in the business of insurance.

Form C. Description of changes from prior year's statement.

Form C—Summary Registration Statement is being amended to require descriptions of items that have changed from the prior year's annual registration statement to include the date and dollar amount of the change and to identify any previous filings made as a result of the change. This information is needed to permit the Department to properly identify and evaluate related filings under the act. IFP recommended the Department allow for a good faith approximation of the dollar amount of a change. PAMIC commented the requirement is somewhat cumbersome, but probably describes the Department's view of what is to be included in filings under the current regulations. Since Form C is used to report on transactions that have already occurred, the dollar amount of the change for statutory financial statement reporting purposes will have been determined before the form is required to be filed. Therefore, the Department does not see a need to revise the form to allow for approximation.

Form D. Effect of material transactions, confidentiality and clarity.

Form D, Item 2.B. (relating to description of the transaction) is being amended to better define what is required in a description of the nature of a proposed material transaction. The amendment provides for the description to include the purpose of the transaction and its anticipated immediate and long-term effect on the financial condition of the insurer. IFP recommended the Department replace the terms "immediate and long-term" with "anticipated" effect. The description of the effect of a transaction is needed to determine whether the transaction meets the standards under section 1405 of the act including whether the insurer's surplus after the transaction will be reasonable in relation to its outstanding liabilities and adequate to its financial needs. Because the distinction between the immediate and long-term effect of a transaction may be material, the Department needs to understand both effects to determine whether to approve or disapprove a proposed transaction. Therefore, the Department has not included the revision recommended by IFP in its final-form rulemaking.

IFP also recommended Form D filings be kept confidential consistent with protections in the Private Securities Litigation Reform Act of 1995 (15 U.S.C.A. 78a note). Section 1407 of the act (40 P.S. § 991.1407) provides for strict confidentiality of information reported under section 1405 of the act. Section 25.21 requires insurers to use Form D to file information reported under section 1405(a)(2) of the act. Therefore, because the authorizing statute establishes the confidentiality of Form D filings, the Department has not revised the regulations in response to IFP's comments.

Form D, Items 3—5 (relating to sales, purchases, exchanges, loans, extensions of credit, guarantees, investments or contributions to surplus; loans or extensions of credit to a non-affiliate; and reinsurance) are being amended to update these items consistent with language in the 1994 amendments to Title XIV of the act. Harleysville questioned the changes in the percentage thresholds for required filings. The percentage changes update the regulations to reflect the percentage thresholds already established in the act. See the act of February 17, 1994, (P.L. 92, No. 9). Therefore, the amendments to the regulations will not change the thresholds in effect since 1994.

In addition, the Department has amended Item 3 to include pledges of assets as a type of transaction subject to Form D filing requirements consistent with Act 132.

Form E. Clarity and need for information.

A new Form E is being added to prescribe the form required under section 1403 of the act for providing notice of the potential competitive impact of a proposed merger or acquisition. Form E requires information relating to the competitive impact of the transaction on the insurance market in this Commonwealth. The form is consistent with the model form adopted by the NAIC. Harleysville requested clarification of terms used in Form E relating to the applicant and other persons involved in an acquisition or merger. In response to Harleysville's comments, the Department has revised Form E to clarify the terms and be consistent with terms used in Form A. Harleysville also requested clarification on the need for requiring the information in Item 3 relating to the nature and purpose of a proposed merger or acquisition. The Department needs a statement of the nature and purpose of a proposed merger or acquisition to gain a basic understanding of the proposed transaction, the resulting change in control and its impact on competition in any insurance market in this Commonwealth.

PAMIC commented that it may be difficult for small insurers to show market share statistics for certain lines of business. The direct written insurance premium data required in Form E filings are reported in annual statutory financial statements filed by insurers with the Department and the NAIC. The financial statements are public documents. Market share statistics also are available in annual statistical reports published by the Department and the NAIC.

Fiscal Impact

State Government

Department costs associated with the review of applications and statements filed under Chapter 25 will not increase as a result of this final-form rulemaking.

General Public

While this final-form rulemaking has no immediate fiscal impact on the general public, the general public will benefit to the extent that adoption of this final-form rulemaking enhances the efficiency and effectiveness of the Commonwealth's regulation of domestic insurers in insurance holding company systems under the act.

Political Subdivisions

This final-form rulemaking has no impact on costs to political subdivisions.

Private Sector

The updated reporting requirements in this final-form rulemaking will impose no significant costs on persons filing applications to merge with or acquire control of insurers transacting business in this Commonwealth or on domestic insurance companies in insurance holding company systems. This final-form rulemaking will reduce current costs imposed on regulated parties to the extent that it eliminates duplicative filing requirements.

Paperwork

Because this final-form rulemaking updates the chapter consistent with requirements already imposed and implemented under the 1994 and 2000 amendments to the act, this final-form rulemaking will impose no new paperwork requirements on domestic insurers or other persons subject to the act. This final-form rulemaking reduces paper-

work by eliminating duplicative filings relating to biographical information, reporting forms and notices of proposed material transactions. The disclosure and review requirements in this final-form rulemaking are necessary for the Department to evaluate whether proposed mergers, acquisitions and material transactions within an insurance holding company system are fair and reasonable and do not have an adverse impact on the interests of policyholders or the financial stability of a domestic insurer.

Persons Regulated

This final-form rulemaking applies to persons filing applications to merge with or acquire control of an insurer transacting business in this Commonwealth, domestic insurers (including health maintenance organizations and preferred provider organizations) in insurance holding company systems and other domestic insurers filing reports of dividends and other distributions with the Department.

Contact Person

Questions or comments regarding this final-form rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Office of Special Projects, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429. Questions or comments also may be e-mailed to psalvatore@state.pa.us or faxed to (717) 705-3873.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 5, 1999, the Department submitted a copy of the proposed rulemaking, published at 29 Pa.B. 5392, to IRRC and to the Chairpersons of the Senate Committee on Banking and Insurance and the House Insurance Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requests. The Department also provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation."

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on July 16, 2001, this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 26, 2001, and approved this final-form rulemaking.

Findings

The Commissioner finds that:

(1) Public notice of intention to adopt this rulemaking as amended by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of this final-form rulemaking in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

Order

The Commissioner, acting under the authorizing statutes, orders that:

(1) The regulations of the Department, 31 Pa. Code Chapter 25, are amended by amending §§ 25.1, 25.11—

25.23 and Forms A—D; adding Form E and deleting § 25.2 to read as set forth in Annex A.

(2) The Commissioner shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.

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

(4) This order shall take effect upon final publication in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

Fiscal Note: Fiscal Note 11-182 remains valid for the final adoption of the subject regulation.

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 31 Pa.B. 4503 (August 11, 2001).)

Annex A

TITLE 31. INSURANCE

PART I. GENERAL PROVISIONS

**Subpart B. SECURITIES AND STOCK
TRANSACTIONS**

**CHAPTER 25. RULES AND PROCEDURAL
REQUIREMENTS FOR INSURANCE HOLDING
COMPANY SYSTEMS**

§ 25.1. Definitions.

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

Act—The Insurance Company Law of 1921 (40 P. S. §§ 341—991.1718).

Commissioner—The Insurance Commissioner of the Commonwealth.

Corporation—A corporation organized under a law of the Commonwealth or under the laws of another state, or having an office or transacting business in this Commonwealth.

Department—The Insurance Department of the Commonwealth.

Executive officer—A chief executive officer, chief operating officer, chief financial officer, president, treasurer, secretary, controller and other individual performing functions corresponding to those performed by the foregoing officers under whatever title.

NAIC—The National Association of Insurance Commissioners.

Surplus—Total assets less total liabilities as calculated and reported in accordance with the annual statement instructions and accounting practices and procedures manual prescribed by the NAIC or as otherwise required by the Commissioner for annual financial statements filed with the Department.

Ultimate controlling person—A person which is not controlled by another person. An ultimate controlling person may be one or more of the following: individual, corporation, limited liability company, partnership, association, joint stock company, trust, unincorporated organization, or any similar entity or combination of the foregoing who controls another person.

(b) Unless the context otherwise requires, other terms found in this chapter are used as defined in Article XIV of the act (40 P. S. §§ 991.1401—991.1413).

§ 25.2. (Reserved).

§ 25.11. Expenses of experts and consultants.

(a) Under sections 1402(f)(3) and 1405(a)(4) of the act (40 P. S. §§ 991.1402(f)(3) and 991.1405(a)(4)), the Department may retain attorneys, actuaries, accountants and other experts not otherwise a part of the Department's staff as may be reasonably necessary to assist the Department in the evaluation of a filing under this chapter. The Department will provide the person filing with written notice of the engagement of an outside expert, including the expert's name, the terms of engagement and a cost estimate, and will consider any possible cost-saving alternatives suggested by the person filing.

(b) The cost of experts retained by the Department will be charged to and paid by the person filing the statements or a designee of the person acceptable to the Department.

(c) The Department will require hourly charges for experts retained by the Department be comparable to prevailing rates for the services.

(d) In addition to hourly charges, the Department will require that charges for travel, lodging and food expenses of experts retained by the Department be comparable to prevailing rates for similar services and made in accordance with provisions set forth in letters of engagement.

§ 25.12. Forms—general requirements.

(a) Forms A—E are intended to be guides in the preparation of the statements required by sections 1402—1405 of the act (40 P. S. §§ 991.1402—991.1405). They are not intended to be blank forms which are to be filled in. The forms filed shall contain the numbers and captions of all items, but the text of the items may be omitted if the answers are prepared in a manner that indicates clearly the scope and coverage of the items. Instructions, whether appearing under the items of the form or elsewhere therein, shall be omitted. Unless expressly provided otherwise, if an item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(b) Two copies of Forms A and E and one copy of Forms B—D, including exhibits and other papers and documents filed as a part thereof, shall be filed with the Commissioner by personal delivery, mail, facsimile or other form of electronic transmission acceptable to the Department. At least one copy shall be signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of a person is affixed under a power of attorney or other similar authority, a copy of the power of attorney or other authority shall also be filed with the form.

(c) One of the filed copies of Form A shall be available for public inspection as of the date the initial filing is made; except that copies of personal financial statements of nonpublicly held ultimate controlling persons shall be given confidential treatment. Form A filings also may contain or reference other materials that are confidential, proprietary or privileged under statute, regulation, case law, administrative or court order, or other authority. If a person filing a Form A wishes to assert that materials included or referenced within the filing are confidential, proprietary or privileged and should not be available for public inspection, the person shall notify the Department at the time the initial filing is made as follows:

(1) Identify the specific information, document, report or other material that is asserted to be confidential, proprietary or privileged.

(2) State the basis upon which the assertion of confidentiality, proprietary or privilege is premised.

(3) Identify the person to whom inquiries regarding the issue of confidential treatment should be directed.

(4) Submit one copy of the filing with the materials asserted to be confidential, proprietary or privileged physically separate from the remainder of the filing, or as otherwise instructed by the Department.

(d) Forms shall be prepared on 8 1/2" x 11" paper and preferably bound at the top or the top left-hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. Copies of forms, financial statements or exhibits shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so that they are clearly distinguishable on photocopies.

(e) Forms shall be completed in the English language and monetary values shall be stated in United States currency. If a financial statement, exhibit or other paper or document filed with the form is in a foreign language, it shall be accompanied by a translation into the English language and monetary value shown in a foreign currency normally shall be converted into United States currency utilizing the conversion rate in effect as of the financial statement date.

§ 25.13. Forms—incorporation by reference, summaries and omissions.

(a) Information required in Form A, B, D or E may be incorporated by reference as provided in this subsection if the incorporation would not make the information provided in the form incomplete, unclear or confusing. Information required by an item in Form A, B, D or E may be incorporated by reference in answer or partial answer to another item. Information contained in a financial statement, annual report, proxy statement, statement filed with a governmental authority or another document may be incorporated by reference in answer or partial answer to an item in Form A, B, D or E if the document or paper is filed as an exhibit to the form. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the Commissioner which were filed within the immediately preceding 3 years need not be attached as exhibits if there has been no change in the information already on file. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that the material is to be incorporated by reference in answer to the item.

(b) If an item requires a summary or outline of the provisions of a document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to the brief statement, the summary or outline may incorporate by reference particular parts of an exhibit or document currently on file with the Commissioner which was filed within the immediately preceding 3 years and may be qualified in its entirety by that reference. When two or more documents required to be filed as exhibits are substantially identical in all material respects, except as to the parties thereto, the dates of execution or other details, a copy of only one of the documents needs be filed with a schedule identifying the

omitted documents and setting forth the material details in which the omitted documents differ from the document which is filed.

§ 25.14. Forms—information unknown or unavailable and extension of time to furnish.

(a) Information required need be given only insofar as it is known or reasonably available to the person filing the form. If required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, subject to the following conditions. The person filing shall:

(1) Give information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof.

(2) Include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of an affiliation with the person within whose knowledge the information rests and stating the result of a request made to that person for the information.

(b) If it is impractical to furnish required information, document or report at the time it is required to be filed, there may be filed with the Commissioner a separate document:

(1) Identifying the information, document or report in question.

(2) Stating why the filing thereof at the time required is impractical.

(3) Requesting an extension of time for filing the information, document or report to a specified date. The request for extension shall be deemed granted unless the Commissioner within 30 days after receipt thereof denies the request.

§ 25.15. Forms—additional information and exhibits.

(a) In addition to the information expressly required to be included in Forms A—E, the person filing shall provide further material information, if any, as necessary for the completion or clarity of the information expressly required in the form. The person filing may also file exhibits as desired in addition to those expressly required by the form. The exhibits shall be marked to indicate clearly the subject matters to which they refer. The Commissioner may require the person filing the form to provide additional information as may be necessary to determine compliance with the act.

(b) Changes to Form A, B, C, D or E shall include on the top of the first page the phrase: "Change No. (insert number) to" and shall indicate the date of the change and not the date of the original filing.

§ 25.16. Acquisition of control—statement filings.

(a) A person required to file a statement under section 1402 of the act (40 P. S. § 991.1402) shall furnish the required information on Form A as prescribed by this chapter. If the information requirements in section 1403(c)(2) and the criteria in section 1403(d)(2) of the act (40 P. S. §§ 991.1403(c)(2) and 991.1403(d)(2)) (relating to the competitive impact of an acquisition in this Commonwealth) apply to a Form A filing, the person shall also furnish the required information on Form E as prescribed by this chapter.

(b) A person filing a request under section 1402(g) of the act for an exemption from section 1402 of the act is not required to file a form as prescribed by this chapter but shall provide information deemed by the Commissioner as necessary to determine that an offer, request, invitation, agreement or acquisition does either of the following:

(1) Has not been made or entered into for the purpose and will not have the effect of changing or influencing the control of a domestic insurer.

(2) Otherwise is not comprehended within the purposes of section 1402 of the act.

(c) A person required to file a preacquisition notification under section 1403(b) of the act for an acquisition not subject to a Form A filing under section 1402 of the act shall file Form E as prescribed by this chapter.

(d) Under section 1403(c)(2) of the act the Department may require material and information in addition to the information required by Form E as reasonably necessary to determine whether the proposed acquisition, if consummated, would exceed the competitive standard of section 1403(d) of the act. The additional information required may include an opinion of an economist as to the competitive impact in this Commonwealth of an acquisition that would exceed the competitive standard of section 1403(d) of the act. The opinion shall be obtained by the person filing the form and shall be accompanied by a summary of the economist's education and experience indicating the economist's ability to render an informed opinion.

(e) Under section 1402(d) of the act, a person shall file with the Department and send to the insurer an amendment disclosing a material change in the information furnished on Forms A and E within 2 business days after the person learns of the change. If the acquiring person is not an individual, a material change includes changes in directors, executive officers or owners of 10% or more of the voting securities of the acquiring person. In addition, the person shall file with the Department and send to the insurer within 5 business days an amendment disclosing a change other than a material change in the information furnished on Forms A and E arising after the date on which the form was filed but before a determination is made on the filing.

(f) If the person being acquired is deemed to be a "domestic insurer" under section 1402(a)(2) of the act, the name of the domestic insurer on the first page of Forms A and E shall be indicated as follows: "ABC Insurance Company, a subsidiary of XYZ Holding Company."

(g) If a person deemed to be a "domestic insurer" under section 1402(a)(2) of the act is being acquired, references to "the insurer" in Forms A and E shall refer to both the domestic subsidiary insurer and the person being acquired.

§ 25.17. Annual registration of insurers—statement filing.

(a) An insurer required to file an annual registration statement under section 1404 of the act (40 P. S. § 991.1404) shall furnish the required information on Form B as prescribed by this chapter.

(b) Under section 1404(a) of the act, an insurer shall file a Form B within 15 days after becoming subject to registration and annually thereafter by March 31 of each year. If the Commissioner approves a merger or acquisition of control, the domestic insurer being acquired shall

file a properly completed Form B within 15 days of the end of the month in which the merger or acquisition is consummated.

(c) An amendment to Form B shall be filed within 15 days after the end of a month in which there is a material change to the information provided in the annual registration statement, including changes in officers or directors listed in Item 4 of Form B. An amendment to Form B is not required if a material change has been reported as a dividend, other distribution to shareholders, or other transaction under §§ 25.21 and 25.22 (relating to transactions subject to prior notice—notice filing; and all dividends and other distributions), and there has been no change in the reported information.

(d) Amendments shall be filed in the Form B format with only items which are being amended reported. Each amendment shall include at the top of the first page "Amendment No. (insert number) to Form B for (insert year of most recent filing)" and shall indicate the date of the amendment and not the date of the original filing.

§ 25.18. Summary of registration—statement filing.

An annual registration statement filed under section 1404 of the act (40 P. S. § 991.1404) shall include the information required on Form C as prescribed by this chapter. A copy of Form C shall be filed in any jurisdiction in which an insurer is authorized to do business, if requested by the chief insurance regulatory official of the jurisdiction.

§ 25.19. Alternative and consolidated registrations.

(a) Under section 1404(i) of the act (40 P. S. § 991.1404(i)) an insurer authorized to do business in this Commonwealth may file a registration statement on behalf of an affiliated insurer which is required to register under section 1404 of the act. A registration statement may include information regarding an insurer in the insurance holding company system even if the insurer is not authorized to do business in this Commonwealth. In lieu of filing a registration statement on Form B, an insurer authorized to do business in this Commonwealth may file a copy of the registration statement or similar report which it is required to file in its state of domicile, if:

(1) The statement or report contains substantially similar information required to be furnished on Form B.

(2) The filing insurer is the principal insurance company in the insurance holding company system.

(b) The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact. An insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer shall set forth a brief statement of facts to substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

(c) With the prior approval of the Commissioner, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under subsection (a).

(d) An insurer may take advantage of the provisions of section 1404(h) or (i) of the act without obtaining the prior approval of the Commissioner. The Commissioner reserves the right to require individual filings if the Commissioner deems that the filings are necessary in the interest of clarity, ease of administration or the public good.

§ 25.20. Disclaimers and termination of registration.

(a) A disclaimer of affiliation or a request for termination of registration under section 1404(g) and (k) of the act (40 P. S. § 991.1404(g) and (k)) claiming that a person does not, or will not upon the taking of some proposed action, control another person, referred to as the "subject," within this chapter, shall contain the following information:

(1) The number of authorized, issued and outstanding voting securities of the subject.

(2) With respect to the person whose control is denied and the affiliates of that person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of the shares concerning which there is a right to acquire, directly or indirectly.

(3) The material relationships and bases for affiliation between the subject and the person whose control is denied and the affiliates of that person.

(4) A statement explaining why the person should not be considered to control the subject.

(b) A request for termination of registration shall be deemed to have been granted unless the Department, within 30 days after receipt of the request, notifies the registrant otherwise.

§ 25.21. Transactions subject to prior notice—notice filing.

(a) An insurer required to give notice of a proposed transaction under section 1405(a)(2) of the act (40 P. S. § 991.1405(a)(2)) shall furnish the required information on Form D as prescribed by this chapter.

(b) The insurer shall file an amendment to Form B reporting changes in the information furnished on Form D, including a change in the effective date of the transaction, within 15 days after the end of a month in which the transaction is effectuated.

(c) An insurer may not enter into a proposed transaction if a material change occurs in the information furnished on Form D unless the insurer has filed an amended Form D with the Department at least 30 days prior to entering into the transaction, or a shorter period the Department may permit, and the Department has not disapproved the amended transaction within that time period.

§ 25.22. All dividends and other distributions.

(a) Under section 1404(e) of the act (40 P. S. § 991.1404(e)) a registered insurer is required to report to the Department all dividends and other distributions to shareholders within 5 business days following the declaration thereof and at least 10 days, commencing from the date of receipt by the Department, prior to payment thereof. The report shall include the information set forth in section 1404(e) of the act and subsection (c)(1)—(5). The information set forth in subsection (c)(5) is not required for dividends other than dividends reported under section 1405(b) of the act (40 P. S. § 991.1405(b)) and dividends and other distributions filed under section 337.8 of the act (40 P. S. § 459.8).

(b) Under section 337.8 of the act a domestic insurance company, association or exchange may pay dividends and other distributions to shareholders only out of unassigned funds as defined in section 337.8(e) of the act or upon approval of the Commissioner. Information filed with the

Commissioner under section 337.8 of the act shall include the information set forth in subsection (c)(1)—(5).

(c) Requests for approval of extraordinary dividends or another extraordinary distribution to shareholders under section 1405(b) of the act shall include the following:

(1) The amount of the proposed dividend or other distribution.

(2) The date established for payment of the dividend or other distribution.

(3) A statement as to whether the dividend or other distribution is to be in cash or other property and, if in property, a description thereof, its cost and its fair market value together with an explanation of the basis for valuation.

(4) A copy of the calculations determining that the proposed dividend or other distribution is or is not extraordinary. The work paper shall include the following information with respect to the domestic insurer:

(i) The amounts, dates and form of payment of all dividends and other distributions made within the previous 12 consecutive months ending on the date fixed for payment of the proposed dividend and commencing on the day after the same day of the same month in the last preceding year.

(ii) Surplus, total capital and surplus, as of the 31st day of December next preceding.

(iii) The net income for the 12-month period ending the 31st of December next preceding.

(5) A balance sheet and statement of income for the period intervening from the last annual statement filed with the Commissioner and the end of the month preceding the month in which the request for dividend or other distribution approval is submitted.

(6) A statement demonstrating the transaction's compliance with section 1405(d) of the act by describing the effect of the proposed dividend or other distribution upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

(d) Reports of dividends and other distributions under this section shall include on the top of the first page the phrase: "Notice of Dividend or Other Distribution" and the name of the insurer.

(e) The insurer shall report changes in information furnished under subsection (c) within 15 days after the end of a month in which the dividend or other distribution is paid. If the dividend or other distribution is required to be reported on Form B, the insurer shall report the changes as an amendment to Form B. If the dividend or other distribution is not subject to a Form B filing, the report of changes shall state on the top of the first page the phrase: "Change No. (insert number) to," and shall include the date of the change, date of declaration, amount paid, payment date, form of payment and the nature of and reason for the change.

(f) An insurer may not pay a dividend or other distribution under sections 337.8 or 1405(b) of the act (40 P. S. §§ 459.8 and 991.1405(b)) if a material change occurs in the information reported under this section unless the insurer has filed an amended report with the Department at least 30 days prior to paying the dividend or other distribution, or a shorter period the Department may permit, and the Department has not disapproved the amended report within that time period.

§ 25.23. Adequacy of surplus.

The factors in section 1405(d) of the act (40 P.S. § 991.1405(d)) to be considered in determining whether an insurer's surplus is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus, no single factor is necessarily controlling. The Commissioner will consider the net effect of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the Commissioner will consider the extent to which each of these factors varies from company to company. In determining the quality and liquidity of investments in subsidiaries, the Commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

FORM A

**STATEMENT REGARDING THE ACQUISITION OF
CONTROL OF OR MERGER WITH A DOMESTIC
INSURER**

(Name of Domestic Insurer)

BY: (Name of Acquiring Person (Applicant))

Filed with the Insurance Department of the Commonwealth of Pennsylvania

Dated:

Name, title, address and telephone number of individual to whom notices and correspondence concerning this form should be addressed:

Item 1. Insurer and Method of Acquisition

State the name, NAIC code number and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

Item 2. Identity and Background of the Applicant

A. State the name and address of the applicant seeking to acquire control over the insurer.

B. If the applicant is not an individual, state the nature of its business operations for the past five (5) years or for such lesser period as the person and any predecessors thereof shall have been in existence. Briefly describe the business intended to be done by the applicant and the applicant's subsidiaries.

C. Furnish a chart or listing clearly presenting the identities and the interrelationships among the applicant and all affiliates of the applicant. No affiliate need be identified if its total assets are equal to less than 1/2 of 1% of the total assets of an ultimate controlling person affiliated with the applicant. Indicate in the chart or listing the percentage of voting securities of each person which is owned or controlled by the applicant or by any other person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of control. As to each person specified in the chart or listing indicate the type of organization (e.g. corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

Item 3. Identity and Background of Individuals Associated with the Applicant

Furnish a biographical affidavit for (1) the applicant if the applicant is an individual or (2) all persons who are

directors, executive officers or owners of 10% or more of the voting securities of the applicant if the applicant is not an individual. Biographical affidavits filed with the Department within the immediately preceding 3 years need not be included if there has been no change in the information already on file.

Biographical affidavits shall be signed in the original and shall include the following:

A. Name and business address.

B. Present principal business activity, occupation or employment including position and office held and the name, principal business and address of any corporation or other organization in which employment is carried on.

C. Material occupations, positions, offices or employment during the last five (5) years, giving the starting and ending date of each and the name, principal business and address of any business corporation or other organization in which each occupation, position, office or employment was carried on. If any occupation, position, office or employment required licensing by or registration with any Federal, state or municipal governmental agency, indicate that fact, the current status of the licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith.

D. Whether or not the person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last ten (10) years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

The Department will accept copies of original, signed biographical affidavits filed with the chief insurance regulatory official of another jurisdiction if the following conditions are met:

(1) The identity of the chief insurance regulatory official holding the original affidavit and the date of the original filing are provided in this statement.

(2) The original affidavit was filed within the immediately preceding three years.

(3) There has been no change in the information required in the affidavit.

Item 4. Nature, Source and Amount of Consideration

A. Describe the nature, source and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower, and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes and security arrangements relating thereto.

B. Explain the criteria used in determining the nature and amount of the consideration.

C. If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, the applicant must specifically request that the identity be kept confidential.

Item 5. Future Plans of Insurer

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate the insurer, to sell its assets to or merge it with any

person or persons or to make any other material change in its business operations or corporate structure or management.

Item 6. Voting Securities to be Acquired

State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

Item 7. Ownership of Voting Securities

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates or any person listed in Item 3.

Item 8. Contracts, Arrangements, or Understandings with Respect to Voting Securities of the Insurer

Give a full description of any contracts, arrangements or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any person listed in Item 3 is involved, including, but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description shall identify the person with whom such contracts, arrangements or understandings have been entered into.

Item 9. Recent Purchases of Voting Securities

Describe any purchases of any voting securities of the insurer by the applicant, its affiliates or any person listed in Item 3 during the twelve (12) calendar months preceding the filing of this statement.

Include in the description the dates of purchase, the name of the purchasers, and the consideration paid or agreed to be paid therefor.

State whether any shares so purchased are hypothecated.

Item 10. Recent Recommendations to Purchase

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates or any person listed in Item 3 during the twelve (12) calendar months preceding the filing of this statement.

Item 11. Agreements with Broker-Dealers

Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

Item 12. Financial Statements and Exhibits

A. Financial statements and exhibits shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

B. The financial statements shall include the annual financial statements of the persons identified in Item 2(c) for the preceding five (5) fiscal years (or for such lesser period as the applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of the person's last fiscal year, if that information is available.

Statements may be prepared on either an individual basis, or, unless the Commissioner otherwise requires, on a consolidated basis if consolidated statements are prepared in the usual course of business.

The annual financial statements of the applicant shall be accompanied by the certificate of an independent public accountant to the effect that the statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the Annual Statement of that person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of that state.

C. If the acquiring person is an individual, the Department may require the filing of Federal income tax returns in lieu of audited financial statements. Any returns filed shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the Department or any other person.

D. File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto, any proposed employment, consultation, advisory or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by this chapter.

Item 13. Signature and Certification

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of Section 1402 of the act _____ has caused this application to be duly signed on its behalf in the City of _____ and State of _____ on the ____ day of _____, ____.

(SEAL)

Name of Applicant

BY (Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached application dated _____, _____, for and on behalf of _____ (Name of Applicant); that (s)he is the _____ (Title of Officer) _____ of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name beneath)

FORM B

INSURANCE HOLDING COMPANY SYSTEM ANNUAL REGISTRATION STATEMENT

Filed with the Insurance Department of the Commonwealth of Pennsylvania by (Name of Registrant) on behalf of the following insurance companies:

Name Address
 NAIC Code Number State of Domicile
 Date: _____, _____

Name, title, address and telephone number of individual to whom notices and correspondence concerning this statement should be addressed:

Item 1. Identity and Control of Registrant

Furnish the exact name of each insurer registering or being registered (hereinafter called "the Registrant"), the home office address and principal executive offices of each; the date on which each Registrant became part of the insurance holding company system; and the method(s) by which control of each Registrant was acquired and is maintained.

Item 2. Organizational Chart

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. No affiliate need be shown if its total assets are equal to less than 1/2 of 1% of the total assets of an ultimate controlling person within the insurance holding company system unless it has assets valued at or exceeding \$5,000,000. The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate.

If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in the chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

Item 3. Ultimate Controlling Person

As to an ultimate controlling person in the insurance holding company system furnish the following information:

- A. Name.
- B. Home office address.
- C. Principal executive office address.
- D. The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.
- E. The principal business of the person.
- F. The name and address of any person who holds or owns 10% or more of any class of voting security, the class of the security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned.
- G. If court proceedings involving a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings and the date when commenced.

Item 4. Biographical Information

Furnish the following information for the directors and executive officers of an ultimate controlling person in the form of biographical affidavits signed in the original: the individual's name and address, his or her principal

occupation and all offices and positions held during the past five (5) years, and any conviction of crimes other than minor traffic violations during the past ten years. Biographical affidavits filed with the Department within the immediately preceding 3 years need not be included if there has been no change in the information already on file. The Department will accept copies of original, signed biographical affidavits filed with the chief insurance regulatory official of another jurisdiction if the following conditions are met:

- (1) The identity of the chief insurance regulatory official holding the original affidavit and the date of the original filing are provided in this statement.
- (2) The original affidavit was filed within the immediately preceding 3 years.
- (3) There has been no change in the information required in the affidavit.

Item 5. Transactions and Agreements

Briefly describe the following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year, including extraordinary dividends and other material transactions reported under §§ 25.21 and 25.22 of this chapter, between the Registrant and its affiliates:

- A. Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;
- B. Purchases, sales or exchanges of assets;
- C. Transactions not in the ordinary course of business, including contributions of assets to Registrant;
- D. Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the Registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the Registrant's business;
- E. All management agreements, service contracts and all cost-sharing arrangements;
- F. Reinsurance agreements;
- G. Dividends and other distributions to shareholders;
- H. Consolidated tax allocation agreements; and
- I. Any pledge of the Registrant's stock and/or of the stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.

Sales, purchases, exchanges, loans or extensions of credit, investments or guarantees involving one-half of 1% or less of the Registrant's admitted assets as of the 31st day of December next preceding shall not be deemed material and need not be disclosed.

The description shall be in a manner as to permit the proper evaluation thereof by the Commissioner, and shall include at least the following: the effective date, nature and purpose of the transaction, the nature and amounts of any payments or transfers of assets between the parties, the identity of all parties to the transaction, and relationship of the affiliated parties to the Registrant.

Item 6. Litigation or Administrative Proceedings

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which an ultimate controlling person or any of its directors or executive officers was a party or of which the property of

an ultimate controlling person or any of its directors or executive officers is or was the subject; give the names of the parties and the court or agency in which the litigation or proceeding is or was pending:

A. Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and

B. Proceedings which may have a material effect upon the solvency or capital structure of an ultimate controlling person including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.

Item 7. Statement Regarding Plan or Series of Transactions

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

Item 8. Financial Statements and Exhibits

A. Financial statements and exhibits should be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

B. The financial statements shall include the annual financial statements of any ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year. Financial statements are required for an ultimate controlling person who is an individual as well as for a corporation or other type of business organization.

If a holding company system includes more than one ultimate controlling person, annual financial statements are required for each ultimate controlling person unless the Commissioner, in the Commissioner's discretion, finds that annual financial statements for one or more of the ultimate controlling persons are not necessary to carry out the act.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent that information is available. Financial statements may be prepared on either an individual basis, or unless the Commissioner otherwise requires, on a consolidated basis if the consolidated statements are prepared in the usual course of business.

Unless the Commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that the statements present fairly the financial position of an ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If an ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of the insurer filed with the chief insurance regulatory official of the insurer's domiciliary jurisdiction and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of that jurisdic-

tion. Any ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the *Personal Financial Statements Guide* by the American Institute of Certified Public Accountants. Personal financial statements shall be accompanied by the independent public accountant's Standard Review Report stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for the statements to be in conformity with generally accepted accounting principles.

C. Exhibits shall include copies of the latest annual reports to shareholders of an ultimate controlling person and proxy material used by an ultimate controlling person; and any additional documents or papers required by this chapter.

Item 9. Form C Required

A Form C, Summary of Registration Statement, must be prepared and filed with this Form B.

Item 10. Signature and Certification

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of Section 1404 of the act, the Registrant has caused this annual registration statement to be duly signed on its behalf in the City of _____ and State of _____ on the ____ day of _____, ____.

(SEAL)

Name of Registrant

BY (Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached annual registration statement dated ____, ____, for and on behalf of _____ (Name of Company) ____; that (s)he is the ____ (Title of Officer) _____ of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name beneath)

FORM C

SUMMARY OF REGISTRATION STATEMENT

Filed with the Insurance Department of the Commonwealth of Pennsylvania by (Name of Registrant) on behalf of the following insurance companies:

Name Address

NAIC Code Number State of Domicile

Date: ____, ____

Name, title, address and telephone number of individual to whom notices and correspondence concerning this statement should be addressed:

Furnish a brief description, including a reference to any amendments filed in the intervening year, of all items in the current annual registration statement which represent changes from the prior year's annual registration statement. The description shall include the date and dollar amount of each change, identify any previous filings as a result of the change by amendment number or by type and date of filing, be in a manner as to permit the proper evaluation thereof by the Commissioner, and shall include specific references to Item numbers in the annual registration statement and to the terms contained therein.

Changes occurring under Item 2 of Form B, insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included where the changes are ones which result in ownership or holdings of ten (10) percent or more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

Changes occurring under Item 4 of Form B need only be included where: an individual is, for the first time, made a director or executive officer of an ultimate controlling person; a director or executive officer terminates his or her responsibilities with an ultimate controlling person; or in the event an individual is named president of an ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, the nature of the change shall be included.

If a transaction disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose it is to avoid statutory threshold amounts and the review that might otherwise occur.

SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of Section 1404 of the act, the Registrant has caused this summary of registration statement to be duly signed on its behalf in the City of _____ and State of _____ on the ____ day of _____, ____.

(SEAL)

Name of Registrant

By _____ (Name) _____ (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached summary of registration statement dated _____, _____, for and on behalf of _____ (Name of Company) _____; that (s)he is the _____ (Title of Officer) _____ of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof,

and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name beneath)

FORM D

PRIOR NOTICE OF A TRANSACTION

Filed with the Insurance Department of the Commonwealth of Pennsylvania by (Name of Registrant) on behalf of the following insurance companies:

Name Address

NAIC Code Number State of Domicile

Date: _____, _____

Name, title, address and telephone number of individual to whom notices and correspondence concerning this statement should be addressed:

Item 1. Identity of Parties to Transaction

Furnish the following information for each of the parties to the transaction:

- A. Name.
B. Home office address.
C. Principal executive office address.
D. The organizational structure, i.e. corporation, partnership, individual, trust, etc.
E. A description of the nature of the parties' business operations.
F. Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties.

G. If the transaction is with a non-affiliate, the name(s) of the affiliate(s) which will receive, in whole or in substantial part, the proceeds of the transaction.

Item 2. Description of the Transaction

Furnish the following information for each transaction for which notice is being given:

- A. A statement as to whether notice is being given under Section 1405(a)(2)(i), (ii), (iii), or (iv) of the act.
B. A description of the nature and purpose of the transaction, including the anticipated immediate and long-term effect of the transaction on the financial condition of the insurer.
C. The proposed effective date of the transaction.

Item 3. Sales, Purchases, Exchanges, Loans, Extensions of Credit, Guarantees, Investments, Pledges of Assets or Contributions to Surplus

Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, investment, or pledge of assets, including assets to be received by the domestic insurer as a contribution to its surplus; whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice; a description of the terms of any securities being received, if any; and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and the like. If the transaction involves other than cash, furnish a description of the

consideration, its cost and its fair market value, together with an explanation and supporting documentation of the basis for valuation.

If the transaction involves a loan, extension of credit or a guarantee, furnish a description of the maximum amount which the insurer will be obligated to make available under the loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee or other arrangement, state the time period during which the investment, guarantee or other arrangement will remain in effect, together with any provisions for extensions or renewals of the investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus and the insurer's accounting treatment.

No notice need be given if the maximum amount which can at any time be outstanding or for which the insurer can be legally obligated under the loan, extension of credit or guarantee is less than 5% of the insurer's admitted assets or 25% of its surplus as of the 31st day of December next preceding.

Item 4. Loans or Extensions of Credit to a Non-Affiliate

If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making the loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of or make investments in any affiliate. Describe the amount and source of funds, securities, property or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of and supporting documentation for the basis of valuation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the loan or extension of credit is one which equals less than 5% of the insurer's admitted assets or 25% of its surplus as of the 31st day of December next preceding.

Item 5. Reinsurance

If the transaction is a reinsurance agreement or modification thereto, as described by Section 1405(a)(2)(iii) of the act, furnish a description of the known and/or estimated amount of liability to be ceded and/or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and non-affiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modifications thereto if the reinsurance premium is less than 5% of the insurer's surplus as of the 31st day of December next preceding; or the change in the insurer's liabilities or any transfer of assets required to fund the

transaction equals or exceeds 25% of the insurer's surplus as of the 31st day of December next preceding, including those agreements which may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of the assets will be transferred to one or more affiliates of the insurer.

Item 6. Signature and Certification

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of Section 1405 of the act, _____ has caused this notice to be duly signed on its behalf in the City of _____ and State of _____ on the ____ day of _____, ____.

(SEAL)

Name of Applicant

By _____ (Name) _____ (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached notice dated _____, _____, for and on behalf of _____ (Name of Applicant) _____; that (s)he is the _____ (Title of Officer) _____ of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name beneath)

FORM E

PRE-ACQUISITION NOTIFICATION STATEMENT OF THE POTENTIAL COMPETITIVE IMPACT OF A PROPOSED MERGER OR ACQUISITION

(Name of Insurer)

BY: (Name of Acquiring Persons)

Filed with the Insurance Department of the Commonwealth of Pennsylvania

Date:

Name, title, address and telephone number of person completing this statement:

Item 1. Name and Address

State the names and addresses of acquiring persons.

Item 2. Name and Addresses of Affiliated Persons

State the names and addresses of the persons affiliated with those listed in Item 1. Describe their affiliations.

Item 3. Nature and Purpose of Proposed Merger or Acquisition

State the nature and purpose of the proposed merger or acquisition.

Item 4. Nature of Business

State the nature of the business performed by each of the persons identified in response to Item 1 and Item 2.

Item 5. Market and Market Share

State specifically what market and market share the persons identified in Item 1 and Item 2 currently enjoy in this Commonwealth in each insurance market which, under section 1403(b)(2)(v) of the act (40 P. S. § 1403(b)(2)(v)), causes the proposed merger or acquisition not to be exempted from Article XIV of the act. Provide historical market and market share data for each person identified in Item 1 and Item 2 for the past 5 years, or for the number of years the person and any predecessors thereof have been transacting business if less than 5 years, and identify the source of the data.

For purposes of this item, market means direct written insurance premium in this Commonwealth for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this Commonwealth.

Item 6. Signature and Certification

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of Section 1402 of the act _____ has caused this application to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, _____.

(SEAL)

Name of Applicant

BY (Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached application dated _____, _____, for and on behalf of _____ (Name of Applicant) _____; that (s)he is the _____ (Title of Officer) _____ of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name beneath)

[Pa.B. Doc. No. 01-1455. Filed for public inspection August 10, 2001, 9:00 a.m.]

[31 PA. CODE CH. 116]

Discounting Workers' Compensation Loss Reserves

The Insurance Department (Department) hereby amends Chapter 116 (relating to discounting of worker's compensation loss reserves) to read as set forth in Annex A.

Statutory Authority

The final-form amendments are adopted under the authority of The Insurance Company Law of 1921 (law) (40 P. S. §§ 341—999); The Insurance Department Act of 1921 (act) (40 P. S. §§ 1—321); and sections 206, 506,

1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412).

Comments and Response

Notice of proposed rulemaking was published at 29 Pa.B. 4353 (August 14, 1999) with a 30-day comment period. During the 30-day comment period, comments were received from the Pennsylvania AFL-CIO (PA AFL-CIO) and the Insurance Federation of Pennsylvania, Inc. (IFP). During its regulatory review, the Independent Regulatory Review Commission (IRRC) submitted comments to the Department. The following is a response to those comments.

The PA AFL-CIO stated that there would be an adverse fiscal impact as a result of the proposed amendments. Specifically, they believe that the rate at which Workers' Compensation Loss Reserves are discounted will have a direct and significant impact on the cost of workers' compensation insurance to employers and significantly impact the revenue of insurers.

The Department believes that the final-form amendments will have a positive impact on workers compensation insurers' financial solvency and help to keep rates stable. The final-form amendments allow workers compensation insurers to discount loss reserves according to the current yield to maturity on United States Treasury debt instruments. The interest rate of United States Treasury debt instruments is an indicator of prevailing economic and financial conditions. In general, interest rates on United States Treasury debt instruments rise in unfavorable economic conditions. This would increase the amount an insurer can discount its loss reserves, requiring less capital to fund those reserves, and making a rate increase less likely. Interest rates on United States Treasury debt instruments generally fall in favorable economic conditions. While the discount rate could also fall under these circumstances, the impact on rates should be slight because of insurers' ability to earn a greater return on their investments. While it is theoretically possible that changes in the discount rate could adversely affect insurance companies in marginal financial condition, this risk is mitigated by the fact that only insurance companies with sufficient assets to fund the discounting are permitted to do so. See 40 P. S. § 112.

The PA AFL-CIO also had a concern that § 116.2 (relating to reporting and data collection requirements) eliminates the insurer's responsibility to simultaneously file "... an annual certification of its Workers' Compensation Loss Reserves with the Department simultaneously with the filing of the company's annual statement." They believe that this change impedes the ability of the Department to meet its legal responsibility.

The Department does not believe that eliminating the requirement of an actuarial certification will impede its ability to meet its legal responsibilities. The Department eliminated the requirement because it is duplicative of the actuarial statement of opinion required by § 116.5 (relating to actuarial statement of opinion) and by the Annual Statement Instructions of the National Association of Insurance Commissioners (NAIC). Section 320(a)(2) of the law (40 P. S. § 443(a)(2)) requires insurance companies to adhere to those instructions. Since insurance companies are already required to submit an actuarial statement of opinion, the Department sees no point in requiring a separate actuarial certification. In addition, the requirements of existing § 116.2 are preserved as part of § 116.5. Section 116.5 has been revised to require that the actuarial opinions required as part of

the § 116.2 actuarial certification are included in the § 116.5 actuarial statement of opinion. For the same reasons, the § 116.2 requirement that insurers provide notice of their intent to maintain data regarding workers compensation loss payment patterns has been eliminated as duplicative. Insurers are required to maintain actuarial work papers containing this type of information by the annual and quarterly statement instructions prescribed by NAIC.

PA AFL-CIO also expressed concerns with § 116.3 (relating to table), specifically the rate at which loss reserves can be discounted. They believe that "... the current yield to maturity on a U. S. Treasury debt instrument with maturities consistent with the expected pay out of the liabilities..." is vague because the term "current" varies from moment to moment and day to day. PA AFL-CIO also believes that United States Treasury debt instruments are too many in number, citing T-Bills, T-Bonds, Fannie Mae, Ginnie Mae or other United States Treasury debt instruments. They believe that all these United States Treasury debt instruments could rise above the existing 6% ceiling. IFP also wanted the Department to clarify the date on which the "current yield" in § 116.4 (relating to restrictions on discounting loss reserves) is determined. IFP believes that this is the date that the actuarial statement of opinion in § 116.5 is filed. IRRC during its review also stated that the term "current yield" was vague and questioned why it is reasonable to permit the use of a broad range of debt instruments, rather than specific debt instruments.

The Department understands the confusion and the following should clarify its intent. The only instruments which can be considered "U. S. Treasury debt instruments" are Treasury Bills, Treasury Notes and Treasury Bonds. These instruments raise the money needed to operate the Federal government and to pay off maturing obligation. The other types of instruments mentioned by PA AFL-CIO, Ginnie Maes and Fannie Maes, are not United States Treasury debt instruments. These instruments, usually based on portfolios of mortgages, are issued by quasigovernmental agencies, not the United States Treasury. The Department recognizes PA AFL-CIO's concern that the interest rates on United States Treasury debt instruments could exceed the existing 6% ceiling. While this could be the case, the Department decided against a fixed ceiling to allow insurers added flexibility to adapt to changing economic and financial conditions.

The Department does not believe that the term "current yield to maturity" is vague. While the current yield of United States Treasury debt instruments does fluctuate from day to day, workers' compensation loss reserves are reported for a date certain. Insurers file their annual statements on March 1 for the preceding year. When an insurer is preparing its annual statements, the insurer knows the "current yield to maturity" of the United States Treasury debt instruments it was holding as of December 31st of the preceding year. Therefore, the "current yield to maturity" is known at the time that discounting is reported.

In addition, PA AFL-CIO believed that § 116.5 downgrades the type of actuarial statement that must accompany the filings and that it is a move away from accountability. PA AFL-CIO stated that the actuarial certification should be retained rather than substituting "... a statement of opinion..." PA AFL-CIO believes that if this move is being done to avoid duplication, and does not appear valid if certified statements are already

required, the current requirement is easily complied with. They stated that "if this is to cover different time periods and that is the rationale, the Insurance Department is lowering its standards at risk to the employers and the workers."

The Department believes that the § 116.2 requirement of a separate actuarial certification is redundant because insurance companies are currently required to file an actuarial statement of opinion with their annual statements by the annual statement instructions of NAIC. The requirement of a separate certification was eliminated to avoid unnecessary duplication. To ensure that there was no downgrading of the type of actuarial statement required, § 116.5 was revised to require that the actuarial opinions currently required as part of the § 116.2 actuarial certification are included in the § 116.5 actuarial statement of opinion.

IFP stated that the amendments should clarify that its application is prospective only because much business has already been reserved at the 6% interest rate cap currently allowed in § 116.4. IFP stated that insurers would have to recalculate loss reserves for business already issued, which translates into the premiums already charged and collected for that business as being inadequate. IRRC agreed with IFP and asked that the Department state the effective date for compliance with the new requirements and if it will be applied to existing reserves, then the Department should also explain the effect, if any, the adoption of this rulemaking will have on existing reserves.

Existing workers compensation business which has been discounted at the 6% rate should not be impacted by the amendment of the section. In order for discounting to occur, the investment yield on an insurance company's business must be sufficient to support the discount. If the discount is supported by a portfolio of United States Treasury debt instruments with a current yield to maturity of 6%, then the discount would be allowed to continue. For new business, any discounting must be supported by United States Treasury debt instruments available in the marketplace.

IRRC also expressed concerns about § 116.9 (relating to suspension of use of the table). This section as proposed would allow the Commissioner to suspend this chapter "upon the publication of reasonable notice." IRRC questioned whether the Commissioner had that statutory authority. IRRC noted that the Commissioner does have the authority under section 316 of the act (40 P. S. § 115) to require an individual insurer to maintain greater reserves if that insurer's current reserves are inadequate. IRRC's other concern was that if the Department had the statutory authority to suspend the chapter, then the Department needed to define "reasonable notice."

The Department agrees that under section 316 of the act, the Commissioner may require any individual insurer to maintain greater reserves. Upon consideration of the comments of IRRC, the Department believes that its statutory authority under section 315 of the act is sufficient to allow Department oversight of the loss reserves of workers compensation insurers. The final-form amendments delete § 116.9.

Subsequent to the comment period, and after the final-form amendments had been submitted to IRRC and the Committees, IFP submitted an additional comment concerning retroactive application of the amendments. After considering IFP's comment, the Department with-

drew the final-form amendments from Committee and IRRC consideration to make clarifications to the rule-making.

A new § 116.4(4) has been added to permit insurers that have sufficient assets the ability to discount at the previously allowed 6% maximum discount using the factors previously allowed for accident years 2001 and prior, and pertaining to policies issued on or before the effective date of the amendments. This will be allowed as long as the insurers can demonstrate that they hold sufficient assets to support the 6% interest rate assumption.

Affected Parties

The final-form amendments apply to insurance companies doing the business of workers' compensation insurance in this Commonwealth.

Fiscal Impact

State Government

There will be no increase in cost to the Department due to the amendment of Chapter 116.

General Public

There will be no fiscal impact to the public.

Political Subdivisions

The final-form amendments will not impose additional costs on political subdivisions.

Private Sector

The final-form amendments will not impose additional costs on insurance companies doing the business of workers' compensation insurance in this Commonwealth.

Paperwork

The adoption of the final-form amendments will not impose additional paperwork on the Department or the insurance industry.

Effectiveness/Sunset Date

These final-form amendments become effective upon publication in the *Pennsylvania Bulletin*. No sunset date has been assigned.

Contact person

Any questions regarding these amendments should be directed to Peter J. Salvatore, Regulatory Coordinator, Special Projects Office, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429. In addition, questions or comments may be e-mailed to psalvatore@state.pa.us or faxed to (717) 772-1969.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 3, 1999, the Department submitted a copy of the notice of proposed rulemaking, published at 29 Pa.B. 4353, to IRRC and to the Chairpersons of the Senate Committee on Banking and Insurance and the House Committee on Insurance for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period. A copy of that material is available to the public upon request.

Under section 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5a(d)), on July 5, 2001, these final-form amendments were deemed approved by the Senate and House Committees. Under section 5.1(e) of the Regulatory

Review Act, IRRC met on July 12, 2001, and approved these final-form amendments.

Findings

The Department finds that:

(1) Public notice of intention to adopt these final-form amendments as amended by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of these final-form amendments in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

Order

The Department, acting under the authorizing statutes, orders that:

(1) The regulations of the Department, 31 Pa. Code Chapter 116, are amended by amending §§ 116.4—116.6 and 116.8; and by deleting §§ 116.2, 116.3, 116.7 and 116.9, to read as set forth in Annex A.

(2) The Commissioner shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.

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

(4) The amendments adopted by this order shall take effect upon final publication in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

Fiscal Note: Fiscal Note 11-186 remains valid for the final adoption of the subject regulations.

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 31 Pa.B. 4136 (July 28, 2001).)

Annex A

TITLE 31. INSURANCE

PART VII. PROPERTY, FIRE AND CASUALTY INSURANCE

CHAPTER 116. DISCOUNTING OF WORKER'S COMPENSATION LOSS RESERVES

§ 116.2. (Reserved).

§ 116.3. (Reserved).

§ 116.4. **Restrictions on discounting loss reserves.**

The discounting of workers' compensation loss reserves is subject to the following limitations:

(1) The loss reserves on the insurance company's annual statement calculated under this section may not be less than those required in section 313 of The Insurance Department Act of 1921 (40 P. S. § 112).

(2) Unless otherwise permitted by paragraphs (3) and (4), an insurance company is not permitted to assume an interest rate greater than the current yield to maturity on a United States Treasury debt instrument with maturities consistent with the expected payout of the liabilities.

(3) An insurance company may request an exception to the maximum interest rate in paragraph (2) if the

insurance company can demonstrate to the satisfaction of the Commissioner that its investment yield justifies a higher interest rate assumption. The Commissioner may require the insurance company to submit additional documentation to support its request for approval of a higher interest rate assumption. The Commissioner will act upon requests for exceptions made under this paragraph within 90 days of the date the request is received by the Department.

(4) Insurers having used the previous allowed maximum discount of 6% may continue to use the discount factors previously allowed for accident years 2001 and prior, pertaining to policies issued on or prior to August 11, 2001, as long as they continue to demonstrate that they hold sufficient assets to support the 6% interest rate assumption.

§ 116.5. Actuarial statement of opinion.

(a) The actuarial statement of opinion required to be submitted with the annual statement shall include the opinion of an actuary with respect to the following:

(1) The adequacy of workers compensation loss reserves on an undiscounted basis.

(2) The sufficiency of the investment yield on invested assets to fund the discount.

(3) The reasonableness of the matching of the invested assets and loss reserves attributable to the workers' compensation business to provide an adequate income stream to fund the discount.

(b) The actuarial statement of opinion, as it pertains to discounting, shall be determined in accordance with *Actuarial Standard of Practice No. 20, Discounting of Property and Casualty Loss and Loss Adjustment Expense*.

§ 116.6. Reserves for loss adjustment expenses.

(a) Loss adjustment expense reserves shall be calculated with the following standards:

(1) Insurance companies are not permitted to discount loss adjustment expense reserves which are not applicable to specific claims.

(2) Insurance companies are permitted to discount loss adjustment expense reserves which are allocable to specific claims if they can demonstrate, to the satisfaction of the Commissioner, the validity of their assumptions underlying the calculation of the reserves. The insurance company shall provide an actuarial statement of opinion which includes the opinion of the actuary with respect to the criteria in § 116.5 (relating to actuarial statement of opinion).

(b) In evaluating an insurance company's request to discount allocated loss adjustment expense reserves, the Commissioner will consider the company's specific loss adjustment expense pattern and the interest rate assumption.

§ 116.7. (Reserved).

§ 116.8. Increased loss reserves and loss adjustment expense reserves.

The Commissioner may require an insurance company to maintain loss reserves at a greater level than those which result from the application of this chapter, and allocated loss adjustment expense reserves at a level greater than those calculated under § 116.6 (relating to reserves for loss adjustment expenses) when the Com-

missioner determines it is necessary to insure that reserves are established at an adequate level.

§ 116.9. (Reserved).

[Pa.B. Doc. No. 01-1456. Filed for public inspection August 10, 2001, 9:00 a.m.]

[31 PA. CODE CH. 146a]

Privacy of Consumer Financial Information

The Insurance Department (Department) adopts Chapter 146a (relating to privacy of consumer financial information) to read as set forth in Annex A.

Statutory Authority

These final-form regulations are adopted under the Department's general rulemaking authority of sections 205, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412). Likewise, the adoption of this final-form rulemaking is under the Department's rulemaking authority under the Unfair Insurance Practices Act (40 P. S. §§ 1171.1—1171.14) (act) (as such authority is further explained in *PALU v. Insurance Department*, 371 A.2d 564 (Pa. Cmwlth. 1977)), because the Commissioner has determined that the improper disclosure or marketing, or both, of nonpublic personal financial information by members of the insurance industry constitutes an unfair method of competition and an unfair or deceptive act or practice.

Comments and Response

Notice of proposed rulemaking was published at 31 Pa.B. 1748 (March 31, 2001) with a 30-day comment period. During the 30-day comment period, comments were received from the Alliance of American Insurers (AAI), the American Insurance Association (AIA), Capital Blue Cross (CBC), Farmers' Insurance Group (Farmers'), Harleysville Insurance Group (Harleysville), Highmark, Inc. (Highmark), Independence Blue Cross (IBC), the Independent Insurance Agents of Pennsylvania (co-author) and the Pennsylvania Association of Insurance and Financial Advisors (co-author) (IIAP/PAIFA), the Insurance Federation of Pennsylvania, Inc. (IFP), the Pennsylvania Association of Mutual Insurance Companies (PAMIC), the Pennsylvania Bankers Association (PBA) and the Professional Insurance Agents of Pennsylvania, Maryland and Delaware (PIA).

On May 11, 2001, the Department shared with these and other interested parties an advance draft of the Department's final-form privacy regulations, which incorporated several important changes based upon the comments received during the initial comment period. In addition, the Department requested that interested parties provide additional comments based upon the advance draft of the final form privacy regulation. AAI, AIA, Highmark, IBC, IIAP/PAIFA, IFP, the National Association of Independent Insurers (NAII) (which provided no initial comment on the proposed privacy regulation), PAMIC, PBA, the Pennsylvania Association of Health Underwriters (PAHU) (which provided no initial comment on the proposed privacy regulation) and PIA provided the Department with comments. In conjunction with this request for additional comments on the advance draft of the final-form regulations, the Department held a stakeholder meeting on May 18, 2001, with many of the previously mentioned parties in attendance. The comments received as a result of this additional comment period on the advance draft of the final-form regulations

will be addressed only if different from the initial comments provided by the various stakeholders. If the second comment is the same as the initial comment, the Department will make only one response in this Preamble. Comments on the advance draft of the final-form regulations that are different from the initial comments on the proposed regulations submitted by an interested party are denoted with the number 2 in parenthesis (2) after the commentators name.

During its regulatory review, the Independent Regulatory Review Commission (IRRC) also submitted comments to the Department. The following is a response to those comments as well as the public comments received by the Department in response to its proposed rulemaking and any additional comments submitted under the May 18, 2001, stakeholder meeting.

General Comments

Affiliate Information Sharing

In the proposed regulations, the Department deviated from the National Association of Insurance Commissioners Model Regulation for the Privacy of Consumer Financial Information (NAIC Model) (adopted by the NAIC on September 26, 2000) by prohibiting the sharing of information without providing consumers with a notice and an opportunity to opt out for both affiliate and nonaffiliate sharing. This deviation was made because of the Department's initial interpretation of section 648 of the Insurance Department Act of 1921 (40 P. S. § 288) (Act 40) as potentially being applicable to the same activities as the privacy regulation with regard to financial institutions. Almost all of the commentators and IRRC agreed that the Department needed to reinstate the distinction between affiliate and nonaffiliate information sharing throughout the rulemaking, as in the NAIC Model, which allows affiliate information sharing without providing consumers with a notice and an opportunity to opt out. The primary reasons cited by the interested parties was the need for uniformity among the various states' privacy regulations, and the interference the restrictions on affiliate information sharing would potentially cause in the insurance industry.

In addition, when the Department initially removed the distinction between affiliate and nonaffiliate sharing in its proposed regulation, the privacy rulemaking then governed the sharing of information among any third parties. Because the term "third party" was undefined in the regulations, IBC(2) asked that the Department more precisely describe the conditions under which a licensee may disclose nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties.

The Department agrees with the comments received, and has restored the distinction between affiliate and nonaffiliate information sharing as found in the NAIC Model. Although the Department had initially adopted a much narrower construction of Act 40, the principles of statutory construction do support a broader reading of that statute. Rather than applying to similar transactions, Act 40's privacy provision applies only to customer information (as defined in 40 P. S. § 231) gathered as a result of a financial institution's lending activities. The privacy regulations, on the other hand, applies to nonpublic personal financial information (as defined in § 146a.2 (relating to definitions)) gathered as a result of a financial institution's or other licensee's insurance activities. Therefore, because Act 40 and the privacy regulations govern separate transactions and different

types of information, one is not affected by the other and the Department has restored the NAIC Model's distinction between nonaffiliate information sharing (which requires a notice and an opportunity to opt out) and affiliate information sharing (which can be done without complying with the notice or opt out procedures). However, the Department has also amended § 146a.41 (relating to effect on other laws) to recognize that financial institutions must still comply with Act 40's privacy provision for any transaction governed by that statute.

Workers' Compensation Insurance

A number of insurers and trade associations have recommended the deletion of workers' compensation insurance from within the purview of these regulations, noting that it is not a product or service for "personal, family or household purposes" as envisioned in the Gramm-Leach-Bliley Act (15 U.S.C.A. §§ 6801—6827) (GLBA). Also, the commentators sought clarification from both the Department and the Department of Labor and Industry (L&I), that these regulations do not interfere with the proper processing and examination of workers' compensation claims and settlements.

However, if workers' compensation is to be included in the scope of the final-form rulemaking, the commentators suggested that these regulations should refer to "policyholders" and "claimants," not "participant" and "beneficiaries," to be consistent with existing workers' compensation laws and terminology.

The Department has retained its inclusion of workers' compensation insurance in this final-form rulemaking. First, it is necessary to note that section 507 of the GLBA (15 U.S.C.A. § 6807) explicitly allows states to afford any person greater protection than that provided in the GLBA or in the Federal banking privacy regulations promulgated under Title V of the GLBA. See, for example, 12 CFR 40.1 et seq. (Office of the Comptroller of Currency privacy regulations) and 12 CFR 216.1 et seq. (Federal Board of Governors of the Federal Reserve System privacy regulations). Therefore, the GLBA not only allows, but envisions, states providing broader insurance privacy protection, as well as affording privacy protection to classes of persons not addressed in the GLBA or the Federal banking regulations.

Also, in some respects, claimants under a workers' compensation insurance policy do receive a "personal service" from licensees for the recovery of their personal income. Therefore, the Department asserts that workers' compensation claimants are properly within the scope of these privacy regulations.

In addition, it is important to note that claimants under a workers' compensation insurance plan generally are unable choose the licensees with whom they transact business. Rather, that choice is made by their employer, who is the policyholder in the workers' compensation insurance plan. Unlike "consumers" and "customers" (as defined in § 146a.2) who are able to choose the licensees with whom they transact business, workers' compensation insurance claimants are unable to "shop around" for licensees to choose one with a licensee that has a privacy policy that suits their needs. Therefore, workers' compensation insurance claimants are entitled to protection under these privacy regulations.

Finally, the Department has met with and discussed this rulemaking with L&I, and they agree that workers' compensation insurance is properly covered within the scope of these regulations.

The Department does agree, however, with the commentators' suggestion that the term "claimant" be substituted for "beneficiary" and the term "policyholder" replace "participant" in the regulations. To make the regulation consistent with existing workers' compensation terminology, these changes have been made in the final-form regulations.

Assigned Risk Producers

Typically, assigned risk producers are not appointed insurance agents of the insurance carrier that is ultimately assigned to take on an assigned risk customer with whom the producer is working. For this reason, IFP recommended that assigned risk producers be considered "agents" of the assigned risk insurance carrier for the purpose of these regulations. Otherwise, IFP asserted that these producers would not be affiliates of the assigned risk insurance carriers and they would not be entitled to the agent exception under § 146a.2 definition of "licensee," subparagraph (iii).

The Department believes that no additional changes need to be made to the final-form regulations, as this issue is readily addressed in the regulations as presently written. In § 146a.2, an agent need not comply with the opt out and notice requirements of the regulations if the principle for whom they are acting satisfies all of the requirements of the regulations, and the agent does not otherwise disclose the individual's nonpublic personal financial information. The term "agent" as used in this section of the regulations is not limited to insurance agents who have an appointment with an insurance carrier. Rather, the term is broader and applies to any agent acting on behalf of a principal. Therefore, despite the fact that an assigned risk agent may not necessarily have an appointment with the insurer that ultimately issues the policy (as "agent" is defined in the insurance laws), the licensee would still be an agent (under the broader, common law definition of an "agent") of the insurer and would be entitled to the exception in the regulation's definition of "licensee."

Also, in this situation, although the assigned risk producer would not necessarily be considered an "affiliate" as that term is defined in § 146a.2, the producers would be able to receive and convey a consumer's nonpublic personal financial information under any of the exceptions in §§ 146a.32 and 146a.33 (relating to exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions; and other exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information) without triggering the notice and opt out requirements.

Claims Servicing and Administration

IFP also suggested that the regulations need clarification that the requirements, under the GLBA, are directed only at sharing nonpublic personal financial information for marketing purposes, and not information sharing for the purpose of claims administration.

The Department asserts that the final-form regulations are abundantly clear that information sharing that is associated with claims administration is exempted from the requirements of the regulations. For example, § 146a.32(a) explicitly states that the notice and opt out requirements of the regulations do not apply "if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction" that is authorized by the consumer or in connection with a processing or servicing transaction.

Section 146a.32(b)(2)(ii) further defines "necessary to effect, administer or enforce a transaction" to include a usual, appropriate or acceptable method "to administer or service benefits or claims relating to the transaction." Therefore, it is abundantly clear that the notice and opt out requirements of these final-form regulations do not attach to information sharing associated with claims servicing and administration. However, the Department has added additional language proposed by IFP in § 146a.32(b)(2)(iii) to clarify that an agent's involvement in claims administration or servicing is also exempt from the regulation's notice and opt out requirements.

Agent Liability for Principal Disclosures or Failure to Comply

The IIAP/PAIFA commented that the regulations do not appear to include a limit on an agent's liability if an insurance company violates terms of the GLBA or of the regulations. These commentators provide the example that an agent may be required by an insurance carrier to obtain and transmit a consumer's Social Security number in order for the insurer to obtain MVRs, credit scores, and the like, as part of underwriting. If an employee of that carrier uses that consumer's Social Security number (which is considered nonpublic personal financial information) in a fraudulent or improper manner, then IIAP/PAIFA believe that both the agent and the company may ultimately be held liable. These commentators believe that agents may be forced to incur significant legal expense just to distance themselves from the improper disclosure made by the carrier employee in this situation. Therefore, it has been suggested that agent's be exempt from liability if they justifiably rely on the principal's satisfaction of the regulations' requirements under § 146a.2, definition of "licensee," subparagraph (iii) or if a principal violates the regulations by disclosing nonpublic personal financial information that was initially collected and conveyed to the principal by the agent.

In addition, the PIA suggested that principal should be required to inform agents of its notice and opt out procedures to the policyholders and confirm that the regulatory requirements of this rulemaking have been satisfied under § 146a.2, definition of "licensee," subparagraph (iii). PIA(2) also requested that if the Department should not decide to address the notification provision then the Department should make known its enforcement position, in writing, for handling any enforcement actions that might arise as a result of a principal's failure to satisfy the regulations' requirements and the agent's reliance thereon.

The Department has not included this exemption from liability in the final-form regulations and asserts that this issue is best addressed individually between the agent and any principals for whom it transacts the business of insurance. Agents are able to have proper indemnification clauses negotiated into their contracts with their principals in order to avoid liability for the principal's improper disclosure of nonpublic personal financial information that was initially collected and conveyed to the principal by the agent.

To address PIA's comment, the issue of notification of a principal's privacy regulations compliance is also a matter that is best addressed between the agent and the principal rather than in the privacy regulation itself. As far as any potential enforcement action in this regard is concerned, if an agent is able to adequately demonstrate to the Department's satisfaction that it justifiably relied upon the principal's agreement to comply with the regulations' requirements on behalf of the agent and no discl-

sure has actually been made by the agent itself, then it is likely that no enforcement action would be taken against the agent.

Health Information

The PAHU(2) commented that because agents may know health information or act as an advocate when there is a claim dispute or question, there will not be sufficient time to get an authorization signed before the agent can discuss their problem with an insurance carrier.

As explained in greater detail in the Preamble to the proposed rulemaking at 31 Pa.B. 1748, health information privacy will be the subject of a separate rulemaking that the Department intends to promulgate shortly after the final publication of this rulemaking.

Section 146a.1. Purpose.

AAI commented that § 146a.1 improperly applies to “claimants or beneficiaries” and that it directly conflicts with Title V of the GLBA’s exemption for “processing insurance claims.” AAI stated that claimants and beneficiaries do not obtain any product, are not policyholders and therefore should not be included within the purview of the regulations’ privacy protections. AAI also recommended the revision of § 146a.1(b) by deleting the reference to “claimants or beneficiaries.”

IRRC also had similar concerns with the privacy regulations’ application to claimants and beneficiaries, and requested that the Department explain its rationale for the inclusion of claimants and beneficiaries within the purview of the regulations’ privacy protections.

The Department is unwilling to delete the reference to “claimants and beneficiaries” in § 146a.1 of the final-form regulations. Claimants and beneficiaries are properly included within the scope of the regulations, in that they do obtain services from licensees, namely the payment and processing of any claims that they may have against an insurance policy maintained by the licensee. Further, it is clear that licensees will obtain nonpublic personal financial information from claimants and beneficiaries, and these persons should not be excluded from the regulation merely because they do not have a direct contractual relationship with the licensee.

Finally, as with workers’ compensation insurance claimants, claimants and beneficiaries are unable to choose the licensees with whom they transact business, and therefore have a licensee’s privacy policies imposed upon them. Because of this, the protection of nonpublic personal financial information of claimants and beneficiaries is crucial to provide them with notice of a licensee’s privacy policies and an opportunity to opt out of any unwanted disclosures of their nonpublic personal financial information.

Harleysville suggested that reliance upon Act 40, to any extent, as authority for this rulemaking is problematic, not only in regard to the originally proposed health information provisions, but also in regard to the opt out regimes of the regulations. Therefore, Harleysville suggested that every effort should be extended, as part of the rulemaking, not to go beyond the parameters set forth in the GLBA. This commentator also noted that the NAIC Model is not the appropriate authority for the regulation because it is at odds with clear Congressional intent as provided in GLBA.

The Department respectfully disagrees with Harleysville’s comments. The Department does not rely on Act 40 for its statutory authority to promulgate this final-form

rulemaking. Rather, the Department’s statutory authority lies in the general rulemaking authority of sections 205, 506, 1501 and 1502 of The Administrative Code of 1929 and the Department’s rulemaking authority under the act (as such authority is further explained in *PALU v. Insurance Department*, 371 A.2d 564 (Pa. Cmwlth. 1977)). In fact, the Department has now determined that Act 40’s privacy provision (40 P.S. § 288) applies only to a financial institution’s lending activities, while this privacy regulation applies to a financial institution’s or other licensee’s insurance activities.

Also, as previously explained, section 507 of the GLBA clearly authorizes states to be more protective of nonpublic personal financial information. Therefore, the Department is wholly authorized to go beyond the parameters set forth in the GLBA.

Finally, the NAIC Model is not at odds with the GLBA because it provides greater protection to the privacy of insurance consumers’ nonpublic personal financial information. Also, the NAIC Model represents a reasonable regulatory scheme for the protection of nonpublic personal financial information, and the NAIC Model was thoughtfully developed after months of deliberation and extensive contributions from both consumers and representatives of the insurance industry.

PIA stated that in § 146a.1, the regulation limits the applicability to personal lines of insurance. Questions arise when commercial policies have more than one purpose. For example, personal umbrella coverages may be added by endorsements to commercial umbrella policies, or personal automobiles may be covered by commercial policies. The PIA believes that the regulation should be made clearer in these types of circumstances.

As explained at the stakeholders meeting on May 18, 2001, this rulemaking provides the general framework for the protection of nonpublic personal financial information. Specific questions such as those posed by the PIA are best addressed in the implementation phase of this rulemaking rather than in the text of the rulemaking itself. The Department intends to provide guidance to the insurance industry on questions such as this by developing a formal question and answer procedure, meeting with the industry to address any issues that may arise in the implementation of this regulation and through the assistance of the Department’s market surveillance unit.

IRRC questioned the need for § 146a.1 and requested a clarification of certain aspects of that provision. IRRC commented that subsection (a) states the regulations govern the treatment of nonpublic personal financial information about individuals. Similarly, subsection (b) states that the chapter applies to nonpublic personal financial information. IRRC noted, however, that the term “nonpublic personal financial information” is not defined in § 146a.2. Instead, the terms “nonpublic personal information” and “personally identifiable financial information” are defined. Given the stated purpose and scope of the regulation, IRRC recommended that either the terms in § 146a.1 be modified or that the term nonpublic personal financial information be defined in § 146a.2 and used consistently throughout the regulations. Other commentators also raised this issue with the Department.

The Department agrees that the regulations lacked consistency in the use of the terms “nonpublic personal information” and “nonpublic personal financial information.” To remedy this inconsistency, the Department has changed the definition of “nonpublic personal information”

to "nonpublic personal financial information" and any reference throughout the regulations to "nonpublic personal information" was changed to "nonpublic personal financial information."

Subsection (d) clarifies that the examples contained in the regulation are illustrative and do not restrict the scope of Chapter 146a. IRRC noted that the language in this subsection, however, varies from section 3 of the NAIC Model. Given the Department's stated goal of implementing the NAIC Model "as closely as possible," why is the proposed language different from the NAIC Model language?

The Department has modified this language in the NAIC Model because it is reluctant to limit its enforcement authority of the regulations. The examples throughout the regulations are provided only to explain or clarify the rules set forth in the regulations and to act as guidance for entities that must comply with the regulations. While strict compliance with the examples might constitute a "safe harbor" in some instances, other situations may arise where licensees could potentially misconstrue or extend the examples in ways that the Department would not necessarily consider as complying with the regulation. Therefore, the Department modified the NAIC Model to indicate that the examples are provided for guidance or clarification purposes.

Section 146a.2. Definition of "company."

The PIA(2) believes the phrase "similar organization" in the regulations' definition of "company" should be changed to "similar entity."

The Department believes that its use of the phrase "similar organization" is essentially identical to the PIA's suggestion for the use of "similar entity," and has not made this change in its final-form rulemaking.

Section 146a.2. Definition of "consumer."

Comments from the IBC, PBA and IRRC suggested the need for clarification in the definition of "consumer" in the final-form regulations. Also, the CBC believes that the Department should eliminate any requirement to send notices to the individual members covered by group contracts.

The Department has clarified the definition of "consumer" in its final-form regulations by moving language in subparagraph (iv)(E) to the prefatory language in subparagraph (iv). In response to the CBC's comment, there is no requirement that notices be sent to the individuals covered by group insurance contracts or workers' compensation plans if a licensee does not disclose nonpublic personal financial information about the individuals outside of the permitted exceptions in §§ 146a.31, 146a.32 and 146a.33 and the group policyholder or contract holder receives any applicable notices required by the regulations. This "exception" for individuals covered by a group insurance contract or workers' compensation plan is found in the definition of "consumer" subparagraph (v), and adequately addresses IBC's comment.

Section 146a.2. Definition of "control."

Farmers' believes clarification is needed to make certain that contractual control is included in the proposed regulations. Current practices in the insurance industry and language in existing insurance laws provide support that exchanges and management companies are affiliates. Farmers' would like clarification to confirm that control can be established through management contracts, so as to minimize their risk while developing a structure that

permits nonpersonal public information to be disclosed between an exchange and its administrative manager.

PAMIC initially commented on the proposed regulation that it the NAIC definition of "control" should be restored in the final-form regulation. This change was made in the advance draft of the final-form regulation, which prompted IFP(2) to comment that it would like the Department to reinstate the original 10% standard included in the proposed draft of the regulations.

In response to Farmers' comments, the Department believes that the definition of "control" in the final-form regulations, and specifically subparagraph (iii) of that definition, is sufficiently broad to cover contractual control such as through management contracts.

In response to IFP's comments, the Department believes that it was required to reinstate the NAIC's definition of "control" when it restored the provisions allowing affiliate information sharing. If the 10% standard of the Holding Company Law were retained as in the proposed regulations, it is possible that the Department's regulations would not meet the minimum privacy standards required by the GLBA, as the entities meeting the definition of affiliate would be greater and there would be more information sharing permitted without compliance with the regulations' opt out and notice requirements. Therefore, the Department has restored the definition of "control" to that found in the NAIC Model.

Section 146a.2. Definition of "customer."

The AIA and IFP recommended adding a sentence to the definition of "customer" to confirm that a consumer's status as a beneficiary or claimant alone does not make that consumer a licensee's "customer" (as defined in the final-form rulemaking). They suggested that the new sentence added to the definition would read: "In no event, however, shall a beneficiary or a claimant under a policy of insurance, solely by virtue of their status as a beneficiary or claimant, be deemed to be a customer for purposes of this regulation." The AIA and IFP suggest that the additional sentence is consistent with the NAIC Model Regulation (see §§ 4F(2)(d) & 4J(2)(b)(iv), (v)) and the FAQs recently released by the NAIC. Furthermore, the AIA and IFP noted that the additional language it proposed is identical to the confirming sentence added to the final version of the National Conference of Insurance Legislators (NCOIL) Privacy Model.

The Department believes that the final-form regulations are abundantly clear that merely because a person is a claimant or beneficiary, that person is not necessarily a customer. However, there are instances when a claimant or beneficiary could become a customer when a long-term relationship is developed between the claimant or beneficiary and the licensee. Also, the definition of "customer" is of central importance to the regulatory scheme established by the NAIC Model, and there is no additional language in the NAIC Model. Therefore, in order to preserve National uniformity, no change has been made to the definition of "customer" in the final-form regulations with regard to this issue.

Section 146a.2. Definition of "customer relationship."

AIA and IFP recommended deleting the word "airline" in examples listed in the regulations' definition of "customer relationship" relating to situations that do not constitute a "customer relationship" (see subparagraph (ii)(B)). They wanted the provision to read as follows: "The licensee sells the consumer travel insurance in an isolated transaction."

It is important to note that airline insurance is used in the regulations only as an example of a situation that clearly does not give rise to a customer relationship. That is because airline insurance generally exists for only a short duration, and there is commonly no long-term customer relationship developed between the airline insurance carrier or agent and the consumer. Travel insurance, on the other hand, is not as clear an example as airline insurance because this type of insurance covers a broader spectrum of products, which may lead to the development of a long-term customer relationship between the consumer and the travel insurance carrier or agent. For example, travel insurance may include a health insurance component covering any illnesses or injuries sustained by a consumer while traveling. If the illness or injury were to have a long-term impact on the life of the consumer, a long-term customer relationship might develop between the travel insurance consumer and the licensee. Therefore, although the Department recognizes that there are situations where travel insurance (as opposed to airline travel insurance) might not give rise to a customer relationship, some types of travel insurance may involve long-term relationships, so the Department has not modified the airline travel insurance example in the regulation's definition of "customer relationship."

The IBC(2) believed that the Department inadvertently used the term "invalid" in the first sentence of the section relating to a customer's last known address, and requested that this be changed.

The thrust of this provision is to exclude consumers whose last known address has been deemed invalid from the definition "customer relationship." Otherwise, licensees would be expected to comply with the annual notice requirements for customers' whose last known address has been deemed invalid. Therefore the use of the term "invalid" is proper. However, the Department agrees that this language lacks clarity and has deleted the phrase "for the purposes of this regulation" from the start of the first sentence in subparagraph (ii)(H) in the definition of customer relationship, and has moved that phrase to the start of the second sentence in that clause.

Section 146a.2. Definition of "licensee."

CBC believed that the reference in the definition of "licensee" to "entities licensed, authorized or registered under the insurance laws" was too vague, and recommended that the definition be revised to more specifically identify by category the specific entities subject to the regulations.

The Department has retained this language in its final-form regulations because it is necessary to capture all of the Department's licensees. Also, this language is more efficient than specifically listing all of the licensees of the Department that are subject to the requirements of these regulations, and this list would have to be modified any time the Department licenses a new category or type of insurance entity.

With regard to the quoted privacy notice text for surplus lines entities, the AIA suggested that the text not be provided in all capital letters. The AIA stated that the identical language in the NAIC Model is not printed in all capital letters and asserts that if this notice language remains in all capital letters, it may be inconsistent with other jurisdictions following the NAIC Model precisely, and surplus lines companies or brokers may be required to provide a separate Commonwealth notice.

The AIA's assertions made in its comment are inaccurate. The NAIC Model, does, in fact, set forth the privacy

notice for surplus lines entities in all capital letters. Therefore, the Department has rejected this comment and has not modified the surplus lines notice in the definition of "licensee" in its final-form regulations.

Several commentators suggested that the Children's Health Insurance Program (CHIP), Medicaid and Medicare+Choice programs be specifically excluded from the definition of licensee. Also, the IBC(2) suggested that licensees that administer these programs be included in the exceptions, and that they not be subject to the requirements of the privacy regulations. The IBC believed that it was inconsistent to exclude the government agency that may provide nonpublic personal financial information to a licensee from the requirements of the regulations while requiring the licensee that administers the program to abide by the terms of the regulations.

Although the Department believes that the CHIP, Medicaid and Medicare+Choice programs would not be subject to the privacy regulations without a specific exception because these programs are not licensed or required to be licensed by the Department, it has included specific exceptions for these programs in the definition of "licensee." Please note, however, that this exception does not extend to entities that enroll participants through these programs. The Department does not agree with IBC that CHIP, Medicaid and Medicare+Choice enrollees are not entitled to the same protection as other consumers merely because they obtain their health insurance through these governmental assistance programs. Therefore, although there are exceptions for CHIP, Medicaid and Medicare+Choice in the definition of "licensee," these exceptions do not extend to licensees who enroll participants through these programs.

IRRC and the PIA suggested that a definition for "producer" as used in the definition of "licensee" be made clearer in the final-form regulations. The PIA suggested that the term "producer" as used in the definition of "licensee" be defined as "a person required to be licensed to sell, solicit or negotiate insurance."

The term "producer" is commonly used and understood in the insurance industry to mean a person engaging in the activities of an insurance agent or an insurance broker. Also, the Department is currently undertaking the enactment of the NAIC Producer Licensing Model Act under Title III of the GLBA. This forthcoming statute will provide an extensive definition of the term "producer."

In § 146a.2(iii)(D), "surplus lines broker" is not defined anywhere in the laws of the Commonwealth, and the PIA was unsure as to the precise meaning of the term.

The Department has modified its definitions with regard to "surplus lines licensees" so that they are consistent with the definitions in Article XVI of the Insurance Company Law (40 P. S. §§ 991.1601—991.1625).

Section 146a.2. Definition of "nonpublic personal information."

The IFP, Highmark, PBA, IBC and AIA(2) recommended that the term "health information" should be added under the exclusions from definition of "nonpublic personal information" to clarify the scope of the regulations. IRRC also commented that health information should be excluded from the definition of "nonpublic personal financial information."

The IBC(2) also suggested that the Department adopt a definition of "health insurance" that is consistent with

protected health information under HIPAA so that it will be much easier for insurers and providers to come into compliance with State privacy requirements.

The Department has included "health information" as an exception to nonpublic personal financial information, and has defined "health information," "health care" and "health care provider" consistent with the NAIC Model. However, the Department would like to clarify that any financial information that is obtained in tandem with health information is protected pursuant to this regulation. Simply because "nonpublic personal financial information" is received or obtained in the context of other "health information," the "nonpublic personal financial information" is still entitled to the full protections of this final-form rulemaking. As discussed previously, the Department intends to begin the process of promulgating a health component of the privacy regulation during the implementation phase of the final-form regulations.

The PBA(2) believed that the word "mean" should be used rather than "include," as used in the NAIC Model. PBA asserted that using "include" might cause a question to arise as to whether "other" items might be included in the definition.

The Department agrees and has made this change in its final-form regulations.

Section 146a.2. Definition of "personally identifiable financial information."

The IFP suggested that the Department's reference to the definition of "customer information" in section 601 of Act 40 (40 P. S. § 231) is flawed, as that applies only to information of financial institutions.

The Department agrees and has removed the reference to "customer information" in the definition of personally identifiable financial information.

Section 146a.11. Initial privacy notice to consumers required.

The PIA and IRRC noted that § 146a.11(e)(ii) allows a customer to receive the initial notice at a later time provided that customer agrees to the delay. Both IRRC and the PIA believed that clarification was needed in this section, specifically, as to what constitutes a customer's agreement as well as what is satisfactory evidence of meeting the consented delay requirements.

The Department does not believe that it is necessary to specifically define what constitutes a customer's agreement to receive the initial notice at a time later than when the customer relationship is formed. Rather, the Department believes that it is best to leave flexibility for licensees to implement this provision of the regulations, and the Department will enforce this provision on a case-by-case basis, depending on the facts and circumstances surrounding evidencing the customer's agreement. Also, there is no definition of "customer agreement" in the NAIC Model, and in the interest of National uniformity, no definition will be included in the Department's final-form rulemaking.

Section 146a.12. Annual privacy notice to customers required.

The PAMIC expressed concerns with the annual notices. Their concern is that the requirement to send all customers an annual notice covers all licensees, and burdens that are inevitably placed on smaller companies are disproportionately larger in their operational impact than the burdens placed on larger companies.

The Department asserts that the annual notice serves an important function in the regulatory scheme developed by the privacy rulemaking, regardless of the size of the entity that is subject to the regulation's requirements. Therefore, the annual notice requirement has been retained in this final-form rulemaking. Also, because the annual notice may be mailed with other materials (such as a policy renewal or billing) that will already be delivered to customers irrespective of the privacy notice, the Department believes that the impact on smaller and larger licensees is similar.

Section 146a.13. Information to be included in privacy notices.

IRRC believed that § 146a.13 required clarification. Subsection (c)(2)(i) states that the requirements of § 146a.13(c) are satisfied if a licensee "provides a few examples." Similar language is used in subsection (c)(3)(ii) that requires "a few illustrative examples." IRRC suggested that these requirements are vague and that the regulations should specify the minimum number of examples required.

In response to IRRC's comment, the Department is reluctant to include a definite number of examples that would be required to comply with the regulations. Rather, the industry requires flexibility with regard to the drafting and development of its privacy notices, and to require a certain number would eliminate this much-needed flexibility. Instead, licensees should use an adequate number of examples to make the categories of information it discloses so that the notice is reasonably understandable (as defined in the definition of "clear and conspicuous" in § 146a.2). However, for the purpose of clarifying this final-form regulations, the Department has removed the phrase "a few" from both provisions identified by IRRC.

The IBC believed that the provision found in § 146a.13(d) pertaining to short form initial notices was in direct conflict with § 146a.11. Section 146a.11 does not require a licensee to provide an initial privacy notice to a consumer if the licensee: (1) does not disclose any nonpublic personal financial information about the consumer to a third party except as authorized by §§ 146a.32 and 146a.33; and (2) the licensee does not have a customer relationship with the customer. Section 146a.13(d) provides that a licensee may satisfy the initial notice requirements for consumers by providing a short form notice that is described in the regulation. According to the IBC, § 146a.13(d) was inconsistent with § 146a.11 and should be deleted.

The Department has not deleted § 146a.13(d), as the short form initial notice applies to both customers and consumers. While it is true that no initial notice may be required for consumers when a licensee does not intend to disclose that person's nonpublic personal financial information, an initial notice is required when a licensee does disclose a consumer's nonpublic personal financial information. The short form initial notice described in § 146a.13(d) allows for added flexibility in this situation and cannot be deleted from the final-form regulations.

Section 146a.14. Form of opt out notice to consumers and opt out methods.

IRRC indicated that § 146a.14 also required clarification. Subsection (a)(1) requires a notice to be "clear and conspicuous" and provide a "reasonable opt out means." Subsection (a)(2)(ii) and (iii) provide examples of reasonable and unreasonable opt out means that clearly relate to subsection (a)(1). However, subsection (a)(2)(i) and (iv)

provide examples that describe “adequate opt out notice” and “specific opt out means.” IRRC commented that the regulation is unclear regarding what requirements the examples in subsection (a)(2)(i) and (iv) are describing.

Also, subsection (a)(2)(iv) was listed as an example based upon its placement under paragraph (a)(2) relating to examples. However, subsection (a)(2)(iv) stated “a licensee may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.” This is phrased as a requirement for “specific opt out means,” not an example. Subsection (a)(2)(iv) should be moved out of subsection (a)(2) and clarified.

In response to IRRC’s comments and by way of clarification, the term “clear and conspicuous” is extensively defined in § 146a.2, and § 146a.14(a)(2)(i) merely provides an example of what information would be contained in an “adequate” opt out notice (that is, a notice is clear and conspicuous). As such, the Department has not made any changes in this regard to the final-form regulations.

The Department does agree, however, that § 146a.14(a)(2)(iv) is improperly included as an example, and the Department has renumbered subsection (a)(2)(iv) as subsection (a)(3) of § 146a.14.

Section 146a.16. Delivery of notices.

The PIA(2) stated that traditionally in insurance law, an offer is made in request by an individual applicant for coverage. In § 146a.16(b)(iv), notice is required to be given to each consumer when a “quote” is provided. The PIA would like to know the elements the Department considers to be part of a “quote” because of the apparent conflicting exempting language that appears regarding a transaction instituted at the request of a customer, and a quote traditionally is regarded as a reply to that offer to do business.

Although the Department has not included a definition of the term “quote” in the final-form regulations, as it believes such a definition is unnecessary, it will provide some clarification of § 146a.16(b)(iv). It is important to note that a consumer is required to receive an initial notice only if the licensee intends to disclose that consumer’s nonpublic personal financial information other than as allowed under the regulations’ permitted exceptions. Therefore, if in the context of providing a quote, a licensee does not intend to disclose the consumer’s nonpublic personal financial information, no initial notice would be required. Section 146a.16(b)(iv) is not inconsistent with this scenario. Section 146a.16(b)(iv) merely provides an example of when an initial notice could be reasonably expected to be received by a consumer receiving a quote if the licensee is required to provide the notice. Section 146a.16(b)(iv) does not in any way impose an additional requirement that all consumers receiving a quote be provided an initial notice.

Section 146a.21. Limitation on disclosure of nonpublic personal financial information to nonaffiliated third parties.

The AAI, AIA, Harleysville, IBC, IFP and PBA all believed that the double opt requirement in this provision extended beyond the scope of the GLBA and conflicts with the NAIC Model. IRRC also questioned the requirement for a second opt out notice. IRRC believed that the regulations should be consistent with the statute and recommended the deletion of the double opt out requirement.

As explained in greater detail previously, the Department now interprets Act 40 as applying to a financial

institution’s lending activities while the privacy regulation applies to a financial institution’s or other licensee’s insurance transactions. Therefore, consistent with the comments received, the Department has deleted § 146a.21(c)(3).

Section 146a.31. Exception to the opt out requirements for disclosure of nonpublic personal financial information for service providers and joint marketing.

The CBC suggested that § 146a.31 be modified to mirror §§ 146a.32 and 146a.33 to provide that the exception applies to both the notice and the opt out requirements. IRRC also believed that § 146a.31 should be clarified because the exceptions in §§ 146a.32 and 146a.33 do not require initial notice under § 146a.11, while the exception in § 146a.31 maintains the requirement for an initial notice.

The Department has not modified § 146a.31 to be an exception to both the notice and opt out requirements as in §§ 146a.32 and 146a.33. Rather, the Department maintains that it is proper for consumers to receive notice that their nonpublic personal financial information is disclosed to nonaffiliated third party service providers and under joint marketing agreements, despite the fact that there is no opportunity to opt out of these disclosures. With this information, consumers may choose whether or not to engage in business with that licensee. The exceptions under §§ 146a.32 and 146a.33 do not require an initial notice because they are the exceptions that apply so that the requirements of the regulation do not interfere with the day to day transaction of the business of insurance. The exceptions in §§ 146a.32 and 146a.33 are necessary for licensees to transact business, while the exception in § 146a.31 is for sharing information with nonaffiliated third party service providers or joint marketing agreements, both of which are not necessary components of the business of insurance. Also, to be consistent with the NAIC Model and to promote National uniformity, no change has been made to this provision of the regulations.

Harleysville believed that the exceptions to the opt out requirements should be clarified to include claims processing and fraud investigation service providers as § 146a.31 exceptions. IRRC also noted that commentators stated that the exceptions from the opt out requirements should include claims processing and fraud investigation as exceptions in this section.

The Department has not specifically included claims processing and fraud investigation in the § 146a.31 exceptions because this exception is adequately addressed in §§ 146a.32 and 146a.33. Sections 146a.32 and 146a.33 specifically state that the requirements for service providers and joint marketing in § 146a.31 (that is, written agreement and initial notice) do not apply when a disclosure is made under one of the exceptions in §§ 146a.32 and 146a.33. Therefore, the exception for fraud investigation and claims processing performed by third parties is adequately addressed in §§ 146a.32 and 146a.33 and is not included in § 146a.31.

Section 146a.32. Exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions.

The AIA(2) recommended adding a new paragraph to § 146a.32 to explicitly allow for servicing policyholder accounts. The AIA asserted that this addition simply clarifies the regulatory intent to preserve the ability to service policyholder accounts.

The IFP also expressed a concern whether the exceptions to the notice and opt out requirements for processing and service transactions in § 146a.32 sufficiently cover all applicable situations. The IFP(2) provided the Department with language from South Dakota's privacy regulations under which an insurer's sharing information on a claim with its agents does not trigger privacy requirements with respect to claimants.

In its comments, the PAMIC stated that certain transactions should be authorized without delivery of privacy notice under § 146a.32, when the transaction is "necessary to effect, administer, or enforce a transaction" and authorized by the consumer.

Finally, the NAI(2) believed that, as drafted, § 146a.32 was not sufficient and the regulation would prohibit agents, producers and brokers to provide services to consumers because they would be denied access to necessary nonpublic personal financial information. Specifically, agents, producers and brokers are often asked to review claims and loss runs. The NAI believes that these services could no longer be performed by them under the present draft, and presented the Department with an amendment that is similar to the amendment suggested by the IFP.

In this final-form regulation, the Department has amended the language in § 146a.32(b)(2)(iii) and (v) as suggested by IFP and NAI. This additional language appears to be sufficient to address all of the comments raised on this issue.

Section 146a.33. Other exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information.

Harleysville believed that exceptions should be expanded under subsection (a)(7), thereof, to include claims processing and fraud investigation service providers.

Fraud investigation and claims processing are adequately addressed as exceptions to the notice and opt out requirements in §§ 146a.32 and 146a.33.

Section 146a.42. Nondiscrimination.

The AAI believes that the regulation's nondiscrimination provision is not authorized by the GLBA and directly conflicts with Title V's insurance underwriting exemption. The AAI preferred language from the NCOIL version in this regard.

Section 146a.42, which prohibits discrimination against a consumer for exercising the opportunity to opt out, is not contrary to the GLBA. First, it is important to recall that section 507 of the GLBA authorizes state insurance regulators to provide greater protection to insurance consumers than those provided in the GLBA or the Federal banking privacy regulations. Also, the underwriting exception in the GLBA only applies to exempting the sharing of information for underwriting purposes, not for the purposes of unfairly discriminating against consumers who chose to exercise the rights conferred upon them by the regulation. Therefore, the Department has retained the regulation's nondiscrimination provision in its final-form rulemaking.

Section 146a.43. Violations.

The AIA recommended revising § 146a.43 as follows: "Violations of this chapter may be deemed and defined by the Commissioner to be an unfair method of competition and an unfair or deceptive act or practice and may be subject to a cease and desist order or to fines contained in sections 9—11 of the act (40 P. S. §§ 1171.9—1171.11)."

Suspending or revoking a license for noncompliance with this proposed rule is a drastic measure and should not be included.

Also, the IFP recommended deletion of this section as unnecessary. The IFP believed that the regulation is being promulgated under the act, so violations of it could only be prosecuted under that act. The IFP also believes that the Department wants to "deem and define" any violation of these regulations as a violation of the act. The bulk of the UIPA, however, penalizes patterns of conduct, not single acts, as done here. In addition, the IFP believed that while the Commissioner is given some discretion to expand the specific conduct listed in the UIPA, it is generally limited to conduct uncovered in an investigation, and its penalties come only after hearings.

Finally, the IAP/PAIFA(2) wanted language in this section stating that producers who make a good faith effort to ensure insurer compliance with this regulation will be held harmless if an insurer is found to be noncompliant by the Department.

The Department has modified § 146a.43 to state that violations will be subject to "any applicable penalties or remedies" as opposed to "all penalties" contained in the UIPA. The concerns asserted by IAP/PAIFA are addressed previously in this Preamble.

Section 146a.44. Effective date.

The CBC stated that they understand the importance of retaining the July 1, 2001, effective date for these regulations and that they appreciate the additional 6 months to come into compliance before enforcement. However, given the timing of the implementation of these regulations and the HIPAA regulation, the CBC has recommended that enforcement of these regulations coincide with the HIPAA Privacy April 14, 2003, compliance date.

Harleysville, Highmark, IBS, IFP, PAMIC and PBA expressed similar concerns with the compliance date of the regulations.

The Department has maintained the July 1, 2001, effective and compliance date in this final-form regulations. The Department has maintained this effective and compliance date to prevent the Federal preemption of insurance privacy laws in this Commonwealth under Title V of the GLBA. Also under the GLBA, the failure of a state to adopt a sufficient privacy regulation will result in the state's inability to override the Federal insurance consumer protection regulations that were issued by the Federal banking agencies in final-form on December 4, 2000, under section 305 of the GLBA. See 65 Fed. Reg. 233, 75821 (to be codified at 12 CFR Parts 14, 208, 343 and 536). These regulations will become effective on October 1, 2001, and they pertain generally to the sale of insurance by financial institutions and specifically to matters such as referral fees, separation of banking and insurance sales areas and disclosures regarding the nature of insurance products that are sold by banks. Because the counterpart Federal banking privacy regulations are effective on July 1, 2001, the Department is essentially required under the GLBA to maintain a similar effective date for its privacy regulation promulgated under Title V of the GLBA.

However, given that the regulations will have a retroactive effective date, the Department has committed to assisting the insurance industry in complying with the regulation, rather than strictly enforcing the regulation at the outset. For example, for the 6-month period following the effective date of the final-form regulations, the De-

partment will engage in a formal question and answer procedure to address any concerns that are raised as a result of implementing this rulemaking. Also, the Department intends to utilize its market surveillance unit, as opposed to its market conduct or enforcement unit to assist the insurance industry with any compliance issues that may be encountered. Finally, the Department plans to meet with the industry to address any implementation problems that may arise.

Affected Parties

The rulemaking applies to all persons possessing a license issued by the Department, and all persons required to be licensed by the Department, unless specifically exempted.

Fiscal Impact

State Government

There will be no increase in cost to the Department due to the adoption of Chapter 146a.

General Public

There will be no fiscal impact to the public due to the adoption of Chapter 146a.

Political Subdivisions

The rulemaking will not impose additional costs on political subdivisions.

Private Sector

The rulemaking will impose additional costs of insurance companies, financial institutions and other non-exempted licensees doing the business of insurance in this Commonwealth. However, the adoption of this rulemaking will not be the cause of that additional cost. Insurance entities, financial institutions and other nonexempted licensees are required by Title V of the GLBA to comply with several statutory privacy requirements found in the Federal act. Title V of GLBA also requires various state and Federal regulators of the financial services industries to promulgate regulations for their respective regulated communities in order to further explain and define those statutory privacy requirements in the Federal act. For example, the Federal banking regulators (the Office of the Comptroller of the Currency (OCC)), the Federal Deposit Insurance Corporation, the Office of Thrift Supervision and the Board of Governors of the Federal Reserve System (BGFRS)) have already promulgated final-form regulations pertaining to the privacy of nonpublic personal financial information when such information is collected by the various Federal banking entities within their regulatory jurisdiction. See e.g. 12 CFR 40.1 et seq. (OCC regulations) and 12 CFR. 216.1 et seq. (BGFRS regulations). Therefore, the Federal requirements in the GLBA are the catalyst for the increase in the cost to insurers, financial institutions and other nonexempted licensees.

Paperwork

Unless specifically excluded under the § 146a.2 definition of licensee of the proposed rulemaking, the rulemaking will affect all licensees doing the business of insurance in this Commonwealth by imposing additional paperwork requirements pertaining to the delivery and tracking of opt out notices.

Effectiveness/Sunset Date

The final-form rulemaking will become effective July 1, 2001, as previously provided in Department Notice 2000-08 and as stated in § 146a.44.

Contact Person

Any questions regarding this final-form rulemaking, should be directed to Peter J. Salvatore, Regulatory Coordinator, Special Projects Office, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429. In addition, questions may be e-mailed to psalvatore@state.pa.us or faxed to (717) 772-1969.

Regulatory Review

Under section 5(a) of the Regulatory Review Act, (71 P. S. § 745.5(a)), on March 21, 2001, the Department submitted a copy of this rulemaking to IRRC and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to the submitted rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

In preparing this final-form rulemaking, the Department considered all comments received from IRRC, the Committees and the public. This final-form rulemaking was deemed approved by the House and Senate Committees on July 5, 2001. In accordance with section 5a(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), IRRC met on July 12, 2001, and approved the final-form rulemaking in accordance with section 5.1(e) of the Regulatory Review Act.

Findings

The Commissioner finds that:

(1) Public notice of intention to adopt this rulemaking as amended by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of this rulemaking in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

Order

The Commissioner, acting under the authorizing statutes, orders that:

(1) The regulations of the Department, 31 Pa. Code, are amended by adding §§ 146a.1, 146a.2, 146a.11—146a.16, 146a.21—146a.23, 146a.31—146a.33 and 146a.41—146a.44 and Appendix A, to read as set forth in Annex A.

(2) The Commissioner shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.

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

(4) The regulations adopted by this order shall take effect July 1, 2001

M. DIANE KOKEN,
Insurance Commissioner

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this order, see 31 Pa.B. 4136 (July 28, 2001).)

Fiscal Note: Fiscal Note 11-206 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 31. INSURANCE

PART VIII. MISCELLANEOUS PROVISIONS

CHAPTER 146a. PRIVACY OF CONSUMER
FINANCIAL INFORMATION

Subch.

- A. GENERAL PROVISIONS
- B. PRIVACY AND OPT OUT NOTICES FOR FINANCIAL INFORMATION
- C. LIMITS ON DISCLOSURES OF FINANCIAL INFORMATION
- D. EXCEPTIONS TO LIMITS ON DISCLOSURES OF NONPUBLIC PERSONAL FINANCIAL INFORMATION
- E. ADDITIONAL PROVISIONS

Subchapter A. GENERAL PROVISIONS

Sec.

- 146a.1. Purpose.
- 146a.2. Definitions.

§ 146a.1. Purpose.

(a) *Purpose.* This chapter governs the treatment of nonpublic personal financial information about individuals by various licensees of the Department. This chapter:

- (1) Requires a licensee to provide notice to individuals about its privacy policies and practices.
- (2) Describes the conditions under which a licensee may disclose nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties.
- (3) Provides methods for individuals to prevent a licensee from disclosing that information.

(b) *Scope.* This chapter applies to nonpublic personal financial information about individuals who obtain or are claimants or beneficiaries of products or services primarily for personal, family or household purposes from licensees. Unless otherwise specified, this chapter generally does not apply to information about companies or about individuals who obtain products or services for business, commercial or agricultural purposes.

(c) *Compliance.* A licensee domiciled in this Commonwealth that is in compliance with this chapter in a state that has not enacted laws or regulations that meet the requirements of Title V of the act of November 12, 1999 (Pub. L. No. 106-102, 113 Stat. 1338) known as the Gramm-Leach-Bliley Act (Financial Services Modernization Act of 1999) (15 U.S.C.A. §§ 6801–6827) may nonetheless be deemed to be in compliance with Title V of the Gramm-Leach-Bliley Act in the other state.

(d) *Examples.* The examples provided in this chapter are for illustrative purposes only and do not otherwise limit or restrict the scope of this chapter.

§ 146a.2. Definitions.

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

Act—The Insurance Department Act of 1921 (40 P. S. §§ 1–321)

Affiliate—A company that controls, is controlled by or is under common control with another company.

Clear and conspicuous—That a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice. Examples include:

(i) *Reasonably understandable.* A licensee makes its notice reasonably understandable if it does all of the following:

(A) Presents the information in the notice in clear, concise sentences, paragraphs and sections.

(B) Uses short explanatory sentences or bullet lists whenever possible.

(C) Uses definite, concrete, everyday words and active voice whenever possible.

(D) Avoids multiple negatives.

(E) Avoids legal and highly technical business terminology whenever possible.

(F) Avoids explanations that are imprecise and readily subject to different interpretations.

(ii) *Designed to call attention.* A licensee designs its notice to call attention to the nature and significance of the information in it if the licensee does all of the following:

(A) Uses a plain-language heading to call attention to the notice.

(B) Uses a typeface and type size that are easy to read.

(C) Provides wide margins and ample line spacing.

(D) Uses boldface or italics for key words.

(E) In a form that combines the licensee's notice with other information, uses distinctive type size, style and graphic devices, such as shading or sidebars.

(iii) *Notices on websites.* If a licensee provides a notice on a webpage, the licensee designs its notice to call attention to the nature and significance of the information in it if the licensee uses text or visual cues to encourage scrolling down the page if necessary to view the entire notice and ensure that other elements on the website (such as text, graphics, hyperlinks or sound) do not distract attention from the notice, and the licensee either:

(A) Places the notice on a screen that consumers frequently access, such as a page on which transactions are conducted.

(B) Places a link on a screen that consumers frequently access, such as a page on which transactions are conducted, that connects directly to the notice and is labeled appropriately to convey the importance, nature and relevance of the notice.

Collect—To obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol or other identifying particular assigned to the individual, irrespective of the source of the underlying information.

Commissioner—The Insurance Commissioner of the Commonwealth.

Company—A corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship or similar organization.

Consumer—An individual who seeks to obtain, obtains or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, and about whom the licensee has nonpublic personal financial information, or that individual's legal representative. Examples include:

(i) An individual who provides nonpublic personal financial information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship.

(ii) An applicant for insurance prior to the inception of insurance coverage is a licensee's consumer.

(iii) An individual who is a consumer of another financial institution is not a licensee's consumer solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution.

(iv) An individual about whom a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than as permitted under Subchapter D (relating to exceptions to limits on disclosures of nonpublic personal financial information) and the individual is one of the following:

(A) A beneficiary of a life insurance policy underwritten by the licensee.

(B) A claimant under an insurance policy issued by the licensee.

(C) An insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee.

(D) A mortgagor of a mortgage covered under a mortgage insurance policy.

(v) Provided that the licensee provides the initial, annual and revised notices under §§ 146a.11, 146a.12 and 146a.15 (relating to initial privacy notice to consumers required; annual privacy notice to customers required; and revised privacy notices) to the plan sponsor, group or blanket insurance policyholder, group annuity contractholder, or workers' compensation policyholder, and further provided that the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about such an individual other than as permitted under Subchapter D, an individual is not the consumer of the licensee solely because the individual is one of the following:

(A) A participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary.

(B) Covered under a group or blanket insurance policy or group annuity contract issued by the licensee.

(C) A claimant in a workers' compensation plan.

(vi) The individuals described in subparagraph (v) are consumers of a licensee if the licensee does not meet all the conditions of subparagraph (v).

(vii) In no event shall the individuals, solely by virtue of the status described in subparagraph (v), be deemed to be customers for purposes of this chapter.

(viii) An individual is not a licensee's consumer solely because the individual is a beneficiary of a trust for which the licensee is a trustee.

(ix) An individual is not a licensee's consumer solely because the individual has designated the licensee as trustee for a trust.

Consumer reporting agency—The term has the same meaning as in section 603(f) of the Federal Fair Credit Reporting Act (15 U.S.C.A. § 1681a(f)).

Control—The term includes any of the following:

(i) Ownership, control or power to vote 25% or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons.

(ii) Control in any manner over the election of a majority of the directors, trustees or general partners (or individuals exercising similar functions) of the company.

(iii) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as determined by the Commissioner.

Customer—A consumer who has a customer relationship with a licensee.

Customer relationship—A continuing relationship between a consumer and a licensee under which the licensee provides one or more insurance products or services to the consumer that are to be used primarily for personal, family or household purposes. Examples are as follows:

(i) A consumer has a continuing relationship with a licensee if either:

(A) The consumer is a current policyholder of an insurance product issued by or through the licensee.

(B) The consumer obtains financial, investment or economic advisory services relating to an insurance product or service from the licensee for a fee.

(ii) A consumer does not have a continuing relationship with a licensee if one of the following applies:

(A) The consumer applies for insurance but does not purchase the insurance.

(B) The licensee sells the consumer airline travel insurance in an isolated transaction.

(C) The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.

(D) The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee.

(E) The consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option.

(F) The customer's policy is lapsed, expired or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of 12-consecutive months, other than annual privacy notices, material required by law or regulation, communication at the direction of a state or Federal authority, or promotional materials.

(G) The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity.

(H) The individual's last known address according to the licensee's records is deemed invalid. For the purposes of this section, an address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

Department—The Insurance Department of the Commonwealth.

Financial institution—An institution the business of which is engaging in activities that are financial in nature or incidental to the financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C.A. § 1843(k)). The term does not include the following:

(i) A person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C.A. §§ 1–25).

(ii) The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971 (12 U.S.C.A. §§ 2001–2279cc).

(iii) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as the institutions do not sell or transfer nonpublic personal financial information to a nonaffiliated third party.

Financial product or service—A product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to the financial activity under section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C.A. § 1843(k)). Financial service includes a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

Health care—The term includes the following:

(i) Preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, procedures, tests or counseling that either:

(A) Relates to the physical, mental or behavioral condition of an individual.

(B) Affects the structure or function of the human body or any part of the human body, including the banking of blood, sperm, organs or any other tissue.

(ii) Prescribing, dispensing or furnishing to an individual drugs or biologicals, or medical devices or health care equipment and supplies.

Health care provider—A physician or other health care practitioner licensed, accredited or certified to perform specified health services consistent with State law, or a health care facility.

Health information—Any information or data except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or the consumer or customer that relates to one or more of the following:

(i) The past, present or future physical, mental or behavioral health or condition of an individual.

(ii) The provision of health care to an individual.

(iii) Payment for the provision of health care to an individual.

Insurance product or service—A product or service that is offered by a licensee under the insurance laws of the Commonwealth. Insurance service includes a licensee's evaluation, brokerage or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

Licensee—

(i) A licensed insurer, as defined in section 201-A of the act (40 P. S. § 65.1-A), a producer and other persons or entities licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered under the act or The Insurance Company Law of 1921 (40 P. S. §§ 341–999), including health

maintenance organizations holding a certificate of authority under section 201 of the Health Care Facilities Act (35 P. S. § 448.201).

(ii) The term does not include:

(A) Bail bondsmen as defined in 42 Pa.C.S. § 5741 (relating to definitions).

(B) Motor vehicle physical damage appraisers as defined in section 2 of the Motor Vehicle Physical Damage Appraiser Act (63 P. S. § 852) and § 62.1 (relating to definitions).

(C) Public adjusters as defined in section 1 of the act of December 20, 1983 (P. L. 260, No. 72) (63 P. S. § 1601) and § 115.1 (relating to definitions).

(D) An entity providing continuing care as defined in section 3 and licensed under section 4 of the Continuing-Care Provider Registration and Disclosure Act (40 P. S. §§ 3203 and 3204).

(iii) Subject to subparagraph (iv), the term does not include governmental health insurance programs such as the following:

(A) The Children's Health Insurance Program as provided for in the Children's Health Care Act (40 P. S. §§ 991.2301–991.2361).

(B) The Medicaid Program as provided for in 62 P. S. §§ 441.1–449.

(C) The Medicare+Choice Program as provided for in the Balanced Budget Act of 1997, sections 1851–1859, Medicare Part C under Title XVIII of the Social Security Act.

(iv) The term includes a licensee that enrolls, insures or otherwise provides insurance related services to participants that procure health insurance through a governmental health insurance program exempted under subparagraph (iii).

(v) A licensee is not subject to the notice and opt out requirements for nonpublic personal financial information in Subchapters A–D if the licensee is an employee, agent or other representative of another licensee (“the principal”) and both of the following apply:

(A) The principal otherwise complies with, and provides the notices required by, this chapter.

(B) The licensee does not disclose nonpublic personal financial information to any person other than the principal or its affiliates in a manner permitted by this chapter.

(vi) Subject to subparagraph (vii), the term “licensee” shall also include a nonadmitted insurer that accepts business placed through a surplus lines licensee (as defined in 40 P. S. § 991.1602 (relating to definition of surplus lines licensee)) in this Commonwealth, but only in regard to the surplus lines placements placed under Article XVI of The Insurance Company Law (40 P. S. §§ 991.1601–991.1625).

(vii) A surplus lines licensee or surplus lines insurer shall be deemed to be in compliance with the notice and opt out requirements for nonpublic personal financial information in Subchapters A–D provided both of the following apply:

(A) The surplus lines licensee or insurer does not disclose nonpublic personal financial information of a consumer or a customer to nonaffiliated third parties for any purpose, including joint servicing or marketing under § 146a.31 (relating to exception to opt out requirements for disclosure of nonpublic personal financial information

for service providers and joint marketing), except as permitted by § 146a.32 or § 146a.33 (relating to exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions; and other exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information).

(B) The broker or insurer delivers a notice to the consumer at the time a customer relationship is established on which the following is printed in 16-point type:

Privacy Notice

“Neither the U.S. brokers that have handled this insurance nor the insurers that have underwritten this insurance will disclose nonpublic personal financial information concerning the buyer to nonaffiliated third parties except as permitted by law.”

Nonaffiliated third party—

(i) Any person except either:

(A) A licensee’s affiliate.

(B) A person employed jointly by a licensee and any company that is not the licensee’s affiliate (but nonaffiliated third party includes the other company that jointly employs the person).

(ii) Nonaffiliated third party includes any company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in section 4(k)(4)(H) or insurance company investment activities of the type described in section 4(k)(4)(I) of the Federal Bank Holding Company Act (12 U.S.C.A. §§ 1843(k)(4)(H) and (I)).

Nonpublic personal financial information—

(i) The term means the following:

(A) Personally identifiable financial information.

(B) Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available.

(ii) The term does not include any of the following:

(A) Publicly available information, except as included on a list described in subparagraph (i)(B).

(B) Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information that is not publicly available.

(C) Health information.

(iii) Examples of lists are as follows:

(A) Nonpublic personal financial information includes any list of individuals’ names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers.

(B) Nonpublic personal financial information does not include any list of individuals’ names and addresses that contains only publicly available information, is not derived in whole or in part using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution.

Personally identifiable financial information—

(i) The term means any of the following:

(A) Information that a consumer provides to a licensee to obtain an insurance product or service from the licensee.

(B) Information about a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer.

(C) Information that the licensee otherwise obtains about a consumer in connection with providing an insurance product or service to that consumer.

(ii) Examples are as follows:

(A) *Information included.* Personally identifiable financial information includes:

(I) Information a consumer provides to a licensee on an application to obtain an insurance product or service.

(II) Account balance information and payment history.

(III) The fact that an individual is or has been one of the licensee’s customers or has obtained an insurance product or service from the licensee.

(IV) Information about the licensee’s consumer if it is disclosed in a manner that indicates that the individual is or has been the licensee’s consumer.

(V) Information that a consumer provides to a licensee or that the licensee or its agent otherwise obtains in connection with collecting on a loan or servicing a loan.

(VI) Information the licensee collects through an Internet cookie (an information-collecting device from a web server).

(VII) Information from a consumer report.

(B) *Information not included.* Personally identifiable financial information does not include:

(I) A list of names and addresses of customers of an entity that is not a financial institution.

(II) Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names or addresses.

(III) Health information.

*Publicly available information—*Information that a licensee has a reasonable basis to believe is lawfully made available to the public from one or more of the following:

(i) Federal, State or local government records.

(ii) Widely distributed media.

(iii) Disclosures to the public that are required to be made by Federal, State or local law.

Reasonable basis—

(i) A licensee has a reasonable basis to believe that information is lawfully made available to the public if the licensee has taken steps to determine the following:

(A) That the information is of the type that is available to the public.

(B) Whether an individual can direct that the information not be made available to the public and, if so, that the licensee’s consumer has not done so.

(ii) The term includes the following conditions:

(A) A licensee has a reasonable basis to believe that mortgage information is lawfully made available to the public if the licensee has determined that the information

is of the type included on the public record in the jurisdiction where the mortgage would be recorded.

(B) A licensee has a reasonable basis to believe that an individual's telephone number is lawfully made available to the public if the licensee has located the telephone number in the telephone book or the consumer has informed the licensee that the telephone number is not unlisted.

(iii) Examples are as follows:

(A) *Government records.* Publicly available information in government records includes information in government real estate records and security interest filings.

(B) *Widely distributed media.* Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper or a website that is available to the public on an unrestricted basis. A website is not restricted merely because an Internet service provider or a site operator requires a fee or a password, so long as access is available to the public.

Subchapter B. PRIVACY AND OPT OUT NOTICES FOR FINANCIAL INFORMATION

Sec.

- 146a.11. Initial privacy notice to consumers required.
- 146a.12. Annual privacy notice to customers required.
- 146a.13. Information to be included in privacy notices.
- 146a.14. Form of opt out notice to consumers and opt out methods.
- 146a.15. Revised privacy notices.
- 146a.16. Delivery.

§ 146a.11. Initial privacy notice to consumers required.

(a) *Initial notice requirement.* A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to:

(1) *Customer.* An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship, except as provided in subsection (e).

(2) *Consumer.* A consumer, before the licensee discloses nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by §§ 146a.32 and 146a.33 (relating to exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions; and other exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information).

(b) *When initial notice to a consumer is not required.* A licensee is not required to provide an initial notice to a consumer under subsection (a)(2) if either:

(1) The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized by §§ 146a.32 and 146a.33, and the licensee does not have a customer relationship with the consumer.

(2) A notice has been provided by an affiliated licensee, as long as the notice clearly identifies all licensees to whom the notice applies and is accurate with respect to the licensee and the other institutions.

(c) *When the licensee establishes a customer relationship.*

(1) *General rule.* A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship.

(2) *Examples of establishing customer relationship.* A licensee establishes a customer relationship when the consumer either:

(i) Becomes a policyholder of a licensee that is an insurer when the insurer delivers an insurance policy or contract to the consumer, or in the case of a licensee that is an insurance producer or insurance broker, obtains insurance through that licensee.

(ii) Agrees to obtain financial, economic or investment advisory services relating to insurance products or services for a fee from the licensee.

(d) *Existing customers.* When an existing customer obtains a new insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, the licensee satisfies the initial notice requirements of subsection (a) in either of the following ways:

(1) The licensee may provide a revised policy notice, under § 146a.15 (relating to revised privacy notices), that covers the customer's new insurance product or service.

(2) If the initial, revised or annual notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee does not need to provide a new privacy notice under subsection (a).

(e) *Exceptions to allow subsequent delivery of notice.*

(1) A licensee may provide the initial notice required by subsection (a)(1) within a reasonable time after the licensee establishes a customer relationship if either of the following conditions is met:

(i) Establishing the customer relationship is not at the customer's election.

(ii) Providing notice not later than when the licensee establishes a customer relationship would substantially delay the customer's transaction and the customer agrees to receive the notice at a later time.

(2) Examples of exceptions are as follows:

(i) *Not at customer's election.* Establishing a customer relationship is not at the customer's election if a licensee acquires or is assigned a customer's policy from another financial institution or residual market mechanism and the customer does not have a choice about the licensee's acquisition or assignment.

(ii) *Substantial delay of customer's transaction.* Providing notice not later than when a licensee establishes a customer relationship would substantially delay the customer's transaction when the licensee and the individual agree over the telephone to enter into a customer relationship involving prompt delivery of the insurance product or service.

(iii) *No substantial delay of customer's transaction.* Providing notice not later than when a licensee establishes a customer relationship would not substantially delay the customer's transaction when the relationship is initiated in person at the licensee's office or through other means by which the customer may view the notice, such as on a website.

(f) *Delivery.* When a licensee is required to deliver an initial privacy notice by this section, the licensee shall deliver it according to § 146a.16 (relating to delivery). If the licensee uses a short-form initial notice for non-customers according to § 146a.13(d), the licensee may deliver its privacy notice according to § 146a.13(d)(3).

§ 146a.12. Annual privacy notice to customers required.

(a) *Notice.*

(1) *General rule.* A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. Annually means at least once in any period of 12 consecutive months during which that relationship exists. A licensee may define the 12-consecutive-month period, but the licensee shall apply it to the customer on a consistent basis.

(2) *Example.* A licensee provides a notice annually if it defines the 12-consecutive-month period as a calendar year and provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice. For example, if a customer opens an account on any day of year 1, the licensee shall provide an annual notice to that customer by December 31 of year 2.

(b) *Termination.*

(1) *Termination of customer relationship.* A licensee is not required to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a continuing relationship.

(2) *Examples.*

(i) A licensee no longer has a continuing relationship with an individual if the individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.

(ii) A licensee no longer has a continuing relationship with an individual if the individual's policy is lapsed, expired or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of 12-consecutive months, other than to provide annual privacy notices, material required by law or regulation, or promotional materials.

(iii) For the purposes of this section, a licensee no longer has a continuing relationship with an individual if the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

(iv) A licensee no longer has a continuing relationship with a customer in the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later.

(c) *Delivery.* When a licensee is required by this section to deliver an annual privacy notice, the licensee shall deliver it according to § 146a.16 (relating to delivery).

§ 146a.13. Information to be included in privacy notices.

(a) *General rule.* The initial, annual and revised privacy notices that a licensee provides under §§ 146a.11, 146a.12 and 146a.15 (relating to initial privacy notice to consumers required; annual privacy notice to customers required; and revised privacy notices) shall include all of

the following items of information, in addition to other information the licensee wishes to provide, that applies to the licensee and to the consumers to whom the licensee sends its privacy notice:

(1) The categories of nonpublic personal financial information that the licensee collects.

(2) The categories of nonpublic personal financial information that the licensee discloses.

(3) The categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under §§ 146a.32 and 146a.33 (relating to exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions; and other exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information).

(4) The categories of nonpublic personal financial information about the licensee's former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than those parties to whom the licensee discloses information under §§ 146a.32 and 146a.33.

(5) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under § 146a.31 (relating to exception to opt out requirements for disclosure of nonpublic personal financial information for service providers and joint marketing) (and no other exception in §§ 146a.32 and 146a.33 applies to that disclosure), a separate description of the categories of information the licensee discloses and the categories of nonaffiliated third parties with whom the licensee has contracted.

(6) An explanation of the consumer's right under § 146a.21(a) (relating to limitation on disclosure of nonpublic personal financial information to nonaffiliated third parties) to opt out of the disclosure of nonpublic personal financial information to any nonaffiliated third parties, including the methods by which the consumer may exercise that right at that time.

(7) Any disclosures that the licensee makes under section 603(d)(2)(A)(iii) of the Federal Fair Credit Reporting Act (15 U.S.C.A. § 1681a(d)(2)(A)(iii)).

(8) The licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information.

(9) Any disclosure that the licensee makes under subsection (b).

(b) *Description of parties subject to exceptions.* If a licensee discloses nonpublic personal financial information as authorized under §§ 146a.32 and 146a.33, the licensee is not required to list those exceptions in the initial or annual privacy notices required by §§ 146a.11 and 146a.12. When describing the categories of parties to whom disclosure is made, the licensee is required to state only that it makes disclosures to other affiliated or nonaffiliated third parties, as applicable, as permitted by law.

(c) *Examples.*

(1) *Categories of nonpublic personal financial information that the licensee collects.* A licensee satisfies the requirement to categorize the nonpublic personal finan-

cial information it collects if the licensee categorizes it according to the source of the information, as applicable:

- (i) Information from the consumer.
- (ii) Information about the consumer's transactions with the licensee or its affiliates.
- (iii) Information about the consumer's transactions with nonaffiliated third parties.

(iv) Information from a consumer reporting agency.

(2) *Categories of nonpublic personal financial information a licensee discloses.*

(i) A licensee satisfies the requirement to categorize nonpublic personal financial information it discloses if the licensee categorizes the information according to source, as described in subsection (c)(1), as applicable, and provides examples to illustrate the types of information in each category. These examples include:

(A) Information from the consumer, including application information, such as assets and income and identifying information, such as name, address and Social Security number.

(B) Transaction information, such as information about balances, payment history and parties to the transaction.

(C) Information from consumer reports, such as a consumer's creditworthiness and credit history.

(ii) A licensee does not adequately categorize the information that it discloses if the licensee uses only general terms, such as transaction information about the consumer.

(iii) If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that it collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal financial information that the licensee discloses.

(3) *Categories of affiliates and nonaffiliated third parties to whom the licensee discloses.*

(i) A licensee satisfies the requirement to categorize the affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in which they engage.

(ii) Types of businesses may be described by general terms only if the licensee uses illustrative examples of significant lines of business. For example, a licensee may use the term financial products or services if it includes appropriate examples of significant lines of businesses, such as life insurer, automobile insurer, consumer banking or securities brokerage.

(iii) A licensee also may categorize the affiliates and nonaffiliated third parties to which it discloses nonpublic personal financial information about consumers using more detailed categories.

(4) *Disclosures under exception for service providers and joint marketers.* If a licensee discloses nonpublic personal financial information under the exception in § 146a.31 to a nonaffiliated third party to market products or services that it offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of subsection (a)(5) if it does all of the following:

(i) Lists the categories of nonpublic personal financial information it discloses, using the same categories and

examples the licensee used to meet the requirements of subsection (a)(2), as applicable.

(ii) States whether the nonaffiliated third party is either:

(A) A service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution.

(B) A financial institution with whom the licensee has a joint marketing agreement.

(5) *Simplified notices.* If a licensee does not disclose, and does not wish to reserve the right to disclose, nonpublic personal financial information about customers or former customers to affiliates or nonaffiliated third parties except as authorized under §§ 146a.32 and 146a.33, the licensee may simply state that fact, in addition to the information it shall provide under subsection (a)(1), (8) and (9), and subsection (b).

(6) *Confidentiality and security.* A licensee describes its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following:

(i) Describes in general terms who is authorized to have access to the information.

(ii) States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy. The licensee is not required to describe technical information about the safeguards it uses.

(d) *Short-form initial notice with opt out notice for noncustomers.*

(1) A licensee may satisfy the initial notice requirements in § 146a.11(a)(2) and § 146a.14(c) (relating to form of opt out notice to consumers and opt out methods) for a consumer who is not a customer by providing a short-form initial notice at the same time as the licensee delivers an opt out notice as required in § 146a.14.

(2) A short-form initial notice shall do all of the following:

(i) Be clear and conspicuous.

(ii) State that the licensee's privacy notice is available upon request.

(iii) Explain a reasonable means by which the consumer may obtain that notice.

(3) The licensee shall deliver its short-form initial notice according to § 146a.16 (relating to delivery). The licensee is not required to deliver its privacy notice with its short-form initial notice. The licensee instead may simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee's short-form notice requests the licensee's privacy notice, the licensee shall deliver its privacy notice according to § 146a.16.

(4) Examples of obtaining privacy notice are included in this paragraph. The licensee provides a reasonable means by which a consumer may obtain a copy of its privacy notice if the licensee does either of the following:

(i) Provides a toll-free telephone number that the consumer may call to request the notice.

(ii) For a consumer who conducts business in person at the licensee's office, maintains copies of the notice on hand that the licensee provides to the consumer immediately upon request.

(e) *Future disclosures.* The licensee's notice may include categories of:

(1) Nonpublic personal financial information that the licensee reserves the right to disclose in the future, but does not currently disclose.

(2) Affiliates or nonaffiliated third parties to whom the licensee reserves the right in the future to disclose, but to whom the licensee does not currently disclose, nonpublic personal financial information.

(f) *Sample clauses.* Sample clauses illustrating some of the notice content required by this section are included in Appendix A (relating to sample clauses).

§ 146a.14. Form of opt out notice to consumers and opt out methods.

(a) *Opt out notice.*

(1) *Form of opt out notice.* If a licensee is required to provide an opt out notice under § 146a.21(a) (relating to limitation on disclosure of nonpublic personal financial information to nonaffiliated third parties), it shall provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under that section. The notice shall state all of the following:

(i) That the licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party.

(ii) That the consumer has the right to opt out of that disclosure.

(iii) A reasonable means by which the consumer may exercise the opt out right.

(2) *Examples.*

(i) *Adequate opt out notice.* A licensee provides adequate notice that the consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee does both of the following:

(A) Identifies all of the categories of nonpublic personal financial information that it discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information, as described in § 146a.13(a)(2) and (3) (relating to information to be included in privacy notices), and states that the consumer can opt out of the disclosure of that information.

(B) Identifies the insurance products or services that the consumer obtains from the licensee, either singly or jointly, to which the opt out direction would apply.

(ii) *Reasonable opt out means.* A licensee provides a reasonable means to exercise an opt out right if it does any of the following:

(A) Designates check-off boxes in a prominent position on the relevant forms with the opt out notice.

(B) Includes a reply form together with the opt out notice.

(C) Provides an electronic means to opt out, such as a form that can be sent by means of electronic mail or a process at the licensee's website, if the consumer agrees to the electronic delivery of information.

(D) Provides a toll-free telephone number that consumers may call to opt out.

(iii) *Unreasonable opt out means.* A licensee does not provide a reasonable means of opting out if the only means of opting out is either of the following:

(A) For the consumer to write a letter to exercise that opt out right.

(B) As described in any notice subsequent to the initial notice is to use a check-off box that the licensee provided with the initial notice but did not include with the subsequent notice.

(3) *Specific opt out means.* A licensee may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

(b) *Same form as initial notice permitted.* A licensee may provide the opt out notice together with or on the same written or electronic form as the initial notice the licensee provides in accordance with § 146a.11 (relating to initial privacy notice to consumers required).

(c) *Initial notice required when opt out notice delivered subsequent to initial notice.* If a licensee provides the opt out notice later than required for the initial notice in accordance with § 146a.11, the licensee shall also include a copy of the initial notice with the opt out notice in writing or, if the consumer agrees, electronically.

(d) *Joint relationships.*

(1) If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt out notice. The licensee's opt out notice shall explain how the licensee will treat an opt out direction by a joint consumer (as explained in paragraph (5)).

(2) Any of the joint consumers may exercise the right to opt out. The licensee may either:

(i) Treat an opt out direction by a joint consumer as applying to all of the associated joint consumers.

(ii) Permit each joint consumer to opt out separately.

(3) If a licensee permits each joint consumer to opt out separately, the licensee shall permit one of the joint consumers to opt out on behalf of all of the joint consumers.

(4) A licensee may not require all joint consumers to opt out before it implements any opt out direction.

(5) An example is as follows: If John and Mary are both named policyholders on a homeowner's insurance policy issued by a licensee and the licensee sends policy statements to John's address, the licensee may do any of the following, but it shall explain in its opt out notice which opt out policy the licensee will follow:

(i) Send a single opt out notice to John's address, but the licensee shall accept an opt out direction from either John or Mary.

(ii) Treat an opt out direction by either John or Mary as applying to the entire policy. If the licensee does so and John opts out, the licensee may not require Mary to opt out as well before implementing John's opt out direction.

(iii) Permit John and Mary to make different opt out directions. If the licensee does so all of the following apply:

(A) The licensee shall permit John and Mary to opt out for each other.

(B) If both opt out, the licensee shall permit both of them to notify it in a single response (such as on a form or through a telephone call).

(C) If John opts out and Mary does not, the licensee may only disclose nonpublic personal financial information about Mary, but not about John and not about John and Mary jointly.

(e) *Time to comply with opt out.* A licensee shall comply with a consumer's opt out direction as soon as reasonably practicable after the licensee receives it.

(f) *Continuing right to opt out.* A consumer may exercise the right to opt out at any time.

(g) *Duration of consumer's opt out direction.*

(1) A consumer's direction to opt out under this section is effective until the consumer revokes it in writing or, if the consumer agrees, electronically.

(2) When a customer relationship terminates, the customer's opt out direction continues to apply to the nonpublic personal financial information that the licensee collected during or related to that relationship. If the individual subsequently establishes a new customer relationship with the licensee, the opt out direction that applied to the former relationship does not apply to the new relationship.

(h) *Delivery.* When a licensee is required to deliver an opt out notice by this section, the licensee shall deliver it according to § 146a.16 (relating to delivery).

§ 146a.15. Revised privacy notices.

(a) *General rule.* Except as otherwise authorized in this chapter, a licensee may not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party other than as described in the initial notice that the licensee provided to that consumer under § 146a.11 (relating to initial privacy notice to consumers required), unless all of the following conditions are met:

(1) The licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes its policies and practices.

(2) The licensee has provided to the consumer a new opt out notice.

(3) The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure.

(4) The consumer does not opt out.

(b) *Examples.*

(1) Except as otherwise permitted by Subchapter D (relating to exceptions to limits on disclosure of nonpublic personal financial information), a licensee shall provide a revised notice before it discloses one or more of the following:

(i) A new category of nonpublic personal financial information to any nonaffiliated third party.

(ii) Nonpublic personal financial information to a new category of nonaffiliated third party.

(iii) Nonpublic personal financial information about a former customer to a nonaffiliated third party, if that former customer has not had the opportunity to exercise an opt outright regarding that disclosure.

(2) A revised notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in its prior notice.

(c) *Delivery.* When a licensee is required to deliver a revised privacy notice by this section, the licensee shall deliver it according to § 146a.16 (relating to delivery).

§ 146a.16. Delivery.

(a) *How to provide notices.* A licensee shall provide any notices that this chapter requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

(b) *Actual notice.*

(1) *Examples of reasonable expectation of actual notice.* A licensee may reasonably expect that a consumer will receive actual notice if the licensee meets one of the following conditions:

(i) Hand-delivers a printed copy of the notice to the consumer.

(ii) Mails a printed copy of the notice to the last known address of the consumer separately, or in a policy, billing or other written communication.

(iii) For a consumer who conducts transactions electronically, posts the notice on the electronic site and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service.

(iv) For an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer travel insurance, posts the notice and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular insurance product or service.

(2) *Examples of unreasonable expectation of actual notice.* A licensee may not, however, reasonably expect that a consumer will receive actual notice of its privacy policies and practices if it either:

(i) Only posts a sign in its office or generally publishes advertisements of its privacy policies and practices.

(ii) Sends the notice via electronic mail to a consumer who does not obtain an insurance product or service from the licensee electronically.

(c) *Annual notices only.* A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if either:

(1) The customer uses the licensee's website to access insurance products and services electronically and agrees to receive notices at the website and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the website.

(2) The customer has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee's current privacy notice remains available to the customer upon request.

(d) *Oral description of notice insufficient.* A licensee may not provide any notice required by this regulation solely by orally explaining the notice, either in person or over the telephone.

(e) *Retention or accessibility of notices for customers.*

(1) *Notices for customers.* For customers only, a licensee shall provide the initial notice required by § 146a.11(a)(1) (relating to initial privacy notice to consumers required), the annual notice required by § 146a.12(a) (relating to annual privacy notice to customers required), and the revised notice required by § 146a.15 (relating to revised privacy notices) so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.

(2) *Examples of retention or accessibility.* A licensee provides a privacy notice to the customer so that the

customer can retain it or obtain it later if the licensee meets one or more of the following conditions:

- (i) Hand-delivers a printed copy of the notice to the customer.
- (ii) Mails a printed copy of the notice to the last known address of the customer.
- (iii) Makes its current privacy notice available on a website (or a link to another website) for the customer who obtains an insurance product or service electronically and agrees to receive the notice at the website.
- (f) *Joint notice with other financial institutions.* A licensee may provide a joint notice from the licensee and one or more of its affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee also may provide a notice on behalf of another financial institution.

(g) *Joint relationships.* If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the initial, annual and revised notice requirements of §§ 146a.11(a), 146a.12(a) and 146a.15(a), respectively, by providing one notice to those consumers jointly.

Subchapter C. LIMITS ON DISCLOSURES OF FINANCIAL INFORMATION

- Sec. 146a.21. Limitation on disclosure of nonpublic personal financial information to nonaffiliated third parties.
- 146a.22. Limits on redisclosure and reuse of nonpublic personal financial information.
- 146a.23. Limits on sharing account number information for marketing purposes.

§ 146a.21. Limits on disclosure of nonpublic personal financial information to nonaffiliated third parties.

(a) *Conditions for disclosure.* Except as otherwise authorized in this chapter, a licensee may not, directly or through an affiliate, disclose nonpublic personal financial information about a consumer to a nonaffiliated third party unless all of the following conditions are met:

- (1) The licensee has provided to the consumer an initial notice as required under § 146a.11 (relating to initial privacy notice to consumers required).
- (2) The licensee has provided to the consumer an opt out notice as required in § 146a.14 (relating to form of opt out notice to consumers and opt out methods).
- (3) The licensee has given the consumer a reasonable opportunity, before it discloses the information to the nonaffiliated third party, to opt out of the disclosure.
- (4) The consumer does not opt out.

(b) *Opt out definition.* Opt out means a direction by the consumer that the licensee not disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by Subchapter D (relating to exceptions to limits on disclosure of nonpublic personal financial information).

(c) *Examples of reasonable opportunity to opt out.* A licensee provides a consumer with a reasonable opportunity to opt out if:

(1) *By mail.* The licensee mails the notices required in subsection (a) to the consumer and allows the consumer to opt out by mailing a form, calling a toll-free telephone number or any other reasonable means within 30 days from the date the licensee mailed the notices.

(2) *By electronic means.* A customer opens an online account with a licensee and agrees to receive the notices required in subsection (a) electronically, and the licensee allows the customer to opt out by any reasonable means within 30 days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account.

(3) *Isolated transaction with consumer.* For an isolated transaction such as providing the consumer with an insurance quote, a licensee provides the consumer with a reasonable opportunity to opt out if the licensee provides the notices required in subsection (a) at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

(d) *Application of opt out to all consumers and all nonpublic personal financial information.*

(1) A licensee shall comply with this section, regardless of whether the licensee and the consumer have established a customer relationship.

(2) Unless a licensee complies with this section, the licensee may not, directly or through an affiliate, disclose nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer.

(e) *Partial opt out.* A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

§ 146a.22. Limits on redisclosure and reuse of nonpublic personal financial information.

(a) *Information the licensee receives under an exception.*

(1) If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception in § 146a.32 or § 146a.33 (relating to exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions; and other exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information), the licensee's disclosure and use of that information is limited as follows:

(i) The licensee may disclose the information to the affiliates of the financial institution from which the licensee received the information.

(ii) The licensee may disclose the information to its affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information.

(iii) The licensee may disclose and use the information under an exception in § 146a.32 or § 146a.33, in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

(2) *Example.* If a licensee receives information from a nonaffiliated financial institution for claims settlement purposes, the licensee may disclose the information for fraud prevention, or in response to a properly authorized subpoena. The licensee may not disclose that information to a nonaffiliated third party for marketing purposes or use that information for its own marketing purposes.

(b) *Information a licensee receives outside of an exception.*

(1) If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution other than under an exception in § 146a.32 or § 146a.33, the licensee may disclose the information only:

(i) To the affiliates of the financial institution from which the licensee received the information.

(ii) To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information.

(iii) To any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which the licensee received the information.

(2) *Example.* If a licensee obtains a customer list from a nonaffiliated financial institution outside of the exceptions in § 146a.32 or § 146a.33 the licensee may do the following:

(i) Use that list for its own purposes.

(ii) Disclose that list to another nonaffiliated third party only if the financial institution from which the licensee purchased the list could have lawfully disclosed the list to that nonaffiliated third party. That is, the licensee may disclose the list in accordance with the privacy policy of the financial institution from which the licensee received the list, as limited by the opt out direction of each consumer whose nonpublic personal financial information the licensee intends to disclose, and the licensee may disclose the list in accordance with an exception in § 146a.32 or § 146a.33, such as to the licensee's attorneys or accountants.

(c) *Information a licensee discloses under an exception.* If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception in § 146a.32 or § 146a.33, the nonaffiliated third party may disclose and use that information only as follows:

(1) The nonaffiliated third party may disclose the information to the licensee's affiliates.

(2) The nonaffiliated third party may disclose the information to its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the nonaffiliated third party may disclose and use the information.

(3) The nonaffiliated third party may disclose and use the information under an exception in § 146a.32 or § 146a.33, in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

(d) *Information a licensee discloses outside of an exception.* If a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception in § 146a.32 or § 146a.33, the nonaffiliated third party may disclose the information only:

(1) To the licensee's affiliates.

(2) To the nonaffiliated third party's affiliates, but the nonaffiliated third party's affiliates, in turn, may disclose the information only to the extent the nonaffiliated third party can disclose the information.

(3) To any other person, if the disclosure would be lawful if the licensee made it directly to that person.

§ 146a.23. Limits on sharing account number information for marketing purposes.

(a) *General prohibition on disclosure of account numbers.* A licensee may not, directly or through an affiliate,

disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer.

(b) *Exceptions.* Subsection (a) does not apply if a licensee discloses a policy number or similar form of access number or access code to any of the following:

(1) The licensee's service provider solely in order to perform marketing for the licensee's own products or services, as long as the service provider is not authorized to directly initiate charges to the account.

(2) A licensee who is a producer solely in order to perform marketing for the licensee's own products or services.

(3) A participant in an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program.

(c) *Examples.*

(1) *Policy number.* A policy number, or similar form of access number or access code, does not include a number or code in an encrypted form, as long as the licensee does not provide the recipient with a means to decode the number or code.

(2) *Policy or transaction account.* For the purposes of this section, a policy or transaction account is an account other than a deposit account or a credit card account. A policy or transaction account does not include an account to which third parties cannot initiate charges.

Subchapter D. EXCEPTIONS TO LIMITS ON DISCLOSURES OF NONPUBLIC PERSONAL FINANCIAL INFORMATION

Sec.

146a.31. Exception to opt out requirements for disclosure of nonpublic personal financial information for service providers and joint marketing.

146a.32. Exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions.

146a.33. Other exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information.

§ 146a.31. Exception to opt out requirements for disclosure of nonpublic personal financial information for service providers and joint marketing.

(a) *General rule.*

(1) *Opt out requirements.* The opt out requirements in §§ 146a.14 and 146a.21 (relating to form of opt out notice to consumers and opt out methods; and limitation on disclosure of nonpublic personal financial information to nonaffiliated third parties) do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee meets both of the following conditions:

(i) Provides the initial notice in accordance with § 146a.11 (relating to initial privacy notice to consumers required).

(ii) Enters into a contractual agreement with the nonaffiliated third party that prohibits the nonaffiliated third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in § 146a.32 or § 146a.33 (relating to exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information for processing and serv-

ing transactions; and other exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information) in the ordinary course of business to carry out those purposes.

(2) *Example.* If a licensee discloses nonpublic personal financial information under this section to a financial institution with which the licensee performs joint marketing, the licensee's contractual agreement with that institution meets the requirements of paragraph (1) if it prohibits the institution from disclosing or using the nonpublic personal financial information except as necessary to carry out the joint marketing or under an exception in § 146a.32 or § 146a.33 in the ordinary course of business to carry out that joint marketing.

(b) *Service may include joint marketing.* The services a nonaffiliated third party performs for a licensee under subsection (a) may include marketing of the licensee's own products or services or marketing of financial products or services offered under joint agreements between the licensee and one or more financial institutions.

(c) *Definition of "joint agreement."* For purposes of this section, "joint agreement" means a written contract under which a licensee and one or more financial institutions jointly offer, endorse or sponsor a financial product or service.

§ 146a.32. Exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions.

(a) *Exceptions for processing transactions at consumer's request.* The requirements for initial notice in § 146a.11(a)(2) (relating to initial privacy notice to consumers required), the opt out in §§ 146a.14 and 146a.21 (relating to form of opt out notice to consumers and opt out methods; and limitation on disclosure of nonpublic personal financial information to nonaffiliated third parties), and service providers and joint marketing in § 146a.31 (relating to exception to opt out requirements for disclosure of nonpublic personal financial information for service providers and joint marketing) do not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction that a consumer requests or authorizes, or in connection with any of the following:

- (1) Servicing or processing an insurance product or service that a consumer requests or authorizes.
- (2) Maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of that entity.
- (3) A proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer.
- (4) Reinsurance or stop loss or excess loss insurance.

(b) *Necessary to effect, administer or enforce a transaction.* When used in this section, "necessary to effect, administer or enforce a transaction" means that the disclosure is required or is either of the following:

- (1) One of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service.
- (2) A usual, appropriate or acceptable method to do one or more of the following:

(i) Carry out the transaction or the product or service business of which the transaction is a part, and record, service or maintain the consumer's account in the ordinary course of providing the insurance product or service.

(ii) Administer or service benefits or claims relating to the transaction or the product or service business of which it is a part.

(iii) Provide a confirmation, explanation, statement or other record of the transaction, or information on the status or value of the insurance product or service to the consumer, the consumer's producer, or a policyholder or the policyholder's agent, producer, or broker with respect to a claim asserted by, or paid to, a consumer under a policy.

(iv) Accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party.

(v) Underwrite insurance at the consumer's request or for any of the following purposes as they relate to a consumer's insurance, or, when the consumer is a workers' compensation claimant or third party claimant, to the policyholder's insurance: account administration, reporting, investigating or preventing fraud or material misrepresentation, processing premium payments, processing, adjusting, paying, and settling insurance claims, administering insurance benefits (including utilization review activities), participating in research projects or as otherwise required or specifically permitted by Federal or State law.

(vi) Use in connection with any of the following:

(A) The authorization, settlement, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited or otherwise paid using a debit, credit or other payment card, check or account number, or by other payment means.

(B) The transfer of receivables, accounts or interests therein.

(C) The audit of debit, credit or other payment information.

§ 146a.33. Other exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information.

(a) *Exceptions to opt out requirements.* The requirements for initial notice to consumers in § 146a.11(a)(2) (relating to initial privacy notice to consumers required) the opt out in §§ 146a.14 and 146a.21 (relating to form of opt out notice to consumers and opt out methods; and limitation on disclosure of nonpublic personal financial information to nonaffiliated third parties), and service providers and joint marketing in § 146a.31 (relating to exception to opt out requirements for disclosure of nonpublic personal financial information for service providers and joint marketing) do not apply when a licensee discloses nonpublic personal financial information:

- (1) With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction.
- (2) To protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product or transaction.
- (3) To protect against or prevent actual or potential fraud or unauthorized transactions.
- (4) For required institutional risk control or for resolving consumer disputes or inquiries.

(5) To persons holding a legal or beneficial interest relating to the consumer.

(6) To persons acting in a fiduciary or representative capacity on behalf of the consumer.

(7) To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating a licensee, persons that are assessing the licensee's compliance with industry standards, and the licensee's attorneys, accountants and auditors.

(8) To the extent specifically permitted or required under other provisions of law and in accordance with the Federal Right to Financial Privacy Act of 1978 (12 U.S.C.A. §§ 3401—3422), to law enforcement agencies (including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, with respect to 31 U.S.C.A. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C.A. Chapter 21 (Financial Recordkeeping), a state insurance authority, and the Federal Trade Commission), self-regulatory organizations or for an investigation on a matter related to public safety.

(9) To a consumer reporting agency in accordance with the Federal Fair Credit Reporting Act (15 U.S.C.A. §§ 1681—1681u), or from a consumer report reported by a consumer reporting agency.

(10) In connection with a proposed or actual sale, merger, transfer or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business or unit.

(11) To comply with Federal, state or local laws, rules and other applicable legal requirements.

(12) To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by Federal, state or local authorities.

(13) To respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance or other purposes as authorized by law.

(14) For purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan or a workers' compensation plan.

(b) *Example of revocation of consent.* A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal financial information as permitted under § 146a.14(f) (relating to form of opt out notice to consumers and opt out methods).

Subchapter E. ADDITIONAL PROVISIONS

Sec.

146a.41. Effect on other laws.

146a.42. Nondiscrimination.

146a.43. Violation.

146a.44. Effective date.

§ 146a.41. Effect on other laws.

(a) *Protection of Fair Credit Reporting Act.* This chapter will not be construed to modify, limit or supersede the operation of the Federal Fair Credit Reporting Act (15 U.S.C.A. §§ 1681—1681u), and no inference may be drawn on the basis of the provisions of this chapter regarding whether information is transaction or experience information under section 603 of that act (15 U.S.C.A. § 1681a).

(b) *Protection of section 648 of the act (40 P.S. § 288) (relating to customer privacy).* This chapter does not modify, limit or supercede the operation of section 648 of the act.

§ 146a.42. Nondiscrimination.

A licensee may not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of nonpublic personal financial information under this chapter.

§ 146a.43. Violation.

Violations of this chapter are deemed and defined by the Commissioner to be an unfair method of competition and an unfair or deceptive act or practice and shall be subject to any applicable penalties or remedies contained in the Unfair Insurance Practices Act (40 P.S. §§ 1171.1—1171.15).

§ 146a.44. Effective date.

(a) *Effective date.* This chapter is effective July 1, 2001.

(b) *Notice requirements.*

(1) *Consumers who are the licensee's customers on the effective date.* By July 1, 2001, a licensee shall provide an initial notice, as required by § 146a.11 (relating to initial privacy notice to consumers required), to consumers who are the licensee's customers on July 1, 2001.

(2) *Example.* A licensee provides an initial notice to consumers who are its customers on July 1, 2001, if, by that date, the licensee has established a system for providing an initial notice to all new customers and has mailed the initial notice to all the licensee's existing customers.

(c) *Two-year grandfathering of service agreements.* Until July 1, 2002, a contract that a licensee has entered into with a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf satisfies the provisions of § 146a.31(a)(1)(ii) (relating to exception to opt out requirements for disclosure of nonpublic personal financial information for service providers and joint marketing), even if the contract does not include a requirement that the nonaffiliated third party maintain the confidentiality of nonpublic personal financial information, as long as the licensee entered into the agreement on or before July 1, 2000.

APPENDIX A

SAMPLE CLAUSES

Licensees, including a group of financial holding company affiliates that use a common privacy notice, may use the following sample clauses, if the clause is accurate for each institution that uses the notice. (Note that disclosure of certain information, such as assets, income and information from a consumer reporting agency, may give rise to obligations under the Federal Fair Credit Reporting Act, such as a requirement to permit a consumer to opt out of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.)

A-1—Categories of information a licensee collects (all institutions)

A licensee may use this clause, as applicable, to meet the requirement of § 146a.13(a)(1) to describe the categories of nonpublic personal financial information the licensee collects.

Sample Clause A-1:

We collect nonpublic personal financial information about you from the following sources:

- Information we receive from you on applications or other forms.
- Information about your transactions with us, our affiliates or others.
- Information we receive from a consumer reporting agency.

A-2-Categories of information a licensee discloses (institutions that disclose outside of the exceptions)

A licensee may use one of these clauses, as applicable, to meet the requirement of § 146a.13(a)(2) to describe the categories of nonpublic personal financial information the licensee discloses. The licensee may use these clauses if it discloses nonpublic personal financial information other than as permitted by the exceptions in §§ 146a.31, 146a.32 and 146a.33.

Sample Clause A-2, Alternative 1:

We may disclose the following kinds of nonpublic personal financial information about you:

- Information we receive from you on applications or other forms, such as [provide illustrative examples, such as "your name, address, social security number, assets, income, and beneficiaries"].
- Information about your transactions with us, our affiliates or others, such as [provide illustrative examples, such as "your policy coverage, premiums, and payment history"].
- Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as "your creditworthiness and credit history"].

Sample Clause A-2, Alternative 2:

We may disclose all of the information that we collect, as described [describe location in the notice, such as "above" or "below"].

A-3-Categories of information a licensee discloses and parties to whom the licensee discloses (institutions that do not disclose outside of the exceptions)

A licensee may use this clause, as applicable, to meet the requirements of § 146a.13(a)(2), (3) and (4) to describe the categories of nonpublic personal financial information about customers and former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses. A licensee may use this clause if the licensee does not disclose nonpublic personal financial information to any party, other than as permitted by the exceptions in §§ 146a.32 and 146a.33.

Sample Clause A-3:

We do not disclose any nonpublic personal financial information about our customers or former customers to anyone, except as permitted by law.

A-4-Categories of parties to whom a licensee discloses (institutions that disclose outside of the exceptions)

A licensee may use this clause, as applicable, to meet the requirement of § 146a.13(a)(3) to describe the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information. This clause may be used if the licensee discloses nonpublic personal financial information other than as

permitted by the exceptions in §§ 146a.31, 146a.32 and 146a.33, as well as when permitted by the exceptions in §§ 146a.32 and 146a.33.

Sample Clause A-4:

We may disclose nonpublic personal financial information about you to the following types of third parties:

- Financial service providers, such as [provide illustrative examples, such as "life insurers, automobile insurers, mortgage bankers, securities broker-dealers, and insurance agents"].
- Non-financial companies, such as [provide illustrative examples, such as "retailers, direct marketers, airlines, and publishers"].
- Others, such as [provide illustrative examples, such as "non-profit organizations"].

We may also disclose nonpublic personal financial information about you to nonaffiliated third parties as permitted by law.

A-5—Service provider/joint marketing exception

A licensee may use one of these clauses, as applicable, to meet the requirements of § 146a.13(a)(5) related to the exception for service providers and joint marketers in § 146a.31. If a licensee discloses nonpublic personal financial information under this exception, the licensee shall describe the categories of nonpublic personal financial information the licensee discloses and the categories of third parties with which the licensee has contracted.

Sample Clause A-5, Alternative 1:

We may disclose the following information to companies that perform marketing services on our behalf or to other financial institutions with which we have joint marketing agreements:

- Information we receive from you on applications or other forms, such as [provide illustrative examples, such as "your name, address, social security number, assets, income, and beneficiaries"].
- Information about your transactions with us, our affiliates or others, such as [provide illustrative examples, such as "your policy coverage, premium, and payment history"].
- Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as "your creditworthiness and credit history"].

Sample Clause A-5, Alternative 2:

We may disclose all of the information we collect, as described [describe location in the notice, such as "above" or "below"] to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements.

A-6-Explanation of opt out right (institutions that disclose outside of the exceptions)

A licensee may use this clause, as applicable, to meet the requirement of § 146a.13(a)(6) to provide an explanation of the consumer's right to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right. The licensee may use this clause if the licensee discloses nonpublic personal financial information other than as permitted by the exceptions in §§ 146a.31, 146a.32 and 146a.33.

Sample Clause A-6:

If you prefer that we not disclose nonpublic personal financial information about you to nonaffiliated third parties, you may opt out of those disclosures, that is, you may direct us not to make those disclosures (other than disclosures permitted by law). If you wish to opt out of disclosures to nonaffiliated third parties, you may [describe a reasonable means of opting out, such as "call the following toll-free number: (insert number)"].

A-7—Confidentiality and security (all institutions)

A licensee may use this clause, as applicable, to meet the requirement of § 146a.13(a)(8) to describe its policies and practices with respect to protecting the confidential-

ity and security of nonpublic personal financial information.

Sample Clause A-7:

We restrict access to nonpublic personal financial information about you to [provide an appropriate description, such as "those employees who need to know that information to provide products or services to you"]. We maintain physical, electronic, and procedural safeguards that comply with Federal regulations to guard your nonpublic personal financial information.

[Pa.B. Doc. No. 01-1457. Filed for public inspection August 10, 2001, 9:00 a.m.]

STATEMENTS OF POLICY

Title 64—SECURITIES

SECURITIES COMMISSION

[64 PA. CODE CH. 604]

No-Action Letters

The Securities Commission (Commission) has adopted § 604.023 (relating to no-action letters—statement of policy) to read as set forth in Annex A. The section concerns procedures governing the issuance of no-action letters by Commission staff.

Effective Date

The statement of policy shall be effective upon publication in the *Pennsylvania Bulletin*.

Statutory Reference

Section 609(a) of the Pennsylvania Securities Act of 1972 (70 P. S. § 1-609(a)) (act) gives the Commission broad authority to take actions as are necessary to carry out the provisions of the act. Section 604 of the act (70 P. S. § 1-604) speaks specifically to issuing advice to the public concerning provisions of the act.

Summary and Purpose

Periodically, the Commission receives written requests from entities and individuals for Commission staff to provide written confirmation that, based on the facts presented and accompanying legal opinion, staff will not recommend enforcement action to be taken by the Commission against the individual or entity for engaging in the activities outlined in the request. In the securities industry, this is commonly known as a staff "no-action" letter.

A no-action letter is limited to the facts described in the request. If those facts change, the requestor may not be able to rely on the initial no-action letter as the change of facts may precipitate a different legal conclusion. Commission staff is not obligated to respond to each request, particularly when the matter in question is well-settled law.

A no-action letter expresses only the position of Commission staff with respect to recommendation of initiation of an administrative enforcement proceeding. It does not bind the Commission or third parties.

The United States Securities and Exchange Commission (SEC) as well as several other states have published similar statements of policy describing procedures that must be followed by persons seeking informal advice in the form of a no-action letter (see *Rendering Informal Advice*, Securities Act Release No. 33-6253, Fed. Sec. L. Rep. (CCH) ¶373, at 1253 (October 28, 1980); and *Request for No-Action and Interpretive Letters*, Securities Act Release No. 33-6269, Fed. Sec. L. Rep. (CCH) ¶375, at 1257 (December 5, 1980). This statement of policy parallels similar expressions adopted by the SEC and securities regulatory agencies in other states.

SIMON J. DENGEL,
Assistant Secretary

(Editor's Note: The regulations of the Commission, 64 Pa. Code, are amended by adding a statement of policy in

§ 604.023 (relating to no-action letters) to read as set forth in Annex A.)

Fiscal Note: 50-117. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 64. SECURITIES

PART I. SECURITIES COMMISSION

Subpart F. ADMINISTRATION

CHAPTER 604. INTERPRETIVE OPINIONS OF THE COMMISSION—STATEMENT OF POLICY

§ 604.023. No-action letters—statement of policy.

(a) A person may request in writing a no-action letter from Commission staff that, based on the facts stated in the written request, staff will not recommend enforcement action against certain specified persons engaging in the activities described in the request. Commission staff is not obligated to respond to each request, particularly when the matter in question is well-settled law.

(b) Each request for a no-action letter shall be in writing and shall be filed with the Office of Chief Counsel at the Commission's Harrisburg Office address. Each request shall include the following:

(1) The particular statutory provision or rule upon which the request is based.

(2) The names of all persons involved. Letters relating to unnamed persons or to hypothetical situations will not be answered.

(3) A detailed statement of the facts necessary to reach a legal conclusion in the matter. Letters should be concise and to the point and should not attempt to include every possible type of situation which may arise in the future so that the request is overly broad or calls for a speculative response.

(4) A detailed discussion and analysis of the law as it relates to the facts. The writer must indicate why the writer believes a problem exists and must give or provide a legal opinion in the matter, including the basis for the opinion.

(5) A statement of the reasons why a no-action letter is appropriate.

(6) A representation that there is no legal action, judicial or administrative, which relates, directly or indirectly, to the facts set forth in the no-action letter request.

(7) A representation that the transaction in question has not been commenced or, if it has commenced, the present status of the transaction.

(c) If issued, a no-action letter expresses only the current position of Commission staff with respect to recommendation of administrative enforcement action against specific persons engaging in specific transactions; may be relied upon only by the requesting party; and does not bind the Commission or third parties.

(d) There is no fee required for issuance of a no-action letter.

[Pa.B. Doc. No. 01-1458. Filed for public inspection August 10, 2001, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending July 31, 2001.

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
7-26-01	Community Financial, Inc., Camp Hill, to acquire 100% of the shares of common stock of Community Trust Company, Camp Hill	Camp Hill	Approved and Effective

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-26-01	CSB Bank Curwensville Clearfield County Purchase of assets/ assumption of liabilities of one branch office of AmeriServ Financial Bank, Johnstown, located at: 356 Main Street Coalport Clearfield County	Curwensville	Filed
7-27-01	Mauch Chunk Interim Trust Company, Jim Thorpe, and Mauch Chunk Trust Company, Jim Thorpe <i>Surviving Institution—</i> Mauch Chunk Interim Trust Company, Jim Thorpe, with a change in corporate title to "Mauch Chunk Trust Company"	Jim Thorpe	Filed

Application to merge being used solely to facilitate the acquisition of Mauch Chunk Trust Company by Mauch Chunk Trust Financial Corp., Jim Thorpe, a bank holding company in organization.

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-25-01	Iron Workers Savings Bank Aston Delaware County	Olde Ridge Village Wilmington Pike and Ridge Road Chadds Ford Delaware County	Filed
7-26-01	Firsttrust Savings Bank Conshohocken Montgomery County	Greentree Mews Suites #1 & #4 600 North Route 73 Marlton Burlington County New Jersey	Filed
7-26-01	First Heritage Bank Wilkes-Barre Luzerne County	685 Wyoming Avenue Kingston Luzerne County	Approved

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-13-01	Keystone Savings Bank Bethlehem Northampton County	<i>To:</i> 3091 William Penn Highway Palmer Township Northampton County <i>From:</i> 3745 Nicholas Street Palmer Township Northampton County	Effective

SAVINGS INSTITUTIONS**Branch Applications**

<i>Date</i>	<i>Name of Association</i>	<i>Location</i>	<i>Action</i>
7-27-01	East Stroudsburg Savings Association Stroudsburg Monroe County	Routes 940 & 115 Blakeslee Tobyhanna Township Monroe County	Approved

CREDIT UNIONS

No activity.

JAMES B. KAUFFMAN, Jr.,
Secretary

[Pa.B. Doc. No. 01-1459. Filed for public inspection August 10, 2001, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of August 2001

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of August, 2001, is 8%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96-221). Further preemption was instituted with the signing of Pub. L. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as a principal residence.

Each month the Department of Banking is required by State law to compute and announce the ceiling rate on residential mortgages in Pennsylvania. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the U. S. Treasury. The latest yield rate on long-term government securities is 5.59 to which was added 2.50 percentage points for a total of 8.09 that by law is rounded off to the nearest quarter at 8%.

JAMES B. KAUFFMAN, Jr.,
Secretary

[Pa.B. Doc. No. 01-1460. Filed for public inspection August 10, 2001, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES**Community Conservation Partnerships Program**

The Department of Conservation and Natural Resources (DCNR) has announced an open application period for funding of planning, acquisition, development and technical assistance projects from the Community Conservation Partnerships Program.

The Community Conservation Partnerships Program combines several funding sources that were previously administered by the Bureau of Recreation and Conservation as separate grant programs. These are the Keystone Recreation, Park and Conservation Fund (Keystone), the Environmental Stewardship and Watershed Protection Act (Growing Greener) and the Pennsylvania Recreational Trails Program funded with Federal TEA-21 fund moneys. The grant program components funded by these sources: Community Recreation (\$12M), Land Trusts (\$4.5M), Rails-to-Trails (\$1.4M), Rivers Conservation (\$1.4M), Pennsylvania Recreational Trails (\$1M) and the Growing Greener Program (\$7M) have been combined into one application cycle and a single application format and process resulting in less paperwork. Some additional funding may be available for snowmobile and ATV trails under recently passed legislation—Act 68 of 2001.

An announcement of this open application period, information on preapplication workshops and order form for the application manual has been sent to Commonwealth municipalities, municipal agencies, appropriate/authorized organizations and prequalified land trust organizations. A copy of the announcement, grant application manual and forms, and additional information may

be obtained by contacting the Department of Conservation and Natural Resources, Bureau of Recreation and Conservation, 6th Floor Rachel Carson State Office Building, P. O. Box 8475, Harrisburg, PA 17105-8475 (717) 783-4734, e-mail at rec&con@state.pa.us. Information is also available on the web at www.dcnr.state.pa.us/grants. Completed grant applications should be mailed to the previous postal address and must be postmarked no later than October 31, 2001.

Applications will not be accepted via FAX or e-mail.

Persons with a disability who wish to submit an application and require assistance should contact Darrel Siesholtz at the previous number to discuss how DCNR may best accommodate their needs. TTY or TDD users call (800) 654-5984.

JOHN C. OLIVER,
Secretary

[Pa.B. Doc. No. 01-1461. Filed for public inspection August 10, 2001, 9:00 a.m.]

Pennsylvania Recreational Trails Advisory Board

The Department of Conservation and Natural Resources (DCNR) is accepting nominations through September 30, 2001, for three new appointments to the Pennsylvania Recreational Trails Advisory Board (Board). The Board was created on October 29, 1992, in accordance with the provisions of the Transportation Equity Act for the 21st Century (TEA 21).

The Board consists of one member from each of the following nine recreational trail user organizations: Hiking; Cross-Country Skiing; Off-Highway Motorcycling; Snowmobiling; Horseback Riding; All-Terrain Vehicle Driving; Bicycling; Four-Wheel Driving and Water Trails. One member also represents physically challenged individuals.

The Board's main responsibilities include advising DCNR on the use of Federal trails funding in Pennsylvania, reviewing and ranking trail project applications and presenting an annual report to the Secretary on the accomplishments of the preceding Federal fiscal year, including recommendations for changes.

Nominations for the three new appointees are to be made from individuals representing the following trail user organizations: Horseback Riding, Cross-Country Skiing and 4-Wheel Driving.

Nominations must be submitted to DCNR by September 30, 2001. Appointments will be made by the Secretary of DCNR. Appointees will serve for 3 consecutive years.

To obtain a nomination form, contact Department of Conservation and Natural Resources, Bureau of Recreation and Conservation, Pennsylvania Recreational Trails Program, P. O. Box 8475, Harrisburg, PA 17105-8475, (717) 772-3319, e-mail: scope@state.pa.us.

For more information, visit us through the Pennsylvania homepage at www.state.pa.us, or visit DCNR directly at www.dcnr.state.pa.us.

Persons with a disability who wish to submit a nomination for the Board and require special assistance should contact Scott Cope at (717) 772-3319 to discuss how

DCNR may best assist their needs. TTY or TDD users call (800) 654-5984.

JOHN C. OLIVER,
Secretary

[Pa.B. Doc. No. 01-1462. Filed for public inspection August 10, 2001, 9:00 a.m.]

Proposed Transfer of Lands

The Department of Conservation and Natural Resources, acting through the Bureau of Forestry, is preparing to transfer various interests in 14.82 acres of land in Fulton County, Brush Creek Township, to the Pennsylvania Department of Transportation via an Interdepartmental Agreement.

The extent of the interests conveyed are 3.01 acres in fee for right of way, 11.39 acres as a slope easement and 0.42 acre for a drainage easement. The purpose of this transfer is to allow the Department of Transportation to conduct an improvement project on U. S. Rt. 30 at Sideling Hill.

As is the policy of the Department of Conservation and Natural Resources, the public is hereby notified of this transfer. A 30-day period for public inquiry and/or comment will be in effect commencing August 13, 2001, and ending September 11, 2001. Oral or written comments or questions concerning this proposed transfer may be addressed to Dr. James R. Grace, State Forester, Bureau of Forestry, P. O. Box 8552, Harrisburg, PA 17105-8552; (717) 787-2703. These oral and/or written comments will become part of the official document used in the final decision process.

If, in the duration of the 30-day comment period, a significant amount of public concern develops, the Secretary of the Department of Conservation and Natural Resources may schedule a public informational meeting.

JOHN C. OLIVER,
Secretary

[Pa.B. Doc. No. 01-1463. Filed for public inspection August 10, 2001, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Eisenhower Postsecondary Grant Application Guidelines for Professional Development Programs for Improving Mathematics and Science Teaching and Learning

Applications from Commonwealth nonprofit organizations, which have previously conducted successful mathematics and/or science professional development activities, and Commonwealth institutions of higher education will be accepted for professional development programs specially-designed to improve mathematics and science teaching and learning in this Commonwealth. Grant awards will be funded with higher education money authorized by Subchapter II—Dwight D. Eisenhower Professional Development Program—The Improving America's Schools Act of 1994 (P. L. 103-382). Awards are contingent upon receipt of the Federal appropriation for

the Dwight D. Eisenhower Professional Development Program. The Commonwealth has approximately \$2 million available for competition.

Copies of the Eisenhower Postsecondary Grant Application (EPGA) guidelines are available on the Department of Education's (Department) webpage at <http://www.pde.psu.edu> or from the issuing office, which is the sole point of contact for the guidelines: Division of Program Services, Bureau of Postsecondary Services, Department of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 772-3623; TDD (717) 783-8445.

A preproposal conference is scheduled for Tuesday, August 28, 2001, at 10 a.m. in the Honors Suite, 1st Floor, 333 Market Street, Harrisburg. If special accommo-

datations are required to participate in the preproposal conference, contact the Division of Program Services. Written questions are to be submitted by August 23, 2001, on PDE-4658, available on the Department's webpage at <http://www.pde.psu.edu>. Applications submitted in response to the EPGA guidelines are due in the Division of Program Services no later than 5 p.m., Friday, September 21, 2001.

CHARLES B. ZOGBY,
Secretary

[Pa.B. Doc. No. 01-1464. Filed for public inspection August 10, 2001, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS

NPDES APPLICATIONS

PART I PERMITS

Under the Federal Clean Water Act and The Clean Streams Law, the following parties have applied for an NPDES permit or to renew their current permit to discharge controlled wastewaters into the waters of this Commonwealth or to conduct other activities required by the NPDES permit. For renewal applications listed in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements. For all new permit applications, renewal application with major changes or applications for permits not waived by EPA, the Department, based upon preliminary reviews, also made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications listed in Section II. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the EPA Region III Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement, to the office noted before the application within 30 days from the date of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. The comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant. Following the comment period, the Department's Water Management Program Manager will make a final determination regarding these applications. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The renewal application, including proposed effluent limitations and special conditions, is available on file. For new permit applications, information submitted with the applications is available on file. The information may be inspected and arrangements made for copying at the office indicated before the application.

Persons with a disability, who require an auxiliary aid service, including TDD users or other accommodations to seek additional information, should contact the Department through the Pennsylvania AT&T Relay service at (800) 654-5984.

I. NPDES Renewal Applications

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N?
PA0007641	Vulcan Construction Materials Inc. P. O. Box 29756 Richmond, VA 23242	Adams County Oxford Township	UNT South Branch Conewago Creek/7F	Yes

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0084425	Conewago Township Sewer Authority 490 Coppenhaffer Road York, PA 17404	York County Conewago Township	Little Conewago Creek/7F	Yes

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0033162	Wynn Smeltzer c/o Martha Furnace MHP R. D. Box 208 Huckleberry Hill Port Matilda, PA 16870	Centre County Huston Township	9-c Bald Eagle Creek	Yes

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

PA0104507, Sewage. **Keith Palumbo**, 3600 Hubbard West Middlesex Road, West Middlesex, PA 16159.

This facility is located in Shenango Township, **Mercer County**.

For the purpose of evaluating effluent requirements for TDS, NO²-NO³, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and Public Water Supplier) considered during the evaluation is the Shenango River and New Castle District Pennsylvania's Water Company located at New Castle, 24 miles below point of discharge.

Description of Activity: NPDES permit renewal for an existing treated sewage discharge

The receiving stream, unnamed tributary to the Shenango River, is in watershed 20-A and classified for: Warm Water Fishes, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 350 GPD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25		50
Total Suspended Solids	30		60
Total Residual Chlorine	1.4		2.1
Fecal Coliform		200/100 ml as a geometric average	
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

PA0104493, Industrial Waste. **Matson Timber—Land Co.**, Route 322, 1/2 a mile east of Corsica.

This proposed facility is located in Union Township, **Jefferson County**.

Description of Proposed discharge, is in watershed 17 B and classified for: CWF, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is PA American Water Co. on the Clarion River located at Clarion, approximately 12 miles below point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of n/a MGD.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	XX				
BOD ₅			XX		
COD			XX		
Oil and Grease			XX		
TSS			XX		
Total Iron			XX		
Nitrate plus Nitrite			XX		
Nitrogen					
pH			XX		

The proposed effluent limits for Outfall 003 are based on a design flow of 0.0001 MGD.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	XX				
Oil and Grease			15	20	30
TSS			30	100	100
pH	Within limits of 6.0 to 9.0 standard units at all times.				

XX—Monitor and report.

In addition to the effluent limits, the permit contains the following major special conditions.

The EPA Waiver is in effect.

PA0104493, Industrial Waste. **National Fuel Gas Supply Corp.—Heath Compressor Station**, R. D. 1 Box 155, Sigel, PA 15860.

This proposed facility is located in Heath Township, **Jefferson County**.

Description of Proposed discharge of noncontact cooling water and floor drain wastewater, is in watershed 17-A and classified for: high quality—cold water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Western PA Water Company on the Clarion River located at Clarion, approximately 30 miles below point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.13824 MGD.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	XX				
Oil and Grease			15		30
Temperature	<i>Average Daily Allowable Discharge Temperature (°F)</i>				
January 01-31				45	
November 01-15				47	
November 16-30				43	
December 01-31				45	
pH	Within limits of 6.0 to 9.0 standard units at all times.				

The proposed effluent limits for Outfall 002 are based on a design flow of 0.13824 MGD.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	XX				
Oil and Grease			15		30
Temperature	<i>Average Daily Allowable Discharge Temperature (°F)</i>				
January 01-31				45	
November 01-15				47	
November 16-30				43	
December 01-31				45	
pH	Within limits of 6.0 to 9.0 standard units at all times.				

The proposed effluent limits for Outfall 003 are based on a design flow of 0.00276 MGD.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	XX				
Oil and Grease			15		30
pH	Within limits of 6.0 to 9.0 standard units at all times.				

XX—Monitor and report.

In addition to the effluent limits, the permit contains the following major special conditions.

The EPA Waiver is in effect.

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Non-Waived Permit Applications

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

No. PA 0052507, Sewage, **George W. Sharp**, 876 Shavertown Road, Boothwyn, PA 19061.

This application is for renewal of an NPDES permit to discharge treated sewage from in Concord Township, **Delaware County**. This is an existing discharge to unnamed tributary to West Branch of Chester Creek.

The receiving stream is classified for the following uses: warm water fishery, trout stocking fishery, high quality trout stocking fishery aquatic life, water supply and recreation.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	10	20
Suspended Solids	10	20
Ammonia (as N)		
(5-1 to 10-31)	3.0	6.0
(11-1 to 4-30)	9.0	18.0
Total Residual Chlorine	Monitor/Report	Monitor/Report
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 3 mg/l at all times	
pH	Within limits of 6.0—9.0 Standard Units at all times	

The EPA Waiver is in effect.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

PA-0040614, Industrial, **Bethlehem Steel Corporation**, 1170 Eighth Avenue, Bethlehem, PA 18016.

This proposed facility is located in the City of Bethlehem, **Lehigh County**.

Description of Proposed Activity: Renewal of NPDES Permit to discharge noncontact air conditioning cooling water and blowdown.

The receiving stream, Monocacy Creek, is in the State Water Plan watershed #2C and is classified for: High Quality, cold water fishery. The nearest downstream public water supply intake for City of Philadelphia is located on Delaware is approximately 100 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .004 MGD.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
Temperature				110°F
pH	6 to 9 SU at all times.			

PA#0062472, Sewage, **Chestnut Ridge MHP**, 175 Church Drive, Palmerton, PA 18071.

This proposed facility is located in Lower Towamensing Township, **Carbon County**.

Description of Proposed Activity: Renewal of NPDES Permit to discharge treated sewage

The receiving stream, Aquashicola Creek, is in the State Water Plan watershed #2B and is classified for: Cold Water Fishery. The nearest downstream public water supply intake for Northampton Municipal Water Authority is located on Lehigh River is approximately 15 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .026 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Inst. Maximum (mg/l)</i>
CBOD ₅	25		50
Total Suspended Solids	30		60
Dissolved Oxygen	A minimum of 5 mg/l at all times.		
Fecal Coliform	200/100 ml as a geometric mean		
(5-1 to 9-30)	2,000/100 ml as a geometric mean		
(10-1 to 4-30)	6.0 to 9.0 standard units at all times.		
pH	6.0 to 9.0 standard units at all times.		
Total Residual Chlorine	Monitor & Report		
1st Month through 24th Month	Monitor & Report		
25th Month through	Monitor & Report		
Expiration	1.2		2.8

PA-0061123, Sewage, **Moscow Sewer Authority**, P. O. Box 525, Moscow, PA 18444.

This proposed facility is located in Moscow Borough, **Lackawanna County**.

Description of Proposed Activity: Renewal of NPDES Permit to discharge treated sewage.

The receiving stream, Roaring Brook Creek, is in the State Water Plan watershed #5A and is classified for: High quality, cold water fishery. The nearest downstream public water supply intake for American Water Company is located on Roaring Brook Creek is 3 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .18 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Inst. Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	4		8
(11-1 to 4-30)	12		24
Phosphorus as "P"	.5	.75	1
Dissolved Oxygen	A minimum of 5 mg/l at all times.		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times.		
Total Residual Chlorine	1		2

PA#0063487, Sewage, **Northside Heights Estates, Inc.**, 97 Sam Brooke Circle, Lehighton, PA 18235-4226.

This proposed facility is located in East Penn Township, **Carbon County**.

Description of Proposed Activity: Renewal of NPDES Permit to discharge treated sewage.

The receiving stream, an unnamed tributary to Lizard Creek, is in the State Water Plan watershed #2B and is classified for: TSF. The nearest downstream public water supply intake for Northampton is located on Lehigh River is approximately 20 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .1 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Inst. Maximum (mg/l)</i>
CBOD ₅	25		50
Total Suspended Solids	30		60
NH ₃ -N			
(5-1 to 10-31)	5.3		10.6
(11-1 to 4-30)	15.9		31.8
Dissolved Oxygen	A minimum of 5 mg/l at all times.		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times.		
Total Residual Chlorine	.5		1.2

PA-0061913, Sewage, **Elk Mountain Ski Resort, Inc.**, R. R. 2, Box 3328, Uniondale, PA 18470.

This proposed facility is located in Herrick Township, **Susquehanna County**.

Description of Proposed Activity: Renewal of NPDES Permit to discharge treated sewage.

The receiving stream, East Branch Tunkhannock Creek, is in the State Water Plan watershed #4F and is classified for: cold water fishery. The nearest downstream public water supply intake for Danville Water Supply is located on Susquehanna River is approximately 100 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .1 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Inst. Maximum (mg/l)</i>
CBOD ₅	25		50
Total Suspended Solids	30		60
NH ₃ -N			
(5-1 to 10-31)	3		9
(11-1 to 4-30)	9		18
Dissolved Oxygen	A minimum of 6 mg/l at all times.		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times.		
Total Residual Chlorine	.34		.80

PA#0029200, Sewage, **Snydersville Diner, Inc.**, R. R. 2, Stroudsburg, PA 18360.

This proposed facility is located in Hamilton Township, **Monroe County**.

Description of Proposed Activity: Renewal of NPDES Permit to discharge treated sewage.

The receiving stream, Kettle Creek, is in the State Water Plan watershed #2C and is classified for: High quality, cold water fishery. The nearest downstream public water supply intake for Stroudsburg emergency intake is located on McMichael Creek is approximately 6 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of .0125 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Inst. Maximum (mg/l)</i>
CBOD ₅			
(5-1 to 10-31)	20		40
(11-1 to 4-30)	25		50
Total Suspended Solids	30		60
NH ₃ -N			
(5-1 to 10-31)	3		6
(11-1 to 4-30)	9		12
Dissolved Oxygen	A minimum of 6 mg/l at all times.		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times.		
(1st Month through 24th Month)	Monitor and Report		
(25th Month through Expiration)	1.2		2.8

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

PA #0020664, Sewage, **Middletown Borough Authority**, 60 West Emaus Street, Middletown, PA 17057-1499.

This facility is located in Middletown Borough, **Dauphin County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream Susquehanna River is in Watershed 7-C and classified for warm water fishery, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Columbia Borough is located on the Susquehanna River, approximately 18 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 2.2 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Inst. Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
Total Phosphorus	2.0		4.0
Total Residual Chlorine	0.5		1.63
Total Nitrogen	Monitor and Report		
Dissolved Oxygen	Minimum of 5.0 at all times		
pH	From 6.0 to 9.0 inclusive		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	100,000/100 ml as a geometric average		

Individuals may make an appointment to review the DEP files on this case by calling. Mary DiSanto, File Review Coordinator, at (717) 705-4732.

The EPA waiver is not in effect.

Application No. PA 0026191, SIC Code 4952, Sewage, **Borough of Huntingdon**, 530 Washington Street, Huntingdon, PA 16652.

This application is for renewal of an NPDES permit for an existing discharge of treated sewage to Juniata River in Watershed 11-B, in Smithfield Township, **Huntingdon County**.

The receiving stream is classified for warm water fishes, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was United Water Company located in Susquehanna Township, Dauphin County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 4.0 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>
CBOD ₅	25	40
Total Suspended Solids	30	45
NH ₃ -N		
(5-1 to 10-31)	18	XXX

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>
Total Residual Chlorine	0.5	XXX
Dissolved Oxygen	Minimum of 5.0 at all times	
pH	From 6.0 to 9.0 inclusive	
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	16,000/100 ml as a geometric average	

Individuals may make an appointment to review the DEP files on this case by calling, Mary DiSanto, File Review Coordinator, at (717) 705-4732.

The EPA waiver is in effect.

PA0088561, Evergreen Farms Inc., HCR-1, Box 113, Spruce Creek, PA 16683.

R. Wayne Harpster has submitted an application for an NPDES permit for an existing concentrated animal feeding operation (CAFO) known as Evergreen Farms, Inc., located on PA Route 45 in Franklin Township, **Huntingdon County**. The CAFO is situated in the Spruce Creek watershed, which is classified as High Quality Waters—Cold Water Fishes (HQ-CWF). The CAFO is designed to maintain an animal population of 3,744 animal equivalent units (AEUs), consisting of 1,810 milking cows, 296 small heifers, 682 large heifers, 353 dry cows and 550 calves.

Manure and wastewater generated at the existing dairy operation is stored at several locations. The Peterson Farm front pit receives manure and wastewater from the heifer and dry cow barn and has a storage capacity of 131,280 gallons. The Peterson Farm back pit receives manure and wastewater from the heifer and dry cow barn and the concrete feeding and loafing area and has a capacity of 606,890 gallons. The main dairy solids separator receives manure and bedding from the main facility after passing through two manure separators and has a capacity of 88,460 gallons. The main dairy lagoon receives manure wash water from the main dairy and solids separator and has a capacity of 2,079,784 gallons. The effluent basin on the hill receives wash water from the main dairy and solids separator and has a capacity of 4,690,930 gallons. The total storage capacity of the operation is approximately 7.6 million gallons. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations including the Final CAFO Strategy, the Department has made a tentative determination to issue an individual NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the draft permit.

The permit application and proposed draft permit are on file at the Southcentral Regional Office of the Department. Individuals may make an appointment to review the files by calling, Mary DiSanto, File Review Coordinator, at (717) 705-4732.

The Environmental Protection Agency (EPA) permit review waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

Persons wishing to comment on the proposed permit are invited to submit written comments to the previous address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. All comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based. A public meeting/hearing may be held if the Department considers the public response or interest significant.

Following the 30-day comment period, the Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time the determination may be appealed to the Environmental Hearing Board.

PA 0088889, Concentrated Animal Feeding Operation (CAFO), **Steven Graybeal** (Graywood Farms), 225 Mason Dixon Road, Peach Bottom, PA 17563.

Steven Graybeal has submitted an application for an individual NPDES permit for an expanding CAFO known as Graywood Farms, located at 225 Mason Road in Fulton Township, **Lancaster County**.

The CAFO is situated near Conowingo Creek in Watershed 7-K, which is classified for HQ-CWF. The CAFO will be designed to maintain an animal population of approximately 1,210 animal equivalent units (AEUs) consisting of 1,259 dairy cows. Manure will be stored in a HDPE lined lagoon. The total capacity of the manure storage facilities will be 4.5 million gallons. Prior to operation of the manure storage facilities, the design engineer will be required to submit certification that the facilities were constructed in accordance with appropriate PA Technical Guide Standards. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue an NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the draft permit.

The permit application and draft permit are on file at the Southcentral Regional Office of the Department. Individuals may make an appointment to review the files by calling the File Review Coordinator at (717) 705-4732.

The Environmental Protection Agency (EPA) permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

Persons wishing to comment on the proposed permit are invited to submit written comments to the previous address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. All comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based.

Following the 30-day comment period, the Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time the determination may be appealed to the Environmental Hearing Board.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

PA #PA0009300, Industrial Waste 3111, **Howes Leather Corporation**, 50 Cooper Road, Curwensville, PA 16833.

This proposed facility is located in Curwensville Borough, **Clearfield County**.

Description of Proposed Activity: This proposed action is for renewal of an NPDES permit for existing discharge of treated industrial wastewater to West Branch Susquehanna River.

The receiving stream, West Branch of Susquehanna River, is in the State Water Plan watershed #8B and is classified for: warm water fishes, aquatic life, water supply and recreation. For the purposes of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Reliant Energy generation station at Shawville located 20 river miles downstream.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.115 MGD of treated process wastewater, are:

Parameter	Mass (lb/day)		Concentration (mg/l)		Instantaneous
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Maximum mg/l
C-BOD ₅					
(6-1 to 10-31)	170	380	175	395	440
(11-1 to 5-31)	170	380	170	380	425
NH ₃ -N					
(6-1 to 10-31)	190	290	200	300	400
(11-1 to 5-31)	350	525	350	525	700
TSS					
(6-1 to 10-31)	250	555	260	580	650
(11-1 to 5-31)	250	555	250	555	625
Oil & Grease	14	21	15	22	30
Fecal Coliform					
(5-1 to 9-30)					200/100 ml as a geometric average
(10-1 to 4-30)					2000/100 ml as a geometric average
Total Chromium	3.4	9.7	3.4	9.7	
Total Chlorine Residual			2		6.5
pH			6.0—9.0 at all times.		
Outfall 003					
pH			6.0—9.0 at all times.		

Other Conditions

A permit condition requires that acute whole effluent toxicity testing be conducted for Outfall 001 effluent

The EPA waiver is not in effect.

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

PA0093611, Sewage, **ST Development Company, LLC**, 2241 Industrial Drive, Connellsville, PA 15425.

This application is for renewal and transfer of an NPDES permit to discharge treated sewage from ST Development Company STP in Bullsken Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as drainage swale to Irish Run, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Westmoreland County Municipal Authority, McKeesport Plant, on the Youghiogheny River.

Outfall 001: existing discharge, design flow of 0.0061 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	4.0			8.0
(11-1 to 4-30)	12.0			24.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

PA0027511, Sewage. New Castle WWTP, 512 Montgomery Avenue, New Castle, PA 16102.

This proposed facility is located in New Castle, Lawrence County.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and Public Water Supplier) considered during the evaluation is the Beaver Falls Municipal Authority intake on the Beaver River located at Eastvale, approximately 15 miles below point of discharge.

Description of Proposed Activity: Renewal of an NPDES permit for the discharge of treated sewage.

The receiving stream is the Mahoning River, located in watershed 20-C and classified for: warm water fishes, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 17 MGD.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
CBOD ₅	3544	5671	25	40	50
Total Suspended Solids	4253	6380	30	45	60
NH ₃ -N					
(5-1 to 10-31)	2623		18.5		37
Fecal Coliform					
(5-1 to 9-30)	200/100 ml as a geometric average				
(10-1 to 4-30)	2,000/100 ml as a geometric average				
pH	Within limits of 6.0 to 9.0 standard units at all times.				

The EPA Waiver is not in effect.

WATER QUALITY MANAGEMENT PERMITS CONTROLLED INDUSTRIAL WASTE AND SEWAGE WASTEWATER APPLICATIONS UNDER THE CLEAN STREAMS LAW PART II PERMITS

The following permit applications or requests for plan approval have been received by the Department of Environmental Protection (Department). The applications are listed in two categories. Section I lists all municipal and industrial permits.

Persons wishing to comment on any of the applications are invited to submit a statement to the office noted before the application within 15 days from the date of this public notice. Comments received within this 15-day comment period will be considered in making the final

decision regarding the application. The comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department reserves the right to hold a public hearing if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation of the area. If no hearing is held, the Department's Water Management Program Manager will make a final determination regarding the applications after a complete review. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

A copy of the permit application or proposed plan is on file in the office indicated and is open to public inspection. Appointments to review the application may be made by

contacting Records Management at the indicated telephone number.

I. Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

WQM Permit No. 4601409, Sewerage, **Upper Gwynedd Township**, P. O. Box 1, Parkside Place, West Point, PA 19486.

This proposed facility is located in Upper Gwynedd Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation of a dechlorination facility at the existing wastewater treatment plant.

WQM Permit No. 0901411, Sewerage, **Pennridge School District**, 1506 North Fifth Street, Perkasie PA 18944-2295.

This proposed facility is located in Bedminster Township, **Bucks County**.

Description of Proposed Action/Activity: Installation of effluent UV disinfection system at the school WWTF.

WQM Permit No. 4601407, Sewerage, **Limerick Township Municipal Authority**, 529 King Road, P. O. Box 29

This proposed facility is located in Limerick Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation of a sewer collection system and pump station to serve the Estates and Landis Brooke.

WQM Permit No. 0901410, Sewerage, **Bucks County Water & Sewer Authority**, 1275 Almshouse Road, Warrenton, PA 18976.

This proposed facility is located in Doylestown Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation to install a low-pressure sewer collection system to serve a residential development.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

WQM Permit No. 5401403, Sewerage, **Pusti Margiya Vashnav Samaj of North America**, 347 Highway 35, Eatontown, NJ 07724.

This proposed facility is located in Wayne Township, **Schuylkill County**.

Description of Proposed Action/Activity: The Pusti Margiya Vashnav Samaj of North America is developing 240 acres located approximately 1.6 miles west of the intersection of Routes 895 and 183 in Schuylkill County for use as a Hindu worship complex. The project is for the construction of a phased 80,000 GPD sewage treatment plant along with the associated collection system and pump station.

WQM Permit No. 4001404, Sewerage, **CAN DO, Inc.**, 1 South Church Street, Hazleton, PA 18201.

This proposed facility is located in Hazle Township, **Luzerne County**.

Description of Proposed Action/Activity: This project consists of a development of an industrial park containing

approximately 705 acres. The plan is to construct the project in two phases. The proposed industrial park is projected to create a wastewater flow of 500,000 GPDs or 1,250 EDUs. The wastewater generated in the development will be collected and conveyed by a series of gravity lines and force mains. A single pump station location is planned to be located on the west side of Lot 7.

Southcentral Region: Water Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

WQM Permit No. 3678402, (amendment 01-1), Sewerage, **Mount Joy Borough Authority**, 21 East Main Street, Mount Joy, PA 17552.

This proposed facility is located in East Donegal Township, **Lancaster County**.

Description of Proposed Action/Activity: Organic Capacity Rerating.

WQM Permit No. 2201404, Sewerage, **Paul Henry**, 255 Ridge Road, Harrisburg, PA 17112.

This proposed facility is located in East Hanover Township, **Dauphin County**.

Description of Proposed Action/Activity: Construction of a small flow treatment system to serve their single family residence.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Application No. 0201411, Sewerage, **South Versailles Township**, P. O. Box 66, Coulter PA 15028. Application for the construction and operation of sanitary sewers and a pumping station to serve the South Versailles Township Area located in South Versailles Township, **Allegheny County**.

Application No. 0288436-A1, Sewerage, **Penn Hills Municipality**, 12245 Frankstown Road, Pittsburgh PA 15235. Application for the modification and operation of a sewage treatment plant to serve the Plum Creek Area located in Penn Hills Borough, **Allegheny County**.

Application No. 0301402, Sewerage, **Manor Township Joint Municipal Authority**, 2310 Pleasant View Drive, Ford City, PA 16226. Application for the construction and operation of a sanitary sewer system extension including two sewage pumping stations to serve the Route 422 Corridor Area located in Manor Township, **Armstrong County**.

NPDES Stormwater Individual Permit

The following parties have applied for an NPDES permit to discharge stormwater associated with a construction activity into waters of this Commonwealth. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit conditions. These proposed determinations are tentative. Limitations are provided as erosion and sediment control best management practices (BMPs) which restrict the rate and quantity of sediment discharged.

Where indicated, the EPA Region III Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement to the appropriate Department Regional Office noted before the application

within 30 days from the date of this public notice. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and relevant facts upon which it is based. A public hearing may be held after consideration of comments received by the appropriate Department Regional Office during the 30-day public comment period.

Following the 30-day comment period, the appropriate Regional Office Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The application and related documents, including the erosion and sediment control plan for the earth disturbance activity, are on file and may be inspected at the office identified in this notice.

Persons with a disability that require an auxiliary aid, service or other accommodation to participate during the 30-day public comment period should contact the specified Regional Office. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

NPDES Permit PAS10 G482, Stormwater. **Corinth Holdings, Inc.**, 2504 Rochelle Drive, Fallston, MD, has applied to discharge stormwater associated with a construction activity located in Elk Township, **Chester County** to Big Elk Creek (HQ-TSF-MF).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Lehigh County Conservation District: Lehigh Ag. Ctr., Ste. 102, 4184 Dorney Park Rd., Allentown, PA 18104, (610) 391-9583.

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS10Q226	Brandywine Operating Partnership 7535 Windsor Dr. Suite B-202 Allentown, PA 18195	Lehigh County Upper Macungie Township	Little Lehigh Creek HQ-CWF

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

NPDES Permit PAS101920, Stormwater. **L & D Associates**, 5818 South Rt. 220 Hwy, Linden, PA 17744 has applied to discharge stormwater associated with a construction activity located in Pine Creek Township, **Clinton County** to Pine Creek, HQ-TSF.

Clinton County Conservation District: 216 Spring Run Rd., Mill Hall, PA 17751, (570) 726-3798.

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS101920	L&D Assoc. 5818 South Rt. 220 Hwy. Linden, PA 17744	Pine Creek Township Clinton County	Pine Creek CWF-TSF

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17)

Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Permit No. 4501504, Public Water Supply.

Applicant	Great Spring Waters of America, Inc. 405 Nestle Way Breinigsville, PA 18031
Township or Borough	Stroud Township, Monroe County
Responsible Official	Bruce Lauerman, Natural Resources Manager, GSWA
Type of Facility	Bulk Water Hauling
Consulting Engineer	Edward E. Davis, P.E. WJP Engineers
Application Received Date	July 9, 2001

Description of Action	Modify a Bulk Water Hauling Facility
Permit No. 0601511 , Public Water Supply.	
Applicant	Philadelphia Suburban Water Company
Municipality	Robeson Township
County	Berks
Responsible Official	Morrison Coulter, President 762 West Lancaster Avenue Bryn Mawr, PA 19010
Type of Facility	Public Water Supply
Consulting Engineer	Thomas S Ladue, P.E. Goodkind & O'Dea, Inc. P. O. Box 340 Carlisle, PA 17013
Application Received Date	July 13, 2001
Description of Action	New well, storage tank and disinfection at Geigertown water system.

Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. 1401502, Public Water Supply.

Applicant **Potter Township Supervisors**
124 Short Road
Spring Mills, PA 16875

Township Potter Township, **Centre County**

Responsible Official Paul E. Zerby

Type of Facility Public Water Supply

Consulting Engineer Pellegrini Engineers, Inc.
P. O. Box 589
Altoona, PA 16603-0589

Application Received Date July 9, 2001

Description of Action Development of Well CCP-2 with greensand filtration and disinfection

Permit No. 5901502, Public Water Supply.

Applicant **Borough of Mansfield Municipal Authority**
19 East Wellsboro Street
Mansfield, PA 16933

Township Richmond Township, **Tioga County**

Responsible Official Ronald Weed
Water & Sewer Authority Manager

Type of Facility Public Water Supply

Consulting Engineer Hunt Engineers, Architects,
& Land Surveyors, P.C.
Airport Corporate Park
100 Hunt Center
Horseheads, NY 14845

Application Received Date July 18, 2001

Description of Action Development of Well #3 for use with existing treatment

Permit No. Minor Amendment, Public Water Supply.

Applicant **Pennsylvania American Water Company**
800 West Hersheypark Drive
Hershey, PA 17033

Township Rush Township, **Centre County**

Responsible Official Steven Seidl, VP of Engineering

Type of Facility Public Water Supply

Consulting Engineer Bruce Juergens, P.E.
Engineering Manager, PAWC
800 West Hersheypark Drive
Hershey, PA 17033

Application Received Date July 2, 2001

Description of Action Rehabilitation of the Windy Hill finished water storage tank

Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Permit No. 1601501, Public Water Supply.

Applicant **PA-American Water Co.**
2736 Ellwood Road
New Castle, PA 16101

Township or Borough City of Clarion

Responsible Official Daniel J. Ireland, Operations Manager
Pa-American Water Co.

Type of Facility Public Water Supply

Consulting Engineer Dave Swanson
Pa-American Water Co.
1073 E. Main St.
Clarion, PA 16214

Application Received Date July 27, 2001

Description of Action Addition of a temporary filter to meet increasing demand.

MINOR AMENDMENT

Applications Received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17)

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Application No. 1186502-A2, Minor Amendment.

Applicant **Cambria Township Water Authority**
P. O. Box 23, Reese Avenue
Colver, PA 15927

Township or Borough Cambria Township

Responsible Official John Smylnycky
P. O. Box 23, Reese Avenue
Colver, PA 15927

Type of Facility Tripoli Water Storage Tank

Consulting Engineer The EADS Group, Inc.
450 Aberdeen Drive
P. O. Box 837
Somerset PA 15501

Application Received Date July 30, 2001

Description of Action Construct Tripoli Water Storage Tank two booster pumps, two pressure reducing valves and piping

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908)

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to

Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background standard, Statewide health standard, the site-specific standard, or who intend to remediate a site as a special industrial area, must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, or a combination of the cleanup standards, or who receives approval of a special industrial area remediation identified under the Act, will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the Act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period the municipality may request that the person identified, as the remediator of the site, develop and implement a public involvement plan. Requests to be involved and comments, should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the Environmental Cleanup Program Manager in the Department of Environmental Protection Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Philadelphia Phillies Ballpark & Parking Areas, City of Philadelphia, **Philadelphia County**. Keith M. Kowalski, P.G., URS Corp., 1400 Union Meeting Rd., Suite 202, Blue Bell, PA 19422, on behalf of the City of Philadelphia c/o Jonathan Rinde, Manko, Gold & Katcher LLP, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004, has submitted a Notice of Intent to Remediate site soil contaminated with PCBs, lead, heavy metals, BTEX, petroleum hydrocarbons, polycyclic aromatic hydrocarbons and solvents; and site groundwater contaminated with lead, heavy metals, BTEX, polycyclic aromatic hydrocar-

bons and solvents. The applicant proposes to remediate the site to meet Site-specific standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on July 16, 2001.

Triboro Electric Company, Doylestown Borough, **Bucks County**. Terrence J. McKenna, Keating Environmental Management, Inc., 479 Thomas Jones Way, Suite 700, Exton, PA 19341, on behalf of Doylestown Store & Lock, 350 S. Main St., Suite 213, Doylestown, PA 18901, has submitted a Notice of Intent to Remediate site groundwater contaminated with petroleum hydrocarbons. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in *The Intelligencer* on July 17, 2001.

John Mattis Property, West Brandywine Township, **Chester County**. Brian Holtzhafer, Hydrocon Services, Inc., 2945 S. Pike Ave., Allentown, PA 18103, on behalf of John Mattis, 107 Icedale Rd., Honeybrook, PA 19344, has submitted a Notice of Intent to Remediate site soil contaminated with BTEX and polycyclic aromatic hydrocarbons. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Daily Local* on January 29, 2001.

Morrow Property, West Goshen Township, **Chester County**. Harold M. Brundage, III, Environmental Research & Consulting, Inc., 112 Commons Ct., Chadds Ford, PA 19317, on behalf of Everett F. & Helen Morrow and HMM LP, 876 Westtown Rd., West Chester, PA 19382, has submitted a Notice of Intent to Remediate site soil contaminated with heavy metals. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Daily Local News* on July 18, 2001.

Northeast Region: Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Weir Welding Company Incorporated, City of Bethlehem, **Lehigh County**. Eric B. Schmidley, P.G., Program Manager, Apex Environmental, Inc., 220 North Park Road, Reading, PA 19610, has submitted a Notice of Intent to Remediate (on behalf of his client, Thomas R. Weir, 316 12th Street, P. O. Box 311, Carlstadt, NJ 07072) concerning the remediation of site groundwater found or suspected to have been contaminated with metals and solvents. The applicant proposes to remediate the site to meet the Background standard. A summary of the Notice of Intent to Remediate was reportedly published in Allentown's *The Morning Call* on July 16, 2001.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Nabisco Site (formerly), City of York, **York County**. York County Economic Development Corporation, 144 Roosevelt Avenue, Suite 100, York, PA 17404 (on behalf of Redevelopment Authority of the City of York, 14 West Market Street, York, PA 17401) has submitted a Notice of Intent to Remediate site soils and groundwater contaminated with heavy metals, solvents, BTEX and PAHs. The applicant proposes to remediate the site as a Special Industrial Area. A summary of the Notice of Intent to Remediate was reported to have been published in the *York Daily Record* on April 13, 2001. This corrects a previous notice which incorrectly stated that the site would be remediated to a Statewide Health standard.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSES

Applications received or withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and the Infectious and Chemotherapeutic Waste Law (35 P. S. §§ 6019.1—6019.6) and regulations to transport infectious and chemotherapeutic waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

RENEWAL APPLICATIONS RECEIVED

Superior Waste Services of Pennsylvania, Inc., P. O. Box 0, R. D. 2, Brockway, PA 15824. License No. **PA-HC 0199**. Received on July 11, 2001.

AIR QUALITY

NOTICE OF PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (DEP) has developed an "integrated" plan approval, State Operating Permit and Title V Operating Permit program. This integrated approach is designed to make the permitting process more efficient for DEP, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

Notice is hereby given that DEP has received applications for plan approvals and/or operating permits from the following facilities.

Copies of these applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the Regional Office identified in this notice. Persons interested in reviewing the application files should contact the appropriate Regional Office to schedule an appointment.

Persons wishing to receive a copy of the proposed Plan Approval or Operating Permit must indicate their interest to the DEP Regional Office within 30 days of the date of this notice and must file protests or comments on a Proposed Plan Approval or Operating Permit within 30 days of the DEP providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Any comments or protests filed with DEP Regional Offices must include a concise statement of the objections to the issuance of the plan approval or operating permit and relevant facts, which serve as the basis for the objections. If DEP schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the Regional Office identified. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable

requirements in 25 Pa. Code Chapters 121 through 143, the Federal Clean Air Act and regulations adopted under the Act.

PLAN APPROVALS

Plan Approval Applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: James Parette, New Source Review Chief, (570) 826-2531.

58-313-001A: Envirocycle, Inc. (P. O. Box 899, Hallstead, PA 18822) for modification of the existing blending and conveying systems in Great Bend Township, **Susquehanna County**.

48-320-012: Wheaton USA, Inc. (2400 Baglyos Circle, Bethlehem, PA 18020) for construction of heat-set printing operation in Bethlehem Township, **Northampton County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

08-317-003C: Taylor By-Products, Inc. (P. O. Box 849, Wyalusing, PA 18853) for construction of a replacement rendering cooker, the air contaminants from which are to be controlled by an existing scrubber system and a boiler combustion chamber, as well as for the installation of air cleaning devices (three wet electrostatic precipitators) on three pressors in Wyalusing Township, **Bradford County**.

49-310-007: Central Builders Supply Co. (P. O. Box 152, Sunbury, PA 17801-0152) for construction of a wet sand and gravel processing plant in West Chillisquaque Township, **Northumberland County**. This plant is subject to Subpart OOO of the Federal Standards of Performance for New Stationary Sources.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.

63-00110F: World Kitchen, Inc. (100 8th Street, Charleroi, PA 15022) for construction of Tank 6 at Charleroi Plant in Charleroi Borough, **Washington County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

36-05027A: R. R. Donnelley & Sons Company (216 Greenfield Road, Lancaster, PA 17601) for the construction of three heatset offset printing presses and one thermal oxidizer at the Lancaster East Facility located in Lancaster City, **Lancaster County**. This printing facility is a Title V facility. The facility is also removing five presses, which results in a net decrease of volatile organic compounds (VOC) emissions being emitted into the atmosphere. The applicant will be required to calculate the

VOC emissions on a monthly basis and maintain 1,500° F temperature within the combustion zone of the thermal oxidizer. The approval will include monitoring, testing, record keeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

19-317-022B: Melick Aquafeed, Inc. (139 South First Street, Catawissa, PA 17820) for construction of a pneumatic conveying system to transfer fish food pellets from an extruder to a pellet dryer in Catawissa Borough, **Columbia County**.

The pneumatic conveying system will replace an existing belt conveying system which is not controlled by an air cleaning device. The particulate matter emissions from the pneumatic conveying system will be controlled by a cyclone collector equipped with a Turbo-Sonic Mister in its exhaust. The resultant particulate matter emissions will be a maximum of 1.6 tons per year.

The Department of Environmental Protection (Department) has determined that the proposed pneumatic conveying system will comply with all applicable regulatory requirements pertaining to air contaminant sources and the emission of air contaminants including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12. The Department consequently intends to issue plan approval for the construction of the respective pneumatic conveying system. Additionally, if the Department determines that the pneumatic conveying system is operating in compliance with all applicable plan approval conditions and regulatory requirements, the conditions established in the plan approval will be incorporated into an operating permit via administrative amendment under 25 Pa. Code § 127.450.

The Department intends to place conditions in the plan approval to be issued pertaining to the operation and monitoring of the pneumatic conveying system. These conditions are intended to assure proper operation of the pneumatic conveying system as well as maintenance of compliance with all applicable air quality regulatory requirements. The following is a summary of these conditions:

1. The pneumatic conveying system shall not operate without the simultaneous operation of the Turbo-Sonic Mister on the exhaust of the cyclone collector.

2. The pneumatic conveying system shall not cause particulate matter to be emitted at a rate of more than 0.04 grains per dry standard cubic foot and 1.6 tons per year.

3. The opacity of the exhaust of the pneumatic conveying system shall not exceed 0% (excluding water vapor).

4. The company shall perform weekly maintenance checks on the cyclone collector and Turbo-Sonic Mister to assure proper operation.

Bureau of Air Quality, Division of Permits: P. O. Box 8468, 400 Market Street, Harrisburg, PA 17105; Contact: John Slade, Chief, Division of Permits, (717) 787-4325.

46-0005P: Merck & Co., Inc. (Sumneytown Pike, P. O. Box 4, West Point, PA 19486) to authorize the transfer and use of certified volatile organic compounds (VOCs) emission reduction credits (ERCs) as emission offsets from the following facilities under 25 Pa. Code

§ 127.208(2). Merck & Co., Inc., is a major facility subject to the emissions offset requirements of 25 Pa. Code, Chapter 127, Subchapter E (relating to new source review). The VOC ERCs are being transferred from the following ERC-generating facilities to Merck & Co., Inc., to offset the de minimis emission increases that have occurred during the past 5 years at the West Point facility. The remaining ERCs will be used to offset (at a ratio of 1.3 to 1) emission increases resulting from the proposed installation and operation of two mobile emergency generators at the West Point facility. Plan Approval No. 46-0005P does not authorize the construction, modification, reactivation or installation of a source.

<i>ERC-generating Facility</i>	<i>Total ERCs Transferred</i>
Minnesota Mining & Manufacturing, Inc. (3M) Bristol, Bucks County, PA	25 tpy of VOCs
Avery Dennison Corporation, Fasson Roll North America Quakertown, Bucks County, PA	7.73 tpy of VOCs

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: James Parette, New Source Review Chief, (570) 826-2531.

39-317-025: Doane Pet Care Co. (6821 Ruppssville Road, Allentown, PA 18106) for operation of a pet food manufacturing process with a fabric collector as an air cleaning device in Upper Macungie Township, **Lehigh County**.

39-317-027: Doane Pet Care Co. (6821 Ruppssville Road, Allentown, PA 18106) for operation of two pet food manufacturing lines with a bio-filtration unit as an air cleaning device in Upper Macungie Township, **Lehigh County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.

26-00495: Allegheny Energy Supply Co., LLC (4350 Northern Pike, Monroeville, PA 15146) for operation of two Simple Cycle Combustion Turbines at Gans Power Station in Springhill Township, **Fayette County**.

32-00205: Avonmore Rail Loading Inc. (R. D. 1, Box 119, Avonmore, PA 15618) for operation of the Coal Loadout Facility in Conemaugh Township, **Indiana County**.

65-00598: Citizens General Hospital (651 Fourth Avenue, New Kensington, PA 15068) for operation of two Natural Gas #2 Oil Boilers in New Kensington, **Westmoreland County**.

32-00349: I-22 Processing, Inc. (One Energy Place, Suite 2200, Latrobe, PA 15650) for operation of the Coal Transloading Facility at I-22 Yard in Burrell Township, **Indiana County**.

63-00583: General Alloys, Inc. (P. O. Box 1205, 135 West Wiley Avenue, Washington, PA 15301) for operation of the Scrap Aluminum Remelt Furnaces in Canton Township, **Washington County**.

MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the

Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to the applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated before each application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments or objections, or requests for informal conferences on applications, may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34 (relating to public notices of filing of permit applications, opportunity for comment and informal conferences).

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. The NPDES permits will contain, at a minimum, technology-based effluent limitations (as described in the Department's regulations—25 Pa. Code §§ 77.522, 87.102, 88.92, 88.187, 88.242, 89.52 and 90.102) for iron, manganese, suspended solids, settleable solids, alkalinity and pH. In addition to the previous, more restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies which have requested review of the NPDES permit requirements for a particular mining activity within the previously-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

Written comments or objections should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209.

17010107. Thunder Coal Company (P. O. Box 283, Grampian, PA 16838), commencement, operation and

restoration of a bituminous surface mine permit in Pike Township, **Clearfield County** affecting 21.1 acres. Receiving stream—unnamed tributaries to Welch Run and Welch Run. Application received: June 28, 2001.

17010109. Forcey Coal, Inc. (P. O. Box 225, Madera, PA 16661), commencement, operation and restoration of a bituminous surface mine permit in Bigler Township, **Clearfield County** affecting 165 acres. Receiving stream—Banian Run, Muddy Run and Clearfield Creek. Application received: July 10, 2001.

17970118. Junior Coal Contracting, Inc. (R. D. 3, Box 225-A, Philipsburg, PA 18666), revision to an existing bituminous surface mine permit for a Change in Land Use from forestland to pastureland, located in Decatur Township, **Clearfield County**. Receiving stream—Shimel Run. Application received: July 6, 2001.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982.

65960110. LMM, Inc. (P. O. Box 517, Stoystown, PA 15563). Application received for renewal of permit for continued reclamation only of a bituminous surface mine located in South Huntingdon Township, **Westmoreland County**, affecting 48.9 acres. Receiving streams: unnamed tributary to Sewickley Creek and Hunters Run. Application received: May 18, 2001.

65990106. Ralph Smith & Son, Inc. (200 West Second Street, Derry, PA 15627). Application received to add acreage and revise the erosion and sedimentation controls at an existing bituminous surface mining site located in Salem Township, **Westmoreland County**, currently affecting 56.3 acres. Receiving streams: N/A. Application received: May 22, 2001.

26000101. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Revision application received for stream encroachment located in Saltlick Township, **Fayette County** affecting 136.5 acres. Receiving streams: unnamed tributaries to Newmyer Run and unnamed tributaries to Little Champion Creek. Revision application received: July 5, 2001.

03910101. Thomas J. Smith, Inc. (R. D. 1, Box 260-D, Shelocta, PA 15774). Renewal application received for continued operation and reclamation of a bituminous surface mine located in Boggs Township, **Armstrong County** affecting 208.5 acres. Receiving stream: unnamed tributary to North Fork of Pine Creek to Pine Creek to Allegheny River. Renewal application received: July 5, 2001.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931.

32980115. Permit Revision, **Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001), for a land use change on the John M. Stilley property to change the proposed post-mining land use currently classified as "forestland" and "coal waste piles (currently forestland)" to a post-mining land use of "developed water resources" in Rayne Township and Ernest Borough, **Indiana County**, affecting 27.5 acres, receiving stream McKee Run. Application received: July 5, 2001.

32010107. Britt Energies, Inc. (P. O. Box 515, Indiana, PA 15701), commencement, operation and restoration of bituminous surface-auger mine in White Township, **Indiana County**, affecting 75.0 acres, receiving stream Yellow Creek to Two Lick Creek to the Conemaugh River. Application received: July 13, 2001.

11010102. E. P. Bender Coal Company, Inc. (P. O. Box 594, Carrolltown, PA 15722), commencement, opera-

tion and restoration of bituminous surface mine in Reade Township, **Cambria County**, affecting 102.0 acres, receiving stream Fallentimber Run and Powell Run and their unnamed tributaries. Application received: July 17, 2001.

32990107. Permit Revision, **Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001), for coal ash placement in Rayne & Washington Townships, **Indiana County**, affecting 90.0 acres, receiving stream McKee Run. Application received: July 18, 2001.

56950101. Permit Revision, **Action Mining, Inc.** (1117 Shaw Mines Road, Meyersdale, PA 15552-7228), for a variance to conduct mining activities within 100 feet of an unnamed tributary to Piney Run in Brothersvalley Township, **Somerset County**, affecting 82.2 acres, receiving stream Piney Run. Application received: July 25, 2001.

32010108. **Britt Energies, Inc.** (2450 Philadelphia Street, Indiana, PA 15701), commencement, operation and restoration of bituminous surface and auger mine in Center Township, **Indiana County**, affecting 50.0 acres, receiving stream Yellow Creek (TSF) and unnamed tributary to Yellow Creek (CWF) to Two Lick Creek (TSF) to Black Lick Creek (TSF) to Conemaugh River. Application received: July 25, 2001.

McMurray District Mining Office: 3913 Washington Road, McMurray, PA 15317.

30743705. **Dana Mining Co. of PA, Inc.**, P. O. Box 1209, Morgantown, WV 26507), to transfer the permit for the Warwick No. 3 CRDA in Dunkard Township, **Greene County** to transfer from Duquesne Light Company, no additional discharges. Application received: April 12, 2001.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669.

33930102. **John R. Yenzi, Jr.** (P. O. Box 287, Anita, PA 15711). Renewal of an existing bituminous surface strip and auger operation in Oliver Township, **Jefferson County** affecting 120.3 acres. Receiving streams: Two unnamed tributaries to Little Sandy Creek. Application received: July 23, 2001.

Noncoal Applications Received

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

28960301C3. **New Enterprise Stone & Lime Co., Inc.**, (P. O. Box 77, New Enterprise, PA 16664), renewal of NPDES Permit #PA0223735 in Fannett Township, **Franklin County**, receiving stream—tributary to Dry Run. Application received: July 2, 2001.

48010301. **Waylite Division of IMS, Inc.**, (Box 5165, Easton Road, Bethlehem, PA 18015), commencement, operation and restoration of a quarry operation in the City of Bethlehem, **Northampton County** affecting 16.1 acres, receiving stream—Laubachs Creek, Saucon Creek and Lehigh River. Application received: July 19, 2001.

6476SM6C4. **Union Quarries, Inc.**, (102 Bonny Brook Road, P. O. Box 686, Carlisle, PA 17013-0686), renewal of NPDES Permit #PA0595365 in South Middleton Township, **Cumberland County**, receiving stream—Letort Spring Run. Application received: July 24, 2001.

6575SM4C4. **Haines & Kibblehouse, Inc.**, (2052 Lucon Road, P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit #PA0611964 in Eldred and Ross Townships, **Monroe County**, receiving stream—Buckwha

Creek and Aquashicola Creek. Application received: July 24, 2001.

7574SM2A1C3. **Hempt Bros., Inc.**, (205 Creek Road, Camp Hill, PA 17011), renewal of NPDES Permit #PA0614343 in Lower Allen Township, **Cumberland County**, receiving stream—Yellow Breeches. Application received: July 25, 2001.

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209.

17010301. **Superior Greentree Landfill, LLC** (635 Toby Road, Kersey, PA 15846), commencement, operation and restoration of a Large Industrial Minerals (Clayey Soil) permit in Huston Township, **Clearfield County** affecting 26 acres. Receiving stream—Heath Run and unnamed tributary to Bennett Branch. Application received: July 24, 2001.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982.

03950401. **Bradys Bend Corporation** (930 Cass Street, New Castle, PA 16101). Renewal application received for continued operation and reclamation of a noncoal underground limestone mine located in Bradys Bend Township, **Armstrong County**, affecting 3,804.6 subsurface and 17.7 surface acres. Receiving streams: Cove Run. Application received: July 23, 2001.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669.

2138-4876SM5-E-1. **Erie Aggregates, Inc.** (P. O. Box 10801, Erie, PA 16514). Application for a stream encroachment to reconstruct an existing temporary stream crossing over unnamed tributary 8 to French Creek in Amity and Waterford Townships, **Erie County**. Receiving streams: French Creek. Application received: July 2, 2001.

2138-4876SM5-E-2. **Erie Aggregates, Inc.** (P. O. Box 10801, Erie, PA 16514). Application for a stream encroachment to reconstruct an existing temporary stream crossing over unnamed tributary 9 to French Creek in Amity and Waterford Townships, **Erie County**. Receiving streams: French Creek. Application received: July 2, 2001.

2138-4876SM5-E3. **Erie Aggregates, Inc.** (P. O. Box 10801, Erie, PA 16514). Application for a stream encroachment to reconstruct an existing temporary stream crossing over unnamed tributary 1 to French Creek in Amity and Waterford Townships, **Erie County**. Receiving streams: French Creek. Application received: July 2, 2001.

37960302. **Shamrock Minerals Corporation** (R. R. 2, Box 2139, Wampum, PA 16157). Renewal of Surface Mining Permit No. 37960302 in Little Beaver Township and New Beaver Borough, **Lawrence County**. Receiving streams: unnamed tributary to North Fork Little Beaver Creek. Renewal application received: July 23, 2001.

10010308. **Winfield Lime & Stone, Co., Inc.** (1295 Winfield Road, Cabot, PA 16023). Commencement, operation and restoration of a underground industrial minerals operation in Winfield and North Buffalo Townships, **Butler** and **Armstrong Counties** affecting 300 acres. Receiving streams: Rough Run and Cornplanter Run tributaries of Buffalo Creek. Application received: July 19, 2001.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications and requests for Environmental Assessment approval and requests for

Water Quality Certification have been received by the Department of Environmental Protection. Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341(a)), requires the State to certify that the involved projects will not violate the applicable provisions of Sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Initial requests for 401 Water Quality Certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under Section 401 or to the issuance of a Dam Permit or Water Obstruction and Encroachment Permit, or the approval of an Environmental Assessment must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Each individual will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between the hours of 8 a.m. and 4 p.m. on each working day at the office noted before the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications Received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and Section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and Requests for Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

E46-894. Acts Inc., 375 Morris Road, P. O. Box 90, West Point, PA 19486, Whitpain Township, **Montgomery County**, ACOE Philadelphia District.

To construct and maintain the following associated with a residential subdivision in and along an unnamed tributary to the Wissahickon Creek and adjacent wetlands:

1) A 276 linear foot stream enclosure, which consists of a minimum 36-inch diameter pipe extending from existing wetlands to a proposed stormwater basin.

2) To excavate and maintain the impoundment area of an in-stream stormwater management basin in and along an unnamed tributary of Wissahickon Creek and within

the assumed 100-year floodway, which will impact 270 linear feet of stream channel.

3) Project includes two minor road crossings and three utility line crossings, which will impact 0.07 acre of wetlands (PEM).

The application also includes a request for an Environmental Assessment approval for impacts associated with the construction and maintenance of an on-stream nonjurisdictional dam. The site is located approximately 1,000 feet southeast of the intersection of North Wales Road and Township Line Road (Lansdale, PA USGS Quadrangle, N: 11.20 inches; W: 6.10 inches).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E40-575. Andrew J. Sordoni, III, R. R. 1, Box 298, Pole 48, Harveys Lake, PA 18618, in Harveys Lake Borough, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To repair and maintain an existing dock and boat house in Harveys Lake, with work including the replacement of an existing pile which supports the dock. The project is located at Pole No. 48. (Harveys Lake, PA, Quadrangle N: 22.3 inches; W: 5.3 inches).

E48-275. Wind-Drift Real Estate Associates, Attention: Louis D. Ronka, Partner, 179 Mikron Road, Bethlehem, PA 18020, in Bushkill Township, **Northampton County**, U. S. Army Corps of Engineers, Philadelphia District.

To excavate, place fill and construct a private driveway in approximately 2.1 acres of wetlands associated with the construction of a pond to be used for crop irrigation, fire protection and recreation. A 6-inch D.I.P. water intake structure is also proposed in the pond to provide water to a dry fire hydrant along T-626. The project is located on the east side of Township Road T-626 (Clearfield Road), just north of Township Road T-601. (Wind Gap, PA, Quadrangle N: 4.8 inches; W: 12.4 inches).

E45-415. Buck Hill Falls Conservation Foundation, P. O. Box 350, Buck Hill Falls, PA 18323, in Barrett Township, **Monroe County**, U. S. Army Corps of Engineers, Philadelphia District.

To dredge cobbles and gravel from a plunge pool at the base of a set of falls along Buck Hill Creek (HQ-CWF) and to place the dredged material in the floodway to improve pedestrian access to a viewing area for observing the falls. This work is associated with a conservation improvement project by the Buck Hill Falls Conservation Foundation and is located approximately 0.9 mile west of the intersection of S.R. 0390 and S.R. 0447. (Buck Hill Falls, Quadrangle N: 12.7 inches; W: 2.6 inches).

E40-574. High Hotels, Ltd., 1853 William Penn Lane, P. O. Box 10008, Lancaster, PA 17605-0008, in Wilkes-Barre Township, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To place fill in a de minimis area of wetlands equal to 0.04 acre for the purpose of constructing a hotel, restaurant and associated parking on a 3.67 acre parcel of land. The project (known as Hilton Garden Inn) is located on the north side of Highland Park Boulevard, north west of the intersection of S.R. 2050 and Highland Park Boulevard. (Wilkes-Barre East, PA, Quadrangle N: 20.6 inches; W: 14.2 inches).

E52-175. Palmyra Township, HCR Box 15-C, Paupack, PA 18451, in Palmyra Township, **Pike County**, U. S. Army Corps of Engineers, Philadelphia District.

To restore and maintain an existing beach in and along Lake Wallenpaupack, with work including the following: removal of an existing retaining wall, removing the existing white sand, regrading the lake bed using a graded sand and stone subbase and placing white sand to a depth of 6 inches. The total disturbed area will be approximately 0.8 acre. Work is proposed to be performed under dry conditions when the lake level is low. The project is located on the eastern shore of the lake, approximately 2,000 feet north of the intersection of S.R. 0006 and S.R. 0507. (Hawley, Quadrangle N: 13.4 inches; W: 7.6 inches).

E35-276A. Alliance Sanitary Landfill, Inc., 398 South Keyser Avenue, Taylor, PA 18517, in Taylor Borough and Ransom Township, **Lackawanna County**, U. S. Army Corps of Engineers, Baltimore District.

To amend Permit E35-276A which authorizes fill in 6.18 acres of wetlands and to relocate approximately 4,300 feet of a tributary to St. Johns Creek (locally known as Saw Mill Creek) with the construction of approximately 6,200 linear feet of channel change. The permittee is required to provide 9.21 acres of replacement wetlands. The project is located on the north west side of S.R. 3011 (Keyser Avenue) approximately 0.5 mile south of the intersection of S.R. 3011 and S.R. 0476 (Pennsylvania Turnpike Northeast Extension). The original wetland mitigation plan utilized an off-site location referred to as the Coxpitt site located approximately 3,000 feet north east of the confluence of the Susquehanna and Lackawanna Rivers. This amendment proposes a revised wetland mitigation plan also utilizing an off-site location referred to as the Cremard Mitigation site located immediately north east of the Susquehanna/Lackawanna River confluence. Both mitigation sites are located within the drainage basin of the Susquehanna River in Duryea Borough, Luzerne County. (Pittston, PA, Quadrangle N: 17.5 inches; W: 6.0 inches).

E64-221. Joseph J. and Alyson M. Burkavage, 734 Main Street, Honesdale, PA 18431, in Dyberry Township, **Wayne County**, U. S. Army Corps of Engineers, Philadelphia District.

To place fill and to excavate in 0.36 acre of wetlands for the construction of a single family home. Work has been partially completed. The project is located on a 1.91 acre lot, at 120 Bethany Lake Court, which abuts the west side of S.R. 0670, immediately north of Bethany Borough. (Honesdale, Quadrangle N: 22.0 inches; W: 6.0 inches).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E22-434. Steelton Borough, 123 North Front Street, Steelton, PA 17113 in Steelton Borough, **Dauphin County**, ACOE Baltimore District.

To construct and maintain (1) a concrete boat launch ramp with floating dock, (2) bituminous concrete roadway and vehicle parking area, (3) picnic area with pavilion in the channel and floodway/floodplain of the Susquehanna River (WWF) to provide for recreation and boating access to the river located on 2.88 acres of land on the east bank of the river, upstream of the Pennsylvania Turnpike (SR 0076) bridge (Steelton PA Quadrangle N: 5.3 inches; W: 7.2 inches).

E67-703. PPL Corporation, P. O. Box 221, Wargo Road, York Haven, PA 17370 in East Manchester, **York County**, ACOE Baltimore District.

To improve an existing collection pond by raising the earthen dike six feet, extending the pond's barrel pipe outlet and install a riser/skimmer outlet pipe along the Susquehanna River (WWF) (York Haven, PA Quadrangle N: 17.5 inches; W: 9.5 inches).

E67-704. Izaak Walton League of America, York County Chapter 97, 7131 Ironstone Hill Road Dallastown, PA 17313 in Hopewell and Springfield Townships, **York County**, ACOE Baltimore District.

To construct and maintain several stream enhancement structures such as rock vanes, cross rock vanes and rock toe protection along the East Branch Codorus Creek (HQ-CWF) (Glen Rock, PA Quadrangle N: 19.8 inches; W: 4.8 inches).

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E17-356. Huston Township Sewer Authority, P. O. Box 121. Penfield, PA 15840-0121, in Huston Township, **Clearfield County**, ACOE Baltimore River Basin District (Penfield, PA Quadrangle N: 16.5 inches; W: 8.6 inches).

To install, operate and maintain a 2-inch diameter polyethylene pipe crossing Eric Hollow Run, Mill Run, Moose Run, Tyler Run, four unnamed tributaries to Bennetts Branch-Sinnemahoning Creek and eight wetlands for the collection, conveyance and treatment of municipal wastewater. All waterways crossed by the collection system are designated as Cold Water Fisheries; the wetland associated to Wilson Run is designated an Exceptional Value, due to the wild trout resources of Wilson Run. All utility lines crossing beneath waterways shall encased in concrete. The project will impact .50-acre of wetland and 350-feet of waterway. The project is located along SR 0255 approximately 2.5-miles north of SR 0153 and SR 0255 intersection. This also authorizes the construction, operation and maintenance of an outfall structure to treated wastewater effluent to an existing abandon mine pool. All wetland impacts associated to the collection and conveyance system shall be temporary, as so the permittee will not need to mitigate with replacement wetlands.

E19-215. Pennsylvania Department of Transportation, 715 Jordan Avenue, Montoursville, PA 17754. Bridge, in Hemlock Township, **Columbia County**, ACOE Baltimore District (Millville, PA Quadrangle N: 1.7 inches; W: 0.3 inch).

To remove two 2-span pre-stressed concrete spread box-beam bridges. Both bridges have a 65° skew to the stream. The eastbound structure has two clear spans of 61.3 feet, normal openings of 55.6 feet with a minimum underclearance of 18.7 feet. The westbound structure has two clear spans of 54.1 feet, normal openings of 49.0 feet and a minimum underclearance of 15.0 feet. Both bridges have a curb-to-curb width of 40.0 feet and an out-to-out width of 45.5 feet. The existing bridges cross Hemlock Creek; and to construct and maintain two single span pre-stressed concrete I-beam bridges on concrete stub abutments with clear spans of 112.8 feet and normal spans of 102.2 feet, a curb-to-curb width of 60.0 feet (east bound) and 64.0 feet (west bound) with R-8 rock protection in front of each abutment and to construct a

temporary stream crossing between the bridges and a temporary stream crossing downstream of the east bound structure. The project is located on SR 80, Section 057 approximately 1200 feet east of the intersection of LR 19026 with Route 80 over Hemlock Creek. The project will impact 0.07 acre of wetland while impacting approximately 190 feet of waterway. Hemlock Creek is a Cold Water fisheries stream.

E55-181. Pennsylvania Department of Transportation, Engineering District 3-0, P. O. Box 218, Montoursville, PA 17754-0218. SR 0522 Section 043 Middle Creek and unnamed tributary bridge replacements, in Franklin Township, **Snyder County**, ACOE Susquehanna River Basin District (Middleburg, PA Quadrangle N: 5.0 inches; W: 16.4 inches).

To a) construct, maintain and remove a temporary causeway consisting of clean R-4 rock and four 30-inch corrugated metal pipes; b) remove existing structure; c) construct and maintain a two span continuous composite prestressed spread box beam bridge having a span of 174.0 feet, with a minimum underclearance of 12.0 feet on a skew of 45° in Middle Creek located 3.3 miles southwest of Middleburg along SR 0522; d) construct, maintain and remove a temporary channel; e) construct a sand bag, concrete barrier cofferdam; f) remove existing T-beam overflow structure and g) construct and maintain a precast reinforced concrete box culvert having a span of 18 feet 3 inches, with a minimum underclearance of 7.0 feet in an unnamed tributary to Middle Creek located 3.3 miles southwest of Middleburg along SR 0522 all of which is located in Franklin Township, Snyder County. This project proposes to have a minimal impact on Middle Creek and an unnamed tributary to Middle Creek, which are, designated a Trout Stocked Fishery and Cold Water Fishery, respectively. This project does propose to impact 0.012 acre of jurisdictional wetlands.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-1348. Jack Bindyke, P. O. Box 264, 111 Sea Breeze Road, Bunola, PA 15020. Forward Township, **Allegheny County**, ACOE Pittsburgh District.

To operate and maintain an existing boat docking facility along the right bank of the Monongahela River (WWF) near Mile Point 26.5. This site is part of an existing Marina that was permitted under E02-735. (Monongahela, PA Quadrangle N: 20.9 inches; W: 8.9 inches).

E32-431. Indiana University of Pennsylvania, Robert Shaw Complex, 650 South 13th Street, Indiana, PA 15705. White Township, **Indiana County**, ACOE Pittsburgh District.

To remove the existing structure and to construct and maintain a bridge having a clear span of 56 feet and an underclearance of 10 feet across Stoney Run (CWF) located on a proposed bike trail at a point approximately 600 feet west of SR 119 (Indiana, PA Quadrangle N: 18.6 inches; W: 5.67 inches).

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E10-340, Cranberry Township, 2525 Rochester Road, Cranberry Township, PA 16066. Robinhood Drive Culvert and Stream Enclosure, in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Mars, PA Quadrangle N: 11.3 inches; W: 15.4 inches).

To conduct the following activities in an UNT Brush Creek (WWF) associated with a flood hazard reduction project located in a residential neighborhood approximately 1,000 feet north of Freedom Road beneath Robinhood Drive:

1. Replacement of an existing 4'7" high by 6'1" wide corrugated steel plate arch culvert with an approximately 220 linear-ft., 84-in diameter smooth walled aluminumized steel pipe culvert stream enclosure.
2. Construction of an approximately 7-ft. by 12-ft. reinforced concrete inlet structure with debris screen.
3. Construction of an approximately 8-ft. by 15-ft. reinforced concrete endwall
4. Installation of a 30-ft. long by 24-in. thick R-5 rip-rap energy dissipater.

E20-505, PA Department of Transportation, Engineering District 1-0, 255 Elm Street, Oil City, PA 16301. S.R. 4012, Section BOO, Segment 0140, Offset 0000 across Conneaut Creek, in Spring Township, **Crawford County**, ACOE Pittsburgh District (Beaver Center, PA Quadrangle N: 11.9 inches; W: 1.7 inches).

To remove the existing bridge and to construct and maintain a prestressed concrete adjacent box beam bridge with a clear, normal span of 100 feet with a 16 foot waterway opening across Conneaut Creek on S.R. 4012, Section BOO, Segment 0140, Offset 0000 approximately ½ mile from S.R. 18.

E20-507, Sparta Township, 22186 Hatchtown Road, Spartansburg, PA 16434. T-924 Welsh Hill Road across Patrick Run, in Sparta Township, **Crawford County**, ACOE Pittsburgh District (Spartansburg, PA Quadrangle N: 17.35 inches; W: 4.71 inches).

To remove the existing bridge and to construct and maintain a pre-cast, post-tensioned reinforced concrete arch structure having a span of 20 feet and a clear rise of 5 feet across Patrick Run on T-924 Welsh Hill Road, approximately 800 feet north of S.R. 77. Project includes de minimis impact (0.004 acre) to adjoining wetlands associated with roadway approach work.

STORAGE TANKS

SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permit application has been received by the Department of Environmental Protection (Department) and is currently under review. Persons wishing to comment on the proposed permit are invited to submit a statement to the Bureau of Land Recycling and Waste Management, Division of Storage Tanks, P. O. Box 8763, Harrisburg, PA 17105-8763, within 30 days from the date of this publication. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of the comment and the relevant facts upon which it based.

The following applications have been received for Storage Tank Site-Specific Installation Permits under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C.

<i>SSIP Application No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
SSIP 01014	Kevin D. Grant Duke Energy Fayette 5400 Westheimer Court Huston, TX 77056-5310	Fayette	German Township	1 AST Sulfuric Acid 2 ASTs Sodium Hypochlorite 1 AST Betz Continuum AEC3109 1 AST Sodium Hydroxide 1 AST Alum 2 ASTs Fuel Oil	6,000 gallons 8,000 gallons total 3,000 gallons 6,000 gallons 6,000 gallons 5,000,000 gallons total

ACTIONS

FINAL ACTIONS TAKEN UNDER THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT—NPDES AND WQM PART II PERMITS

INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications and requests for plan approval. The actions are listed in two categories. Section I lists all municipal and industrial permits and Section II lists oil and gas related permits.

Persons aggrieved by this action may appeal, under Section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

I. Municipal and Industrial Permit Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

NPDES Permit No. PA0058262, Sewage, **Little Washington Wastewater Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489.

This proposed facility is located in Newtown Township, **Delaware County**.

Description of Proposed Action/Activity: Issuance of NPDES Permit to discharge from Somerset Sewage Treatment Plant.

WQM Permit No. 0900411, Sewerage, **Lucy Green and Mark Sfirri**, 1669 Pineville Road, New Hope, PA 18938.

This proposed facility is located in Buckingham Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation of a sewage treatment plant.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

NPDES Permit No. PA-0061115, Sewage, **Caesars Paradise Stream Resort**, P. O. Box 400, Scotrun, PA 18355.

This proposed facility is located in Paradise Township, **Monroe County**.

Description of Proposed Action/Activity: Renewal of existing NPDES Permit—Paradise Creek.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

NPDES Permit No. PA0114995, Industrial Waste, **Farm & Home Oil Company**, P. O. Box 389, Telford, PA 18969.

This proposed facility is located in Armstrong Borough, **Lycoming County**.

Description of Proposed Action/Activity: Renewal/transfer of an existing permit, Bulk petroleum terminal.

NPDES Permit No. PA0111759, Industrial Waste, **Taylor Packing Company Inc.**, P. O. Box 188, Wyalusing, PA 18853

This proposed facility is located in Wyalusing Township, **Bradford County**.

Description of Proposed Action/Activity: Renew an existing permit. Cattle slaughtering and meat packing plant.

NPDES Permit No. PA 0008800, Industrial Waste, **Westfield Tanning Company**, 360 Church Street, Westfield, PA 16950.

This proposed facility is located in Westfield Township, **Tioga County**.

Description of Proposed Action/Activity: Renewal of an existing NPDES Permit.

NPDES Permit No. PA0032409, DCNR (**Little Pine State Park**), 4205 Little Pine Creek Road, Waterville, PA 17776.

This proposed facility is located in Chapman Township, **Clinton County**.

Description of Proposed Action/Activity: Renewal of an existing permit.

NPDES Permit No PA0209350, Sewerage. **Delmar Township**, R. R. 5 Box 70A, Wellsboro, PA 16901.

This proposed facility is located in Delmar Township, **Tioga County**.

Description of Proposed Action/Activity: Renewal of an existing permit. Sewage treatment facility for the Village of Smithville.

NPDES Permit No PA0037966, Sewerage. **Moshannon Valley Joint Sewer Authority**, P. O. Box 581, Philipsburg, PA 16866-0581.

This proposed facility is located in Rush Township, **Centre County**.

Description of Proposed Action/Activity: Renewal of existing permit.

WQM Permit No 5501402, Sewerage. **Union Chapman Regional Authority**, R. R. 1 Box 598, Port Trevorton, PA 17864.

This proposed facility is located in Union Township, **Snyder County**.

Description of Proposed Action/Activity: Collection system, pump stations and SBR wastewater treatment, updated act 537.

WQM Permit No. 0801202, Industrial Waste. **Taylor Packing Company Inc.**, P. O. Box 188, Wyalusing, PA 18853.

This proposed facility is located in Wyalusing Township, **Bradford County**.

Description of Proposed Action/Activity: Cattle Slaughtering and Meat packing plant. Wastewater treatment plant modifications to provide increase treatment capacity.

WQM Permit No. 4101405, Sewerage. **Gregory C. Kinley**, 1871 Motters Lane, Williamsport, PA 17701.

This proposed facility is located in Old Lycoming Township, **Lycoming County**.

Description of Proposed Action/Activity: new single residence treatment system, consisting of septic tank free access sand filters erosion chlorinator.

WQM Permit No 1701404, Sewerage. **Lawrence Township Supervisors**, P. O. Box 508, Clearfield, PA 16830.

This proposed facility is located in Lawrence Township, **Clearfield County**.

Description of Proposed Action/Activity: Replacement of existing sewers and construction of new collection sewers.

WQM Permit No 1901401, Sewerage. **Locust Township Municipal Authority**, 1223A Numida Drive, Catawissa, PA 17820.

This proposed facility is located in Locust Township, **Columbia County**.

Description of Proposed Action/Activity: To construct proposed new collection and treatment systems.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit No. PA0002054. Industrial. **Reliant Energy**, 1001 Broad Street, Johnstown, PA 15907 is authorized to discharge from a facility located at Seward

Generating Station, East Wheatfield Township, **Indiana County** to receiving waters named Conemaugh River.

NPDES Permit No. PA0216038. Industrial Waste. **Consol Docks, Inc.**, 1800 Washington Road, Pittsburgh, PA 15241 is authorized to discharge from a facility located at Alicia Dock Coal Transfer Facility, Luzerne Township, **Fayette County** to receiving waters named Monongahela River.

NPDES Permit No. PA0024694. Sewerage. **Beaver Borough Municipal Authority**, 469 Third Street, Beaver, PA 15009 is authorized to discharge from a facility located at Beaver Borough Sewage Treatment Plant, Beaver Borough, **Beaver County** to receiving waters named Ohio River.

NPDES Permit No. PA0218812. Sewerage. **Indiana County Municipal Services Authority** is authorized to discharge from a facility located at Hillsdale Sewage Treatment Plant, Montgomery Township, **Indiana County** to receiving waters named Cush Creek.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

NPDES Permit No. PA0000124, Industrial Waste, **International Paper Company (Erie Mill)**, 1540 East Lake Road, Erie, PA 16533.

This proposed facility is located in the City of Erie, **Erie County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to the Outer Erie Harbor and Presque Isle Bay.

NPDES Permit No. PA0238571, Sewerage, **Pinehurst Manor Mobile Home Park**, 899 Rockdale Road, Butler, PA 16002.

This proposed facility is located in Center Township, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary to Stony Run.

NPDES Permit No. PA0038814, Sewerage, **Ellport Borough Sewer Authority**, 313 Burns Avenue, Ellwood City, PA 16177.

This proposed facility is located in Ellport Borough, **Lawrence County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Connoquenessing Creek.

NPDES Permit No. PA0033006, Sewerage, **PA DCNR**, Pymatuning State Park, Jamestown Sewage Treatment Plant, 2660 Williamsfield Road, Jamestown, PA 16134.

This proposed facility is located in West Shenango Township, **Crawford County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to the Pymatuning Reservoir (Shenango River).

NPDES Permit No. PA0238538, Sewerage, **Tuznik small flow treatment facility**, Mr. and Mrs. Robert Tuznik, 9028 South Creek Road, Girard, PA 61417.

This proposed facility is located in Girard Township, **Erie County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary to Elk Creek.

NPDES Permit No. PA0024571 Amendment No. 1, Sewage, **Municipal Sewer & Water Authority of Cranberry Township**, 2525 Rochester Road, Cranberry Township, PA 16066-6498.

This proposed facility is located in Cranberry Township, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary to Brush Creek.

WQM Permit No. 2001413, Sewage, **Meadville Area Sewer Authority**, West Mead Industrial Park, 1230 Park Avenue, Meadville, PA 16335.

This proposed facility is located in West Mead Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for the construction of a pump station and forcemain to serve the industrial park.

WQM Permit No. 2501412, Sewage, **Tuznik small flow treatment facility**, Mr. and Mrs. Robert Tuznik, 9028 South Creek Road, Girard, PA 16417.

This proposed facility is located in Girard Township, **Erie County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a small flow treatment facility.

WQM Permit No. 1001402, Sewage, **Western Butler County Authority**, 607 Market Street, P. O. Box 427, Zelenople, PA 16063.

This proposed facility is located in Jackson Township, **Butler County**.

Description of Proposed Action/Activity: The project is for the installation of sewer lines and interceptor along Route 19 South.

WQM Permit No. 2501415, Sewerage, **Patrick E. and Tammy L. Dunn**, 12439 Route 6N, Albion, PA 16401.

This proposed facility is located in Conneaut Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a Single Residence.

NPDES STORMWATER INDIVIDUAL PERMITS—(PAS)

The following NPDES Individual Permits for Discharges of Stormwater Associated with Construction Activities have been issued.

These actions of the Department of Environmental Protection (Department) may be appealed to the Environmental Hearing Board (Board), Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483, by any aggrieved person under the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Appeals must be filed with the Board within 30 days from the date of this issue of the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Department's regulations governing practice and procedure before the Board may be obtained from the Board.

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10-G463	Stephen E. Cushman P. O. Box 294 Thorndale, PA 19372	Chester	East Brandywine Township	East Branch Brandywine Creek (HQ-TSF)
<i>Northeast Region: Water Management Program Manager; 2 Public Square, Wilkes-Barre, PA 18711-0790.</i>				
<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10Q223	Jaindl Land Co. 3150 Coffeetown Rd. Orefield, PA 18069	Lehigh	Upper Macungie Township	Little Lehigh Creek HQ-CWF
PAS10Q071-R	Cedar Fair L.P. 3830 Dorney Rd. Allentown, PA 18104	Lehigh	S. Whitehall Township	Cedar Creek HQ-CWF
PAS10Q224	Shelter Development L.L.C. 218 N. Charles St. Suite 500 Baltimore, MD 21201	Lehigh	City of Bethlehem	Monocacy Creek HQ-CWF
PAS10Q116-R	Jaindl Land Co. 3150 Coffeetown Rd. Orefield, PA 18069	Lehigh	Lower Macungie Township	Little Lehigh Creek HQ-CWF
PAS10S097	LTS Development, Inc. P. O. Box 160 Shawnee on the Delaware, PA 18356	Monroe	Middle Smithfield Township	Marshall Creek HQ-CWF

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10S103	Wal-Mart Stores East, Inc. 2001 Southeast 10th St. Dept. 9562 Bentonville, AR 72716-0550	Monroe	Coolbaugh Township	Tobyhanna Creek HQ-CWF
PAS10S094	Our Lady of Victory Church P. O. Box 195, Rt. 611 Tannersville, PA 18372	Monroe	Pocono Township	Bulgers Run HQ-CWF
PAS10U150	Global Property Investors, LLP 580 Shoemaker Rd. King of Prussia, PA 19406	Northampton	Forks Township	Unnamed tributary to Bushkill Creek HQ-CWF
PAS10U118	Pheasant Ridge Estates P. O. Box 307 Brodheads ville, PA 18322	Northampton	Moore Township	Monocacy Creek HQ-CWF
PAS10V017	Harry F. Lee Peter W. Ahnert Robert M. Ahnert Harry A. Ahnert 22 N. 7th St. Stroudsburg, PA 18360	Pike	Lehman Township	Saw Creek HQ-CWF

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10M095-R	Robert Eberly P. O. Box 323 Greencastle, PA 17225	Franklin County	Greencastle Borough	Muddy Run (HQ-CWF)

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

<i>NPDES Permit</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10X095	Derry Township Municipal Authority P. O. Box 250 New Derry, PA 15671	Westmoreland County New Derry Township	McGee Run/TSF Union Run/WWF Shirey Run/HQ-CWF

Northwest Region: Oil and Gas Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6860.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS104108	Weinsz Oil & Gas, Inc. P. O. Box 2771 North Canton, OH 44720	McKean	Lafayette Township	Unnamed tributaries of Lewis Run (HQ- CWF)

APPROVALS TO USE NPDES AND/OR OTHER GENERAL PERMITS

The following parties have submitted: (1) Notices of Intent (NOIs) for Coverage under (1) General NPDES Permits to Discharge Wastewater into the Waters of the Commonwealth. The approval for coverage under these general NPDES permits is subject to applicable effluent limitations. Monitoring, reporting requirements and other conditions set forth in the general permit; (2) General Permits for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania; (3) General NPDES Permit Authorizing the Discharge of Stormwater Associated with Construction Activities to Waters of the Commonwealth; (4) Notification for First Use Application of Sewage Sludge.

The approval of coverage for land application of sewage sludge or residential septage under these general permits is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general

requirements, management practices and other conditions set forth in the respective permit. The Department of Environmental Protection approves the following coverage under the specific General Permit.

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

The application and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted.

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Non-Exceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Non-Exceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)

General Permit Type—PAG-2

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
London Grove Township Chester County	PAR10 G429	Bulldog Construction 1120 Valley Road Coatesville, PA 19320	Middle Branch White Clay Creek (TSF—MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Sadsbury Township Chester County	PAR10 G417	Clover Hill Company P. O. Box 85 130 Morning Glory Ave. Wildwood, NJ 08260	West Branch Brandywine Creek/UNT to Buck Run (TSF—MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
East Bradford Township Chester County	PAR10 G424	Tony Stancato 7 West Gay Street West Chester, PA 19380	Taylor Run (TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
West Bradford Township Chester County	PAR10 G397	Grouse and Pheasant P. O. Box 91 Chadds Ford, PA 19317	UNT to East Branch Brandywine Creek (WWF—MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
West Goshen Township Chester County	PAR10 G435	Christopher Knauer 120 Arrandale Boulevard Exton, PA 19341	East Branch Chester Creek (TSF—MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
London Britain Township Chester County	PAR10 G430	RML Enterprises P. O. Box 1180 Hockessin, DE 19707	Christina River (WWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Franklin Township Chester County	PAR10 G428	Charles Wilkinson 1020 Broad Run Road Landenberg, PA 19950	West Branch White Clay Creek (CWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Bethel Township Delaware County	PAR10 J214	Garnet Valley School District 80 Station Road Glen Mills, PA 19342	Naamans Creek (WWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Concord Township Delaware County	PAR10 J220	Toll Brothers, Inc. 3103 Philmont Avenue Huntingdon Valley, PA 19006	Green Creek (CWF—TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
City of Philadelphia Philadelphia County	PAR10 5337	Champion Development Corp. 828 Red Lion Road Philadelphia, PA 19115	UNT Pennypack Creek (WWF—MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Carbon County Franklin Township	PAR101327	LEI Realty Holding, Inc. 517 North 9th St. Lehighton, PA 18235	Poho Poco Creek CWF	Carbon County Conservation District (610) 377-4894
North Heidelberg Township Berks County	PAR10C379	Joseph Aichholz 1047 N. Heidelberg Rd. Bernville, PA 19506	Tulpehocken Creek CWF/TSF	Berks County Conservation District P. O. Box 520 1238 Co. Welfare Rd. Leesport, PA 19533-0520 (610) 372-4657
Spring Township Berks County	PAR10C278-1 Nullifies (PAR10-C278)	Robert Ware WRC Sports Ltd. C/o Marsh Crk. Corp. Services 741 Haywood Dr. Exton, PA 19341	Municipal storm sewer Tulpehocken Creek WWF	Berks County Conservation District P. O. Box 520 1238 Co. Welfare Rd. Leesport, PA 19533-0520 (610) 372-4657
Greene Township Franklin County	PAR10M239	Brian McNew 475 Phoenix Drive Chambersburg, PA 17201	Conococheague Creek (CWF)	Franklin County Conservation District 550 Cleveland Avenue Chambersburg, PA 17201 (717) 264-8074

NOTICES

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<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Potter Township Centre County	PAR10F144	Mountain View Estates Phase II Thomas Guhlman & Garth Benton 171 Manor Road Centre Hall, PA 16828	UNT Cedar Run CWF	Centre County Conservation District 414 Holmes Ave., Suite 4 Bellefonte, PA 16823 (814) 355-6817
Huston Township Clearfield County	PAR101771	Huston Township Sew. Auth. P. O. Box 121 Clearfield, PA 16830	Bennetts Branch, Sinnemahoning Creek CWF	Department of Environmental Protection Water Management Soils & Waterways Mgt. 208 W. 3rd St. Suite 101 Williamsport, PA 17701 (570) 327-3574
White Deer Township Union County	PAR016843	Author & Sandra Keister Silver Moon Hill Subdiv. P. O. Box 73 West Milton, PA 17886	UNT Susquehanna River CWF	Union County Conservation District 60 Bull Run Crossing Lewisburg, PA 17837 (570) 523-8782
<i>Southwest Region: Regional Water Management Program Manager; 400 Waterfront Drive, Pittsburgh, PA 15222-4745.</i>				
<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Allegheny County Springdale Township	PAR10A397-1	Allegheny Energy Supply Company 4350 Northern Pike Monroeville, PA 15146-2841	Allegheny River / WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Plum Borough	PAR10A497	Angelo Development Company, Inc. 100 Springwood Drive Verona, PA 15147	Little Plum Creek / WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Collier Township	PAR10A506	Maronda Homes 11 Timberglen Drive Imperial, PA 15126	Thoms Run/TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County Collier Township	PAR10A513	Kossman Development Company 11 Parkway Center 875 Greentree Road Pittsburgh, PA 15220	Chartiers Creek/ WWF	Allegheny County Conservation District (412) 241-7645
Somerset County Somerset Township	PAR106142	CVS Pharmacy Corporation, Inc. 322 Revco Road Somerset, PA 15501	UNT to Coxes Creek/CWF	Somerset County Conservation District (814) 445-4652
Washington County South Strabane Town- ship	PAR10W182	WCW, Inc. 300 Weyman Plaza Suite 210 Pittsburgh, PA 15236	Chartiers Creek/ WWF	Washington County Conservation District (724) 228-6774
Westmoreland County Upper Burrell Township Allegheny Township Oklahoma Borough Washington Borough	PAR10X264	Allegheny Township Municipal Authority 136 Community Building Road Leechburg, PA 15656	Pine Run/WWF	Westmoreland County Conservation District (724) 837-5271
Westmoreland County Unity Township	PAR10X265	St. Vincent College 300 Fraser Purchase Road Latrobe, PA 15650	Monastery Run/ WWF	Westmoreland County Conservation District (724) 837-5271

General Permit Type—PAG-3

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Lehigh County Hanover Township	PAR802244	Airborne Express, Inc. P. O. Box 662 Seattle, WA 98111	Lehigh River TSF	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711
Springdale Borough Allegheny County	PAR806208	United Refining Company P. O. Box 780 Warren, PA 16365	Allegheny River	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222- 4745 (412) 442-4000

General Permit Type—PAG-4

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Dauphin County East Hanover Township	PAG043679	Paul Henry 255 Ridge Road Harrisburg, PA 17112	UNT Manada Creek/ WWF	DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Penn Township Butler County	PAG048386	Theodore N. Boyda 236 Renfrew Road Renfrew, PA 16053	Thorn Creek	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942
Hempfield Township Mercer County	PAG048399	Harold Lee McCrillis 566 Methodist Road Greenville, PA 16125	Saul Run	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942
Middlesex Township Butler County	PAG048414	Glenn L. and Mary L. Franceschina 531 Glade Mill Road Valencia, PA 16059	Glade Run	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942
Conneaut Township Erie County	PAG048748	Patrick E. and Tammy L. Dunn 12439 Route 6N Albion, PA 16401	Unnamed tributary to Marsh Run	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942

General Permit Type—PAG-5

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
West Mead Township Crawford County	PAG058334	Larry Kebert Meadville Redi-Mix Concrete, Inc. 19821 Cochranon Road Meadville, PA 16335	Existing Storm Sewer to French Creek	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335- 3481 (814) 332-6942

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Springfield Township Mercer County	PAG058335	Ron Baumgart Country Fair No. 44 Country Fair, Inc. 2251 East 30th Street Erie, PA 16510	Unnamed tributary to Black Run	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
City of Franklin Venango County	PAG058336	Timothy D. Ruth Kwik Fill M-063 United Refining Co. of PA P. O. Box 688 Warren, PA 16365	Unnamed tributary to French Creek	DEP NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-8

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Telephone No.</i>
East St. Clair Township Bedford County	PAG083561	Chestnut Ridge Joint Mun. Auth. 320 Lane Metal Road New Paris, PA 15554		DEP SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Operations Permit issued to **Easton Suburban Water Authority**, 2414 Butler Street, P. O. Box 3819, Easton, PA 18043, City of Easton, **Northampton County**, on July 18, 2001.

Operations Permit issued to **PA-American Water Company**, 20 East Union Street, Wilkes-Barre, PA 18701, South Abington Township, **Lackawanna County**, on July 5, 2001.

Operations Permit issued to **Mahoning Manor Estates**, 59 White Pine Lake, Lehighon, PA 18235, Mahoning Township, **Carbon County**, on July 18, 2001.

Operations Permit issued to: **Borough of Alburdis**, P. O. Box 435, Alburdis, PA 18011, Borough of Alburdis, **Lehigh County**, on July 19, 2001.

Operations Permit issued to **Borough of Ringtown**, P. O. Box 270, Ringtown, PA 17967, Ringtown Borough, **Schuylkill County**, on July 23, 2001.

Operations Permit issued to **Upper Saucon Township**, 550 Camp Meeting Road, Center Valley, PA 18034, Upper Saucon Township, **Lehigh County** on June 11, 2001.

Southcentral Region: Water Supply Management Program Manger, 909 Elmerton Avenue, Harrisburg, PA 17110.

Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

Permit No. 0198502, Public Water Supply.

Applicant **Littlestown Borough Authority**
Municipality Littlestown Borough

County	Adams
Type of Facility	Limited duration Innovative Technology Operation Permit for a 0.216 mgd Zenon Zeeweed ultrafiltration membrane system at Well No. 8. Gaseous chlorine will be used for disinfection.
Consulting Engineer	Scott M Rights, P.E. HRG, Inc. 32 W. Middle St. Gettysburg, PA 17325
Permit to Operate Issued:	June 26, 2001
	Permit No. 5000501 , Public Water Supply.
Applicant	Harry V. Pfautz
Municipality	Wheatfield Township
County	Perry
Type of Facility	Operation Permit authorizing addition of disinfection and manganese sequestration for existing Well No. 3 and manganese sequestration at existing Well No. 2.
Consulting Engineer	W Zeke Morrow, P.E. Morrow Engineering R. R. 2, Box 542 New Bloomfield, PA 17068
Permit to Operate Issued:	June 28, 2001
	Permit No. 5000504 , Public Water Supply.
Applicant	Bloomfield Borough Water Authority
Municipality	Centre Township
County	Perry

Type of Facility Operation Permit for Well No. 2. Hypochlorite disinfection will be provided within the existing treatment building for previously permitted Well No. 1.

Consulting Engineer Julia C Schiefer, P.E.
Herbert, Rowland & Grubic, Inc.
369 East Park Drive
Harrisburg, PA 17111

Permit to Operate Issued: July 13, 2001

Permit No. 0196504-T1, Public Water Supply.

Applicant **Insite Development, LLC**

Municipality Berwick Township

County **Adams**

Type of Facility Operation Permit for the Eagle View Mobile Home Park community water system. The first phase of the permitted system consists of one well, hypochlorite disinfection, pH adjustment, a standpipe and a distribution system.

Consulting Engineer Charles A Kehew II, P.E.
James R. Holley & Assoc., Inc.
18 South George St.
York, PA 17401

Permit to Operate Issued: May 11, 2001

Permit No. 2800509, Public Water Supply.

Applicant **Franklin County General Authority**

Municipality Greene Township

County **Franklin**

Type of Facility The Department has issued a Construction Permit for revised corrosion control treatment facilities at the existing potable water filtration plant. New facilities will include zinc orthophosphate and caustic soda feed systems.

Consulting Engineer George D Gustafson, P.E.
Earth Tech
196 Baker Ave.
Concord, MA 01742

Permit to Operate Issued: July 11, 2001

Permit No. 2200501 MA, Minor Amendment, Public Water Supply.

Applicant **Halifax Area Water Authority**

Municipality Halifax Township

County **Dauphin**

Type of Facility The operation of a 0.5 million gallon finished water concrete storage tank and the operation of a temporary booster pumping station.

Consulting Engineer Robert L Kissinger
Glace Associates, Inc.
3705 Trindle Rd.
Camp Hill, PA 17011

Permit to Operate Issued: July 26, 2001

Northcentral Region: Water Supply Management Program Manager; 208 West Third Street, Williamsport, PA 17701.

Permit No. Minor Amendment. Public Water Supply.

Applicant **H2O to Go**
c/o William F. Brightman, President
49 Village Square Drive
Marietta, PA 17547-9737

Town Town of Bloomsburg

County **Columbia County**

Type of Facility Vended Water Facility

Consulting Engineer None

Permit to Operate Issued: July 31, 2001

Southwest Region: Water Supply Management Program Manager; 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Operations Permit 0301502 issued to **South Buffalo Township Municipal Authority**, P. O. Box 266, Iron Bridge Road, Freeport, PA 16229-0266, North Buffalo Township, **Armstrong County** for interconnection with Kittanning Suburban Joint Water Authority on July 24, 2001.

Operations Permit 8821-W-A1-T1 issued to Transfer of permit due to re-structuring/re-organization from **Heinz USA**, Pittsburgh Factory to H. J. Heinz, L.P., P. O. Box 57, 1062 Progress Street, Pittsburgh, PA 15230-0057, City of Pittsburgh, **Allegheny County** on July 24, 2001.

Northwest Region: Water Supply Management Program Manager; 230 Chestnut Street, Meadville, PA 16335-3481.

Operations Permit No. 1093503-C1 issued to **Borough of Zelenople**, 111 West New Castle Street, Zelenople, PA 16063, Zelenople, **Butler County** on July 31, 2001.

Permit No. 2592503-MA4, Minor Amendment. Public Water Supply.

Applicant **Erie City Water Authority**
340 West Bayfront Parkway
Erie, PA 16507-2004.

Borough or Township Harborcreek Township

County **Erie**

Type of Facility Public Water Supply

Consulting Engineer KLH Engineering, Inc.
5173 Campbells Run Road
Pittsburgh, PA 15205.

Permit to Construct Issued: July 24, 2001

Permit No. 2588511-MA3, Minor Amendment. Public Water Supply.

Applicant **North East Township Water & Sewer Authority**
10300 West Main Road
North East, PA 16428.

Borough or Township North East Township
 County **Erie**
 Type of Facility Public Water Supply
 Consulting Engineer Douglas C. Sceford, P.E.
 Hill Engineering, Inc.
 8 Gibson Street
 North East, PA 16428.
 Permit to Operate Issued July 25, 2001

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Dudley-Carbon-Coalmont Joint Municipal Authority	Box 276 Dudley, PA 16634	Huntingdon

Plan Description: The approved plan provides for dividing a sewerage project for Dudley Borough, Carbon Township and Coalmont Borough into two phases. This project was originally approved in 1995. Dividing the project into two phases will allow the Authority to pursue funding through the PENNVEST small community project program. The proposed sewer service area remains unchanged. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location: **The Joe Himes Modular Home Park Subdivision** is located on the north side of Route 164; 1 mile west of Martinsburg, in North Woodbury and Taylor Townships, **Blair County**.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
North Woodbury Township	R. R. 1, Box 98 Martinsburg, PA 16662	Blair County
Taylor Township	1002 Route 36 Roaring Spring, PA 16673	Blair County

Plan Description: The plan provides for an approval granted July 16, 2001 as a revision to the Official Plans of North Woodbury Township and Taylor Township, Blair County. Project involves construction of a sewage treatment plant and collection system to serve a 30-unit and 77-unit modular home park. The extended aeration treatment plant provides for a capacity of 30,000 gallons per day. The sewage treatment plant will be constructed in North Woodbury Township, Blair County.

Treated effluent is to be discharged to an unnamed tributary of Plum Creek.

The Department's review of the sewage facilities update revision has not identified any significant environmental

impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the owner as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Guilford Township	115 Spring Valley Road Chambersburg, PA 17201	Franklin

Plan Description: The approved plan provides for an on-lot sewage disposal system management program, the completion of a preliminary hydrogeologic study for all proposed subdivisions utilizing on-lot sewage disposal systems and a well drillers licensing ordinance. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Cumru Township	1775 Welsh Road Mohnton, PA 19540	Berks

Plan Description: The approved plan provides for the construction of a small gravity flow extension of the existing collection system to the Kohl's Mill Area approximately 1,200 feet south along Wyomissing Road to the intersection with Vermont Road. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988

Public Notice of Proposed Consent Order and Agreement

AVTEX Mercury Release Sites Crawford County, PA

Under section 1113 of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305) (HSCA), notice is hereby provided that the Department of Environmental Protection (Department) has entered into a Consent Order and Agreement (CO&A) with Crawford County Properties, Inc. (CCPI) concerning the cleanup of the Avtex Mercury Release Sites (sites). The sites include both the initial release location at the former Avtex Fibers, Inc. manufacturing facility (Facility) and the individual locations described as the Adjunct Mercury Release Sites. The Facility is located on a 170-acre property adjacent to Dunham Road in Vernon Township, Crawford County, PA. The Adjunct Mercury Release Sites are 33 distinct sites, located in Hayfield, Richmond, Spring, Union, Venango, Vernon, Woodcock Townships, Crawford County, PA.

In the past, hazardous substances were released at the sites and these substances contaminated the environment

at the sites. The Facility was owned and operated by various entities from 1929 to 1986 to manufacture synthetic fibers. During all or part of that period of operation, a wastewater treatment plant was used by the entities operating the Facility at the site to treat wastewaters. During the years of operation, mercury came to be located in the trickling filter tanks at the wastewater treatment plant. In 1986, CCPI purchased the property that included the Facility. Between 1995 and 1997, mercury-containing wastes (wastes) were released into the soils adjacent to the trickling filter tanks at the Facility during dismantling operations. Later, filter media from those tanks was transported for use as fill material to the sites, including elsewhere on the Facility. These wastes contaminated the environment at the sites. Mercury is defined in section 103 of HSCA (35 P. S. § 6020.103) as a "hazardous substance." The Department and CCPI removed the wastes from the Adjunct Mercury Release Sites for proper off-site disposal, at a cost of approximately 1 million dollars. That response mitigated the threat to human health and the environment posed by the wastes. As an owner of the facility and a generator during the time of the release and threatened release of hazardous substances at the sites, CCPI is a "responsible person" as defined in section 103 of HSCA. Under the terms of the Agreement, CCPI shall, among other things, pay the Department \$5,000 to resolve its liability at the sites. In addition, CCPI has remediated one of the sites (the Wetzel Site) and will also implement an approved supplemental work plan for specific tasks and long-term operation and maintenance activities at the Facility.

The specific terms of this settlement are set forth in the CO&A between the Department and CCPI. The Department will receive and consider comments relating to the CO&A for 60 days from the date of this Public Notice. The Department has the right to withdraw its consent to the CO&A if the comments concerning the CO&A disclose facts or considerations which indicate that the CO&A is inappropriate, improper, or not in the public interest. After the public comment period, the Department's settlement with CCPI shall be effective upon the date that the Department notifies CCPI, in writing, that this Consent Order and Agreement is final and effective in its present form and that the Department has filed a response to significant written comments to the CO&A, or that no comments were received.

Copies of the CO&A are available for inspection at the Department's Northwest Regional Office. Comments may be submitted, in writing, to Mark Gorman, Program Manager, Department of Environmental Protection, Hazardous Sites Cleanup, 230 Chestnut Street, Meadville, PA 16335. Further information may be obtained by contacting Mark Gorman, at (814) 332-6648. TDD users may contact the Department through the Pennsylvania Relay Services at (800) 645-5984.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following final reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of

submission of final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site where one of the Act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program Manager in the Department of Environmental Protection Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Triboro Electric Company, Doylestown Borough, **Bucks County**. Terrence J. McKenna, Keating Environmental Management, Inc., 479 Thomas Jones Way, Suite 700, Exton PA 19341, on behalf of Doylestown Store & Lock, 350 S. Main St., Suite 213, Doylestown, PA 18901, has submitted a Final Report concerning remediation of site groundwater contaminated with petroleum hydrocarbons. The report is intended to document remediation of the site to meet the Statewide Health Standard.

John Mattis Property, West Brandywine Township, **Chester County**. Brian Holtzhafer, Hydrocon Services, Inc., 2945 S. Pike Ave., Allentown, PA 18103, on behalf of John Mattis, 107 Icedale Rd., Honeybrook PA 19344, has submitted a Final Report concerning remediation of site soil contaminated with BTEX and polycyclic aromatic hydrocarbons. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Morrow Property, West Goshen Township, **Chester County**. Harold M. Brundage, III, Environmental Research & Consulting, Inc., 112 Commons Ct., Chadds Ford, PA 19317, on behalf of Everett F. & Helen Morrow and HMM, LP, 876 Westtown Rd., West Chester, PA 19382, has submitted a Final Report concerning remediation of site soil contaminated with heavy metals. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Northeast Regional Field Office, Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Turner Residence, Franklin Township, **Luzerne County**. Gary Marshall, Senior Project Manager, TCI Environmental Services, Inc., 100 North Wilkes-Barre Boulevard, Wilkes-Barre, PA 18701 has submitted a Final Report (on behalf of his client, Ray Turner, Jr., Brace and Orange Roads, Orange, PA 18612) concerning the remediation of site soils and/or groundwater contaminated with no. 2 fuel oil. The report was submitted to document remediation of the site to meet the Statewide health standard.

Najaka Residence, Union Township, **Luzerne County**. Eric J. Raes, President, Engineering and Land Planning Associates, Inc., P. O. Box 5283, Clinton, NJ 08809 has submitted a Final Report (on behalf of his clients, Mr. and Mrs. B. Bruce Najaka, Cherokee Drive, Shickshinny Lake, PA 18655) concerning the remediation of soils contaminated with no. 2 fuel oil. The report was submitted to document remediation of the site to meet the Statewide health standard.

Bethlehem Commerce Center (aka Conective Mid-Merit, Inc., Project Area), City of Bethlehem and Lower Saucon Township, **Northampton County**. Edwin B. Wilson, Director, Environmental Assessment and Remediation, Bethlehem Steel Corporation, 1170 Eighth Avenue, Bethlehem, PA 18016 has submitted a Final Report concerning the characterization of soils located on the subject property. The report was submitted to document that site soils meet both the Background and Statewide health standards.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Caterpillar Inc. Area B, Springettsbury Township, **York County**. Earth Tech, Inc., 2 Market Plaza Way, Mechanicsburg, PA 17055, (on behalf of Caterpillar Inc., 100 N.E. Adams Street, Peoria, Illinois 61629) submitted a Final Report concerning remediation of site soils contaminated with lead, PCBs, heavy metals, BTEX, PAHs, PHCs, solvents, pesticides and dioxin. The report is intended to document remediation of the site to the Statewide Health standard.

Greencastle Antrim Area Development Corporation, formerly Appalachian Lamb, Antrim Township, **Franklin County**. Richenderfer & Assoc., Inc., P. O. Box 1190, Carlisle, PA 17013 (on behalf of Greencastle Antrim Area Development Corporation, 217 East Baltimore Street, P. O. Box 393, Greencastle, PA 17225) submitted a Final Report concerning remediation of site soils and groundwater contaminated with BTEX and PHCs. The report is intended to document remediation of the site to the Statewide Health standard.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

National Fuel Gas Company (Van Compressor Station), Route 322, Van, PA, **County of Venango**, Rockland & Cranberry Townships, has submitted a Site Characterization Report concerning remediation of the groundwater contaminated with Benzene, Pentane and Butane. The report is intended to document remediation of the site to meet the Site Specific Standard and the Statewide Health Standard.

CDR Pigments, 75 Front St., Ridgway, PA, **County of Elk**, Ridgway Borough, has submitted a Cleanup Plan concerning remediation of the site soil, groundwater and surface water contaminated with lead, heavy metals, solvents and BTEX. The report is intended to document remediation of the site to meet the Site Specific Standard

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, Administration of the Land Recycling and Environmental Remediation Standards Act (Act) requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the Land Recycling and Environmental Remediation Standards Act. Plans and reports required by provisions of the Act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. A cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final report:

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Caterpillar Inc. Area B, Springettsbury Township, **York County**. Earth Tech, Inc., 2 Market Plaza Way, Mechanicsburg, PA 17055, (on behalf of Caterpillar Inc., 100 N.E. Adams Street, Peoria, IL 61629) submitted a Final Report concerning remediation of site soils contaminated with lead, PCBs, heavy metals, BTEX, PAHs, PHCs, solvents, pesticides and dioxin. The final report demonstrated attainment of the Statewide Health standard and was approved by the Department on July 26, 2001.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit No. 100281. Greenridge Reclamation, LLC, R. D. 1, Box 716, Landfill Road, Scottdale, PA 15683.

Permit reissuance for the operation of a municipal waste landfill in East Huntingdon Township, **Westmoreland County**. Permit issued in the Regional Office on July 27, 2001.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.

32-00357: Dominion Peoples (625 Liberty Avenue, Pittsburgh, PA 15222) on July 17, 2001 was authorized to operate under GP-32-00357 for Creekside Compressor Station in White Township, **Indiana County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: James Parette, New Source Review Chief, (570) 826-2531.

54-399-031: Silberline Manufacturing Co., Inc. (130 Lincoln Drive, Tamaqua, PA 18252) on July 23, 2001, for installation of an air cleaning device for a milling and screening operation in Rush Township, **Schuylkill County**.

54-399-032: Silberline Manufacturing Co., Inc. (130 Lincoln Drive, Tamaqua, PA 18252) on July 23, 2001, for modification of ball mills, screens, filter presses and mixers with a carbon adsorption unit as an air cleaning device in Rush Township, **Schuylkill County**.

35-318-083: Wells Cargo, Inc. (50 Enterprise Drive, P. O. Box 547, Carbondale, PA 18407) on July 25, 2001, for construction of a paint spray booth and associated air cleaning device in Carbondale, **Lackawanna County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

36-03096A: Carvell & Rick, Inc. (1780 Newport Road, Route 772 West, Ephrata, PA 17522) on July 24, 2001, for construction and operation of a surface coating operation (uncontrolled), two airflow exhaust fans, each with a pre-filter and two internal filters, in West Earl Township, **Lancaster County**.

67-05092: Starbucks Coffee Co. (3000 Espresso Way, York, PA 17402) on July 24, 2001, for construction of two coffee roasters each controlled by a catalytic oxidizer and a cyclone at its York Roasting Plant in East Manchester Township, **York County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.

11-00285A: Whitaker Roads Corp. (P. O. Box 5657, Johnstown, PA 15904) on July 12, 2001, for construction of #5 Fuel Oil, 32 Fuel Oil at Johnstown Asphalt Plant in Richland Township, **Cambria County**.

26-00534A: Fayette Thermal, LLC (755 Opossum Lake Road, Carlisle, PA 17013) on July 23, 2001, for construction of boilers at East Millsboro Steam Plant in Luzerne Township, **Fayette County**.

04-706A: Beaver Valley Slag, Inc. (1150 Brodhead Road, Monaca, PA 15061) on July 23, 2001, for construction of screens, crushers and diesel engines at Black's Run Slag Mine in Center Township, **Beaver County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.

15-301-086: Pet Memorial Services Corp. (319 Westtown Road Ste. Q, West Goshen, PA 19380) on July 26, 2001, for operation of a cremator for animal remains in West Goshen Township, **Chester County**.

09-320-050: Superpac, Inc. (1220 Industrial Boulevard, Upper Southampton, PA 18966) on July 26, 2001, for operation of a Flexographic Printing Press in Upper Southampton Township, **Bucks County**.

46-0199: Alcom Printing Group, Inc. (140 Christopher Lane, Harleysville, PA 19438) on July 27, 2001, for operation of a Lithographic Printing Press in Lower Salford Township, **Montgomery County**.

46-313-146: Penn Color, Inc. (2755 Bergey Road, Hatfield, PA 19440) on July 27, 2001, for operation of a Base Pigment Dispersion Facility in Hatfield Township, **Montgomery County**.

46-0161: Reading Materials, Inc. (394 Sanatoga Road, Pottstown, PA 19464) on July 27, 2001, for operation of a Batch Asphalt Plant in Lower Pottsgrove Township, **Montgomery County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

08-00004A: Rynone Manufacturing Corp. (P. O. Box 128, Sayre, PA 18840-0128) on July 20, 2001, to authorize operation of a cast polymer facility on a temporary basis until November 17, 2001, in Sayre Borough, **Bradford County**. This is a Title V facility.

55-302-005B: Wood-Mode, Inc. (One Second Street, Creamer, PA 17833) on July 24, 2001, to extend authorization to operate a 10.2 million BTU per hour woodwaste-fired boiler (Boiler 1) and associated air cleaning devices (two multiclones in series) on a temporary basis until November 21, 2001, in Middlecreek Township, **Snyder County**.

55-302-005C: Wood-Mode, Inc. (One Second Street, Creamer, PA 17833) on July 24, 2001, to extend authorization to operate a 32 million BTU per hour woodwaste-fired boiler (Boiler 3) and associated air cleaning devices (two multiclones in series) on a temporary basis until November 21, 2001, in Middlecreek Township, **Snyder County**.

49-309-002A: Watsontown Brick Co. (P. O. Box 68, Watsontown, PA 17777) on July 26, 2001, to extend authorization to operate a natural gas-fired brick kiln and associated air cleaning devices (a two stage lime/sodium bicarbonate injection/reaction system and a fabric collector), as well as various pieces of mixing, grinding, etc.

equipment and associated air cleaning devices (cartridge collectors), on a temporary basis until November 23, 2001 in Delaware Township, **Northumberland County**.

08-318-027: Mill's Pride-Pennsylvania (100 Lamoka Road, Sayre, PA 18840) on July 27, 2001, to extend authorization to operate a wood kitchen cabinet finishing line and associated air cleaning device (a thermal oxidizer), two wood-fired boilers and associated air cleaning devices (two dual stage mechanical collection systems), various pieces of woodworking equipment and associated air cleaning devices (fabric collectors) and various other pieces of equipment on a temporary basis until November 24, 2001, in Athens Township, **Bradford County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.

65-935A: Lindy Paving, Inc. (R. D. 3, Box 2A, New Castle, PA 16105) on July 16, 2001, for construction of a Hot Mix Asphalt Plant at Laurelville Plant in Mount Pleasant Township, **Westmoreland County**. This plan approval was extended.

26-177A: Golden Eagle Construction/Asphalt Division (P. O. Box 945, Uniontown, PA 15401) on July 18, 2001, for construction of a Hot-mix Asphalt Plant at Coolspring Asphalt Plant in North Union Township, **Fayette County**. This plan approval was extended.

04-700A: Mansell Industrial Services (1755 Pennsylvania Avenue, Monaca, PA 15061) on July 18, 2001, for construction of a Rotary Kiln Dryer at Industry Plant in Industry Borough, **Beaver County**. This plan approval was extended.

04-468C: S. H. Bell Company (644 Alpha Drive, P. O. Box 11495, Pittsburgh, PA 15238) on July 1, 2001, for construction of a Loadout Shed at East Liverpool Terminal in Ohioville Borough, **Beaver County**. This plan approval was extended.

63-00616A: Therm-O-Rock East, Inc. (P. O. Box 429, New Eagle, PA 15067) on July 18, 2001, for construction of a Pneumatic Transfer System at Plant 1 in New Eagle Borough, **Washington County**. This plan approval was extended.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Contact: Thomas Huynh, Chief, (215) 823-7584.

95-002: Trigen—Philadelphia Energy Corp.—Schuylkill Station (2600 Christian Street, Philadelphia, PA 19146) on July 16, 2001, for operation of a steam and electric generating facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two 795 MMBTU/hr #6 fuel oil-fired (#2 fuel oil ignition) boilers and a 761 MMBTU/hr natural gas or #6 fuel oil-fired boiler.

95-005: Exelon Generation Company—Richmond Generating Station (3901 North Delaware Avenue, Philadelphia, PA 19137) on July 23, 2001, for operation of an electric utility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two 838 MMBTU/hr #2 fuel oil or kerosene-fired combustion turbines and a 1.7 MMBTU/hr home heating #2 fuel oil-fired boiler.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Contact: Roger Fey, Chief, (215) 823-7584.

96-002: Tenet HealthSystem—Medical College of Pennsylvania Hospital—Main Campus and Eastern Pennsylvania Psychiatric Institute (3300 Henry Avenue, Philadelphia, PA 19129) issued an administratively amended operating permit on July 3, 2001 for their facility in the City of Philadelphia, **Philadelphia County**. The Synthetic Minor Operating Permit, originally issued on October 20, 2000, has been administratively amended to identify a change of facility contact, permit contact and responsible official and to correct the renewal application fee specified under the general conditions for permit renewal.

96-051: Federal Reserve Bank of Philadelphia (100 North 6th Street, Philadelphia, PA 19106) issued an administratively amended operating permit on July 9, 2001, for their facility in the City of Philadelphia, **Philadelphia County**. The Natural Minor Operating Permit, originally issued on June 12, 2001, has been administratively amended to: correct the expiration date on Page 1 of the permit from June 12, 2001 to June 12, 2006.

95-019: Exxon Mobil Corp. (6850 Essington Avenue, Philadelphia, PA 19153) issued an administratively amended operating permit on July 13, 2001, for their facility in the City of Philadelphia, **Philadelphia County**. The Title V/State Operating Permit, originally issued on December 28, 2000, has been administratively amended to correct a typographical error on Page 1 and the header listing the permit as a Title /State Only operating permit.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification. Mining activity permits issued in response to applications will also address the application permitting requirements of the following statutes; the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Issued

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209.

17910113. Moravian Run Reclamation Company, Inc. (605 Sheridan Drive, Clearfield, PA 16830), renewal of an existing bituminous surface mine permit in Penn Township, **Clearfield County** affecting 78 acres. Receiv-

ing stream—Bell Run and Poplar Run. Application received: March 22, 2001. Permit issued: June 26, 2001.

17990107. River Hill Coal Co., Inc. (P. O. Box 141, Kylertown, PA 16847), commencement, operation and restoration of a bituminous surface mine permit in Bigler Township, **Clearfield County** affecting 234.5 acres. Receiving stream—Pine Run to Clearfield Creek to the West Branch of the Susquehanna River. Application received: April 18, 1999. Permit issued: July 5, 2001.

This permit was issued under a Project XL agreement between the DEP and the United States Environmental Protection Agency (EPA). Project XL is EPA's program to test innovative approaches to environmental protection using regulatory flexibility to achieve superior environmental performance. Under Project XL, a Consent Order and Agreement between River Hill Coal Company, Inc. and DEP was executed on July 5, 2001. The purpose of this agreement is to improve water quality in Pine Run (Clearfield County) through encouraging re-mining and acid mine drainage abatement measures. The agreement will base compliance on in-stream water quality and the implementation of best management practices (BMPs), instead of numeric effluent limitations measured at individual discharge points. The agreement applies only to this surface mining permit. Pine Run is one of up to eight acid mine drainage impacted watersheds where this approach under Project XL will be evaluated. The full text of the Consent Order and Agreement and the Project XL agreement can be obtained at www.dep.state.pa.us/dep/deputate/minres/districts/projectxl or by contacting DEP's Hawk Run District Office.

17960102. M. R. Hainsey Contracting Company (R. D. 2, Box 57, Clearfield, PA 16830), renewal of an existing bituminous surface mine permit in Goshen Township, **Clearfield County** affecting 73.2 acres. Receiving stream—unnamed tributary to Trout Run, unnamed tributary to Pine Run, Pine Run, to West Branch Susquehanna River. Application received: April 4, 2001. Permit issued: July 10, 2001.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931.

32910102. Permit Renewal, **M.B. Energy, Inc.** (175 McKnight Road, Blairsville, PA 15717-7961), for continued operation of a bituminous surface and auger mine in Center & Brushvalley Townships, **Indiana County**, affecting 222.3 acres, receiving stream unnamed tributaries to Yellow Creek, Brush Creek, Tearing Run and Tearing Run. Application received: May 14, 2001. Permit issued: July 5, 2001.

56900113. Permit Renewal, **Fieg Brothers** (3070 Stoystown Road, Stoystown, PA 15563-8164), for continued operation of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 99.5 acres, receiving stream Hays Run and unnamed tributaries to Hays Run; unnamed tributaries to Buffalo Creek. Application received: May 31, 2001. Application issued: July 23, 2001.

McMurray District Mining Office: 3913 Washington Road, McMurray, PA 15317.

03841307. Keystone Coal Mining Corp. (P. O. Box 219, Shelocta, PA 15774), to renew the permit for the Emilie No. 4 Deep Mine in Plumcreek Township, **Armstrong County** to renew the existing permit for reclamation only, no additional discharges. Permit issued: July 11, 2001.

32841320. Helvetia Coal Company (P. O. Box 219, Shelocta, PA 15774), to renew the permit for the Lucerne

No. 8 Mine in Young Township, **Indiana County** to renew the existing deep mine permit, site is inactive, no additional discharges. Permit issued: July 19, 2001.

03950701. Canterbury Coal Co. (R. D. 1, Box 119, Avonmore, PA 15618), to renew the permit for the Refuse Area No. 6 in Kiskiminetas Township, **Armstrong County** to renew the existing refuse and NPDES permit, no additional discharges. Permit issued: July 26, 2001.

32841320. Keystone Coal Mining Corp. (400 Over-view Drive, P. O. Box 219, Shelocta, PA 15774), to renew the permit for the O'Donnell #3 Deep Mine in Washington and Plumcreek Townships, **Indiana and Armstrong Counties** to renew the existing deep mine permit and delete 1,455 acres of unmined area from the underground permit area and 344 acres from the subsidence control boundary, no additional discharges. Permit issued: July 26, 2001.

17841607. Fuel Fabricators, Inc. (P. O. Box 368, Bigler, PA 16825), to renew the permit for the Coal Preparation Plant in Bradford Township, **Clearfield County** to renew the existing preparation plant permit, no additional discharges. Permit issued: July 26, 2001.

03841308. Rosebud Mining Company (R. D. 9, Box 379A, Kittanning, PA 16201), to renew the permit for the Rosebud #1 Deep Mine in Perry Township, **Armstrong County** to renew the existing permit for reclamation only, no additional discharges. Permit issued: July 26, 2001.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669.

33830116. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767) Renewal of an existing bituminous strip operation in Oliver Township, **Jefferson County** affecting 154.3 acres. Receiving streams: unnamed tributary to Little Sandy Creek. Application received: June 4, 2001. Permit Issued: July 23, 2001.

Noncoal Permits Issued

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

64010806. Timothy W. Ross (4 Prospect Street, Susquehanna, PA 18847), commencement, operation and restoration of a bluestone quarry operation in Scott Township, **Susquehanna County** affecting 2.0 acres, receiving stream—none. Permit issued: July 24, 2001.

58010824. Cal's Automotive, Inc. (441 East Baltimore Pike, Clifton Heights, PA 19018), commencement, operation and restoration of a bluestone quarry operation in Great Bend Township, **Susquehanna County** affecting 2.0 acres, receiving stream—none. Permit issued: July 24, 2001.

4873SM5T3. Global Stone PenRoc, LP (P. O. Box 1967, York, PA 17405-1967), transfer of an existing quarry operation in West Manchester Township, **York County** affecting 148.9 acres, receiving stream—unnamed tributary to Codorus Creek. Transfer issued: July 24, 2001.

4873SM5C. Global Stone PenRoc, LP (P. O. Box 1967, York, PA 17405-1967), renewal of NPDES Permit #PA009695 in West Manchester Township, **York County**, receiving stream—unnamed tributary to Codorus Creek. Renewal issued: July 24, 2001.

4873SM6T3. Global Stone PenRoc, LP (P. O. Box 1967, York, PA 17405-1967), transfer of an existing quarry operation in West Manchester Township, **York County** affecting 77.0 acres, receiving stream—Codorus Creek. Transfer issued: July 24, 2001.

4873SM8T3. Global Stone PenRoc, LP (P. O. Box 1967, York, PA 17405-1967), transfer of an existing quarry operation in West Manchester Township, **York County** affecting 413.0 acres, receiving stream—unnamed tributary to Codorus Creek. Transfer issued: July 24, 2001.

4873SM8C. Global Stone PenRoc, LP (P. O. Box 1967, York, PA 17405-1967), renewal of NPDES Permit #PA0594644 in West Manchester Township, **York County**, receiving stream—unnamed tributary to Codorus Creek. Renewal issued: July 24, 2001.

General Permit For Short-Term Construction Projects

4001GP01. No. 1 Contracting Corporation (49 South Main Street, Ashley, PA 18706), commencement, operation and restoration of a short-term construction project (Carey Avenue Bridge Project) in Newport Township, **Luzerne County** affecting 3.0 acres, receiving stream—Newport Creek Watershed. Permit issued: June 27, 2001.

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209.

59012802. Paul T. Hall (R. R. 2, Box 204, Tioga, PA 16946), commencement, operation and restoration of a Small Industrial Minerals (Sand and Gravel) permit in Lawrence Township, **Tioga County** affecting 4.2 acres. Receiving stream—Tioga River, tributary to North Branch Susquehanna River. Application received: May 10, 2001. Permit issued: July 11, 2001.

08012801. Jerry L. Johnson (R. R. 1, Box 179A1, Wyalusing, PA 18853), commencement, operation and restoration of a Small Industrial Minerals (Flagstone) permit in Tuscarora Township, **Bradford County** affecting 1 acre. Receiving stream—Wyalusing Creek, tributary to Susquehanna River. Application received: May 30, 2001. Permit issued: July 19, 2001.

08010803. Jerry L. Johnson (R. R. 1, Box 179A1, Wyalusing, PA 18853), commencement, operation and restoration of a Small Industrial Minerals (Flagstone) permit in Wilmot Township, **Bradford County** affecting 5 acres. Receiving stream—Sugar Run Creek, tributary to Susquehanna River. Application received: March 14, 2001. Permit issued: July 23, 2001.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931.

56012801. Mostoller Landfill, Inc. (7095 Glades Pike, Somerset, PA 15501), commencement, operation and restoration of a small noncoal (industrial minerals) operation in Brothersvalley Township, **Somerset County**, affecting 5.0 acres, receiving stream unnamed tributary to Kimberly Run. Application received: June 21, 2001. Application issued: July 23, 2001.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669.

37910303. ESSROC Cement Corp. (P. O. Box 779, Bessemer, PA 16112) Renewal of NPDES No. PA0208442, North Beaver Township, **Lawrence County**. Receiving streams: unnamed tributary to Mahoning River, unnamed tributary to Hickory Run and Hickory Run. Application received: May 31, 2001. NPDES Renewal Permit Issued: July 23, 2001.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection has taken the following actions on previously received permit applications, requests for Environmental Assessment approval

and requests for Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341(a)).

Except as otherwise noted, the Department of Environmental Protection certifies that the construction and operation herein described will comply with the applicable provisions of Sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State Water Quality Standards.

Any person aggrieved by this action may appeal, under Section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), Section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 P. S. §§ 691.1—691.702) and Notice of Final Action for Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)). (Note: Water Obstruction and Encroachment Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description).

Permits Issued and Actions on 401 Certifications:

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

E15-658. Philadelphia Suburban Water Company, 762 W. Lancaster Avenue, Bryn Mawr, PA 19010, East Bradford Township, **Chester County**, ACOE Philadelphia District.

To operate and maintain the following activities associated with the Ingrams Mill Water Treatment Facility upgrade:

1. To remove an old raw water intake and associated pump station which is located in and along the 100-year floodway of the East Brandywine Creek, (WWF-MF) and restore the banks of the creek.

2. To construct and maintain a new raw water intake in and along the East Branch of the Brandywine Creek.

3. To construct and maintain three 24-inch raw water intake pipes and one 12-inch water supply pipeline projecting into and across the East Branch of Brandywine Creek which will impact 0.25 acre of wetland (PEM). Work will also include the construction and maintenance

of an intake structure consisting of three 5-foot by 8-foot cells with wedge wire screens, which will be flush with stream bed.

The site is located approximately 1,200 feet southwest of the intersection of S.R. 322 (Downingtown Pike) and Brandywine Creek Road (Unionville, PA Quadrangle, N: 13.9 inches; W: 4.2 inches).

E09-818. Borough of Perkasio, P. O. Box 275, Perkasio PA 18944, Perkasio Borough, **Bucks County**, ACOE Philadelphia District.

To construct and maintain an approximately 4,500 linear-foot long bike and pedestrian path. The work will commence at the terminus of the existing bike path at Walnut Street (Telford, PA Quadrangle N: 21.2 inches; W: 6.00 inches); extend along Constitution Avenue and along the 100-year floodplain of the East Branch of Perkiomen Creek (TSF); turn onto spruce Street and along the 100-year floodplain of Pleasant Spring Creek (TSF); and continue in this direction for about one-quarter mile and terminate (Telford, PA Quadrangle N: 20.2 inches; W: 4.65 inches). The path will cross under the Main Street Bridge and will necessitate a change in the cross section of the conveyance area of the watercourse.

E46-886. The Township of Springfield, 1510 Paper Mill Road, Wyndmoor, PA 19038, Whitemarsh Township, **Montgomery County**, ACOE Philadelphia District.

To modify a 170 linear-foot reach of Sunnybrook Creek (TSF) by removing fill, which was placed along the southern bank prior to 1979. The site is located immediately downstream of the Bethlehem Pike Bridge, (Germantown, PA Quadrangle N: 20 inches, W: 12.75 inches).

E15-669. County of Chester, 14 East Biddle Street, West Chester, PA 19380, East and West Bradford Townships, **Chester County**, ACOE Philadelphia District.

To operate and maintain an existing wooden bridge (Gibson's Harmony Hill), which was damaged during Hurricane Floyd across the East Branch of the Brandywine Creek (WWF-MF). The bridge is located approximately 500 feet east of the intersection of Saw Mill Road and Harmony Hill Road, (Unionville, PA USGS Quadrangle N: 18.4 inches; W: 8.2 inches).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E45-406. Mark Ecker, R. R. 1, Box 100, Canadensis, PA 18325, Barrett Township, **Monroe County**, Army Corps of Engineers Philadelphia District.

To place fill in approximately 0.14 acre of wetlands for the purpose of constructing a driveway to access a proposed single-family dwelling. The permittee is required to provide 0.14 acre of replacement wetlands. The project is located on the north side of S.R. 1012 (Seese Hill Road), approximately 1.0 mile east of S.R. 0447. (Skytop, PA Quadrangle N: 12.2 inches; W: 14.7 inches).

E48-302. Washington Township, 4 Flicksville Road, Bangor, PA 18013, Washington Township, **Northampton County**, Army Corps of Engineers Philadelphia District.

To remove the existing structure and to construct and maintain an 8-foot x 4.5-foot concrete box culvert having a 1-foot culvert depression in Greenwalk Creek. The project is located along Township Road T680 (O.W. Road), approximately 0.5 mile northwest of its intersection with S.R. 0191. (Bangor, PA Quadrangle N: 17.0 inches; W: 13.9 inches).

E35-337. Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, 2 Public Square, 5th Floor, Wilkes-Barre, PA 18711-0790. Borough of Archbald, **Lackawanna County**, Army Corps of Engineers Baltimore District.

To remove an existing culvert under an abandoned railroad and to construct and maintain approximately 2,000 linear feet of riprap-lined trapezoidal channel, for the purpose of reconstructing a tributary to the Lackawanna River known as Tinklepaugh Creek. The project is part of an Abandoned Mine Reclamation Project (OSM 35 (2079) 102.1-Eynon) and is located north of Main Street and west of Kennedy Drive, near the Hills of Archbald Development (Olyphant, PA Quadrangle N: 20.0 inches; W: 9.0 inches).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E22-429. City of Harrisburg, City Government Center, 10 North Second Street, Harrisburg, PA 17101 in the City of Harrisburg, **Dauphin County**, ACOE Baltimore District.

To construct and maintain (1) a 4,400 square foot, 60 boat capacity floating dock facility, (2) a 550 foot long bituminous access drive and about 250 feet of a 6 foot wide stone walking path, (3) a pavilion, wood observation deck and chain link fencing, (4) bituminous concrete parking lot for 16 vehicles and a portable restroom in the channel and floodway of the Susquehanna River (WWF) all for developing South Pointe Marina located at the southern end of City Island (Harrisburg West, PA Quadrangle N: 0.25 inch; W: 1.1 inches).

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

E08-369. Franklin Township, R. R. 1, Box 172B, Monroeton, PA 18832. 30" Stream Culvert, in Franklin Township, **Bradford County**, ACOE Baltimore District (Leroy, PA Quadrangle N: 4.5 inches; W: 3.1 inches).

To operate and maintain a 30-inch diameter CMP culvert in Carbon Run on Carbon Run Road about 1 mile west/southwest of Barclay in Franklin Township, Bradford County. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E08-369. Franklin Township, R. R. 1, Box 172B, Monroeton, PA 18832. 30" Stream Culvert, in Franklin Township, **Bradford County**, ACOE Baltimore District (Leroy, PA Quadrangle N: 4.5 inches; W: 3.1 inches).

To operate and maintain a 30 inch diameter CMP culvert in Carbon Run on Carbon Run Road about 1 mile west/southwest of Barclay in Franklin Township, Bradford County. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E18-314. PA DCNR—Bureau of Facility Design and Construction, P. O. Box 8451, Harrisburg, PA 17105-8451. Forestry Bridge No. 10-0016R Replacement, in Chapman Township, **Clinton County**, ACOE Baltimore River Basin District (Slate Run, PA Quadrangle N: 0.6 inch; W: 14.8 inches).

To remove an existing structure and construct, operate and maintain a single span prestressed concrete box beam bridge to carry Hyner Run Road across Left Branch, Hyner Run. The single span bridge shall be constructed with a minimum clear span of 36.1-feet, underclearance of 2.5-feet and skew of 65-degrees. Bridge

construction shall be completed in dry work conditions through the use of dams and pumping or fluming stream flow around work area. Bridge construction shall be conducted during stream low flow conditions. The project is located along the northern right-of-way of SR 0120 approximately 1,000-feet north of Left Branch, Hyner Run Road and Right Branch, Hyner Run Road (Slate Run, PA Quadrangle N: 0.6 inch; W: 14.8 inches) in Chapman Township, Clinton County. This permit authorizes temporary wetland impacts of 2431.76-square feet and waterway impacts of 11-feet for construction for a temporary roadway. All temporary wetlands and waterway impacts associated with the temporary road crossing shall be fully restored to original contours. Permanent wetland impacts of 511-square feet are associated with the bridge construction and deemed de minus and replacement wetlands will not be required.

E18-318. Steven Killinger, Rear 45 Pennsylvania Avenue, Mill Hall, PA 17751. Water Obstruction and Encroachment Permit application, in Mill Hall Borough, **Clinton County**, ACOE Susquehanna River Basin District (Mill Hall, PA Quadrangle N: 19.3 inches; W: 15.35 inches).

To remove an existing 5-foot high wooden fence, construct and maintain an 140-foot by 1.33-foot by 5-foot stone and vinyl fence around an existing swimming pool, place and maintain 10 cubic yards of topsoil for landscaping purposes, maintain 30 cubic yards of topsoil for landscaping and maintain a stone masonry porch all of which is located along Fishing Creek. This permit was issued under § 105.13(e) "Small Projects."

E19-214. Pennsylvania Department of Transportation, Engineering District 3-0, P. O. Box 218, Montoursville, PA 17754-0218. Water Obstruction and Encroachment Permit Application, in Catawissa Township, **Columbia County**, ACOE Susquehanna River Basin District (Catawissa, PA Quadrangle N: 10.6 inches; W: 11.4 inches).

To remove 149 linear feet of corrugated metal pipe and construct and maintain a 153 linear feet of 60-inch reinforced concrete pipe in an unnamed tributary to Catawissa Creek located along S.R. 0487, Segment 0130, Offset 2325. This permit was issued under § 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E20-499. French Creek Recreational Trails, Inc., c/o Community Health Services, 747 Terrace Street, Meadville, PA 16335. Ernst Bicycle Trail Across tributary to French Creek, in Vernon Township, **Crawford County**, ACOE Pittsburgh District (Geneva, PA Quadrangle N: 16.8 inches; W: 8.3 inches).

To construct and maintain a two span steel bridge having a structure length of 29.5 feet and an average underclearance of 4 feet across a tributary to French Creek on abutments and pier from the former Bessemer and Lake Erie Railroad for pedestrian and bicycle use on the Ernst Bicycle Trail approximately 0.7 mile west of T-704.

E25-633. Erie-Western Pennsylvania Port Authority, 100 State Street, Suite 205, Erie, PA 16507-1455. Old Grain Dock/Holland Street Pier Repairs, in City of Erie, **Erie County**, ACOE Pittsburgh District (Erie North, PA Quadrangle N: 2.5 inches; W: 11.75 inches).

To remove portions of the existing concrete and block walls and to install and maintain approximately 1,740

feet of steel sheet pile walls at the Old Grain Dock/Holland Street Pier at the foot of Holland Street in Presque Isle Bay, Lake Erie (Erie North, PA Quadrangle N: 2.5 inches; W: 11.75 inches) in the City of Erie, Erie County.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

D36-184EA. PA Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797 Elizabeth Township, **Lancaster County**, ACOE Baltimore District.

To breach and remove the Hammer Creek Dam across Hammer Creek (HQ-CWF) for the purpose of restoring the stream to a free flowing condition. The dam is located approximately 300 feet east of the intersection of State Route 322 and Pumping Station Road (Lititz, PA Quadrangle N: 21.25 inches; W: 12.00 inches).

[Pa.B. Doc. No. 01-1465. Filed for public inspection August 10, 2001, 9:00 a.m.]

Agricultural Advisory Board Cancellation Notice

The Agricultural Advisory Board's (Board) August 22, 2001, meeting has been cancelled. The Board's next scheduled meeting will be held on October 17, 2001, at 10 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg.

For further information, contact Dean Auchenbach at (717) 772-5668.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 01-1466. Filed for public inspection August 10, 2001, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are on DEP's website (www.dep.state.pa.us) at the public participation center. The "July 2001 Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various DEP bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to DEP's draft technical guidance documents.

DEP will continue to revise its nonregulatory documents, as necessary, throughout 2001.

Ordering Paper Copies of DEP Technical Guidance

DEP encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory by calling DEP at (717) 783-8727.

In addition, bound copies of some of DEP's documents are available as DEP publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes To Technical Guidance Documents

Following is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number is listed with each document. Persons who have questions or comments in general should call Joe Sieber at (717) 783-8727.

Notice to Rescind Technical Guidance

DEP ID: 254-2153-748 Title: Use of Whole Tires and Tire-Derived Material (TDM) in the Construction of Municipal Waste Landfills Description: This policy became effective on June 22, 1992. The technical guidance document provided guidance to the public on the use of whole waste tires and tire-derived material (TDM) in the construction of municipal waste landfills. In 1996, the Waste Tire Recycling Act (Act 190) was passed and signed into law. Many of the provisions included in the TDM guidance are addressed and cited in Act 190, and the Commonwealth's Municipal Waste Regulations, recently amended and promulgated on December 23, 2001, covering the issues originally spelled out in the TDM guidance. Due to duplication of provisions which exist by regulation and law, this document provides no additional information or guidance to the public and will be rescinded.

Effective Date: August 11, 2001 Contact: Tom Woy at (717) 787-7381 or twoy@state.pa.us.

Notice to Rescind Technical Guidance

DEP ID: 258-2100-747 Title: Municipal-Like Residual Waste

DEP ID: 258-2000-766 Title: Municipal Waste-Like Permitting Guidance (Form S)

Description: Prior to sending waste for disposal or processing, generators of residual waste in this Commonwealth are required to submit Form U to the Department. Information submitted on Form U must include detailed data on the physical and chemical properties and waste characteristics of the generator's nonhazardous waste streams. However, manufacturers and other industry often produce waste that has the same physical and chemical characteristics as residential municipal waste. Examples of waste can include paper waste, lunchroom waste, wood trimmings and fabric trimmings. In order to streamline and make the disposal or processing of this type of waste easier, in 1992 the term "municipal-like residual waste" was incorporated and used in Departmental permit forms.

"Municipal-like Residual Waste" is a type of waste that requires less stringent chemical testing in order to be processed or disposed. In order to develop a documentation process for requests to dispose of "municipal-like residual waste," the Department developed a new form, Form S. In addition to this form, the Department also developed two policies (Policy Number 258-2100-747 and Policy Number 258-2000-766). These policies, which became effective in 1992 and 1993 respectively, provide guidance to the Department's regional staff on "municipal-like residual waste." Policy number 258-2100-747 provides guidance to staff when they are evaluating requests to dispose of residual waste that exhibits the same characteristics as municipal waste. Policy number 258-2000-766 provides guidance in the permitting process relative to residual waste which is municipal-like.

In 1996-1997, under the Regulatory Basics Initiative, the term "municipal-like residual waste" was proposed to be incorporated into the Commonwealth's municipal and

residual waste regulations. As a result of this proposal, the public became confused about the term and its meaning. Regulatory commentators expressed that the addition of the term did not add any clarity. Furthermore, the commentators also stated that the term was not used consistently and, as a result, created a fourth waste class.

As a result of the comments received regarding the addition of the proposed term, the Environmental Quality Board deleted the term "municipal-like residual waste" from the Commonwealth's final municipal and residual waste regulations. The final-form regulations continue to allow the Department to waive the detailed chemical analysis required for the disposal of residual waste if certain performance standards are met under § 287.134 (relating to waste analysis plan). Given these regulatory changes, which became effective on December 23, 2000, for the municipal waste regulations and on January 13, 2001, for the residual waste regulations, Policy Number 258-2100-747 and Policy Number 258-2000-766 are no longer needed and do not provide accurate information to the public, and will be rescinded.

Effective Date: August 11, 2001 Contact: William Pounds at (717) 787-7381 or wpounds@state.pa.us

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 01-1467. Filed for public inspection August 10, 2001, 9:00 a.m.]

DEPARTMENT OF HEALTH

Decisions on Requests for Exceptions to Health Care Facility Regulations

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), effective June 6, 1998, the Department of Health (Department) has published in the *Pennsylvania Bulletin* all requests by entities licensed under the Health Care Facilities Act (35 P.S. §§ 448.101—448.904b), for exceptions to regulations contained in 28 Pa. Code, Part IV Health Facilities, Subparts B—G.

Section 51.33(d) provides that the Department will publish notice of all approved exceptions on a periodic basis. The Department has determined that it will publish notice of all exceptions, both approved and denied. The following list contains the decisions made on exception requests published in the *Pennsylvania Bulletin* from April 1, 2001, through June 30, 2001. Future publications of decisions on exception requests will appear on a quarterly basis.

All requests for additional information on the exception requests and the Department's decision should be made to the relevant division of the Department. Inquiries regarding hospitals and ambulatory surgical facilities shall be addressed to the Division of Acute and Ambulatory Care, William A. Bordner, Acting Director, P. O. Box 90, Harrisburg, PA 17108. Inquiries regarding long-term care facilities shall be addressed to the Division of Nursing Care Facilities, Susan Getgen, Director, P. O. Box 90, Harrisburg, PA 17108. Those persons requiring special assistance for speech and/or hearing impairment should call V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 [TT].

Exception Requests—Hospitals

Regulation	Facility Name	Req. Published	Decision
28 Pa. Code § 51.3	Punxsutawney Area Hospital	6/2/01	granted
28 Pa. Code § 51.3	Good Samaritan Regional Med Ctr.	6/2/01	granted
28 Pa. Code § 51.3	Mercy Hospital of Philadelphia	5/5/01	granted
28 Pa. Code § 51.23	Lehigh Valley Hospital	4/7/01	granted
28 Pa. Code § 51.23	Williamsport Hospital and Medical	4/7/01	granted
28 Pa. Code § 51.23	Neo Pet, LLC	4/28/01	granted
28 Pa. Code § 51.23	Memorial Medical Center	6/2/01	granted
28 Pa. Code § 51.23	Good Samaritan Regional Med Ctr.	6/2/01	granted
28 Pa. Code § 51.23	Sharon Regional Health System	6/9/01	granted
28 Pa. Code § 107.2	Healthsouth Rehab Hosp for Spec Svcs	5/5/01	granted
28 Pa. Code § 107.2	Healthsouth Reading Rehab Hospital	6/2/01	granted
28 Pa. Code § 107.2	Bucktail Medical Center	5/5/01	granted/denied in part
28 Pa. Code § 107.2	Memorial Hospital York	4/28/01	granted
28 Pa. Code § 107.2	Southern Chester County MC	4/28/01	granted
28 Pa. Code § 107.2	Lock Haven Hospital	6/9/01	granted
28 Pa. Code § 107.62	Healthsouth Rehab Mech.	3/31/01	denied
28 Pa. Code § 136.14(2)	Guthrie Robert Packer Hospital	4/7/01	1 yr ext
28 Pa. Code § 137.21	Palmerton Hospital	6/2/01	granted
28 Pa. Code § 153.1	Community Hospital of Lancaster	5/5/01	granted
28 Pa. Code § 153.1	Lancaster General Hospital	4/28/01	granted
28 Pa. Code § 153.1	The Western Pa Hospital	4/28/01	granted
28 Pa. Code § 153.1	Healthsouth Rehab Hospital of York	5/5/01	granted
28 Pa. Code § 153.1	Chambersburg Hospital	6/2/01	withdrawn
28 Pa. Code § 153.1	Hazleton General Hospital	6/9/01	granted
28 Pa. Code § 153.1	St. Vincent Health Center	4/28/01	granted
28 Pa. Code § 153.1	Eastern Pa Endoscopy Center	6/9/01	not needed
28 Pa. Code § 153.1	Titusville Area Hospital	5/12/01	granted
28 Pa. Code § 153.1	Healthsouth Rehab of Altoona	4/7/01	granted
28 Pa. Code § 153.1	The Western Pennsylvania Hospital	6/23/01	granted
28 Pa. Code § 551.22(d)(ii)	Lance O. Yarus. D.O.	11/11/00	granted

Exception Requests—Ambulatory Surgical Facilities

28 Pa. Code § 571.1	Plastic Surgery Center, Ltd	10/7/00	granted
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Exception Requests—Nursing Care Facilities

Regulation	Facility	Req. Published	Decision
28 Pa. Code § 201.18(e)	Sacred Heart HospTrans Care Fac	4/7/01	granted
28 Pa. Code § 201.18(e)	Mercy Skilled Nursing Facility	3/24/01	granted
28 Pa. Code § 201.18(e)	Mercy Skilled Nursing Unit WB	3/24/01	granted
28 Pa. Code § 201.18(e)	United Community Hospital TCU	5/19/01	temp.approval
28 Pa. Code § 201.2	ManorCare Hlth Services-Mercy Fitzgerald	4/21/01	granted
28 Pa. Code § 201.2	Greenridge Nursing Home	10/28/00	no longer req.
28 Pa. Code § 205.26(c)	The Middletown Home	3/3/01	granted
28 Pa. Code § 205.33(a)	The Jewish Home of Greater Hbg.	1/27/01	granted
28 Pa. Code § 205.33(a)	Sena Kean Manor	2/17/01	granted
28 Pa. Code § 205.36(a)	Sena Kean Manor	2/17/01	granted
28 Pa. Code § 205.6(a)	The Cedars of Monroeville	5/12/01	granted
28 Pa. Code § 205.6(a)	ManorCare Health Svcs Devon	5/12/01	granted
28 Pa. Code § 205.6(a)	Jewish Home of Greater Hbg	6/2/01	granted

Regulation	Facility	Req. Published	Decision
28 Pa. Code § 205.6(a)	ManorCare Hlth Svcs-Lancaster	4/21/01	granted
28 Pa. Code § 205.6(a)	Brookline Manor	6/16/01	granted
28 Pa. Code § 205.6(a)	ManorCare Hlth Services-Huntington Valley	5/19/01	granted
28 Pa. Code § 205.6(a)	Wallingford Nursing & Rehab Center	6/16/01	denied
28 Pa. Code § 205.6(a)	ManorCare Health Services-Sunbury	4/21/01	granted
28 Pa. Code § 205.6(a)	Southwestern Nursing Ctr.	2/3/01	denied
28 Pa. Code § 205.6(a)	Mt. Hope Dunkard Brethren Church Home	2/3/01	granted
28 Pa. Code § 205.6(a)	Woodhaven Care Center	4/21/01	granted
28 Pa. Code § 205.8	Rebecca Residence	3/24/01	granted
28 Pa. Code § 205.9(a)	St. Mary's Home of Erie	4/21/01	granted
28 Pa. Code § 483.70(d)(1)(ii)	Nipple Convalescent Home	4/28/01	not needed
28 Pa. Code § 483.70(d)(1)(ii)	Loving Care Nursing Center	4/28/01	not needed
CFR § 483.70(d)(1)(ii)	Mountain Rest Nursing Home	4/7/01	not needed

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 01-1468. Filed for public inspection August 10, 2001, 9:00 a.m.]

Notice of EMSOF Funding Priorities

Under 28 Pa. Code §§ 1001.22 and 1001.23 (relating to criteria for funding; and allocation of funds), the Department of Health (Department) hereby gives notice of priorities for the distribution by the regional emergency medical services (EMS) councils of funding from the Emergency Medical Services Operating Fund (EMSOF) for the fiscal year beginning July 1, 2001, and ending June 30, 2002.

EMSOF is to be used to provide funding to maintain, improve and develop the quality of the EMS system within this Commonwealth. The Department finds that EMSOF is not sufficient to fully fund the EMS system. Therefore, it gives notice, under 28 Pa. Code § 1001.22(d), that recipients of EMSOF moneys from regional EMS councils will be required to contribute funds toward the purchase of items the Department permits to be purchased, in part, with EMSOF monies.

Each regional EMS council shall prioritize the distribution of its EMSOF allocation based upon the Statewide EMS Development Plan and its regional EMS development plan, subject to the funding priorities set forth in this notice. The regional EMS council shall notify the providers and other appropriate entities of the established funding priorities, the application process, acquisition documentation requirements and processing deadlines. All funding must be distributed consistent with the regional and Statewide EMS development plans. Each regional EMS council must complete all documents required for the distribution of EMSOF monies by June 30, 2002.

Although funding is authorized for other initiatives and equipment, the following are priorities that must be considered and funded first:

Funding Priorities:

- Response equipment to meet BLS and ALS ambulance service licensure.
- Capnography Equipment (especially wave-form end-tidal CO₂ monitor).

- AEDs for Department recognized QRSs and licensed BLS ambulance services if other funding sources do not exist.
- Recruitment and retention programs in areas with high prehospital personnel vacancy rates as determined by the regional EMS council.
- Training equipment required to teach the EMT-Paramedic National Standard Curriculum.
- Testing equipment required to support National Registry testing for EMTs and paramedics testing.
- An ambulance for ambulance services that operated a single ambulance older than 10 years.
- Communication equipment and capabilities for areas with poor to no communication capability with medical command.
- Quality Assurance/Improvement initiatives.

These priorities are not ranked. All must be considered before there is any regional distribution of EMSOF for initiatives that are not listed.

Provider Equipment:

The Department has established a list of equipment for which EMSOF moneys will be made available to purchase. This list identifies the types of providers of EMS eligible for equipment purchases supported by EMSOF funding and the maximum allowable cost upon which the EMSOF contribution will be calculated. EMSOF will fund 60% of the maximum allowable cost of an equipment item for rural providers and will fund 50% of the maximum allowable cost of an equipment item for nonrural providers. An eligible provider is responsible for the balance of the purchase price. An eligible provider may purchase an item for an amount that exceeds the maximum allowable cost, but the provider will be responsible for any amount exceeding that figure. Funds for equipment purchases by providers for the fiscal year beginning July 1, 2001, and ending June 30, 2002, must be expended by June 30, 2002, unless a written request for an extension of time,

not to exceed 90 calendar days, is submitted by the regional EMS council and approved by the Department prior to June 30, 2002.

The Department may increase the amount of the initial payment or reimbursement from EMSOF based upon the EMS development plans (State and regional) or documented financial hardship of a provider of EMS. A provider of EMS that seeks additional funds due to financial hardship shall be required to submit a financial disclosure statement and other documentation deemed necessary by the Department.

A provider of EMS applying for EMSOF funding must be in compliance, or aggressively pursuing full compliance, with all requirements applicable to the regional EMS system in which the provider of EMS operates.

Following is the Eligible Provider Equipment List that lists the equipment eligible for EMSOF support. The last two columns of the list identify the percentage of EMSOF contribution towards the purchase price, up to the maximum allowable cost of the item, based upon whether the provider operates in a rural or nonrural area.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille), should contact Margaret Trimble, Director, Emergency Medical Services Office, Department of Health, P. O. Box 90 Harrisburg, PA 17108-0090, (717) 787-8740 or at V/TT: (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

Eligible Provider Equipment List

Equipment Description	Life Expectancy	Eligible Purchase For:				Allowable Costs ¹	Urban (50%)	Rural (60%)
		ALS	ALS/SQ	BLS	QRS			
EKG Monitor/Defibrillator with Pacer	5 years	Y	Y	N	N	10,000	5,000	6,000
12 Lead EKG ²	5 years	Y	Y	N	N	16,000	8,000	9,600
Automated External Defibrillator (AED)	5 years	N	N	Y ³	Y ³	3,500	1,750	2,100
Oxygen Equipment (any combination) Cylinder Demand Valve w/Hose & Mask Regulator (combination or constant flow) Case	5 years	Y	Y	Y	Y	500	250	300
Capnography Equipment	3 years	Y	Y	N	N	3,000	1,500	1,800
Pulse Oximeter	5 years	Y	Y	N	N	700	350	420
Nitrous Oxide Delivery System	5 years	Y	Y	N	N	2,000	1,000	1,200
Intravenous Infusion Pumps	5 years	Y	Y	N	N	1,500	750	900
Adult /Pediatric Intubation Kits	5 years	Y ⁸	Y ⁸	N	N	400	200	240
Transtracheal Jet Insufflators (TTJ)	5 years	Y	Y	N	N	200	100	120
Splinting/Immobilization Devices (any combination) Backboard Cervical Immobilization Device Splints (rigid, traction, and the like)	3 years	Y	Y	Y	Y	500	250	300
Stairchair	5 years	Y	N	Y	N	600	300	360
Stretcher—Primary	5 years	Y	N	Y	N	3,000	1,500	1,800
Stretcher/Chair Combination	5 years	Y	N	Y	N	700	350	420
Suction (portable, battery operated)	3 years	Y	Y	Y	Y	500	250	300
Ventilator, Automatic (per Department of Health guidelines)	5 years	Y ⁴	Y ⁴	Y ⁵	Y ⁵	1,400	700	840
Ambulance	—	Y	N	Y	N	—	15,000	20,000
Squad/Response Vehicle	—	N	Y	N	Y	—	7,500	9,000
Data Collection Software ⁶	—	Y	Y	Y	Y	1,700	1,700	1,700
Data Collection Hardware ⁷	3 years	Y	Y	Y	Y	1,500	750	900
Radio, Mobile (one per vehicle)	5 years	Y ⁹	Y ⁹	Y ⁹	Y ⁹	2,500	1,250	1,500
Radio, Portable (one per vehicle)	3 years	Y ⁹	Y ⁹	Y ⁹	Y ⁹	1,000	500	600
Alerting Equipment (5 per service @ \$400 each)	5 years	Y ⁹	Y ⁹	Y ⁹	Y ⁹	2,000	1,000	1,200

¹ All figures are dollar amounts for each item of equipment.

² Amount includes \$1,000 for communications package. Receiving facility must have appropriate communications capabilities.

³ Must be an approved AED service or part of regional planning and medical director required.

⁴ Completion of approved training program required.

- ⁵ Completion of approved training program required; BLS service medical director approval required.
- ⁶ Must be a Department approved software program, version and vendor.
- ⁷ Data collection hardware may include computer, modem, printer, backup device and battery system.
- ⁸ Must be durable equipment, not disposable equipment.
- ⁹ Must be compatible with approved communications network.

ROBERT S. ZIMMERMAN, Jr.
Secretary

[Pa.B. Doc. No. 01-1469. Filed for public inspection August 10, 2001, 9:00 a.m.]

Update of List of Citations to ACIP Recommendations Prescribing Child Immunization Practices and Immunizing Agents and Doses

In accordance with 31 Pa. Code §§ 89.806(a) and 89.907(b) (relating to coverage of child immunizations; immunizing agents, doses and AWP), the Department of Health, Bureau of Communicable Diseases, Division of Immunization (Department) is updating 31 Pa. Code §§ 89.801—89.809, Appendix G (relating to ACIP recommendations prescribing child immunization practices) and Appendix H (relating to immunizing agents and doses). The Department has primary responsibility for the interpretation and the implementation of 31 Pa. Code §§ 89.806 and 89.807. See 31 Pa. Code § 89.801(b).

Health insurance policies are required by the Childhood Immunization Insurance Act (40 P. S. §§ 3501—3508) and regulations promulgated thereunder (see 31 Pa. Code §§ 89.801—89.809 (relating to childhood immunization insurance)) to include coverage for certain childhood immunizations, unless the policies are exempted by the act and 31 Pa. Code § 89.809 (relating to exempt policies). The childhood immunizations covered are those that meet Advisory Committee on Immunization Practices (ACIP) standards in effect on May 21, 1992 (see 31 Pa. Code § 89.806(a)). A list of the MMWR publications containing ACIP recommendations issued under the ACIP standards in effect on May 21, 1992 appears in 31 Pa. Code §§ 89.801—89.809, Appendix G.

The Department is required to update the list of these MMWR publications appearing in 31 Pa. Code §§ 89.801—89.809, Appendix G. See 31 Pa. Code § 89.806(a). The additions to the list are as follows, the remainder of the list at Appendix G remains in full force and effect:

“Pertussis Vaccination: Use of Acellular Pertussis Vaccines Among Infants and Young Children,” *MMWR*, March 28, 1997/Vol. 46/No. RR-7.

“Prevention of Pneumococcal Disease,” *MMWR*, April 4, 1997/Vol. 46/No. RR-8.

“Measles, Mumps, and Rubella—Vaccine Use and Strategies for Elimination of Measles, Rubella, and Congenital Rubella Syndrome and Control of Mumps,” *MMWR*, May 22, 1998/Vol. 47/No. RR-8.

“Human Rabies Prevention—United States, 1999,” *MMWR*, January 8, 1999/Vol 48/No. RR-1.

“Prevention of Varicella Updated,” *MMWR*, May 28, 1999/Vol. 48/No. RR-6.

“Prevention of Hepatitis A Through Active or Passive Immunization,” *MMWR*, October 1, 1999/Vol. 48/No. RR-12.

“Poliomyelitis Prevention in the United States,” *MMWR*, May 19, 2000/Vol. 49/No. RR-5.

“Prevention and Control of Meningococcal Disease and Meningococcal Disease and College Students,” *MMWR*, June 30, 2000/Vol. 49/No. RR-7.

“Preventing Pneumococcal Disease Among Infants and Young Children,” *MMWR*, October 6, 2000/Vol. 49/No. RR-9.

“Use of Diphtheria Toxoid-Tetanus Toxoid-Acellular Pertussis Vaccine as a Five-Dose Series,” *MMWR*, November 17, 2000/Vol. 39/No.13.

“Prevention and Control of Influenza,” *MMWR*, April 20, 2001/Vol 50/No. RR-4.

The Department is also required to update information relating to immunizing agents and doses that the Department has extracted from ACIP recommendations issued under the standards in 31 Pa. Code § 89.806(a). See 31 Pa. Code § 89.807(b). The Department is also to periodically list the average wholesale price (AWP) for immunizing agents. Id. This information currently appears in 31 Pa. Code §§ 89.801—89.809, Appendix H. The updated information is as follows, the remainder of the information in Appendix H remains in full force and effect:

<i>Vaccine Type</i>					
<i>Company Pct Name</i>	<i>Product Name</i>	<i>NDC Purchase No.</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/Dose</i>
Diphtheria Tetanus acellular Pertussis Vaccine (DtaP):					
Aventis Pasteur	Tripedia	49281-0288-10	10 x 1	0.5 ml	\$23.97
GlaxoSmithKline	Infanrix	58160-0840-11	10 x 1	0.5 ml	\$22.05
Diphtheria Tetanus pediatric Vaccine (DT pediatric):					
Aventis Pasteur	DT Pediatric	49281-0275-10	5.0 ml	0.5 ml	\$9.28
Diphtheria Tetanus acellular Pertussis/Haemophilus Influenzae B (DtaP-HIB):					
Aventis Pasteur	TriHIBit	49281-0557-05	5 x 1	0.5 ml	\$42.64

<i>Vaccine Type</i>					
<i>Company Pct Name</i>	<i>Product Name</i>	<i>NDC Purchase No.</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/Dose</i>
Tetanus Diphtheria adult Vaccine (Td adult):					
Aventis Pasteur	Td Adult syringe	49281-0271-10	10 x 1	0.5 ml	\$11.21
Aventis Pasteur	Td Adult	49281-0271-83	5.0 ml	0.5 ml	\$9.28
Haemophilus Influenzae B Vaccine (HIB):					
Wyeth-Lederle	HibTITER	0005-0104-32	5 x 0.5	0.5 ml	\$28.38
Aventis Pasteur	ActHIB	49281-0545-05	5 x 1	0.5 ml	\$25.10
Merck & Co.	Pedvax HIB	0006-4897-00	10 x 0.5	0.5 ml	\$23.42
Injectable Polio Vaccine Inactivated (Salk Enhanced IPV):					
Aventis Pasteur	IPOL	49281-0860-51	1 x 1	0.5 ml	\$28.95
Aventis Pasteur	IPOL	49281-0860-10	5.0 ml	0.5 ml	\$23.31
Aventis Pasteur	IPOL	49281-0860-52	10 x 1	0.5 ml	\$28.95
Measles Mumps Rubella Vaccine (MMR):					
Merck & Co.	MMR II	0006-4749-00	0.5 ml	0.5 ml	\$41.51
Merck & Co.	MMR II	0006-4681-00	10 x 0.5	0.5 ml	\$36.16
Measles Vaccine (Rubeola):					
Merck & Co.	Atenuvax	0006-4709-00	0.5 ml	0.5 ml	\$16.60
Merck & Co.	Atenuvax	0006-4589-00	10 x 0.5	0.5 ml	\$13.34
Mumps Vaccine (Mumps):					
Merck & Co.	Mumpsvax	0006-4753-00	0.5 ml	0.5 ml	\$19.13
Merck & Co.	Mumpsvax	0006-4584-00	10 x 0.5	0.5 ml	\$17.21
Rubella (German Measles):					
Merck & Co.	Meruvax II	0006-4747-00	0.5 ml	0.5 ml	\$17.39
Merck & Co.	Meruvax II	0006-4673-00	10 x 0.5	0.5 ml	\$14.84
Hepatitis A Vaccine Pediatric (HEP-A):					
Merck & Co.	VAQTA	0006-4831-00	0.5 ml	0.5 ml	\$32.78
Merck & Co.	VAQTA	0006-4831-38	5 x 0.5	0.5 ml	\$30.93
Merck & Co.	VAQTA syringe	0006-4845-00	0.5 ml	0.5 ml	\$32.78
Merck & Co.	VAQTA syringe	0006-4845-38	5 x 0.5	0.5 ml	\$30.93
GlaxoSmithKline	Havrix	58160-0836-01	0.5 ml	0.5 ml	\$29.75
GlaxoSmithKline	Havrix	58160-0837-01	0.5 ml	0.5 ml	\$29.75
GlaxoSmithKline	Havrix	58160-0837-11	10 x 0.5	0.5 ml	\$29.75
GlaxoSmithKline	Havrix syringe	58160-0837-26	25 x 0.5	0.5 ml	\$29.75
GlaxoSmithKline	Havrix syringe	58160-0837-35	5 x 0.5	0.5 ml	\$29.75
GlaxoSmithKline	Havrix syringe	58160-0837-56	25 x 0.5	0.5 ml	\$29.75
GlaxoSmithKline	Havrix syringe	58160-0837-58	25 x 0.5	0.5 ml	\$29.75
Hepatitis A Vaccine Adult (HEP-A):					
Merck & Co.	VAQTA	0006-4841-00	1.0 ml	1.0 ml	\$65.58
Merck & Co.	VAQTA	0006-4841-38	5 x 1.0	1.0 ml	\$61.86
Merck & Co.	VAQTA syringe	0006-4844-00	1.0 ml	1.0 ml	\$65.58
Merck & Co.	VAQTA syringe	0006-4844-38	5 x 1.0	1.0 ml	\$61.86
GlaxoSmithKline	Havrix	58160-0835-01	0.5 ml	0.5 ml	\$29.75

<i>Vaccine Type</i>					
<i>Company Pct Name</i>	<i>Product Name</i>	<i>NDC Purchase No.</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/Dose</i>
GlaxoSmithKline	Havrix syringe	58160-0835-32	1 x 0.5	0.5 ml	\$29.75
GlaxoSmithKline	Havrix syringe	58160-0835-35	5 x 0.5	0.5 ml	\$29.75
Hepatitis B Vaccine (HEP-B):					
Merck & Co.	(1) Recombivax HB	00006-4980-00	0.5 ml	0.5 ml	\$27.70
Merck & Co.	(1) Recombivax HB	00006-4981-00	10 x 0.5	0.5 ml	\$26.36
Merck & Co.	(2) Recombivax HB	00006-4769-00	0.5 ml	0.5 ml	\$27.70
Merck & Co.	(2) Recombivax HB	00006-4876-00	10 x 0.5	0.5 ml	\$26.36
Merck & Co.	(2) Recombivax HB	00006-4849-00	5 x 0.5	0.5 ml	\$27.72
Merck & Co.	(2) Recombivax HB	00006-4969-00	5 x 0.5	0.5 ml	\$27.72
Merck & Co.	(3) Recombivax HB	00006-4773-00	3.0 ml	0.5 ml	\$33.96
Merck & Co.	(3) Recombivax HB	00006-4775-00	1.0 ml	1.0 ml	\$67.98
Merck & Co.	(3) Recombivax HB	00006-4872-00	10 x 1.0	1.0 ml	\$67.28
Merck & Co.	(3) Recombivax HB	00006-4873-00	10 x 3.0	0.5 ml	\$33.65
Merck & Co.	(3) Recombivax HB	00006-4848-00	5 x 1.0	1.0 ml	\$67.99
GlaxoSmithKline	(4) Engerix-B	58160-0856-01	0.5 ml	0.5 ml	\$24.20
GlaxoSmithKline	(4) Engerix-B	58160-0856-11	10 x 0.5	0.5 ml	\$24.20
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-35	5 x 0.5	0.5 ml	\$24.20
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-26	25 x 0.5	0.5 ml	\$24.20
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-36	5 x 0.5	0.5 ml	\$24.20
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-27	25 x 0.5	0.5 ml	\$24.20
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-56	25 x 0.5	0.5 ml	\$24.20
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-58	25 x 0.5	0.5 ml	\$24.20
GlaxoSmithKline	(4) Engerix-B syringe	58160-0856-57	25 x 0.5	0.5 ml	\$24.20
GlaxoSmithKline	(5) Engerix-B	58160-0857-01	1.0 ml	1.0 ml	\$24.20
GlaxoSmithKline	(5) Engerix-B	58160-0857-16	25 x 1.0	1.0 ml	\$24.20
GlaxoSmithKline	(5) Engerix-B syringe	58160-0857-35	5 x 1.0	1.0 ml	\$24.20
GlaxoSmithKline	(5) Engerix-B syringe	58160-0857-26	25 x 1.0	1.0 ml	\$24.20
(1) Pediatric low risk formulation @ 5 mcg/ml (2) Adolescent/infant high risk formulation @ 10 mcg/ml (3) Adult formulation @ 10 mcg/0.5 ml (4) Pediatric formulation @ 10 mcg/0.5 ml (5) Adult formulation @ 20 mcg/ml					
Hepatitis B/HIB					
Merck & Co.	COMVAX	0006-4843-00	0.5 ml	0.5 ml	\$52.28
Merck & Co.	COMVAX	0006-4898-00	10 x 0.5	0.5 ml	\$49.50

<i>Vaccine Type</i>					
<i>Company Pct Name</i>	<i>Product Name</i>	<i>NDC Purchase No.</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/Dose</i>
Hepatitis A & Hepatitis B Vaccine:					
GlaxoSmithKline	Twinrix	58160-0850-01	1.0 ml	1.0 ml	\$94.73
GlaxoSmithKline	Twinrix	58160-0850-11	10 x 1.0	1.0 ml	\$94.73
GlaxoSmithKline	Twinrix syringe	58160-0850-35	5 x 1.0	1.0 ml	\$94.73
Influenza (split virus) Vaccine:					
Aventis Pasteur	Fluzone/syringe	49281-0364-11	10 x 0.5	0.5 ml	\$8.50
Evans	Fluvirin	19650-0103-10	5.0 ml	0.5 ml	\$4.50
Evans	Fluvirin/syringe	19650-0103-01	10 x 0.5	0.5 ml	\$5.60
Wyeth-Lederle	Flu-Shield	0008-0986-01	5.0 ml	0.5 ml	\$6.62
Influenza (whole virus) Vaccine:					
Aventis Pasteur	Fluzone	49281-0364-15	5.0 ml	0.5 ml	\$5.00
Rabies Vaccine:					
Aventis Pasteur	Imovax Rabies	49281-0250-10	1.0 ml	1.0 ml	\$151.38
Pneumococcal Vaccine:					
Wyeth-Lederle	Prevnar	0005-1970-67	5 x 0.5	0.5 ml	\$73.25
Wyeth-Lederle	Pnu-Immune 23	0005-2309-31	5 x 0.5	0.5 ml	\$16.04
Wyeth-Lederle	Pnu-Immune 23 syringe	0005-2309-33	5 x 0.5	0.5 ml	\$17.99
Merck & Co.	Pneumovax 23	0006-4793-00	2.5 ml	0.5 ml	\$13.06
Merck & Co.	Pneumovax 23	0006-4943-00	10 x 0.5	0.5 ml	\$14.66
Merck & Co.	Pneumovax 23 syringe	0006-4894-00	5 x 0.5	0.5 ml	\$19.58
Meningococcal Vaccine:					
Aventis Pasteur	Menomune	49281-0489-05	5 x 0.5	0.5 ml	\$70.30
Aventis Pasteur	Menomune	49281-0489-91	5.0 ml	0.5 ml	\$67.00
Varicella Virus Vaccine Live (Chickenpox):					
Merck & Co.	Varivax*	00006-4827-00	10 x 0.5	0.5 ml	\$59.52
Merck & Co.	Varivax*	00006-4826-00	0.5 ml	0.5 ml	\$62.44
*Comes with a box of 10 vials of diluent (package B: 00006-4309-00)					
Gamma Globulin/Immune Globulin (GG/IG):					
Bayer	Gamimune N 10%	0026-0648-12	10.0 ml	2.0 ml	\$90.00/g
Bayer	Gamimune N 10%	0026-0648-15	25.0 ml	2.0 ml	\$90.00/g
Bayer	Gamimune N 10%	0026-0648-20	50.0 ml	2.0 ml	\$90.00/g
Bayer	Gamimune N 10%	0026-0648-71	100.0 ml	2.0 ml	\$90.00/g
Bayer	Gamimune N 10%	0026-0648-24	200.0 ml	2.0 ml	\$90.00/g
*Dosage will vary depending upon the weight of the child and the disease for which the child is being immunized. 150 Pct AWP/Dose is to be calculated based upon the dosage used.					
Hepatitis B Immune Globulin (HBIG):					
NABI	NABI-HB	59730-4402-01	1.0 ml	1.0 ml	\$175.00
NABI	NABI-HB	59730-4403-01	5.0 ml	5.0 ml	\$700.00

<i>Vaccine Type</i>					
<i>Company Pct Name</i>	<i>Product Name</i>	<i>NDC Purchase No.</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/Dose</i>
Varicella-Zoster Immune Globulin (VZIG):					
Mass. PHBL	VZIG	52769-0574-11	125 u	250 u*	\$125.00
Mass. PHBL	VZIG	52769-0574-66	625 u	250 u*	\$562.50
*Dosage will vary depending upon the weight of the child. If any portion of a vial is used to immunize a child, and the remainder cannot be used to immunize another individual, the entire vial shall be considered as part of the dosage used. 150 Pct LST/Dose is to be calculated based upon the dosage used. **LST (list price) is used instead of AWP. This product has no AWP. LST may fluctuate slightly, depending on where the product is purchased.					
Rabies Immune Globulin (RIG):					
Aventis Pasteur	Imogam Rabies-HT	49281-0190-10	10.0 ml	1.0 ml*	\$77.50
Aventis Pasteur	Imogam Rabies-HT	49281-0190-20	2.0 ml	1.0 ml*	\$77.50
*Dosage will vary depending upon the weight of the child. Each 1.0 ml contains 150 IU units. If any portion of the vial is used to immunize a child, and the remainder cannot be used to immunize another individual, the entire vial shall be considered as part of the dosage used. 150 Pct AWP/Dose is to be calculated based upon the dosage used.					
Tetanus Immune Globulin (TIG):					
Bayer	Baytet syringe	00260-0634-01	1.0 ml	1.0 ml	\$120.00

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille), should contact Alice Gray, Director, Division of Immunization, Pennsylvania Department of Health, P. O. Box 90, Harrisburg, Pa 17108-0090 (717) 787-5681 or at V/TT: (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 01-1470. Filed for public inspection August 10, 2001, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

[CORRECTION]

Public Hearing on Declining Resident Population at Ebensburg Center

The Department of Public Welfare has submitted a revision to its notice published at 31 Pa.B. 4132 (July 28, 2001). The correct version of the third paragraph is as follows, with ellipses referring to the existing text of the notice:

* * * * *

The decrease in resident population at Ebensburg Center is a result of numerous factors, primarily successful community placement of individuals with mental retardation into small community homes, which provide alternatives to State center treatments and living arrangement. The hearing is not driven by a closure announcement.

* * * * *

[Pa.B. Doc. No. 01-1387. Filed for public inspection July 27, 2001, 9:00 a.m.]

FISH AND BOAT COMMISSION

Time Restrictions; Meadow Grounds Lake, Fulton County

The Executive Director of the Fish and Boat Commission (Commission), acting under the authority of 58 Pa. Code § 53.4 (relating to limiting access to Commission property and other restrictions), has closed Meadow Grounds Lake, Fulton County, to the public during the hours of 10 p.m. to 5 a.m. These time restrictions are effective when posted at the site. It is unlawful for any person to enter or remain upon Commission property during the times it is closed to public use, without the express written consent of the Executive Director or a designee.

PETER A. COLANGELO,
Executive Director

[Pa.B. Doc. No. 01-1471. Filed for public inspection August 10, 2001, 9:00 a.m.]

Triploid Grass Carp Permit Applications

Under 58 Pa. Code § 71.7, the Fish and Boat Commission (Commission) may issue permits to stock triploid grass carp in Commonwealth waters. Triploid grass carp are sterile fish that may, in appropriate circumstances, help control aquatic vegetation. The Commission has determined consistent with 58 Pa. Code § 71.7(e)(3) to

seek public input with respect to any proposed stockings of triploid grass carp in waters having a surface area of more than 5 acres.

Interested persons are invited to submit written comments, objections or suggestions about the notice to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 10 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted. Comments also may be submitted electronically at "ra-pfbcregs@state.pa.us." A subject heading of the pro-

posal and a return name and address must be included in each transmission. In addition, all electronic comments must be contained in the text of the transmission, not in an attachment. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

The following application to stock triploid grass carp in waters having a surface area of more than 5 acres are currently undergoing staff review:

Applicant	Water	Location of Water	Description of Water	Nature of Vegetation to be Controlled
Lake Pinecrest Homeowners Association	Lake Pinecrest	Huntingdon Twp. Luzerne County	58.32 acre lake on unnamed tributary to unnamed wetland in Pine Creek watershed	Najas spp. Potamogeton spp.

PETER A. COLANGELO,
Executive Director

[Pa.B. Doc. No. 01-1472. Filed for public inspection August 10, 2001, 9:00 a.m.]

HISTORICAL AND MUSEUM COMMISSION

National Register Nominations to be Considered by the Historic Preservation Board

The September 11, 2001, meeting will start at 9:45 a.m. in the Board Room, State Museum Building, Third and North Streets, Harrisburg, PA. Individuals with a disability who wish to attend this meeting and require an auxiliary aid, service or other accommodation to participate should contact Dan Deibler at (717) 783-8946 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Historical and Museum Commission can accommodate their needs. Persons with questions or comments should contact the Bureau for Historic Preservation at (717) 783-8946.

Great Valley and Piedmont Region

1. *Bell Telephone Exchange Building*, 8-12 North Preston Street, Philadelphia
2. *Curtis Arboretum*, 1250 West Church Road, Wyncote, Cheltenham Township, Montgomery County
3. *Ivyland Historic District*, bounded by Jacksonville Road, Wilson, Greeley and Chase Avenues, Ivyland Borough, Bucks
4. *Buckmanville Historic District*, Street Road between Windy Bush and Buckmanville Roads, Upper Makefield Township, Bucks County
5. *Atkinson Road Bridge (County Bridge #305)*, Atkinson Road at Pidcock's Creek, Solebury Township, Bucks County
6. *Barclay Home*, 535 and 539 North Church Street, West Chester, Chester County
7. *Handycraft Farmstead*, 11071 Country Club Road, Washington Township, Franklin County
8. *Harbaugh's Reformed Church*, 14301 and 14269 Harbaugh Church Road, Rouzerville, Washington Township, Franklin County

9. *Jeremiah Burns Farm*, 10988 Fish and Game Road, Waynesboro, Washington Township, Franklin County

10. *Cairnwood*, 3028 Huntingdon Pike, Bryn Athyn, Montgomery County

Allegheny Plateau, Anthracite Region and Poconos, Ridge and Valley, Southwestern Pennsylvania—No nominations

BRENT D. GLASS,
Executive Director

[Pa.B. Doc. No. 01-1473. Filed for public inspection August 10, 2001, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, July 26, 2001, and took the following actions:

Regulations Approved:

- Department of State # 16-27: UCC Fees (amends 19 Pa. Code § 3.30)
- Environmental Quality Board # 7-350: Radiological Health (amends 25 Pa. Code Chapters 215, 217, 219, 220, 224, 225, 226, 230 and adds a new Chapter 232)
- Environmental Quality Board # 7-354: Host Municipality Fund Allocation (amends 25 Pa. Code Chapters 260a and 269a)
- Insurance Department # 11-182: Insurance Holding Company Systems (amends 31 Pa. Code Chapter 25)

Approval Order

Commissioners Voting: John R. McGinley, Jr., Chairperson, by phone; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner, by phone

Public Meeting held
July 26, 2001

Department of State—UCC Fees; Regulation No. 16-27

On June 26, 2001, the Independent Regulatory Review Commission (Commission) received this regulation from the Department of State (Department). This rulemaking amends 19 Pa. Code § 3.30 (relating to Uniform Commercial Code). Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This rulemaking changes the Uniform Commercial Code fees for filing financing statements, charged by the Department and the county recorder of deeds offices. The revised fee amounts are \$84 for a financing statement filed with the Department and \$95 for a financing statement filed with a county recorder of deeds office. These revised fees have been established to generate revenue equal to the amounts collected by the Department and the counties, as required by Act 18 of 2001.

We have determined this regulation is consistent with the statutory authority of the Department (Act 18 of 2001) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Commissioners Voting: John R. McGinley, Jr., Chairperson, by phone; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner, by phone

Public Meeting held
July 26, 2001

Environmental Quality Board—Radiological Health; Regulation No. 7-350

On August 8, 2000, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (EQB). This rulemaking amends 25 Pa. Code Chapters 215, 217, 219, 220, 224, 225, 226 and 230 and adds a new Chapter 232. The proposed regulation was published in the August 26, 2000 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 27, 2001.

The EQB is amending its existing radiation protection regulations to make them compatible with the regulations of the Nuclear Regulatory Commission (NRC). These revisions are required for Pennsylvania to attain Agreement State status from the NRC.

We have determined this regulation is consistent with the statutory authority of the EQB (35 P. S. §§ 7110.301 and 7110.302 and 71 P. S. § 510-20) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Commissioners Voting: John R. McGinley, Jr., Chairperson, by phone; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner, by phone

Public Meeting held
July 26, 2001

Environmental Quality Board—Host Municipality Fund Allocation; Regulation No. 7-354

On September 5, 2000, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (EQB). This rulemaking amends 25 Pa. Code Chapters 260a and 269a. The proposed regulation was published in the September 16, 2000 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 27, 2001.

This regulation amends Chapters 260a and 269a to clarify the definition of a “qualifying facility” and simplify the formula used to allocate the Host Municipality Fund if there is more than one “qualifying facility” in the Commonwealth in a single year.

We have determined this regulation is consistent with the statutory authority of the EQB (35 P. S. §§ 6020.303 and 6020.305(e)(2)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Commissioners Voting: John R. McGinley, Jr., Chairperson, by phone; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner, by phone

Public Meeting held
July 26, 2001

Insurance Department—Insurance Holding Company Systems; Regulation No. 11-182

On October 5, 1999, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Insurance Department (Department). This rulemaking amends 31 Pa. Code Chapter 25. The proposed regulation was published in the October 16, 1999 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 26, 2001.

The proposed regulation updates procedural requirements for acquisitions of or mergers with insurance companies. The regulation also updates the reporting requirements and forms related to these transactions. The regulation is intended to make the existing regulations consistent with Act 9 of 1994 and the National Association of Insurance Commissioners’ reporting standards.

We have determined this regulation is consistent with the statutory authority of the Department (40 P. S.

§§ 459.8 and 991.1401—991.1413) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 01-1474. Filed for public inspection August 10, 2001, 9:00 a.m.]

Notice of Comments Issued

Section 5(d) and (g) of the Regulatory Review Act (71 P. S. § 745.5(d) and (g)) provides that the designated standing committees may issue comments within 20 days of the close of the public comment period, and the Independent Regulatory Review Commission (Commission) may issue comments within 10 days of the close of the committees' comment period. The Commission's Comments are based upon the criteria contained in subsection 5.1(h) and (i) of the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)).

The Commission issued comments on the following proposed regulations. The agencies must consider these comments in preparing the final-form regulations. The final-form regulations must be submitted by the date indicated.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Issued</i>	<i>Final-form Submission Deadline</i>
16A-424	State Board of Barber Examiners Standards for Disinfection and Sanitation (31 Pa.B. 2686 (May 26, 2001))	07/26/01	06/25/03
16A-602	State Board of Vehicle Manufacturers, Dealers and Salespersons General Revisions (31 Pa.B. 2691 (May 26, 2001))	07/26/01	06/25/03

**State Board of Barber Examiners Regulation
No. 16A-424
Standards for Disinfection and Sanitation
July 26, 2001**

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The State Board of Barber Examiners (Board) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by June 25, 2003, the regulation will be deemed withdrawn.

1. Section 3.55. Maintenance and sanitation.—Clarity.

Subsection (f) appears to be inconsistent with the change made to section 3.54(8) in which the Board

eliminated the requirement for soiled towels to be placed in a "covered" receptacle. Subsection (f), still requires used towels to be "discarded in a closed receptacle. . . ." The Board should remedy this inconsistency in the final-form regulation.

2. Section 3.61. Out-of-shop services.—Clarity.

Paragraph (4) of this section requires out-of-shop services be held to the same sanitary requirements as services rendered inside the shop. This paragraph is being deleted. The licensed barber is using the same equipment for out-of-shop services that has to meet certain sanitation requirements under section 3.55(c). What is the Board's reasoning for the deletion of paragraph (4)? If the Board deletes paragraph (4), should it be replaced with a cross-reference to section 3.55(c)?

3. Section 3.71. Curriculum.—Clarity.

For clarity, the subject listings should be consistently plural or singular.

4. Section 3.86. Maintenance and sterilization.—Clarity.

To be consistent with the changes proposed by the Board to the title of section 3.55 relating to "Maintenance and sanitation," the Board should amend the title of this section by replacing the word "sterilization" with the word "sanitation."

5. Consistency with statute.—Clarity.

The House Professional Licensure Committee has recommended that the regulatory language be consistent with the statutory language when referring to the licensure categories of "barber-teacher" and "manager-barber." We agree. For example, sections 3.12 and 3.72(b) refer to "teacher" instead of the statutory language of "barber-teacher." Also, sections 3.22, 3.41 and 3.72(b) refer to "barber-manager" rather than the statutory language of "manager-barber."

**State Board of Vehicle Manufacturers, Dealers
and Salespersons Regulation No. 16A-602**

General Revisions

July 26, 2001

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by June 25, 2003, the regulation will be deemed withdrawn.

1. Section 19.2. Definitions.—Clarity.

General

The Board is deleting definitions from section 19.2 that are defined in the statute. For clarity, we suggest adding a reference to 63 P. S. § 818.2 (relating to definitions) for those terms that appear in Chapter 19.

Department

The proposed amendments would retain this term. However, we have not found this term used in Chapter 19. If the term is not used, it should be deleted.

Interest in vehicles

The Board explains in the Preamble that the term "interest in vehicles" is being defined in the regulation to

clarify its use in the statutory definition of "dealer" in 63 P. S. § 818.2. However, the wording of the regulation does not convey this intent. For clarity, we suggest adding language and a reference to the regulation relating the term "interest in vehicles" to the statutory definition of "dealer."

Salesperson and vehicle

The terms "salesperson" and "vehicle" are defined in 63 P. S. § 818.2. However, the regulation continues to use the terms "salesman," "vehicle salesperson" and "motor vehicle." Specifically, the list of sections at the beginning of Chapter 19 uses the term "salesman's"; the term "vehicle salesperson" appears in sections 19.4, 19.11 and 19.12, and in the title preceding section 19.11; and the term "motor vehicle" continues to appear in section 19.22. The Board should review these provisions and use the new statutory terms "salesperson" and "vehicle."

2. Section 19.18. Established place of business for dealers.—Clarity.

In subsection (a)(3)(i), the phrase "unless the Act provides otherwise" is vague. If the Act provides otherwise, the Board should include it in the regulation or specifically reference the provision of the Act which supercede the regulation.

3. Section 19.22. Investigation.—Clarity.

The Board explained that existing paragraphs (1)—(8) and (18)—(22) will be deleted because they are in the Act. The House Professional Licensure Committee suggested adding language to notify licensees of acts prohibited by statute in addition to those listed in the regulation. We agree. For clarity, we suggest adding a reference to the statutory provisions in 63 P. S. § 818.19. This would give a licensee more complete notice of all prohibited actions.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 01-1475. Filed for public inspection August 10, 2001, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board lease will expire:
Philadelphia County, Wine and Spirits Shoppe # 5143,
2429 South Street, Philadelphia, PA 19146-1035.

Lease Expiration Date: March 31, 2002

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 4,500 net useable square feet of new or existing retail commercial space on South Street, west of 15th Street and east of 25th Street, Philadelphia.

Proposals due: August 24, 2001 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: George J. Peller, (215) 482-9671

Philadelphia County, Wine and Spirits Shoppe # 5107,
Grant Plaza II, 1619 Grant Avenue, Philadelphia, PA
19115-3167.

Lease Expiration Date: November 30, 2002

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 8,200 net useable square feet of new or existing retail commercial space within 1/2 mile radius of Grant Avenue and Bustleton Avenue, Philadelphia.

Proposals due: August 31, 2001 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: George J. Peller, (215) 482-9671

Philadelphia County, Wine and Spirits Shoppe # 5165,
7322 Castor Avenue, Philadelphia, PA 19152-4205.

Lease Expiration Date: May 31, 2002

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 6,000 to 8,000 net useable square feet of new or existing retail commercial space within 1/2 mile radius of Castor and Cottman Avenues, Philadelphia.

Proposals due: August 31, 2001 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: George J. Peller, (215) 482-9671

JOHN E. JONES, III,
Chairperson

[Pa.B. Doc. No. 01-1476. Filed for public inspection August 10, 2001, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Notice of a Petition Filed Requesting the Assignment of Numbers From the 412 Area Code Outside the Rationing Process; Doc. Nos. M-00001427F0002 and P-00961027F0002

On July 24, 2001, Cricket Communications, Inc., filed a petition with the Pennsylvania Public Utility Commission (Commission) requesting that the Commission direct the North American Numbering Administrator to release to it three NXX codes. NXX codes in the 412 NPA have been rationed at a rate of six codes per month since November of 1999. Per Commission order entered on December 27, 2000, at the previously captioned docket numbers, rationing in the 412 NPA will continue at the rate of six NXX codes per month until February 17, 2002. The Federal Communication Commission delegated the Commission the authority to hear and address carriers' claims that they need numbering resources outside the rationing process. *In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, 717; Implementation of the Local Competition Provisions of the Telecommunications*

Act of 1996, Memorandum Opinion and Order and Order on Reconsideration, CC Docket No. 96-98, 13 FCC Rcd 190029 (1998).

In its petition, Cricket Communications, Inc. states that it needs this relief because it would be unable to meet customers' needs in the 412 area code if restricted to receiving NXX codes through the current system, and is in dire need of numbering resources.

Interested parties may file comments concerning the petition with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice.

The contact person is Deanne O'Dell, Assistant Counsel, Law Bureau at (717) 787-7580.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-1477. Filed for public inspection August 10, 2001, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission (Commission). Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on or before September 4, 2001, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

Applications of the following for approval to *begin* operating as *common carriers* for transportation of *persons* as described under each application.

A-00117312 (Corrected). Entertainment Transportation Associates, Inc., t/d/b/a E.T.A. Limousine Service (PMB 195, 100 Springdale Road, Suite A-3, Cherry Hill, NJ 08003), a corporation of the State of New Jersey—persons in group and party service, in vehicles seating 15 passengers or less, including the driver, between points in the counties of Montgomery, Delaware, Lehigh, Chester, Bucks and the city and county of Philadelphia, and from points in said counties, to points in Pennsylvania, and return.

A-00118065. Abdel Salaam, t/d/b/a People's Choice Cab Company of Chester (531 Avenue of the States, Chester, Delaware County, PA 19013)—persons upon call or demand in the city of Chester, Delaware County, and within a radius of 5 miles of the limits of the city of Chester. *Attorney:* Florence F. Wright, 19 West Fifth Street, Chester, PA 19013.

A-00118066. 1 State Shuttle, Inc. (PMB #188, 560 Peoples Plaza, Newark, DE 19702), a corporation of the State of Delaware—persons in paratransit service, between points in the counties of Chester, Delaware, and the city and county of Philadelphia, and from points in said territory, to points in Pennsylvania, and vice versa.

Applications of the following for *amendment* to the certificate of public convenience approving the operation of motor vehicles as *common carriers* for transportation of *persons* as described under each application.

A-00116741, F.1, AM-A. Maiysha Johnson (976 South 3rd Street, Philadelphia, Philadelphia County, PA 19147)—persons in paratransit service, from points in the city and county of Philadelphia, to correctional institutions located at Somerset, Camp Hill, Frackville, Graterford and Muncy, and return: *So As To Permit* the transportation of persons in paratransit service, from points in the city and county of Philadelphia, to Municipal, State, and Federal correctional institutions located in Pennsylvania, and return.

Notice of Motor Carrier Applications—Persons in Limousine Service

The following applications for authority to transport persons in limousine service between points in Pennsylvania have been filed with the Commission. The applications will be considered without hearing in the absence of substantive protests limited to the issue of applicant fitness. Protests to these applications are due on or before September 4, 2001.

A-00118064. Red Carpet Limousine, Inc.
4975 Swamp Road, Suite 2
Fountainville, PA 18923

Complaint

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Ross Carlo, t/d/b/a Classy Classic Cab Company; Doc. No. A-00116253C0103

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania, empowered to regulate motor carriers and brokers within this Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Ross Carlo, t/d/b/a Classy Classic Cab Company, respondent, maintains a principal place of business at 550 Nellie Street, Apartment 3, Masury, OH 44458.

2. That all times relevant to this Complaint, respondent held a certificate of public convenience issued by this Commission at Application Docket No. A-00116253.

3. That pursuant to Section 512 of the Public Utility Code, 66 Pa.C.S. § 512, and 52 Pa. Code Chapter 32; respondent is required to maintain evidence of current insurance on file with this Commission.

4. That respondent has failed to maintain evidence of bodily injury and property damage liability insurance, in violation of the Public Utility Code and regulations cited in Paragraph 3 of this complaint.

5. That as a result of failure to maintain evidence of current insurance on file with this Commission, the Bureau of Transportation and Safety Prosecutory Staff requests that the Secretary of the Commission revoke respondent's certificate of public convenience.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Secretary of the Commission revoke the certificate of public convenience.

nience held by Ross Carlo, t/d/b/a Classy Classic Cab Company at Docket No. A-00116253, for failure to maintain current evidence of insurance on file with the Commission.

Respectfully submitted,
George T. Mahan, Director
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

Verification

I, George T. Mahan, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Notice to Plead

A. You must file an answer within twenty (20) days of the date of service. The date of service is the date of publication of this issue for this complaint and notice to plead. 52 PA. Code § 1.56(a). The answer must raise all factual and legal arguments that you wish to claim in your defense and must include the docket number of this Complaint. Your answer must be verified and the original and two (2) copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service as identified in Paragraph A. above, the Bureau of Transportation and Safety will request that the Commission enter an order revoking your certificate of public convenience; contract carrier permit; or brokerage license or imposing such other remedy as may be appropriate.

C. In lieu of an answer, you may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations. The proof of insurance must be filed with the Secretary of the Commission at the address set forth in Paragraph A. Upon receipt of the proof of insurance from your insurer, the complaint proceeding shall be closed.

D. If you file an answer which either admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission enter an order revoking your certificate of public convenience; contract carrier permit; or brokerage license.

E. If you file an answer which contests the complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

Charlotte Ceney
Box 45C
McClelland Road
Finleyville, PA 15332

In re: A-00107775C0101
A-00107775

Dear Respondent:

On January 22, 2001, the Bureau of Transportation and Safety instituted a complaint against Charlotte Ceney,

respondent, alleging failure to maintain proper evidence of current insurance in violation of the Public Utility Code. The respondent was duly notified that if acceptable evidence of insurance or an answer was not filed, the Bureau would request that the Secretary of the Commission revoke the certificate of public convenience issued to the respondent at A-00107775.

The complaint and notice were published in the June 16, 2001 issue of the *Pennsylvania Bulletin*; to date, more than twenty (20) days later, neither evidence of insurance nor an answer to the complaint has been filed. Therefore, the allegation in the complaint is deemed to be admitted.

The complaint at A-00107775C0101 is hereby sustained and the right(s) and the certificate of public convenience issued to the respondent at A-00107775 be and are hereby revoked; and the respondent has no other operating authority. The respondent is hereby notified to cease and desist from providing service previously authorized under the certificate of public convenience.

Should respondent wish to again provide Pennsylvania intrastate transportation, the filing of a new application and a \$100.00 fee is required. The application and fee shall be filed with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

JAMES J. MCNULTY,
Secretary

Ronald J. Coleman t/a
Coleman Express Service
566 Main Street
Lykens, PA 17048

In re: A-00112817C9901
A-00112817

Dear Respondent:

On July 28, 1999, the Bureau of Transportation and Safety instituted a complaint against Ronald J. Coleman, t/a Coleman Express Service, respondent, alleging failure to maintain proper evidence of current insurance in violation of the Public Utility Code. The respondent was duly notified that if acceptable evidence of insurance or an answer was not filed, the Bureau would request that the Secretary of the Commission revoke the certificate of public convenience issued to the respondent at A-00112817.

The complaint and notice were published in the August 21, 1999 issue of the *Pennsylvania Bulletin*; to date, more than twenty (20) days later, neither evidence of insurance nor an answer to the complaint has been filed. Therefore, the allegation in the complaint is deemed to be admitted.

The complaint at A-00112817C9901 is hereby sustained and the right(s) and the certificate of public convenience issued to the respondent at A-00112817 be and are hereby revoked; and the respondent has no other operating authority. The respondent is hereby notified to cease and desist from providing service previously authorized under the certificate of public convenience.

Should respondent wish to again provide Pennsylvania intrastate transportation, the filing of a new application and a \$100.00 fee is required. The application and fee shall be filed with the Secretary, Pennsylvania Public

Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

JAMES J. MCNULTY,
Secretary

JB Logistics
2039 Northampton Street
Easton, PA 18042

In re: A-00114516C9901
A-00114516

Dear Respondent:

On November 10, 1999, the Bureau of Transportation and Safety instituted a complaint against JB Logistics, LLC, respondent, alleging failure to maintain proper evidence of current insurance in violation of the Public Utility Code. The respondent was duly notified that if acceptable evidence of insurance or an answer was not filed, the Bureau would request that the Secretary of the Commission revoke the certificate of public convenience issued to the respondent at A-00114516.

The complaint and notice were published in the March 25, 2000 issue of the *Pennsylvania Bulletin*; to date, more than twenty (20) days later, neither evidence of insurance nor an answer to the complaint has been filed. Therefore, the allegation in the complaint is deemed to be admitted.

The complaint at A-00114516C9901 is hereby sustained and the right(s) and the certificate of public convenience issued to the respondent at A-00114516 be and are hereby revoked; and the respondent has no other operating authority. The respondent is hereby notified to cease and desist from providing service previously authorized under the certificate of public convenience.

Should respondent wish to again provide Pennsylvania intrastate transportation, the filing of a new application and a \$100.00 fee is required. The application and fee shall be filed with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-1478. Filed for public inspection August 10, 2001, 9:00 a.m.]

Sewer Service Without Hearing

A-230536 F2001. Winona Lakes Utilities, Inc. and Middle Smithfield Township Municipal Authority. Joint application of Winona Lakes Utilities, Inc., and Middle Smithfield Township Municipal Authority for approval of Winona Lakes Utilities, Inc., to abandon sewer service to a portion of Middle Smithfield Township, Monroe County, PA. Henceforth, Middle Smithfield Township Municipal Authority will provide sewer service in that portion of Middle Smithfield Township, Monroe County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before August 27, 2001, under 52 Pa. Code (relating to public utilities).

Applicant: Winona Lakes Utilities, Inc., Middle Smithfield Township Municipal Authority.

Through and By Counsel: Richard E. Deetz, Esquire, 1222 North Fifth Street, Stroudsburg, PA 18360 and Marshall E. Anders, Esquire, 18 North Eighth Street, Stroudsburg, PA 18360.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-1479. Filed for public inspection August 10, 2001, 9:00 a.m.]

Telecommunications

A-310043F7001. Verizon North Inc. and NOS Communications Inc. Joint petition of Verizon North Inc. and NOS Communications Inc. Approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and NOS Communications Inc. filed on July 24, 2001, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North Inc. and NOS Communications Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-1480. Filed for public inspection August 10, 2001, 9:00 a.m.]

Telecommunications

A-310706F7001. Verizon North Inc. and Z-Tel Communications, Inc. Joint petition of Verizon North Inc. and Z-Tel Communications, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and Z-Tel Communications, Inc. filed on July 24, 2001, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North Inc. and Z-Tel Communications, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director,
Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-1481. Filed for public inspection August 10, 2001, 9:00 a.m.]

**Water Service
Without Hearing**

A-212285 F0090 and A-211070 F0013. Citizens Utilities Water Company of Pennsylvania and Pennsylvania-American Water Company. Joint Application of Citizens Utilities Water Company of Pennsylvania and Pennsylvania-American Water Company for approval to offer, render, furnish or supply water service to the public in a portion of Lower Pottsgrove Township, Montgomery County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before August 27, 2001, under 52 Pa. Code (relating to public utilities).

Applicant: Citizens Utilities Water Company of Pennsylvania, Pennsylvania-American Water Company.

Through and By Counsel: Michael W. Gang, Esquire, John H. Isom, Morgan, Lewis & Bockius, LLP, One Commerce Square, 417 Walnut Street, Harrisburg, PA 17101-1904 and Thomas P. Gadsden, Anthony C. DeCusatis, Morgan, Lewis & Bockius, LLP, 1701 Market Street, Philadelphia, PA 19103-2921.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 01-1482. Filed for public inspection August 10, 2001, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center

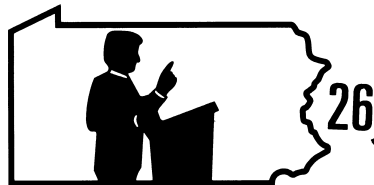
PA Department of Community and Economic Development

374 Forum Building

Harrisburg, PA 17120

800-280-3801 or (717) 783-5700

Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services

Location: Harrisburg, Pa.

Duration: 12/1/93-12/30/93

Contact: Procurement Division
787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:)
Vendor Services Section
717-787-2199 or 717-787-4705

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

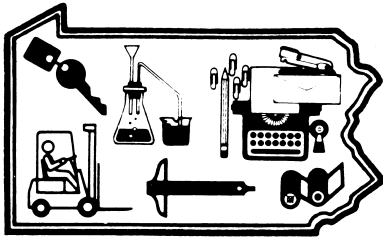
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room G13 Finance Building
 Harrisburg, PA 17120
 717-787-2990
 1-800-252-4700

BARBARA HAFER,
State Treasurer



Commodities

State Bid No. 224 Locker Unit with Magnetic Swipe.

Department: General Services
Location: Pennsylvania State University, Leonhard Building, University Park, PA 16802
Duration: Date Due 8-16-01
Contact: Steven Blazer, (814) 865-5418

State Bid No. 225 60 bin Master Dispensing Station.

Department: General Services
Location: Pennsylvania State University, Leonhard Building, University Park, PA 16802
Duration: Date Due 8-16-01
Contact: Steven Blazer, (814) 865-5418

3509 Vendor to provide to the shoe plant at the State Correctional Institution at Graterford approximately 32,000 square feet of aquiline (#AQ-10AHBC) color: beige 56" width, 1.0 mm thick. To be utilized in the manufacturing of shoes/boots.

Department: Corrections
Location: Correctional Industries, State Corr. Inst. Graterford, Box 246, Off Rt. 29, Graterford, PA 19426
Duration: 1 year
Contact: Gerald L. Arasin, Manager II, (610) 489-4151, Ext. 2310

5850-01 Microcomputer, LAN Hardware & Peripherals. During each quarter of the current calendar year, new contractors may seek to be added to the list of qualified contractors for the Microcomputer & Local Area Network (LAN) Hardware & Peripherals, 5850-01. Also existing qualified contractors may seek to become qualified for additional categories of supplies or services. In order to be considered, contractors must submit a completed bid, 5850-01 to ensure receipt by the Commonwealth on or before 1:30 PM Eastern Time on the last Commonwealth business day of each quarter (the "deadline"). A "quarter" is defined as the three consecutive calendar months ending with the last business day of the months of March, June, September, and December of a calendar year. Those bids received before the deadline will be evaluated beginning the 1st business day of the month immediately following the deadline. The evaluation cycle will take an estimated 25 Commonwealth business days (subject to workload and holidays). Bids received after the deadline (but on or before the deadline for the next quarter) will be held and evaluated after the deadline for the next quarter. There will be no exceptions. To receive copy of bid package fax request to (717) 787-0725 or call our faxback system at (717) 705-6001.

Department: General Services
Location: Harrisburg, PA
Duration: FY 2000-01
Contact: Vendor Services, (717) 787-2199

6350-01 Security System Services. During each quarter of the current calendar year, new contractors may seek to be added to the list of qualified contractors for the Security System Services, 6350-01. Also existing qualified contractors may seek to become qualified for additional categories of supplies or services. In order to be considered, contractors must submit a completed bid, 6350-01 to ensure receipt by the Commonwealth on or before 1:30 PM Eastern Time on the last Commonwealth business day of each quarter (the "deadline"). A "quarter" is defined as the three consecutive calendar months ending with the last business day of the months of March, June, September, and December of a calendar year. Those bids received before the deadline will be evaluated beginning the 1st business day of the month immediately following the deadline. The evaluation cycle will take an estimated 25 Commonwealth business days (subject to workload and holidays). Bids received after the deadline (but on or before the deadline for the next quarter) will be held and evaluated after the deadline for the next quarter. There will be no exceptions. To receive copy of bid package fax request to (717) 787-0725 or call our faxback system at (717) 705-6001.

Department: General Services
Location: Harrisburg, PA
Duration: FY 2000-01
Contact: Vendor Services, (717) 787-2199

6350-03 Surveillance & Security Equipment & Supplies. During each quarter of the current calendar year, new contractors may seek to be added to the list of qualified contractors for the Surveillance & Security Equipment & Supplies, 6350-03. Also existing qualified contractors may seek to become qualified for additional categories of supplies or services. In order to be considered, contractors must submit a completed bid, 6350-03 to ensure receipt by the Commonwealth on or before 1:30 PM Eastern Time on the last Commonwealth business day of each quarter (the "deadline"). A "quarter" is defined as the three consecutive calendar months ending with the last business day of the months of March, June, September, and December of a calendar year. Those bids received before the deadline will be evaluated beginning the 1st business day of the month immediately following the deadline. The evaluation cycle will take an estimated 25 Commonwealth business days (subject to workload and holidays). Bids received after the deadline (but on or before the deadline for the next quarter) will be held and evaluated after the deadline for the next quarter. There will be no exceptions. To receive copy of bid package fax request to (717) 787-0725 or call our faxback system at (717) 705-6001.

Department: General Services
Location: Harrisburg, PA
Duration: FY 2000-01
Contact: Vendor Services, (717) 787-2199

CE-PISP-01-02 Air Curtain Destructor Model CP2400HD or approved equal.

Department: Conservation and Natural Resources
Location: Presque Isle State Park, Erie, Pennsylvania
Duration: One-time purchase
Contact: Pamela Stouffer, (717) 783-0760

1055151 Boat, Boston Whaler, 18' Guardian Patrol or approved equal. If you have problems downloading a bid, please call our Fax Back System at (717) 705-6001.

Department: Conservation and Natural Resources
Location: Jamestown, PA
Duration: FY 2001-2002
Contact: Vendor Services, (717) 787-2199

2097 End-Tab Classfiles-20pt. Type I PressGuard 9 executive Red #29772) with Tyrek binding 6-2" Bonded fasteners in positions #1 and #3. Vinyl Sheet with Card and Photo Pockets 10 gauge, soft hand vinyl HC#3 Index tabs, letter size, white 1/3 cut assorted mylar colored tabs 17 position set, white, buff. Public Safety face sheet protector DB 480 100/pack.

Department: Corrections
Location: State Correctional Institution at Camp Hill, P. O. Box 8837, 2500 Lisburn Road, Camp Hill, PA 17001-8837
Duration: Items needed asap
Contact: Michelle L Ryan, (717) 975-5267

x19611 Provide 25,000 pair of canvas garden gloves.

Department: Environmental Protection
Location: Harrisburg, PA
Duration: August 31, 2001
Contact: Sharon Peterson, (717) 787-2471

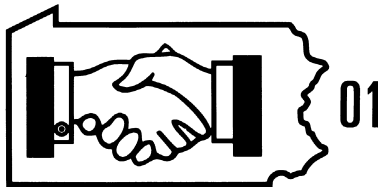
5810-03 Microcomputer & Local Area Network (LAN) Software. During each quarter of the current calendar year, new contractors may seek to be added to the list of qualified contractors for the Microcomputer & Local Area Network (LAN) Software, 5810-03. Also existing qualified contractors may seek to become qualified for additional categories of supplies or services. In order to be considered, contractors must submit a completed bid, 5810-03 to ensure receipt by the Commonwealth on or before 1:30 PM Eastern Time on the last Commonwealth business day of each quarter (the "deadline"). A "quarter" is defined as the three consecutive calendar months ending with the last business day of the months of March, June, September, and December of a calendar year. Those bids received before the deadline will be evaluated beginning the 1st business day of the month immediately following the deadline. The evaluation cycle will take an estimated 25 Commonwealth business days (subject to workload and holidays). Bids received after the deadline (but on or before the deadline for the next quarter) will be held and evaluated after the deadline for the next quarter. There will be no exceptions. To receive copy of bid package fax request to (717) 787-0725 or call our faxback system at (717) 705-6001.

Department: General Services
Location: Harrisburg, PA
Duration: FY 2000-01
Contact: Vendor Services, (717) 787-2199

1071181 Holiday Envelope-3 Color Process-2 Sides-Size A6. For a copy of bid package fax request to 717-787-0725.

Department: Revenue
Location: Middletown, PA
Duration: FY 2001-02
Contact: Vendor Services, (717) 787-2199

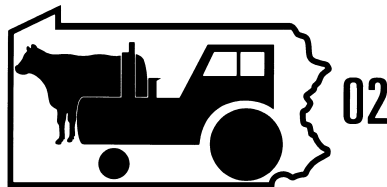
SERVICES



Advertising

2001-005 Thaddeus Stevens College of Technology is seeking experienced contractors to assess and develop a 5-year strategic plan for its cultural diversity program. Contractors should contact Ms. Betty Tompos, Business Manager, 750 E. King St., Lancaster, PA 17602 to request a copy of the Request for Proposal (RFP). Contractors may also request the RFP via E-mail (i.e. tomposb@stevensstech.org) or fax request to 717-299-7710.

Department: Education
Location: Thaddeus Stevens College of Technology, 750 East King Street, Lancaster, PA 17601, (717) 299-7749
Duration: September 1, 2001 until June 30, 2002 with a four-year option to renew.
Contact: Betty Tompos, Business Manager, (717) 299-7749 or (717) 391-6947



Agricultural Services

SP 3810030 Contract services required for basal application of a herbicide to trees, cutting of trees and applying a herbicide to the stumps, and broadcast spraying of a herbicide to ferns. The entire contract contains approximately 310 acres in Walker, Miles, and Haines Townships, Centre County.

Department: Conservation and Natural Resources
Location: Bald Eagle State Forest, Centre County
Duration: Upon notice to proceed through June 30, 2002
Contact: Pamela E. Stouffer, (717) 783-0760

2/1 Provide fish food used in a statewide fish culture program during the period October 01—December 31, 2001. Fish food products purchased in bulk and bagged quantities only from vendors who have had their products tested and accepted by the Fish and Boat Commission.

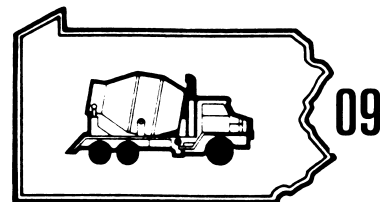
Department: Fish and Boat Commission
Location: Statewide to various fish culture stations as requested.
Duration: October 01, 2001—December 31, 2001.
Contact: James E. Harvey, (814) 359-5141

PGC-2726 Agency is seeking a contractor to clear, fertilize and seed new herbaceous openings on State Game Lands No. 55 in Columbia County and State Game Lands No. 84 in Northumberland County. Openings to be graded and leveled prior to seeding. Exact site locations, project specifications and information on arranging a tour of the work sites are included in the bid packet.

Department: Game Commission
Location: Pennsylvania Game Commission, Automotive & Procurement Division, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797
Duration: Contract will expire on June 30, 2002
Contact: Diane Shultz or Linda Beaver, (717) 787-6594

PGC-2725 Agency is requesting rental of a tractor with an articulating rotary boom mower. Contractor to supply operator, fuel, maintenance and cutters. Bid price to include mobilization and demobilization of equipment. Work to be completed by June 30, 2002. Work entails cutting back nine miles of Game Lands access roads situated in West Cameron Twp., Northumberland Co., and Madison Twp., Columbia Co., and involves cutting on SGL #84, approx. 32 hours, and cutting on SGL #226, approx. 128 hours. Complete instructions and locations included in bid package.

Department: Game Commission
Location: Pennsylvania Game Commission, Bureau of Administrative Services, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797
Duration: Work must be completed by June 30, 2002.
Contact: Diane Shultz or Linda Beaver, (717) 787-6594



Construction & Construction Maintenance

LHACT-602 Contractor to fine grade and compact existing running track located inside perimeter of the State Correctional Institution at Laurel Highlands, in preparation for blacktop (no material is expected to be needed). Contractor to furnish, place and compact 2.5 inches of BCBC Base, 1.5 inch of ID2 wearing. Materials, drainage and major grade adjustments will be provided/accomplished by institution prior to start of project. A site visit is required. Complete bid on file at institution.

Department: Corrections
Location: State Correctional Institution at Laurel Highlands, 5706 Glades Pike, P. O. Box 631, Somerset, PA 15501-0631
Duration: 09/01/01 to 10/31/01
Contact: Carole S. Kolesko, PA II, (814) 445-6501, ext. 347

FDC-413-1157 Paving of 5 various areas of driveways and walkways at Tuscarora State Park. Will include approx. 1,900 sq. yd. of bituminous. Bid documents, bid specifications, can be obtained by telephoning park office at 570-467-2404. Monday through Friday, 8 am to 4 pm. Site visit can also be arranged by calling above number for appointment.

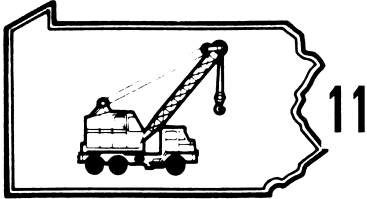
Department: Conservation and Natural Resources
Location: Tuscarora State Park, 687 Tuscarora Park Rd., Barnesville PA 18214
Contact: Leo G. Davidovich, (570) 467-2404

63-0115 West Chester University of Pennsylvania of the State System of Higher Education is soliciting sealed bids for Project 63-0115-R-Lot Steps. The Project consists of exterior pressure treated wooden steps and landings with an approximate rise of 32' and approximate run of 100'. The site visit is scheduled for Tuesday August 14, 2001 at 9:00 am.

Department: State System of Higher Education
Location: West Chester University, West Chester, PA
Duration: 75 days from the Notice to Proceed
Contact: Marianne Peffall, Contract Specialist, (610) 436-2706

FDC-427-887.1 Park Office Roof Restoration at Ridley Creek State Park in Delaware County. This is a historic property subject to special national standards. Work includes removing and replacing wood roofing shingles, new flashing, new flat roofs, roof decking, coping stones; gutters, downspouts, roof accessories and storm water collection system. Project estimate \$1,000,000 to \$2,000,000. NOTE: Requests for Bid Documents may be made ON or AFTER August 13, 2001. Cost for Documents is \$15.90, payable by CREDIT CARD ONLY— American Express, Discover, Master Card or Visa only.

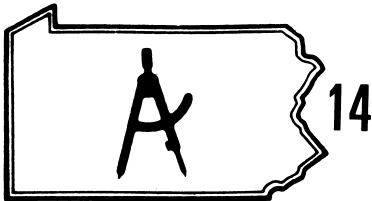
Department: Conservation and Natural Resources
Location: Upper Providence Township
Duration: 240 days
Contact: Construction Management Section, (717) 787-5055



Demolition—Structural Only

0051-A10 The Pennsylvania Department of Transportation will be accepting sealed bids for the sale and removal of commercial dwellings located at the intersection of Saw Mill Run Boulevard and Glenbury Street, 32nd Ward, City of Pittsburgh, Allegheny County. Contractor will be required to demolish or remove all structures, outbuildings and site improvements. They will also be required to comply with FHWA and State regulations. For bid forms, specifications and further information, please contact Mr. Michael Sudar, District Property Manager at (412) 429-4830.

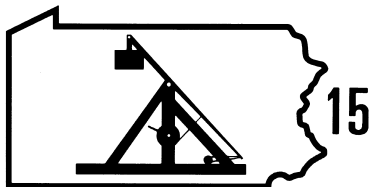
Department: Transportation
Location: City of Pittsburgh, Allegheny County
Duration: 30 days
Contact: Michael Sudar, (412) 429-4830



Engineering Services

PennDOT-ECMS The Pennsylvania Department of Transportation has established a website advertising for the retention of engineering firms. You can view these business opportunities by going to the Department of Transportation's Engineering and Construction Management System at www.dot2.state.pa.us.

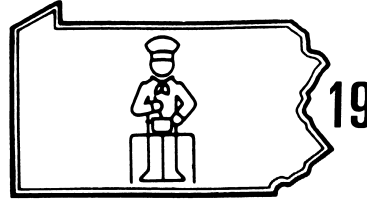
Department: Transportation
Location: Various
Contact: www.dot2.state.pa.us



Environmental Maintenance Service

BOGM 01-21 Clean Out and Plug Thirteen (13) Orphan Oil Wells, Mr. Gary Frazier Property, estimated to be between 1,375 and 1,840 feet in depth; prepare and restore well sites; and mobilize/demobilize plugging equipment.

Department: Environmental Protection
Location: Sheffield Township, Warren County
Duration: 130 calendar days after notice to proceed
Contact: Construction Contracts Section, (717) 783-7994



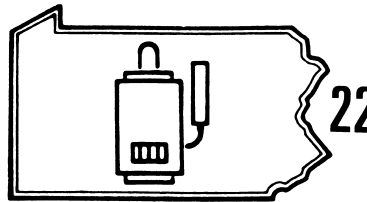
Food

4245 Assorted fresh and frozen perishable foods for the period of October through December 2001.

Department: Public Welfare
Location: Mayview State Hospital, 1601 Mayview Road, Bridgeville, PA 15017
Duration: 10/01/01—12/31/01
Contact: F. Molisee, Purchasing Agent II, (412) 257-6215

SP22015003 Provide meals and complete meal services to individuals using the PA Fish & Boat Commission's education/conference facilities at Fisherman's Paradise, Spring Creek, Benner Township, Centre County, PA during the period September 1, 2001 through June 30, 2002.

Department: Fish and Boat Commission
Location: PA Fish & Boat Commission, H. R. Stackhouse Training Facility, 1150 Spring Creek Road, Bellefonte, PA 16823
Duration: September 1, 2001 through June 30, 2002
Contact: Kathi Tibbott, (814) 359-5131



HVAC Services

10671017 Repair and maintenance service to refrigeration and air conditioning equipment at Norristown State Hospital. Request bid packet # 10671017.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, PA 19401
Duration: Jan. 1, 2002 through June 30, 2004 w/two 1 yr. renewal options
Contact: Sue Brown, Purchasing Agent, (610) 313-1026

SP 10777020 Repairs to Baffle on Keeler Boiler.

Department: Public Welfare
Location: Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, PA 18411-9505
Duration: 09/01/01 through 06/30/02
Contact: Stanley Rygelski, PA, (570) 587-7291



Janitorial Services

DES040 The Department is soliciting bids for janitorial services three (3) times per week at the Chambersburg Driver Exam Site, 190 Mill Road, Chambersburg, PA, 17201. All requests for bid packages can be obtained by faxing request for bid package to: Susan Sobotor at fax # (717) 783-7971 or calling (717) 783-3931.

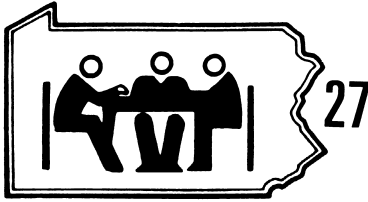
Department: Transportation
Location: Department of Transportation, Chambersburg Driver Exam Site, 190 Mill Road, Chambersburg, PA 17201
Duration: 5 years
Contact: Susan Sobotor, (717) 783-3931

DES039 The Department is soliciting bids for janitorial services three (3) times per week at the East Rochester Driver Exam Site, 149 Stewart Avenue, East Rochester, PA, 15074. All requests for bid packages can be obtained by faxing request for bid package to: Susan Sobotor at fax # (717) 783-7971 or calling (717) 783-3931

Department: Transportation
Location: Department of Transportation, 149 Stewart Avenue, East Rochester, PA 15074
Duration: 5 years
Contact: Susan Sobotor, (717) 783-3931

Bid No. 8341 Furnish all labor, materials and equipment to perform janitorial services FOUR (4) times per week at the PA State Police, Shickshinny Station. This is a two story facility, and the basement, although used mostly for storage, will need to be swept and occasionally mopped. Detailed Work Schedule & Bid must be obtained from Facility Management Division, 717-705-5951.

Department: State Police
Location: Shickshinny Station, 872 Salem Boulevard, Berwick, PA 18603
Duration: 12/1/01 to 6/30/04
Contact: Donna Enders, (717) 705-5951



Lodging/Meeting Facilities

SP3510019694 Provide lodging and banquet facilities for approximately 750 attendees for the Department of Environmental Protection, Bureau of Personnel's Annual Awards for Excellence Luncheon. Tentative Awards Luncheon to be held in the spring of 2002.

Department: Environmental Protection
Location: Facility shall be located within a ten (10)-mile radius of the Capitol Complex, downtown Harrisburg, Pennsylvania.
Duration: Through 6/30/2002, with option to renew.
Contact: Sharon Peterson, (717) 787-2471

SP3510019066 Provide lodging, meeting rooms and meals for the Department of Environmental Protection, Office of Air, Recycling and Radiation Protection. Proposed meeting dates are either October 9—10, 2001, October 10—11, 2001 or October 11—12, 2001.

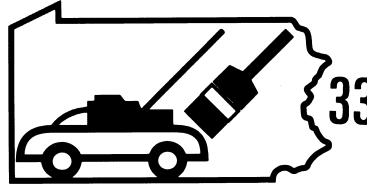
Department: Environmental Protection
Location: Within a forty-five (45) mile radius of the Capitol Complex, downtown Harrisburg, Pennsylvania
Duration: Through 12/31/01
Contact: Sharon Peterson, (717) 787-2471



Medical Services

10873015 Vendor will provide 3 psychiatric residents (GPY 2 and/or greater) for approximately 90 hours/week and 1 attending psychiatrist for approximately 20 hours/week or less, who will provide supervision to the psychiatric residents. These services would include participation in clinical administrative activities of Harrisburg State Hospital and OMHSAS, development and completion of performance improvement monitors, development and evaluation of programs, and development and implementation of medicine usage evaluations.

Department: Public Welfare
Location: Harrisburg State Hospital, Cameron & Maclay Streets, P.O. Box 61260, Harrisburg, PA 17106-1260
Duration: The term of this contract is anticipated to begin September 1, 2001 and end June 30, 2004.
Contact: Jack W. Heinze, PA III, (717) 772-7435



Property Maintenance

10671013 Provide snow removal from the grounds of the closed facility known as Philadelphia State Hospital at Roosevelt Blvd. & Southampton Rd., Phila., PA Request bid packet # 10671013.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, PA 19401
Duration: Jan. 1, 2002 through June 30, 2003 with two 1 yr. renewal options
Contact: Sue Brown, Purchasing Agent, (610) 313-1026

10671014 Provide lawn care services at the closed facility of Philadelphia State Hospital, 1400 Roosevelt Blvd., Phila., PA. Request bid packet # 10671014.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, PA 19401
Duration: Jan. 1, 2002 through June 30, 2003 with two 1 yr. renewals.
Contact: Sue Brown, Purchasing Agent, (610) 313-1026

147-01 Supply and Install seven (7) 18 gauge galvanized continuous seamless weld hollow metal doors. Please request copy of bid packet # 147-01 for detailed specifications.

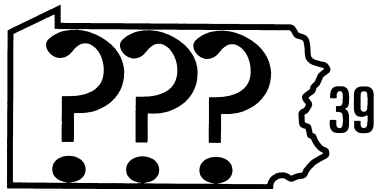
Department: Public Welfare
Location: Regional Forensic Unit, Building # 51, Norristown State Hospital, 1001 Sterigere Street, Norristown, PA 19401-5397
Contact: Kathleen M. Aspinall, Purchasing Agent, (610) 313-1028



Sanitation

031A22 This work will consist of garbage removal from Columbia County I-80 Roadside Rest Area (Eastbound and Westbound), Buckhorn Stocking Area (I-80 Exit 34), and Lime Ridge Stocking Area (I-80 Exit 36). All sites are located in Columbia County, PA. Contractors must supply containers. Bid package may be obtained by faxing request to S.A. Hunsinger at 570-387-4254. Request must contain company name, address, phone and fax number, and contact person.

Department: Transportation
Location: I-80 Roadside Rest Area (Eastbound & Westbound), Buckhorn Stocking Area, Lime Ridge Stocking Area
Duration: Contract will be 12 months with the possibility of four one year renewals.
Contact: S. A. Hunsinger, (570) 387-4254



Miscellaneous

005 To provide the library at the Allentown State Hospital with the most recent magazine publications, also to include medical publications, additional information can be obtained by contacting the Purchasing Department at 610-740-3425 or fax 610-740-3424.

Department: Public Welfare
Location: Allentown State Hospital, 1600 Hanover Avenue, Allentown, PA 18109-2498
Duration: 1/01/02 TO 12/31/02
Contact: Robert Mitchell, (610) 740-3425

SO-238 The State Correctional Institution at Somerset will be soliciting bids for various plumbing repair parts. Vendors interested in bidding on these items should contact the institution directly for bid package.

Department: Corrections
Location: State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001
Duration: 9/01/01 through 6/30/02
Contact: Jackie Albright, Pur. Agent I, (814) 443-8100 X313

10872006 Replace flooring in walk-in coolers at Danville State Hospital.

Department: Public Welfare
Location: Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821
Duration: Anticipated to begin Oct. 1, 2001 through Dec. 31, 2001
Contact: Doris Cavallini, (570) 271-4578

TylersvilleWeir Supply all materials and labor necessary to construct spring intake modifications at the Tylersville Fish Culture Station. Work to be performed includes but is not limited to excavation, Erosion and Sedimentation control work, placement of crushed stone, cast-in-place concrete and restoration. Also included is replacement of existing wooden foot bridge.

Department: Fish and Boat Commission
Location: Tylersville Fish Culture Station, Loganton, PA
Duration: Approx. September—November 2001
Contact: Kathi Tibbott, Purchasing Agent, (814) 359-5130

105009 Removal & disposal of road-killed deer from all state routes in Jefferson County along or within thirty feet from the edge of the pavement. Interchange areas such as off and on ramps will be included as part of this contract. If a deer is not dead, the Contractor must inform the Department, local police or Game Commission. Once police officer or Game Commission officer has killed the animal, the Contractor may then remove the carcass. Upon notification of road kill, the Contractor is required to pick up/remove all deer pieces within 24 hours of call. If there are no pieces to clean up or deer is no longer physically there, contractor will be paid 25% of bid price for responding to the call. Disposal site must be approved by the Department of Environmental Protection.

Department: Transportation
Location: All state routes in Jefferson County
Duration: September 1, 2001 through September 1, 2002 with a one year renewal option
Contact: Janice L. Redding, (814) 938-6300

BO-105 Contractor shall supply ground level storage containers to the State Correctional Institution at Cambridge Springs, PA. Containers to be purchased not leased or rented.

Department: Corrections
Location: S.C.I. Cambridge Springs, 451 Fullerton Avenue, Cambridge Springs, PA 16403
Contact: Quentin Hargenrater Jr., (814) 398-5400

2001-01 PA nonprofit organizations, which have previously conducted successful mathematics and/or science professional development activities, PA institutions of higher education and intermediate units are invited to submit applications to conduct intensive, high quality professional development programs to improve mathematics and science teaching and learning in the Commonwealth. Funding is from Subchapter II-Dwight D. Eisenhower Professional Development Program.

Department: Education
Location: 333 Market Street, Harrisburg, PA 17126-0333
Duration: Through August 15, 2003
Contact: Linda J. Benedetto, (717) 772-3623

20088 CREMATION SERVICES—Contractor shall provide cremation services for the disposition of human remains as needed for SCI-Chester. More detailed information can be obtained from the Institution.

Department: Corrections
Location: SCI-Chester, 500 E. 4th Street, Chester, PA 19013
Duration: September 1, 2001 to August 30, 2004
Contact: Jacqueline Newson, Purchasing Agent, (610) 490-4370

FL-260139 Elastimold components. Molded vacuum switches, BFI visibrake indicators, elbows, connector plugs, grounding adapters and spanner wrench. Manufactured by Thomas & Betts.

Department: Liquor Control Board
Location: Harrisburg, PA
Duration: Indeterminate 2001
Contact: Robert L. Isenberg, (717) 787-9855

10972032A Locksmith services at Mayview State Hospital.

Department: Public Welfare
Location: Mayview State Hospital, Maintenance Department, 1601 Mayview Road, Bridgeville, PA 15017-1599
Duration: 10-01-01 through 06-30-06
Contact: Fred Molisee, (412) 257-6215

4409-01 The Department of Corrections, Bureau of Correctional Industries is seeking consulting services for the project planning, engineering, project implementation and contract management of a modern meat processing facility in Pennsylvania.

Department: Corrections
Location: Correctional Industries, SCI Houtzdale, Houtzdale, PA 16698
Duration: 1 year
Contact: MaryAnn Ulrich, (717) 731-7134

[Pa.B. Doc. No. 01-1483. Filed for public inspection August 10, 2001, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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KELLY LOGAN,
Acting Secretary

STATE CONTRACTS INFORMATION

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
0064-04	08/01/01	Gray Graphics	158,058.00
6330-01	08/01/01	Orion Safety Products/ Standard Fusee	438,480.00
7350-04	08/01/01	Alladin Temp-Rite LLC	236,150.40
7350-04	08/01/01	Plastocon	57,275.00
7350-04	08/01/01	W S Lee & Sons	40,653.70
7510-10	08/01/01	Adolph Sufrin	37,819.40
7510-10	08/01/01	Ideal Office Products	4,268.70
7510-10	08/01/01	Independence Business Supply	744.00
7510-10	08/01/01	Linbarr Office Supply	214,296.55
7510-10	08/01/01	Phillips Office Products	3,004.00
7510-10	08/01/01	Pyramid School Products	42,329.50
7510-10	08/01/01	Standard Stationary Supply	127,234.70
7510-10	08/01/01	Staple Business Advantage	9,162.00

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
7510-10	08/01/01	Video Service of America	160,843.60
7510-10	08/01/01	XpedX	6,750.00
7930-08	08/01/01	3M	21,280.00
7930-08	08/01/01	Buckeye International	24,640.00
7930-08	08/01/01	Desantis Janitor Supply	26,880.00
7930-08	08/01/01	Ecolab	43,680.00
7930-08	08/01/01	Fitch Co.	50,400.00
7930-08	08/01/01	Hillyard Inc.	73,290.00
7930-08	08/01/01	M J Earl Inc.	28,000.00
7930-08	08/01/01	National Chemical Labs	47,040.00
7930-08	08/01/01	XpedX/ Harrisburg Div.	66,080.00
8415-04 rip#1/sup#1	08/01/01	North Eastern Uniforms & Equipment	25,000.00
8415-04 rip#1/sup#1	08/01/01	Starr Uniform	20,000.00
9985-03	08/01/01	Ike Management	90,000.00
9985-03	08/01/01	Modern Recycling	90,000.00

KELLY LOGAN,
Acting Secretary

[Pa.B. Doc. No. 01-1484. Filed for public inspection August 10, 2001, 9:00 a.m.]