

PENNSYLVANIA BULLETIN

Volume 32

Number 20

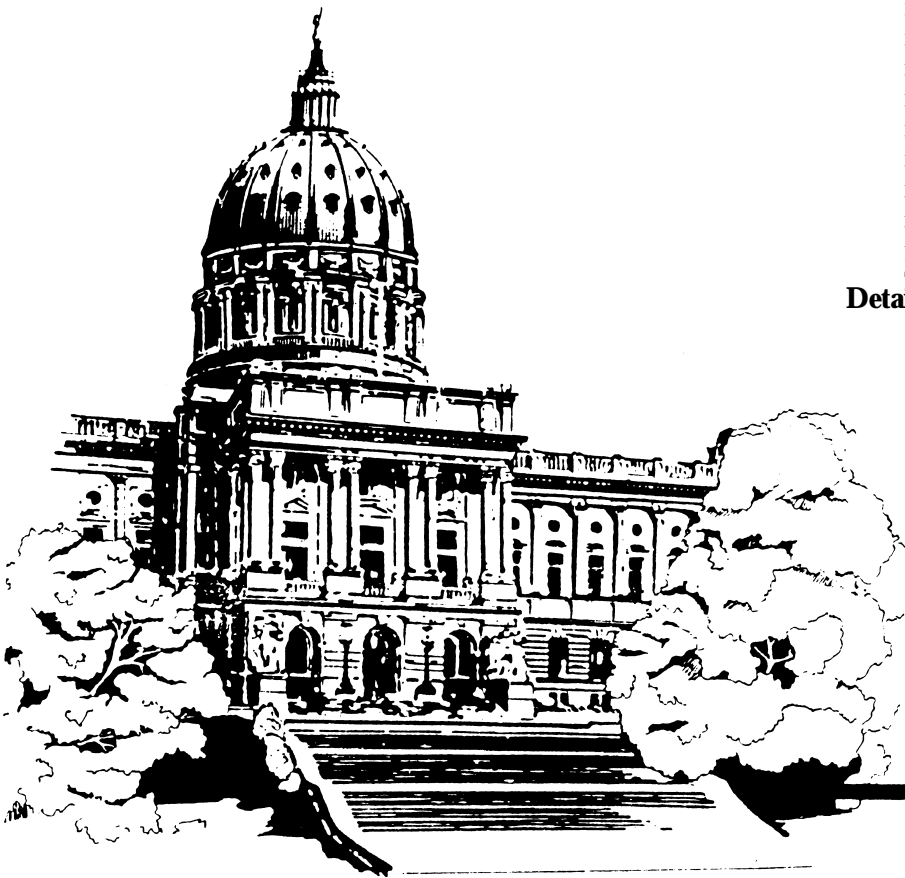
Saturday, May 18, 2002 • Harrisburg, Pa.

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State Athletic Commission

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No. 330, May 2002

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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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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.

**SUBSCRIPTION INFORMATION: (717) 766-0211
GENERAL INFORMATION AND FINDING AIDS: (717) 783-1530**

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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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2002.

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THE COURTS

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated April 30, 2002, Salvatore DeLello, Jr. is suspended from the Bar of this Commonwealth for a period of two (2) years, retroactive to March 3, 2000, the date of his temporary suspension. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
*Executive Director and Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 02-886. Filed for public inspection May 17, 2002, 9:00 a.m.]

RULES AND REGULATIONS

Title 6—AGING

DEPARTMENT OF AGING

[6 PA. CODE CH. 15]

Protective Services For Older Adults

The Department of Aging (Department), to safeguard more effectively the rights and protection of incapacitated older adults, amends Chapter 15 (relating to protective services for older adults), to read as set forth in Annex A. The Department amends this chapter under the authority of the Older Adults Protective Services Act (OAPSA) (35 P. S. §§ 10225.101—10225.5102). Amendments clarify definitions and operational elements to reflect the experience of protective services agencies (area agencies on aging) over the past 13 years, and add sections to implement the requirements of legislation requiring applicants and specified employees at specified care-providing facilities to obtain criminal history record information reports and requiring administrators and employees at these facilities to report suspected abuse. The Department amended the existing chapter sections to update terms and practices, conform to recent legislation or respond to comments. The Department added §§ 15.141—15.147 and 15.151—15.159 (relating to criminal history record information reports; and employee reporting of suspected abuse).

The Department published a notice of proposed rule-making at 29 Pa.B. 6010 (November 27, 1999) and provided a 30-day public comment period. The Department received comments from seven area agencies on aging, the Office of the Auditor General, the Pennsylvania Health Law Project, Community Legal Services of Philadelphia, the Pennsylvania Association of Non-Profit Homes for the Aging, Greenwich Services, staff of the Senate and House Aging and Youth Committees, the Center for Advocacy for the Rights and Interests of the Elderly, the Pennsylvania Association of Home Health Agencies, the AFL/CIO, the Pennsylvania Association of Resources for People with Mental Retardation, the Philadelphia Coalition of Community MH/MR Centers, the Independent Regulatory Review Commission (IRRC), the Department's Office of the Long-Term Care Ombudsman and one individual.

Summary

These amendments will more effectively safeguard the rights and protections of incapacitated older adults, and recipients of any age in specified facilities, by enhancing the system of activities, resources and supports which prevent, reduce or eliminate abuse, neglect, exploitation, and abandonment, and by adding provisions for mandatory submission of criminal history record information and mandatory reporting of suspected abuse.

Comment and Response Document

The comment and response document is available by contacting Robert F. Hussar at (717) 783-6207 or the Department's website at www.state.pa.us: PA Keyword: aging.

Fiscal Impact

Costs to the Commonwealth mandated by the OAPSA, and associated with implementation of these final-form regulations, result from the need to process Criminal History Record Information (CHRI) reports. The Depart-

ment incurs the costs of processing the Federal Bureau of Investigation (FBI) reports. The Pennsylvania State Police (PSP) incur the costs of processing the PSP CHRI reports. The mandating of reports of suspected abuse in the OAPSA-specified facilities has increased the number of investigations and associated personnel requirements for area agencies on aging, which serve as the local protective services agency, 37 of which are under the auspice of county government. Applicants for employment at OAPSA-specified facilities, or, at their option, specified care-providing facilities (domiciliary care homes, home health care agencies, long-term care nursing facilities, older adult daily living centers and personal care facilities), and those at facilities defined as home health care agencies by the Department of Public Welfare (community residential rehabilitation services, community homes and family living homes for individuals with mental retardation, intermediate care facilities for individuals with mental retardation, including State and non-State operated facilities and homes, and State mental hospitals), must bear the costs of obtaining mandatory CHRI reports. The fee for the PSP CHRI report is \$10; the fee for the FBI CHRI report is \$24. No additional costs are imposed on members of the general public.

Paperwork Requirements

Applicants for employment will be required to obtain CHRI reports; the PSP and the Department will be required to process these reports; specified care-providing facilities will be required to retain copies of these reports. In addition, these facilities will be required to submit written reports of suspected abuse to area agencies on aging and, in some cases, to law enforcement officials; area agencies will be required in some cases to send these reports to the Department and county coroners; specified facilities will be required to send individual supervision or suspension plans to area agencies and licensing agencies and to retain these reports. Area agencies will be required to make reports of suspected abuse available to specified persons and agencies. Specified facilities are required to provide applicants with written explanation of CHRI report requirements and to retain such reports.

Effective Date/Sunset Date

The final-form regulations will take effect on the date of publication in the *Pennsylvania Bulletin*. No sunset date has been established. The effectiveness of these regulations will be evaluated as part of the Department's annual review of the protective services program.

Statutory Authority

The Department adopts these final-form regulations under the authority of the OAPSA.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 15, 1999, the Department submitted a copy of the notice of proposed rulemaking, published at 29 Pa.B. 6010, to IRRC and the Chairpersons of the House and Senate Committees on Aging and Youth for review and comment.

In compliance with section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received, as well as other documentation. In preparing these final-form regulations, the Department has considered the comments received from IRRC, the Committees and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), these final-form regulations were approved by the House Committee on January 15, 2002, and deemed approved by the Senate Committee on January 16, 2002. Under section 5.1(e) of the Regulatory Review Act, IRRC met on January 24, 2002, and approved the final-form regulations.

Contact Person

Questions regarding these final-form regulations may be submitted to Robert F. Hussar, Regulatory Coordinator, Office of Program Management, Department of Aging, 555 Walnut Street, 5th Floor, Harrisburg, PA 17101-1919, (717) 783-6207. Persons with disabilities may submit questions in alternative formats such as audio tape, Braille or by using V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

Findings

The Department finds that:

(1) Public notice of intention to adopt the final-form regulations adopted 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) A public comment period was provided as required by law and all comments were considered.

(3) The adoption of final-form regulations in the manner provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The regulations of the Department, 6 Pa. Code Chapter 15, are amended by amending §§ 15.1, 15.2, 15.11—15.13, 15.21—15.27, 15.41—15.46, 15.61, 15.62, 15.71, 15.81, 15.82, 15.91—15.96, 15.102, 15.103, 15.105, 15.111—15.113, 15.121—15.123 and 15.127; by deleting § 15.131; and by adding §§ 15.141—15.147, 15.151—15.159 and 15.161 to read as set forth in Annex A.

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

(c) The Secretary shall submit this order and Annex A to IRRC, the House Committee on Aging and Youth and the Senate Committee on Aging and Youth for their review and action as required by law.

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

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

RICHARD BROWDIE,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this order, see 32 Pa.B. 848 (February 9, 2002).)

Fiscal Note: 1-17. (1) General Fund;

		<i>Department of Aging General Government Operations</i>
	<i>State Police—General Government Operations</i>	
(2)	Implementing Year 2001-02 is \$285,803	\$99,117
(3)	1st Succeeding Year 2002-03 is \$293,495	\$101,785
	2nd Succeeding Year 2003-04 is \$301,930	\$104,710
	3rd Succeeding Year 2004-05 is \$310,662	\$107,738
	4th Succeeding Year 2005-06 is \$319,640	\$110,850
	5th Succeeding Year 2006-07 is \$328,875	\$114,055
		<i>Department of Aging General Government Operations (Lottery Fund in 1998-99)</i>
(4)	2000-01 Program—\$136,043,000	\$16.389 million
	1999-00 Program—\$129,433,000	\$15.388 million
	1998-99 Program—\$124,980,000	\$4.764 million
(8)	recommends adoption.	

Annex A

TITLE 6. AGING

PART I. DEPARTMENT OF AGING

CHAPTER 15. PROTECTIVE SERVICES FOR OLDER ADULTS

GENERAL PROVISIONS

§ 15.1. Scope and authority.

(a) This chapter governs the administration and provision of protective services for older adults under the act, the mandatory reporting of the abuse of recipients of care and required criminal history record information reports for applicants, employees and administrators of facilities.

(b) This chapter applies to the Department, area agencies on aging, providers of protective services for older adults, parties to the making and investigation of reports of a need for protective services by older adults, subjects of reports and investigations and the facilities defined in this chapter.

(c) The Department will enforce this chapter and maintain responsibility for future revisions as the continuing operation of the program requires.

§ 15.2. Definitions.

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

Abandonment—The desertion of an older adult by a caretaker.

Abuse—

(i) The occurrence of one or more of the following acts:

(A) The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.

(B) The willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health.

(C) Sexual harassment, rape or abuse, as defined in 23 Pa.C.S. Chapter 61 (relating to Protection From Abuse Act).

(ii) No older adult will be found to be abused solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.

Act—The Older Adults Protective Services Act (35 P. S. §§ 10225.101—10225.5102).

Administrator—The person responsible for the administration of a facility. The term includes a person responsible for employment decisions or an independent contractor.

Agency—The local provider of protective services, which is the area agency on aging or the agency designated by the area agency on aging to provide protective services in the area agency's planning and service area.

Applicant—An individual who submits an application, which is being considered for employment, to a facility.

Area agency on aging—The single local agency designated within a planning and service area by the Department to develop and administer the delivery of a comprehensive and coordinated plan of social services and activities for older adults.

Assessment—A determination based upon a comprehensive review of a client's social, physical and psychological status along with a description of the person's current resources and needs using the instruments and procedures established by the Department for this purpose.

Care—Services provided to meet a person's need for personal care or health care.

(i) Services may include homemaker services, assistance with activities of daily living, physical therapy, occupational therapy, speech therapy, social services, home-care aide services, companion-care services, private duty nursing services, respiratory therapy, intravenous therapy, in-home dialysis and durable medical equipment services, which are routinely provided unsupervised and which require interaction with the care-dependent person.

(ii) The term does not include durable medical equipment delivery.

Care-dependent individual—An adult who, due to physical or cognitive disability or impairment, requires assistance to meet needs for food, shelter, clothing, personal care or health care.

Caretaker—An individual or institution that has assumed the responsibility for the provision of care needed to maintain the physical or mental health of an older adult. This responsibility may arise voluntarily, by contract, by receipt of payment for care, as a result of family relationship or by order of a court of competent jurisdiction. It is not the intent of the act to impose responsibility on an individual if the responsibility would not otherwise exist in law.

Case file, case record or record—A complete record of the information received and the actions taken by the agency on each report of need received. When applicable, it shall include the following elements:

- (i) The report of need.
- (ii) Records of agency investigative activities including related evidence and testimony.
- (iii) Assessment.

(iv) Documentation of informed consent provided or agency efforts to obtain consent.

(v) Notifications of older adults, alleged perpetrators, police, agencies, organizations and individuals.

(vi) Records of court, intervention, petition or action.

(vii) Service plan.

Conflict of interest—The conflict which may exist when the investigator of a report of the need for protective services has a personal or financial interest in, is responsible for, or is employed by others responsible for, the delivery of services which may be needed by an older adult to reduce or eliminate the need for protective services. A conflict of interest may also exist if an investigator has a specific personal or financial motivation to recommend services delivered by a specific agency or to allow referrals or case dispositions to be inappropriately influenced by the investigator's knowledge of agency staff, resource limitations or by agency constraints which affect agency staff or resource allocations.

Consumer attendant—An individual who is recruited, hired, trained, directed and supervised by the consumer for whom personal care services and other support activities are being provided.

Court—A court of common pleas or a district magistrate, if applicable.

Criminal history report—

(i) For an applicant or employee who is a resident of this Commonwealth, a State Police criminal history record.

(ii) For a nonresident applicant or employee, a State Police criminal history record and a Federal criminal history record.

Department—The Department of Aging of the Commonwealth.

Desertion—The willful failure without just cause by the responsible caretaker to provide for the care and protection of an older adult who is in need of protective services.

Direct contact—Touching of a recipient by an employee consistent with the professional responsibilities of the employee.

Employee—Includes the following:

(i) An individual who is employed by a facility.

(ii) A facility contract employee who has direct contact with residents or unsupervised access to their living quarters.

(iii) An individual who is employed by, or who enters into a contractual relationship with, or who establishes any other agreement or arrangement with a home health care agency to provide care to a care-dependent person for a fee, stipend or monetary consideration of any kind in the person's place of residence.

(iv) A student doing an internship or clinical rotation, or any other individual, who has been granted access to the facility to perform a clinical service for a fee.

(v) An individual, employed by an entity which supplies, arranges for, or refers personnel to provide care to care-dependent persons, who is employed to provide care to care-dependent persons in facilities or their places of residence.

Exploitation—An act or course of conduct by a caretaker or other person against an older adult or an older

adult's resources, without the informed consent of the older adult or with consent obtained through misrepresentation, coercion or threats of force, that results in monetary, personal or other benefit, gain or profit for the perpetrator or monetary or personal loss to the older adult.

Facility—Any of the following:

(i) A domiciliary care home as defined in sections 2201-A—2212-A of The Administrative Code of 1929 (71 P. S. §§ 581-1—581-12).

(ii) A home health care agency.

(iii) A long-term care nursing facility as defined in the Health Care Facilities Act (35 P. S. §§ 448.101—448.904b).

(iv) An older adult daily living center as defined in the Older Adult Daily Living Centers Licensing Act (62 P. S. §§ 1511.1—1511.22).

(v) A personal care home as defined in section 1001 of the Public Welfare Code (62 P. S. § 1001).

Federal criminal history record—A report of Federal criminal history record information under the Federal Bureau of Investigation's appropriation under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (28 U.S.C.A. § 534).

Home health care agency—

(i) Any of the following:

(A) A home health care organization or agency licensed by the Department of Health.

(B) A public or private agency or organization, or part of an agency or organization, which provides care to a care-dependent individual in the individual's place of residence.

(ii) The term includes private duty home care providers, homemaker/home health aide providers, companion care providers, registry services or intravenous therapy providers.

Incapacitated older adult—An older adult who, because of one or more functional limitations, needs the assistance of another person to perform or obtain services necessary to maintain physical or mental health. The definition of capacity or incapacity or competence or incompetence, as defined in 20 Pa.C.S. §§ 5501—5555 (relating to guardianship), does not apply to this definition.

Informed consent—Consent obtained for a proposed course of protective service provision. The consent shall be based on a reasonable attempt to provide information which conveys, at a minimum, the risks, alternatives and outcomes of the various modes of protective service provision available under the circumstances.

Intimidation—An act or omission by a person or entity toward another person which is intended to, or with knowledge that the act or omission will, obstruct, impede, impair, prevent or interfere with the administration of the act or any law intended to protect older adults from mistreatment.

Investigation—A systematic inquiry conducted by the agency to determine if allegations made in a report of need for protective services can be substantiated, or if the older adult referred to in the report of need is an older adult in need of protective services, or both.

Law enforcement official—One of the following:

(i) A police officer.

(ii) A district attorney.

(iii) The State Police.

Least restrictive alternative—The appropriate course of action on behalf of the older adult which least intrudes upon the personal autonomy, rights and liberties of the older adult in circumstances when an older adult lacks the capacity to decide on matters and take actions essential to maintaining physical and mental health.

Neglect—The failure to provide for oneself or the failure of a caretaker to provide goods or services essential to avoid a clear and serious threat to physical or mental health. An older adult who does not consent to the provision of protective services will not be found to be neglected solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.

Older adult—A person within the jurisdiction of this Commonwealth who is 60 years of age or older.

Older adult in need of protective services—An incapacitated older adult who is unable to perform or obtain services that are necessary to maintain physical or mental health, for which there is no responsible caretaker and who is at imminent risk of danger to his person or property.

Operator—A person, society, corporation, governing authority or partnership legally responsible for the administration and operation of a facility. At licensed facilities, the licensee is the operator.

Planning and service area—The geographic unit within this Commonwealth, as designated by the Secretary, for the allocation of funds for the delivery of social services to older adults residing in that unit.

Police department—A public agency of the Commonwealth or of a political subdivision having general police powers and charged with making arrests in connection with the enforcement of the criminal or traffic laws, or both.

Police officer—A full-time or part-time employee of the Commonwealth, a city, borough, town, township or county police department assigned to criminal or traffic or criminal and traffic law enforcement duties. The term does not include persons employed to check parking meters or to perform only administrative duties, auxiliary and fire police.

Protective services—Activities, resources and supports provided to older adults under the act to detect, prevent, reduce or eliminate abuse, neglect, exploitation and abandonment.

Protective services caseworker—A protective services agency employee, regardless of staff title, who meets the minimum standards in §§ 15.121—15.127 (relating to staff training and experience standards) and is assigned by the agency under § 15.13(c) (relating to organization and structure of protective services functions) to perform the following protective services functions:

(i) To receive reports of a need for protective services when necessary.

(ii) To investigate reports received under this chapter.

(iii) To assess the needs of protective services clients under this chapter.

(iv) To develop and coordinate the implementation of service plans for protective services clients.

Protective setting—A setting chosen by the agency where services can be provided in the least restrictive environment to protect the physical and mental well-being of the older adult.

Public or private entitlement or resource—A publicly or privately funded health or human services program available either without charge or on a cost-sharing basis to persons who qualify on the basis of one or more criteria, such as age, need, income or condition.

(i) The term includes various established financial assistance programs under public or private sponsorship.

(ii) The term does not include individual personal income or financial assets.

Recipient—An individual of any age who receives care, services or treatment in or from a facility.

Report or report of need—The written report of an older adult in need of protective services received under § 15.23 (relating to receiving reports; general agency responsibility) and recorded on the standardized protective services report form.

Responsible caretaker—A caretaker who is able and willing to provide the basic care and protection necessary to maintain the physical or mental health of an older adult. A caretaker reported to have abused, neglected, exploited or abandoned an older adult is presumed, subject to an investigation under this chapter, to be unable or unwilling to provide the necessary care and protection.

Secretary—The Secretary of the Department.

Serious bodily injury—Injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ.

Serious physical injury—An injury that does one of the following:

- (i) Causes a person severe pain.
- (ii) Significantly impairs a person's physical functioning, either temporarily or permanently.

Service plan—A written plan developed by the agency on the basis of a comprehensive assessment of an older adult's need which describes identified needs, goals to be achieved and specific services to support goal attainment, with regular follow-up and predetermined reassessment of progress. Specific services to support goal attainment may include homemaker services, home-delivered meals, attendant care, other in-home services, emergency shelter or food, legal aid services, transportation and other services. Service plans are cooperatively developed by the agency staff, the older adult or the older adult's appointed guardian and other family members when appropriate. The plan shall also address, if applicable, special needs of other members of the household unit as they may affect the older adult's need for protective services.

Sexual abuse—Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest.

State-licensed facility—For all purposes involved in the determination of whether an individual is an older adult in need of protective services, a State licensed facility is defined as an institution licensed by the Commonwealth

to provide temporary or permanent residence to persons in need of personal care or medical care, including nursing homes, personal care homes, hospitals, State hospitals and mental retardation centers.

State Police—The Pennsylvania State Police.

State Police criminal history record—A report of criminal history record information from the State Police or a statement from the State Police that their central repository contains no information relating to that person.

Unsupervised access—Access to personal living quarters of residents when not accompanied by or within direct supervision of an employee of the facility.

PROGRAM ADMINISTRATION

§ 15.11. Administrative functions and responsibilities of the Department.

(a) *General responsibilities.* The Department will establish and maintain a Statewide system of protective services for older adults who need them. These services will be available and accessible through local protective services agencies. In maintaining this system of protective services, the Department's functions and responsibilities include the following:

(1) The review and approval of annual protective services plans submitted by area agencies under § 15.12(b) (relating to administrative functions and responsibilities of area agencies on aging).

(2) The allocation of funds appropriated for the implementation of the act to area agencies on aging to administer local protective services plans.

(3) The establishment of minimum standards of training and experience for protective services staff.

(4) The development and maintenance of a fiscal and service data collection system to collect information on local reports of a need for protective services, investigations, services provided and other relevant data on protective services activities.

(5) The monitoring of local protective services delivery for compliance with this chapter and approved area agency on aging protective services plans.

(6) The development and maintenance of an ongoing program of public information and education to promote general awareness of and informed responses to the needs of older adults for protective services available under this chapter.

(7) Ongoing coordination with State agencies.

(b) *Local protective services plans.* The Department will review the annual protective services plan submitted under § 15.12(b) by an area agency on aging and will notify the area agency of approval or disapproval within 60 days.

(c) *Staff training and experience.* The minimum standards of training and experience of protective services staff employed to carry out activities under this chapter are set forth in §§ 15.121—15.127 (relating to staff training and experience standards).

(d) *Public information and education.* The Department will develop and maintain a campaign of public information and education about the needs for and availability of protective services under this chapter. The target of this campaign will be older adults and the general public, as well as professionals and others employed in situations where they are likely to have frequent contact with older adults who need protective services. In designing and

implementing the ongoing public awareness campaign, the Department will consult with other Commonwealth agencies and consider the concerns of area agencies on aging and the local entities identified by area agencies as having substantial contact with potential victims or perpetrators of abuse, neglect, exploitation and abandonment.

§ 15.12. Administrative functions and responsibilities of area agencies on aging.

(a) *General responsibilities.* An area agency on aging shall administer the delivery of protective services under this chapter in its planning and service area. The functions and responsibilities of the area agency on aging in administering protective services include the following:

(1) The development and submission of a protective services plan under subsection (b).

(2) The oversight of the delivery of protective services for older adults, either directly or purchased under contract with another agency, in compliance with the area agency's approved protective services plan, this chapter and other applicable State and Federal regulations or statutes. The plan shall assure that the agency will provide for the receipt of reports of need for protective services, the conduct of investigations of reports, the assessment of need and the development of service plans throughout the period covered by the plan. The plan shall also describe sources for specific services that may be required by older adults who have been assessed as needing them, and policies pertaining to arranging for specific services if and when needs for specific services exceed supply.

(3) The coordination of the protective services related activities of local agencies and organizations having substantial contact with potential victims or perpetrators of abuse, neglect, exploitation and abandonment. These agencies and organizations include the following:

- (i) Local domestic violence agencies.
- (ii) County assistance offices.
- (iii) Local mental health/mental retardation programs.
- (iv) County offices of children and youth.
- (v) Law enforcement agencies.
- (vi) Legal services agencies.
- (vii) Emergency medical service agencies, hospital emergency rooms and social services staff.
- (viii) Home health agencies.
- (ix) Drug and alcohol prevention and treatment organizations.
- (x) Clergy associations and councils of churches.

(4) The local extension of the Department's ongoing campaign of public information and education about the need for, and availability of, protective services for older adults.

(5) The collection and submission to the Department of data on protective services activities. The data shall be recorded and reports submitted as required by the Department. At a minimum, the following information shall be included:

- (i) The number of substantiated and unsubstantiated reports.
- (ii) The number of reports made in various categories of need for protective services, such as physical abuse, financial exploitation, neglect, abandonment and the like.

(iii) The demographic information on persons reported to be in need of protective services and on alleged perpetrators of abuse, neglect, exploitation and abandonment.

- (iv) The origins of reports.
- (v) The remedies and referrals.

(b) *Protective services plan.* The area agency on aging shall submit, on an annual basis, its protective services plan to the Department. The protective services plan shall contain, at a minimum, the following information:

(1) An explanation of the organizational structure and staffing of the area agency's protective services functions, including provisions for purchasing these services if applicable. For the purpose of advising the agency on medically related issues encountered during assessment and the development of service plans, the organizational structure shall include the consultation services of a registered nurse or physician licensed to practice in this Commonwealth.

(2) An explanation of how the area agency's organizational structure and staffing of protective services will prevent a conflict of interest between the investigation of reports received under this chapter and the area agency's service delivery functions. The explanation shall include assurances that the minimum criteria required under § 15.13 (relating to organization and structure of protective services functions) will be met.

(3) A description of the local process for delivering protective services to older adults who need them, including the 24-hour capability to receive reports, the investigation of reports and the necessary actions arising from investigations. The description shall focus on the specific local methodology to be implemented in activities for which this chapter allows for local differences and flexibility. The description of the plan for investigating reports shall include an explanation of steps to be taken to assure the standby capability required under § 15.41(c) (relating to reports required to be investigated). The description of the plan for seeking emergency court orders shall include the agency's identification of the providers of legal assistance who may be notified under § 15.71(b) (relating to involuntary intervention by emergency court order) when the agency petitions the court for emergency involuntary intervention.

(4) A description of local funding for protective services which has, at the discretion of a county or local agency, been placed under the administrative control of the area agency on aging. There is no requirement by the Department that the area agency on aging obtain local funding for its protective services plan budget.

(5) Documentation of applicable interagency relations, interagency agreements, service referral mechanisms and the locus of responsibility for cases with multi-service needs. The documentation shall include assurances that the area agency on aging has taken steps to avoid unnecessary duplication of existing efforts by other agencies which may carry responsibilities for some protective services activities.

(6) A description of local methods to be used to assure the privacy and confidentiality of older adults receiving protective services as required under §§ 15.101—15.105 (relating to confidentiality).

(7) A list of the entities, public and private, identified by the area agency on aging as having substantial contact with potential victims or perpetrators of abuse, neglect, exploitation and abandonment.

(c) *Public awareness.* The area agency on aging shall conduct within its planning and service area an ongoing campaign designed to inform and educate older adults, professionals and the general public about the need for and availability of protective services under this chapter. This ongoing campaign shall utilize materials and methodology developed by the Department and supplemented by the area agency with relevant information on the local protective services system. Special emphasis shall be placed on informing the community on how to make reports and request services.

(d) *Department approval required.* An area agency on aging, which has not received the Department's approval for its protective services plan may not provide services under this chapter.

§ 15.13. Organization and structure of protective services functions.

(a) *General organization.* The area agency on aging may provide protective services directly or under a purchase of services contract with another provider agency. In either case, the area agency on aging is responsible for the compliance of protective services activities with this chapter. The area agency on aging shall assure that the agency meets the minimum standards of organization and structure set forth in this section.

(b) *Protective services caseworkers.*

(1) The agency shall designate as a protective services caseworker at least one caseworker who meets the minimum standards in §§ 15.121—15.127 (relating to staff training and experience standards).

(2) The agency shall assign protective services cases to designated protective services caseworkers by allocating the anticipated agency caseload in a manner consistent with the agency's plan for caseload distribution.

(3) The agency's plan for caseload distribution shall be described in the agency's protective services plan and shall include the following specific information:

(i) The rationale for the proposed caseload distribution.

(ii) How the subset of workers will be defined and selected, including an estimate of the anticipated caseload size to be assigned to each designated protective services caseworker.

(iii) How the cases within a designated protective services caseworker's caseload will be prioritized.

(iv) How that prioritization system will be maintained.

(v) How the agency will develop and maintain the necessary specialized expertise required to fulfill protective services responsibilities.

(4) A protective services caseworker may not serve as the area agency on aging ombudsman on the same case.

(5) The protective services caseload assigned to a protective services caseworker may not be planned to exceed 30 ongoing protective services cases.

(6) The case assignment system of the agency shall encourage the appropriate transfer of cases into and out of protective services caseloads as provided under § 15.96 (relating to termination of protective services).

(c) *Other staff.* The immediate supervisor of a protective services caseworker is required to be trained as set forth in §§ 15.121—15.127. An intake worker of the agency is permitted to discharge nonprotective service

duties. An intake worker who receives a report of the need for protective services shall receive training as set forth in §§ 15.121—15.127.

(d) *Conflict of interest.* The area agency on aging shall describe in its protective services plan the steps it will take to avoid or minimize the potential of a conflict of interest between the investigative and service delivery functions in the protective services caseload. The description shall identify points in the organization and structure of protective services delivery where a potential conflict of interest may exist and explain the specific organizational responses which the area agency on aging will make to avoid or minimize that potential. The responses may include provisions for assuring some separation between the investigative and service delivery functions. The description shall also include proposed steps for addressing an actual conflict of interest if one arises. Nothing in this chapter constitutes an absolute bar to an area agency from delivering protective services and other area agency on aging services itself or through the same provider solely because of the potential existence of a conflict of interest.

(e) *Depth of agency capacity.* The agency shall require sufficient staff of all categories to be trained under §§ 15.121—15.127 to insure that routine staff absences will not compromise the agency's ability to fulfill its responsibilities under the act. Trained standby staff members shall be available to provide protective services as required, but are not required to be regularly assigned to protective services duties.

REPORTING SUSPECTED ABUSE, NEGLECT, ABANDONMENT OR EXPLOITATION

§ 15.21. General reporting provisions.

(a) A person who has reasonable cause to believe that an older adult needs protective services may report this to the local provider of protective services. An area agency on aging shall publicize, on an ongoing basis, the name, address and phone number of the agency when reports are to be made.

(b) When applicable, reports shall comply with §§ 15.151—15.157 (relating to reporting suspected abuse).

§ 15.22. Safeguards for those who make or receive reports.

(a) *Protection from retaliation.* Under the act, a person or entity who takes discriminatory, retaliatory or disciplinary action against an employee or other person who makes a report, against a person who cooperates with the agency or the Department to provide testimony or other information about a report, or against a victim of abuse, commits a violation of the act. The person who takes the discriminatory, retaliatory or disciplinary action is subject to a civil lawsuit by the person who made the report, the victim of abuse named in the report, or the person who cooperated with the agency or the Department. If the court which hears the lawsuit decides in favor of the plaintiff, the plaintiff shall recover triple compensatory damages, compensatory and punitive damages or \$5,000, whichever is greater, from the person or entity which committed the violation.

(b) *Immunity from liability.* As provided under the act, a person who participates in the making of a report or completion of an investigation or who provides testimony in an administrative or judicial proceeding arising out of a report shall be immune from civil or criminal liability because of these actions unless the person acted in bad

faith or with malicious purpose. The act does not extend this immunity to liability for acts of abuse, neglect, exploitation or abandonment, even if the acts are the subject of the report or testimony.

(c) *Intimidation; penalty.* Any person, including the victim, with knowledge sufficient to justify making a report or cooperating with the agency, including possibly providing testimony in any administrative or judicial proceeding, shall be free from any intimidation by an employer or by any other person or entity. Any person who violates this subsection is subject to civil lawsuit by the person intimidated or the victim wherein the person intimidated or the victim shall recover treble compensatory damages, compensatory and punitive damages or \$5,000, whichever is greater.

(d) *Notification.* The administrator of a facility shall post notices in conspicuous and accessible locations and use other appropriate means to notify employees, residents and other individuals of protections and obligations under the act, and keep them informed of the protections and obligations.

§ 15.23. Receiving reports; general agency responsibility.

(a) *Twenty-four hour capability.* The agency shall be capable of receiving reports of older adults in need of protective services 24-hours-a-day, 7 days-a-week—including holidays. This capability may include the use of a local emergency response system or a crisis intervention agency.

(b) *Accessibility of professional staff.* Regardless of the arrangements made by the agency to receive reports outside the normal business hours of the agency, the agency shall provide 24-hours-a-day, 7 days-a-week—including holidays—accessibility to a protective services caseworker by a person receiving reports so that referrals required under § 15.26(b) (relating to screening and referral of reports received) may be made for immediate attention. If this accessibility is provided by means of telephone, telephone paging device or other alternatives to direct physical presence, the protective services caseworker shall be capable of returning the call within 30 minutes.

(c) *Toll-free public telephone access.* To facilitate reporting of older adults in need of protective services, the agency shall provide toll-free telephone access to persons residing in the planning and service area served by the agency. If possible, the agency shall utilize the same telephone number everywhere in the planning and service area at all times. This number shall be extensively publicized throughout the planning and service area with special emphasis on older adults and persons likely to be in contact with victims or perpetrators of abuse, neglect, exploitation and abandonment.

(d) *Reports from outside the planning and service area.* The agency shall receive all reports made regardless of their place of origin or the location in this Commonwealth of the older adult in need of protective services. If the older adult who is the subject of a report does not reside in the planning and service area of the agency or, at that time, is not in the planning and service area, the agency shall notify the agency which provides protective services in the planning and service area where the older adult is located and relay to that agency the information received in the report.

§ 15.24. Receiving reports; agency intake process.

(a) *Personnel who may receive reports.* A report shall be received only by persons who have received training on

the minimum requirements and procedures for receiving, recording, screening and referring reports under § 15.124 (relating to protective services intake training curriculum). When the agency uses an answering service to receive calls from persons reporting a need for protective services, the agency shall have one of the following options:

(1) To provide the training for intake workers required under § 15.124 to appropriate staff of the answering service organization.

(2) To provide that all calls are forwarded directly to designated protective services intake workers or caseworkers of the agency for completion of a report of need form.

(b) *Anonymity for reporters.* A person who reports an older adult in need of protective services may remain anonymous, if desired. In an attempt to secure the reporter's name if additional information or assistance is needed for investigation or service provision, a person who receives a report shall inform an anonymous reporter of the statutory protection from retaliation and liability.

§ 15.25. Report form and content.

(a) *Standardized reports.* An initial report received shall be committed to writing on the standardized report form required by the Department. Information subsequently obtained through investigations may be reported on other forms or sheets of paper for inclusion in the case record.

(b) *Handling oral reports.* A report may be received in writing or orally. A report received orally shall be committed immediately to writing on the standardized form.

(c) *Minimum contents.* The person receiving a report shall make every effort to obtain information necessary to complete the standardized report form. At a minimum, the completed report shall contain the following information:

(1) The date and time of the report.

(2) The name, address and phone number of the person making the report, unless withheld.

(3) The name, address and, if available, age and phone number of the person reported to need protective services.

(4) The nature of the incident which precipitated the report.

(5) The nature and extent of the need for protective services. Indicate if the person is in a life threatening situation.

(6) The physical and mental status of the person in need, to the extent obtainable.

§ 15.26. Screening and referral of reports received.

(a) *Screening.* A person meeting the qualifications in § 15.121(c)(3) (relating to protective services staff qualifications) who receives a report shall screen the report during and immediately following receipt of the report to assign it to one of the following referral categories:

(1) Emergency.

(2) Priority.

(3) Nonpriority.

(4) Another planning and service area.

(5) No need for protective services.

(b) *Referral categories and actions.*

(1) *Emergency.* A report placed in this category requires immediate attention because specific details in the report indicate the possibility that the older adult reported to need protective services is at imminent risk of death or serious physical harm. The person receiving an emergency report shall immediately contact a protective services caseworker designated under § 15.23(b) (relating to receiving reports; general agency responsibility) and provide that caseworker with the information contained in the report.

(2) *Priority.* A report placed in this category contains details which clearly suggest that the need for protective services is serious enough to require early intervention. The person receiving a priority report shall immediately contact a protective services caseworker designated under § 15.23(b) and provide that caseworker with the information in the report.

(3) *Nonpriority.* A report shall be placed in this category when it does not appropriately fall within the emergency or priority categories and, therefore, does not require immediate attention by the agency. A report in this category shall be referred to a protective services caseworker of the agency within the normal business hours of the agency's current or next day of business under the agency's established procedures for referring these reports.

(4) *Another planning and service area.* A report which is covered under § 15.23(d) shall be placed in this category. It shall be referred to the agency which has the designated responsibility for protective services in the planning and service area in which the older adult reported to need protective services is located at the time of the report. A report in this category will also meet the criteria for placement in one of the other categories in this subsection. The provisions for referral for the other category shall apply to a referral to another planning and service area.

(5) *No need for protective services.*

(i) A report shall be placed in this category when the person reported to be in need of protective services meets one or more of the following criteria:

(A) Is under 60 years of age.

(B) Has the capacity to perform or obtain, without help, services necessary to maintain physical or mental health.

(C) Has a responsible caretaker at the time of the report.

(D) Is not at imminent risk of danger to his person or property.

(ii) A report in this category shall be referred to a protective services caseworker of the agency within the normal business hours of the agency's current or next day of business. The protective services caseworker shall review the details of the report and take whatever steps necessary to confirm or reject the categorization of no need for protective services. If the caseworker confirms the screening categorization, appropriate referrals shall be made to the area agency on aging care management system or, if concerning an adult under 60 years of age, to another community agency. If the caseworker rejects the categorization, the report shall be placed in the appropriate category and be handled accordingly.

(iii) A report may not be placed in this category if the older adult is temporarily relocated to a safe environment

and will return to the original abusive situation or to a new location which has not been determined to be safe.

§ 15.27. Handling of completed reports.

(a) *Reports to be signed.* Completed report forms shall be signed by the person who received the report.

(b) *Appropriate routing of reports.* A completed report form shall be promptly routed to appropriate staff of the agency under § 15.26(b) (relating to screening and referral of reports received), and shall be handled in a manner which safeguards the confidentiality of information contained in the report. Sections 15.103 and 15.104 (relating to responsibilities of staff with access to confidential information; and penalties for violation of confidentiality requirements) also apply to staff of an emergency response agency under contract with the agency to receive reports during times when the agency is not open for business.

(c) *State licensed facility.* A report involving a State-licensed facility, and containing sufficient information to begin an investigation, shall be provided to the appropriate State licensing agency.

INVESTIGATING REPORTS OF NEED FOR PROTECTIVE SERVICES

§ 15.41. Reports required to be investigated.

(a) *General.* The agency shall provide for an investigation of a report received under § 15.23 (relating to receiving reports; general agency responsibility) and referred under § 15.26 (relating to screening and referral of reports received) to determine if the report can be substantiated and, if so, immediate steps that are necessary to remove or reduce an imminent risk to person or property. The investigation shall be initiated within 72 hours following the receipt of a report or sooner as provided under § 15.42 (relating to standards for initiating and conducting investigations) and include sufficient collateral information provided by interviews, documents, reports or other methods to determine if the older adult is in need of protective services. When applicable, reports and investigations shall comply with §§ 15.141—15.147 (relating to criminal history record information reports).

(b) *Trained and identified investigators.* Only a person who has completed the minimum training required for protective services caseworkers by the Department under § 15.121—15.127 (relating to staff training and experience standards) may conduct investigations under this section. When, for reasons unexpected and beyond the agency's control, a trained staff person is not available to conduct investigations, the agency shall notify the Department and seek the Department's approval for its proposed plan for carrying out its investigation responsibilities under this section. The agency shall provide each investigator with official credentials which document the identity of the investigator and the legal authority to implement this chapter.

(c) *Agency responsibility.* The agency is responsible for assuring that an investigation under this section can be conducted whenever circumstances require it. This responsibility includes the provision of standby capability for use if the agency's regularly assigned staff is not available.

§ 15.42. Standards for initiating and conducting investigations.

(a) *Requirements by report category.*

(1) *Emergency report.*

(i) The investigation of a report categorized as emergency shall be initiated immediately following the referral of the report. The protective services caseworker shall make every attempt to ensure the immediate safety of the older adult and to conduct a face to face visit as soon as possible. The agency shall assure that reasonable attempts will be made to conduct a face to face visit within 24 hours after the report is received.

(ii) When, after reasonable efforts to gain access to the older adult, the protective services caseworker is denied access, the caseworker shall document the efforts made and take action, as appropriate, under § 15.61 or § 15.71 (relating to access to persons; and involuntary intervention by emergency court order).

(2) *Priority report.* The investigation of a report categorized as priority shall be initiated as soon as possible. The agency shall assure that reasonable attempts to initiate the investigation will be made within 24 hours after the report is received. The investigation of a priority report is initiated only by contact with the older adult reported to need protective services. The protective services caseworker shall make every attempt to visit with the older adult face to face within the 24 hours provided. When, after reasonable efforts to gain access to the older adult, the caseworker is denied access, the caseworker shall document the efforts made and take action, as appropriate, under § 15.61 or § 15.71.

(3) *Nonpriority report.*

(i) The investigation of a report categorized as nonpriority shall be initiated in a timely manner but never later than 72 hours after the report was received. At the discretion of the agency, the initiation of an investigation of a nonpriority report shall include a visit to the older adult reported to need protective services when details in the report indicate a need to see and talk with the older adult face to face to secure or verify facts essential to the ongoing investigation.

(ii) The investigation of a report categorized as nonpriority shall include at least one visit to the older adult reported to need protective services at an appropriate point in the course of the investigation. Every attempt shall be made to visit with the older adult face to face. When, after reasonable efforts to gain access to the older adult, the protective services caseworker is denied access, the caseworker shall document the efforts made and, when appropriate, take action under § 15.61 or § 15.71.

(4) *No need report.* The investigation of a report categorized as no need for protective services shall consist of the protective services caseworker's review of the report categorization. If the caseworker agrees with the initial categorization, appropriate referrals shall be made within 72 hours after the report was received, to the area agency on aging service management system or, if concerning an adult under 60 years of age to another community agency, if available. If the caseworker does not agree with the initial categorization, the report shall be placed in another category in this subsection and addressed under the applicable provisions for investigating a report in that category.

(b) *Reports involving county or area agency on aging employees.* If the agency is required to investigate a report which alleges that abuse, neglect, exploitation or abandonment has been perpetrated by an employee of the county, the area agency on aging or its subcontractor, the agency shall notify the Department as early as possible during the current or next day of normal business hours. The notification shall be made by phone to a person

designated by the Department and shall include the pertinent details of the report. A copy of the completed report of need shall be immediately forwarded by mail to the Department. Copies of written records of investigative activities shall also be forwarded to the Department for review. The Department reserves the right to intervene in the agency's investigation of a report under this subsection if it is determined appropriate to assure a fully objective investigation.

(c) *Written records of investigative activities.* The investigative activities, including home visits and other contacts with the older adult or other persons or organizations needed to facilitate the investigation, shall be documented in writing and placed in the case record. Documentation may include dated and signed photographs and statements related to suspected abuse.

(d) *Completing investigations of reports.* The agency shall make all reasonable efforts to complete an investigation of a report of need for protective services under this section as soon as possible and, in cases of abuse and neglect, at least within 20 days of the receipt of the report. The investigation of the report is completed only when the report has been determined to be substantiated or unsubstantiated and, if substantiated, after necessary steps have been taken to reduce an imminent risk to the older adult's person or property.

(e) *Department conducting its own investigation.* If the Department determines that an agency is unable to conduct, or has not conducted, what the Department considers an acceptable protective services investigation, the Department may intervene in the agency's investigation, or conduct its own investigation.

§ 15.43. Resolution of unsubstantiated reports.

(a) When, upon investigation of a report, it is determined that there is no need for protective services, the report shall be classified as unsubstantiated.

(b) A case opened by an unsubstantiated report shall be closed and information identifying the person who made the report and the alleged perpetrator of abuse, if applicable, shall be immediately deleted from the case record.

(c) For the purposes of substantiating a pattern of abuse, neglect, exploitation or abandonment, the name of the person reported to need protective services and other information relevant to the circumstances which led to the report may be maintained for 6 months in a separate locked file accessible only to limited authorized staff for review when it is necessary to establish that a previous report was made. At the end of 6 months, case records maintained under this subsection shall be destroyed unless additional reports lead to their being reopened.

(d) When an older adult who is the subject of an unsubstantiated report has needs for other services, the older adult shall be informed of the availability of services through the area agency on aging service management system or another appropriate community agency.

§ 15.44. Resolution of substantiated reports.

(a) When an investigation confirms the details of a report made under § 15.23 (relating to receiving reports; general agency responsibility) or determines that the subject of the report is an older adult in need of protective services, the report shall be classified as substantiated.

(b) The agency shall provide for a timely assessment of the need for protective services by the older adult who is

the subject of a substantiated report if the older adult gives informed consent to an assessment. If an older adult found to need protective services does not consent to an assessment, the agency may seek, when appropriate, a court order under § 15.61 (relating to access to persons).

(c) On the basis of the assessment, the agency shall provide for the development of a service plan of recommended actions which reflect the least restrictive alternatives for removing or reducing imminent risk to person or property and promote self-determination and continuity of care being provided at the time of the agency's intervention. The service plan may include, when appropriate, the pursuit of civil or criminal remedies.

(d) Developed service plans shall be put into effect under § 15.94 (relating to service delivery).

§ 15.45. Situations involving State-licensed facilities.

(a) *General.* The following apply to investigations of reports concerning older adults who reside in State-licensed facilities:

(1) The agency continues to maintain its general responsibility for protective services when a licensing agency assumes the role of investigating a report received by the agency.

(2) The response times provided in § 15.42(a) (relating to standards for initiating and conducting investigations) for initiating investigations of reports apply to initiating investigations of reports under this section. The initiation of the investigation under subsection (c) is accomplished by the referral of the report to the appropriate administrative office.

(3) The supervisor of a protective services caseworker who initiates an investigation under this section shall be informed during the current day or next day of normal agency operating hours concerning the report and shall consult frequently with the caseworker about the progress and findings of the investigation.

(4) The agency shall notify the area agency on aging ombudsman of reports and investigations concerning older adults residing in State licensed facilities for which the area agency on aging provides ombudsman services. In situations that ombudsman services, as established by section 712(g) of the Older Americans Act of 1965 (42 U.S.C.A. § 3058g) and section 2207-A of The Administrative Code of 1929 (71 P. S. § 581-7(d)), are determined to be appropriate, the agency shall request those services from the ombudsman.

(b) *Agency coordination with the licensing agency.*

(1) Except as provided under subsection (c), the agency shall notify the appropriate licensing agency under procedures developed by the Department, in consultation with the licensing agency

(i) Notification shall identify the facility, the older adult and the nature of the report.

(ii) Notification shall be made immediately by telephone or facsimile to the appropriate field office of the Department of Health that an investigation has been initiated in a facility licensed by the Department of Health.

(iii) Notification shall be made immediately by telephone or facsimile to the appropriate field office or central office of the Department of Public Welfare that an investigation has been initiated in a facility licensed by the Department of Public Welfare.

(2) During the course of the investigation, the agency shall coordinate its investigative activities and findings with the licensing agency to avoid duplication of effort and to foster jointly developed remedies to situations requiring protective services intervention.

(c) *State-operated mental health and mental retardation facilities.* If the agency receives a report concerning an older adult who resides in a facility operated by the Department of Public Welfare under its Office of Mental Health or its Office of Mental Retardation, the agency shall provide for an investigation of that report as follows:

(1) The protective services caseworker or investigator to whom the report is referred shall initiate the investigation by referring the report to the appropriate administrative office under procedures jointly developed by the Department and the Department of Public Welfare for investigation under their patient rights program. The jointly developed procedures provide for specific points of contact between the agency and the Department of Public Welfare and establish a system which assures that the agency will be kept fully informed of the activities, findings and results of investigations through written records of the investigative activities and remedial actions as they develop.

(2) The agency shall closely monitor an investigation referred under paragraph (1) to determine that the investigation is effectively implemented and that appropriate remedies have been effected to correct the situation which led to the making of the report. The referral of an investigation to the Office of Mental Health or Office of Mental Retardation does not relieve the agency of its mandated authority and responsibility to provide protective services. If the agency determines that an older adult's need for protective services is not adequately being met under paragraph (1), the agency shall intervene and conduct its own investigation.

§ 15.46. Law enforcement agencies as available resources.

(a) *General.* This chapter may not be interpreted to deny an older adult who needs protective services access to the normal protections available from the police and other law enforcement agencies as appropriate.

(b) *Interagency coordination.* To facilitate the cooperation of law enforcement officials with the provision of protective services when necessary, the agency shall fulfill the following minimum coordinating activities:

(1) Achieve specific coordination objectives with:

(i) Police departments in the planning and service area.

(ii) The district attorney's office.

(iii) State Police field installations for the planning and service area.

(iv) Officials of the court system.

(v) Legal assistance agencies.

(2) Establish designated points of contact with law enforcement agencies to facilitate access when necessary.

(3) Establish basic procedures to be followed when the agency makes reports of criminal conduct or requests for special assistance to law enforcement agencies and when the law enforcement agencies report the need for protective services to the agency.

(4) Provide for the necessary exchange of information about protective services for older adults and the role of law enforcement in the provision of those services.

(c) *The role of law enforcement in protective services.* The agency's protective services workers shall receive training as required under §§ 15.121—15.127 (relating to staff training and experience standards) in applicable sections of the criminal code and the role of law enforcement officials when criminal conduct is encountered or suspected.

(d) *Legal options information.* The agency shall take steps to inform older adults who need protective services of the various legal options, civil or criminal, available through appropriate agencies as possible remedies to situations of risk to person or property. If an older adult reported to need protective services requests the agency to contact a law enforcement agency, the agency shall respond to that request in an appropriate and timely manner.

(e) *Police assistance to protective services worker.* A protective services worker may, as appropriate, request the assistance of a police officer when investigating a report which indicates a possible danger to the worker. As provided under § 15.74 (relating to forcible entry), forcible entry may be made only by a police officer or State Trooper accompanied by a representative of the agency after obtaining a court order.

(f) *Simultaneous investigation.* When both a report of need for protective services and a police report have been filed, the protective services investigation shall continue simultaneously with the police investigation. The agency may take steps to coordinate its investigation with the police investigation and the investigation of the State licensing agency and shall make available as provided under § 15.105 (relating to limited access to records and disclosure of information) relevant information from the case record.

(g) *Report of death.* If the death of an older adult reported to need protective services occurs prior to the agency's investigation of the report, during the investigation or at any time prior to the closure of the protective services case, when there is some nexus between the death and the need for protective services, the agency shall immediately report that death to the police and the county coroner.

§ 15.47. Emergency medical services as available resources.

This chapter may not be interpreted to deny an older adult who needs protective services access to the normal protections of the emergency medical services that would be available to anyone, regardless of age, in similar circumstances.

AGENCY ACCESS TO OLDER ADULTS AND RECORDS

§ 15.61. Access to older adults.

(a) *Access assured by law.* The agency shall have access to older adults who have been reported to need protective services to:

- (1) Investigate reports received under this chapter.
- (2) Assess the older adult's need and develop a service plan for addressing determined needs.
- (3) Provide for the delivery of services by the agency or other service provider arranged for under the service plan developed by the agency.

(b) *Access to older adults.* Except in emergency or priority protective services cases, access to older adults shall be between the hours of 7 a.m. and 9 p.m.

(c) *When access is denied.* If the agency is denied access to an older adult reported to need protective services and access is necessary to complete the investigation or the assessment and service plan, or the delivery of needed services to prevent further abuse, neglect, exploitation or abandonment of the older adult reported to need protective services, the protective services caseworker shall make reasonable efforts to clearly inform the party denying access of the legal authority for access in section 304 of the act (35 P. S. § 10225.304) and the available recourse through a court order. If the party continues to deny the agency access to the older adult, the agency may petition the court for an order to require the appropriate access when one of the following conditions applies:

- (1) The caretaker or a third party has interfered with the completion of the investigation, the assessment and service plan or the delivery of services.
- (2) The agency can demonstrate that the older adult reported to need protective services is denying access because of coercion, extortion or justifiable fear of future abuse, neglect, or exploitation or abandonment.

§ 15.62. Access to records.

(a) *Access assured by law.* The agency shall have access to records relevant to:

- (1) Investigations of reports received under this chapter.
- (2) The assessment of need and the development of a service plan when an older adult's need for protective services has been or is being established.
- (3) The delivery of services arranged for under the service plan developed by the agency to respond to an older adult's assessed need for specific services.

(b) *Access to records.* Except in emergency or priority protective services cases, access to records shall be between the hours of 7 a.m. and 9 p.m.

(c) *When access to records is denied.* If the agency is denied access to records necessary for the completion of a proper investigation of a report or an assessment and service plan, or the delivery of needed services to prevent further abuse, neglect, exploitation or abandonment of the older adult reported to need protective services, the protective services caseworker shall clearly inform the party denying access to the records of the legal authority for access as set forth in section 304 of the act (35 P. S. § 10225.304) by the agency and the available recourse through a court order. If the party continues to deny access to relevant records, the agency may petition the court of common pleas for an order requiring the appropriate access when one of the following conditions applies:

- (1) The older adult has provided written consent for confidential records to be disclosed and the keeper of the records denies access.
- (2) The agency is able to demonstrate that the older adult is denying access to records because of incompetence, coercion, extortion or justifiable fear of future abuse, neglect, exploitation or abandonment.

§ 15.63. Access by consent.

The agency's access to confidential records held by other agencies or individuals and the agency's access to an older adult reported to need protective services shall require the consent of the older adult or a court-appointed guardian except as provided under § 15.61, § 15.62 or § 15.71 (relating to access to older adults; access to records; and involuntary intervention by emergency court order).

EMERGENCY INTERVENTION**§ 15.71. Involuntary intervention by emergency court order.**

(a) *General.* When there is clear and convincing evidence that, if protective services are not provided, the older adult to be protected is at imminent risk of death or serious physical harm, the agency may petition the court for an emergency order to provide the necessary services. The person to be protected shall be an older adult in need of protective services as defined in this chapter. The courts of common pleas of each judicial district shall ensure that a judge or district magistrate is available on a 24-hour-a-day, 365-day-a-year basis to accept and decide on petitions for an emergency court order under this section whenever the agency determines that delay until normal court hours would significantly increase the danger the older adult faces. Only the agency, through its official representative, may bring a petition for involuntary intervention by emergency court order.

(b) *Legal representation.* When the agency petitions the court for emergency involuntary intervention, the agency shall make sure the older adult has the opportunity to be represented by counsel at all stages of the proceedings. If the older adult has an attorney known to the agency, the agency shall attempt to notify that attorney before it files a petition for emergency involuntary intervention. If the agency has no knowledge of an attorney who represents the older adult, the agency shall attempt to notify the legal services provider identified by the area agency on aging in its protective services plan to provide legal assistance under this chapter. The notification shall contain enough information about the risk to the older adult and the proposed remedy to enable counsel to determine if representation is necessary at the emergency hearing. Notification to counsel shall include a copy of the petition with the affidavits attached as well as the time, date and place of presentation of the petition except when § 15.72(b) (relating to petition) applies.

§ 15.72. Petition.

(a) *Contents.* The petition which the agency files for an emergency court order of involuntary intervention shall state the following information:

- (1) The name, age and physical description of the older adult insofar as these facts have been ascertained.
- (2) The address or other location where the older adult can be found.
- (3) The name and relationship of a guardian, caregiver or other responsible party residing with the older adult, when applicable.
- (4) A description of how the older adult is at imminent risk of death or serious physical harm.
- (5) The physical and mental status of the older adult, to the extent known.
- (6) The attempts made by the agency to obtain the informed consent of the older adult, or the older adult's court appointed guardian, when applicable, to the provision of protective services by the agency.
- (7) The specific short-term, least restrictive, involuntary protective services which the agency is petitioning the court for an order to provide.
- (8) A description of how the proposed services would remedy the situation or condition which presents an imminent risk of death or serious physical harm.

(9) A statement showing why the proposed services are not overbroad in extent or duration and why less restrictive alternatives as to their extent or duration are not adequate.

(10) A statement that other voluntary protective services have been offered, attempted or have failed to remedy the situation.

(11) A statement that reasonable efforts have been made to communicate with the older adult in a language the older adult understands in the case of an older adult who is hearing impaired or who does not understand the English language.

(12) Other relevant information deemed appropriate by the agency.

(b) *Oral petitions.* Nothing in this chapter precludes or prohibits the oral presentation of a petition for emergency involuntary intervention. When oral presentation is warranted, the written petition shall be prepared, filed and served on the older adult and counsel within 24 hours of the entry of the emergency order or on the next business day, when the 24-hour period would fall on a weekend or legal holiday.

(c) *Affidavits.* Allegations which are not based upon personal knowledge shall be supported by affidavits provided by persons having that knowledge. The affidavits shall be attached to the petition.

(d) *Emergency order duration.* In the petition, the agency shall request an emergency order of a specific duration which may not exceed 72 hours from the time the order is granted. The agency shall request the court of common pleas to hold a hearing when the initial emergency order expires to review the need for an additional emergency court order or other continued court and protective services involvement, or both. The issuance of an emergency order is not evidence of the competency or incompetency of the older adult.

§ 15.73. Court appointed counsel.

The act requires that an emergency order under this section provides that the older adult has the right to legal counsel. If no representation for the older adult is present at the time the emergency order is requested, the agency shall inform the court of its efforts to notify counsel under § 15.71(b) (relating to involuntary intervention by emergency court order). If the older adult is unable to provide for counsel, the court will appoint counsel as authorized by the act at the time the emergency order is entered to ensure that legal representation will be provided at the time of the emergency protective services review hearing.

§ 15.74. Forcible entry.

When the agency requests a court order for forcible entry to the premises where an older adult at imminent risk of death or serious physical harm is located, the agency shall request the court to direct that a local or State police officer carry out the forcible entry accompanied by a representative of the agency.

§ 15.75. Health and safety requirements.

The agency shall take reasonable steps to assure protection of the older adult's dependents and property while the older adult is receiving services under an emergency court order. The agency is not responsible for the actual provision of all needed services but shall coordinate professional linkage referrals and follow-up to assure that the needed services and protections are being provided and maintained.

§ 15.76. Documentation.

The agency shall document in the case record emergency intervention actions it takes.

INDIVIDUAL RIGHTS OF PARTIES INVOLVED**§ 15.81. Rights of protective services clients.**

The agency shall observe the following minimum requirements to safeguard the rights of an older adult who is reported to need protective services:

(1) The agency shall discreetly notify the older adult during the investigation that a report of need for protective services has been made and shall provide the older adult with a brief summary of the nature of the report. The protective services caseworker performing the investigation shall determine when and how this notification is accomplished.

(2) If the older adult requests additional information contained in the record, the agency shall provide the information subject to the requirements in § 15.105 (relating to limited access to records and disclosure of information).

(3) A denial of services by the Department or an authorized agency under this chapter may be appealed under Chapter 3 (relating to fair hearings and appeals).

(4) Nothing in this chapter limits the rights of an older adult to file a petition under 23 Pa.C.S. Chapter 61 (relating to the Protection from Abuse Act).

(5) An older adult determined to need protective services has the right to refuse protective services except as provided under a court order. The agency shall obtain, when possible, the older adult's signed statement refusing protective services or document unsuccessful efforts to obtain a signed statement.

(6) An older adult has the right to legal counsel when the agency petitions the court for emergency or other orders to provide protective services without the older adult's consent. The act provides that if an older adult is unable to provide for counsel, counsel shall be appointed by the court. Under § 15.71 (relating to involuntary intervention by emergency court order), the agency is required to take steps to involve counsel when emergency petitions are filed.

(7) As provided under §§ 15.101—15.105 (relating to confidentiality), an older adult has the right to the confidentiality of information received and maintained by the agency in reports, investigations, service plans and other elements of a case record.

§ 15.82. Rights of alleged abusers.

An individual who, as a result of a protective services investigation, is determined to be a perpetrator of the abuse, neglect, exploitation or abandonment of an older adult is entitled to the following if the report is substantiated by the agency:

(1) The agency shall notify the alleged perpetrator at the conclusion of the investigation of the report that allegations have been made and shall provide the alleged perpetrator with a brief summary of the allegations.

(2) As provided under § 15.105 (relating to limited access to records and disclosure of information), the alleged perpetrator may request, and the agency shall provide, additional information contained in the report.

(3) An alleged perpetrator is entitled to file an appeal with the Department under 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Proce-

dures) to challenge the agency's finding resulting from the investigation of a report made under this chapter. The agency's finding is that information, after an investigation is concluded, which substantiated the need for protective services. The appeal process applicable to older adults under Chapter 3 (relating to fair hearings and appeals) also applies to alleged perpetrators of abuse, neglect, exploitation or abandonment. This appeal shall be in writing to the Secretary and be postmarked within 30 days from the date of notification by the agency required under this section.

PROVISION OF SERVICES**§ 15.91. General.**

(a) *Protective services.* Protective services are activities, resources and supports provided to older adults under the act after the initiation of an investigation to prevent, reduce or eliminate abuse, neglect, exploitation and abandonment. Protective services activities include the following:

- (1) Administering protective services plans.
- (2) Receiving and maintaining records of reports of abuse.
- (3) Conducting investigations of reported abuse.
- (4) Conducting assessments and developing service plans.
- (5) Petitioning the court.
- (6) Providing emergency involuntary intervention.

(7) Arranging for available services needed to fulfill service plans, which may include, as appropriate, arranging for services for other household members to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult. A partial listing of the services which may be made available to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult is found in § 15.93(c) (relating to service plan).

(8) Purchasing, on a temporary basis, as provided under § 15.112 (relating to uses of funding authorized by the act), services determined by a service plan to be necessary to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult when the services are not available within the existing resources of the agency or other appropriate provider.

(b) *Availability of protective services.* The agency shall offer protective services under one or more of the following conditions:

- (1) An older adult requests the services.
- (2) Another interested person requests the services on behalf of an older adult.
- (3) If, after initiation of an investigation of a report, the agency determines the older adult needs the services.

(c) *Informed consent required.* The agency shall provide protective services only to older adults who give informed consent to the services. The consent shall be in writing when possible. If the older adult does not consent or, if after consenting, withdraws the consent, protective services may not be provided unless the provision of the services is allowable as a consent exemption.

(d) *Consent exemptions.* Protective services may be provided to older adults in need of protective services without consent only in the following situations:

(1) When ordered by a court under section 304 of the act (35 P. S. § 10225.304).

(2) When requested by an older adult's court-appointed guardian.

(3) When provided under § 15.71 (relating to involuntary intervention by emergency court order).

(e) *Interference with services.* If a person interferes with the provision of services or interferes with the right of an older adult to consent to the provision of services, the agency may petition the court for an order enjoining the interference.

§ 15.92. Assessment.

(a) When a report is substantiated by the agency, or if an assessment is necessary to determine whether or not the report is substantiated, the agency shall, with the consent of the older adult, provide for a timely assessment. If the older adult does not consent, the agency may apply § 15.61 or § 15.71 (relating to access to persons; and involuntary intervention by emergency court order).

(b) The protective services caseworker shall make face-to-face contact with the older adult to evaluate and document information including the following:

- (1) Personal appearance.
- (2) Physical environment.
- (3) Physical health.
- (4) Mental functioning.
- (5) Activities of daily living.
- (6) Social environment.
- (7) Economic status—including eligibility for public and private entitlements or resources as defined under § 15.2 (relating to definitions).
- (8) Nutrition.
- (9) Recent experiences—losses, separations, major changes in relationships or environments.
- (10) The need for a formal medical or psychiatric evaluation.

(c) The assessment shall be written and include, whenever possible, older adult-given information for each area of functioning.

(d) The assessment shall be written so that the reader can determine which information came from the older adult and which constitutes the worker's judgment.

(e) The assessment shall be written in a standard format as required by the Department. Data entries shall be based on commonly accepted and defined nomenclature to make the data more usable across and within agencies and to ensure that older adults are evaluated uniformly according to the standardized definitions.

§ 15.93. Service plan.

(a) Upon completion of the assessment and with the consent of the older adult, a service plan shall be prepared. The service plan shall be cooperatively developed by the agency staff, the older adult or his appointed guardian, and other family members, if appropriate. Protective services may not be provided under the act to an older adult who does not consent to the services or who, having consented, withdraws consent, unless the services are ordered by a court, requested by a court-appointed guardian of the older adult or provided under § 15.71 (relating to involuntary intervention by emergency court order).

(b) The service plan shall be in writing and shall include a recommended course of action which utilizes the least restrictive alternative, encourages self-determination and continuity of care. The recommended course of action may also include pursuit of civil or criminal remedies.

(c) The service plan shall describe the older adult's identified needs, the goals to be achieved, the specific services which will be used to support attainment of the goals and the procedures to be followed with regard to regular follow-up and assessment of progress. Specific services which may be used to implement the service plan include:

- (1) Medical evaluations.
- (2) Psychiatric or psychological evaluations.
- (3) Legal services.
- (4) Public or private entitlements or resources.
- (5) Financial management.
- (6) Personal or environmental safety.
- (7) Emergency shelter.
- (8) Transportation.
- (9) Home delivered meals.
- (10) Attendant care.
- (11) Homemaker services.

(d) The service plan shall also address, if applicable, special needs of other members of the household unit as they may affect the older adult's need for protective services. The identification in a service plan of service needs of other members of the older adult's household does not obligate the agency to pay the costs of the services.

§ 15.94. Service delivery.

(a) The agency shall, with the consent of the older adult, provide for implementation of the course of action recommended in the service plan. The implementation may be provided by direct provision of services by the agency, purchase of services from another agency, referral to another agency, provision of services by family and friends or a combination of these or other methods.

(b) Protective services may not be provided under the act to an older adult who does not consent to services or who, having consented, withdraws consent, unless the services are ordered by a court, requested by a guardian of the older adult or provided under § 15.71 (relating to involuntary intervention by emergency court order).

§ 15.95. Case management.

(a) *Coordination of services.* The protective services caseworker is responsible for coordination of sources of services being provided to the older adult who needs protective services. The caseworker shall also take reasonable steps to assure that services necessary to achieve the goals in the service plan are being provided.

(b) *Case records.* A separate record shall be established to contain information on protective services cases. The protective service case record on an older adult shall be separated from other records maintained by the agency on that older adult. Confidentiality of the protective services case record shall be maintained by the agency as set forth in §§ 15.101—15.105 (relating to confidentiality). The protective services case record includes the following:

- (1) The report of a need for protective services.

- (2) The record of investigation.
 - (3) The written findings of the assessment.
 - (4) The service plan.
 - (5) Notes of contact with the older adult and others involved with the case.
 - (6) Court documents—for example, petitions, orders and the like.
 - (7) Letters of notification—abused and abuser.
- (c) *Reassessment.* Reassessment shall be done for protective service clients.

(1) Reassessment shall be written in the standardized format established by the Department.

(2) Reassessment shall be done before a protective services case is terminated, transferred, it is the agency's judgment that a reassessment is appropriate or the older adult's condition has changed.

§ 15.96. Termination of protective services.

(a) The agency shall terminate protective services when the older adult is no longer "an older adult in need of protective services" under § 15.2 (relating to definitions).

(b) Except when the older adult withdraws consent to the delivery of protective services, the agency may terminate protective services in one of the following ways:

(1) By closing the case when no further service intervention is required by the older adult.

(2) By closing the case when a court order for services has terminated and the older adult does not consent to further service intervention.

(3) By transferring the older adult to the service management system of the area agency.

(4) By transferring the older adult to another appropriate agency.

(c) When the agency terminates protective services, the agency shall inform the older adult and, if applicable, responsible caretakers of this action and its rationale and shall attempt to secure a signed statement of understanding concerning the action. When the agency transfers a protective services case, the case record shall reflect the transfer of an older adult to another agency, the specific agency of referral and the acceptance of the referral by the other agency.

CONFIDENTIALITY

§ 15.101. General.

Information contained in the agency's protective services case files, as defined under § 15.2 (relating to definitions), shall be considered confidential and shall be maintained under this chapter.

§ 15.102. Maintenance of case records.

(a) Protective services case records shall be kept, when not in use by authorized persons, in a locked container and separate from other agency files. The report, the record of investigation, notes of contact with the older adult and others involved with the case, court documents and letters of notification may not be transferred to, or reprinted for, other agency files. The assessment and service plan may be transferred to other agency case files with assurance by the agency that an older adult's complete protective services case record can be immediately produced.

(b) When an individual case record is removed from its storage location for use by an authorized person, the person shall sign for the record according to sign-out procedures developed by the agency.

(c) Except as provided under § 15.105 (relating to limited access to records and disclosure of information), only staff with direct responsibility for protective services functions may be authorized by the agency to have access to the protective services case records. General access is restricted to protective services supervisors, protective services caseworkers and clerical staff assigned to type and maintain case records.

(d) As provided under § 15.43 (relating to resolution of unsubstantiated reports), when the agency cannot substantiate a report of a need for protective services, the case opened by the unsubstantiated report shall be closed and information identifying the person who made the report and the alleged perpetrator of abuse, if applicable, shall be immediately deleted from the case record.

(e) For the purposes of substantiating a pattern of abuse, neglect, exploitation or abandonment, the name of the older adult reported to be in need of protective services and other information relevant to the circumstances which led to the report may be maintained for 6 months in a separate locked file accessible only to authorized staff for review when necessary to establish that a previous report was made. At the end of 6 months, case records maintained under this subsection shall be destroyed unless additional reports lead to their being reopened.

(f) The agency shall develop written procedures for the deletion or expungement of information in case records and for the destruction of case records so that unauthorized persons are not able to gain access to information from case records. The procedures shall be submitted to the Department in the protective services plan required under § 15.12(b) (relating to administrative functions and responsibilities of area agencies on aging).

§ 15.103. Responsibilities of staff with access to confidential information.

(a) The agency shall assure that staff with access to information contained, or to be contained, in a case record are fully aware of the confidentiality provisions of this chapter and of the local agency.

(b) A staff person who is authorized to have access to information contained, or to be contained, in a case record is required to take every possible step to safeguard the confidentiality of that information. This requirement extends to known information related to a case but not recorded in writing.

(c) A staff person who is to be authorized to have access to confidential information related to protective services cases shall sign a statement provided by the Department, assuring knowledge of applicable confidentiality requirements and the penalties for violating them.

§ 15.104. Penalties for violation of confidentiality requirements.

(a) If a staff person who is authorized to have access to confidential information under this chapter is strongly suspected of violating the requirements in the signed confidentiality statement under § 15.103(c) (relating to responsibilities of staff with access to confidential information), that person shall be immediately suspended from protective services duties pending an investigation and determination of culpability.

(b) If a staff person who is authorized to have access to confidential information under this chapter is determined upon investigation to have violated the requirements in the signed confidentiality statement under § 15.103(c), that person shall be subject to the appropriate disciplinary action in the confidentiality statement.

§ 15.105. Limited access to records and disclosure of information.

Information in a protective services case record may not be disclosed, except as provided in this section.

(1) Information may be disclosed to a court of competent jurisdiction or under a court order. The protective service agency shall disclose case record information for the purpose of in camera review by the court.

(2) If an investigation by the agency results in a report of criminal conduct, law enforcement officials shall have access to relevant records maintained by the agency or the Department.

(3) In arranging specific services to effect service plans, the agency may disclose to appropriate service providers information necessary to initiate the delivery of services.

(4) A subject of a report, a court-appointed guardian or an attorney providing legal services to the subject of the report made under § 15.23 (relating to receiving reports; general agency responsibility) may receive, upon written request, information contained in the report except that prohibited from being disclosed by paragraph (5).

(5) The release of information that would identify the person who made a report of suspected abuse, neglect, exploitation or abandonment or a person who cooperated in a subsequent investigation, is prohibited unless the Secretary can determine that the release will not be detrimental to the safety of the person. Prior to releasing information under this paragraph, the Secretary will notify the person whose identity would be released that the person has 45 days to advise the Secretary why this anticipated release would be detrimental to the safety of that person.

(6) When the Department is involved in the hearing of an appeal by a subject of a report made under § 15.23, the appropriate Department staff shall have access to information in the case record relevant to the appeal.

(7) For the purposes of monitoring agency performance, appropriate staff of the Department may have access to agency protective services records.

(8) For the purposes of monitoring agency performance and carrying out other administrative responsibilities, individuals with local administrative authority over the protective services program may have access to agency protective services records.

FINANCIAL OBLIGATIONS

§ 15.111. Coordination of available resources.

(a) The agency shall insure that funding authorized under the act is not used to supplant public and private entitlements or resources as defined in § 15.2 (relating to definitions) for which older adults are, or may be, eligible.

(b) The agency shall attempt to establish the older adult's eligibility for appropriate public and private entitlements and resources and shall exhaust the eligibility for benefits prior to the utilization of funds authorized by the act for the provision of services.

(c) The agency is required to coordinate the utilization of public and private entitlements and resources. This chapter does not establish a means test for the provision

of protective services. A protective service client who receives a service may not be required to pay a fee not required of other older adults receiving the same service.

§ 15.112. Uses of funding authorized by the act.

The agency may utilize funding authorized by the act to pay for activities, including the following:

(1) Administering protective services plans as described in § 15.12(b) (relating to administrative functions and responsibilities of area agencies on aging).

(2) Receiving reports and maintaining records of reports as provided under §§ 15.23 and 15.101–15.105 (relating to receiving reports; general agency responsibility; and confidentiality).

(3) Conducting investigations under §§ 15.41–15.47 (relating to investigating reports of need for protective services).

(4) Conducting assessments and developing service plans under §§ 15.92 and 15.93 (relating to assessment; and service plan).

(5) Petitioning the court under §§ 15.61–15.63 and 15.71–15.75 (relating to agency access to older persons and records; and emergency intervention).

(6) Providing emergency involuntary intervention under §§ 15.71–15.75.

(7) Arranging for available services needed to carry out service plans, which may include, as appropriate, arranging for services for other household members to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult. The inclusion of services needed by other household members in the service plan will allow the agency to arrange for the provision of those services through public and private entitlements or resources for which the individuals are or may be eligible. The inclusion does not obligate the agency to pay for the services or to provide services which are not available from another appropriate provider.

(8) Purchasing, on a temporary basis, services determined by the service plan to be necessary to reduce, correct or eliminate abuse, neglect, exploitation or abandonment of an older adult when the services are not available within the existing resources of the agency or another appropriate provider. Funding authorized by the act and expended under an area agency on aging protective services plan may not be used for the purchase of services which are already financed through other State-administered plans for local service delivery or through local public and private resources under those plans except with the specific prior approval of the Department. The protective services plan shall identify the agency's proposed expenditures for activities under this paragraph. The agency shall insure that every attempt has been made to provide the service through existing agency resources, appropriate utilization of other providers and the coordination of public and private entitlements and resources prior to entering into the purchase of services for a protective services client.

§ 15.113. Time limitation on service purchases.

(a) After exhausting available steps to provide necessary services through existing agency resources, utilization of other providers and the coordination of public and private entitlements and resources, the agency may purchase those services on a time-limited basis.

(b) The purchase of services under this section is limited to a 30-day period which may be renewed only with adequate justification. The agency shall consider the

30-day period to be a maximum time limit for the purchase of services and not a standard time allotment. After the decision to purchase services has been made, the agency shall continue the pursuit of alternate ways to provide the services and terminate the purchase of services as soon as possible.

(c) If at the end of 30 days of continuous service purchase on behalf of an individual protective services client, the services are still necessary and still available only through purchase, complete justification of the need for services and documentation of the unavailability of the services shall be made a part of the record as required by § 15.95(b) (relating to case management).

§ 15.114. Obligation of the Commonwealth and the counties.

The obligation of the Commonwealth and the counties to provide funds to the Department or an agency for services provided under this chapter shall be entirely discharged by the appropriations made to the Department or an agency. If the agency has met its responsibility under the law, no action at law or equity may be instituted in a court to require the Department, an agency, county or the Commonwealth to provide benefits or services under the act for which appropriations from the Commonwealth or counties are not available. The responsibility of the area agency on aging, the county and the Commonwealth to provide funding is met when resources authorized by the act and provided under approved area agency on aging plans have been expended.

STAFF TRAINING AND EXPERIENCE STANDARDS

§ 15.121. Protective services staff qualifications.

(a) *General.* The area agency on aging shall assure that staff directly involved with the protective services caseload meet the minimum standards of training and experience in this chapter. The minimum standards apply to staff assigned to protective services on a full-time basis, a part-time basis or as standby staff. The minimum standards apply to incumbent staff as well as those hired after November 26, 1988.

(b) *Criminal record.* The protective services agency shall require persons to be hired or to be assigned to carry out responsibilities for protective services investigations, assessments and service planning and arrangement to submit the following information:

(1) Under 18 Pa.C.S. §§ 9101—9183 (relating to the criminal history record information act), a report of criminal history record information from the State Police or a statement from the State Police that the State Police Central Repository contains no information relating to that person. The criminal history record information shall be limited to that which is disseminated under 18 Pa.C.S. § 9121(b)(2) (relating to general regulations).

(2) If the applicant or assignee is not a resident of this Commonwealth, a report of Federal criminal history record information under the Federal Bureau of Investigation appropriation of Title II of the Act of October 25, 1972 (Pub. L. No. 92-544, 86 Stat. 1109).

(c) *Staff training and experience requirements.* The minimum standards for protective services job functions are as follows:

(1) *Protective services supervisor.* A protective services supervisor shall:

(i) Have 3 years direct aging casework experience or an equivalent combination of education and experience.

(ii) Complete the curriculum described in § 15.122 (relating to protective services casework training curriculum).

(iii) Complete the curriculum described in § 15.123 (relating to protective services investigation training curriculum) if the protective services supervisor will be performing protective services investigations.

(iv) Complete written evaluations that assess competencies achieved by the learner.

(v) Undergo in-service training in protective services annually as required by the Department.

(2) *Protective services caseworker.* A protective services caseworker shall:

(i) Have 1 year direct aging casework experience.

(ii) Complete the curriculum described in § 15.122.

(iii) Complete the curriculum described in § 15.123.

(iv) Complete written evaluations that assess competencies achieved by the learner.

(v) Undergo in-service training in protective services annually as required by the Department.

(3) *Protective services intake workers.* Staff persons designated to receive reports of older adults who need protective services shall complete the curriculum under § 15.124 (relating to protective services intake training curriculum).

§ 15.122. Protective services casework training curriculum.

The protective services casework training curriculum shall consist of comprehensive training including the following topics:

(1) An overview of abuse, neglect, exploitation and abandonment.

(2) Laws and regulations of the Commonwealth relating to abuse, neglect, exploitation and abandonment of older adults.

(3) Detection of abuse, neglect, exploitation and abandonment.

(4) Protective services case assessments.

(5) Provision of protective services.

(6) Interviewing skills.

(7) The resistant older adult.

(8) Utilization of local resources.

(9) Incompetence or incapacity.

(10) Relationships with other agencies.

(11) Confidentiality.

(12) Institutional investigations.

(13) Service options for victims of abuse, neglect, exploitation and abandonment.

(14) Informed consent.

(15) Self-neglect.

(16) Retaliation.

§ 15.123. Protective services investigation training curriculum.

The protective services investigation training curriculum shall consist of comprehensive training including the following topics:

(1) Laws and regulations of the Commonwealth related to investigations and criminal procedures.

- (2) The criminal justice system.
- (3) Developing the investigative plan.
- (4) Investigative techniques.
- (5) Maintaining control of the interview.
- (6) Interviewing reporters.
- (7) Interviewing collateral sources.
- (8) Interviewing victims.
- (9) Observation techniques.
- (10) Techniques to obtain documentary evidence.
- (11) Techniques to gather and preserve physical evidence.
- (12) Closing the investigation.
- (13) Presenting testimony in court.
- (14) Coordination with other State agencies.

§ 15.124. Protective services intake training curriculum.

The protective services intake training curriculum shall consist of training including the following topics:

- (1) Interviewing the reporter.
- (2) Completion of the report form.
- (3) Preliminary case status assessment to determine report categories.
- (4) Requirements for referral of the report to the protective services staff.
- (5) Emergency procedures.
- (6) Confidentiality.

§ 15.125. Availability of training.

(a) The Department will provide for the development of training curricula described in this section and will require the training to be conducted on a timely and recurring basis. The Department will also provide for annual in-service training.

(b) The agency shall utilize staff meeting the requirements in § 15.121(c)(1) and (2) (relating to protective services staff qualifications) to conduct training for protective services intake workers. The training shall be in conformity with the curriculum for protective services intake workers established by the Department.

§ 15.126. Training evaluation.

A person who completes the training set forth for each job function in § 15.121 (relating to protective services staff qualifications) shall complete written evaluations that assess competencies achieved by the learner.

§ 15.127. In-service training.

(a) In addition to the required training set forth in §§ 15.122 and 15.123 (relating to protective services casework training curriculum; and protective services investigation training curriculum), protective services supervisors and protective services caseworkers shall participate in in-service training in protective services as required by the Department each year beginning with the calendar year following completion of the required basic protective services training set forth in § 15.122 (relating to protective services casework training curriculum).

(b) Annual in-service training shall consist of a minimum of 1 day of training and may include the following topics:

- (1) Update on laws and regulations relating to protective services.
- (2) Technical assistance for common problems.
- (3) Best practice presentations.

CRIMINAL HISTORY RECORD INFORMATION REPORTS

§ 15.131. (Reserved).

§ 15.141. Prospective facility personnel.

(a) *General rule.* A facility shall require applicants for employment to submit applications with a criminal history report, obtained within 1 year immediately preceding the date of application, or as in § 15.144 (relating to procedures), as follows:

(1) *State Police criminal history record.* Facilities shall require all applicants to submit a State Police criminal history record.

(2) *Federal criminal history record.* If the applicant is not and for the 2 years immediately preceding the date of application has not been a resident of this Commonwealth, the facility shall require the applicant to submit a Federal criminal history record and a full set of fingerprints to the Department which will be forwarded to the Federal Bureau of Investigation.

(b) *Proof of residency.* Facilities may require an applicant to furnish proof of residency, including, but not limited to, any one of the following documents:

- (1) Motor vehicle records, such as a valid driver's license.
- (2) Housing records, such as mortgage records, rent receipts or certification of residency in a nursing home.
- (3) Public utility records and receipts, such as electric bills.
- (4) Local tax records.
- (5) A completed and signed, Federal, State or local income tax return with the applicant's name and address preprinted on it.
- (6) Employment records, including records of unemployment compensation.

§ 15.142. Employee requirements.

(a) The following employees are required to submit a criminal history report:

(1) Administrators and operators who have direct contact with clients and who began serving as administrators and operators after July 1, 1998. Residents of this Commonwealth shall comply within 30 days of employment and nonresidents shall comply within 90 days.

(2) Employees of a facility who were employed after July 1, 1998. Residents of this Commonwealth shall comply within 30 days of employment and nonresidents shall comply within 90 days.

(3) Exceptions are as follows:

(i) Employees of the facility on July 1, 1998, who were employed by the facility for a continuous period of at least 1 year prior to July 1, 1998.

(ii) Employees who have complied with this section who transfer to another facility established or supervised, or both, by the same operator.

(iii) Employees who are employed by a new facility solely through a transfer of ownership of that facility.

(iv) A consumer attendant.

(v) An individual providing care to a care-dependent person, and employed by the care-dependent person, or by another person designated by the care-dependent person, and not by or through a home health care agency.

(vi) An individual, employed by an enterprise that operates facilities and nonfacilities in the same physical location, who has no employment responsibilities in the facility (Example: An individual employed by a hospital which also has within it a long-term care nursing unit. The individual is employed to work in the hospital).

(vii) A contract employee who has neither direct contact with residents in a facility nor unsupervised access.

(viii) An individual, employed by a home health agency or other entity that supplies, arranges for, or refers personnel to provide care to care-dependent persons, who is employed for purposes other than providing care in a facility or in a recipient's place of residence (example: an individual employed as a bookkeeper by an agency which supplies homemaker/home health aides).

(ix) An individual functioning in a facility as a volunteer.

(b) Employees at facilities that supply, arrange for, or refer their employees to provide care in other facilities shall provide a criminal history report to the facility that supplies, arranges for, or refers them and to the facility at which they provide care. The exemptions of this section are applicable to these employees. (Example: Employees of a home health care staffing agency assigned by the agency to provide care in a long-term care nursing facility must provide a criminal history report to the staffing agency and to the long-term care nursing facility.) The staffing agency shall be responsible for notifying the employee of criminal history report requirements.

(c) Criminal history reports provided by the Department of Education, under the Nurse Aide Resident Abuse Prevention Training Act (63 P.S. §§ 671—680), which meet the criteria established in this chapter may be accepted to satisfy the requirements of this chapter.

§ 15.143. Facility responsibilities.

(a) A facility may not hire an applicant nor retain an employee required to submit a criminal history report if the criminal history report reveals a felony conviction under The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144).

(b) A facility may not hire an applicant nor retain any employee required to submit a criminal history report if the criminal history report reveals a conviction under one or more of the following provisions of 18 Pa.C.S. (relating to the Crimes Code):

- (1) Chapter 25 (relating to criminal homicide).
- (2) Section 2702 (relating to aggravated assault).
- (3) Section 2901 (relating to kidnapping).
- (4) Section 2902 (relating to unlawful restraint).
- (5) Section 3121 (relating to rape).
- (6) Section 3122.1 (relating to statutory sexual assault).
- (7) Section 3123 (relating to involuntary deviate sexual intercourse).
- (8) Section 3124.1 (relating to sexual assault).

(9) Section 3125 (relating to aggravated indecent assault).

(10) Section 3126 (relating to indecent assault).

(11) Section 3127 (relating to indecent exposure).

(12) Section 3301 (relating to arson and related offenses).

(13) Section 3502 (relating to burglary).

(14) Section 3701 (relating to robbery).

(15) A felony offense under Chapter 39 (relating to theft and related offenses), or two or more misdemeanors under Chapter 39.

(16) Section 4104 (relating to tampering with records or identification).

(17) Section 4114 (relating to securing execution of documents by deception).

(18) Section 4302 (relating to incest).

(19) Section 4303 (relating to concealing death of child).

(20) Section 4304 (relating to endangering welfare of children).

(21) Section 4305 (relating to dealing in infant children).

(22) Section 4952 (relating to intimidation of witnesses or victims).

(23) Section 4953 (relating to retaliation against witness, victim or party).

(24) A felony offense under section 5902(b) (relating to prostitution and related offenses).

(25) Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).

(26) Section 6301 (relating to corruption of minors).

(27) Section 6312 (relating to sexual abuse of children).

(c) A facility may not hire an applicant nor retain an employee required to submit a report if the criminal history report reveals conviction of a Federal or out-of-State offense similar in nature, as determined by the Department, to those listed in subsections (a) and (b).

(d) A facility shall ensure that applicant or employee responsibility to obtain criminal history reports is explained to each applicant or employee orally and in writing in a language understood by the applicant or employee.

(e) Facilities shall maintain employment records which include copies of completed request forms for criminal history reports, State Police criminal history records and Department letters of determination regarding Federal criminal history records.

(f) An administrator shall assure that information obtained from State Police criminal history records and Department letters of determination regarding Federal criminal history records remain confidential and are used solely to determine an applicant's eligibility for employment or an employee's eligibility for retention.

(g) If the decision not to hire or to terminate employment is based in whole or in part on State Police criminal history records, Department letters of determination regarding Federal criminal history records, or both, facilities shall provide applicants and employees with information on how to appeal to the sources of criminal history records if they believe the records are in error.

§ 15.144. Procedure.

(a) Applicants and employees required to obtain a criminal history report from the State Police may obtain forms from a State Police facility.

(1) The State Police may charge a fee of not more than \$10. A facility's check, cashier's check, certified check or money order shall accompany the request unless other payment arrangements are made with the State Police.

(2) Facilities may at their option require applicants and employees to return the form to a designated individual for submission by the facility.

(b) Applicants and employees required to obtain a Federal criminal history report shall obtain the information packet from the facility or the Department.

(1) Applicants and employees shall return the Federal Bureau of Investigation fingerprint card and forms, and a cashier's check, certified check or money order payable to the Federal Bureau of Investigation in the exact amount established by the Federal Bureau of Investigation. Upon receipt, the Department will submit the request to the State Police for transfer to the Federal Bureau of Investigation.

(2) Upon receipt of the criminal history report from the Federal Bureau of Investigation, the Department will determine if the applicant is eligible for employment or if the employee may be retained. The Department will contact the applicant or employee with a written letter of determination.

(c) Applicants and employees shall complete all necessary forms. Facilities shall assist an applicant or employee to comply with this requirement if requested.

(d) Facility administrators may assume financial responsibility for the fees through a quarterly payment system.

(e) Applicants and employees are responsible for reviewing their own criminal history reports for accuracy.

§ 15.145. Applicant or employee rights of review.

(a) An applicant or employee may review, challenge and appeal the completeness or accuracy of the applicant's or employee's criminal history report under 18 Pa.C.S. §§ 9125 and 9152—9183 or 28 CFR 16.34 (relating to procedure to obtain change, correction or updating of identification records), or both.

(b) An applicant or employee may challenge the conviction comparison interpretation of the Department involving the Federal criminal history record by filing an appeal with the Department under 1 Pa. Code Chapter 35 (relating to formal proceedings in administrative practice and procedure) and Chapter 3 (relating to fair hearings and appeals). Appeals must be postmarked within 30 days from receipt of the Department's letter and be in writing to the attention of the Secretary of the Department.

§ 15.146. Provisional hiring.

(a) Facilities may employ applicants on a provisional basis for a single period not to exceed 30 days for applicants requesting a State Police criminal history record, and a single period not to exceed 90 days for applicants requesting a Federal criminal history record, if all of the following conditions are met:

(1) Applicants shall have applied for a criminal history report and provided the facility with a copy of the completed request forms.

(2) The facility shall have no knowledge about the applicant that would disqualify the applicant from employment under 18 Pa.C.S. § 4911 (relating to tampering with public record information).

(3) The applicant shall swear or affirm in writing that the applicant is not disqualified from employment under the act.

(4) The provisionally employed applicant shall receive an orientation which provides information on policies, procedures and laws which address standards of proper care and recognition and reporting of abuse or neglect, or both, of recipients.

(5) The facility shall regularly supervise the applicant carrying out assigned duties. The results of the observations shall be documented in the employee personnel file.

(6) A home health care agency shall supervise the applicant through random, direct observation and evaluation of the applicant and care recipient by an employee who has been employed by the home health agency for at least 1 year. The results of the observations shall be documented in the employee personnel file.

(7) A home health agency which has been in business for less than 1 year shall supervise the applicant through random, direct observation and evaluation of the applicant and care recipient by an employee with prior employment experience of at least 1 year with one or more other home health care agencies. The results of the observations shall be documented in the employee personnel file.

(b) If the information obtained from the criminal history report reveals that the applicant is disqualified from employment in accordance with § 15.143 (relating to facility responsibilities), the applicant shall be dismissed immediately.

(c) The administrator or designee shall review the contents of the applicant's personnel file on the 30th day of provisional employment of a Pennsylvania resident applicant or the 90th day of provisional employment of a nonresident applicant to insure that the copy of the State Police criminal history record, the letter of determination issued by the Department, or both is physically present in the folder along with correspondence from the State Police advising that the applicant's employment may be continued or must be terminated.

(d) Except as provided in subsection (e), if inspection of the file reveals that the State Police criminal history record, the letter of determination issued by the Department, or both has not been provided to the employer, the applicant's employment shall be immediately suspended or terminated.

(e) If the criminal history record report, the letter of determination issued by the Department, or both, has not been provided due to the inability of the State Police or the Federal Bureau of Investigation to provide them timely, the period of provisional employment shall be extended until the facility receives the required reports. During the extended provisional employment period, the supervision and documentation requirements of this section shall be continued.

§ 15.147. Violations.

(a) *Administrative.*

(1) An administrator or designee or facility owner-operator who intentionally or willfully fails to comply or

obstructs compliance with §§ 15.141—15.146 commits a violation of this chapter and shall be subject to an administrative penalty.

(2) Violations and penalties shall be determined by the Commonwealth agency that licenses the facility. The Commonwealth agency may issue an order assessing a civil penalty of not more than \$2,500. An order issued under this paragraph is subject to due process as set forth in 2 Pa.C.S. §§ 501—508 and 551—555 (relating to practice and procedure of Commonwealth agencies; and practice and procedure of local agencies) and judicial review in 2 Pa.C.S. §§ 701—704 and 751—754 (relating to judicial review of Commonwealth agency action; and judicial review of local agency action).

(3) Representatives of the Departments of Aging, Health and Public Welfare who suspect violations of this section shall report them to the appropriate Commonwealth licensing agency under procedures developed by the Department in consultation with the licensing agency. The report shall be made in writing and include, at a minimum, the facility, the administrator, owner, operator or designee suspected of committing the violation and a description of the suspected violation.

(b) *Criminal.* An administrator or designee or facility owner who intentionally or willfully fails to comply or obstructs compliance with §§ 15.141—15.146 commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of \$2,500 or to imprisonment for not more than 1 year, or both.

REPORTING SUSPECTED ABUSE

§ 15.151. General requirements.

(a) Administrators or employees who have reasonable cause to suspect that a recipient is a victim of abuse shall:

- (1) Immediately make an oral report to the agency.
- (2) Make a written report to the agency within 48 hours.

(b) Employees making oral or written reports shall immediately notify the administrator or designee of these reports.

(c) Agencies shall notify administrators, or their designees, and State agencies with facility licensing responsibilities immediately when written reports of abuse are received.

(d) Employees required to report abuse may request administrators or their designees to make, or assist the employees to make, oral or written reports.

§ 15.152. Additional reporting requirements.

(a) Administrators or employees who have reasonable cause to suspect that a recipient is the victim of sexual abuse, serious physical injury or serious bodily injury, or that a recipient's death is suspicious, shall, in addition to the reporting requirements in § 15.151(a):

(1) Immediately make an oral report to law enforcement officials. An employee shall immediately notify the facility administrator or a designee following a report to law enforcement officials.

(2) Make an oral report to the Department during the current business day or, if the incident occurs after normal business hours, at the opening of the next business day.

(3) Make a written report within 48 hours of making the oral report, to law enforcement officials and the agency.

(b) Law enforcement officials shall promptly notify facility administrators or their designees that reports have been made with them.

(c) Administrators or employees shall, in addition to complying with these requirements, comply with reporting requirements of the Commonwealth licensing agency that licenses or funds the facility.

§ 15.153. Contents of reports.

(a) Written reports under §§ 15.151 and 15.152 (relating to general requirements; and additional reporting requirements) shall be made on forms supplied or approved by the Department.

(b) The report shall include, at a minimum, the following information:

- (1) Name, age and address of recipient.
- (2) Name, address of recipient's guardian or next-of-kin.
- (3) Facility name and address.
- (4) Description of the incident.
- (5) Specific comments or observations.

§ 15.154. Reports to Department and coroner by agencies.

(a) *Department.*

(1) Within 48 hours of receipt of a written report under § 15.152 (relating to additional reporting requirements) involving sexual abuse, serious physical injury, serious bodily injury or suspicious death, the agency shall transmit a written report to the Department.

(2) A report under this subsection shall be made in a manner and on forms prescribed by the Department. The report shall include, at a minimum, the following information:

- (i) The name and address of the alleged victim.
- (ii) Where the suspected abuse occurred.
- (iii) The age and sex of the alleged perpetrator and victim.
- (iv) The nature and extent of the suspected abuse, including evidence of prior abuse.

(v) The name and relationship of the individual responsible for causing the alleged abuse to the victim, if known, and evidence of prior abuse by that individual.

(vi) The source of the report.

(vii) The individual making the report and where that individual can be reached.

(viii) The actions taken by the reporting source, including taking of photographs and X-rays, removal of recipient and notification under subsection (b).

(b) *Coroner.* For a report under § 15.152 which concerns the death of a recipient, if there is reasonable cause to suspect that the recipient died as a result of abuse, the agency shall give the oral report and forward a copy of the written report to the county coroner of the county wherein the death occurred.

§ 15.155. Investigation.

(a) *Agency response.* Upon receipt of a report under §§ 15.151 and 15.152 (relating to general requirements; and additional reporting requirements), the agency shall respond as follows:

(1) If the victim or recipient is 60 years of age or older, the agency shall conduct an investigation to determine if the subject of the report is in need of protective services. The investigation by the agency shall be conducted as set forth at § 15.41—15.47 (relating to investigating reports of need for protective services).

(2) If the victim or recipient is under 60 years of age, the agency may not conduct an investigation. The investigation of the reports shall be conducted by the State agency, if any, that licensed the facility.

(3) If the victim or recipient is under 18 years of age, the agency shall notify and forward reports to the regional office of the Department of Public Welfare, Office of Children, Youth and Families or the State "ChildLine" and the county office of child protective services.

(4) If the victim or recipient resides in a nursing home or is receiving home health services, the agency shall notify and forward reports to the Department of Health office with facility licensing responsibilities and the regional office of the Department of Health.

(5) If the victim or recipient resides in a personal care home, the agency shall notify and forward reports to the Department of Public Welfare regional office with facility licensing responsibilities.

(6) If the victim or recipient resides in a domiciliary care home or receives services from an adult daily living center, the agency shall notify and forward reports to the Department.

(7) If the agency has knowledge or believes that the victim or recipient has mental retardation or a mental health condition, the agency shall notify the Department of Public Welfare office with facility licensing responsibilities and the county MH/MR office in addition to making other reports required by this subsection.

(b) *Cooperation.* To the fullest extent possible, law enforcement officials, the facility, the Commonwealth agency that licensed the facility and the agency shall coordinate their respective investigations, and shall advise each other and provide applicable additional information on an ongoing basis.

§ 15.156. Restrictions on employees.

(a) Upon notification that an employee is alleged to have committed abuse, the facility shall immediately develop and implement an individual plan of supervision or, when appropriate, suspension of the employee. The facility shall submit to the agency and the Commonwealth agency with regulatory authority over the facility a copy of the employee's individual plan of supervision for approval within the agencies' accepted time frames.

(b) Following approval of an individual plan of supervision by the agency and Commonwealth agency, the facility shall follow the plan. Changes to the plan must be approved by the agency and the Commonwealth agency with regulatory authority over the facility prior to their implementation.

(c) The individual plan of supervision established by a home health care agency shall, in addition to the requirements of this section, include periodic, random direct observation and evaluation of the employee and care recipient by an individual continuously employed by the home health care agency for at least 1 year. For a home health agency in business for less than 1 year, supervision shall include random, direct observation. An evaluation by an employee with prior employment experience of at least 1 year with one or more other home health care agencies.

(d) Upon being notified by law enforcement officials of a decision to file criminal charges against an employee, as a result of a report made in compliance with § 15.152 (relating to additional reporting requirements), the facility shall inform the Commonwealth agency that licenses the facility. The Commonwealth licensing agency shall order the facility to immediately deny the employee access to recipients at the facility. If the employee is a director, operator, administrator or supervisor, the employee shall be subject to restrictions by the Commonwealth licensing agency to assure the safety of recipients at the facility.

§ 15.157. Confidentiality of and access to confidential reports.

(a) *General rule.* Except as provided in subsection (b) and § 15.105 (relating to limited access to records and disclosure of information), all information concerning a report under this chapter shall be confidential.

(b) *Exceptions.* Relevant information concerning a report under this chapter shall be made available to the following:

(1) An employee of the Department or of an agency in the course of official duties in connection with responsibilities under this chapter, including the long term care ombudsman.

(2) An employee of the Department of Health or the Department of Public Welfare in the course of official duties.

(3) An employee of an agency of another state that performs protective services similar to those under this chapter.

(4) A practitioner of the healing arts who is examining or treating a recipient and who suspects that the recipient is in need of protection under this chapter.

(5) The director, or an individual specifically designated in writing by the director, of a hospital or other medical institution where the victim is being treated if the director or designee suspects the recipient is in need of protection under this chapter.

(6) The recipient or the guardian of the recipient.

(7) A court of competent jurisdiction under a court order.

(8) The Attorney General.

(9) Law enforcement officials of any jurisdiction as long as the information is relevant in the course of investigating cases of abuse.

(10) A mandated reporter who made a report of suspected abuse. Information released under this paragraph shall be limited to the following:

(i) The final status of the report following the investigation.

(ii) Services provided or to be provided by the agency.

(c) *Excision of certain names.* The name of the person suspected of committing the abuse shall be excised from a report made available under subsection (b)(4), (5) and (10).

(d) *Release of information to alleged perpetrator and victim.* Upon written request, the alleged perpetrator and victim may receive a copy of all information, except that prohibited from being disclosed by subsection (e).

(e) *Protecting identity of person making report.* Except for reports to law enforcement officials, the release of

data that would identify the individual who made a report under this chapter or an individual who cooperated in a subsequent investigation is prohibited. Law enforcement officials shall treat all reporting sources as confidential information.

§ 15.158. Penalties.

(a) *Administrative.*

(1) An administrator or a designee or facility owner who intentionally or willfully fails to comply or obstructs compliance with §§ 15.151—15.157 or who intimidates or commits a retaliatory act against an employee who complies in good faith with this chapter commits a violation of this chapter and shall be subject to an administrative penalty.

(2) Violations and penalties shall be determined by the Commonwealth agency that regulates the facility. The Commonwealth agency may issue an order assessing a civil penalty of not more than \$2,500. An order issued under this paragraph is subject to due process as set forth in 2 Pa.C.S. §§ 501—508 and 551—555 (relating to practice and procedure of Commonwealth agencies; and practice and procedure of local agencies) and judicial review in 2 Pa.C.S. §§ 701—704 and 751—754 (relating to judicial review of Commonwealth agency action; and judicial review of local agency action).

(3) Representatives of the Departments of Aging, Health and Welfare who suspect violations of this section will report them to the appropriate Commonwealth licensing agency under procedures developed by the Department in consultation with the licensing agency. The report shall be made in writing and include, at a minimum, the facility, the administrator, owner, operator or designee suspected of committing the violation and a description of the suspected violation.

(b) *Criminal.* An administrator or a designee or facility owner who intentionally or willfully fails to comply, or obstructs compliance, with §§ 15.151—15.157 commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of \$2,500 or to imprisonment for not more than 1 year, or both.

(c) *Penalties for failure to report.* A person required to report a case of suspected abuse under §§ 15.151—15.157 and who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation. If the agency learns of a refusal to complete all reporting requirements, the agency shall notify the police within 72 hours.

§ 15.159. Immunity.

An administrator or a facility will not be held civilly liable for any action directly related to good faith compliance with this chapter.

OTHER ADMINISTRATIVE PROVISIONS

§ 15.161. Waivers.

(a) The Department may, at its discretion and for justifiable reason, grant exceptions to and departures from this chapter to an area agency on aging when the area agency on aging can, by clear and convincing evidence, demonstrate that compliance would cause an unreasonable and undue hardship upon the area agency on aging and that an exception would not impair the health, safety or welfare of older adults or otherwise compromise the intent of this chapter. The Department cannot, however, waive statutory requirements in the act.

(b) A waiver request shall be made in writing to the Secretary. A request shall specifically identify and explain the burden created by the requirement for which the exception is being sought, the alternative method for fulfilling the basic intent of the requirement and evidence of the steps to be taken to assure that the health, safety and welfare of older adults will not be compromised.

(c) An exception granted under this chapter may be revoked by the Department at its discretion for a justifiable reason. Notice of revocation will be in writing and will include the reason for the action of the Department and a specific date upon which the exception will be terminated.

(d) In revoking an exception, the Department will provide for a reasonable time between the date of written notice of revocation and the date of termination of an exception for the agency to come into compliance with the applicable regulations.

(e) If an agency wishes to request a reconsideration of a denial or revocation of an exception, it shall do so in writing to the Secretary within 15 days of receipt of the adverse notification.

[Pa.B. Doc. No. 02-887. Filed for public inspection May 17, 2002, 9:00 a.m.]

Title 28—HEALTH AND SAFETY

DEPARTMENT OF HEALTH

[28 PA. CODE CHS. 27, 28 AND 501]

Newborn Disease Screening and Follow-Up Program

The Department of Health (Department), with the approval of the State Advisory Health Board (Board), adopts amendments to Chapter 28 (relating to screening and follow-up for diseases of the newborn). The Department also adopts amendments to specific sections of Chapters 27 and 501 (relating to communicable and noncommunicable diseases; and birth centers), as made necessary by the amendments to Chapter 28. The amendments are set forth in Annex A.

I. Purpose of the Final-Form Rulemaking

This final-form rulemaking incorporates changes to the Newborn Screening and Follow-Up Program (Program) required as a result of amendments to the Newborn Child Testing Act (act) (35 P. S. §§ 621—625), made by the act of July 9, 1992 (P. L. 398, No. 86). The amendments to the act add maple syrup urine disease (MSUD) and sickle-cell hemoglobinopathies (disease and trait) to the list of diseases for which routine screening of newborns is conducted, provide for the addition to the list by regulation of any other disease approved for inclusion by the Department and the Board, and require a screening and follow-up program to identify and treat newborn children with one of the diseases listed in the act or identified by regulation. See section 3 of the act (35 P. S. § 623). The Department is given the authority under the act to promulgate regulations, with the approval of the Board, to carry out these requirements. See section 5 of the act (35 P. S. § 625). The regulations require screening for galactosemia and congenital adrenal hyperplasia (CAH) under the Department's authority to add to the list of

diseases for which routine screening of newborns is to be conducted, by regulation, any other disease approved for inclusion by the Department and the Board. Further, the final-form rulemaking requires screening for hemoglobinopathies (hemoglobin diseases) other than sickle cell hemoglobinopathies because the detection of other hemoglobin diseases, some of which may be life threatening, is unavoidable with the testing methodology currently available.

This final-form rulemaking also makes minor changes to Chapters 27 and 501. Both sets of minor revisions are necessary to ensure that no inconsistencies exist between the updated requirements of the expanded Program and other Department regulations.

Notice of proposed rulemaking was published at 31 Pa.B. 2271 (April 28, 2001) and provided a 30-day public comment period. The Department received three public comments to the proposed rulemaking and additional comments from Independent Regulatory Review Commission (IRRC). The Department's responses to these comments appear in the summary of this Preamble.

II. Summary

One commentator, the Pennsylvania Chapter of the American Academy of Pediatrics, stated that it was pleased to endorse the proposed rulemaking and offered its support in providing any necessary education to pediatricians once the regulations were finalized.

Another commentator believed that the Department should clarify the definition of "hemoglobin diseases." The Department had used the term "V" in that definition to indicate a variant. However, as there is no hemoglobin named "V," the commentator believed that the use of this term could be confusing. IRRC also raised this issue. The Department agrees with the commentator and the definition in § 28.1 (relating to definitions) was changed to use the word "variant" instead of the letter "V."

The final public commentator, the Hospital and Healthsystem Association of Pennsylvania (HAP), raised two concerns. The first concern was that the proposed rulemaking did not clearly state the process by which additions to the list of newborn disease screening are made and how public and clinical input will be sought. HAP suggested that this information be included in the final-form rulemaking. Further, HAP suggested that the Department should clearly articulate the clinical rationale and societal benefits for adding the two particular conditions (presumably CAH and galactosemia) included in these regulations. The Department does not believe that it is necessary to include in the regulations the process by which conditions are selected for screening. The process of selecting conditions for newborn screening testing is consistent with recommendations from the August 2000 National Newborn Screening Task Force Report issued by the Health Resources Services Administration. Determinations are made based on recommendations by the Newborn Screening Technical Advisory Committee, a Department-organized committee which provides both public and clinical input. Committee members include medical professionals in the pediatric field who specialize in endocrinology and metabolic disorders, as well as parents of affected children. The Department's Board must then approve the selection of conditions for screening. Criteria used in selecting conditions for screening include: reliable, valid and accurate testing methodologies must be available; there must be effective treatment that will benefit the newborn; follow-up systems must be in place to ensure access to appropriate care; properly

trained professionals must be accessible; and the population demographics must support the cost effectiveness of testing.

The selection of CAH and galactosemia as conditions for which newborns are screened was the result of following the previously described procedure. The clinical rationale for and societal benefit derived from screening for these two conditions were set forth in the preamble to the proposed rulemaking. However, for clarification, the Department will elaborate further. CAH is a complex family of disorders arising from specific defects in the enzymes of the adrenal cortex necessary for the biosynthesis of steroids. Dehydration, shock and even death can occur, with high mortality from "adrenal crisis." As severe forms of CAH can be rapidly fatal, quick diagnosis and intervention in the newborn are critical. Proper early intervention and medical treatment resets the abnormal balance of hormones and permits near normal development. Incidence is one case per 12,000 births. Approximately 25 other states screen for CAH.

Galactosemia is a genetic metabolic condition, which affects the body's ability to utilize certain sugars. Babies born with this condition cannot break down lactose or galactose. These are simple sugars found in breast milk, many formulas and milk products. The most common forms of galactosemia may result in death from sepsis within the first weeks of life or mental retardation in those who survive. Prompt diagnosis and intervention can prevent further damage. Treatment consists of special galactose and lactose-free milk substitutes and foods. One newborn in 60,000 is identified with classical galactosemia. When other forms of galactosemia are included, such as Duarte and Los Angeles, the rate increases to one newborn in 16,000 identified with a form of galactosemia. Forty-seven other states screen for galactosemia.

The second concern voiced by HAP is that the regulations have shifted the responsibility for follow-up notification and counseling to health care providers. The responsibility for follow-up has not been shifted from the Department to health care providers through these regulations. The act mandates physicians, hospitals and other institutions to test infants for PKU and other metabolic diseases.

Section 3 of the act specifically addresses the establishment of the Program by the Department, to assist health care providers to determine whether treatment or other services are necessary to avert mental retardation, permanent disabilities or death. Section 4 of the act (35 P. S. § 624) addresses the procurement of specimens by health care providers and states that health care providers shall cause to be procured blood specimens of newborn children for required screening and confirmatory tests. If the initial specimen is an unacceptable specimen or as otherwise required by the Department by regulation, the act requires that the health care provider collect a repeat specimen for screening and confirmatory tests.

The act is clear in terms of assignment of responsibility. The Department's regulations follow the act and more clearly describe the responsibilities of health care providers and the Department.

IRRC also raised two concerns related to § 28.21 (relating to responsibility for collecting and testing initial and repeat specimens). First, IRRC commented that the section does not specify what qualifications the newborn screening coordinator must have. IRRC commented that paragraph (1) states that the newborn screening coordina-

tor must "ensure that a specimen collection form contains correct and complete information" and asks, "What level of medical training does the newborn screening coordinator need to ensure the information is "correct?"

It is not the Department's intent to regulate the level of training. The Department believes that no specific level of medical training is necessary to ensure that the information is correct. However, the newborn screening coordinator must have access to the medical record to verify that information on the specimen collection form is consistent with information on the medical record. Filling in the required information on the specimen collection form merely entails taking information from entries in the medical record and transcribing it on to the form. In some hospitals this may be performed by a nurse, medical technologist or medical secretary with access to the medical record.

IRRC's second concern regarding § 28.21 is that paragraph (7) is vague. IRRC asked what is the intent of the Department in requiring the newborn screening coordinator to assist the Department in follow-up of an abnormal or presumptive abnormal test result.

The intent of the Department is to minimize delays in notifying the parents of the test result due to inaccurate or missing demographic information on the newborn screening filter paper. A nurse who is a member of the Department's Program staff receives the test result from the Department's testing laboratory. If the result is abnormal, that nurse will contact the provider's newborn screening coordinator to verify the information from the filter paper. The nurse also informs the coordinator that the Department will contact the newborn's physician. The Department then contacts the physician (by phone and fax) and discusses the need for a referral of the newborn to a treatment center or recommends a consultation with a pediatric endocrinologist depending on the condition.

It is the responsibility of the health care providers to contact the parents of the newborn to inform them of the abnormal test result. This is not a new requirement. Under the regulations prior to these amendments, § 28.27 (relating to abnormal screening test results) stated that "[i]f the results of any filter paper are presumptive positive, the health care provider or practitioner to whom the results were reported shall promptly notify the parents or guardian and arrange for follow-up and shall enter the report of the result into the patient's medical record." The Department has amended this section merely to make the language consistent with the rest of the regulations and to clarify the procedure.

The proposed rulemaking proposed changes to Chapter 27. However, that chapter was in the process of being amended at that time and the amendments to Chapter 27 have now been published as final (see 32 Pa.B. 491 (January 26, 2002)). Consequently, the language no longer exists in some of the Chapter 27 regulations to which the Department had proposed amendments to correlate with the proposed Chapter 28 newborn screening programs amendments. The revisions proposed to Chapter 28 in 31 Pa.B. 2271 were reevaluated in light of the new language of Chapter 27 and necessary changes have been incorporated into this final-form rulemaking.

At 31 Pa.B. 2271, changes were proposed to § 27.2 (relating to specific identified reportable diseases, infections and conditions), as that section existed on April 28, 2001. As a result of changes published in 32 Pa.B. 491, the changes proposed in 31 Pa.B. 2271 are no longer necessary.

There were no changes to § 27.4 (relating to reporting cases) proposed at 31 Pa.B. 2271. However, organizational changes in the Department since that time have necessitated minor changes to reflect the correct name of the Division in which the Program is located.

The changes to Chapter 27 that were published at 32 Pa.B. 491 added § 27.21a (relating to reporting of cases by health care practitioners and health care facilities). Now, additional changes to this section are needed to ensure that all of the conditions for which newborns are screened under Chapter 28 are reportable by health care practitioners and health care facilities.

At 31 Pa.B. 2271, changes were proposed to § 27.22 (relating to reporting of cases by clinical laboratories) as that section existed on April 28, 2001. As a result of changes to this section that were published at 32 Pa.B. 491, additional changes are necessary to ensure that all of the conditions for which newborns are screened under Chapter 28 are reportable by clinical laboratories.

At 31 Pa.B. 2271, changes were proposed to § 27.30 (relating to reporting of certain diseases in the newborn child) as that section existed on April 28, 2001. As a result of changes to this section that were published at 32 Pa.B. 491, additional changes are necessary to ensure that all of the conditions for which newborns are screened under Chapter 28 are reported to the Division in which the Program is located.

The proposed rulemaking proposed minor changes to Chapter 501. The final-form rulemaking make only one additional change to § 501.49 (relating to newborn infant care policies and procedures) so that the terminology used is consistent with that used in Chapter 28.

III. *Affected Persons*

This final-form rulemaking affects all health care providers providing care to pregnant women and newborn children in this Commonwealth, as well as the treatment centers and any laboratory with which the Department contracts to provide the screening services. Health care providers are required to collect blood filter paper specimens in accordance with updated procedures, assist the Department with follow-up of certain test results and forward data on specimen collection semiannually to the Department. Sickle cell and MSUD treatment centers are required to provide services to an increased number of children identified through the expanded Program. Treatment centers for galactosemia have been identified and are in place for Statewide screening for that condition. CAH will be dealt with in a similar fashion as primary congenital hypothyroidism, through referral to an endocrinologist. The laboratory with which the Department contracts is required to perform testing for MSUD, hemoglobin disease, galactosemia and CAH, in addition to PKU and primary congenital hypothyroidism. These regulations also generally affect all infants born in this Commonwealth, and, in particular, children born in populations at greatest risk for certain diseases (such as, MSUD and hemoglobin diseases).

IV. *Cost And Paperwork Estimate*

A. *Cost*

Statutorily mandated expansion of the Program to include testing for MSUD and sickle cell hemoglobinopathies (hemoglobin disease) will result in increased cost to the Commonwealth and, on a lesser scale, to health care providers. Annual costs of the Program are expected to increase by approximately \$1.3 million to cover testing and follow-up for MSUD, hemoglobin dis-

ease, galactosemia and CAH. This amount will be funded entirely by State funds. The total annual budget for the expanded Program includes testing of 150,000 specimens for each of the six diseases (PKU, primary congenital hypothyroidism, MSUD, hemoglobin disease, galactosemia and CAH), additional personnel, new and replacement equipment for the Bureau of Laboratories and the testing laboratory and follow-up of children who are identified with one of the six diseases listed.

The cost to the private sector will be the cost incurred by health care providers in connection with providing the necessary follow-up to abnormal test results. The Department currently does not charge hospitals or parents for the costs of laboratory screening.

Expansion of the Program to include screening for MSUD, hemoglobin disease, galactosemia and CAH, however, will result in long-term savings as well. The total cost of screening all newborn children in this Commonwealth, including follow-up and some treatment for PKU, primary congenital hypothyroidism, MSUD, sickle cell disease, CAH and galactosemia is estimated at approximately \$32 per child.

B. *Additional Paperwork*

The testing laboratory and health care providers will have additional reporting responsibilities resulting from the addition of diseases to the list of diseases for which screening is required. The increase in paperwork requirements will be minimal, however, because the specimens necessary for screening for MSUD, hemoglobin disease, galactosemia and CAH will be collected on the same specimen collection form currently used solely for PKU and primary congenital hypothyroidism screening. Furthermore, the testing laboratory will report screening test results for the newly added diseases on the same report form currently used solely for PKU and primary congenital hypothyroidism. The regulations require health care providers to submit data regarding specimen collection to the Department semiannually. Paperwork requirements within the Department will not change significantly except to the extent that the addition of MSUD, hemoglobin disease, galactosemia and CAH will result in more instances in which follow-up of abnormal results will be required.

The expanded program for screening for sickle cell hemoglobinopathies (hemoglobin disease) and MSUD was mandated by statute in 1992, and has, in fact, been operating since that time. As has been stated, screening for sickle cell hemoglobinopathies (hemoglobin disease) began in September 1992, and for MSUD began in March 1993. Screening for galactosemia and CAH began on a voluntary basis in State fiscal year 2000/2001. The regulations will not add to the paperwork currently being done by providers of their own volition, nor will they, for the most part, increase costs currently incurred as screening mandated by the act is carried out.

V. *Effectiveness/Sunset Dates*

The regulations will become effective upon final publication in the *Pennsylvania Bulletin*. No sunset date has been established; the Department will continually review and monitor the effectiveness of the Program.

VI. *Statutory Authority*

The Department obtains its authority to promulgate these regulations from several sources. The Disease Prevention and Control Law of 1955 (35 P.S. §§ 521.1—521.21) provides the Board with the authority to issue rules and regulations on a variety of issues relating to

communicable and noncommunicable diseases, including the methods of reporting diseases, the contents of those reports and the health authorities to whom diseases are to be reported. See 35 P.S. § 521.16(a). Section 16(b) of the Disease Prevention and Control Law of 1955 (35 P.S. § 521.16(b)) gives the Secretary of Health (Secretary) the authority to review existing regulations and make recommendations to the Board for changes the Secretary considers to be desirable.

The Department also finds general authority for the promulgation of its regulations in section 2102(g) of The Administrative Code of 1929 (71 P.S. § 532(g)) which gives the Department the authority to promulgate its rules and regulations. Section 2111(b) of The Administrative Code of 1929 (71 P.S. § 541(b)) provides the Board with additional authority to promulgate regulations deemed by the Board to be necessary for the prevention of disease, and for the protection of the lives and the health of the people of this Commonwealth. That section further provides that the regulations of the Board shall become the regulations of the Department.

The Department's specific authority for promulgating the regulations relating to newborn screening and follow-up is found in the act. Section 5 of the act provides the Department, with the approval of the Board, the authority to promulgate regulations for the implementation and administration of the act. Section 3(b) of the act provides the Department, with the approval of the Board, the authority to establish by regulation those diseases for which newborn children shall be tested and the methods for testing and disseminating test results. Section 4(b) of the act provides the Department with the authority to establish by regulation the methods of procurement of blood specimens of newborn children by health care providers.

VII. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 18, 2001, the Department submitted copies of the notice of proposed rulemaking published at 31 Pa.B. 2271 to IRRC and to the Chairpersons of the House Health and Human Services Committee and the Senate Public Health and Welfare Committee for review and comment.

In compliance with section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of all comments received. In addition, the Department provided IRRC and the Committees with information pertaining to commentators and a copy of the detailed regulatory analysis form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request. In preparing the final-form regulations, the Department has considered all comments received from IRRC and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5a(d)), these final-form regulations were deemed approved by the House and Senate Committees on February 28, 2002. IRRC met on April 4, 2002, and approved the final-form regulations in accordance with section 5.1(e) of the Regulatory Review Act. The Attorney General approved the final-form regulations on April 29, 2002.

VIII. *Contact Person*

Questions regarding these final-form regulations may be submitted to: Joann Adair, Director, Division of Newborn Disease Prevention and Identification, Bureau of

Family Health, Department of Health, P. O. Box 90, Harrisburg, PA 17108, (717) 783-8143. Persons with disabilities may submit questions to Joann Adair in alternative formats, such as by audio tape, Braille or using ITT (717) 705-5494. Persons with disabilities who would like to obtain this document in an alternative format (such as, large print, audio tape, Braille) should contact Joann Adair so that she may make the necessary arrangements.

Findings

The Department, with the approval of the Board, finds that:

(1) Public notice of the intention to adopt the amendments adopted 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) A public comment period was provided as required by law and all comments were considered.

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

Order

The Department, with the approval of the Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 28 Pa. Code Chapters 27, 28 and 501, are amended by adding § 28.5; by amending §§ 27.4, 27.21a, 27.22, 27.30, 28.1—28.2, 28.11, 28.12, 28.21—28.28, 28.41, 501.3 and 501.49; and by deleting §§ 28.3, 28.4 and 28.29—28.31 as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

(c) The Secretary shall submit this order, Annex A and a Regulatory Analysis Form to IRRC, the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare for their review and action as required by law.

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

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

ROBERT S. ZIMMERMAN, Jr.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 2041 (April 20, 2002).)

Fiscal Note: Fiscal Note 10-137 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 28. HEALTH AND SAFETY

PART III. PREVENTION OF DISEASE

CHAPTER 27. COMMUNICABLE AND NONCOMMUNICABLE DISEASES

Subchapter A. GENERAL PROVISIONS

§ 27.4. Reporting cases.

(a) Except for reporting by a clinical laboratory, a case is to be reported to the LMRO serving the area in which

a case is diagnosed or identified unless another provision of this chapter directs that a particular type of case is to be reported elsewhere. A clinical laboratory shall make reports to the appropriate office of the Department.

(b) Upon the Department's implementation of its electronic disease surveillance system for certain types of case reports, persons who make those reports shall do so electronically using an application and reporting format provided by the Department. At least 6 months in advance of requiring a type of case report to be reported electronically, the Department will publish a notice in the *Pennsylvania Bulletin* announcing when electronic reporting is to begin.

(c) This section does not prohibit a reporter from making an initial report of a case to the Department or an LMRO by telephone. The reporter will be instructed on how to make a complete case report at the time of the telephone call.

(d) Department offices to which this chapter requires specified case reports to be filed are as follows:

(1) Cancer Registry, Division of Health Statistics, Bureau of Health Statistics and Research.

(2) Division of Infectious Disease Epidemiology, Bureau of Epidemiology.

(3) HIV/AIDS Epidemiology Section, Division of Infectious Disease Epidemiology, Bureau of Epidemiology.

(4) Division of Newborn Disease Prevention and Identification, Bureau of Family Health.

(e) A case shall be reported using the appropriate case report format. Information solicited by the case report form shall be provided by the reporter, irrespective of whether the report is made by submitting the form directly in hard copy or by telecommunication or electronic submission. An appropriate case report form or format may be procured from the office to which the type of case is reportable.

Subchapter B. REPORTING OF DISEASES, INFECTIONS AND CONDITIONS

GENERAL

§ 27.21a. Reporting of cases by health care practitioners and health care facilities.

* * * * *

(b) The following diseases, infections and conditions in humans are reportable by health care practitioners and health care facilities within the specified time periods and as otherwise required by this chapter:

* * * * *

(2) The following diseases, infections and conditions are reportable within 5 work days after being identified by symptoms, appearance or diagnosis:

* * * * *

Congenital adrenal hyperplasia (CAH) in children under 5 years of age.

* * * * *

Galactosemia in children under 5 years of age.

* * * * *

Sickle cell disease in children under 5 years of age.

* * * * *

§ 27.22. Reporting of cases by clinical laboratories.

* * * * *

(b) The diseases, infections and conditions to be reported include the following:

* * * * *

Congenital adrenal hyperplasia (CAH) in children under 5 years of age.

* * * * *

Galactosemia in children under 5 years of age.

* * * * *

Sickle cell disease in children under 5 years of age.

* * * * *

(e) Reports made on paper shall be made to the LMRO where the case is diagnosed or identified. Reports made electronically shall be submitted to the Division of Infectious Disease Epidemiology, Bureau of Epidemiology. Reports of CAH, galactosemia, maple syrup urine disease, phenylketonuria, primary congenital hypothyroidism, sickle cell disease, cancer and lead poisoning shall be reported to the location specifically designated in this subchapter. See §§ 27.30, 27.31 and 27.34 (relating to reporting cases of certain diseases in the newborn child; reporting cases of cancer; and reporting cases of lead poisoning).

* * * * *

DISEASES AND CONDITIONS REQUIRING SPECIAL REPORTING

§ 27.30. Reporting cases of certain diseases in the newborn child.

Reports of congenital adrenal hyperplasia (CAH), galactosemia, maple syrup urine disease, phenylketonuria, primary congenital hypothyroidism and sickle cell disease shall be made to the Division of Newborn Disease Prevention and Identification, Bureau of Family Health, as specified in Chapter 28 (relating to screening and follow-up for diseases of the newborn) and those provisions of § 27.4 (relating to reporting cases) consistent with Chapter 28 and this section.

CHAPTER 28. SCREENING AND FOLLOW-UP FOR DISEASES OF THE NEWBORN GENERAL PROVISIONS

§ 28.1. Definitions.

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

Abnormal confirmatory test result—A test result obtained from a specimen of blood, serum or plasma which is diagnostic of the newborn disease under investigation.

Abnormal screening test result—A test result obtained from a specimen collected on a specimen collection form which is outside the parameters for a normal test result according to testing criteria applicable to the screening test result.

Admission—The formal acceptance of custody or care by a birth center or hospital of a newborn child who is provided with bassinet or incubator, nutrition and continuous nursing service.

Birth center—As defined in section 802a of the Health Care Facilities Act (35 P. S. § 448.802a).

Days of age—The measurement of age of the newborn child in 24-hour periods so that a newborn child is one day of age 24 hours after the hour of birth.

Department—The Department of Health of the Commonwealth.

Discharge—The release of the newborn child from care and custody within and by birth center or hospital to the care and custody of the parent or guardian.

Health care practitioner—A licensed physician or a practitioner licensed to deliver and care for pregnant women and newborn children.

Health care provider—A birth center, hospital or health care practitioner.

Hemoglobin diseases—Sickle cell (SS, SC, S + other variant, S β Thalassemia, S O Arab) disease or trait or other clinically significant hemoglobin (CC, EE, F, H) disease or trait.

Hospital—As defined in section 802a of the Health Care Facilities Act.

Inconclusive screening test result—A test result obtained from a specimen collected on a specimen collection form that is equivocal according to criteria applicable to the screening test result and which indicates the need for a repeat specimen and repeat testing.

Initial specimen—The first sample of blood collected from the newborn child and submitted for testing purposes on a specimen collection form.

Newborn child—An infant less than 28 days of age.

Newborn screening program—The association of the Department, the testing laboratory and the health care provider to ensure that every newborn child born in this Commonwealth has a blood specimen collected and screened for the newborn diseases in § 28.2 (relating to newborn diseases listed).

Presumptive abnormal test result—An abnormal screening test result which is sufficiently abnormal to indicate the probable presence of a newborn disease listed in § 28.2.

Repeat specimen—A specimen collected from a newborn child on a specimen collection form after the initial specimen.

Repeat test—The laboratory testing performed on a repeat specimen.

Specimen collection form—The official newborn screening program specimen form that includes both a multipart section for providing required information about the newborn child and a filter paper tab for application of blood.

Testing laboratory—The licensed clinical laboratory under contract with the Department to perform testing for the newborn diseases listed in § 28.2.

Transfer—The release of the newborn child from care and custody within and by a birth center or hospital and subsequent admission to another hospital.

Treatment center—A center under contract with the Department to provide expert consultation, diagnosis and treatment for children with a presumptive abnormal test result.

Unacceptable specimen—A blood specimen collected from a newborn child on a specimen collection form which is found to be unsuitable for testing in accordance with accepted laboratory testing standards as determined by the Department.

§ 28.2. Newborn diseases listed.

A newborn child born in this Commonwealth shall be screened for the following diseases which may cause mental retardation, physical defects or death if not detected and treated soon after birth:

- (1) Congenital adrenal hyperplasia (CAH).
- (2) Galactosemia.
- (3) Hemoglobin diseases.
- (4) Maple syrup urine disease (MSUD).
- (5) Phenylketonuria (PKU).
- (6) Primary congenital hypothyroidism.

§ 28.3. (Reserved).

§ 28.4. (Reserved).

§ 28.5. Confidentiality.

(a) A health care provider, testing laboratory, the Department or any other entity involved in the newborn screening program may not release any identifying information relating to any newborn child screened in the newborn screening program to anyone other than a parent or guardian of the newborn child or the health care provider for the newborn child designated by a parent or the guardian except as follows:

- (1) As may be necessary to provide services to the newborn child.
- (2) With the consent of the newborn child's parent or guardian.
- (3) With the child's consent when the child is 18 years of age or older, has graduated from high school, has married or has been pregnant.

(b) Only the Department will have the authority to release or authorize the release of nonidentifying information concerning the newborn screening program.

PURPOSE AND ADMINISTRATION OF TESTS

§ 28.11. Informing the parent or guardian.

Prior to specimen collection, the health care provider shall provide the pregnant woman, prior to the infant's birth, or the mother or guardian, after the infant's birth, with a pamphlet supplied by the Department to explain the nature of the newborn screening blood tests for the diseases in § 28.2 (relating to newborn diseases listed).

§ 28.12. Religious objections.

(a) A health care provider may not collect or cause to be collected, a specimen from a newborn child if the parent or guardian of the newborn child objects on the ground that the specimen collection conflicts with religious beliefs or practices held by the parent or guardian.

(b) If the parent or guardian of the newborn child objects to the collection of the specimen for screening on the ground that the specimen collection conflicts with religious beliefs or practices held by the parent or guardian, the health care provider shall ensure that the recorded objection of the parent or guardian is entered into the medical record of the newborn child. The entry shall include a written statement of the objection signed by the parent or guardian.

SPECIMEN COLLECTION AND FOLLOW-UP

§ 28.21. Responsibility for collecting and testing initial and repeat specimens.

(a) A birth center or hospital shall collect or cause to be collected from each newborn child delivered in that birth

center or hospital, in accordance with instructions for newborn screening specimen collection in subsection (d), the initial and repeat specimens necessary to conduct the tests necessary for the detection of the newborn diseases specified in § 28.2 (relating to newborn diseases listed).

(b) When a newborn child is delivered other than in a birth center or hospital, the health care practitioner who delivered the newborn child shall collect or cause to be collected from the newborn child, in accordance with instructions for newborn screening specimen collection in subsection (d), the initial and repeat specimens necessary to conduct the tests necessary for the detection of the newborn diseases specified in § 28.2.

(c) The health care provider shall designate a newborn screening coordinator to do the following:

- (1) Ensure that a specimen collection form contains correct and complete information.
- (2) Ensure that the individual who collected the specimen records that act in the newborn child's medical record.
- (3) Send all specimens collected by first class mail to the testing laboratory within 24 hours of collection.
- (4) Record the laboratory screening results in the newborn child's medical records.
- (5) Check each newborn child's record prior to discharge or release to ensure that a specimen has been collected.
- (6) Ensure, in the event of transfer of the newborn child prior to 48 hours of age, that the receiving health care provider has been notified that it has the responsibility to collect the initial specimen.
- (7) Assist the Department in follow-up of an abnormal or presumptive abnormal test result.
- (8) Follow-up inconclusive test results.
- (9) Receive notification from the testing laboratory or from the Department of the need for a repeat specimen.

(d) The health care provider shall ensure that the individual responsible for specimen collection shall collect the specimen necessary to conduct tests in accordance with consensus standards developed by the National Committee for Clinical Laboratory Standards (NCCLS) and accepted by the Department. The Department will publish these standards, and any revisions thereto, in a notice in the *Pennsylvania Bulletin*.

§ 28.22. Timing of initial specimen collection by birth centers or hospitals.

(a) A birth center or hospital shall collect the initial specimen from each newborn child regardless of feeding history or medical condition, as close to 48 hours of age as possible but not later than 72 hours of age unless the newborn child falls into one of the following categories:

(1) *Transfer*. If the newborn child is transferred to another hospital for continuing care prior to 48 hours of age, the hospital to which the newborn child has been transferred shall collect a specimen from the newborn child, regardless of feeding history or medical condition, as close to 48 hours of age as possible but not later than 72 hours of age.

(2) *Exchange transfusion*. If the newborn child is to undergo an exchange transfusion, the birth center or hospital shall collect the initial specimen for testing immediately prior to the exchange transfusion.

(3) *Early discharge.* If the newborn child is discharged from the birth center or hospital before 24 hours of age, the birth center or hospital shall collect the initial specimen from the newborn child as close to the time of discharge as is practicable, regardless of feeding history or medical condition. The birth center or hospital shall give the parent or guardian in whose care and custody the newborn child is discharged written notification of the need for a repeat specimen and shall also provide instructions to the parent or guardian for obtaining a repeat specimen from the newborn child as described in § 28.26 (relating to timing of repeat specimen collection).

(b) When a newborn child, who was delivered other than in a birth center or hospital, is admitted to a hospital within the first 27 days of age and the hospital has received no record of results of an approved screening test for the newborn diseases in § 28.2 (relating to newborn diseases listed), the hospital to which the newborn child is admitted shall collect the initial specimen within 48 hours of admission to the hospital and shall send the specimen to the testing laboratory specified by the Department within 24 hours of collection.

§ 28.23. Timing of initial specimen collection by health care practitioners.

A health care practitioner who delivers a newborn child other than in a birth center or hospital shall collect or cause to be collected the initial specimen from the newborn child, regardless of feeding history or medical condition, as close to 48 hours as possible but not later than 72 hours of age.

§ 28.24. Normal test results.

(a) Within 7-calendar days following the day when the testing laboratory obtains the normal test results, the testing laboratory shall send those results to the health care provider that collected the specimen from the newborn child.

(b) The health care provider to whom the normal test results are reported shall record the test results in the medical record of the newborn child.

§ 28.25. Circumstances requiring repeat specimens.

(a) The health care provider responsible for collecting the initial specimen shall collect or cause to be collected and submit for testing a repeat specimen if the initial specimen collected is either of the following:

- (1) Unacceptable for testing.
- (2) Yields an inconclusive screening test result.

(b) If a birth center or hospital collects the initial specimen from a newborn child prior to 24 hours of age because the newborn child is discharged from the birth center or hospital prior to 24 hours of age, the birth center or hospital shall collect or cause to be collected a repeat specimen.

(c) If the initial specimen collected yields an abnormal screening test result, the Department may require the health care provider responsible for collecting the initial specimen to collect a repeat specimen.

§ 28.26. Timing of repeat specimen collection.

(a) When the newborn child has been discharged from a birth center or hospital before 24 hours of age, the birth center or hospital shall collect or cause to be collected a repeat specimen from the newborn child, regardless of feeding history or medical condition, as close to 48 hours of age as possible but not later than 72 hours of age.

(b) When the initial specimen is unacceptable or when the initial specimen yields an inconclusive screening test result, the Department or testing laboratory will notify the health care provider that collected the initial specimen. Within 72 hours of receipt of notice from the Department or testing laboratory, the health care provider that collected the initial specimen shall collect or cause to be collected from the newborn child a repeat specimen.

(c) If the health care provider cannot locate a parent or guardian of the newborn child within 4 days of notification of need for a repeat specimen, the health care provider shall contact the Department for consultation regarding additional means for locating a parent or guardian.

§ 28.27. Abnormal screening test results.

(a) When testing of the initial or repeat specimen yields an abnormal screening test result, the Department will notify the health care provider that collected the specimen. The health care provider shall promptly notify a parent or guardian of the newborn child.

(b) If the health care provider cannot locate the newborn child's parent or guardian within 48 hours of receiving notice from the Department, the health care provider shall contact the Department for consultation regarding additional means for locating a parent or guardian.

(c) The Department will assist the health care provider with and make available confirmatory testing.

(d) If the result of the confirmatory test is abnormal, the Department will assist with referral for diagnosis, treatment, and other follow-up services for the newborn child through designated treatment centers or clinical specialists.

§ 28.28. Follow-up of symptoms consistent with newborn diseases.

When a sick child exhibits symptoms suggestive of a newborn disease listed in § 28.2 (relating to newborn diseases listed) and has not already been determined to have one of those newborn diseases, the health care provider to whom care of the sick child has been entrusted by the parent or guardian shall collect and submit a blood specimen for newborn disease testing in accordance with standard diagnostic procedures.

§§ 28.29—28.31. (Reserved).

RECORDS

§ 28.41. Recordkeeping requirements.

A health care provider offering maternity and newborn services shall collect and forward data semiannually to the Department on the number of patients for whom specimens for newborn disease testing have been collected and the number of patients for whom the specimens have not been collected, together with the reason in each instance for the failure to collect.

PART IV. HEALTH FACILITIES
CHAPTER 501. BIRTH CENTERS
GENERAL PROVISIONS

§ 501.3. Reports/contact person.

(a) The facility shall report regularly to the Department, on forms issued by the Department, statistical information that the Department may request and shall comply with the requirements for recordkeeping in § 28.41 (relating to recordkeeping requirements).

(b) Data that could lead to the disclosure of the identity of individuals involved will be considered confidential and may not be released without prior authorization of the legal parent, guardian or newborn infant upon obtaining the age of 18.

(c) Questions concerning reports required should be addressed to Director, Division of Primary Care and Home Health Services, Department of Health, Post Office Box 90, Harrisburg, Pennsylvania 17108.

§ 501.49. Newborn infant care policies and procedures.

The newborn infant care policies, protocols and procedures shall include the following:

(1) Resuscitation equipment for newborn infant care management of short-term assisted ventilation shall include bag and mask or bag and endotracheal tube, with oxygen supply available.

(2) Medication approved by the Department in § 27.98 (relating to prophylactic treatment of newborns), shall be instilled in the eyes of the newborn infant according to statute. If the parent or guardian of the newborn child objects on the ground that the prophylactic treatment conflicts with the parent's religious beliefs or practices, prophylactic treatment will be withheld, and an entry in the child's record indicating the reason for withholding treatment shall be made and signed by the Physician Director of Medical Affairs and the parent or guardian of the newborn infant.

(3) Before discharge from the center, the newborn infant shall be examined by a midwife or a physician, and the results shall be entered in the health record. An infant with identified abnormalities shall be referred for appropriate follow-up, in accordance with the birth center policies.

(4) The birth center shall explain to the mother the purpose and nature of the screening tests for diseases of the newborn, required by Chapter 28 (relating to screening and follow-up for diseases of the newborn), give her an informational pamphlet provided by the Department, inform her of her right to refuse the tests because of religious beliefs or practices, and see that the recorded written objection is entered into the medical record of the newborn child and signed by the parent or guardian, if screening is refused.

(5) The birth center shall comply with the requirements for specimen collection, testing and follow-up in §§ 28.21—21.28 (relating to specimen collection and followup).

(6) Policies and other criteria, which govern discharge of newborn infants, shall be in accordance with birth center policies.

(7) The birth center shall communicate with the pediatric care provider and transfer birth and newborn records to the pediatric care provider.

(8) The birth center shall provide a list of available counselors and counseling services, compiled under 23 Pa.C.S. § 2505 (relating to counseling), to mothers who are known to be considering relinquishing or termination of parental rights under 23 Pa.C.S. §§ 2101—2909 (relating to the Adoption Act).

[Pa.B. Doc. No. 02-888. Filed for public inspection May 17, 2002, 9:00 a.m.]

Title 58—RECREATION

STATE ATHLETIC COMMISSION

[58 PA. CODE CHS. 1, 3, 5, 9, 11, 13,
21, 23, 25, 27, 31 AND 33]

Boxing and Wrestling

The State Athletic Commission (SAC) amends all but two chapters of its regulations in Part I (relating to State Athletic Commission) to read as set forth in Annex A. The amendments are adopted as final-form under 5 Pa.C.S. §§ 101—2110 (relating to the Athletic Code) (code). The code was renumbered and revised under the act of May 13, 1992 (P.L. 180, No. 32) (Act 32). The statutory changes also require a comprehensive revision of most regulations.

I. Statutory Authority

SAC has the authority to promulgate regulations under section 103(b)(1) of the code (relating to duties of commission).

II. Responses to Comments

The notice of proposed rulemaking was published at 30 Pa.B. 2611 (May 27, 2000) and was subject to a 30-day public comment period. SAC received no public comments and no comments from the House and Senate State Government Committees. The Independent Regulatory Review Commission (IRRC) filed its comments with SAC on May 4, 2000. Because the preamble for the proposed rulemaking was previously printed in the *Pennsylvania Bulletin*, this preamble will address the amendments SAC made as a result of the comments that IRRC provided.

The comments made by IRRC related to clarity, consistency with the statute, statutory authority and implementation procedure. In addition to the specific revisions discussed in detail in Part III of this Preamble, IRRC made general comments on three issues regarding clarity that pertain to numerous sections throughout the proposed rulemaking.

First, IRRC commented that the proposed rulemaking used a general reference to the entire code and recommended that SAC refer to specific statutory sections or subsections that pertain to particular regulatory provisions. Second, IRRC asked that SAC clarify what it meant in the proposed rulemaking when it referred to "the Commission (SAC) or Executive Director" or to "the Commission." At times, a commissioner or the Executive Director will attend an event and act on behalf of SAC. When appropriate throughout the final-form rulemaking, SAC substituted the terms "a commissioner or the Executive Director" for the term "Commission," as suggested by IRRC. Finally, IRRC suggested that because reference is made in several places throughout the final-form regulations to forms, manuals and procedures published by SAC, the final-form regulations should include information on how copies of these forms, manuals and procedures may be obtained. SAC included this IRRC recommendation in final-form rulemaking as a new subsection (b) to § 1.2 (relating to Commission offices). Other comments are noted in specific final-form regulations, referenced as follows.

Purpose

The final-form regulations revise, with limited exceptions, all of the regulations administered by SAC to conform to the code found in 5 Pa.C.S. §§ 101—2110 and current SAC policies adopted thereunder. A description of the revisions and changes appears as follows.

III. Description of Revisions

Subpart A (relating to general provisions)

Subpart A sets forth eight chapters which include general provisions regarding appointed officials; tickets, postponements and cancellations; recognition of suspensions, disqualifications and retirements imposed by other authorities; relations with affiliates; safety of event premises; bonds and fees; and permitted drug testing. SAC made revisions and amendments to all chapters, except Chapters 7 and 15 (relating to recognition of suspensions, disqualifications and retirements imposed by other authorities; and prohibited drug testing).

Chapter 1 (relating to preliminary provisions)

Section 1.1 (relating to definitions)

Section 1.1(a) includes a definition of the term "commissioner" in accordance with IRRC's suggestion to refer to a commissioner rather than the entire SAC when SAC believes that only one member is required to take a specific action. In defining "commissioner," SAC added a reference to the specific section of the code, as IRRC had suggested in its first general recommendation. IRRC found that SAC had used the terms "bout" or "main bout" throughout the final-form amendments without defining those terms. In final-form rulemaking, SAC replaced the term "bout" with "contest," which is defined in section 302 of the code (relating to definitions). SAC then added a definition of "main contest." The term "event," as defined in the proposed rulemaking, includes one or more contests. Furthermore, SAC added definitions of the terms "licensee" and "second" to § 1.1 at the suggestion of IRRC. As IRRC suggested, SAC deleted a portion of the definition of "Commission credentials" to eliminate unnecessary language. Finally, SAC defined the term "licensee" for clarity, as the term appears in several places throughout the final-form amendments, in §§ 3.1(e), 3.2(e)(6), 3.3(g), 21.1(n) and 21.4(k).

SAC divided subsection (b) into subsections (b) and (c), which both include specific references to the appropriate sections of the code pertaining to boxing and wrestling as well as distinguish those sections from each other, as IRRC suggested.

Section 1.2

Section 1.2(b) was added informing any interested parties where they may obtain forms, manuals and additional information from SAC, as IRRC suggested in its third general comment.

Chapter 3 (relating to appointed officials)

Section 3.1 (relating to Executive Director)

To provide for increased clarity, § 3.1(a) includes the citation to the applicable statutory provision outlining the powers and duties of the Executive Director, as IRRC suggested in its first general comment.

The current § 3.1(b) requires the Executive Director to attend a representative number of events throughout this Commonwealth to monitor operations of inspectors and officials. On proposed rulemaking, IRRC suggested that SAC specify what constitutes a representative number of events that the Executive Director must attend. SAC considered the IRRC suggestion and decided to delete any reference that the Executive Director attend a representative number of events. Although the Executive Director now regularly attends most events, SAC and the Department found it difficult to specify a number or percentage of events that the Executive Director would be required, by regulation, to attend.

In reviewing the duties and responsibilities of the Executive Director, SAC added a provision in § 3.1(g) that allows the Secretary of the Commonwealth or the Executive Director to designate SAC or Department of State staff to act on the Executive Director's behalf. The Secretary of the Commonwealth is responsible for the actions and day-to-day activities of the Executive Director. Likewise, the Executive Director may designate SAC or Department of State staff to act on the Executive Director's behalf.

IRRC suggested that § 3.1(h) should clearly state the criteria of each boxer that the Executive Director uses in deciding whether to approve or prohibit a match and include references to the relevant statutory requirements. In final-form rulemaking, SAC added four criteria that the Executive Director uses and the specific statutory citations.

For clarity, § 3.1(i) and (j) have been reversed. At the suggestion of IRRC, SAC provided clarification at former § 3.1(i), now 3.1(j), that circumstances that are not addressed in the regulations or the code that relate to the duties of SAC shall be ruled on by the Executive Director.

At former § 3.1(j), now § 3.1(i), SAC made two changes to final-form rulemaking suggested by IRRC. First, to comply with IRRC's second general suggestion, SAC clarified that the Executive Director, a commissioner or SAC may use a videotape to review actions relating to a contest. Secondly, SAC replaced the word "bout" with the word "contest," as explained previously in § 1.1(a). The changes from "bout" to "contest" occur throughout this final-form rulemaking.

Finally, at the suggestion of IRRC, SAC clarified its appeal procedures in § 3.1(k) and included an explanation of the two-tier appeal process, which includes both an informal review and the right to a formal appeal.

Section 3.2 (relating to inspectors)

SAC amended § 3.2(a) to clarify that the inspectors are nominated by a commissioner or Executive Director and approved by the Secretary. The precise section of the code is also cited, as suggested by IRRC in its first general comment.

In § 3.2(d), SAC deleted the reference to the Department of Revenue as IRRC suggested because the Department of Revenue has the authority to appoint its own agents to collect taxes in section 210 of the Fiscal Code (72 P. S. § 210). In addition, SAC added the appropriate reference to the code that addresses the ability of inspectors appointed by SAC to collect revenue. Other clarifications occur in § 3.1(e)—(h) to refer to the authority of the Executive Director, to change "bout" to "contest," and to specify that an inspector may file a written report on any portion of the code.

Section 3.3 (relating to physicians)

Subsection (a) provides the citation to the code sections pertaining to the licensure of physicians, while subsection (b) provides a reference to the SAC *Medical/Safety Manual*. Subsection (c) changes "designee" to "inspector," as IRRC suggested for clarity and specificity. SAC added language suggested by IRRC to clarify that SAC would prescribe the form a physician uses for a post-fight check in subsection (h).

Section 3.4 (relating to announcers)

Subsection (i) clarifies that only the Executive Director or a commissioner may authorize another person, other than the announcer, to make announcements from the

ring, as IRRRC requested. The term "bout" is changed to "contest" in subsections (h) and (j) to comply with IRRRC's suggestion discussed previously under § 1.1(a). Finally, in subsection (j), SAC changed "designee" to "inspector," as suggested by IRRRC with respect to subsection (c).

Chapter 5 (relating to tickets, postponements and cancellations)

Section 5.1 (relating to tickets)

At the suggestion of IRRRC, SAC placed the responsibility to collect tickets upon the promoter, who is a licensee, at subsection (e). In this final-form rulemaking, the agents of the promoters may collect the tickets; however, the promoters themselves are required to make the ticket stubs available to the Executive Director or a commissioner. SAC also added a specific citation to the code, as IRRRC suggested in its first general request.

Section 5.2 (relating to postponements and cancellations)

SAC changed "bout" to "contest" in subsections (c) and (d), as IRRRC had suggested in § 1.1(a). In subsection (e), IRRRC suggested clarification of the procedures that SAC will use to handle ticket refunds. Because ticket refunds are specifically addressed at section 1113 of the code (relating to ticket refund), SAC made a reference to section 1113 of the code in § 5.2(e).

Chapter 11 (relating to safety of event premises)

Section 11.1 (relating to ventilation, fire exits and fire escapes)

SAC made changes to this section, including deleting some portions, to clarify language.

Chapter 13 (relating to bonds and fees)

Section 13.1 (relating to professional boxing bonds and bond filing fees)

Section 13.1(a) changes "bouts" to "contests" and provides clarification that the surety bond shall be filed on a form prescribed by SAC.

Section 13.3 (relating to additional license fees)

SAC changed the term "promotion" to "event" at the suggestion of IRRRC because the term "promotion" was not a defined term.

Subpart B (relating to professional boxing)

The four chapters comprising Subpart B govern professional boxing, amateur boxing, professional kickboxing and amateur kickboxing. SAC made revisions and amendments to all four chapters of Subpart B.

Chapter 21 (relating to boxing)

Section 21.1 (relating to contracts)

As suggested by IRRRC, § 21.1(d) substitutes the provision "commission member" to "commissioner or the Executive Director" for increased clarity. Also at IRRRC's suggestion, § 21.1(m) clarifies that a promoter may not attempt to enter a contract with a manager or boxer under suspension or disqualification by SAC without the written consent of the Executive Director or a commissioner. Likewise, at the suggestion of IRRRC, SAC clarified in § 21.1(n) that a promoter or other licensee may not advertise a contest or exhibition until the Executive Director has approved the contest or exhibition. As also suggested by IRRRC, in § 21.1(n), SAC added a cross reference to § 3.1(h).

Section 21.3 (relating to ring and ring equipment)

On proposed rulemaking, IRRRC questioned why the language describing the type of illumination was being

deleted. SAC reinstated the language in § 21.3(a)(7) describing the type of illumination required and provided that the determination on the lighting should be made by the Executive Director or a commissioner.

Section 21.4 (relating to conduct of contests)

At the suggestion of IRRRC, SAC changed "bouts" to "contests" in the heading of this section, as well as throughout the section.

Section 21.4(b)(1) and (3) provides that a boxer shall appear before a commissioner or the Executive Director for a preliminary physical examination, and, at the discretion of a commissioner or the Executive Director, remove all clothing at the weigh-in. Likewise, § 21.4(b)(4) allows a commissioner or the Executive Director to require an additional weigh-in and physical examination if an event is postponed for more than 24 hours. These final-form amendments afford increased flexibility in that the Executive Director need not be at every examination or weigh-in.

IRRC suggested that SAC move the clothing and glove requirements in § 21.4(c) and (e) to § 21.8 (relating to boxers). In the final-form rulemaking, § 21.4(c) and (e) appear in § 21.8(m)(4) and (5), respectively. As IRRRC had requested, SAC inserted the requirement in § 21.4(c) that only seconds, trainers and managers are authorized to be in the boxer's corner, as noted in § 21.10 (relating to seconds or trainers).

Section 21.5 (relating to scoring system)

To clarify the particular type of foul the subsections describe, § 21.5(d) and (e) adds the term "accidental" before the phrase "low-blow foul" throughout the provisions.

Section 21.7 (relating to matchmakers)

For clarity, SAC changed § 21.7(b) to require matchmakers to take notice of suspensions issued by any commission, including those in other jurisdictions.

Section 21.8

In § 21.8(e), SAC made a reference to forms available in SAC's *Medical/Safety Manual* regarding a general physical examination required for applicants for a boxing license who never competed in a professional contest, as IRRRC suggested. Section 21.8(f) contains a reference to those portions of the code that refer to a contract between a boxer and a promoter. At the suggestion of IRRRC, § 21.8(m)(4) and (5) contains the provisions relating to a boxer's clothing and gear previously contained in § 21.4(c) and (e).

On final-form rulemaking, the Commission made a technical change to § 21.8(d)(3) for clarity. On proposed rulemaking, the Commission divided § 21.8(d) into three subsections. Upon publication of the proposed rulemaking, however, the phrase "The Commission may suspend a" was inadvertently placed in § 21.8(d)(2), when it should have been placed in § 21.8(d)(3) and then removed from that subsection. Therefore, on final-form rulemaking, the Commission placed that phrase in § 21.8(d)(3).

Section 21.9 (relating to managers)

SAC clarified in § 21.9(h) that the Commission may impound the purse of a boxer, pending a final determination, not only at the request of managers who are licensed by SAC, but also for managers properly licensed in another jurisdiction that is recognized by SAC. This position is consistent with that adopted by the Association of Boxing Commissioners (ABC), of which the Common-

wealth is a member. These final-form amendments would provide SAC with flexibility in impounding purses for managers licensed by SAC or for managers licensed in another jurisdiction that is recognized by SAC.

Section 21.10

SAC changed the heading of this section to seconds or trainers to clarify that trainers are also subject to this section. This is consistent with the definition of the term "second" in § 1.1, which specifically includes a trainer. For consistency, SAC made the same change to the heading of § 23.5 (relating to seconds or trainers).

IRRC made four recommendations regarding this section. First, IRRC suggested that SAC clarify who "another person" would be who is allowed in a boxer's corner. Second, IRRC suggested that SAC address in other sections of the final-form amendments the possibility that a spectator or ticket holder may disrupt a contest. Third, IRRC suggested clarification of what constitutes "ample warnings" in § 21.10(j). Finally, IRRC suggested that SAC clarify what constitutes "offending conduct" in § 21.10(j).

To address IRRC's four suggestions, SAC moved the requirements in § 21.10(j) to other sections. In § 21.4(c), SAC inserted the requirement that only seconds, trainers and managers are authorized to be in the boxer's corner. In § 21.11(c)(4) (relating to referees), the referee has the authority to remove other persons from a boxer's corner, in addition to seconds, trainers and managers, who interfere with the conduct of the contest. In addition, § 21.11(c)(4) also allows the referee to deduct points from the boxer for conduct of any individual in the boxer's corner. Furthermore, SAC may suspend or fine the manager, second or trainer for conduct. In response to IRRC's third suggestion, SAC deleted the requirement for ample warnings, as found in former § 21.10(j), and added manager and trainer to the categories of individuals that the referee could remove from the ring in § 21.11(c)(4). SAC decided to leave the discretion to make these decisions with the referee and not bind the referee with issuing warnings when the behavior in question interferes with the conduct of the contest. In response to IRRC's final suggestion that SAC clarify what constitutes "offending conduct" as used in former § 21.10(j), SAC used the language in § 21.11(c)(4) that set the criteria as interfering with the conduct of the contest.

Section 21.11

Section 21.11(b)(1) substitutes the phrase "character and reputation" for "repute" in describing the requisite moral fitness of a referee to make this requirement consistent with the description in other sections. SAC also changed "Commission" to "Executive Director" because the Executive Director makes the initial determination regarding qualifications for referees. The decision of the Executive Director may be appealed to SAC.

In addition to the changes in § 21.10 regarding changes to § 21.11(c)(4), SAC removed the words "and shall" from this subsection and added the word "to" to provide for parallel structure grammatically.

As IRRC suggested, SAC provided a cross reference in § 21.11(c)(7) to the activities that constitute a foul, as described in § 21.16(b) (relating to safety code). In § 21.11(c)(8), SAC provided a citation to Subpart B of the code (relating to boxing) and a reference to the Referee's Manual. SAC changed "bout" to "contest" in § 21.11(c)(10) and (13) and clarified § 21.11(c)(11) that the Executive Director or an inspector could receive the official score cards from the referee after each round.

Section 21.12 (relating to judges)

In § 21.12(c), SAC replaced the phrase "the generally recognized rules of boxing" as IRRC suggested with a reference to the Judge's Manual. Also, SAC cited to Subpart B of the code to add greater specificity, as IRRC had suggested in its first general recommendation.

Section 21.16

SAC replaced "men" with "individuals" throughout § 21.16(a), making it gender neutral. In addition, SAC included references to the relevant section of the code in § 21.16(k) regarding suspension and revocation for injuries as well as a reference to 2 Pa.C.S. §§ 501—508 regarding requests for hearings to review SAC's actions.

Chapter 23 (relating to amateur boxing)

Section 23.1 (relating to relations with amateur athletic associations)

SAC made the phrase "amateur athletic association" lower case and plural so that it would reflect the existence of multiple associations throughout this Commonwealth. The change was made not only in this section, but also throughout the final-form rulemaking where appropriate.

Section 23.6 (relating to referees)

In § 23.6(a), SAC clarified that referees may be removed from their position by a commissioner, the Executive Director or an inspector if deemed incompetent. This subsection also tracks the language in § 23.7(a) (relating to judges).

Section 23.10 (relating to age of participation)

SAC changed the heading of this section to accurately reflect that the section now deals with the age of participation of boxers due to the elimination of former § 23.10(a).

Chapter 25 (relating to professional kickboxing)

Section 25.3 (relating to conduct of contests)

At the suggestion of IRRC, SAC changed "bouts" to "contests" in the heading of this section, as well as throughout this section. Section 25.3(h) includes a reference to § 21.16(e) that describes the manner in which a contestant's gloves should be wiped free of foreign substances.

Section 25.9 (relating to ringside officials)

Final-form § 25.9(c) substitutes the phrase "character and reputation" for "repute" in describing the requisite moral fitness of a referee or judge. SAC also changed "Commission" to "Executive Director" in this subsection because the Executive Director makes the initial determination regarding qualifications for referees and judges. The decision of the Executive Director may be appealed to SAC. These final-form amendments are consistent with those previously noted in § 21.11(b)(1).

III. Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1, "Regulatory Review and Promulgation," SAC invited comments from the regulated community and interested parties. In drafting the proposed rulemaking, SAC had extensive consultations with, and input from the ABC, the World Boxing Council, the International Female Boxing Association, the Women's International Boxing Federation, the World Wrestling Federation and the Nevada, New Jersey and New York State Athletic Commissions. When the rulemaking was proposed, SAC received no public comments.

V. Fiscal Impact

All individuals licensed by SAC will be impacted to some degree by the extensive revisions to the regulations administered by SAC. Other impacts are set forth in the costs and benefits section.

Costs and Benefits

All licensees will benefit when the regulations are updated to reflect current provisions of the code by reducing the potential for confusion as to their obligations. The safety of participants is increased by providing for heavier gloves, eliminating the standing eight-count and three-knockdown rule and requiring individually fitted mouthpieces. These provisions for each class of licensees are set forth in more detail as follows.

Promoters

Many provisions are streamlined to afford promoters greater flexibility in conducting events, resulting in indirect savings. Promoters will incur additional costs due to increased fees paid to referees, judges, announcers and timekeepers officiating at televised events. Referees are paid \$50 per event more while judges, announcers and timekeepers are paid \$10 more. These increases in fees may be offset because promoters' profits are generally higher for televised events.

Managers

Managers' costs will increase because the license fee for managers is raised from \$40 to \$60. The regulations also increase the minimum sum to be guaranteed annually to a boxer under contract with a manager from \$750 to \$1,000 and decrease the percentage of earnings that a boxer must pay the manager under a contract.

Referees

Under § 13.7 (relating to professional boxing officials fee), referees will be paid \$50 more for officiating at televised events. Other benefits to referees will accrue from changes in scoring and the elimination of barriers to entry as a referee.

Judges, Announcers and Timekeepers

Under § 13.7, judges, announcers and timekeepers will be paid \$10 more for officiating at televised events. Other benefits to judges, announcers and timekeepers will accrue from changes in scoring and the elimination of barriers to entry as a judge, announcer or timekeeper.

Boxers

Boxers will benefit from the final-form rulemaking directly because the minimum sum guaranteed to a boxer under contract with a manager will be increased from \$750 to \$1,000. Other benefits relate to clarifications of the procedures when a boxer has not made the contracted for-weight at weigh-in, requiring an individually fitted mouthpiece, resulting in safety improvements and other improvements in the safety code. They will also benefit through a clarification of the scoring of accidental and intentional fouls. The proposed changes also benefit boxers by expressly providing for expenses to a boxer when a contest has been canceled. The maximum percentage of earnings a boxer is obligated to pay managers under contract is reduced from 50% to 40%.

Matchmakers

Matchmakers will benefit from the revisions that would permit matchmakers to deal with unlicensed managers or boxers, allowing them to more effectively plan for future contests.

Kickboxing licensees

Similar changes, tracking those previously set forth, have been made in Chapter 25. These include: clarifying the scoring system; permitting greater flexibility in deducting points for fouls; requiring an individually fitted mouthpiece; and providing for heavier gloves. Judges will also benefit from the fees being increased. Other changes that benefit amateur kickboxers are set forth in Chapter 27 (relating to amateur kickboxing) and include: age requirements; the wearing of shin protectors; and a maximum of three 2-minute rounds.

VI. Paperwork Requirements

Paperwork requirements will not be substantially altered as a result of the amended regulations. Minor changes will have to be made to forms used by SAC.

VII. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 12, 2000, SAC submitted a copy of the notice of proposed rulemaking published at 30 Pa.B. 2611, to IRRC and to the Chairpersons of the House State Government and the Senate State Government Committees for review and comment.

In addition to submitting the proposed amendments, SAC provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by SAC in conformance 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 March 25, 2002, 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 April 4, 2002, and approved the final-form rulemaking.

VIII. Contact Person

Further information may be obtained by contacting Gregory Sirb, Executive Director, State Athletic Commission, Department of State, 302 North Office Building, Harrisburg, PA 17120-0029. Information is also available at SAC's website <http://www.dos.state.pa.us/sac/sac.html>.

IX. Findings

SAC finds that:

(1) Public notice proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) This rulemaking does not enlarge the purpose of proposed rulemaking published at 30 Pa.B. 2611.

(4) This rulemaking is necessary and appropriate for administering and enforcing the authorizing acts.

X. Order

SAC, acting under its authorizing statutes, orders that:

(a) The regulations of SAC, 58 Pa. Code Chapters 1, 3, 5, 9, 11, 13, 21, 23, 25, 27, 31 and 33, are amended by amending §§ 1.1—1.3, 3.1—3.4, 5.1, 5.2, 9.1, 9.2, 11.1, 13.1—13.8, 21.1—21.16, 23.1, 23.2, 23.4—23.10, 25.3—25.6, 25.8, 25.9, 27.2 and 27.3; adding §§ 31.21—31.24 and deleting §§ 11.2, 31.1—31.14 and 33.1—33.12 to read as set forth in Annex A.

(b) SAC shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.

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

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

CHARLES BEDNARIK,
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 2041 (April 20, 2002).)

Fiscal Note: Fiscal Note 16-17 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART I. STATE ATHLETIC COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 1.1. Definitions.

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

Athletic Code—5 Pa.C.S. §§ 101—2110.

Commission—The State Athletic Commission of the Commonwealth.

Commission credentials—Documents issued by the Commission to individuals approved by the Commission granting them the authority to attend a specific event, without payment of an entry fee, on behalf of the Commission.

Commissioner—A member of the Commission, as defined in section 101 of the code (relating to definitions).

Event—One or more contests, as defined in section 302 of the code (relating to definitions), conducted at the same location on the same day.

Knockdown—When any part of a boxer's body, except the feet, touch the ring canvass, at the hand of the opponent, as determined by the referee.

Licensee—A person licensed by the Commission to perform duties in relation to an event.

Main contest—The most important contest during an event for which the public interest is the greatest.

Second—An individual licensed by the Commission to work in a professional boxer's corner during an event, as provided in section 716 of the Athletic Code (relating to seconds). The term also includes a trainer.

(b) The definitions in section 302 of the Athletic Code (relating to definitions) are incorporated for the regulatory provisions relating to boxing which include this subpart and Subpart B (relating to boxing).

(c) The definitions in section 1902 of the Athletic Code (relating to definitions) are incorporated for the regulatory provisions relating to wrestling, which include this subpart and Subpart C (relating to wrestling).

§ 1.2. Commission offices.

(a) The offices of the Commission are located as follows:

(1) 116 Pine Street, Third Floor, Harrisburg, Pennsylvania 17101.

(2) 1103 State Office Building, Broad and Spring Garden Streets, Philadelphia, Pennsylvania 19030.

(3) 805A State Office Building, 300 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

(4) Scranton State Office Building, Third Floor, Scranton, Pennsylvania 18503.

(b) All forms, manuals and additional information may be obtained by contacting the Harrisburg office at the address listed in subsection (a)(1) or calling the Harrisburg office at (717) 787-5720.

§ 1.3. Applicability of general rules.

Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) applies to the activities of and proceedings before the Commission.

CHAPTER 3. APPOINTED OFFICIALS

§ 3.1. Executive Director.

(a) An Executive Director shall be appointed by the Secretary of the Commonwealth to act as the administrative officer to the Commission and have powers and duties provided in section 105 of the Athletic Code (relating to powers and duties of executive director).

(b) The Executive Director shall establish and maintain standard operating procedures for offices, ensure adherence to procedures and monitor operations of inspectors and officials.

(c) The Executive Director shall prepare, justify and administer the Commission budget.

(d) The Executive Director shall solicit items and prepare agendas for scheduled Commission meetings as well as attend the meetings, and shall also schedule and notify commissioners of the meetings.

(e) The Executive Director shall organize periodic training programs for judges, referees, inspectors and other licensees.

(f) The Executive Director shall disseminate to commissioners, inspectors and officials changes in the Commission's policies and procedures, personnel changes and other information pertinent to current operations.

(g) The Executive Director shall supervise and direct Commission staff, direct the issuance of Commission credentials and perform other duties as directed by the Commission. The Secretary of the Commonwealth or the Executive Director may designate Commission or Department staff to act on behalf of the Executive Director at events under the jurisdiction of the Commission.

(h) The Executive Director shall have the authority to approve or prohibit each proposed matching of boxers within this Commonwealth. Based upon the following criteria of each boxer:

(1) Win/loss record.

(2) Current boxing activity.

(3) Overall boxing experience.

(4) General health and safety, including, but not limited to, the following statutory provisions:

(i) Sections 708 of the Athletic Code (relating to suspension and revocation for injuries).

(ii) Section 711 of the Athletic Code (relating to limitation on difference in weights).

(i) The Executive Director, a commissioner or the Commission may use a videotape of a contest to review actions taken relating to a contest.

(j) The Executive Director shall rule on circumstances arising that are not addressed by this part and are not otherwise addressed in the Athletic Code that relate to the Commission's duties.

(k) The Executive Director will handle and decide initial complaints informally. If an individual is not satisfied with the remedy provided by the Executive Director, the individual may appeal the matter to the Commission. Appeals of decisions pertaining to a suspension of a permit or license shall be handled in accordance with sections 1301—1305 of the Athletic Code (relating to enforcement). Decisions of the Commission may be appealed in accordance with 2 Pa.C.S. §§ 501—508 (relating to practice and procedure of Commonwealth agencies) and 1 Pa. Code Chapter 35 (relating to formal proceedings).

§ 3.2. Inspectors.

(a) Inspectors shall be nominated by a commissioner or the Executive Director and approved by the Secretary. Inspectors shall be assigned by the Executive Director for the performance of duties under section 105(3) of the Athletic Code (relating to powers and duties of executive director).

(b) An inspector shall be empowered to act on behalf of the Commission only when specifically authorized by a commissioner or the Executive Director.

(c) The Executive Director will assign to each event under the Commission's jurisdiction as many inspectors as necessary for the proper regulation of the event and may designate a chief inspector.

(d) An inspector or the chief inspector in charge of an event shall be the official representative of the Commission and shall be responsible only to the Commission or the Executive Director. It is his duty and he shall have the authority to enforce the Athletic Code; and this part. It is his duty and he shall have the authority to enforce legislative and regulatory provisions pertaining to the collection of revenues that are due the Commonwealth, as outlined in section 916 of the Athletic Code (relating to gross receipts taxes).

(e) Subject only to the direction of a commissioner or the Executive Director, an inspector will have authority over the following:

- (1) All phases of the weigh-in.
- (2) Entrances to the site of the event, including the following:
 - (i) Press and pass entrances.
 - (ii) Entrances for participants, officials, Commission credential holders and employees.
- (3) The ring and ringside, including the following:
 - (i) Press accommodations.
 - (ii) Radio accommodations.
 - (iii) Television accommodations.
- (4) Dressing rooms of participants and officials.
- (5) The counting and accounting for tickets, passes and credentials issued to individuals to attend specified events including the following:
 - (i) Working press passes.
 - (ii) Complimentary tickets.

- (iii) Tickets of participants.
- (vi) Commission credentials.
- (vii) Promoter passes.

(6) The collection of insurance premiums due and payable on participants, and the documenting and reporting of accidents, injuries and illness of a licensee.

(7) The collection of fees, including the following:

- (i) License fees.
- (ii) Other moneys due the Commonwealth.

(8) The payment of purses and other moneys due participants and fees due officials.

(9) Matters generally under the jurisdiction of the Commission.

(f) Inspectors shall file with the Commission an official report of attendance, gross receipts, net receipts, fees and other moneys collected, names and pairings of participants, names of officials and results of contests as determined by official decision after each event under the jurisdiction of the Commission.

(g) An inspector shall file a detailed written report with the recommendations deemed appropriate, in the case of a violation or alleged violation of the Athletic Code.

(h) In case of the termination of a contest under the jurisdiction of the Commission by disqualification of one or more of the participants, and in other circumstances, upon recommendation and approval of the Commission or Executive Director, the inspector shall have the authority to impound moneys due the alleged offending parties pending action on the matter by the Commission.

(i) Inspectors may not remove, replace or interfere with the duties of a ringside official unless authorized to do so by the Executive Director.

(j) Inspectors shall report for duty promptly in accordance with their assignments and remain on duty until excused by the Executive Director. Only inspectors actually assigned or credentialed by the Executive Director to a given event shall by virtue of office be admitted, without charge, to that event.

§ 3.3. Physicians.

(a) A physician licensed to practice in this Commonwealth will be assigned by the Executive Director to every contest, weigh-in and exhibition. A physician so assigned in the case of professional events shall also be licensed by the Commission under sections 905(a) and 910 of the Athletic Code (relating to other licenses required; and standards for issuance of licenses and permits). In emergencies or unusual circumstances, the Commission may waive the requirement that the physician assigned be licensed under sections 905(a) and 910 of the Athletic Code. Physicians are not required to be licensed under the Athletic Code in the case of amateur events.

(b) The physician assigned to the weigh-in shall file a complete written report on each person examined upon a form prescribed by the Commission. Examinations shall be conducted in accordance with procedures prescribed by the Commission as approved by the Medical Advisory Board of the Commonwealth, which are set forth in the *Medical/Safety Manual* published by the Commission. Each boxer shall be so examined before the start of each event in which he is scheduled to participate, and may not participate if pronounced physically unfit by the examining physician.

(c) The physician assigned to an event shall be seated at the immediate ringside throughout the event and may not leave the ring untended while the event is in progress. An event may not commence or continue without an assigned physician in attendance. An assigned physician may not leave the premises of the event without notice to and approval of a commissioner, the Executive Director or an inspector. The physician shall remain on the premises after the event until satisfied that no further need of medical service remains.

(d) While on duty at an event, the assigned physician shall render emergency assistance inside and outside the ring to persons under the jurisdiction of the Commission and shall be especially prepared to minister to the injuries and illnesses that are to be anticipated under the circumstances of the event.

(e) The attending physician shall have full authority to determine and to pass upon the physical condition of participants and officials in the ring. For that purpose he shall have access to the ring at all times and shall be empowered to direct the referee to interrupt action pending determination of and decision upon the physical condition of a participant or official apparently in need of attention because of injury. The decision of the physician in attendance with respect to the ability of a participant or an official to continue in action shall be conclusive and shall be enforced by the referee in all cases. The attending physician shall be empowered to direct the referee to terminate action when a participant is evidently in jeopardy from exhaustion or punishment. In case of termination, there may be no resumption of action thereafter.

(f) In case of injury to a participant covered by insurance, the attending physician shall execute and file with the Commission the appropriate form of report for the injury to the insurance carrier on the form prescribed by the insurance carrier.

(g) When injury to or illness of a person occurs under the jurisdiction of the Commission, the attending physician shall have complete charge of the person while on the premises and shall be accorded the full cooperation of Commission personnel and licensees present.

(h) When a knockout or technical knockout of a boxer occurs, the attending physician shall follow up ministrations in the ring, at ringside or in the dressing room and shall take measures and give instructions that may be appropriate. After the event, the attending physician shall complete a post-fight check on each boxer who competed in the event on the form prescribed by the Commission in the *Medical/Safety Manual*.

(i) The attending physician is empowered to inspect and pass upon first aid and safety equipment provided for the event and to inspect and pass upon equipment intended to be used by seconds in ministering to boxers.

(j) When it appears to a ringside physician that a boxer or referee is no longer safely able to continue competitive or official activity, the physician shall immediately so report to the Commission and recommend the temporary or the permanent retirement of the person if appropriate.

§ 3.4. Announcers.

(a) The Commission will license announcers of events under its jurisdiction, except that in emergencies and in the case of amateur events, competent unlicensed announcers may be used. The promoter or sponsor of the event shall assign announcers to events.

(b) Announcers shall be responsible to the Commission in the discharge of their duties and shall accept directions only from a commissioner or the Executive Director.

(c) The Commission will set fees payable to announcers assigned to serve at events. The promoters of professional events and the sponsors of amateur events shall pay the fees.

(d) An announcer assigned to an event shall remain at ringside while the event is in progress, shall maintain close liaison with a commissioner or the Executive Director during the period, and shall carefully follow the directions of a commissioner or the Executive Director at all times.

(e) Announcers shall be neatly and appropriately dressed while discharging their duties.

(f) Announcers shall display strict impartiality in word and action while serving at events under Commission jurisdiction.

(g) Announcers shall make neither special announcements nor introductions of persons other than participants and officials without first obtaining the approval of a commissioner or the Executive Director.

(h) The announcer shall announce from the ring at each event under the jurisdiction of the Commission the fact of jurisdiction, the names of the officials assigned to the event, the name and official weight before each contest of each participant and other pertinent information as directed by a commissioner or the Executive Director.

(i) Only an assigned announcer may make an announcement from the ring unless another person is specifically authorized by a commissioner or the Executive Director.

(j) The announcer shall promptly collect the official score card from the Executive Director or an inspector at the conclusion of each contest. The announcer shall announce the scoring by each official and the final decision reached. The announcer shall announce whether the decision is unanimous, a split decision or a draw at the end of contests other than the main events. In the event of a knockout or a technical knockout, the announcer shall announce the result and the time and the round of the termination of the contest.

CHAPTER 5. TICKETS, POSTPONEMENTS AND CANCELLATIONS

§ 5.1. Tickets.

(a) Tickets of admission to each event under the jurisdiction of the Commission shall be of the stub type and consecutively numbered. Tickets shall have the following information:

- (1) The identity of the promoter or sponsor.
- (2) The nature, date, time and place of the event.
- (3) The established price of the ticket including taxes thereon.
- (4) The precise seat location if the ticket entitles the holder to a reserved seat.
- (5) The rain date, if any, of the event.

(b) A promoter or sponsor may not offer tickets for sale or distribution to an event under the jurisdiction of the Commission, which are not in compliance with subsection (a).

(c) Complimentary tickets shall be clearly marked complimentary. Complimentary tickets may not be sold by a promoter, sponsor or other person or agency.

(d) Distribution of tickets of employees and tickets of participants shall be limited strictly to persons in these classifications and the tickets may not be transferable by distributees.

(e) Ticket holders to events under the jurisdiction of the Commission shall surrender their tickets or the appropriate stubs, which will be collected by the agents of the promoter at the admission gates. The promoter shall make the tickets or stubs available to the Executive Director or a commissioner, and comply with section 916(d) of the Athletic Code (relating to gross receipts tax).

§ 5.2. Postponements and cancellations.

(a) An event under the jurisdiction of the Commission may not be postponed or canceled after it has been approved and scheduled without written notice to and approval by the Executive Director.

(b) If a scheduled event is postponed because of unfavorable weather, it shall be rescheduled upon its designated rain date, if it has been previously set. If no rain date has been previously set, the event shall be rescheduled as soon as may be fairly and reasonably done after consultation with and approval by the Executive Director.

(c) The Executive Director may rearrange the contest in case of threatened weather to assure, if possible, the presentation of the main contest.

(d) If, because of unfavorable weather or other emergency after the start of the program but before the beginning of the main contest, it is deemed necessary to declare a postponement, the event shall be rescheduled as provided in subsection (b). If unfavorable weather or other emergency occurs during the progress of the main contest, the contest shall be continued to its conclusion, except that if the existing condition presents actual danger to the participants or others present, a commissioner or the Executive Director will interrupt the contest until the danger is passed, and the contest shall be resumed from the point of interruption and continued to conclusion. If it is deemed impossible to resume the contest because of continued danger, a postponement shall be declared and the event shall be rescheduled as provided in subsection (b).

(e) Ticket holders shall be entitled to the refund of the entire purchase price of their tickets in cases of postponement or cancellation of the main event or the entire program of contests or exhibitions under the conditions of time, place and procedure that a commissioner or the Executive Director approves and announces in each instance, as specified in section 1113(a) of the Athletic Code (relating to ticket refunds) and § 21.4(h) (relating to conduct of contests).

(f) In case of postponement prior to the opening of the admission gates to the event, tickets for the original date shall be honored for admission on the date to which the event shall be postponed.

(g) The Commission will determine the rights of affected parties to payment for services and reimbursement for expenses in each case of postponement or cancellation if boxers have fulfilled their performance contracts prior to postponement or cancellation.

CHAPTER 9. RELATIONS WITH AFFILIATES

§ 9.1. No sovereignty compromise.

The Commission may enter into, maintain or withdraw from association with groups devoted to the interests of

any sport regulated by the Commission, but it may not compromise the sovereignty of the Commonwealth or the primary and immediate responsibility of the Commission.

§ 9.2. Fair cooperation.

The restrictions imposed by § 9.1 (relating to no sovereignty compromise) may not be construed to prevent the Commission from fair and reasonable collaboration and cooperation with the authorities of other governmental bodies or with organizations of private individuals dedicated to objectives similar to those of the Commission.

CHAPTER 11. SAFETY OF EVENT PREMISES

§ 11.1. Ventilation, fire exits and fire escapes.

Buildings or structures used, or intended to be used for contests, shall be properly ventilated and contain proper fire exits and fire escapes. In addition, buildings shall conform to the laws, ordinances and regulations pertaining to buildings in the municipality where situated.

§ 11.2. (Reserved).

CHAPTER 13. BONDS AND FEES

§ 13.1. Professional boxing bonds and bond filing fees.

(a) In the case of professional boxing promoters or foreign copromoters holding contests in a place where the seating capacity is less than 10,000, the professional boxing promoters or foreign copromoters are required to execute and file a surety bond with the Commission in the sum of \$7,500 on the form prescribed by the Commission. If the seating capacity is more than 10,000, the bond shall be in the sum of \$25,000.

(b) In lieu of the surety bond required by subsection (a), the promoter or foreign copromoter may deposit with the Commission cash, a certified check, a letter of credit or direct or indirect obligations of the United States or the Commonwealth acceptable to the Commission in an equivalent amount as set forth in subsection (a) and subject to the same conditions. The security will not be returned to the promoter until 1 year after the date on which it was deposited with the Commission, unless a surety bond is substituted for the security. Upon the expiration of 1 year from the date on which the security was deposited, it shall be returned to the depositor if no claim against the deposit is outstanding.

(c) A filing fee of \$25 shall accompany each bond filed or cash or security deposited in lieu of the bond.

§ 13.2. Ticket tally.

The authorized representative of a licensed promoter holding a contest or exhibition shall submit in writing to the Commission within 48 hours after the close of the contest or exhibition, a promoter's ticket report showing the number of each class of ticket sold, unsold or unused, and permit the Commission to examine sold, unsold or unused tickets, stub coupons, the financial records of the event and investigate other matters relating to the receipts and conduct of the box office and ticket takers. The ticket tally shall conform to the manifest issued by the printer on the printer's statement, and shall be signed by the promoter.

§ 13.3. Additional license fees.

Promoters shall submit a check or money order for the payment of license fees or taxes due the Commonwealth within a maximum of 48 hours after each event. Failure of a promoter to submit the required funds will result in forfeiture of all or a portion of the promoter's bond or funds on deposit with the Commission.

§ 13.4. Professional boxing license fees.

The following annual nonrefundable license fees shall accompany each application for a license or the renewal of a license:

Promoter's license	\$100
Matchmaker's license	\$ 50
Physician's license	\$ 40
Referee's license	\$ 35
Manager's license	\$ 60
Judge's license	\$ 35
Timekeeper's license	\$ 25
Announcer's license	\$ 20
Professional boxer's license	\$ 22
Trainer's license	\$ 20
Second's License	\$ 20

§ 13.5. Professional boxing permit fees.

The following nonrefundable permit fees, based upon the seating capacity of the premises where the program is to be presented, shall accompany each application filed by a professional boxing promoter or foreign copromoter for a permit to present a program of professional contests or exhibitions:

<i>Seating capacity</i>	<i>Fee</i>
Less than 2,000	\$ 25
2,001 to 5,000	\$ 35
5,001 to 10,000	\$ 75
Over 10,001	\$150

§ 13.6. Professional boxing physician fee.

A fee of \$200 shall be paid to the physician assigned to the weigh-in who conducts the precontest or preexhibition physicals and who also serves at ringside of the contest or exhibition. A fee of \$150 shall be paid to the physician assigned only to the contest or exhibition. A fee of \$100 shall be paid to the physician assigned only to conduct the precontest or preexhibition physicals. The fees shall be paid by the promoter.

§ 13.7. Professional boxing officials fee.

(a) Subject to the exception for televised events in subsection (b), the fees for professional contests or exhibition officials, paid by the promoter, are as follows:

<i>Official</i>	<i>Fee</i>
Referee	\$100, each
Judges	\$ 75, each
Announcer	\$ 75
Timekeeper	\$ 75

(b) The fees for televised events, either broadcasted or by cable transmission, are as follows:

<i>Official</i>	<i>Fee</i>
Referee	\$150, each
Judges	\$ 85, each
Announcer	\$ 85, each
Timekeeper	\$ 85, each

§ 13.8. Return check fee.

An additional \$50 processing fee will be charged for each dishonored check.

Subpart B. BOXING

CHAPTER 21. PROFESSIONAL BOXING

§ 21.1. Contracts.

(a) Contracts under the Commission's jurisdiction between managers and professional boxers; promoters and professional boxers; and foreign copromoters and profes-

sional boxers shall be signed on Commission-approved forms. Contracts shall contain a provision stating their subjection to the laws of the Commonwealth and this part. Contracts shall contain the provisions required by sections 1102 and 1103 of the Athletic Code (relating to notice clause; and provisions in contracts between managers and professional boxers). The contracts shall be signed by the parties under their true legal names. Contracts shall be void unless signed by parties to the contracts.

(b) Parties to the contracts shall be currently licensed by the Commission.

(c) Parties to the contracts shall completely fulfill their contractual obligations or be subject to disciplinary action by the Commission. Parties to the contracts shall be subject to, but not limited to, the disciplinary provisions in Chapter 13 of the Athletic Code (relating to enforcement).

(d) Each contract between a manager and boxer shall be subject to Commission approval, sworn to and affirmed by both parties, and signed in the presence of a commissioner or the Executive Director. A fully conformed and executed copy of the contract shall be filed with the Commission.

(e) It shall be the duty of the manager to assure the satisfactory performance of boxers with whom the manager has contractual agreements.

(f) A contract exceeding 3 years between a manager and A boxer will not be approved by the Commission except by unanimous vote of the commissioners.

(g) A manager may not enter into a contract purporting to bind a boxer under his management to perform services after the termination of the manager-boxer relationship between them. A boxer, while under contract to a manager, may not enter into a commitment, written or oral, to perform services without written consent of both parties involved and approval of the Executive Director.

(h) No assignment of an interest in a boxer's or manager's contract, filed and approved by the Commission, will be permitted without the approval of the Commission, and the consent to assign will not be granted unless a copy of the proposed assignment is submitted to the Commission for its approval.

(i) A manager may not enter into a contract that does not guarantee the boxer a minimum annual income for completion of contractual agreements of \$1,000.

(j) Contracts to which a minor is a party, shall be executed on behalf of the minor by the proper legal guardian of the minor.

(k) If a manager or boxer is to be prevented from acting or performing professionally within this Commonwealth due to the revocation of his license, the contract between the manager and boxer shall be terminated as provided by section 1103(b) of the Athletic Code. If the license of either party is suspended, the contract will not be binding upon the other party during the period of the suspension.

(l) A copy of a fully conformed and executed contract between a promoter and a manager or boxer, or both, shall be filed with the Commission by the promoter immediately after its execution

(m) A promoter licensed by the Commission may not attempt to contract, for a contest, with a manager or boxer under suspension or disqualification by the Commission, except with the written consent of the Executive Director or a commissioner.

(n) A promoter or other licensee of the Commission may not publicly advertise or announce that a contest or exhibition will take place until the contest or exhibition has been approved by the Executive Director under § 3.1(h) (relating to executive director) and binding agreements have been entered into by all parties.

§ 21.2. Weight classes.

(a) The weight classes of professional boxers and the maximum weight in each class shall be as follows:

- (1) Flyweight—112 pounds.
- (2) Bantamweight—118 pounds.
- (3) Featherweight—126 pounds.
- (4) Junior lightweight—130 pounds.
- (5) Lightweight—135 pounds.
- (6) Junior welterweight—140 pounds.
- (7) Welterweight—147 pounds.
- (8) Junior middleweight—154 pounds.
- (9) Middleweight—160 pounds.
- (10) Super middleweight—168 pounds.
- (11) Light heavyweight—175 pounds.
- (12) Cruiserweight—190 pounds.
- (13) Heavyweight—over 190 pounds.

(b) Sections 710 and 711 of the Athletic Code (relating to weights and classes; and limitation on difference in weights) are incorporated by reference.

§ 21.3. Ring and ring equipment.

(a) The boxing ring may not be less than 16 feet square nor more than 24 feet square within the ring ropes except with the written consent of the Commission. The ring floor or apron shall extend beyond the ring ropes on all sides for at least 2 feet, unless alternative satisfactory safety precautions are taken and approved by the Commission.

(1) The ring floor shall be elevated no more than 4 feet, be completely padded both inside and outside the ropes to the thickness of at least 2 inches with soft felt, foam rubber, felt matting or other soft material approved by the Commission and shall be covered over the padding with canvas stretched taut and laced tightly to the ring platform.

(2) The ring posts shall be four in number, shall extend above the ring floor no more than 5 feet, and shall be at least 18 inches distant from the ring ropes, which shall be attached to the posts by means of adjustable turnbuckles.

(3) Post tops and turnbuckles shall be suitably padded.

(4) Steps shall lead to the ring floor at two diagonally opposite corners of the ring platform.

(5) The ring ropes shall be four in number, may not be less than 1 inch in diameter, and shall be either covered with smooth plastic or wrapped with soft material.

(6) The ropes shall be readily adjustable and shall be kept at a proper and safe degree of tautness.

(7) The ring shall be amply illuminated by overhead lights, which shall be arranged so that shadow is eliminated and discomfort from heat and glare minimized for persons in and near the ring, if needed, as determined by a commissioner or the Executive Director.

(b) It is the responsibility of the promoter to have an attendant available at all times during the event capable

of making any type of emergency repairs, corrections and adjustments to the ring, the lights and other necessary fixtures. The promoter shall supply the following items, which shall be available on the premises for use as needed:

(1) A public address system in good working order.

(2) Chairs for Commission personnel, officials and Commission credential holders. Chairs for judges shall be elevated sufficiently to assure an unobstructed view of the ring and the ring floor.

(3) A gong or bell of size and resonance sufficient to be clearly audible by participants, officials and spectators when struck by the hammer of the timekeeper.

(4) A stool or chair, a clean water bucket and clean water bottle for the corner of each boxer.

(5) A complete set of numbered round cards clearly legible from all parts of the arena containing no advertising or other printed matter unless approved by the Commission.

(6) An ambulance, together with emergency equipment.

(7) A portable resuscitator with oxygen and appropriate endotracheal tubes and a qualified operator.

§ 21.4. Conduct of contests.

(a) At each professional contest or exhibition, except an exhibition held solely for training purposes, there shall be two referees, one physician, three judges, an announcer and a timekeeper in attendance, all of whom will be licensed by the Commission. The Executive Director will assign all officials except the announcer. The Executive Director may also appoint a knockdown timekeeper. A promoter or an employee of a promoter or an officer, director or stockholder of a corporation holding the license of a promoter may not be appointed or permitted to officiate in any capacity at a professional contest under the jurisdiction of the Commission.

(b) The Executive Director will determine the time and place of the weigh-in for each professional event under the Commission's jurisdiction, and boxers under contract to participate in the event shall appear promptly at the appointed place to be officially weighed by a representative of the Commission on Commission approved scales and examined by the attending physician.

(1) A boxer being weighed shall remove all clothing at the discretion of a commissioner or the Executive Director.

(2) A boxer shall weigh-in no more than 24 hours prior to the contracted time of the contests. Under extenuating circumstances and with the permission of the Executive Director, the boxer may be allowed to weigh-in no more than 30 hours prior to the contracted time of the contest. If a boxer is deemed overweight by the Executive Director, another weigh-in shall be scheduled for no more than 3 hours from the time that he first stepped onto the scale to determine that the boxer weighs no more than the weight for which he has contracted. Boxers may lose no more than 3 pounds in this 3-hour period. If after 3 hours the boxer cannot achieve the weight, the boxer shall be disqualified and may be subject to disciplinary action as the Commission may determine.

(3) The Commission will require a boxer under contract for a contest under its jurisdiction to appear before a commissioner or the Executive Director for a preliminary physical examination within 2 hours prior to the contest, as required by section 709(a) of the Athletic Code (relating to medical examination). The weight of the boxer

shall be one of several factors included in this physical examination by the attending physician to determine whether the boxer is physically or mentally fit to proceed. Physically unfit shall include, but not be limited to, a determination by the attending physician that a boxer has gained or lost so much weight since the time of the weigh-in that the boxer could harm himself or the opponent. Except as provided by section 711 of the Athletic Code (relating to limitation on difference in weights), the weight of one boxer may not exceed the weight of that boxer's opponent by 10 pounds.

(4) If an event is postponed for more than 24 hours, a commissioner or the Executive Director may require an additional weigh-in and physical examination of the participating boxers on the day to which the event is postponed.

(5) Each boxer in a contest under the jurisdiction of the Commission shall submit to the Executive Director the names of the boxer's seconds for approval, and no person other than the boxer's approved seconds may be permitted to assist in the boxer's corner during the contest.

(6) A boxer under contract to participate in an event under jurisdiction of the Commission shall report in the dressing room at a time set by the Executive Director and shall remain in that area until ordered to the ring by an authorized representative of the Commission.

(c) The referee shall call the participants and their chief seconds to the center of the ring for final instructions before each contest. During an event, only licensed seconds, trainers and managers are authorized to be in the boxer's corner. After the announcement of the decision at the end of a contest, the participants and their seconds shall leave the ring without undue delay and retire to the dressing quarters. Participants, seconds and managers may not manifest to officials or to spectators an opinion as to the outcome of the contest nor may they be disrespectful or exhibit improper conduct toward a Commission official or toward the spectators before or after the announcement of the decision.

(d) The promoter shall have immediately available for use adequate medical emergency first aid supplies and equipment during each event under his promotion, which will be subject to examination and approval by the Commission. An individual will not be permitted to examine or treat a participant during an event unless the individual is wearing disposable latex hygienic gloves. The gloves shall be paid for and provided by the promoter. Exceptions will be permitted when an emergency treatment or examination makes the wearing of the gloves impractical. The promoter shall also have available for each event under his promotion an ample supply of conventional boxing gloves including at least one new set of gloves for use in the main contest. Gloves for use in the event shall be in good condition and will be subject to inspection and approval by the referee, a commissioner, the Executive Director and an inspector before and during use. If a glove bursts or is otherwise seriously damaged during the progress of a contest, the referee shall interrupt the contest and require that the glove be replaced before the resumption of the contest.

(e) Persons other than boxers, managers, seconds and Commission representatives may not have access to the dressing quarters at an event under the jurisdiction of the Commission except by special permission of the Commission. The Commission may issue nontransferable written passes to the dressing quarters if circumstances warrant, and then only holders of the passes shall be

admitted except by special permission of the Commission. An inspector shall be on duty in the dressing quarters from the opening until the closing and shall be responsible for the maintenance of order and the enforcement of the Athletic Code and this part.

(f) The ring platform shall be kept clean and clear of obstructions throughout each contest. Buckets, stools, bottles and other corner equipment shall be removed before the start of each contest and again between rounds immediately upon the sounding of the 10-second warning signal of the timekeeper. Care shall be exerted by boxers and their seconds to keep corners dry. Excessive spraying or throwing of water on boxers is forbidden.

(g) Unless otherwise authorized by the Executive Director, a professional event may not be scheduled for a total of less than 28 or more than 40 rounds, each of which shall be of the maximum duration of 3 minutes for male boxers and 2 minutes for female boxers with a rest period of 1 minute between the end of each round and the start of the next. Professional contests under the jurisdiction of the Commission shall be scheduled for four, six, eight or ten rounds unless otherwise specifically authorized by the Executive Director in the case of a world championship, State championship or other especially significant contests when contests may be scheduled for 12 or 15 rounds for male boxers as the Commission deems appropriate. The maximum number of rounds for female boxers is ten rounds. A contest of the scheduled duration of more than 15 rounds may not be permitted in this Commonwealth. The Executive Director may permit, and will have the discretion to place on the program, and to determine the length of, one scheduled intermission between contests of a professional event.

(h) A promoter shall notify the Executive Director of a proposed change in the composition of any contest under his promotion immediately upon the arising of need or decision for change. An announcement or advertisement of the proposed change may not be made by the promoter or a person connected with the promotion unless approval of a commissioner or the Executive Director has been granted. If the change is made and approved, immediate widespread public announcement shall be made through available communications media and written notice shall be posted conspicuously at ticket agencies and at entrances and ticket windows at the site of the event. Upon postponement or cancellation of the main event or the entire program of contests or exhibitions, the promoter shall refund the full price of each ticket to any person who presents the entire ticket for a refund within 10 days after the event. The promoter shall announce the postponement or cancellation at the beginning of the program and at other times during the event as the Commission may prescribe and shall notify the ticket holders in each announcement that they may present their ticket stubs for a refund of the purchase price during the program.

(i) The promoter of a professional event under the jurisdiction of the Commission shall make payment of the purse and other money due a participating boxer to the boxer personally unless a prior arrangement has been made and approved by the Commission. A promoter may not make payment to a boxer, to a manager or to an agent of either of them except in the presence of a commissioner or the Executive Director. There may be no variance from the procedure in this subsection except by explicit written direction by the Commission to the promoter.

(j) Each professional contest under the jurisdiction of the Commission shall be designated a contest or an

exhibition according to its true and correct character and having been so designated, it shall be announced and advertised explicitly as such. An exhibition may not be announced or advertised either directly or by inference as a championship match.

(k) A boxer or a licensee may not strike, molest or abuse physically or verbally a spectator, ring official or representative of the Commission under penalty of summary disqualification, suspension or fine, or any combination of these penalties.

(l) A professional event or individual match may not be publicly announced or advertised until approved by the Commission.

(m) If a boxer refuses to continue a contest while physically able to do so, the referee shall rule the contest a technical knockout (TKO) and award the contest to the opposing boxer. The purse of the losing boxer, or any part thereof, may be impounded by the Commission.

§ 21.5. Scoring system.

(a) The scoring in professional contests shall be on the basis of the ten points must system.

(1) Each judge in reaching a finding on each round of a contest shall award to the winning boxer ten points and to the losing boxer nine points or less and shall so inscribe the official score card immediately upon conclusion of the round.

(2) In the case of an even round, the judge shall award ten points to each boxer.

(3) At the conclusion of each round which has not been terminated by a knockout, a technical knockout or the disqualification of either boxer, the Executive Director or an inspector shall tally the points for each boxer and mark these scores on the official score card.

(4) If each boxer has been awarded the same total number of points, the vote of the judge shall be recorded as a draw.

(5) Each judge shall sign his name to his score cards.

(6) A boxer shall be declared the winner of a contest if he has received the winning votes of two or all of the judges.

(7) A contest shall be declared a draw if the votes of two or all of the judges shall so state, or if each boxer receives the winning vote of one judge and the vote of the third judge shall be for a draw.

(b) Examples of ten point scoring are as follows:

(1) 10-10. Indicates an even round. Neither boxer distinguished himself as being more effective than the other. In addition, the boxers appeared equal in the areas that may be used to break an even round, such as opponent control, ring strategy and overall conditioning and abilities as a complete boxer, with emphasis on overall ability.

(2) 10-9. Indicates one boxer distinguished himself as more effective during the round, as described in paragraph (1). This score is the most often used, and allows for a slight to considerable margin between the boxers. One boxer may have been only slightly better than the other or the boxer may have dominated the round without really stunning the other boxer, with no knockdowns.

(3) 10-8. Indicates a round in which one boxer was in constant control, and unquestionably outclassed his opponent. The boxer may also have obviously stunned his opponent, usually including at least one knockdown. If

there were no knockdowns, there shall still have been enough contact done to indicate that at least one of these occurrences was imminent.

(c) Subject to the foul rule in subsection (d), if in a round a boxer is adjudged guilty by the referee of a foul or of a technical violation of the Athletic Code, the referee may penalize the offending boxer one point for each foul or technical violation. The referee shall immediately stop the contest and notify the judges of the number of points being deducted and provide for the innocent boxer to be examined by the ringside physician, if warranted. In each round when points are being deducted, judges shall score the round in a normal manner and mark next to the score the number of points being deducted for that boxer for the foul as indicated by the referee. If a boxer persists in the employment of foul tactics or in technical violations of the Athletic Code or if the boxer inflicts, by foul means, a crippling injury upon his opponent so that the latter is adjudged incapable of continuing the contest, the referee shall disqualify the offending boxer and shall award the contest to the innocent boxer. In determining the scoring of a round, a judge shall consider the following:

- (1) Aggressiveness.
- (2) Clean hitting.
- (3) Cleverness.
- (4) Defensive skill.
- (5) Effectiveness of blows.
- (6) Fouls and technical violations.
- (7) Knockdowns.

(d) If a boxer in a contest scheduled for more than four rounds receives an accidental foul that renders the boxer immediately unable to continue and less than four rounds have been completed, the referee shall rule the decision a "no contest." This rule does not apply in the case of accidental low-blow fouls as referenced in subsection (l). If at least four rounds have been completed, the boxer ahead on the scorecards shall be awarded the decision. If neither boxer is ahead on points, the contest shall be ruled a draw. The round shall be considered complete when the bell is sounded ending the round. Partial rounds shall be scored when at least four rounds have been completed.

(e) If a boxer in a contest scheduled for four rounds receives an accidental foul that renders the boxer immediately unable to continue and less than three rounds have been completed, the referee shall rule the decision a "no-contest." This rule does not apply in the case of accidental low-blow fouls as referenced in subsection (l). If at least three rounds have been completed, the boxer ahead on the scorecards shall be awarded the decision. If neither boxer is ahead on points, the contest shall be ruled a draw. The partial fourth round shall be scored.

(f) If a boxer receives an intentional foul, the referee shall stop the contest and shall deduct one or more points from the offender. Point deductions shall be at the discretion of the referee based upon the severity of the foul. If the boxer who received the intentional foul is unable to continue the round in which the foul occurred, as determined by the referee or ringside physician, the referee shall stop the contest and the injured boxer shall have up to 5 minutes of recovery time. If after these 5 minutes the injured boxer cannot continue, the referee shall disqualify the offender. Point deductions and disqualifications are at the discretion of the referee.

(g) The referee shall have the authority to determine whether the foul is accidental or intentional and shall make his ruling known immediately after the foul has been committed. The referee shall notify the judges, Commission personnel and both boxers of his ruling.

(h) If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the contest must be stopped in a round other than the one in which the foul occurred, the outcome will be determined by the scoring of all partial and completed rounds if at least four rounds have been completed. If less than four rounds have been completed, the outcome shall be ruled a "no-contest."

(i) If an injury inflicted by an intentional foul later becomes aggravated by fair blows and the contest must be stopped in a round other than the one in which the foul occurred (See subsection (e)), the injured boxer will win by a technical decision if he is ahead in the scoring.

(1) The contest shall be ruled a technical draw if the injured boxer is behind or even in the scoring.

(2) If a boxer injures himself while attempting to intentionally foul his opponent, the referee shall take no action in his favor, and this injury shall be treated the same as one produced by a fair blow.

(j) In a round when a boxer has been knocked down and that boxer has not risen at the end of the round, the count of the timekeeper shall be continued and, if the fallen contestant shall fail to rise before the count of ten, he shall be considered to have lost the contest by a knockout in the round just concluded. If the boxer does rise and the round has already ended, the timekeeper shall immediately ring the bell signifying the end of the round.

(k) The referee shall signal for a time-out when a boxer is knocked down as a result of an accidental foul or accident, as ruled by the referee. The boxer shall have up to 5 minutes of recovery time. If the boxer cannot continue after 5 minutes and four rounds or more have been completed, the winner of the contest shall be determined by the scores indicated for completed rounds on the scorecards. Partial rounds shall be scored when at least four rounds have been completed. If less than four rounds have been completed, the contest shall be ruled a technical draw.

(l) In the case of an accidental low-blow foul, the same procedures in subsection (k) shall be followed, except that if the boxer who is unable to continue is ahead on points, the contest shall be ruled a technical draw. If his opponent is ahead on points, he shall be awarded the decision.

(m) If a boxer is disqualified by the referee and that boxer is behind on points at the time of his disqualification, regardless of the round, that boxer shall lose by technical knockout (TKO).

§ 21.6. Promoters.

(a) Promoters of professional events under the jurisdiction of the Commission shall be licensed by the Commission and shall be responsible for the observance of the Athletic Code and this part, as far as the Athletic Code and this part apply to them and their activities during and after events under their promotion.

(b) Each promoter shall file with the Commission fully conformed and executed copies of contracts between the promoter and managers and boxers committed to participation in events under his promotion. Each contract filed shall set forth the exact and complete agreement between

the parties. Undisclosed additional or collateral written or oral agreements or understandings pertaining to the subject matter of the original contract or the event are prohibited and void. Promoters may not contract or negotiate with a matchmaker, manager or boxer who is under suspension by the Commission, except with the written permission of the Executive Director.

(c) The promoter is responsible for the maintenance of order and the safety of persons present at each event under his promotion, and he shall provide ample security.

(d) A promoter who shall be adjudged guilty of an offense of violence or of conduct reflecting discreditably upon boxing shall be liable to suspension or revocation of license or both, by the Commission.

(e) Unless otherwise directed by a commissioner or the Executive Director, each promoter shall pay out all boxing purses immediately after the contest but no later than 24 hours after an event.

(f) A promoter may distribute passes to his staff or other individuals helping in the promotion of an event to permit them to enter the event. The number of passes may not exceed 50 or more than 1% of the total seating capacity of the facility, whichever is less, unless otherwise approved by a commissioner or the Executive Director. Passes shall be visibly displayed and are not subject to the Commission's gross receipts tax.

(g) The promoters of a contest between female boxers shall provide them with adequate and separate dressing rooms from male boxers.

§ 21.7. Matchmakers.

(a) Matchmakers shall be licensed by the Commission and shall be employed only by licensed promoters. Matchmakers shall be familiar and comply with the Athletic Code and this part with special reference to contracts, the giving of advance notice, the advertising of events and the due observance of legal weight differentials between opponents.

(b) Matchmakers shall be familiar with the records, the abilities and the physical condition of boxers for whose services they negotiate. Matchmakers shall take notice of suspensions issued by any commission, including those in other jurisdictions, and may neither contract nor negotiate with unlicensed managers or boxers or those who are under suspension, except by written permission of a commissioner or the Executive Director.

(c) The matchmaker for each event for which he has been engaged shall submit to the Commission at least 5 days prior to the event the true legal names, the ring names and the correct legal addresses of boxers under contract to participate unless this has been done by the promoter. This requirement will be waived by a commissioner or the Executive Director only for sufficient reason. The matchmaker shall advise managers and boxers under contract for an event of the time and place of the official weigh-in and of the time and place of their appearance for the actual event.

§ 21.8. Boxers.

(a) Professional boxers shall be licensed by the Commission. The Commission will not license or renew the license of a professional boxer unless the license application is accompanied by a report from a Department of Health facility, a laboratory possessing a permit from the Department of Health under 28 Pa. Code § 5.11 (relating to permit, requirements, application and conditions) or a report from a laboratory licensed in another jurisdiction

that meets the requirements to be issued a permit under 28 Pa. Code § 5.11 and is acceptable to the Commission, which indicates that the applicant has been tested for any virus, antibody, antigen or etiologic agent determined to cause or indicate the presence of human immunodeficiency virus, and the results of those tests were negative. The tests shall have been initiated no more than 60 days prior to the date of filing the application. A boxer whose application for license has been denied has the right to a hearing before the Commission under 2 Pa.C.S. §§ 501—508 (relating to practice and procedure of Commonwealth agencies). The applicant shall apply, in writing, to the Commission requesting a hearing. The Commission will conduct a hearing within 10 business days from the receipt of the written request.

(b) The Commission will require each professional boxer under contract to appear in a contest under its jurisdiction to be properly licensed and to be examined and certified by a physician appointed by the Executive Director to be physically sound before being permitted to engage in the contest. A commissioner, the Executive Director or the ringside physician, upon the individual's own initiative as a safety precaution, may require a professional boxer under the jurisdiction of the Commission to undergo a general or an ad hoc physical or mental examination, or both, for the purpose of determining whether or not the boxer is fit to continue actively in the profession of boxing.

(c) Whenever a professional boxer considers himself unable by reason of illness or injury to participate in a contest for which he is under contract within the jurisdiction of the Commission, he, or his manager in his behalf, shall promptly notify both the Executive Director and the promoter of the event of the alleged condition of the boxer. The boxer shall immediately submit written medical verification to the Executive Director who may, if he deems fit, require the boxer at his own expense to undergo examination by a physician selected by the Executive Director for further substantiation of the averment of disability. If a contest to which a professional boxer is under contract has been canceled and no suitable opponent, as determined by the Executive Director, can be located, the boxer shall be entitled to reasonable expenses as determined by the Executive Director.

(d) A boxer shall be considered to have been knocked out in a contest if he is counted out and he may incur a suspension of up to 90 days. A suspension under this section shall be mandatory if the boxer has been knocked unconscious or has received a concussion. This mandatory suspension shall be removed only after the boxer has been pronounced fit after undergoing medical examination by a physician.

(1) A boxer may incur a suspension of up to 30 days if he experiences a technical knockout without head injuries.

(2) A boxer may incur additional suspension time upon recommendation of the ringside physician or the Commission's Medical Advisory Board.

(3) A professional boxer who is defeated in six consecutive contests, either within or outside the jurisdiction of the Commission shall be required to undergo a medical examination by a physician approved by the Commission, pending inquiry by the Commission to determine the physical and mental ability of the boxer to continue safely in the boxing profession.

(e) The Commission will not license as a professional boxer an applicant under 18 years of age and the

Commission will require conclusive proof of age of a boxer applying for the first time to be so licensed with the Commonwealth. An applicant for a boxing license who has never competed in a professional contest shall attach to his license application the results of a complete general physical on a form supplied by the Commission in the *Medical/Safety Manual*. The Commission will not license as a professional boxer an applicant over 36 years of age except by special action by the Commission. An applicant for a boxing license over 36 years of age shall attach to his license application the results of the following:

(1) A complete general physical on a form supplied by the Commission.

(2) An electrocardiogram (EKG).

(3) A stress echo test.

(4) An eye exam.

(f) The Commission will not permit a professional boxer to participate in a contest under its jurisdiction without first having signed with a licensed promoter a contract covering the participation that meets the requirements of sections 1101—1104 of the Athletic Code (relating to contracts) and this part. If the boxer is under contract to a manager, the manager is also required to sign the contract unless excused by the Commission. This does not mean that a boxer is not contractually bound by a commitment made in his behalf by his legally constituted manager even though the boxer may not have personally executed the instrument purporting to commit him.

(g) A boxer under the jurisdiction of the Commission may not be under contract to more than one manager at the same time without express approval of the Commission. A boxer under the jurisdiction of the Commission may not enter into a contract with a manager or combination of managers in which the boxer is obligated to the payment of more than the total of 40% of his earnings under the manager or combination of managers.

(h) A boxer whose manager has been suspended by the Commission or whose suspension in another jurisdiction is recognized by the Commission may box in this Commonwealth, independently of his managerial contract at the discretion of the Commission and will be permitted to contract individually under the circumstances and to collect the full amount of a purse or other moneys due to him; no part of the sum may be held or reserved for the suspended manager.

(i) Professional contests between boxers under contract to the same manager are prohibited without exception.

(j) The Commission may require either or both of the participants in a professional contest to guarantee appearance or the making of agreed weight, or both, by stipulated monetary forfeit to be posted with the Commission in cash or by certified check by a stated time prior to the contest under appropriate circumstances. The Commission may declare the sum posted by him forfeited in whole or in part if a boxer fails to appear or make the agreed weight, and the forfeited amount shall be distributed, as the Commission, in its discretion, will decide.

(k) A professional boxer who fails to appear promptly at the time and place set by the Executive Director for the official weigh-in for a contest in which he is under contract to participate shall be subject to a disciplinary action the Commission sees fit to impose. A professional boxer who fails to appear for a contest in which he is under contract to participate or having appeared, refuses to participate in a contest may be subject to a fine,

suspension, revocation of license or one or all of these penalties at the discretion of the Commission.

(l) If either or both of the participants in a professional contest fail to satisfactorily put forth serious effort during the contest or persist in foul tactics in the judgment of the referee, the referee shall stop the contest after reasonable warning, disqualify the offending boxer and award the decision to the boxer making the serious effort. The Commission may impound moneys due to the offending boxer pending the outcome of a hearing, which the Commission will arrange.

(m) Participants in professional contests under the jurisdiction of the Commission shall:

(1) Be shaven clean except that the Commission may sanction the wearing of closely cropped mustaches or beards, or both, at its discretion.

(2) Wear their hair secured so that it does not interfere with the vision or safety of either contestant.

(3) Use no facial cosmetics.

(4) Wear conventional boxing trunks, smoothsole shoes, a foolproof abdominal guard or cup and an individually fitted mouthpiece, which shall be subject to examination and approval by the Commission. Female boxers shall also wear a chest protector, body shirt and blouse and comply with § 21.8(n) (relating to boxers). Female boxers are also required to follow all other general requirements applicable to male boxers.

(5) Adhere to the following requirements for gloves. Each glove used in a professional boxing contest under the jurisdiction of the Commission shall weigh at least 8 ounces of which no more than 1 ounce shall be in the wrist padding of the glove. At all times, boxers competing against each other shall wear gloves of the same weight. For boxers weighing 160 pounds or less, the boxing gloves cannot weigh less than 8 ounces each. For boxers weighing over 160 pounds, the boxing gloves shall weigh at least 10 ounces each.

(i) The gloves of each boxer shall be adjusted in the dressing quarters of the event under the supervision of a Commission representative and in the presence of a second of the opposing boxer, if the latter so desires. Gloves of the participants in the main contest may also be adjusted in the ring by the referee.

(ii) The ends of the lace of each glove shall be tied and knotted on the back of the wrist of the glove and a single strip of adhesive tape 1 inch in width shall be carefully and smoothly placed around the wrist of the glove over the lace and the knot.

(iii) The bandage for use on each hand and wrist shall be soft bandage or gauze not more than 2 inches in width and 10 yards in length, except that the bandage for the hand of a light heavyweight or heavyweight boxer may be 12 yards in length. The bandage shall be wrapped smoothly and evenly on each hand and shall be held in place by adhesive tape 1 inch in width around the wrist with overlap of not more than 1 inch to clinch the ends. Tape, cotton or a substance other than the approved bandage may not be used between the fingers or over the knuckles of the hand. Bandaging of the hands of a boxer shall be done in the dressing quarters under the supervision and subject to the inspection and approval of a Commission representative and in the presence of a second of the opposing boxer, if the latter so desires.

(n) A female boxer:

(1) May not engage in a contest with a male boxer.

(2) Shall provide the Commission with a negative pregnancy test result taken not more than 24 hours prior to the scheduled contest.

(o) A male boxer may not engage in a contest with a female boxer.

§ 21.9. Managers.

(a) The Commission will license managers of professional boxers after being satisfied as to their good character, reputation and qualifications.

(b) A contract or negotiation entered into by a manager not licensed by the Commission may be upheld as valid by the Commission if the manager is licensed in another jurisdiction.

(c) A person may not be permitted to enter into a contract to manage a professional boxer without first being so licensed. If his license is revoked or allowed to expire, a contractual relationship, which he has with a boxer, will become void as required by section 1103(b) of the Athletic Code (relating to provisions in contracts between managers and professional boxers).

(d) A manager of a professional boxer may not sell, assign, transfer or encumber, or attempt to sell, assign, transfer or encumber an interest, in whole or in part, which he may hold in a contract for the services of the boxer without notice to and written consent of the boxer and of the Commission.

(e) A licensed manager of a professional boxer may act as second to the boxer in a contest under the jurisdiction of the Commission.

(f) A manager of boxers who is adjudged responsible for an offense of violence or conduct reflecting discreditably upon boxing may be subject to suspension or revocation of license, or both, by the Commission.

(g) A manager of boxers who has been suspended by the Commission or whose suspension in another jurisdiction is recognized in this Commonwealth will be prohibited from carrying on managerial activity and from acting as a second within the jurisdiction of the Commission.

(h) When a contest occurs in this Commonwealth, and a dispute arises between a manager and his boxer, the Commission may impound for a manager who is licensed in this Commonwealth or in another jurisdiction recognized by the Commission, upon the request of the manager, the proper portion of the purse of a boxer under contract to him pending final determination of the merits of the matter. If a boxer engages in a contest without the consent of his manager, the Commission may, at the request of a manager licensed in this Commonwealth or in another jurisdiction recognized by the Commission, impound the proper portion of the purse of a boxer under contract pending final determination of the merits of the matter.

§ 21.10. Seconds or trainers.

(a) The Commission will license professional boxing seconds after being satisfied of their good character, reputation and qualifications.

(b) Unless he is licensed also as a manager of professional boxers, a second may not act or attempt to act in a managerial capacity.

(c) The number of seconds attending a professional boxer in his ring corner shall be limited to a maximum of four.

(d) Seconds attending a professional boxer shall be neatly and cleanly attired in a manner subject to the approval of the Commission.

(e) First aid and other ring equipment of a second shall before, during and after use be subject to inspection by the attending physician and Commission personnel whose decision as to the propriety of its use is final.

(f) Seconds may not enter the ring during a round, and they shall leave the ring promptly, with stools, buckets and other obstructive equipment upon the sounding 10-second warning signal of the timekeeper for the start of the next round.

(g) Seconds shall remain seated at ringside and may not rise or lean upon the ring platform during rounds nor may they heckle the participants or the officials during the event.

(h) Seconds may not attempt to render aid to a fallen or otherwise injured boxer in the ring until the attending physician has examined the boxer and indicated that his seconds may minister to him. However, a second may remove the protective mouthpiece of the boxer without awaiting direction.

(i) The designated chief second shall be the only spokesman of a boxer to the referee and other officials while the boxer is in the ring.

(j) A second who is under suspension by the Commission or whose suspension in another jurisdiction is recognized in this Commonwealth will be prohibited from acting as a second within the jurisdiction of the Commission.

(k) A second will not be permitted to act as such during an event unless the second is wearing disposable latex hygienic gloves. Gloves shall be paid for and provided by the promoter.

§ 21.11. Referees.

(a) Professional boxing referees shall be licensed by the Commission and will be appointed by the Executive Director to officiate in each professional contest and exhibition under the jurisdiction of the Commission except exhibitions conducted solely for training or instructional purposes.

(b) To qualify as a professional boxing referee and to obtain a license in that capacity, an applicant shall conform to the following requirements:

(1) Be at least 21 years of age, of good moral character and reputation, of sound physical health and of a level of intelligence and degree of attainment as a student of boxing satisfactory to the Executive Director.

(2) Serve an apprenticeship of at least 3 months during which he shall diligently study the Athletic Code and this part, especially the portions that pertain to boxing and to the duties of boxing referees, and shall work with and undergo instruction under the direction of licensed officials under conditions and occasions the Commission designates.

(c) The powers and duties of a professional boxing referee shall be as follows:

(1) To exercise immediate authority, direction and control over each contest and exhibition to which he is appointed.

(2) To submit to physical examination at the discretion of the Executive Director.

(3) To wear in the ring apparel of a type, style and color approved by the Commission.

(4) To determine the identity of the chief seconds of the respective boxers and to give final instructions to the boxers and to their seconds as he deems appropriate before the start of each contest and exhibition under his direction; to hold the chief seconds responsible for their own conduct and for the conduct of their respective assistant seconds in all matters pertaining to the contest; and to remove or cause to be removed from the ring or the vicinity a manager, second, trainer or other person who interferes with the conduct of the contest. In addition to ejecting the individual, a referee may also deduct points from a boxer during a contest. Furthermore, the Commission may suspend or fine the manager, second or trainer or impose both a suspension and a fine.

(5) To check the gloves, equipment and persons of the boxers before the start of each contest and exhibition and as he sees fit throughout to assure that no unsafe or improper condition exists.

(6) To observe carefully and continually the physical condition of the participants and have full and final responsibility either at his own discretion, or upon direction from the attending physician, for the immediate halting of a contest when the safety of a boxer would be, for any reason, jeopardized by continuance.

(7) To exercise his full authority to interrupt the progress of a round in the event of injury to a participant by directing the timekeeper to stop the clock and calling the attending physician into the ring to examine and rule upon the condition of the injured boxer. If the physician determines that the boxer is fit to continue, the referee shall direct the timekeeper to start the clock and resume the round from the point of interruption. When an injury has resulted from an accidental or intentional foul by the opposing boxer, as listed in § 21.16(b) (relating to Safety Code), the referee upon advice of the attending physician may order a rest period not to exceed 5 minutes.

(8) To enforce the rules of professional boxing in Subpart B of the Athletic Code (relating to boxing), the referee's manual and this part.

(9) To take away points from the score of the boxer in the event of foul tactics by the boxer at any time during a round in which the foul tactics have occurred. When he has taken action, he shall inform the judges, a Commissioner or the Executive Director and the chief seconds of the participants.

(10) To disqualify either or both participants in a contest for failure to perform according to due standards of effort, ability or conduct and to recommend the withholding of compensation otherwise payable to the disqualified boxer or the imposition of a fine, suspension or other penalties, or one or all of these penalties, as he deems appropriate.

(11) To collect and deliver the completed, signed, official scorecard of each judge to the Executive Director or an inspector after each round.

(12) To decide whether or not a boxer has been knocked down during the course of a round and indicate that decision to the timekeeper, whose count shall be accordingly continued or discontinued. If the count is to be continued, the referee shall pick it up verbally and by gesture after first making sure that the opponent of the fallen boxer has retreated to the neutral corner of the ring.

(13) To confirm the official result and whether it has been reached by decision on points, by knockout, by technical knockout or by disqualification to the Commission at the conclusion of each contest under his direction.

(d) A referee while officiating shall wear disposable latex hygienic gloves to be paid for and provided by the promoter.

§ 21.12. Judges.

(a) Professional boxing judges shall be licensed by the Commission. Three licensed judges shall be appointed by the Executive Director to officiate in each professional contest under the jurisdiction of the Commission. A licensed boxing referee may be appointed at any time to officiate in the capacity of boxing judge.

(b) To qualify as a professional boxing judge and to obtain a license in that capacity, an applicant shall conform to the following requirements:

(1) Be at least 21 years of age, of good moral character and reputation and of a level of intelligence and degree of attainment as a student of boxing satisfactory to the Executive Director.

(2) Serve an apprenticeship of at least 3 months, during which the applicant shall diligently study the Athletic Code and this part, especially the portions that pertain to boxing and to the duties of boxing judges, and shall work with and undergo instruction under the direction of the Executive Director.

(3) Have the intention to be qualified for duty as a professional boxing judge after undergoing observation and written or oral examination, or both, on the techniques and requirements of the position at the discretion of the Commission.

(4) Attend at least one seminar per year as directed by the Commission.

(c) It shall be the duty of a professional boxing judge to observe carefully and expertly the performance of the boxers in each contest to which he is appointed; to appraise the performances fairly and accurately in the light of Subpart B of the Athletic Code (relating to boxing), the judge's manual and this part; to inscribe the results of the appraisal after each round on the official scorecard according to the scoring system adopted by the Commission; and at the conclusion of each round to complete and sign each official scorecard and deliver the completed, signed scorecard to the referee.

§ 21.13. Timekeepers.

(a) Timekeepers shall be licensed by the Commission and shall be appointed by the Executive Director to serve at professional contests and exhibitions.

(b) The timekeeper shall keep time by means of an accurate stop clock or stopwatch, and it shall be his responsibility to assure that the instrument is in good working order when it is to be used. The timekeeper shall sound the gong to begin and to end each round, and shall count for knockdowns by striking the floor of the ring or a suitable strikingboard with a hammer or wooden mallet. The timekeeper shall give warning to seconds of boxers to leave the ring between rounds by sounding a whistle signal 10 seconds before the end of the rest period, and shall give warning of the end of a round by striking a hammer on a strikingboard 10 seconds before striking the gong. The timekeeper may give no other signal or other information on the progress of a round.

(c) If a boxer falls to the floor of the ring or leaves the ring during the progress of a round, the timekeeper shall

immediately begin the official count as set forth in subsection (a) and shall continue to the count of ten at the rate of one stroke per second unless the referee rules no knockdown and direct that the count be suspended.

(d) If a boxing bout terminates before completion of the final scheduled round, the timekeeper shall record the exact time of termination and shall inform the announcer and shall report to the Commission the exact duration of the bout.

(e) If a boxing bout terminates between rounds by direction of the referee or at the request of the chief second of one of the boxers, the timekeeper shall strike the gong to begin the succeeding round and the bout shall be ruled to have ended in the succeeding round by any decision the referee made.

§ 21.14. Insurance.

(a) Boxers engaged in professional contests and exhibitions under the jurisdiction of the Commission shall for their financial protection be covered by the most advantageous life and accident insurance contract available through negotiation and agreement by the Commission with a private insurance company approved by the Insurance Department to do business within this Commonwealth.

(b) The promoter of each professional event under the jurisdiction of the Commission shall deduct from the purse paid to the manager of the boxer the cost of the insurance for the boxer and shall pay to the Commission the full amount due in accordance with the current premium schedule. Failure to make immediate payment of insurance premiums as provided shall render the defaulting promoter eligible for suspension and license revocation.

(c) It shall be the responsibility of a boxer who suffers injury covered by insurance to report the injury promptly to the examining physician assigned to the event. The responsibility shall extend to the chief second of the injured boxer, as well as to other persons officially attached to the boxer. Failure to report to the examining physician or, if for any reason he is not readily available, to the constitute grounds for suspension and license revocation.

(d) Upon receipt of notice of injury to a boxer, the examining physician shall make examination and investigation and shall promptly report pertinent findings to the Commission upon the official form provided for that purpose in the *Medical/Safety Manual*.

§ 21.15. State championships.

(a) The Commission will establish State boxing championships in the recognized weight classes.

(b) Contenders for championships shall have been bona fide residents of this Commonwealth for at least 6 months prior to engaging in competition for State championships.

(c) The Commission may fill a vacancy in the championships by designating the best available match between leading contenders in the weight class, as determined by the Commission's ranking of boxers, and recognizing the winner as champion.

(d) A boxer who is recognized as a State champion shall defend his title against a Commission-approved challenger at least once each year or the Commission may declare the title to be vacated.

(e) If a boxer, having contracted to engage in a championship contest, fails or refuses the Commission's drug test or violates a section of the Athletic Code in the course of

the championship event, as determined by the Commission, the opponent in the contest will be declared the winner by default.

(f) A contest may not be advertised as a State championship without the written approval of the Commission, and a boxer may not be advertised as State champion unless so designated by the Commission.

(g) State championship contests shall be of 12 rounds scheduled duration unless otherwise determined by the Commission.

(h) Subject to § 21.4(b) (relating to conduct of contests), if the champion makes weight and the challenger does not, the fight may go on, subject to the approval of a commissioner or the Executive Director. The champion will retain the belt, regardless of the outcome of the contest. If the champion is overweight and the challenger makes weight, the contest may go on, subject to the approval of a commissioner or the Executive Director. The champion shall vacate the title regardless of the outcome, and the challenger will win the title only if he wins the contest. If both boxers are overweight the contest may go on as a nontitle contest, subject to the approval of a commissioner or the Executive Director, unless approval is given by both boxers and a commissioner or the Executive Director to box for the title.

§ 21.16. Safety Code.

(a) The Commission, referees, all other ring officials and participating athletes, managers and seconds shall be aware of the safety provisions in the Athletic Code, its amendments and this part. In addition, they shall be constantly alert to every reasonable consideration of humanity and common sense which indicate and govern the actions of prudent individuals to minimize the risks inherent in boxing. The primary, inescapable responsibility of the Commission will be the protection of the athletes under its jurisdiction, and under no circumstances will this concern be subordinated to an interest of gain, sentiment or convenience. Parties involved in implementing this basic program shall be dedicated not only to the letter of the Athletic Code, its amendments and this part but at least equally to the exercise of initiative, resource, decision and unstinted effort in those unprecedented, unpredictable and unprovided emergencies which challenge the best in individuals at the brink of safety or tragedy, life or death.

(b) The following fouls and other unsportsmanlike practices are prohibited in boxing contests in this Commonwealth:

- (1) Hitting below the belt.
- (2) Tripping.
- (3) Kicking.
- (4) Butting.
- (5) Kneeing.
- (6) Throttling.
- (7) Elbowing.
- (8) Striking with the head, shoulder or forearm.
- (9) Hitting with open glove, or the inside, side or wrist of the glove.
- (10) Hitting on the back, especially the kidneys or back of the neck.
- (11) Pivot blows.

(12) Pressing the face of an opponent with arm or elbow.

(13) Attacking while holding the ropes and making use of the ropes in any other unfair way for attack purposes.

(14) Pressing the head of an opponent over the ropes or against the turnbuckles or ring posts.

(15) Wrestling, lying on and throwing while in a clinch.

(16) Attacking a fallen opponent.

(17) Clinching, holding or locking the arms or head of an opponent, pushing a stiff arm underneath an arm of the opponent, holding and hitting.

(18) Pulling and hitting.

(19) Hitting on the break after a clinch.

(20) Ducking low to up-end an incoming opponent.

(21) Thumbing and gouging the eyes of an opponent, rubbing the face of an opponent with laces, adhesive tape or abrasive area of or substance on the gloves.

(22) Use of an ointment, powder or other substance intended or likely to cause danger or discomfort to an opponent.

(23) Biting.

(c) A commissioner or the Executive Director will strictly enforce the requirements with respect to the bandaging of hands of boxers, the purpose of the bandaging being at all times confined to the protection of the hands and never the enhancement of the effect of blows. A boxing glove in which the padding has been displaced or broken may not be used in a contest under the jurisdiction of the Commission.

(d) A boxer may not engage in a contest without wearing an abdominal guard or cup. A female boxer shall also wear a chest protector approved by the Commission. A boxer may not wear shoes with hard soles, hard or sharp edged heels, spikes, cleats or abrasive surfaces.

(e) If the gloves of a boxer touch the floor of the ring during a contest, the referee shall cleanse them of resin, grit and dirt by wiping them on his shirt or, if necessary, with a towel before allowing the action to continue.

(f) A commissioner or the Executive Director has authority to enter and inspect training quarters of boxers under the jurisdiction of the Commission to observe the conduct, facilities and cleanliness of the quarters and to appraise the activities and the physical condition of boxers during training.

(g) Every boxer under the jurisdiction of the Commission in undertaking to engage in a contest within this Commonwealth shall certify to the Commission that he is in sound physical condition and is not concealing an illness, injury or disability. This certification shall be set forth in a contract entered into with a promoter for a contest whether by the boxer in his own behalf or by a manager acting for him. If the boxer incurs an illness, injury or disability prior to the contest, he and his manager, if any, shall be strictly responsible for prompt and complete disclosure to the Commission.

(h) The mandatory eight-count rule shall be in effect in boxing contests within this Commonwealth. If the referee rules that a boxer has been knocked down, action may not be resumed until the referee has counted to eight even though the fallen boxer meanwhile has regained his feet. During this eight-count, the referee or ringside physician may terminate the contest if a boxer appears to be in physical danger.

(i) The three knockdown rule will not be in effect in boxing contests within this Commonwealth.

(j) If a boxer is knocked out, his consequent suspension prohibits him not only from boxing in actual competition, but also from sparring as a part of his training exercises. If a boxer is knocked unconscious during a contest, his seconds may not minister to him, except to remove his mouth protector, until the attending physician has examined him and given appropriate instructions for his further care. If a boxer receives a concussion, the boxer may not be permitted to box, even after the expiration of the medical suspension, until the boxer has been thoroughly examined and approved by a physician, who may be designated by the Commission.

(k) If a boxer has been a victim of repeated knockouts or the recipient of sustained severe punishment, or both, the Commission may revoke, suspend or refuse to renew his license after the boxer undergoes a medical examination by a physician under section 708 of the Athletic Code (relating to suspension and revocation for injuries). The Commission will notify a boxer in writing of its action. A boxer may request a hearing before the Commission to review the Commission's action, under 2 Pa.C.S. §§ 501—508 (relating to practice and procedure of Commonwealth agencies). The Commission will give full force and recognition within this Commonwealth to medical suspensions and retirements imposed upon boxers in other jurisdictions subject to the right of appeal of affected boxers to the Commission which shall seek and, if possible, obtain a complete record of the matter from the authority which imposed the original suspension or retirement before rendering a decision in any given case.

(l) If a boxer is legally knocked or falls from the ring during a contest, the boxer shall be allowed a maximum of 20 seconds to return within the ropes unassisted.

(m) If a boxer rises within the count of ten after being knocked down and then falls without being struck again, the referee shall resume the count at the point where it was stopped when the boxer rose.

(n) A protective regulation in this section or elsewhere in the Athletic Code or this part will not be waived or relaxed in any degree by a Commission official for a boxing contest in this Commonwealth. Championship contests will not fall within this prohibition.

CHAPTER 23. AMATEUR BOXING

§ 23.1. Relations with amateur athletic associations.

(a) The Commission may collaborate through the local amateur athletic associations in the conduct of amateur events in this Commonwealth, at its discretion. At no time may the authority of the Commission or the responsibility of the Commission to enforce the Athletic Code be relinquished, delegated or impaired, by or through the processes of collaboration.

(b) When the Commission collaborates with an amateur athletic association in the conduct of an amateur event, the rules and regulations of the amateur athletic association relating to weight classes, ring and ring equipment, conduct of contests and scoring system shall be in effect. However, if a controversy arises in connection with a subject which is not covered by the express provisions of this chapter, the Commission will reserve the right to finally pass upon the matter and to make whatever decision it deems to be fair and equitable under the circumstances. The decision will be final.

§ 23.2. Amateur events.

(a) An amateur event under the jurisdiction of the Commission may not be held without a permit for the event having been first secured by the sponsor from the Commission. Permits for amateur events shall be issued only to those sponsors approved by the Commission.

(b) The sponsor shall be responsible for the maintenance of order and the safety of persons present at each event under its sponsorship and it shall provide ample and effective police and fire protection at each event.

§ 23.4. Boxers.

(a) The Commission will require each amateur boxer scheduled to appear in a contest under its jurisdiction to be examined by a physician.

(b) The Commission may suspend an amateur boxer who the Commission determines cannot safely defend himself or whose actions are deemed detrimental to the sport of boxing.

(c) Participants in amateur events under the jurisdiction of the Commission shall conform to the regulations set forth by the local amateur athletic associations.

(d) When deemed appropriate by the Commission, the provisions for professional boxers in §§ 21.4(c) and (h), 21.6(g), 21.8(m)—(o) and 21.16 apply to amateur boxers.

§ 23.5. Seconds or trainers.

(a) The Commission will permit amateur boxing seconds to function only after they have been approved by the local amateur athletic associations. However, the Commission may designate a second if no second approved by the amateur athletic associations is available.

(b) The Commission may remove a second who displays improper conduct in the course of an event.

(c) First aid and other ring equipment of a second shall in all cases and at all times, before, during and after use, be subject to inspection by the attending physician and Commission personnel. Any decision as to the propriety of its use shall be final.

§ 23.6. Referees.

(a) Amateur boxing referees shall be appointed by the amateur athletic associations with the approval of the Commission. Referees may be removed by a commissioner, the Executive Director or an inspector at any time if deemed incompetent.

(b) A referee appointed under this section shall be 21 years of age or older, of good moral character and reputation, of sound physical health and approved by the amateur athletic association overseeing the event.

(c) The powers and duties of an amateur boxing referee shall be the same as those for professional boxing referees in § 21.11(a) (relating to referees), except that the referee shall enforce the rules of amateur boxing as set forth in the Athletic Code and this part as well as those rules adopted and promulgated by the amateur athletic associations.

(d) The Commission will determine the amount of the compensation of amateur boxing referees in accordance with reason and equity in the circumstances of the respective events to which they are appointed, and the compensation shall be paid in full in each case by the sponsor of the event.

§ 23.7. Judges.

(a) An amateur boxing judge shall be appointed by the amateur athletic association with the approval of the

Commission. A judge may be removed by a commissioner, the Executive Director or an inspector at any time if deemed incompetent.

(b) An amateur boxing judge shall be 21 years of age or older, and of good moral character and reputation.

(c) It shall be the duty of an amateur boxing judge to observe carefully and expertly the performances of the boxers in each contest to which he is appointed and to appraise the performances fairly and accurately.

§ 23.8. Timekeepers.

(a) Timekeepers for amateur events may be appointed by the amateur athletic association with the approval of the Commission.

(b) The duties and responsibilities of timekeepers for amateur boxing events shall be the same as of timekeepers for professional contests in § 21.13 (relating to timekeepers).

§ 23.9. Insurance.

(a) The sponsor of each amateur event shall ensure that all participants are covered by insurance. Costs associated with the insurance shall be the responsibility of the sponsor.

(b) Responsibilities with respect to the reporting, examination and investigation of injuries to amateur boxers shall be the same as those in § 21.14(c) and (d) (relating to insurance). However, when the requirements of these subsections are violated by unlicensed persons, the delinquent persons shall be eligible for disbarment from further connection with amateur and professional events under the jurisdiction of the Commission.

§ 23.10. Age of participation.

(a) A person between 12 and 17 years of age may participate in amateur contests or exhibitions after obtaining written permission from a parent or legal guardian, and the consent of the Executive Director.

(b) A person 12 to 16 years of age may not participate in a contest against an opponent who is more than 1 year older.

(c) The limitations in subsections (a) and (b) do not apply to sanctioned events for the Junior Olympics under the direction of a National governing organization certified by the Commission.

(1) For the purposes of the Junior Olympic events, participants, with the written permission of a parent or legal guardian, may box only in the following age divisions:

- (i) Ten and eleven years of age.
- (ii) Twelve and thirteen years of age.
- (iii) Fourteen and fifteen years of age.

(2) A participant may not take part in any event outside of the approved division for that age group.

CHAPTER 25. PROFESSIONAL KICKBOXING

§ 25.3. Conduct of contests.

(a) A contestant will be given a physical examination by a Commission licensed physician at least 2 hours before the event. The results of the examinations shall be set forth in writing on Commission approved forms. If, in the opinion of the physician, a boxer is physically or mentally unfit to proceed, the physician shall notify the person in charge, who shall immediately cancel the contest or exhibition.

(b) A contest may not exceed 12, 3-minute rounds, with a minute rest period between rounds.

(c) A contestant intentionally avoiding physical contact with an opponent will receive a warning. If a contestant continues to avoid physical contact with the opponent after receiving a warning during that round, the contestant will be declared the loser of that round. If a contestant continues to avoid physical contact either in the same round or in the following rounds, the contestant may be subject to the same penalties and procedures as a contestant using foul tactics. (See § 25.6 (relating to fouls).)

(d) If a contestant refuses to continue a contest while physically able to do so, the referee shall disqualify the contestant, award the contest to the opposing contestant and report the incident to the Commission. The purse of the disqualified contestant may be impounded by the Commission pending a hearing on the disposition thereof.

(e) As soon as a contestant has been knocked down, the official timekeeper shall begin calling the count from 1 to 10. The referee shall direct the opponent to a neutral corner. Regardless of whether the boxer rises before the count of 10 is reached, a boxer who has been knocked down is required to take a mandatory count of 8 before the contest may continue.

(f) If a contestant who is down rises before the count of 10 is reached and immediately goes down again without being struck, the referee shall resume the count where it was left off.

(g) If both contestants go down at the same time, counting will be continued as long as one of them is down. If one contestant rises before the count of 10, and the other contestant remains down after the count of 10, the first contestant to rise shall be declared the winner by knockout. If both contestants rise before the count of 10, the clock shall be stopped until an examination is completed. If both contestants stay down for a count of 10, the contest will be stopped and the decision will be a technical draw.

(h) Before a fallen contestant can resume fighting after having slipped, fallen or been knocked to the floor, the referee shall wipe the contestant's gloves free of foreign substances, in the manner articulated in § 21.16(e) (relating to safety code).

(i) If a contestant has been wrestled, pushed or has fallen through the ropes during a contest, the referee shall call time-out and allow the contestant to return to the ring. If there is a question of a contestant's ability to return to the ring, the referee shall ask the ringside physician to examine the contestant. The physician shall decide if the contestant is able to continue. If the contestant is able to continue, the contestant may be assisted up into the ring by his chief second only. The chief second is not permitted to perform other tasks at this time.

§ 25.4. Judging and scoring system.

(a) Each event, except those held solely for training purposes, shall be scored by three judges. The three judges of an event shall each select a winner of each round at the end of each round, marking their ballots accordingly. Ballots will be supplied by the promoter. These ballots will be collected by the referee and tabulated at the end of each round by the scorekeeper. Fractions of a point may not be given. Once the ballots have been marked by the respective judges, changes to the ballots will not be allowed.

(b) Judges shall score rounds by recording a score of ten points for the winner of each round and nine points or less to the loser of the round. Judges may score a round as even and thus shall mark their scorecards with ten points for each boxer.

(c) Examples of ten-point scoring are as follows:

(1) 10-10 Indicates an even round. Neither contestant distinguished himself as being more effective than the other. In addition, the contestants appeared equal in the areas that may be used to break an even round, such as opponent control, ring strategy and overall conditioning and abilities as a complete kickboxing contestant, with emphasis on kicking ability.

(2) 10-9 Indicates one contestant distinguished himself as the more effective contestant during the round, as described in this section. This score is the most often used, and allows for a slight to considerable margin between the contestants. One contestant may have been only slightly better than the other or he may have dominated the round without really stunning the other contestant.

(3) 10-8 Used sparingly, but indicates a round in which one contestant was in constant control, and unquestionably outclassed his opponent. This contestant shall also have obviously stunned his opponent, usually including at least one knockdown or standing eight-count. If there were no knockdowns or standing eight-counts, one of these occurrences shall have been imminent.

(d) Points shall be totaled on each judge's scorecard to determine that judge's selection of a winner. Each judge's selection will count as one vote towards determining the overall winner of the contest. If two judges have an equal number of points for both contestants, the contest will be declared a draw. If one judge has an equal number of points for both contestants and the scores of the other judges each favor a different contestant, the contest shall be declared a draw. If the scores of two judges favor one contestant and the third judge's score favors the other contestant, the contestant receiving the two votes shall be declared the winner, by split decision. If the scores of all three judges favor one contestant, that contestant will be declared the winner by unanimous decision.

§ 25.5. Minimum kick requirement.

(a) Each contestant shall execute a minimum of eight kicking techniques during the course of each round, unless otherwise agreed to by both boxers and a commissioner or the Executive Director. The kicks shall be clear attempts to make contact with the opponent above the waist to qualify. If a contestant does not execute his minimum kicks per round (MKRS), the contestant then shall make up the kicks in the next round, and if he does not, he will have a one point deduction.

(b) An example of minimum kick technique scoring is as follows: First round contestant only executes six kicks. In the second round this contestant shall make up his two kicks from round one plus his eight minimum kicks for round two for a total of ten kicks. If a contestant fails to make the minimum number of kicks in one round, and then fails to make up the kicks in the following round, that contestant will then be penalized one point. A contestant who fails to meet their MKRS in three consecutive rounds shall be disqualified and the victory awarded to his opponent.

(c) The public address announcer will inform the audience of minimum kicking requirement (MKR) violations. The Commission will apply these MKRS rules or the

MKRS rules of a Nationally recognized kickboxing council or association for a particular contest, subject to the written approval of the Commission.

(d) One MKR official shall be assigned to each contestant in a contest. The official shall be positioned at ringside and is responsible to count, in order, the number of qualifying kicks executed by the contestant. The MKR official assigned to contestant A will sit opposite contestant A's corner, and the MKR official assigned to contestant B will sit opposite contestant B's corner. Both officials will keep track of the number of kicks executed by their assigned contestant with hand held cards. If a contestant executes less than the minimum number of required kicks in one round, the MKR official for that contestant will immediately notify the referee of the number of kicks thrown.

(e) At the end of each round the referee will take the judges' ballot slips and deliver them to a commissioner or the Executive Director for tabulation of the results onto a master scorecard.

§ 25.6. Fouls.

(a) The referee shall determine all fouls based on the severity of the foul, the intent of the contestant committing the foul and the result of the foul. At the time of the infraction, the referee shall indicate to the judges the number of points that are to be subtracted from each boxer. The referee may simply issue a warning to the contestant, and no points will be subtracted.

(b) Accidental or intentional fouls will be governed under the regulations regarding accidental or intentional fouls in professional contests in § 21.5(d), (e) and (F) (relating to scoring system). The following actions are considered to be fouls:

- (1) Striking with the elbow.
- (2) Striking or kicking to the groin or any area below the waist.
- (3) Attacking with a knee.
- (4) Intentional striking or kicking to the back of the neck or throat.
- (5) Striking to the face with a part of the arm other than the gloved hand.
- (6) Linear, or straight-in, striking or kicking to the spine.
- (7) Kicking to the legs.
- (8) Punching or kicking of the contestant when he is down. A contestant is knocked down when any part of the contestant's body other than the feet touches the floor. If a contestant is on his way to the floor, the opponent may continue the attack until the contestant has touched the floor with any part of his body other than the feet.
- (9) Takedowns.
- (10) Intentionally pushing, shoving or wrestling an opponent out of the ring with any part of the body.
- (11) Illegal sweeping—a kick in which the leg is swept in a roundhouse motion.
- (12) Attacking on the break when both contestants have been ordered to take one step back by the referee.
- (13) Attacking after the bell has sounded to end the round.
- (14) Holding and hitting; such as holding with one hand, especially behind the neck, and hitting with the other.

(15) Grabbing or holding onto an opponent's foot or leg, followed by a takedown, strike or kick.

(16) Holding the ropes with one hand while kicking, punching or defending with the other hand or the legs.

(17) Leg checking by extending the leg to check an opponent's leg to prevent him from kicking. The checked kick will be counted by the minimum kicking requirement (MKR) official as an attempted kick.

(18) Purposely going down without being hit. This will result in the referee automatically administering an eight-count, as specified in the rule on knockdown.

(19) The use of abusive language in the ring or corner, as determined by the referee.

(20) Hitting or flicking with an open glove.

(21) Intentionally evading contact.

(22) Clinching, holding or otherwise tying up an opponent's arms to prohibit him from punching for two seconds or more, or repeatedly tying up the opponent's arm.

(23) Biting.

(c) If the contest ends in a knockout or a technical knockout, the Commission will enter the exact time of the knockout or technical knockout on the master scorecard.

(d) The Commission will make the final tallies and verify the accuracy of the scores.

§ 25.8. Equipment.

(a) Contestants shall wear foot protectors, an individually fitted mouthpiece, a foul proof groin protector, a plastic cup with athletic supporter or preferably, an abdominal guard. Other equipment, such as hockey shin guards, elbow or forearm pads are not permitted. Loose or untied clothing is not permitted. Kickboxers may not wear rings or other jewelry.

(b) Contestants shall wear a uniform which shall include long pants that reach the ankle. The uniform shall be clean and not torn or frayed. Only black belts will be permitted to be worn in the ring. Loose or untied clothing is not permitted. Uniforms are subject to inspection by the referee and the Commission.

(c) In contests or exhibitions when the contestants weigh 150 pounds or under, boxing gloves weighing at least 8 ounces each shall be used. In contests or exhibitions when the contestants weigh over 150 pounds, boxing gloves weighing at least 10 ounces each shall be used. Gloves shall be supplied by the promoter and be in good condition without tears or wrinkles.

(d) The wrapping of the hands is mandatory. Hands shall be wrapped with soft, surgical gauze no more than 2 inches wide and not longer than 10 yards. Tape is not allowed between fingers. Each hand is allowed only one cross (X) across the back of the hand and two wraps around the wrist.

(e) Contestants are required to wear foot protectors. Only two windings of tape are permitted around the foot to hold the foot protector in place. Ankle supporters may be secured to the foot with no more than four windings of surgeon's adhesive tape. Hand and foot wraps are subject to Commission inspection and approval.

§ 25.9. Ringside officials.

(a) At kickboxing events except those held solely for training purposes, there shall be a referee, three judges, a timekeeper, a scorekeeper, two minimum kicking require-

ment (MKR) officials and a physician in attendance. Officials shall be approved and licensed by the Commission. The promoter shall supply the Executive Director with a complete list of ringside officials at least 5 days before the scheduled event.

(b) Professional MKR officials and scorekeepers shall be licensed by the Commission as judges. The amount of compensation for these officials shall be determined and paid by the promoter of the event.

(c) Referees and judges shall be approved and licensed by the Commission and be at least 21 years of age, of good moral character and reputation, of sound physical health and of a level of intelligence and knowledge of kickboxing satisfactory to the Executive Director.

(d) Kickboxing referees shall be paid a minimum of \$100 for each event by the promoter. Judges shall be paid a minimum of \$75 for each event by the promoter.

(e) The amount of compensation for timekeepers will be determined and paid by the promoter of the event.

(f) There shall be at least one physician at all kickboxing events. This physician, who shall be seated at ringside, shall be licensed by the Commission.

(g) Physicians shall be paid a minimum of \$100 per event by the promoter.

CHAPTER 27. AMATEUR KICKBOXING

§ 27.2. Licensing and age requirements.

(a) Amateur contestants and amateur officials need not be licensed.

(b) A person between 12 and 17 years of age may participate in amateur contests or exhibitions after obtaining written permission from a parent or legal guardian, and the consent of the Executive Director.

(c) A person 12 to 16 years of age may only participate in these contests with a person not more than 1 year older.

(d) The limitations in subsections (a) and (b) do not apply to sanctioned events for the Junior Olympics under the direction of a National governing organization certified by the Commission.

(1) For the purposes of the Junior Olympic events, participants, with the written permission of a parent or legal guardian, may box only in the following age divisions:

- (i) Ten and eleven years of age.
- (ii) Twelve and thirteen years of age.
- (iii) Fourteen and fifteen years of age.

(2) A participant may not take part in any event outside of the approved division for that age group.

§ 27.3. Conduct of contests.

(a) Amateur contestants shall wear headgear and appropriate shin protectors.

(b) Each amateur contestant shall execute a minimum of six kicking techniques during the course of each round.

(c) Amateur contests shall consist of a maximum of three 2-minute rounds unless approved in advance by the Commission.

Subpart C. WRESTLING

CHAPTER 31. PROFESSIONAL WRESTLING

§§ 31.1—31.14. (Reserved).

§ 31.21. Conduct of contests.

(a) Before a professional wrestling contest or exhibition can take place the following requirements shall be met:

(1) A physician shall be present at all times and seated at ringside to observe the physical condition of all participants. The physician's fee shall be paid by the promoter of the event.

(2) An ambulance or paramedical unit shall be present at the event unless the ambulance or paramedical unit is located within 5 miles of the arena and these units have been notified, by the promoter, that an event is taking place.

(3) Adequate security shall be employed to control the public. The size of the security force is at the discretion of the promoter and the owner or operator of the arena.

(b) The following represent prohibited acts:

(1) The owner or operator of an arena where a professional wrestling event takes place may not destroy a ticket or ticket stub until 3 months after the date of the event.

(2) Wrestlers may not deliberately cut or otherwise mutilate themselves.

§ 31.22. Promoters.

(a) Promoters of professional wrestling events shall be licensed by the Commission prior to promoting any type of wrestling contest or exhibition. Licenses expire on December 31 of the year of issue. The Commission will not issue or renew a promoter's license to a person who has been convicted, pleaded guilty or nolo contendere to an offense in section 2101 of the Athletic Code (relating to promoter's license), during the 10 years preceding the application date.

(b) Promoters shall file with the Commission a bond of at least \$10,000 prior to promoting or advertising any type of wrestling contest or exhibition. Bonds shall be on forms supplied by the Commission and shall be accompanied by a filing fee of \$25.

(c) At least 10 days before the date of a wrestling contest or exhibition, the promoter shall notify the Commission, in writing, of the date, time and location of the event.

(d) Upon conviction of a promoter for a violation of Chapter 21 of the Athletic Code (relating to regulation of professional wrestling contests and exhibitions), the Commission will suspend the promoter's license in accordance with the Athletic Code.

(e) A promoter may not employ as a participant in a wrestling contest or exhibition an individual under 18 years of age.

§ 31.23. Enforcement.

The Executive Director may send an inspector to any professional wrestling event or exhibition to be admitted by the promoter without fee to ensure compliance with this subpart and Subpart C of the Athletic Code (relating to Wrestling Act). The promoter shall pay a fee of \$100 to the Commission within 10 days after the event for each wrestling event to which an inspector is sent.

§ 31.24. Gross receipts taxes.

(a) Every promoter shall pay a tax of 5% on the face value of all tickets sold to any wrestling contest or exhibition.

(b) This tax shall be paid within 10 days after the event and shall be accompanied by a gross receipts tax form, prescribed by the Commission, setting forth all taxable receipts received from the event and any other information the Commission may require. Payment not

received by the Commission within the 10-day period shall be subject to a late fee of \$100.

CHAPTER 33. (Reserved)

§§ 33.1—33.12. (Reserved).

[Pa.B. Doc. No. 02-889. Filed for public inspection May 17, 2002, 9:00 a.m.]

Title 67—TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 211]

Corrective Amendment to 67 Pa. Code § 211.1072(c)

The Department of Transportation has discovered a discrepancy between the agency text of 67 Pa. Code § 211.1072(c) (relating to speed limit sign beacon) as published in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 258) and as currently appearing in the *Pennsylvania Code*. Subsection (c) contained two typographical errors.

Therefore, under 45 Pa.C.S. § 901: The Department of Transportation has deposited with the Legislative Reference Bureau a corrective amendment to 67 Pa. Code § 211.1072(c). The corrective amendment to 67 Pa. Code § 211.1072(c) is effective as of May 4, 1996, the date the defective official text was announced in the *Pennsylvania Bulletin*.

The correct version of 67 Pa. Code § 211.1072(c) appears in Annex A.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE VIII. ADMINISTRATION AND ENFORCEMENT

CHAPTER 211. OFFICIAL TRAFFIC CONTROL DEVICES

Subchapter J. TRAFFIC SIGNALS

OTHER HIGHWAY TRAFFIC SIGNALS

§ 211.1072. Speed limit sign beacon.

(a) *General.* A speed limit sign beacon is two circular yellow lens sections mounted vertically and flashed alternately. Typical installations include:

(1) A blankout school speed limit sign beacon shall have lenses with a visible diameter of not less than 6 inches and shall be located within the border of the sign.

(2) Any other speed limit sign beacon, including a school speed limit sign beacon other than the blankout sign, shall have lenses with a visible diameter of not less than 8 inches and be mounted outside the border of the sign with the center of the lens in line with the vertical centerline of the sign. These beacons shall be mounted with the closest part of the housing 12 inches above the top and below the bottom of the sign. The bottom of the housing of the lower beacon shall be at least 5 feet above the roadway surface or sidewalk.

(b) *Use.* A speed limit sign beacon is intended for use with a fixed or variable speed limit sign. When appli-

cable, a flashing speed limit beacon, with an appropriate accompanying sign, may be used to indicate the speed limit shown is in effect—variable message speed limit signs or school speed limit.

(c) *School speed limit sign beacons.* All school speed limit sign beacons shall be controlled by a time clock. The time of operation shall be indicated on the permit, and they shall be limited as much as possible in order not to destroy the effectiveness of the sign. In general, the arrival and departure times can be covered by allowing the sign to operate for 1/2 hour for each period. The

noontime movements should be covered by two 1/2 hour periods, but may require a longer period which should not exceed 1 1/2 hours. All times should be shorter, if at all possible. The signs should not be used when a small portion of the student body is moving about, such as only a minor percentage of the pupils leaving school for lunch. They may not be flashed at night, on school holidays, during vacation or on nonschool days.

[Pa.B. Doc. No. 02-890. Filed for public inspection May 17, 2002, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 106]

Aquaculture Development Plan

The Department of Agriculture (Department), under sections 15 and 18(c) of the Aquaculture Development Law (act), 3 Pa.C.S. §§ 4215 and 4218(c) (relating to aquacultural plan; and aquaculture development account), proposes to establish Chapter 106 (relating to aquaculture development plan). Section 15 of the act requires the Department to "develop a plan to promote and develop the aquaculture industry in this Commonwealth." Section 15 of the act further states that the economic development and exportation of products shall be components of the plan. Section 18(c) of the act allows the Department to use funds in the Aquaculture Development Account for administration of aquaculture programs in the Department, aquaculture research and to provide low interest loans to aquacultural producers for development, expansion and modernization of aquaculture facilities.

The proposed regulations establish various programs that comprise the overall aquacultural plan required by the act. The programs will promote and encourage development of the aquaculture industry in this Commonwealth. The programs delineate the procedures governing the submission, processing and review of applications. In addition, they set forth the documentation required to accompany the applications, eligibility criteria, criteria for the various programs and verification, cancellation, notification and reporting requirements.

Background

The aquaculture industry in this Commonwealth currently has over 165 registered production facilities, over 100 suppliers and several institutions conducting valuable research. At this time, no other state has regulations for aquaculture promotion and development. States supporting aquaculture development generally do so through statements of policy and specific marketing programs supported by general legislation and not requiring regulations. Full funding and the implementation of this proposed rulemaking will give this Commonwealth a competitive advantage by providing low interest loans and marketing programs not available in many other states. In addition, this proposed rulemaking will encourage further development of the aquacultural industry by including aquaculture in all promotional and economic development programs that are currently made available to other agriculture industry sectors. The proposed rulemaking is designed to increase the amount of aquaculture production in this Commonwealth from the current \$8.5 million in annual farmgate sales to \$30 million with an increase in employment of at least 250 jobs. The marketing programs in this proposed rulemaking is designed to extend benefits and programs to the aquaculture community that are similar to those available to other small businesses within this Commonwealth.

The act gives the Department the authority to establish a loan program to provide low-interest loans to aquaculture producers for the development, expansion and modernization of facilities. In addition, the act allows

the Department to develop aquacultural promotion programs. Under this authority, the Department created this proposed rulemaking that will provide for the collection and promulgation of valuable information, marketing tools, aquaculture education and the promotion of Commonwealth aquaculture.

Therefore, in the interest of continuing to carry out its statutory duties and promoting the development and implementation of programs that benefit the aquaculture community, the Department has promulgated this proposed rulemaking. This proposed rulemaking is intended to establish reasonable standards, criteria and procedures for the administration and implementation of loan and promotional programs under the Aquacultural Development Plan.

Summary of Major Features

Subchapter A (relating to aquaculture production development program) sets forth the Aquaculture Production Development Program (APDP). The APDP is designed to stimulate the expansion and assist in the retention of fish farms for the purpose of creating new businesses and jobs and retaining existing business within this Commonwealth. The APDP provides low-interest loan financing for a portion of the costs of land, building, machinery and equipment, working capital and training to businesses unable to fully finance these projects with equity, bank financing or other private and public sources. The APDP may be used in conjunction with other State financing programs or with programs operated by local and regional economic development providers.

Subchapter B (relating to aquaculture producer resource program) sets forth the Aquaculture Producer Resource Program (APRP). The APRP provides potential aquaculture producers with information on a variety of aquaculture subjects. The APRP will provide a clearinghouse through which production information will be gathered and made available to producers and other interested parties.

Subchapter C (relating to aquaculture education enhancement program) sets forth the Aquaculture Education Enhancement Program (AEEP). The purpose of the AEEP is to increase the educational opportunities related to aquaculture available to Commonwealth residents. The AEEP will provide opportunities for elementary, high school and college students, current and prospective aquaculture producers and other citizens to learn about aquaculture either through direct programming or through AEEP grants. The AEEP will encourage schools and universities to integrate aquaculture education into their curriculums by providing educational materials and grants for program development. The AEEP provides for the organization of workshops on aquaculture issues of interest to producers and educators. The AEEP will provide new information on production techniques and marketing strategies. The AEEP will develop, publish and distribute educational materials for consumers, educators and propagators.

Subchapter D (relating to aquaculture market information program) establishes the Aquaculture Market Information Program (AMIP). The purpose of the AMIP is to increase producer access to timely, verifiable information on market prices. The AMIP will provide a voluntary mechanism through which market information will be gathered and made available to producers and other interested parties.

Subchapter E (relating to aquaculture product identification program) establishes and delineates criteria for the Aquaculture Product Identification Program (APIP). The purpose of the APIP is to increase sales of Commonwealth produced aquaculture products by increasing consumer demand through improved awareness and labeling. The APIP will provide a voluntary mechanism through which Commonwealth produced aquaculture products may be identified.

Subchapter F (relating to aquaculture product promotion program) sets forth the Aquaculture Products Promotion Program (APPP). The purpose of the APPP is to increase sales of aquaculture products through public awareness of aquaculture product availability and attributes. To the extent possible, the APPP will provide opportunities for industry representatives to participate in a variety of events such as food shows, recreational sports shows, pet and water gardening related trade shows, aquaculture industry shows and other related commercial trade shows where buyers of aquaculture products are expected to attend. The APPP will also attempt to provide opportunities for aquaculture industry representatives to participate in a wide range of events such as the Pennsylvania Farm Show, fairs, community festivals, farm-city activities, instore product promotions and other events at which a large number of consumers would be exposed to product information. The APPP will coordinate and facilitate contact between aquaculture propagators, suppliers and buyers by arranging meetings with purchasers such as wholesalers, grocery store and restaurant buyers and consumers.

Subchapter G (relating to aquaculture export promotion program) establishes the Aquaculture Export Promotion Program (AEPP). The purpose of the AEPP is to increase export sales of aquaculture products and aquaculture supplies through buyer awareness of aquaculture product and supply availability and attributes. The AEPP will provide opportunities for industry representatives to participate in a variety of events such as food shows, recreational sports shows, pet and water gardening related trade shows, aquaculture industry shows and other related commercial trade shows where international buyers of aquaculture products are expected to attend. The AEPP will facilitate contact between aquaculture propagators, suppliers and international buyers. The AEPP will increase international awareness of Commonwealth aquaculture products and services by organizing product awareness events.

This proposed rulemaking establishes the aquacultural plan required by section 15 of the act and sets forth the basic process by which the Department may exercise its administrative discretion with respect to the expenditure of the funds in the aquaculture development account and those funds as may be appropriated to it by the General Assembly for aquaculture development and promotion programs.

Fiscal Impact

Commonwealth

The proposed rulemaking will impose additional costs and may have a fiscal impact upon the Commonwealth, including an initial allocation of funds and projected increases in program costs. Section 18 of the act creates a separate account in the State Treasury known as the Aquaculture Development Account. The sources of the funds in the account are the fees and charges generated under the act. The moneys in the Aquaculture Development Account may be used for the administration of

aquaculture programs developed by the Department. Up to 10% of the funds in the account may be used for aquaculture research. The act also provides that after administrative costs are covered, the remainder of the funds may be used to provide low interest loans to aquaculture producers for development, expansion and modernization of facilities. Moneys for use in the development and administration of the grant and loan programs established by this proposed rulemaking will need to be provided through future appropriations to the Aquaculture Development Account. Annual operating and implementation costs of the loan program will be approximately \$150,000 per year. The marketing and grant programs will cost \$150,000 to \$500,000 per year depending on implementation.

Political Subdivisions

The proposed rulemaking will impose no costs and have no fiscal impact upon political subdivisions.

Private Sector

The proposed rulemaking will impose minimal costs on those individuals and organizations that are interested in applying for loan or grant moneys. The costs that may be associated with the proposed rulemaking would involve the time spent to obtain and fill out a loan or grant application. Organizations and individuals receiving loans or grants would benefit by receiving funds to cover all or part of the costs associated with developing or developing and implementing the projects in their loan or grant application. The private sector will also benefit through the realization of growth and modernization of the industry through the low interest loan, educational and promotional programs established by this proposed rulemaking.

General Public

The proposed rulemaking will impose no costs and have no fiscal impact on the general public. The farm community and the general public will benefit through the new jobs, opportunities and industry growth, which will likely result from the programs established by this proposed rulemaking.

Paperwork Requirements

The proposed rulemaking will result in an increase in paperwork. The Department will have to develop loan and grant application forms and loan and grant agreements to administer the program. However, the administrative provisions of the Aquaculture Development Plan are similar to the administrative provisions of other programs and the Department has already developed loan and grant application forms and loan and grant agreements for use in administering the programs.

Public Comment Period

Interested persons are invited to submit written comments regarding the proposed rulemaking within 30 days following publication in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 3, 2002, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Agriculture and Rural Affairs Committees. In addition to submitting the proposed rulemaking, the Department has 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." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of objections raised.

Contact Person

Further information is available by contacting the Department of Agriculture, Bureau of Market Development, Aquaculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408; Attn: Leo Dunn, (717) 783-8462.

Effective Date

This proposed rulemaking will be effective upon publication as final-form in the *Pennsylvania Bulletin*.

SAMUEL E. HAYES, Jr.,
Secretary

Fiscal Note: 2-140. (1) Aquaculture Development Account; (2) Implementing Year 2001-02 is \$71,660; (3) 1st Succeeding Year 2002-03 is \$108,260; 2nd Succeeding Year 2003-04 is \$275,000; 3rd Succeeding Year 2004-05 is \$280,500; 4th Succeeding Year 2005-06 is \$286,110; 5th Succeeding Year 2006-07 is \$291,832; (4) Fiscal Year—2000-01 —\$53,921; Fiscal Year—1999-00—\$15,000; Fiscal Year—1998-99—\$10,000; (7) General Government Operations; (8) recommends adoption.

Annex A

TITLE 7. AGRICULTURE

PART IV. BUREAU OF MARKET DEVELOPMENT

CHAPTER 106. AQUACULTURE DEVELOPMENT PLAN

Subchap.

- A. AQUACULTURE PRODUCTION DEVELOPMENT PROGRAM
- B. AQUACULTURE PRODUCER RESOURCE PROGRAM
- C. AQUACULTURE EDUCATION ENHANCEMENT PROGRAM
- D. AQUACULTURE MARKET INFORMATION PROGRAM
- E. AQUACULTURE PRODUCT IDENTIFICATION PROGRAM
- F. AQUACULTURE PRODUCT PROMOTION PROGRAM
- G. AQUACULTURE EXPORT PROMOTION PROGRAM

Subchapter A. AQUACULTURE PRODUCTION DEVELOPMENT PROGRAM

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§ 106.1. Program objectives.

The APDP is designed to stimulate the expansion and assist in the retention of fish farms for the purpose of creating new businesses and jobs and retaining existing business within this Commonwealth. The APDP provides low-interest loan financing for a portion of the costs of land, building, machinery and equipment, working capital and training to businesses unable to fully finance these projects with equity, bank financing, or other private and public sources. The APDP may be used in conjunction

with other State financing programs or with programs operated by local and regional economic development providers.

§ 106.2. Definitions.

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

AEEP—The Aquaculture Education Enhancement Program.

AEPP—The Aquaculture Export Promotion Program.

ALO—*Area loan organization*—A local development district, industrial development agency organized and existing under the Pennsylvania Industrial Development Authority Act (73 P. S. §§ 301—314) or another nonprofit economic development organization approved by the Department to evaluate and administer loans under this chapter.

AMIP—The Aquaculture Marketing Information Program.

APDP—The Aquaculture Production Development Program.

APIP—The Aquaculture Product Identification Program.

APPP—The Aquaculture Products Promotion Program.

APRP—The Aquaculture Producer Resource Program.

Act—The Aquaculture Development Law, 3 Pa.C.S. §§ 4201—4223.

Advisory Committee—The Aquaculture Advisory Committee.

Department—The Department of Agriculture of the Commonwealth.

Local service provider—An organization not meeting the definition of an "ALO," but approved by the Department to evaluate and administer loans under this chapter. The term includes a commercial lending institution.

Secretary—The Secretary of the Department.

§ 106.3. Eligibility.

(a) *Eligible applicants.*

(1) Borrowers shall be aquaculture enterprises whose project is located within this Commonwealth.

(2) Each applicant approved for participation shall comply with the criteria established by the act and this chapter, including the general program requirements and all licensing and governmental permitting requirements.

(3) Projects whose applicants, principals, primary consultants or senior employees, or both, have criminal indictments or convictions or have been directly associated with two or more aquaculture ventures which have not been successful in the opinion of the Department, as set forth in subsection (e)(4), may be deemed ineligible.

(b) *Eligible activities.*

(1) The APDP will provide loan or loan guarantees to approved applicants for development or improvement of aquaculture production facilities. Projects may consist of land, buildings, machinery and equipment, construction or renovation costs, working capital, environmental stewardship and compliance and training which needs to be acquired, or used as part of a for-profit project or venture by an aquaculture enterprise.

(2) For a project to be eligible for environmental stewardship and compliance funds, the Department must receive a certification that the proposed project is required to, and will be successful in, bringing the borrower into compliance with the environmental laws or regulations that are sought to be addressed by the project, or that the project adopts generally acceptable pollution prevention and environmental stewardship practices.

(3) The required certification shall be obtained from one of the following:

(i) The Department of Environmental Protection (DEP).

(ii) If DEP does not issue certifications for projects of that general description (for example, for wastewater discharge projects or bird exclusion projects), an environmental professional approved by the Department.

(4) Projects shall have a direct relationship to increasing the breadth and profitability of aquaculture production within this Commonwealth.

(c) *Eligible costs.*

(1) *Land costs.* Land costs may include acquisition, site preparation and testing, utilities, site mapping, legal and other related costs. To be eligible, land costs shall be directly associated with the purchase, renovation, or new construction of a building or production facility to be used for aquaculture.

(2) *Building costs.* Building costs may include, building acquisition, construction, rehabilitation and engineering, architectural, legal and other related costs.

(3) *Machinery and equipment costs.* Machinery and equipment costs may include costs of acquisition, delivery and installation. These costs are eligible if associated with acquisition of machinery and equipment that the borrower has newly purchased, even if the machinery had previously been in service with an unrelated user. Costs of mobile equipment are eligible only if, the equipment is not titled or registered for highway use.

(4) *Working capital.* Capital used by an aquaculture enterprise for operations, including personnel, marketing and training costs.

(d) *Limitations.* The following limitations apply to eligible costs:

(1) Eligible costs of land, buildings and machinery and equipment is limited to actual costs incurred by the borrower. Unrealized appreciation in value may not be considered in determining eligible costs.

(2) Fees charged to the borrower by brokers, finders, financing consultants and economic agencies are not eligible project costs, except that fees payable to the Department, if any, and fees and expenses charged to the borrower by an ALO or local service provider may be included as part of the eligible project cost.

(3) Costs of a borrower's own employees are treated as working capital expenditures and are subject to the program's limitations on working capital financing even if the costs are incurred in connection with land acquisition or preparation, building acquisition or construction, or machinery and equipment acquisition and installation.

(e) *Restrictions.*

(1) *No delinquencies.* The borrower and its principals may not be delinquent in or in default of an existing private or public loan relating to the borrower, unless they have entered into a refinancing/payback agreement satisfactory to the respective creditors and are fully in compliance with the terms of that agreement. The bor-

rower and its principals shall be required to execute an affidavit to that effect. For the purposes of this program, a "principal" of a borrower is a record or beneficial owner of 20% or more of an ownership interest in the borrower.

(2) *Taxes current.* The borrower and its principals must be current in payment of all applicable Federal, State and local taxes unless they have entered into a workout agreement satisfactory to the respective taxing authority and are fully in compliance with the terms of that agreement. The borrower and its principals will be required to execute an affidavit to that effect.

(3) *Conflicts of interest.* The borrower and its principals and managerial officers shall disclose any potential conflicts of interest with any officials or employees of the Commonwealth or with any officials or employees of the ALO or local service provider involved in submission of the borrower's application. A member of the Aquaculture Advisory Committee may apply for a loan under this chapter provided all decisions regarding the loan application are subject to 65 Pa.C.S. § 1103(j) (relating to restricted activities) and the action does not violate the State Adverse Interest Act (71 P. S. §§ 776.1—776.9), or Pa. Code Chapter 7, Subchapter K (relating to code of conduct for appointed officials and state employees).

(4) *Nonsuccessful aquaculture ventures.* The borrower, its principals, primary consultants or senior employees may not have been directly associated—such as being Executive Officers, Board members, senior management, partners, principals, consultants or senior employees—with aquaculture ventures which did any of the following:

(i) On two or more occasions resulted in financial losses for the principal investors, shareholders or clients.

(ii) On two or more occasions declared bankruptcy.

(iii) Have existing violations of local, State, Federal or international law.

(iv) Had a license denied, suspended or revoked or were forced to suspend or cease operations because of past violations of local, State, Federal or international law.

§ 106.4. Ineligible activities.

(a) Projects are not eligible if they relate to any of the following activities:

(1) Refinancing any portion of the total project cost, except for short-term "bridge" financing when the bridge financing is being promptly replaced by the proceeds of the loan and the bridge financing has been disclosed to the Department and the ALO in connection with its review of the loan and approved by the ALO or local service provider.

(2) Speculation in any type of property, real or personal.

(3) Providing funds, directly or indirectly, for payment, whether as loan repayment, dividend distribution, return of capital, loans, or otherwise, to owners, partners or shareholders of the aquaculture enterprise, except as ordinary compensation for services rendered.

(4) Related party transactions, that is, costs associated with a transaction when the buyer and the seller are one and the same or are related to each other by blood, marriage or law.

(5) Projects that have commenced, or to which the borrower has committed, before receiving approval of the APDP loan, unless the borrower has received nonprejudicial approval to commence.

(6) Loans may not be made for the purpose of investing in interest bearing accounts, certificates of deposit or other investments not related to the objectives of the APDP funds.

(7) Loans may not be used to acquire an equity position in a private business.

(8) Loans may not be used to subsidize interest payments on an existing loan.

(9) Loans may not be used to provide the equity contribution required of borrowers under other State or Federal programs.

(10) Loans may not be used to enable the borrower to acquire an interest in a business, either through purchase of stock or assets.

(b) *Nonprejudicial approvals.*

(1) The borrower, with the approval of the ALO or local service provider, may request nonprejudicial approval from the Department. If the Department grants nonprejudicial approval, the borrower may continue with the project while its loan is under review. In these instances, the borrower is continuing at its own risk in the event the ALO, local service provider or the Department does not approve the loan.

(2) Prior to receiving nonprejudicial approval, the borrower may place orders, sign sales agreements and make security deposits on machinery and equipment and land and buildings prior to approval by the local service provider, ALO or the Department without making its project ineligible. However, unless there is a nonprejudicial approval in place, the borrower may not, prior to accepting the commitment letter and returning it to the Department do any of the following:

(i) Occupy the land or buildings to be financed with the loan.

(ii) Install or use the machinery and equipment except under a short-term lease or similar arrangement subject to cancellation by the borrower without substantial penalties.

(iii) Finance any working capital needs.

(3) When the local service provider or ALO has approved the borrower's request for a nonprejudicial approval, the Department may also grant nonprejudicial approval to allow the total aquaculture operation to be considered as the total eligible project cost if the renovations or expansion being considered will allow the farm to meet new environmental standards or economic efficiencies that allow the farm to sustain economic viability undercurrent markets.

(4) *Funds available basis.* Program activities will not be undertaken unless funds are available.

(5) *Use of funds.* Funds received through an APDP loan may be used for land and building acquisition, land and building improvements, building/facility renovation and new construction, machinery and equipment acquisition and installation, environmental stewardship and compliance, working capital and training. The project shall be directly related to production aquaculture. Processing of aquaculture products is eligible only if part of a total project for an integrated aquaculture production operation and at least 80% of the aquacultural product processed is produced within this Commonwealth.

§ 106.5. Program requirements.

(a) *Loan size.* The maximum loan amount for land, buildings, machinery and equipment is \$750,000 or 50%

of the total eligible project cost, whichever is less. The maximum loan amount for working capital is \$100,000 or 50% of the total eligible project cost whichever is less. The minimum loan amount is \$10,000.

(b) *Other required investment.* Loans will be made in conjunction with another source of financing for the eligible costs incurred, such as another lender or equity from the owners or investors. Matching lending sources shall have either equivalent or longer terms than the APDP loan.

(c) *Jobs.* One full-time equivalent job shall be demonstrated to be created or preserved within 3 years from completion of the project funded under the APDP.

(d) *Loan security.*

(1) Loans shall be secured at the highest lien position available on one or more of the following assets:

(i) Land.

(ii) Buildings

(iii) Machinery.

(iv) Equipment.

(v) Accounts receivable.

(vi) Inventory.

(2) The Department may require personal or corporate guarantees or may require other types of collateral as circumstances allow. The Department must have a collateral position of no less than a second lien on the assets being funded by the APDP unless specifically waived in writing by the Department.

(e) *Terms.* Loans used for real estate will have a repayment period of up to 10 years. Loans used for machinery and equipment will have a repayment period of up to 7 years. Loans used for working capital will have a repayment period of up to 3 years. In projects where two or more uses of APDP funds are planned, loan terms may be blended. The Department may approve a loan package containing an "interest only" payment period not to exceed 24 months at the beginning of the project term with the regular payments starting at the end of this period. When an "interest only" payment period is approved the repayment period of the loan will be extended. The repayment periods noted in this subsection will begin at the end of the interest only period, that is, a loan approved with a 10-year repayment period and a 12-month interest only period would be repaid over an effective loan period of 11 years.

(f) *Interest rates.* An annual fixed rate of 2%.

(g) *Fees.*

(1) Fees charged to the borrower by brokers, finders, financing consultants and economic agencies are not eligible project costs, except the fees payable to the Department, if any, and fees and expenses charged to the borrower by the local service provider or ALO may be included as part of the eligible project cost.

(2) Reasonable loan processing fees may be charged to the borrower by the service provider or ALO, if they are set forth in the commitment letter for the loan. The applicant should check with the local service provider or ALO regarding the fees that will be charged to the applicant for processing a loan application or in closing a loan, or both, under the APDP program.

(h) *Aggregate limits on APDP financing.* A borrower may not receive more than \$750,000 in new financing under the APDP program in any 12-month period.

(1) *Relocation.* The borrower may not relocate from one area of this Commonwealth to another without at least a 25% increase in net employment. For purposes of this paragraph, no relocation will be deemed to be a relocation from one area of this Commonwealth to another that is either of the following:

- (i) Within the same county.
 - (ii) Within the same labor market as determined by the United States Department of Labor.
- (2) If the recipient of an APDP loan relocates outside of this Commonwealth, the balance of the APDP loan remaining shall be immediately payable to the Department.

(i) *Priority.* Projects containing any of the following factors will receive priority in the approval and funding process for a loan:

- (1) Applicants with good credit ratings containing no late payments or write-offs.
- (2) Current aquaculture facilities that have been in business 5 years or more and are doing environmental stewardship enhancements or facility upgrades.
- (3) Facilities that currently have environmental stewardship enhancements such as bird and animal enclosures, secondary escapement prevention and discharge treatment structures such as settling basins and artificial wetlands.
- (4) Principals having commercial aquaculture experience in a proven profit-making venture.
- (5) Farmers of some other agricultural product wishing to transition to, or integrate, aquaculture in their farm operation.
- (6) Equipment or management practices that improve the production efficiency of an operation.
- (7) Applications that include environmental stewardship enhancements.
- (8) Projects whose principals are Commonwealth residents will receive first consideration for funding.

(j) *Participation agreement.* The approved, signed contract for an APDP activity will constitute the participation agreement. An approved APDP loan program applicant shall enter into a contract. The contract will set forth the amount of funds and other terms and conditions as the Department may require. To be considered for an APDP loan, an applicant shall submit an application on a form provided by the Department. Upon receipt of a completed, signed application, the Department will review and process the application as set forth in §§ 106.6—106.8 (relating to application submission and approval procedure; application evaluation criteria; and processing of applications) and issue an approval or denial of the application. Approved applicants will be required to execute a contract before funding is released.

(k) *Default.* A participant who fails to abide by the terms of the contract or the act or this chapter shall be in default.

(l) *Determination of fees.* The participation fees for loans and loan guarantees may be set by the Department at rates not to exceed 2.5% of the total project amount requested.

§ 106.6. Application submission and approval procedure.

(a) The Department will review each application in the order it is received. Applications shall be submitted through an ALO or local service provider. The applicant is

responsible for updating the application if changes occur during the review. Failure to do so may result in the application being declared ineligible or, if approved, the loan approval may be withdrawn.

(b) The Department will formally notify the ALO or local service provider of its decision to approve or reject a loan application within 30 business days of receipt of the completed loan application from the ALO or local service provider.

(c) Approved projects will receive a loan approval memorandum. The ALO or local service provider shall sign and return the loan approval memorandum within 30 days. Once accepted by the ALO or local service provider, the loan approval memorandum is valid for 90 days.

(d) *Loan approval criteria.* Before the Department will authorize disbursement of loan funds, the ALO or local service provider shall confirm:

- (1) All other sources of funding will be in place at the time of closing.
- (2) The use of the funds remains as presented in the project application.
- (3) There are no material changes to collateral or other terms and conditions of the loan as previously approved by the Department.
- (4) The loan will close into an escrow account.
- (5) The conditions of the ALO or local service provider's commitment letter with the applicant have been satisfied.
- (6) The Federal Employee Identification Number (FEIN) and Social Security numbers of the applicant, occupant and all guarantors.
- (7) The principals are residents of this Commonwealth.
- (8) The project will have expected sales of \$1,000 or more per year.
- (9) The APDP applicant has applied to be registered as an artificial propagator.
- (10) The total number of jobs created or preserved by the proposed project.
- (11) The number of jobs to be created or retained per APDP dollar invested.
- (12) The dollar amount of private investment to be leveraged as a result of the APDP investment.

(13) The strategic importance to the Commonwealth of the business and the borrower being assisted or the area being served, or both.

(14) The collateral position of the Department will not be less than a second lien on the assets being funded unless specifically approved in writing by the Department.

(e) Material changes in project application, collateral or terms shall be reviewed by the ALO or local service provider, and recommended to and approved by the Department.

(f) The ALO or local service provider will make arrangements to close the APDP loan within 7 business days of the selected closing date. If the APDP loan does not close within that time period, the ALO or local service provider shall return the APDP funds to the Department.

(g) APDP loan funds will be disbursed at the loan closing between the ALO or local service provider and the borrower. APDP loan proceeds may be disbursed to the borrower or into an escrow account with a commercial

lending institution. Interest will accrue on the APDP loan from the date of closing. Unless otherwise agreed to by the ALO or local service provider, with the approval of the Department, regular amortization payments of principal and accrued interest on the APDP loan will begin at time of closing whether or not the loan is disbursed in whole or in part into escrow. The first payment of principal and interest will be due the first day of the second calendar month following the calendar month in which closing occurs.

§ 106.7. Application evaluation criteria.

(a) *Evaluation.* The ALO or local service provider will evaluate an application based on the ALO or local service provider's standard loan eligibility criteria as well as the factors in the act, this chapter and the APDP application

(b) *Applicant eligibility.* The Department will review applications to determine applicant eligibility according to the criteria in this chapter. Only eligible applicants will be considered for participation in the APDP.

(c) *Application completeness.* The Department will not consider an application for an APDP loan unless it contains the required information and items in this chapter.

(d) *Release and hold harmless.* Eligible participants will release and hold harmless the Commonwealth and the Department and their agents and officers from any liabilities for any losses as a result of participation in the APDP.

§ 106.8. Processing of applications.

(a) *Approval or denial.* The Department may approve, approve with special conditions or reject applications and issue participation approval in accordance with the general considerations and criteria of the act and this chapter.

(b) *Processing.* An application for participation in the APDP will be processed in the following manner:

(1) *Dating.* The applications will have the initial date of the postmark or initial date of receipt, whichever is earlier, noted on the application by Department staff. If the application is determined to be incomplete, the effective date of the application is the date on which all additional information is received and the application is determined by the Department to be complete. This date will be noted on the application.

(2) *Completeness and accuracy.* Upon receipt of an APDP application and the required supporting documentation, the Department will review the information for completeness and accuracy.

(3) *Eligibility.* Upon receipt of an APDP application and the required supporting documentation, the Department will review the information to verify applicant eligibility.

(4) *Applications from ineligible applicants.* An application from an ineligible applicant will be returned to the applicant through the ALO or local service provider with a written explanation of why the applicant is considered ineligible.

(5) *Incomplete or inaccurate application from eligible applicants.* If the Department determines an application from an eligible applicant is incomplete or inaccurate, final processing of the application may be discontinued or additional data may be requested. If additional data is requested, the request shall be in writing and will be sent to the applicant through the ALO or local service provider. The processing of the application will cease until

the ALO or local service provider supplies the requested data. The Department may terminate the processing of an incomplete application when the additional data is not supplied within 10 business days of the request for the data.

§ 106.9. Cancellation/default.

The Department, upon a determination that the recipient has violated the act, this chapter or the participation agreement may cancel an APDP loan approval. An APDP loan recipient will be considered to be in default if the recipient moves the funded business to a site not within this Commonwealth. Upon cancellation, the Department will seek recovery of all APDP loan funds.

§ 106.10. Right of recovery.

The Department has the right to make a claim for and receive from the applicant moneys not expended in accordance with the act, this chapter, or the loan agreement and any interest thereon.

§ 106.11. Deficits.

The Department's financial obligation or liability is limited to the amount approved in the terms of a loan. The Department is not responsible for cost overruns or other expenses incurred by loan recipients.

§ 106.12. Contact information.

(a) Program inquiries and applications shall be directed to:

Aquaculture Production Development Program
Bureau of Market Development
Department of Agriculture
2301 North Cameron Street
Harrisburg, Pennsylvania 17110
Telephone Number: (717) 783-8462
Facsimile Number: (717) 787-5643

(b) The Department may require an applicant to submit additional documentation as may be necessary to complete, verify or clarify the application.

Subchapter B. AQUACULTURE PRODUCER RESOURCE PROGRAM

Sec.	
106.21.	Program objectives.
106.22.	Limitations.
106.23.	Notice of program availability.
106.24.	Recordkeeping.

§ 106.21. Program objectives.

The purpose of the APRP is to provide potential aquaculture producers with information on a variety of aquaculture subjects. The APRP will provide a clearinghouse through which production information will be gathered and made available to producers and other interested parties.

§ 106.22. Limitations.

(a) *Extent of program activities.* The APRP will organize a system to collect information on aquaculture into a centralized source. This information will include: species information, culture techniques, facility permitting requirements, supply sources, production planning information, business plan formats, environmental issues, food safety practices and a central directory of aquaculture producers by county and product. Distribution will be made through the Department's Internet site and through fax or mail to any individual upon request.

(b) *Use of funds.* Funds allocated for the APRP will be used solely for the purposes set forth in this chapter.

(c) *Funds available basis.* Program activities will not be undertaken unless funds are available.

§ 106.23. Notice of program availability.

(a) The public will be notified of the availability of APRP materials in any of the following manners:

(1) *Direct mailing.* A mailing targeted to individuals whom have requested inclusion on the mailing list from the APRP administrator at the date of mailing.

(2) *Internet access.* Individuals may access APRP materials and information through the Department's website.

(b) *Information to be included in notice.* The notice will include the type and description of materials to be available, the fee for copies (if appropriate), the date materials will be available, the address and contact information where the materials may be requested.

§ 106.24. Recordkeeping.

APRP materials will be maintained by the Department for 5 years from the date of publication or entry into the APRP system.

Subchapter C. AQUACULTURE EDUCATION ENHANCEMENT PROGRAM

GENERAL PROVISIONS

- Sec.
- 106.41. Program objectives.
- 106.42. Limitations.
- 106.43. Notice of activities.
- 106.44. Conflict of interest.
- 106.45. Recordkeeping.
- 106.46. Cancellation/default.
- 106.47. Right of recovery.
- 106.48. Deficits.

AQUACULTURE EDUCATION ENHANCEMENT ACTIVITY PROGRAM

- 106.51. General conditions.
- 106.52. Application.
- 106.53. Review of applications.
- 106.54. Processing of applications.
- 106.55. Notice of disposition of application.
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AQUACULTURE EDUCATION ENHANCEMENT GRANT PROGRAM

- 106.61. Grant amount.
- 106.62. General conditions.
- 106.63. Application.
- 106.64. Review of applications.
- 106.65. Processing of applications.
- 106.66. Notice of disposition of application.

GENERAL PROVISIONS

§ 106.41. Program objectives.

The purpose of the AEEP is to increase the educational opportunities related to aquaculture available to citizens of this Commonwealth. The AEEP will provide opportunities for elementary, high school and college students, current and prospective aquaculture producers and other citizens to learn about aquaculture either through direct programming or through AEEP grants. The AEEP will encourage schools and universities to integrate aquaculture education into their curriculums by providing educational materials and grants for program development. The AEEP will organize workshops on aquaculture issues of interest to producers or educators, or both, to increase information dissemination. The AEEP will provide new information on production techniques and marketing strategies. The AEEP will develop, publish and distribute educational materials for consumers, educators and propagators.

§ 106.42. Limitations.

(a) *Applicant eligibility.* Only eligible applicants will be considered for the AEEP. To be eligible to participate in activities under the AEEP, applicants shall be associations, companies of this Commonwealth, or educational institutions that are located in this Commonwealth or serve citizens of this Commonwealth through a partnership arrangement with a Commonwealth-based organization. To be eligible to receive AEEP materials or participate in AEEP activities, applicants shall be citizens of this Commonwealth, members of a Commonwealth-based organization or pay a fee determined by the Department. To be eligible to participate in AEEP grant programs, applicants shall be citizens of this Commonwealth or organizations incorporated in this Commonwealth with experience and expertise in aquaculture. Each applicant approved for participation shall comply with the criteria established by the act and this chapter.

(b) *Extent of program activities.* The AEEP will organize educational activities and provide educational materials for eligible applicants. The AEEP may also develop grant programs for eligible applicants to further the purpose of § 106.41 (relating to program objectives).

(c) *Use of funds.* Funds allocated for the AEEP shall be used solely for the purposes in this chapter.

(d) *Funds available basis.* AEEP program activities, program grants and the biennial conference will not be undertaken unless funds are available.

§ 106.43. Notice of activities.

(a) *Eligible applicants.* Eligible applicants will be notified of AEEP activities and grant programs in one of the following manners:

(1) *Pennsylvania Bulletin.* Availability of upcoming AEEP activities and grant programs will be printed in the *Pennsylvania Bulletin*.

(2) *Direct mailing.* A mailing targeted to each educational organization, aquacultural propagator or aquaculture-related business registered with the AEEP administrator at the date of mailing.

(3) *Advertisements.* Advertisements may be published in newspapers and magazines that the Department determines to be effective in letting the targeted audience know of an activity's availability.

(b) *Information to be included in activity notice.* The notice and mailing will include the activity name, dates, location, participation fee, activity package description, number of participation slots available and how an application may be requested.

§ 106.44. Conflict of interest.

A member of the Advisory Committee may apply for participation in AEEP activities and grant programs if all decisions regarding the application are subject to 65 Pa.C.S. § 1103(j) (relating to restricted activities) and the action does not violate the State Adverse Interest Act (71 P. S. §§ 776.1—776.9) or 4 Pa. Code Chapter 7, Subchapter K (relating to code of conduct for appointed officials and State employees).

§ 106.45. Recordkeeping.

An AEEP participant or grant recipient shall maintain all receipts, supporting documents, exit reports and other documents pertaining to the AEEP activity or grant. These records shall be retained for 3 years beginning at the conclusion of the activity. The records shall be made available to the Department upon request.

§ 106.46. Cancellation/default.

An activity, grant or participant approval may be canceled by the Department upon a determination that the approved participant has violated the act, this chapter or the participation agreement, the approved participant violated the activity's rules, or upon failure of the approved participant to satisfy the verification requirements of this chapter. Upon cancellation, the Department may seek recovery of program or grant funds expended by the participant.

§ 106.47. Right of recovery.

The Department has the right to make a claim for and receive from the approved participant any funds not expended in accordance with the act, this chapter or participation or grant agreement.

§ 106.48. Deficits.

The Department is not responsible for cost overruns incurred by an AEEP participant.

**AQUACULTURE EDUCATION ENHANCEMENT
ACTIVITY PROGRAM**

§ 106.51. General conditions.

(a) *Activity participation agreement.* The approved, signed application for an AEEP activity shall constitute the participation agreement. The participant desiring to take part in an AEEP sponsored activity shall sign the application which shall set forth the amount of the participation fee and other terms and conditions as the Department may reasonably require. Upon receipt of a completed, signed application, the Department will review and process the application as set forth in this chapter. The Department will then issue an approval or denial of the application. Approved applicants will be registered for the AEEP activity upon receipt of the participation fee in the AEEP application.

(b) *Default.* A participant who fails to abide by the terms of the participation agreement or the act or this chapter shall be in default.

(c) *Exit survey.* The Department may require an AEEP participant to submit a completed exit survey form.

(1) The requirement will be set forth in the AEEP application.

(2) The Department will develop an activity survey form.

(3) The exit survey form will include questions relating to the participant's involvement in the relevant activity to determine the degree to which the activity contributes to the program's goals.

(4) Information requested will relate to things such as the educational quality and timeliness of the information provided.

(5) When the Department requires the completion of an exit survey, within 4 weeks of completion of participation in an AEEP activity, the participant shall submit to the Department a completed activity survey form.

(d) *Failure to submit exit survey.* When an exit survey is required by the Department, failure to submit the exit survey within the 4-week period will result in a default on the part of the AEEP participant. The Department may direct that the defaulting participant is not eligible for further AEEP participation for 2 years. The Department may extend the verification deadline if it is deter-

mined the participant has made a reasonable effort to verify, but the verification was incomplete, or for extenuating circumstances.

§ 106.52. Application.

(a) *Application required.* Applicants shall submit applications to participate in AEEP activities on forms provided by the Department at the address set forth on the application.

(b) *Application requirements.* An application for an AEEP activity will not be considered by the Department unless the following items are included:

(1) The name, address and contact information (to include telephone, facsimile and Internet, as available) of the participating organization, or individual.

(2) The name and direct contact information for the designated activity contact.

(3) A signature by the individual or authorized organizational representative, attesting to compliance with the provisions of the terms and conditions for participation in the AEEP activity.

(4) Payment in full of the participation fee in the application and payable to the Department.

(c) *Obtaining an application and assistance.* An application for participation under this chapter shall be made on a form prepared by the Department. For applications and assistance, contact the Aquaculture Program, Bureau of Market Development, Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110, telephone (717) 783-8462, facsimile (717) 787-5643.

(d) *Additional information.* The Department may require an applicant to submit additional documentation as may be necessary to complete, verify or clarify the application.

(e) *Application deadlines.* Applications for participation under this chapter shall be received by the Department 30 days prior to the date of the AEEP activity the applicant wishes to attend. The Department may approve an application submitted after this deadline if it determines there is adequate time for a thorough review of the application and to issue a written approval to the applicant.

§ 106.53. Review of applications.

(a) *Evaluation.* The Department will evaluate an application based on the applicant eligibility as well as the factors in the act and this chapter.

(b) *Applicant eligibility.* The Department will review applications to determine applicant eligibility according to the criteria in this chapter. Only eligible applicants will be considered for participation in the AEEP activity.

(c) *Application completeness.* An application for an AEEP activity will not be considered by the Department unless it contains the required information and items in this chapter.

(d) *Factors.* Factors to be considered by the Department in selecting AEEP participants include the following:

(1) Participation in previous AEEP and other Department activities.

(2) Appropriateness of the applicant's participation in the specific AEEP activity.

(3) Ability of the applicant to provide a qualified representative during the entire AEEP activity.

(4) Amount of space available for the particular activity.

(5) Ability to pay, or cost-share, the activity costs.

(e) *Release and hold harmless.* Eligible participants will release and hold harmless the Commonwealth and the Department and their agents and officers from liabilities for losses as a result of participation in the specific AEEP activity. This includes damage or loss and unauthorized removal of equipment or supplies at the AEEP activity.

§ 106.54. Processing of applications.

(a) *Approval or denial.* The Department may approve, approve with special considerations or reject applications and issue participation approval in accordance with the general considerations and criteria of the act and this chapter. The Department may impose reasonable restrictions or special conditions upon the issuance of an approval.

(b) *Processing.* An application for participation in an AEEP activity will be processed in the following manner:

(1) *Dating.* The applications shall have the initial date of the postmark or initial date of receipt, whichever is earlier, noted on the application by Department staff. If the application is determined to be incomplete, the effective date of the application is the date on which all additional information is received and the application is determined by the Department to be complete. This date will be noted on the application.

(2) *Completeness and accuracy.* Upon receipt of an AEEP application and the required supporting documentation, the Department will review the information for completeness and accuracy.

(3) *Eligibility.* Upon receipt of an AEEP application and the required supporting documentation, the Department will review the information to verify applicant eligibility.

(4) *Applications from ineligible applicants.* An application from an ineligible applicant will be returned to the applicant with an explanation of why the applicant is considered ineligible.

(5) *Incomplete and inaccurate application from eligible applicants.* If the Department determines an application from an eligible applicant to be incomplete or inaccurate, final processing of the application may be discontinued or additional data may be requested. If additional data is requested, the request shall be in writing and will be sent to the applicant address listed on the AEEP application. The processing of the application shall cease until the applicant supplies the requested data. The Department may terminate the processing of an incomplete application when the additional data is not supplied within 5 business days of the request for the data.

(6) *Order of participation availability.* Availability of participation will be reserved in order of receipt of completed and approved applications and full payment by an approved applicant.

(i) If an activity has more applicants than available slots the Department may increase the number of slots available, or place applicants on a waiting list for space in the event of a cancellation or default.

(ii) The waiting list will be set up in order of receipt of a completed and approved application.

(iii) Slots that become available due to cancellation or default will be assigned in order of the waiting list.

(iv) Applicants on the waiting list will be notified in writing of a cancellation or default. Wait-listed persons will have 7 days from date of notification to respond in writing—either accepting or rejecting—the available slot.

(v) Payment in full shall accompany a letter of acceptance.

(vi) Failure to respond in 7 days from date of notification will be considered a rejection by the wait-listed applicant and the Department will notify the next applicant on the wait list.

(7) *Advisory Committee.* The Advisory Committee has no authority to and will not review or have input into individual AEEP applications. The Advisory Committee shall recommend overall program priorities for each program to the Secretary. Additionally, the Advisory Committee shall recommend the amount of funds to be allocated to each program.

§ 106.55. Notice of disposition of application.

(a) *Applications deemed complete.* The Department will notify applicants within 15 days of receipt of their completed application of a decision to approve, approve with special conditions or reject the application. Approved applicants shall submit the participation fee in the AEEP application, in full, within 5 days of receipt of the Department's approval letter.

(b) *Applications deemed incomplete or ineligible.* Within 10 days of receipt of an application, the Department will notify the applicant of a decision to reject the application or notify the applicant of a deficiency in the application and request additional data. If additional data is requested, notification shall be in writing and detail the additional data needed. The Department will follow the procedures in § 106.54(b)(5) (relating to processing of applications).

§ 106.56. Cancellation policy.

(a) *Deadline.* Approved participants shall submit cancellations in writing to the Department at least 15 days prior to the beginning date of the specific AEEP activity.

(b) *Reimbursement.* In the event of cancellation by an approved applicant, the Department will attempt to reallocate the AEEP slot. If successful, 75% of the AEEP participation fee for the activity will be returned to the canceling approved participant. Otherwise, the fee is forfeited to the Department in its entirety.

AQUACULTURE EDUCATION ENHANCEMENT GRANT PROGRAM

§ 106.61. Grant amount.

Grants may not exceed not exceed \$10,000 except as provided in this subchapter. An additional amount of up to \$10,000 may be granted if the applicant matches that additional amount dollar for dollar so that a single grant may not exceed \$20,000 in 1 calendar year.

§ 106.62. General conditions.

(a) *Grant agreement.* The applicant shall sign a grant agreement setting forth the term and amount of the grant and other terms and conditions as the Department may reasonably require.

(b) *Verification.* Within 3 months of the project completion date specified in the grant agreement, the applicant shall submit to the Department a final report that includes written receipts, records and any other pertinent documentation evidencing the total amount of the costs incurred and expenditures associated with the project. The final report shall also include a narrative report

describing the effectiveness of the project, the results obtained, the experience gained and the personal knowledge acquired. The applicant shall submit a final report.

(c) *Failure to verify.* If the final report containing all receipts, records, the narrative report and other required documentation is not submitted within the 3-month period, a portion of the grant proceeds are unaccounted for, or the applicant violates another provision of this chapter, the Department may demand the applicant repay the entire principal balance of the grant or a lesser amount and interest incurred to date. The interest rate will be calculated using simple interest at the percentage rate equal to the Federal Reserve discount rate at the time the grant was made. Payment shall be due within 60 days of the written demand.

(d) *Default.* A recipient who fails to abide by the terms of the act, the grant agreement or this chapter shall be in default. When a grant recipient defaults the Department may seek recovery of the grant funds as delineated in § 106.47 (relating to right of recovery). A default may be waived by the Department for extenuating circumstances the Department considers to be no fault of the recipient.

(e) *Availability and use of grant results.* The technical information, experience gained and personal knowledge resulting from an AEEP grant are public information.

§ 106.63. Application.

(a) *Application required.* Applicants shall submit applications to participate in an AEEP grant on forms provided by the Department at the address set forth on the application.

(b) *Application requirements.* An application for an AEEP grant will not be considered by the Department unless the following items are included:

(1) The name, address and contact information (to include telephone, facsimile and Internet, as available) of the participating organization, or individual.

(2) The name and direct contact information for the designated grant contact.

(3) A signature by the individual, or an authorized organizational representative, attesting to compliance with the terms and conditions for participation in the AEEP grant.

(4) A detailed description of the project, including objectives, goals and materials to be funded by the grant.

(5) A reasonable and accurate statement of the estimated cost of the project. The statement shall include a separate breakdown of the personnel portion of the costs based on a verifiable hourly rate per person, the materials portion of the costs and any other necessary or anticipated costs associated with the project. The applicant shall provide any documentation or financial statements available to support the estimated project costs including a statement of the portion of the principal investigators' salaries being funded from grant funds. Applications that charge a general overhead fee will not be accepted. All cost components shall be listed.

(6) A statement regarding the amount of tuition to be charged for courses or workshops held as a part of the AEEP grant project.

(7) Information regarding the breadth of the AEEP grant project, including individuals or groups taking part as partners, individuals or groups to be served by the AEEP grant project and the geographic area to be served by the AEEP grant project.

(8) Information regarding the skills, knowledge or experience to be gained from the AEEP grant project.

(9) A copy of the official organization board minutes when action was taken on the project or an authorized, signed statement attesting to the applicant's commitment to the AEEP grant project.

(10) A biographical sketch of the principal investigator involved in the project that indicates the skills, knowledge, training and prior experience of the person developing and administering the AEEP grant project.

(c) *Obtaining an application and assistance.* An application for an AEEP grant under this subchapter shall be made on a form prepared by the Department. For AEEP grant applications and assistance, contact the Aquaculture Program, Bureau of Market Development, Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110, telephone (717) 783-8462, facsimile (717) 787-5643.

(d) *Additional information.* The Department may require an applicant to submit additional documentation as may be necessary to complete, verify or clarify the AEEP grant application.

(e) *Application deadlines.* AEEP applications for participation under this subchapter shall be postmarked by June 30 of the fiscal year prior to the fiscal year for which the funds are to be spent.

§ 106.64. Review of applications.

(a) *Evaluation.* The Department will evaluate an AEEP grant application based on the applicant eligibility as well as the factors in the act and this chapter. The Department will begin review of applications in July of each year.

(b) *Applicant eligibility.* The Department will review applications to determine applicant eligibility according to the criteria in this chapter. Only eligible applicants will be considered for an AEEP grant.

(c) *Application completeness.* An application for an AEEP grant will not be considered by the Department unless it contains the required information and items in this chapter under § 106.63(b) (relating to application).

(d) *Ranking criteria.* Factors to be considered by the Department in selecting AEEP grant recipients include the following:

(1) Participation in previous AEEP and other Department activities.

(2) Appropriateness of the applicant's participation in the specific AEEP grant solicitation.

(3) Ability of the applicant to provide qualified personnel during the entire AEEP grant project.

(4) Amount of funds available for the particular grant solicitation.

(5) The willingness and ability of the applicant to make in kind or financial, or both, contributions to match grant funds.

(6) The relevance of the project to aquaculture development plan priorities set forth by the Advisory Committee.

(7) The innovativeness of the project.

(8) The effect the project will have on aquaculture development or aquaculture marketing activities.

(9) The scope and duration of the project and how it relates to other projects and state aquaculture program components.

(10) The type and number of groups who will be affected by the project. A project which involves a wide range of partners and project beneficiaries will be given priority.

(11) The impact of and the benefits bestowed upon the agricultural community by the project.

(12) The continual and progressive nature of the project and the benefits and knowledge to be gained by the applicant and the public at large.

(13) The commitment to long-term aquaculture education and research by the applicant. Applicants that have demonstrated a commitment to aquaculture will be given priority.

(14) Whether the applicant has been the recipient of an AEEP grant within the same year.

(15) The availability of funding to the applicant from sources other than the AEEP program.

(16) The willingness of the applicant to share information derived from the project with others.

(e) *Release and hold harmless.* Eligible participants will release and hold harmless the Commonwealth and the Department and their agents and officers from liabilities for losses as a result of participation in the specific AEEP grant. This includes losses associated with salary or other project cost increases during the AEEP grant period.

§ 106.65. Processing of applications.

(a) *Approval or denial.* The Department may approve, approve with special considerations or reject applications and issue participation approval in accordance with the general considerations and criteria of the act and this chapter. The Department may impose reasonable restrictions or special conditions upon the issuance of an approval.

(b) *Processing.* An application for an AEEP grant will be processed in the following manner:

(1) *Dating.* The applications shall have the initial date of the postmark or initial date. The date will be noted on the application.

(2) *Completeness and accuracy.* Beginning in July of each year, the Department will review each AEEP grant application and the required supporting documentation for completeness and accuracy

(3) *Eligibility.* Beginning in July of each year, the Department will review each AEEP grant application and the required supporting documentation to verify applicant eligibility.

(4) *Applications from ineligible applicants.* An application from an ineligible applicant will be returned to the applicant with an explanation of why the applicant is considered ineligible.

(5) *Incomplete and inaccurate application from eligible applicants.* If the Department determines an application from an eligible applicant to be incomplete or inaccurate, final processing of the application may be discontinued or additional data may be requested. If additional data is requested, the request will be in writing and will be sent to the applicant address listed on the AEEP application. The processing of the application will cease until the applicant supplies the requested data. The Department may terminate the processing of an incomplete application when the additional data is not supplied within 10 business days of the request for the data.

(6) *Approval or denial.* The Department may exercise discretion in approving applications and in determining the distribution of grants so that the widest possible audience becomes acquainted with aquaculture and benefits from the projects funded through the AEEP grant program. The Department may impose reasonable restrictions or special conditions upon the issuance of a grant.

(7) *Advisory Committee.* The Advisory Committee has no authority to and will not review or have input into individual AEEP applications. The Advisory Committee will recommend overall program priorities for each program to the Secretary. Additionally, the Advisory Committee will recommend the amount of funds to be allocated to each program.

§ 106.66. Notice of disposition of application.

(a) *Applications deemed complete.* The Department will notify applicants by September 30 of each year of a decision to approve, approve with special conditions or reject the application.

(b) *Applications deemed incomplete or ineligible.* Within 45 days of beginning of the review process of an application, the Department will notify the applicant of a decision to reject the application or notify the applicant of a deficiency in the application and request additional data. If additional data is requested, notification will be in writing and detail the additional data needed. The Department will follow the procedures in § 106.65(b)(5) (relating to processing of applications).

Subchapter D. AQUACULTURE MARKET INFORMATION PROGRAM

Sec.	
106.81.	Program objectives.
106.82.	Limitations.
106.83.	Notice of program activity.
106.84.	Information to be solicited.
106.85.	Recordkeeping.
106.86.	Limitation of liability.

§ 106.81. Program objectives.

(a) *Purpose.* The purpose of the AMIP is to increase producer access to timely, verifiable information on market prices. The AMIP will provide a voluntary mechanism through which market information will be gathered and made available to producers and other interested parties. Price information will be requested for each species of fish grown in this Commonwealth or sold in this Commonwealth in a live form.

(b) *Market area.* The defined market for the AMIP consists of the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Ohio, Rhode Island, Vermont, Virginia and West Virginia along with Washington, D.C. and the Canadian provinces of Quebec and Ontario.

§ 106.82. Limitations.

(a) *Extent of program activities.* The AMIP will organize a voluntary market reporting system to collect price information for aquaculture and seafood products sold within our regional market on prices received by farmers/suppliers at the wholesale level. The AMIP is a voluntary program. The system will be based on obtaining information from the largest fish markets in the market area along with information provided by a sampling of dealers and aquaculture propagators. The Department will contact each identified participant and request information on average prices paid for aquaculture and seafood products twice per month. The information received will be averaged and summarized according to the market

area from which it was received. A summary of the average mean price, volume purchased and the range of prices for each aquaculture product sold will be published bimonthly following the collection of data (Example: The average mean price received for rainbow trout at the Fulton Fish Market the week of March 26-30, 2001 was \$2.50 in a whole, 8-12 ounce form, price range \$1.35-1.60, volume 1,500 pounds.). Distribution will be made through the Department's Internet site and through fax or mail to any individual upon request.

(b) *Use of funds.* Funds allocated for the AMIP shall be used solely for the purposes in this chapter.

(c) *Funds available basis.* Program activities will not be undertaken unless funds are available.

§ 106.83. Notice of program activity.

(a) Solicitation of information for the AMIP reporting survey will be made in any of the following manners, however, reporting entities may be added throughout the year to maximize number of reporting entities:

(1) *Pennsylvania Bulletin.* An initial notice of the AMIP and the opportunity to become a reporting entity will be printed in the *Pennsylvania Bulletin* once per year.

(2) *Direct mailing.* An annual mailing to solicit initial participation will be targeted known to the AMIP administrator at the date of mailing.

(3) *Telephone.* Personal telephone calls to each identified fish dealer and fish market manager and other identified candidates for participation (such as large volume producers).

(b) *Information to be solicited in activity notice.* The notice will include the purpose of the activity, an explanation that the activity is voluntary, what information is being requested from a participant and how the information will be used.

§ 106.84. Information to be solicited.

Information will be requested for each species of fish approved by the Department for propagation and sale in this Commonwealth. Information will be gathered using a form designed by the Department. The form will contain the following information:

(1) *Product species and variety.* Persons reporting information will be asked to identify the species and variety of aquaculture or seafood products, or both, purchased/sold.

(2) *Product form and weight.* Persons reporting information will be asked to identify the forms and weights purchased/sold.

(3) *Point of origin.* Persons reporting information will be asked to identify the products' point of origin where the product was produced and whether the product was farm-raised or wild-caught.

(4) *Price paid.* Persons reporting information will be asked to identify the prices paid for each species, variety, product form and weight, place of origin and amount of product purchased.

(5) *Market area.* Persons reporting information will be asked to identify their location so that the information may be reported by market area using the following categories:

- (i) Commonwealth markets.
- (ii) Maryland markets.
- (iii) New Jersey markets.
- (iv) New York markets.

(v) Other Northeast markets.

(vi) Other Mid-Atlantic markets.

(vii) Canadian markets.

§ 106.85. Recordkeeping.

AMIP market reports and data will be maintained by the Department for 5 years from the date of the market price report being compiled.

§ 106.86. Limitation of liability.

The Department's financial obligation or liability is limited to the costs necessary to administer the program. The Department will not guarantee the accuracy of the information and will not be responsible for any decisions made based on the information reported.

Subchapter E. AQUACULTURE PRODUCT IDENTIFICATION PROGRAM

Sec.

- 106.101. Program objectives.
- 106.102. Limitations.
- 106.103. General conditions.
- 106.104. Application.
- 106.105. Review of applications.
- 106.106. Processing of applications.
- 106.107. Notice of disposition of application.
- 106.108. Approved participant withdrawal policy.
- 106.109. Conflict of interest.
- 106.110. Notice of program activity.
- 106.111. Recordkeeping.
- 106.112. Cancellation/modification.

§ 106.101. Program objectives.

The purpose of the APIP is to increase sales of Commonwealth-produced aquaculture products by increasing consumer demand through improved awareness and labeling. The APIP will provide a voluntary mechanism through which Commonwealth-produced aquaculture products may be identified.

§ 106.102. Limitations.

(a) *Applicant eligibility.* Only eligible applicants will be considered for the APIP. To be eligible to participate under the APIP, applicants shall be registered Commonwealth aquaculture propagators or aquaculture-related companies in good standing that, are headquartered or have at least one manufacturing or production facility located in this Commonwealth and are subject to tax laws of the Commonwealth. Each applicant approved for participation shall comply with the criteria established by the act and this chapter, including the verification criteria and all licensing and governmental permitting requirements.

(b) *Product/service eligibility.* An applicant approved to participate in the APIP shall use the APIP logo only on Commonwealth-produced aquaculture products and APIP promotional materials may only be used to promote and market Commonwealth-produced aquaculture products. All of the products using APIP materials shall be grown or manufactured in this Commonwealth. The products shall comply with applicable State and Federal laws and requirements for the specific product.

(c) *Extent of program activities.* The APIP will establish a voluntary product identification system to easily identify Commonwealth-produced aquaculture products. The system will be based on trade marking and licensing the Pennsylvania Aquaculture Logo. The program will allow producers to incorporate the trademark logo into their package labeling, use the trademark logo decal to label and advertise their product, and use point of purchase materials incorporating the logo.

(d) *Use of funds.* Funds allocated for the APIP shall be used solely for the purposes in this chapter.

(e) *Funds available basis.* Program activities will not be undertaken unless funds are available.

§ 106.103. General conditions.

(a) *Participation agreement.* The approved, signed application for the APIP shall constitute the participation agreement. The participant desiring to take part in the APIP shall sign the application. The application will set forth the amount of the participation fee and other terms and conditions the Department may reasonably require. Upon receipt of a completed, signed application, the Department will review and process the application as set forth in this chapter and issue an approval or denial of the application. Upon receipt of the APIP participation fee set forth in the application, approved applicants will be registered for the APIP for 5 years from the July 1 or January 1 application deadline under which they submitted their APIP application. Participant approval automatically terminates if the Commonwealth artificial propagation license is not in good standing or lapses or the approved participant violates another provision of the act or this chapter.

(b) *Renewal of APIP participation.* To continue to use the trademark logo and marketing materials, an approved APIP participant shall renew the registration every 5 years by submitting a new APIP application by the application deadlines established in § 106.104(e) (relating to application).

(c) *Default.* A participant who fails to abide by the terms of the participation agreement or the provisions of the act or this chapter shall be in default.

(d) *Survey.* The Department may require an APIP participant to submit a completed survey form.

(1) The requirement will be set forth in the APIP application.

(2) The Department will develop the survey form.

(3) The survey form will include questions relating to the participant's involvement in the APIP to determine the degree to which the program contributes to industry and Department goals.

(4) Information requested will relate to things such as how the APIP materials were used, frequency of use, trade leads received from APIP logo recognition, sales made resulting from logo recognition and number of consumers reached.

(5) Surveys will not contain a request for any proprietary business information.

(6) When the Department requires the completion of a survey, an APIP participant shall submit the completed survey form to the Department within 30 days of the receipt of the request.

(e) *Failure to submit survey.* When a survey is required by the Department, failure to submit a completed survey form within the 30-day period will result in a default on the part of the APIP participant. The Department may extend the verification deadline if it is determined the participant has made a reasonable effort to verify, but the verification was incomplete, or for extenuating circumstances.

§ 106.104. Application.

(a) *Application required.* Applicants shall submit applications to participate in APIP activities on forms provided by the Department at the address set forth on the application.

(b) *Application requirements.* An application for the APIP will not be considered by the Department unless the following items are included:

(1) The name, address and contact information (to include telephone, facsimile and Internet, as available) of the participating company, or individual.

(2) The name and direct contact information for the designated program contact.

(3) A detailed description of the company and products or services to be promoted.

(4) A signature by an authorized representative attesting to compliance with all provisions of the terms and conditions for participation in the APIP.

(5) Payment in full of the participation fee in the application and payable to the Department.

(6) Verification the applicant is subject to tax laws of the Commonwealth and is not a nonprofit entity.

(c) *Obtaining an application and assistance.* An application for participation under this chapter shall be made on a form provided by the Department. For applications and assistance, contact the Aquaculture Program, Bureau of Market Development, Pennsylvania Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110, telephone (717) 783-8462, facsimile (717) 787-5643, or the Department's website.

(d) *Additional information.* The Department may require an applicant to submit additional documentation as may be necessary to complete, verify or clarify the application.

(e) *Application deadlines.* Applications for participation under this chapter may be submitted to the Department on January 1 and July 1 of each calendar year.

§ 106.105. Review of applications.

(a) *Evaluation.* The Department will evaluate an application based on the applicant's eligibility as well as the factors in the act and this chapter.

(b) *Applicant eligibility.* The Department will review applications to determine applicant eligibility according to the criteria in this chapter. Only eligible applicants will be considered for participation in the APIP.

(c) *Application completeness.* An application for an APIP activity will not be considered by the Department unless it contains the required information and items in this chapter under § 106.104(b) (relating to application).

(d) *Factors.* Factors to be considered by the Department in selecting APIP participants include the following:

(1) Current registration as an artificial propagator under the act or other verification that the applicant is an eligible participant.

(2) Verification that all of the products to be promoted using APIP materials and logo are produced or manufactured in this Commonwealth.

(e) *Release and hold harmless.* Eligible participants will release and hold harmless the Commonwealth and the Department and their agents and officers from any liabilities for any losses as a result of participation in the APIP.

§ 106.106. Processing of applications.

(a) *Approval or denial.* The Department may approve, approve with special conditions or reject applications and

issue participation approval in accordance with the general considerations and criteria of the act and this chapter.

(b) *Processing.* An application for participation in the APIP will be processed in the following manner:

(1) *Dating.* The applications will have the initial date of the postmark or initial date of receipt, whichever is earlier, noted on the application by Department staff. If the application is determined to be incomplete, the effective date of the application is the date on which the additional information is received and the application is determined by the Department to be complete. The date will be noted on the application.

(2) *Completeness and accuracy.* Upon receipt of an APIP application and the required supporting documentation, the Department will review the information for completeness and accuracy.

(3) *Eligibility.* Upon receipt of an APIP application and the required supporting documentation, the Department will review the information to verify applicant eligibility.

(4) *Applications from ineligible applicants.* An application from an ineligible applicant will be returned to the applicant with an explanation of why the applicant is considered ineligible.

(5) *Incomplete or inaccurate application from eligible applicants.* If the Department determines an application from an eligible applicant is incomplete or inaccurate, final processing of the application may be discontinued or additional data may be requested. If additional data is requested, the request will be in writing and will be sent to the applicant address listed on the APIP application. The processing of the application will cease until the applicant supplies the requested data. The Department may terminate the processing of an incomplete application when the additional data is not supplied within 10 business days of the request for the data.

(6) *Advisory Committee.* The Advisory Committee has no authority to and will not review or have input into individual APIP applications. The Advisory Committee will recommend overall program priorities for each program to the Department. Additionally, the Advisory Committee will recommend the amount of funds to be allocated to each program.

§ 106.107. Notice of disposition of application.

(a) *Applications deemed complete.* The Department will notify applicants in writing of a decision to approve, approve with special conditions or reject the application. Approved applicants shall submit the participation fee in the APIP application, in full, within 10 days of receipt of the Department's approval letter.

(b) *Applications deemed incomplete or ineligible.* The Department will notify the applicant in writing of a decision to reject the application or notify the applicant of a deficiency in the application and request additional data. If additional data is requested, notification will be in writing and detail the additional data needed. The Department will follow the procedure in § 106.106(b)(5) (relating to processing of applications).

§ 106.108. Approved participant withdrawal policy.

(a) *Deadline.* Approved participants shall submit a withdrawal request in writing to the Department at least 30 days prior to the date their withdrawal becomes effective.

(b) *Reimbursement.* In the event of withdrawal by an approved participant, the participation fee is forfeited to the Department in its entirety.

§ 106.109. Conflict of interest.

A member of the Advisory Committee may apply for participation in APIP activities if all decisions regarding the application are subject to 65 Pa.C.S. § 1103(j) (relating to restricted activities) and the action does not violate the State Adverse Interest Act (71 P. S. §§ 776.1—776.9) or 4 Pa. Code Chapter 7, Subchapter K (relating to code of conduct for appointed officials and State employees).

§ 106.110. Notice of program activity.

(a) Persons who want to identify their product through the APIP program will be notified of program availability and restrictions in any of the following manners:

(1) *Pennsylvania Bulletin.* Notice of APIP availability will be printed in the *Pennsylvania Bulletin* once per year.

(2) *Direct mailing.* An annual mailing to registered aquaculture propagators known to the APIP administrator at the date of mailing.

(3) *Internet access.* Individuals may access APIP information through the Department's website.

(b) *Information to be included in program notice.* The notice will include the purpose of the program, an explanation that the program is voluntary, what program participation entails, what information a potential participant shall submit to be considered for participation.

§ 106.111. Recordkeeping.

APIP data shall be maintained by the participant for 5 years from the termination date of approval to participate in the APIP.

§ 106.112. Cancellation/modification.

An APIP participant approval may be canceled by the Department upon a determination that the approved participant has violated any provision of the act, this chapter or the participation agreement, the approved participant violated the APIP rules, or upon failure of the approved participant to satisfy the verification requirements of this chapter. Upon cancellation the Department may seek recovery of any funds expended for the approved participant's advantage or a portion thereof.

Subchapter F. AQUACULTURE PRODUCT PROMOTION PROGRAM

Sec.	
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§ 106.131. Program objectives.

The purpose of the APPP is to increase sales of aquaculture products through public awareness of aquaculture product availability and attributes.

(1) To the extent possible, the APPP will provide opportunities for industry representatives to participate in a variety of events such as food shows, recreational sports shows, pet and water gardening related trade

shows, aquaculture industry shows and other related commercial trade shows where buyers of aquaculture products are expected to attend.

(2) The APPP will also attempt to provide opportunities for aquaculture industry representatives to participate in a wide range of events such as the Pennsylvania Farm Show, fairs, community festivals, farm-city activities, in-store product promotions and other events at which a large number of consumers would be exposed to product information.

(3) The APPP will endeavor to facilitate contact and relations between aquaculture propagators, suppliers and buyers by arranging meetings with purchasers such as wholesalers, grocery/restaurant buyers and consumers.

§ 106.132. Limitations.

(a) *Applicant eligibility* Only eligible applicants will be considered for the APPP. To be eligible to participate in activities under the APPP, applicants shall be registered Commonwealth aquaculture propagators or aquaculture-related companies in good standing that are headquartered or have at least one manufacturing or production facility located in this Commonwealth and is subject to tax laws of the Commonwealth. Each applicant approved for participation shall comply with the criteria established by the act and this chapter, including the verification criteria and licensing and governmental permitting requirements.

(b) *Product/service eligibility*. An applicant approved to participate in an APPP activity may only promote and display aquaculture related products and services at that APPP activity. At least 60% of the displayed products in an APPP activity shall be grown or manufactured in this Commonwealth. The products displayed shall comply with applicable State and Federal laws and requirements for the specific product.

(c) *Extent of program activities*. The APPP will organize participation in domestic trade shows and promotional activities for eligible applicants.

(d) *Use of funds*. Funds allocated for the APPP shall be used solely for the purposes in this chapter.

(e) *Funds available basis*. Program activities will not be undertaken unless funds are available.

§ 106.133. General conditions.

(a) *Participation agreement*. The approved, signed application for an APPP activity will constitute the participation agreement. The participant desiring to take part in an APPP sponsored activity shall sign the application which shall set forth the amount of the participation fee and other terms and conditions as the Department may reasonably require. Upon receipt of a completed, signed application, the Department will review and process the application in §§ 106.135 and 106.36 (relating to review of applications; and processing of applications) and issue an approval or denial of the application. Approved applicants will be registered for the APPP activity upon receipt of the APPP participation fee in the application.

(b) *Default*. A participant who fails to abide by the terms of the participation agreement or the provisions of the act or this chapter shall be in default.

(c) *Exit survey*. The Department may require an APPP participant to submit a completed exit survey form. The requirement will be set forth in the APPP application. The Department will develop an exit survey form.

(1) The exit survey form will include questions relating to the participant's involvement in the relevant activity to determine the degree to which the activity contributes to the programs goals.

(2) Information requested will relate to things such as the number of trade leads received, sales made and number of consumers reached.

(3) Exit surveys will not contain a request for any proprietary business information.

(4) When the Department requires the completion of an exit survey, an APPP participant shall submit the completed exit survey form to the Department within 4 weeks of completion of participation in the APPP activity.

(d) *Failure to submit exit survey*. When an exit survey is required by the Department, failure to submit a completed exit survey form within the 4-week period will result in a default on the part of the APPP participant. The Department may direct that the defaulting participant is not eligible for further APPP participation for 2 years. The Department may extend the verification deadline if it is determined the participant has made a reasonable effort to verify, but the verification was incomplete, or for extenuating circumstances.

(e) *Determination of participation fees*. Participation fees for approved participants for APPP activities not organized and controlled by the Department will be based on the Commonwealth recovering at least 50% of the activity's direct, nonstaff cost. Participation fees will not exceed more than 80% of the activity's standard fee to a normal commercial participant. Participation fees for approved participants for APPP activities organized and controlled by the Department will be based on the Commonwealth recovering not more than 50% of the activity's total direct cost.

§ 106.134. Application.

(a) *Application required*. Applicants shall submit applications to participate in APPP activities on forms provided by the Department at the address on the application.

(b) *Application requirements*. An application for an APPP activity will not be considered by the Department unless the following items are included:

(1) The name, address and contact information (to include telephone, facsimile and Internet, as available) of the participating company, or individual.

(2) The name and direct contact information for the designated activity contact.

(3) A detailed description of the company and products or services to be promoted.

(4) A signature by an authorized representative attesting to compliance with all provisions of the terms and conditions for participation in the APPP activity.

(5) Payment in full of the participation fee in the application and payable to the Department.

(c) *Obtaining an application and assistance*. An application for participation under this chapter shall be made on a form prepared by the Department. For applications and assistance, contact the Aquaculture Program, Bureau of Market Development, Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110, telephone (717) 783-8462, facsimile (717) 787-5643.

(d) *Additional information*. The Department may require an applicant to submit additional documentation as necessary to complete, verify or clarify the application.

(e) *Application deadlines.* Applications for participation under this chapter shall be received by the Department 90 days prior to the date of the APPP activity the applicant wishes to attend. The Department may approve an application submitted after this deadline if it determines there is adequate time for a thorough review of the application and to issue a written approval to the applicant.

§ 106.135. Review of applications.

(a) *Evaluation.* The Department will evaluate an application based on the applicant's eligibility as well as the factors in the act and this chapter.

(b) *Applicant eligibility.* The Department will review applications to determine applicant eligibility according to the criteria in this chapter. Only eligible applicants will be considered for participation in the APPP activity.

(c) *Application completeness.* An application for an APPP activity will not be considered by the Department unless it contains the required information and items in this chapter under § 106.134(b) (relating to application).

(d) *Factors.* Factors to be considered by the Department in selecting APPP participants include the following:

(1) Participation in previous APPP and other Department activities.

(2) Appropriateness of the applicant's particular product or service to the specific APPP activity.

(3) Ability of the applicant to provide a qualified sales representative during the entire APPP activity who will be able to negotiate sales and quantify terms.

(4) Ability of the applicant to be responsible for shipping all products used for display or sales and for all promotional materials to be used at the APPP activity.

(5) Amount of space required for the particular promotion.

(6) Ability to pay, or cost-share, the booth and or activity costs.

(e) *Release and hold harmless.* Eligible participants will release and hold harmless the Commonwealth and the Department and their agents and officers from any liabilities for any losses as a result of participation in the specific APPP activity. This includes late shipment, in transit damage or loss and unauthorized removal of equipment or supplies at the APPP activity.

§ 106.136. Processing of applications.

(a) *Approval or denial.* The Department may approve, approve with special conditions or reject applications and issue participation approval in accordance with the general considerations and criteria of the act and this chapter.

(b) *Processing.* An application for participation in an APPP activity will be processed in the following manner:

(1) *Dating.* The application will have the initial date of the postmark or initial date of receipt, whichever is earlier, noted on the application by Department staff. If the application is determined to be incomplete, the effective date of the application is the date on which all additional information is received and the application is determined by the Department to be complete. The date will be noted on the application.

(2) *Completeness and accuracy.* Upon receipt of an APPP application and the required supporting documentation, the Department will review the information for completeness and accuracy.

(3) *Eligibility.* Upon receipt of an APPP application and the required supporting documentation, the Department will review the information to verify applicant eligibility.

(4) *Applications from ineligible applicants.* An application from an ineligible applicant will be returned to the applicant with an explanation of why the applicant is considered ineligible.

(5) *Incomplete or inaccurate application from eligible applicants.* If the Department determines an application from an eligible applicant is incomplete or inaccurate, final processing of the application may be discontinued or additional data may be requested. If additional data is requested, the request will be in writing and will be sent to the applicant address listed on the APPP application. The processing of the application will cease until the applicant supplies the requested data. The Department may terminate the processing of an incomplete application when the additional data is not supplied within 10 business days of the request for the data.

(6) *Order of participation availability.* Availability of participation will be reserved in order of receipt of a completed application and full payment by the approved applicant.

(i) If an activity has more applicants than available slots, the Department may increase the number of slots available, or place applicants on a waiting list for space in the event of a cancellation or default.

(ii) The waiting list will be setup in order of receipt of a completed and approved application.

(iii) Slots that become available due to cancellation or default will be assigned in order of the waiting list.

(iv) The applicant on the waiting list will be notified in writing of a cancellation or default. The applicant will have 7 days from date of mailing of notification to respond in writing—either accepting or rejecting—the available slot.

(v) Payment in full shall accompany a letter of acceptance.

(vi) Failure to respond in 7 days from date of mailing of notification will be considered a rejection by the wait-listed applicant and the Department will notify the next applicant on the wait list.

(7) *Advisory Committee.* The Advisory Committee has no authority to and will not review or have input into individual APPP applications. The Advisory Committee will recommend overall program priorities for each program to the Department. Additionally, the Advisory Committee shall recommend the amount of funds to be allocated to each program.

§ 106.137. Notice of disposition of application.

(a) *Applications deemed complete.* The Department will notify applicants within 30 days of receipt of their completed application of a decision to approve, approve with special conditions or reject the application. Approved applicants shall submit the participation fee in the APPP application, in full, within 10 days of receipt of the Department's approval letter.

(b) *Applications deemed incomplete or ineligible.* Within 30 days of receipt of an application, the Department will notify the applicant of a decision to reject the application or notify the applicant of a deficiency in the application and request additional data. If additional data is requested, notification shall be in writing and detail the

additional data needed. The Department will follow the procedure in § 106.136(b)(5) (relating to processing of applications).

§ 106.138. Approved participant cancellation policy.

(a) *Deadline.* Approved participants shall submit any cancellations in writing to the Department at least 30 days prior to the beginning date of the specific APPP activity.

(b) *Reimbursement.* In the event of cancellation by an approved participant, the Department will attempt to reallocate the APPP slot. If successful, 75% of the APPP participation fee for the activity will be returned to the canceling approved participant. Otherwise, the fee is forfeited to the Department in its entirety.

§ 106.139. Notice of program activity.

(a) Eligible applicants will be notified of APPP activities in any of the following manners:

(1) *Pennsylvania Bulletin.* Availability of upcoming APPP activities will be printed in the *Pennsylvania Bulletin*.

(2) *Direct mailing.* A mailing targeted to each aquaculture propagator or aquaculture-related business, or both, registered with the APPP administrator at the date of mailing.

(b) *Information to be included in notice.* The notice and mailing will include the activity name, dates (show and set-up), location, participation fee, activity package description, number of participation slots available and how an application may be requested.

§ 106.140. Conflict of interest.

A member of the Advisory Committee may apply for participation in APPP activities if all decisions regarding the application are subject to 65 Pa.C.S. § 1103(j) (relating to restricted activities) and the action does not violate the State Adverse Interest Act (71 P. S. §§ 776.1—776.9) or 4 Pa. Code Chapter 7, Subchapter K (relating to code of conduct for appointed officials and State employees).

§ 106.141. Recordkeeping.

An APPP participant shall maintain all receipts, supporting documents, exit reports and other documents pertaining to the APPP activity. These records shall be retained for 1 year beginning at the conclusion of the APPP activity. The records shall be made available to the Department upon request.

§ 106.142. Right of recovery.

The Department has the right to make claim for and receive from the approved participant any funds not expended in accordance with the act, this chapter or the participation agreement.

§ 106.143. Deficits.

The Department's financial obligation is limited to the participation fee for the specific activity.

Subchapter G. AQUACULTURE EXPORT PROMOTION PROGRAM

- Sec. 106.161. Program objections.
- 106.162. Limitations.
- 106.163. General conditions.
- 106.164. Application.
- 106.165. Review of applications.
- 106.166. Processing of applications.
- 106.167. Notice of disposition of application.
- 106.168. Approved participant cancellation policy.
- 106.169. Notice of program activity.
- 106.170. Conflict of interest.

- 106.171. Recordkeeping.
- 106.172. Cancellation/default.
- 106.173. Right of recovery.
- 106.174. Deficits.

§ 106.161. Program objectives.

The purpose of the AEPP is to increase export sales of aquaculture products and aquaculture supplies through buyer awareness of aquaculture product and supply availability and attributes.

(1) The AEPP will provide opportunities for industry representatives to participate in a variety of events such as food shows, recreational sports shows, pet and water gardening related trade shows, aquaculture industry shows and other related commercial trade shows or missions where international buyers of aquaculture products are expected to attend.

(2) The AEPP will facilitate contact between aquaculture propagators, suppliers and international buyers by arranging meetings with purchasers such as overseas importers, multinational corporations and United States based buyers for foreign companies and governments.

(3) The AEPP will increase international awareness of Commonwealth aquaculture products and services by organizing product awareness events.

§ 106.162. Limitations.

(a) *Applicant eligibility.* Only eligible applicants will be considered for the AEPP. To be eligible to participate in activities under the AEPP, applicants shall be registered Commonwealth aquaculture propagators or aquaculture-related companies in good standing, which are headquartered or have at least one manufacturing or production facility located in this Commonwealth and are subject to tax laws of the Commonwealth. Each applicant approved for participation shall comply with the criteria established by the act and this chapter, including the verification criteria and the licensing and governmental permitting requirements.

(b) *Product/service eligibility.* An applicant approved to participate in an AEPP activity may only promote and display aquaculture related products and services at that AEPP activity. A majority of the displayed products in an AEPP activity shall be grown or manufactured in this Commonwealth. The products shall meet State and Federal requirements for the specific product.

(c) *Extent of program activities.* The AEPP will organize participation in international trade shows and promotional activities for eligible applicants.

(d) *Use of funds.* Funds allocated for the AEPP shall be used solely for the purposes in this chapter.

(e) *Funds available basis.* Program activities will not be undertaken unless funds are available.

§ 106.163. General conditions.

(a) *Participation agreement.* The approved, signed application for an AEPP activity will constitute the participation agreement.

(1) The participant desiring to take part in an AEPP sponsored activity shall sign the application.

(2) The application will set forth the amount of the participation fee and other terms and conditions as the Department may reasonably require.

(3) Upon receipt of a completed, signed application, the Department will review and process the application set forth in this chapter.

(4) The Department will then issue an approval or denial of the application.

(5) Approved applicants will be registered for the AEPP activity upon receipt of the participation fee in the AEPP application.

(b) *Default.* A participant who fails to abide by the terms of the participation agreement or the provisions of the act or this chapter shall be in default.

(c) *Exit survey.* The Department may require an AEPP participant to submit a completed exit survey form.

(1) The requirement will be set forth in the AEPP application. The Department will develop an exit survey form.

(2) The exit survey form will include questions relating to the participant's involvement in the relevant activity to determine the degree to which the activity contributes to the programs goals.

(3) Information requested will relate to things such as the number of trade leads received, sales made and number of consumers reached.

(4) Exit surveys will not contain a request for any proprietary business information.

(5) When the Department requires the completion of an exit survey, within 4 weeks of completion of participation in an AEPP activity, the participant shall submit to the Department a completed exit survey form.

(d) *Failure to submit exit survey.* When an exit survey is required by the Department, failure to submit the exit survey within the 4-week period will result in a default on the part of the AEPP participant.

(1) The Department may direct that the defaulting participant is not eligible for further AEPP participation for 2 years.

(2) The Department may extend the verification deadline if it is determined the participant has made a reasonable effort to verify, but the verification was incomplete, or for extenuating circumstances.

(e) *Determination of participation fees.* Participation fees for approved participants for AEPP activities not organized and controlled by the Department will be based on the Commonwealth recovering at least 50% of the activity's direct, nonstaff cost.

(1) Participation fees will not exceed more than 80% of the activity's standard fee to a normal participant.

(2) Participation fees for approved participants for AEPP activities organized and controlled by the Department will be based on the Commonwealth recovering not more than 50% of the activity's total direct cost.

§ 106.164. Application.

(a) *Application required.* Applicants shall submit applications to participate in AEPP activities on forms provided by the Department at the address set forth on the application.

(b) *Application requirements.* An application for an AEPP activity will not be considered by the Department unless the following items are included:

(1) The name, address and contact information (to include telephone, facsimile and Internet, as available) of the participating company, or individual.

(2) The name and direct contact information for the designated activity contact.

(3) A detailed description of the company and products or services to be promoted.

(4) A signature by an authorized representative attesting to compliance with the provisions of the terms and conditions for participation in the AEPP activity.

(5) Payment in full of the participation fee in the application and payable to the Department of Agriculture.

(c) *Obtaining an application and assistance.* An application for participation under this chapter shall be made on a form prepared by the Department. For applications and assistance, contact the Aquaculture Program, Bureau of Market Development, Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110, telephone (717) 783-8462, facsimile (717) 787-5643.

(d) *Additional information.* The Department may require an applicant to submit additional documentation as may be necessary to complete, verify or clarify the application.

(e) *Application deadlines.* Applications for participation under this chapter shall be received by the Department 90 days prior to the date of the AEPP activity the applicant wishes to attend. The Department may approve an application submitted after this deadline if it determines there is adequate time for a thorough review of the application and to issue a written approval to the applicant.

§ 106.165. Review of applications.

(a) *Evaluation.* The Department will evaluate an application based on the applicant eligibility as well as the factors in the act and this chapter.

(b) *Applicant eligibility.* The Department will review applications to determine applicant eligibility according to the criteria in this chapter. Only eligible applicants will be considered for participation in the AEPP activity.

(c) *Application completeness.* An application for an AEPP activity will not be considered by the Department unless it contains the required information and items in this chapter under § 106.164(b) (relating to application).

(d) *Factors.* Factors to be considered by the Department in selecting AEPP participants include the following:

(1) Participation in previous AEPP and other Department activities.

(2) Appropriateness of the applicant's particular product or service to the specific AEPP activity.

(3) Ability of the applicant to provide a qualified sales representative during the entire AEPP activity who will be able to negotiate sales and quantify terms.

(4) Ability of the applicant to be responsible for shipping the products used for display or sales and for the promotional materials to be used at the AEPP activity.

(5) Amount of space required for the particular promotion.

(6) Ability to pay, or cost-share, the booth and or activity costs.

(e) *Release and hold harmless.* Eligible participants will release and hold harmless the Commonwealth and the Department and their agents and officers from any liabilities for any losses as a result of participation in the specific AEPP activity. This includes late shipment, in-transit damage or loss and unauthorized removal of equipment or supplies at the AEPP activity.

§ 106.166. Processing of applications.

(a) *Approval or denial.* The Department may approve, approve with special conditions or reject applications and issue participation approval in accordance with the general considerations and criteria of the act and this chapter.

(b) *Processing.* An application for participation in an AEPP activity will be processed in the following manner:

(1) *Dating.* The application will have the initial date of the postmark will be the date on which all additional information is received and the application is determined by the Department be complete. The date will be noted on the application.

(2) *Completeness and accuracy.* Upon receipt of an AEPP application and the required supporting documentation, the Department will review the information for completeness and accuracy.

(3) *Eligibility.* Upon receipt of an AEPP application and the required supporting documentation, the Department will review the information to verify applicant eligibility.

(4) *Applications from ineligible applicants.* An application from an ineligible applicant will be returned to the applicant with an explanation of why the applicant is considered ineligible.

(5) *Incomplete and inaccurate application from eligible applicants.* If the Department determines an application from an eligible applicant to be incomplete or inaccurate, final processing of the application may be discontinued or additional data may be requested. If additional data is requested, the request will be in writing and will be sent to the applicant address listed on the AEPP application. The processing of the application will cease until the applicant supplies the requested data. The Department may terminate the processing of an incomplete application when the additional data is not supplied within 10 business days of the request for the data.

(6) *Order of participation availability.* Availability of participation will be reserved in order of receipt of a completed application and full payment by an approved applicant. If an activity has more applicants than available slots the Department may increase the number of slots available, or place applicants on a waiting list for space in the event of a cancellation or default.

(i) The waiting list will be setup in order of receipt of a completed and approved application.

(ii) Slots, which become available due to cancellation or default, will be assigned in order of the waiting list.

(iii) Applicants on the waiting list will be notified in writing of a cancellation or default. That person will have 7 days from date of notification to respond in writing—either accepting or rejecting—the available slot.

(iv) Payment in full must accompany a letter of acceptance.

(v) Failure to respond in 7 days from date of notification will be considered a rejection by the wait-listed applicant and the Department will notify the next applicant on the wait list.

(7) *Advisory Committee.* The Advisory Committee has no authority to and will not review or have input into individual AEPP applications. The Advisory Committee will recommend overall program priorities for each program to the Secretary. Additionally, the Advisory Committee will recommend the amount of funds to be allocated to each program.

§ 106.167. Notice of disposition of application.

(a) *Applications deemed complete.* The Department will notify applicants within 30 days of receipt of their completed application of a decision to approve, approve with special conditions or reject the application. Approved applicants shall submit the participation fee in the AEPP application, in full, within 10 days of receipt of the Department's approval letter.

(b) *Applications deemed incomplete or ineligible.* Within 30 days of receipt of an application, the Department will notify the applicant of a decision to reject the application or notify the applicant of a deficiency in the application and request additional data. If additional data is requested, notification will be in writing and detail the additional data needed. The Department will follow the procedures in § 106.166(b)(5) (relating to processing of applications).

§ 106.168. Approved participant cancellation policy.

(a) *Deadline.* Approved participants shall submit any cancellations in writing to the Department at least 30 days prior to the beginning date of the specific AEPP activity.

(b) *Reimbursement.* In the event of cancellation by an approved applicant, the Department will attempt to reallocate the AEPP slot. If successful, 75% of the AEPP participation fee for the activity will be returned to the canceling approved participant. Otherwise, the fee is forfeited to the Department in its entirety.

§ 106.169. Notice of program activity.

(a) Eligible applicants will be notified of AEPP activities in any of the following manners:

(1) *Pennsylvania Bulletin.* Availability of upcoming AEPP activities will be printed in the *Pennsylvania Bulletin*.

(2) *Direct mailing.* A mailing targeted to each aquaculture propagator or aquaculture-related business, or both, registered with the AEPP administrator at the date of mailing.

(b) *Information to be included in notice.* The notice and mailing will include the activity name, dates (show and set-up), location, participation fee, activity package description, number of participation slots available and how an application may be requested.

§ 106.170. Conflict of interest.

A member of the Advisory Committee may apply for participation in AEPP activities if all decisions regarding the application are subject to 65 Pa.C.S. § 1103(j) (relating to restricted activities) and the action does not violate the State Adverse Interest Act (71 P. S. §§ 776.1—776.9) or 4 Pa. Code Chapter 7, Subchapter K (relating to code of conduct for appointed officials and State employees).

§ 106.171. Recordkeeping.

An AEPP participant shall maintain all receipts, supporting documents, exit reports and other documents pertaining to the AEPP activity. These records shall be retained for 1 year beginning at the conclusion of the activity. The records shall be made available to the Department upon request.

§ 106.172. Cancellation/default.

An activity or participant approval may be canceled by the Department upon a determination that the approved participant has violated any provision of the act, this chapter or the participation agreement, the approved

participant violated the activity's rules, or upon failure of the approved participant to satisfy the verification requirements of this chapter.

§ 106.173. Right of recovery.

The Department has the right to make claim for and receive from the approved participant any funds not expended in accordance with the act, this chapter or the participation agreement.

§ 106.174. Deficits.

The Department's financial obligation is limited to the participation fee for the specific activity.

[Pa.B. Doc. No. 02-891. Filed for public inspection May 17, 2002, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking, 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 May 7, 2002.

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
5-2-02	S&T Bancorp, Inc., Indiana, to acquire 100% of the voting shares of Peoples Financial Corporation, Inc., Ford City	Indiana	Filed

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-2-02	S&T Bank, Indiana, and PFC Bank, Ford City Surviving Institution— S&T Bank, Indiana	Indiana	Filed
5-3-02	First Commonwealth Bank, Indiana, and Southwest Bank, Greensburg Surviving Institution— First Commonwealth Bank, Indiana	Indiana	Filed

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-3-02	The Bryn Mawr Trust Company Bryn Mawr Montgomery County	3601 West Chester Pike Newtown Square Newtown Township Delaware County	Filed

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-6-02	Bank of Hanover and Trust Company Hanover York County	<i>To:</i> 29 Baltimore Blvd. Westminster Carroll County, MD <i>From:</i> 223 East Main Street Westminster Carroll County, MD	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Filed</i>
4-30-02	First Commonwealth Bank Indiana Indiana County	269 King Street Petersburg Huntingdon County	Effective

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

JAMES B. KAUFFMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-892. Filed for public inspection May 17, 2002, 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 the 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

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<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>
PA0063517 (Minor Re- newal)	Bonham's Nursing Center R. R. 1, Box 64 Stillwater, PA 17878	Huntington Township Luzerne County	Pine Creek 5C	Y
PA0063614 (Minor Re- newal)	Penn Lake Park Borough Sewer Authority P. O. Box 14 White Haven, PA 18661	Luzerne County Penn Lake Park Bor- ough	Wright Creek 2A	Y
PA0062863 (Minor Re- newal)	Pike County Commissioners 506 Broad Street Milford, PA 18337	Blooming Grove Township Pike County	Billing Creek 1D	Y

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

<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>
PA0085332	Delta Borough 602 Main Street P. O. Box 278 Delta, PA 17314	York County Delta Borough	Scott Creek 7-I	Y
PA0111350	Borough of Petersburg P. O. Box 6 Petersburg, PA 16669-0006	Huntingdon County Petersburg Borough Logan Township	Shavers Creek 11B	Y

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>
PA0114057 Sewerage Nonpublic	White Deer Run Inc. Devitt Camp Road P. O. Box 97 Allenwood, PA 17810-0097	Union County Gregg Township	White Deer Hole Creek 10C	Y
PA0209279 Sewerage Nonpublic	Robert and Roxanne Sarvis 265 Hilkert Road Danville, PA 17821	Columbia County Madison Township	Little Fishing Creek 5C	Y

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

PA0037931, Sewage, **Cambridge Area Joint Authority**, 161 Carringer Street, Cambridge Springs, PA 16403. This proposed facility is located in Cambridge Township, **Crawford County**.

Description of Proposed Activity: Existing discharge of treated sewage.

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 General Authority of the City of Franklin on French Creek located at Franklin, approximately 41 miles below point of discharge.

The receiving stream, unnamed tributary to French Creek, is in watershed 16-A and classified for: WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.015 MGD.

There is a schedule for abandonment of this package sewage treatment plant and tie-in to a regional treatment facility by August 1, 2004.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		XX
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ —N			
(5-1 to 10-31)	2		4
(11-1 to 4-30)	6		12
Fecal Coliform			
(5-1 to 9-30)		200/100ml as a geometric average	
(10-1 to 4-30)		2,000/100ml as a geometric average	
Total Residual Chlorine	.5		1.2
Dissolved Oxygen		minimum of 3 mg/l at all times	
PH		6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

PA0002151, Industrial Waste, **Pittsburgh Corning Corporation**, P. O. Box 39, 723 North Main Street, Port Allegany, PA 16743. This proposed facility is located in Liberty Township, **McKean County**.

Description of Proposed Activity: Renewal of NPDES discharge of contact quench water, noncontact cooling water and stormwater.

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 Pennsylvania/New York state line located approximately 18 miles below point of discharge.

The receiving stream, the Allegheny River, is in watershed 16-C and classified for: CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.259 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
Oil and Grease	15		30
Temperature			
(9-1 to 9-15)		Discharge Temperature Daily Average	
(9-16 to 9-30)		94	
(10-1 to 10-15)		88	
(10-16 to 10-31)		85	
(11-1 to 11-15)		81	
pH		86	
		6.0 to 9.0 standard units at all times	

NOTICES

The proposed effluent limits for Outfall 002 based on a design flow of 0.252 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
Oil and Grease	15		30
Temperature		<i>Discharge Temperature Daily Average</i>	
(9-1 to 9-15)		94	
(9-16 to 9-30)		88	
(10-1 to 10-15)		85	
(10-16 to 10-31)		81	
(11-1 to 11-15)		86	
pH		6.0 to 9.0 standard units at all times	

The proposed effluent limits for Outfall 003 based on a design flow of 0.009 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
Oil and Grease	15		30
Temperature		<i>Discharge Temperature Daily Average</i>	
(9-1 to 9-15)		94	
(9-16 to 9-30)		88	
(10-1 to 10-15)		85	
(10-16 to 10-31)		81	
(11-1 to 11-15)		86	
pH		6.0 to 9.0 standard units at all times	

The proposed effluent limits for Outfall 004 based on a design flow of n/a MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
This discharge shall consist of uncontaminated stormwater runoff only. Refer to Special Condition in Part C of this permit.			

XX—Monitor and report on monthly DMRs.

The EPA Waiver is in effect.

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

Southeast Region: Water Management Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

No. PA0052159, Industrial Waste, **Philadelphia Suburban Water Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489. This application is for renewal of an NPDES permit to discharge treated process wastewater from a water filtration plant in Middletown Township, **Delaware County**. This is an existing discharge to Ridley Creek.

The proposed effluent limits for Outfall 001, based on an average flow 0.15 MGD are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids	30	60	75
Dissolved Oxygen	Minimum of 5.0 mg/l at all times		
Total Residual Chlorine	0.5		1.0
pH	Within Limits of 6.0—9.0 Standard Units at all times.		
Total Aluminum	4.0	8.0	10.0
Total Iron	2.0	4.0	5.0
Total Manganese	1.0	2.0	2.5
Chloroform	Monitor/Report		
Chlorodibromomethane	Monitor/Report		
Dichlorobromomethane	Monitor/Report		

The proposed effluent limits for Outfall 002, based on an emergency discharge are as follows:

<i>Parameter</i>	<i>Maximum Daily (mg/l)</i>
Total Suspended Solids	60
Total Aluminum	8.0
Total Iron	4.0
Total Manganese	2.0

<i>Parameter</i>	<i>Maximum Daily (mg/l)</i>
pH	Within limits of 6.0—9.0 Standard Units at all times
Chloroform	Monitor/Report
Dichlorobromomethane	Monitor/Report
Chlorodibromomethane	Monitor/Report
Dissolved Oxygen	Minimum of 5.0 mg/l at all times.
Total Residual Chlorine	1.0

The proposed effluent limits for Outfall 004, based on an intermittent discharge are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine	0.5		1.0
pH	Within limits of 6.0—9.0 standard Units at all times.		

The proposed effluent limitations for following Outfalls are as follows:

<i>Outfall No.</i>	<i>Descriptions</i>	<i>Monitoring Requirements*</i>
003	Storm Drain	None
003a	Storm Drain	None
005	Chester Creek to Ridley Creek	None
006	Main Line Drain	None
007	Bottom Drain from Sludge Lagoon	None
008	Groundwater Drain from Spring House	None

* There shall be no discharge of floating solids or visible foam in other than trace amounts.

Northeast Region: Water Management Program Manager; 2 Public Square, Wilkes-Barre, PA 18711-0790.

PA-0062219, Sewage, **Frackville Area Municipal Authority**, 41 North Lehigh Avenue, Frackville, PA 17931. This proposed facility is located in Butler Township, **Schuylkill County**.

Description of Proposed Activity: Renewal of NPDES Permit to discharge treated sewage from their existing treatment plant.

The receiving stream, Little Mahanoy Creek, is in the State Water Plan watershed #6B and is classified for: aquatic life, CWF, water supply and recreation. The nearest downstream public water supply intake for Ashland Borough is located on Ashland Reservoir is 1 mile below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 1.4 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>
CBOD ₅	10.0	15.0	20.0
Total Suspended Solids	30.0	45.0	60.0
NH ₃ —N			
(5-1 to 10-31)	2.5	3.5	5.0
(11-1 to 4-30)	7.5	11.0	15.0
Phosphorus as "P"	1.0	1.5	2.0
Dissolved Oxygen	A minimum of 6.0 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.		
NO ₂ plus NO ₃ —N	11.0	16.0	22.0

The EPA waiver is not in effect.

PA# 0052850, Sewage, **Stockertown Borough**, P. O. Box 174, 209 Main Street, Stockertown, PA 18083. This proposed facility is located in Stockertown Borough, **Northampton County**.

Description of Proposed Activity: Renewal of NPDES Permit to discharge treated sewage from their existing treatment plant.

The receiving stream, Little Bushkill Creek, is in the State Water Plan watershed #1F and is classified for: HQ-CWF. The nearest downstream public water supply intake for Neshaminy Water Resources Authority is located in Delaware is approximately 40 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .0865.

Parameter	Average		Maximum Daily (mg/l)
	Monthly (mg/l)	Weekly (mg/l)	
CBOD ₅			
(5-1 to 10-31)	20	30	40
(11-1 to 4-30)	25	37.5	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	3		6
(11-1 to 4-30)	9		18
Phosphorus as "P"	2		4
Dissolved Oxygen	A minimum of 4 mg/l at all times.		
Fecal Coliform	200/100 ml as a geometric mean		
PH	6.0 to 9.0 standard units at all times.		

PA-0036463, Sewage, **OMNOVA Solutions, Inc.**, 175 Gheat Road, Fairlawn, OH 44373. This proposed facility is located in West Brunswick Township, **Schuylkill County**.

Description of Proposed Activity: Renewal of NPDES Permit to discharge treated sewage and noncontact cooling water from their existing treatment plant.

The receiving stream, wet weather channel to Schuylkill River, is in the State Water Plan watershed #3A and is classified for CWF. The nearest downstream public water supply intake for Pottstown Water Authority is located on Schuylkill River is approximately 40 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .018 MGD.

Parameter	Mass (lb/day)		Concentration (mg/l)	
	Average	Maximum	Average	Maximum
	Monthly	Daily	Monthly	Daily
pH	6 to 9 Standard Units			
Dissolved Oxygen	Minimum of 2 mg/l at all times.			
Oil and Grease			15	30

Internal Monitoring Point 101

Parameter	Mass (lb/day)		Concentration (mg/l)	
	Average	Maximum	Average	Maximum
	Monthly	Daily	Monthly	Daily
CBOD ₅			25	50
TSS			30	60
Fecal Coliform				
(5-1 to 9-30)			200/100 ml	Geometric Average
(10-1 to 4-30)			2,000/100 ml	Geometric Average
pH	6 to 9 Standard Units			
TRC			1.2	2.8

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

Application No. PA0013129, Industrial Waste, SIC Code 3315, **Carpenter Technology Corporation**, P. O. Box 14662, Reading, PA 19612. This facility is located in Reading City, **Berks County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated industrial waste.

The receiving stream, Schuylkill River, is in Watershed 3-C and classified for WWF, water supply and recreation and fish consumption. The nearest downstream public water supply intake for the Pottstown Borough water supply is located on the Schuylkill River. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 109 for a design flow of 1.45 MGD are:

Discharge Parameter	Mass Units (lbs/day)		Concentrations (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report	Monitor and Report	XXX	XXX	XXX
pH (S.U.)	From 6.0 to 9.0 inclusive				
Total Suspended Solids	340	680	30	60	75

<i>Discharge Parameter</i>	<i>Mass Units (lbs/day)</i>		<i>Concentrations (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Oil and Grease	121	473	Monitor and Report	Monitor and Report	30
Total Chromium	3.60	9.80	Monitor and Report	Monitor and Report	0.745
Chromium, VI	Monitor and Report	Monitor and Report	0.06	0.12	0.160
Total Nickel	2.70	4.80	Monitor and Report	Monitor and Report	0.558
Total Cyanide	0.277	0.832	Monitor and Report	Monitor and Report	0.058
Naphthalene	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	XXX
Tetrachloroethylene	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	XXX
1,1,1-Trichloroethane	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	XXX
Nitrate as N	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	XXX
NH ₃ —N	Monitor and Report	Monitor and Report	45	90	90
Total Cadmium	Monitor and Report	Monitor and Report	0.03	0.06	0.07
Total Silver	Monitor and Report	Monitor and Report	0.03	0.06	0.07
TTO	Monitor and Report	Monitor and Report	XXX	0.27	XXX
Total Copper	Monitor and Report	Monitor and Report	0.16	0.32	0.40

The proposed effluent limits for Outfalls 004, 005, 009, 011—014 are:

<i>Discharge Parameter</i>	<i>Mass Units (lbs/day)</i>		<i>Concentrations (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report	Monitor and Report	XXX	XXX	XXX
pH (S.U.)			From 6.0 to 9.0 inclusive		
Temperature	XXX	XXX	XXX	110°F	110°F

The proposed effluent limits for the stormwater outfalls are:

<i>Parameter</i>	<i>Monitoring Requirements</i>	
	<i>Grab Sample (mg/l)</i>	<i>Monitor Frequency</i>
Chromium, VI	Monitor and Report	1/6 months
Total Nickel	Monitor and Report	1/6 months
Total Suspended Solids	Monitor and Report	1/6 months
Total Zinc	Monitor and Report	1/6 months
Total Copper	Monitor and Report	1/6 months
Total Iron	Monitor and Report	1/6 months
Total Lead	Monitor and Report	1/6 months
Oil and Grease	Monitor and Report	1/6 months
pH (S.U.)	Monitor and Report	1/6 months

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is not in effect.

Application No. PA 0246565, Industrial Waste, SIC Code 3273, **Kinsley Concrete**, 629 Loucks Mill Road, York, PA 17403. This facility is located in Spring Garden Township, **York County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated industrial waste.

The receiving stream, an unnamed tributary of Codorus Creek, is in Watershed 7-H and classified for WWF, water supply and recreation and fish consumption. The nearest downstream public water supply intake for Wrightsville Water Supply Co. 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 (industrial waste and stormwater) are:

Parameter	Concentration (mg/l)		
	Average Monthly	Maximum Daily	Instantaneous Maximum
pH		6.0 to 9.0 S.U. at all times	
Total Suspended Solids	Monitor and Report	XXX	50
Total Aluminum	Monitor and Report	XXX	XXX
Oil and Grease	Monitor and Report	XXX	XXX

The proposed effluent limits for Outfall 101 (industrial waste) based on a design flow of 0.018 MGD are:

Parameter	Concentration (mg/l)		
	Average Monthly	Maximum Daily	Instantaneous Maximum
pH		6.0 to 9.0 S.U. at all times	
Total Suspended Solids	Monitor and Report	XXX	50
Total Aluminum	Monitor and Report	XXX	XXX
Oil and Grease	Monitor and Report	XXX	XXX
MBAS	XXX	Monitor and Report	XXX
2-Butoxyethanol	XXX	Monitor and Report	XXX

In addition to the effluent limits, the permit contains special conditions for stormwater Best Management Practices.

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is in effect.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

PA0228559, Industrial Waste SIC, 1611, **Glenn O. Hawbaker, Inc.**, 711 East College Avenue, Bellefonte, PA 16823. This existing facility is located in Sandy Township, **Clearfield County**.

Description of Proposed Activity: This proposed action is for issuance of an NPDES permit for a proposed discharge of treated industrial wastewater.

The receiving stream, unnamed tributary of Sandy Lick Creek, is in the State Water Plan watershed 17C and classified for: CWF. The nearest downstream public water supply intake for Hawthorn Area Water Authority is located on Redbank Creek is 53 miles below the point of discharge.

The trucking washing pad proposed effluent limits for Outfall 001 based on a design flow of 0.002 MGD.

Parameter	Mass Units (lb/day)		Concentrations (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
pH			Within the Range of 6.0 to 9.0		
TSS			30	100	150
Oil and Grease			15		30

The shop building proposed effluent limits for Outfall 004 based on a design flow of 0.002 MGD.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
pH			Within the Range of 6.0 to 9.0		
TSS			30	100	150
Oil and Grease			15		30

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; (412) 442-4000.

PA0021610, Sewage, **Blairsville Municipal Authority**, 203 East Market Street, Blairsville, PA 15717. This application is for renewal of an NPDES permit to discharge treated sewage from Blairsville Municipal Authority STP in Burrell Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Conemaugh River, which are classified as a WWF 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 Saltsburg Municipal Waterworks.

Outfall 001: existing discharge, design flow of 0.903 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a geometric mean 100,000/100 ml as a geometric mean		
Total Residual Chlorine	0.5			1.6
pH		not less than 6.0 nor greater than 9.0		

Outfalls 002—011, 013, 014, 016 and 017, which discharge to the receiving waters known as Sulfur Run and the Conemaugh River, serve as combined sewer overflows necessitated by stormwater entering the sewer system and exceeding the hydraulic capacity of the sewers and/or the treatment plant. These combined sewer overflows are permitted to discharge only for this reason. There are at this time no specific effluent limitations on the outfalls. Each discharge shall be monitored for cause, frequency, duration and quantity of flow.

The EPA waiver is in effect.

PA0022292, Sewage, **Municipal Authority of the Borough of Ebensburg**, 300 West High Street, Ebensburg, PA 15931. This application is for Renewal of an NPDES permit to discharge treated sewage from Ebensburg Wastewater Treatment Plant in Cambria Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Howells Run, which are classified as a CWF 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 Saltsburg Municipal Water Authority.

Outfall 001: existing discharge, design flow of 1.25 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen (5-1 to 10-31) (11-1 to 4-30)	2.0 3.5	3.0 5.3		4.0 7.0
Phosphorus	1.5	2.3		3.0
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean 2,000/100 ml as a geometric mean			
Total Residual Chlorine	.08			.27
Dissolved Oxygen	not less than 6 mg/l			
pH	not less than 6.0 nor greater than 9.0			

Other Conditions: The following effluent limitations will apply when the treatment plant is expanded to a flow of 2.4 mgd.

Outfall 001: Proposed discharge, design flow of 2.4 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen (5-1 to 10-31) (11-1 to 4-30)	2.0 3.5	3.0 5.3		4.0 7.0
Phosphorus	1.5	2.3		3
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean 2,000/100 ml as a geometric mean			
Total Residual Chlorine	.06			.19
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

PA0023701, Sewage, **Midland Borough Municipal Authority**, 10th Street and Railroad Avenue, Midland, PA 15059. This application is for renewal of an NPDES permit to discharge treated sewage from the Midland Borough Municipal Authority STP in Midland Borough, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Ohio River, which are classified as a WWF 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 City of East Liverpool, OH on the Ohio River.

Outfall 001: existing discharge, design flow of 1.25 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	38		50
Suspended Solids	30	45		60
Fecal Coliform				
(5-1 to 10-31)	200/100 ml as a geometric mean			
(11-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.0			3.3
pH	not less than 6.0 nor greater than 9.0			

Other Conditions: Outfall 002, which discharges to the receiving waters known as Ohio River, serves as a combined sewer overflow necessitated by stormwater entering the sewer system and exceeding the hydraulic capacity of the sewers and/or the treatment plant. This combined sewer overflow is permitted to discharge only for this reason. There are at this time no specific effluent limitations on the outfall. Each discharge shall be monitored for cause, frequency, duration and quantity of flow.

The EPA waiver is not in effect.

PA0026026, Sewage, **New Brighton Borough Sanitary Authority**, 610 Third Street, New Brighton, PA 15066. This application is for renewal of an NPDES permit to discharge treated sewage from the New Brighton Borough Sanitary Authority Sewage Treatment Plant in New Brighton Borough, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Beaver River, which are classified as a WWF 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 Midland Borough Water Authority.

Outfall 001: existing discharge, design flow of 1.04 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	100,000/100 ml as a geometric mean			
Total Residual Chlorine	0.5			1.6
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

PA0026158, Sewage, **Mon Valley Sewage Authority**, P. O. Box 792, Donora, PA 15033. This application is for renewal of an NPDES permit to discharge treated sewage from the Mon Valley Wastewater Treatment Plant in Carroll Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as the Monongahela River, which are classified as a WWF 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 Aldrich Station.

Outfall 001: existing discharge, design flow of 3.66 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
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	0.5			1
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

PA0027391, Sewage, **Upper Allegheny Joint Sanitary Authority**, 320 Fourth Avenue, Tarentum, PA 15084. This application is for renewal of an NPDES permit to discharge treated sewage from the Upper Allegheny Joint Sanitary Authority STP in East Deer Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Allegheny River, which are classified as a WWF 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 Oakmont Municipal Water Works.

Outfall 001: existing discharge, design flow of 6.0 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	38		50
Suspended Solids	30	45		60
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	0.5			1.6
pH	not less than 6.0 nor greater than 9.0			

Other Conditions: Outfalls 002—021 will be repermited as combined sewer outfalls.

The EPA waiver is not in effect.

PA0028436, Sewage, **Elizabeth Borough Municipal Authority**, P. O. Box 268, Elizabeth, PA 15037. This application is for renewal of an NPDES permit to discharge treated sewage from Elizabeth Borough STP in Elizabeth Borough, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Monongahela River, which are classified as a WWF 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 Pennsylvania-American Water Company, Pittsburgh District.

Outfall 001: existing discharge, design flow of 1.2 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	35,000/100 ml as a geometric mean			
Total Residual Chlorine	0.5			1.6
pH	not less than 6.0 nor greater than 9.0			

Other Conditions: Outfalls 003—008 which discharge to the receiving waters known as Monongahela River serve as combined sewer overflows necessitated by stormwater entering the sewer system and exceeding the hydraulic capacity of the sewers and/or the treatment plant and are permitted to discharge only for this reason. There are at this time no specific effluent limitations on the outfalls. Each discharge shall be monitored for cause, frequency, duration and quantity of flow.

The EPA waiver is not in effect.

PA0032671, Sewage, **Meredith H. Miller**, 2313 Country Place, Export, PA 15632. This application is for renewal of an NPDES permit to discharge treated sewage from Meadows Mobile Home Park STP in Washington Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Pine Run, which are classified as a WWF 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 Freeport Water Company.

Outfall 001: existing discharge, design flow of 0.018 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	5.0			10.0
(11-1 to 4-30)	15.0			30.0

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	5000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0043729, Sewage, **Hampton Township Sanitary Authority**, 3101 McCully Road, Allison Park, PA 15101. This application is for renewal of an NPDES permit to discharge treated sewage from Allison Park STP in Hampton Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Pine Creek, which are classified as a TSF 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 West View Borough Municipal Water Authority.

Outfall 001: existing discharge, design flow of 3.2 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅ (5-1 to 10-31)	15	23		30
(11-1 to 4-30)	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen (4-1 to 11-30)	1.5	2.3		3.0
(12-1 to 2-29)	4.5	6.8		9.0
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	0.5			1.6
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

PA0094064, Sewage, **Gary Ritchey and Jay Ritchey**, P. O. Box 277, Ebensburg, PA 15931. This application is for Renewal of an NPDES permit to discharge treated sewage from Keystone Restaurant and Truck Stop STP in Munster Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Noels Creek, which are classified as a HQ-CWF 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 Saltsburg Municipal Water Works.

Outfall 001: existing discharge, design flow of 0.0072 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	10			20
Suspended Solids	25			50
Ammonia Nitrogen (5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	4.0			8.0
Nitrite/Nitrate	10			20
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			.2
Dissolved Oxygen	not less than 7.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0094757, Sewage, **E. J. Holtz Sewage Plant, Inc.**, 633 Logan Boulevard, Altoona, PA 16602. This application is for renewal of an NPDES permit to discharge treated sewage from Lake Cresson Manor STP in Allegheny Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Clearfield Creek, which are classified as a WWF 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 Pennsylvania-American Water Company at Milton.

Outfall 001: existing discharge, design flow of 0.0075 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	50,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

Other Conditions: The following effluent limitations will apply if/when the treatment plant is expanded to a flow of 0.025 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	20.0			40.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	20,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0097594, Sewage, **Ron Davidson Chevrolet**, 3885 Admiral Perry Highway, Ebensburg, PA 15931. This application is for renewal of an NPDES permit to discharge treated sewage from the Ron Davidson Chevrolet STP in Cambria Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Stewart Run, which are classified as a HQ-CWF 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 Saltsburg Municipal Water Works.

Outfall 001: existing discharge, design flow of 0.00037 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	10			20
Suspended Solids	10			20
Trichloroethylene	.35			.70
Ammonia Nitrogen				
(5-1 to 10-3)	3.0			6.0
(11-1 to 4-30)	9.0			18.0
Oil and Grease	15			30
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				
(1st Month to 36th Month)	Monitor and Report			
(37th Month to Expiration)	0.5			1.0
Dissolved Oxygen	not less than 5.0 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.

PA0023043, Sewage, **Borough of North East**, 58 East Main Street, North East, PA 16428. This proposed facility is located in North East Township, **Erie County**.

Description of Proposed Activity: Renewal for an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂—NO₃, fluoride and phenolics, there is no existing/proposed downstream potable water supply (stream and public water supplier) to consider.

The receiving stream, Sixteen Mile Creek, is in watershed #15 and classified for: WWF and MF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 2.1 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		XX
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	1.5		3.0
(11-1 to 4-30)	4.5		9.0
Phosphorus as "P"	1.0		
Dissolved Oxygen		minimum of 6.0 mg/l at all times	
Total Residual Chlorine	0.037		0.12
Copper			
Interim	.033		0.066
Final	0.024		0.048
Dichlorobromomethane			
Interim	0.0037		0.0074
Final	0.0023		0.0046
Chloroform			
Interim	0.043		0.086
Final	0.024		0.048
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		2,500/100 ml as a geometric average	
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is not in effect.

PA0238783, Sewage, **Flynn's Tire Sales Small Flow Treatment Facility**, West Market Street Ext., Mercer, PA 16137. This proposed facility is located in Lackawannock Township, **Mercer County**.

Description of Proposed Activity: A new treated minor discharge from a privately owned sewage treatment works.

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 River and Beaver Falls Municipal Authority located at River Mile 3.76, 43.5 miles below point of discharge.

The receiving stream, unnamed tributary to the Little Neshannock Creek, is in watershed 20-A and classified for: TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0005 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow		Monitor and Report	
CBOD ₅	10		20
Total Suspended Solids	20		40
NH ₃ -N			
(5-1 to 10-31)	3		6
(11-1 to 4-30)	9		18
Fecal Coliform		200/100 ml as a geometric average	
Total Residual Chlorine	1.4		3.3
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is 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).

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. 4602405, Sewerage, **Skippack Township Authority**, 1246 Bridge Road, P. O. Box 164, Skippack, PA 19474. This proposed facility is located in Skippack Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation of the West Side Sanitary Sewer extension, a proposed gravity sewer.

WQM Permit No. 4602406, Sewerage, **Souderton School District**, 760 Lower Road, Souderton, PA 18964-2311. This proposed facility is located in Franconia Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation of a sanitary sewer line and pump station to serve the Vernfield Elementary School.

WQM Permit No. 1502403, Sewerage, **Upper Uwchlan Township**, 140 Pottstown Pike, Chester Springs, PA 19425. This proposed facility is located in Upper Uwchlan Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a wastewater treatment facility to serve the proposed Greenridge Subdivision and the existing Stonebridge Development.

WQM Permit No. 1502404, Sewerage, **East Goshen Municipal Authority**, 1580 Paoli Pike, West Chester, PA 19380. This proposed facility is located in East Goshen Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation to expand the Ridley Creek STP from 0.400 mgd to 0.750 mgd.

WQM Permit No. 1502405, Sewerage, **New Garden Township Sewer Authority**, 8934 Gap Newport Pike, Landenberg, PA 19350. This proposed facility is located in New Garden Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a forcemain sewer extension.

WQM Permit No. 2302201, Industrial Waste, **Philadelphia Suburban Water Company**, 762 W. Lancaster Avenue, Bryn Mawr, PA 19010-3489. This proposed facility is located in Middletown Township, **Delaware County**.

Description of Proposed Action/Activity: Construction and operation of an industrial wastewater treatment facility for the proposed Ridley Water Residual Management Facilities.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

WQM Permit No. 6702402, Sewerage, **Newberry Township Municipal Authority**, 1915 Old Trail Road, Eppers, PA 17319. This proposed facility is located in Newberry and East Manchester Townships, **York County**.

Description of Proposed Action/Activity: Construction of the Conewago Heights Sewer Extension.

WQM Permit No. 0602404, Sewerage, **County of Berks (Welfare Farm)**, Berks County Services Center, 633 Court Street, Reading, PA 19601. This proposed facility is located in Bern Township, **Berks County**.

Description of Proposed Action/Activity: Rerating from 0.3 to 0.5 mgd.

WQM Permit No. 2278407, Amendment 02-1, Sewerage, **Derry Township Municipal Authority**, 670 Clearwater Road, Hershey, PA 17033. This proposed facility is located in Derry Township, **Dauphin County**.

Description of Proposed Action/Activity: Renovations to the High Meadow Pumping Station.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

WQM Permit No. 5902404, Sewerage, **Delmar Township Supervisors**, R. R. 5 Box 70, Wellsboro, PA 16901. This proposed facility is located in Delmar Township, **Tioga County**.

Description of Proposed Action/Activity: The applicant proposes to construct sewers along SRs 6 and 287 north of the Borough of Wellsboro in the vicinity of Stokesdale and Wellsboro Junction. Treatment will be provided at the Wellsboro Borough wastewater treatment plant.

WQM Permit No. 4102402, Sewerage, **Muncy Creek Township Sewer Authority**, 575 Route 442 Highway, Muncy, PA 17756. This proposed facility is located in Muncy Creek Township, **Lycoming County**.

Description of Proposed Action/Activity: The applicant proposes to construct sewers to serve the SRs 442 and 405 corridors. Waste generated to the east of Muncy Creek will be treated at the Hughesville-Wolf wastewater treatment plant, while waste generated to the west of Muncy Creek will be treated at the Muncy Borough wastewater treatment plant.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Application No. 6302201, Industrial Waste, **McHolme Builders Inc**, 315 Payday's Drive, Elizabeth, PA 15037-9442. Application for the construction and operation of a runoff associated with stormwater associated with grading activities for a proposed residential development to serve the Hidden Brook Manor located in Peters Township, **Washington County**.

Application No. 2670403-A4, Sewerage, **Greater Uniontown Joint Sewage Plant Authority**, 90 Romeo Lane, Uniontown, PA 15401. Application for the modification and operation of the Uniontown Wastewater Treatment Plant to serve the City of Uniontown located in North Union Township, **Fayette County**.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No 2502407, Sewerage, **Barry K. and Connie L. Henderson**, 8678 Maplecrest Drive, McKean, PA 16426. This proposed facility is located in Washington Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

WQM Permit No 2002407, Sewerage, **Joe E. and Kathleen M. Davis**, 7860 Dutch Hill Road, Meadville, PA 16335. This proposed facility is located in Union Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

WQM Permit No 2002408, Sewerage, **Scott T. and Kendra S. Durfee**, 17709 Marshall Road, Meadville, PA 16335. This proposed facility is located in Hayfield Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

WQM Permit No 2502409, Sewerage, **Peter Kroemer**, 12561 Hamilton Road, Edinboro, PA 16412. This proposed facility is located in Washington Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

WQM Permit No 2502410, Sewerage, **Paul Fails**, 25685 North Mosiertown Road, Edinboro, PA 16412. This proposed facility is located in Greenfield Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

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 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 G523, Stormwater, **Nelson Realty Trust**, 100 Vanguard Boulevard, Malvern, PA 19355, has applied to discharge stormwater associated with a construction activity located in Uwchlan Township, **Chester County** to Shamona Creek (HQ-TSF) and Pickering Creek (HQ-TSF).

NPDES Permit PAS10-G524, Stormwater, **Corby Road Associates**, 5169 Woodmill Drive, Suite 10, Wilmington, DE 19808, has applied to discharge stormwater associated with construction activity located in Penn Township, **Chester County** to East Branch Big Elk Creek (HQ).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Lackawanna County Conservation District: 1300 Old Plank Road, Mayfield, PA 18433, (570) 281-9495.

<i>NPDES No.</i>	<i>Applicant Name & Address</i>
PAS10N029-1	First Industrial Acquisition, Inc. 200 Philips Road Exton, PA 19341-1326

<i>County & Municipality</i>	<i>Receiving Water/Use</i>
Lackawanna County Covington and Clifton Townships	Lake Run; Roaring Brook/ Lackawanna River Tamarack Creek; Meadow Brook/Lehigh River, HQ- CWF

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Westmoreland County Conservation District: R. D. 12, Box 202B, Donohoe Center, Greensburg, PA 15601, (724) 837-5271.

NPDES Permit PAS10X102, Stormwater, **Pennsylvania Department of Transportation**, P. O. Box 459, Uniontown, PA 15401 has applied to discharge

stormwater associated with a construction activity located in the City of Murrysville, **Westmoreland County** to Turtle Creek (HQ-WWF).

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Jefferson Conservation District: R. R. 5 Box 51, Brookville, PA 15825, (814) 849-7463.

NPDES Permit PAS103313, Stormwater, **DuBois Jefferson County Airport**, R. R. 2, Reynoldsville, PA 15851, has applied to discharge stormwater associated with a construction activity located in Washington Township, **Jefferson County** to Kyle Run Tributary to Falls Creek.

PUBLIC WATER SUPPLY (PWS) PERMITS

Under the Pennsylvania Safe Drinking Water Act, the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on the permit application are invited to submit a statement to the office listed before the application within 30 days 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. Comment 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 the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. 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 permit application and any related documents are on file at the office listed before the application and available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability that require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

Southcentral Region: Water Supply Management Program Manger, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 0502504, Public Water Supply.
 Applicant **New Enterprise Water Association**
 Municipality South Woodbury Township
 County **Bedford**
 Responsible Official Ray Reasy, President
 R. R. 1 Box 326
 New Enterprise, PA 16664
 Type of Facility PWS
 Consulting Engineer Timothy A. Cooper, P. E.
 Stiffler McGraw & Associates Inc
 19 N. Juniata Street
 Hollidaysburg, PA 16648

Application Received Date March 12, 2002
 Description of Action Construction of a 278,000-gallon finished water tank, pressure reducing station, booster pump station, transmission main and an interconnection with the Salemville Water Association.

Permit No. 0102505, Public Water Supply.
 Applicant **York Springs Municipal Authority**
 Municipality Huntington
 County **Adams**
 Responsible Official Roy M. Williams Jr., Chairperson
 P. O. Box 222
 York Springs, PA 17372
 Type of Facility PWS
 Consulting Engineer Janet R. McNally, P. E.
 William F. Hill & Assoc., Inc.
 207 Baltimore St.
 Gettysburg, PA 17325

Application Received Date April 12, 2002
 Description of Action Reconstruction of an existing, previously permitted spring into an infiltration gallery. Yield and treatment will remain unchanged.

Permit No. 0502506, Public Water Supply.
 Applicant **St. Clairsville Water Association**
 Municipality East St. Clair Township
 County **Bedford**
 Responsible Official Ella I. Imler, President
 P. O. Box 284
 Osterburg, PA 16667-0284
 Type of Facility PWS
 Consulting Engineer Mark V. Glenn, P. E.
 Gwin, Dobson & Foreman, Inc.
 3121 Fairway Dr.
 Altoona, PA 16602-4475

Application Received Date April 12, 2002
 Description of Action Addition of a spring to augment the existing water supply

Permit No. 6702508, Public Water Supply.
 Applicant **Shrewsbury Borough**
 County **York**
 Responsible Official Peter W. Schnabel, Council President
 35 W. Railroad Avenue
 Shrewsbury, PA 17361
 Type of Facility PWS
 Consulting Engineer Charles A. Kehew II, P. E.
 James R. Holley & Assoc., Inc.
 18 South George St.
 York, PA 17401

Application Received Date April 16, 2002

Description of Action Installation of a booster pump at an existing interconnection to allow Shrewsbury Borough to reverse flow from the low-service gradient of its distribution system to the high-service gradient as needed. A 100-gallon per minute pump will be installed in an existing, previously permitted subsurface vault.

Central Office: Bureau Director, Water Supply and Wastewater Management, P. O. Box 8467, Harrisburg, PA 17105-8467.

Permit No. 9996402, Public Water Supply.

Applicant **Great Spring Waters of America, Inc.**

Borough Framingham, MA

Responsible Official Paul Koschnitzke, Quality Control Manager

Type of Facility Out-of-State Bottled Water System

Application Received Date April 30, 2002

Description of Action Applicant requesting Department approval to add the sterling Spring source to their permit. Bottled water from this source to be sold in this Commonwealth under the brand name Great Bear Natural Spring Water.

MINOR AMENDMENT

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.

Application No. Minor Amendment.

Applicant **Pinecrest Lake Trust Water Company**

Township or Borough Tobyhanna Township

Responsible Official Brendon Carroll, Trustee
Pinecrest Lake Trust Water Company
P. O. Box 760
Pocono Pines, PA 18350

Type of Facility PWS

Application Received Date April 26, 2002

Description of Action Transfer of PWS Permit No. 2450141 issued on February 21, 2002, from the Pinecrest Development Corporation to the Pinecrest Lake Trust Water Company

Application No. 2409002, Minor Amendment.

Applicant **Pennsylvania-American Water Company**

Township or Borough Courtdale Borough
Luzerne County

Responsible Official Steven J. Seidl, V.P. Engineering
800 West Hersheypark Drive
Hershey, PA 17033

Type of Facility Community Water System

Consulting Engineer David G. Pennoni, P. E.
Pennoni Associates, Inc.
One Drexel Plaza
3001 Market Street
Philadelphia, PA 19104
(215) 222-3000

Application Received Date March 25, 2002

Description of Action Construction of an elevated 300,000 gallon finished water storage tank and approximately 140 linear feet of 12 inch water main in Courtdale Borough to replace an existing ground level storage tank.

Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Application No. Minor Amendment.

Applicant **Shamokin Dam Borough**

County **Snyder County**

Responsible Official Thomas A. McBryan, Jr.
Borough Manager
Shamokin Dam Borough
P. O. Box 273
Shamokin Dam, PA 17876-0273

Type of Facility PWS

Consulting Engineer Gannett Fleming, Inc.
P. O. Box 67100
Harrisburg, PA 17106

Application Received Date May 7, 2002

Description of Action Application to give the Borough flexibility to choose between existing alum coagulant and new DelPAC 2020 coagulant

WATER ALLOCATIONS

Application received under the Act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of this Commonwealth.

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

WA 22-172C, Water Allocations, Millersburg Area Authority, Dauphin County. The applicant is requesting the right to withdraw up to 1.0 million gallons per day (mgd) from the Wiconisio Creek located in Upper Paxton Township, Dauphin County. Consulting Engineer: Gene C. Koontz, Gannett Fleming, Inc. Date Application received January 8, 2002.

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 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:

Northeast Regional Field Office: Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Miller Property (3655 William Penn Highway), Palmer Township, Northampton County. David A. Everitt, III, Senior Environmental Scientist, MEA Inc., 201 Center Street, Stockertown, PA 18083 has submitted a Notice of Intent to Remediate (on behalf of Barry Miller, Zinfadel Court West, Easton, PA) concerning the remediation of soils found or suspected to have been contaminated with leaded and/or unleaded gasoline. The applicant proposes to meet the Statewide health standard. A summary of the Notice of Intent to Remediate was published in *The Express-Times* on March 22, 2002. A Final Report was simultaneously submitted.

Former Alliance America Facility, Borough of Port Carbon, Schuylkill County. Craig Herr, Staff Scientist, RT Environmental Services, Inc., 215 W. Church Road, King of Prussia, PA 19406 has submitted a Notice of Intent to Remediate (on behalf of JDSW Real Estate Limited Partnership, 5th and Mahantango Streets, Pottsville, PA) concerning the remediation of groundwater found or suspected to have been contaminated with solvents. The applicant proposes to remediate the site to meet the both the Statewide health and the site-specific standards. A summary of the Notice of Intent to Remediate was reportedly published in *The Pottsville Republican* on January 28, 2002.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Applications Received 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.

Southeast Region: Regional Solid Waste Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Permit Application No. 400674. Merck & Co., Inc., Sumneytown Pike (WP20-208), West Point, PA 19486. Application submitted for a renewal for the Rotary Kiln Incinerator. Facility located in Upper Gwynedd Township, **Montgomery County.** The application was received by the Southeast Regional Office on May 2, 2002.

Northcentral Region: Regional Solid Waste Manager; 208 West Third Street, Williamsport, PA 17701.

Permit Application No. 101201. Northern Tier Solid Waste Authority, P. O. Box 10, Burlington, PA 18814-0010, Hamilton Township, **Tioga County.** Renew permit. The application was received by the Williamsport Regional Office on May 1, 2002

Comments concerning the application should be directed to John C. Hamilton, P. E., Facilities Operations Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Persons interested in obtaining more information about the general permit application may contact the Williamsport Regional Office, (570) 327-3653. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to and approval or denial of the application.

AIR QUALITY
PLAN APPROVAL AND OPERATING PERMIT
APPLICATIONS
NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) 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 the Department, 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.

The Department 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 Department 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 Department 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. Comments or protests filed with the Department 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 the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior to 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 121-143, 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: Mark Wejkszner, Acting New Source Review Chief, (570) 826-2531.

40-399-050: Genova Products (502 Forest Road, Humboldt Industrial Park, Hazleton, PA 18202) for instal-

lation of an air cleaning device to control a PVC trimming operation in Hazle Township, **Luzerne County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

49-302-028A: Catawissa Lumber and Specialty, Inc. (P. O. Box 176, Catawissa, PA 17820-0179) for installation of air cleaning devices (two multiclones in series) on a 13.5 million Btu per hour wood-fired boiler in Ralpho Township, **Northumberland County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

42-111C: Ethan Allen Manufacturing Corp.—Eldred Division (Route 1, Eldred, PA 16731) for construction of a paint booth for coating wood furniture components in Eldred Township, **McKean County**.

24-083E: Carbone of America—GMD (215 Stackpole Street, St. Marys, PA 15857) for installation of an SO₂ scrubber to control emissions from seven existing carbon baking kilns in St. Marys, **Elk County**. Carbone of America is a Title V facility.

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.

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.

46-0005Q: Merck and Co., Inc. (770 Summeytown Pike, P. O. Box 4, West Point, PA 19486-0004) for installation of one 750 kW diesel fired emergency generator and one 1,500 kW diesel fired emergency generator for their West Point Plant in Upper Gwynedd Township, **Montgomery County**. The plan approval will subsequently be incorporated into the company's Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Based on the information provided by the applicant and the Department's own analysis, the two emergency generators will emit 11.51 tons per year of nitrogen oxides; 1.27 tons per year of carbon monoxide; 1.33 tons per year of sulfur dioxide; and 0.32 ton per year of VOCs. This is a major facility subject to 25 Pa. Code Chapter 127, Subchapter E. Merck & Co., Inc. recently requested that the Department approve the transfer of 20.7 tpy of NOx ERCs and 32.73 tpy of VOC ERCs to offset 15.9 tpy of NOx emissions and 24.62 tpy of VOC emissions. The NOx ERCs were generated from the overcontrol of boilers at the E.I. DuPont/DuPont DeNemours—Repauno facility in Gibbstown, Gloucester County, NJ. The VOC ERCs were generated from the shutdown of process units at the Minnesota Mining and Manufacturing facility in Bristol Township, Bucks County and the shutdown of presses QR-1 and QR-2 at the Avery Dennison Corporation—Fasson Roll North America facility in the Borough of Quakertown, Bucks County.

To assure compliance with the applicable standards, the Department has placed the following conditions in the proposed Plan Approval:

A. The company shall limit the hours of operation of each emergency generator to 400 hours per year, calculated as a 12 month rolling sum.

B. The company shall install, operate and maintain the emergency generator in accordance with the manufacturer's specifications as well as good air pollution control practices.

C. The emergency generator shall only be used during electrical failures or to perform preventative maintenance. The emergency generator shall not be used to supplement the primary power supply to the facility.

D. The company shall not combust No. 2 fuel/diesel fuel that has a sulfur content greater than 0.2%, by weight, in either generator.

E. The following air contaminant emission limits are approved for the 750 kW emergency generator.

i. Nitrogen Oxides (NO_x): 17.53 pounds per hour and 3.5 tons per year calculated as a 12 month rolling sum.

ii. Carbon Monoxide (CO): 3.24 pounds per hour and 0.65 ton per year calculated as a 12 month rolling sum.

iii. VOCs: 0.12 ton per year calculated as a 12 month rolling sum.

F. The following air contaminant emission limits are approved for the 1,500 kW emergency generator.

i. NO_x: 40 pounds per hour and 8 tons per year calculated as a 12 month rolling sum.

ii. CO: 3.1 pounds per hour and 0.62 ton per year calculated as a 12 month rolling sum.

iii. VOCs: 0.2 ton per year calculated as a 12 month rolling sum.

Copies of the application, the Department's analysis and other documents used in the evaluation are available for public inspection between the hours of 8 a.m. and 4 p.m. weekdays at the following address. To make an appointment, contact Records Management at (610) 832-6268, for an appointment.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted on the comments received during the public comment period. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines a notification is sufficient. Written comments or requests for a public hearing should be directed to Francine Carlini, Regional Air Quality Manager, Department of Environmental Protection, Southeast Regional Office, 555 North Lane, Lee Park, Suite 6010, Conshohocken, PA 19428, (610) 832-6242.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Mark Wejkszner, Acting New Source Review Chief, (570) 826-2531.

48-309-117: ESSROC Cement Corp. (3251 Bath Pike, Nazareth, PA 18064-8928) for installation of an air cleaning device (fabric collector) for Clinker Silo 524 at the Nazareth Plant I in Lower Nazareth Township, **Northampton County**. The particulate emissions from the fabric collector will not exceed the Best Available Technology standard of 0.01 grain/DSCFT (1.88 tons per year). The plan approval and operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements. The facility currently has a Title V Operating Permit No. 48-00004. This plan approval will, in accordance with 25 Pa. Code § 127.450, be

incorporated into the Title V Operating Permit through an administrative amendment at a later date.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

01-05017B: Quebecor World Fairfield, Inc. (100 North Miller Street, Fairfield, PA 17320) for construction of a two-unit double web offset lithographic printing press with two natural gas-fired heatset dryers (Web No. 7) at its Fairfield Plant in Fairfield Borough, **Adams County**. This source will increase the facility's potential VOC emissions by 12 tons. Ink oil aerosol emissions will be restricted to less than 5 lb/hr. The plan approval and operating permit administrative amendment will contain additional emission restrictions, work practice standards and monitoring, record keeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.

11-00370A: Laurel Highlands Landfill, Inc. (260 Laurel Ridge Road, Johnstown, PA 15909) for construction of a municipal waste landfill in Jackson Township, **Cambria County**.

03-00023A: Allegheny Energy Supply, L.L.C. (4350 Northern Pike, Monroeville, PA 15146) for installation of Rotating Over-Fire Air and Rotomix SNCR at the Armstrong Power Station in Washington Township, **Armstrong County**.

For the Department to assure compliance with all applicable standards, the Department proposes to place the following conditions on the Plan Approval:

Special Conditions for Plan Approval 63-00023a

1. This Plan Approval is for the installation of Mobotec designed Rotating Over-Fire Air and Rotomix tmSNCR at the Allegheny Energy Supply, L.L.C., Armstrong Power Station, Boilers 1 and 2, located in Washington Township, PA (25 Pa. Code § 127.11).

2. It is not an enforceable requirement that the NO_x control projects be operated at any given time (25 Pa. Code § 127.12b).

3. Ammonia emissions from boiler 031 and 032 shall each be limited to 10 ppmvd or less (at 15% oxygen) (25 Pa. Code § 127.12b).

4. Ammonia emissions from boiler 031 and 032 shall be limited to 124 tons per year (25 Pa. Code § 127.12b).

5. Stack testing shall be conducted on boiler 031 and 032 to determine the mass emission rate of particulate matter, carbon monoxide and the emission rate of ammonia (expressed in ppmvd). Testing should be conducted within 90 days of achieving maximum capacity operation of the NO_x control project on each unit (25 Pa. Code §§ 127.12b and 139.11).

(a) Stack testing shall be conducted in accordance with the provisions of 25 Pa. Code Chapter 139 and the Department's Source Testing Manual.

(b) At least 60 days prior to the test, the owner/operator shall submit to the Department two copies of the procedures for the stack test and drawings with dimensions indicating the location of sampling ports and other data to ensure the collection of representative samples.

(c) At least 15 days prior to the test, the Regional Air Quality Manager shall be informed of the date and time of the test.

(d) All relevant operating parameters (for example, boiler steam flow, air flow, gross megawatts, O₂; CEMS heat input and stack flue gas volumetric flow rate) shall be recorded at appropriate intervals throughout the duration of the stack tests. Operating data recorded shall be sufficient to establish that the units and the air cleaning devices are operating at maximum routine operating conditions. A discussion of the recorded operating parameters and values shall be included in the test report.

(e) Within 60 days after the stack test, two copies of the complete test report, including all recorded operating parameters, shall be submitted to the Regional Air Quality Manager for approval.

6. This Plan Approval authorizes temporary operation of the sources covered by this Plan Approval provided the following conditions are met (25 Pa. Code § 127.12b(d)).

(a) The Department must receive written notice from the Owner/Operator of the completion of construction and the operator's intent to commence operation at least 5 working days prior to the completion of construction. The notice should state when construction will be completed and when operator expects to commence operation.

(b) Operation is authorized only to facilitate the start-up and shake-down of sources and air cleaning devices, to permit operations pending the issuance of an Operating Permit or to permit the evaluation of the sources for compliance with all applicable regulations and requirements.

(c) This condition authorizes temporary operation of the sources for a period of 180 days from the date of commencement of operation, provided the Department receives notice from the Owner/Operator under subpart (a).

(d) The Owner/Operator may request an extension if compliance with all applicable regulations and Plan Approval requirements has not been established. The extension request shall be submitted in writing at least 15 days prior to the end of this period of temporary operation and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance and the reasons compliance has not been established.

(e) The notice submitted by the Owner/Operator, under subpart (a), prior to the expiration of this Plan Approval, shall modify the plan approval expiration date. The new plan approval expiration date shall be 180 days from the date of the written notice.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a newspaper, the *Pennsylvania Bulletin* or by telephone, where the Department determines notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to Regional Air Quality Program Manager, Department of Environmental Protection, Southwest Region—Field Operations, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

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: Michael Saffo, Facilities Permitting Chief, (570) 826-2531.

40-313-029C: Gemark Service Corp. (99 Stevens Lane, Exeter, PA 18643) for operation of metal recovery systems and associated air cleaning device in Exeter Borough, **Luzerne County**.

54-399-016C: World Resources Co. (170 Walnut Lane, Pottsville, PA 17901-8559) for operation of a metals reclamation process and associated air cleaning device in Norwegian Township, **Schuylkill County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

05-03004: Chestnut Ridge School District (P. O. Box 80, Fishertown, PA 15539) for the Central Elementary and High School complex in East Saint Clair Township, **Bedford County**. The facility's emission sources include four bituminous coal fired boilers, which primarily emits sulfur oxides. The State only operating permit will contain fuel restrictions, monitoring and recordkeeping requirements to keep the facility operating within all applicable requirements.

06-03055: Oley Valley Animal Clinic Ltd. (P. O. Box 109, Oley, PA 19547) for operation of a pet crematorium in Oley Township, **Berks County**. The facility has the potential to emit 300 pounds per year of particulate matter and 400 pounds per year of nitrogen oxides. The Natural Minor operating permit will include testing, monitoring, record keeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

28-03027: Kurdziel Industrial Coatings Co. (9473 Lincoln Way West, St. Thomas, PA 17252) for operation of its gray iron casting finishing facility in St. Thomas Township, **Franklin County**. The facility has the potential to emit 20 tons of VOC per year. The Natural Minor operating permit will include testing, monitoring, record keeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

OPERATING PERMITS

PUBLIC HEARINGS

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

Proposed Revision to the State Implementation Plan (SIP) for NO_x and VOCs and Public Hearing

Approval of Reasonably Available Control Technology (RACT) Plan for Tosco Corporation Borough of Trainer, Delaware County

The Department has made a preliminary determination to approve a RACT plan as an amendment to the SIP for the Tosco Corporation, Borough of Trainer, Delaware County. The proposed SIP revision does not adopt any new regulations. It incorporates the provisions and requirements contained in the RACT approval for this facility to comply with current regulations.

This preliminary determination, if finally approved, will be incorporated into Plan Approvals and/or Operating Permits for the facility and will be submitted to the EPA as a revision to the Commonwealth's SIP.

The following is a summary of the preliminary RACT determination for this facility:

Tosco Corporation (Operating Permit OP-23-0003)

Source	RACT		
	NOx Emission Limit	Control Technique	Implementation Schedule
Naphtha Heater	0.1 lb/mmBtu	Current Operating Practices	Implemented
VGO Heater	0.189 lb/mmBtu	Combustion Tuning	Implemented
Iso Splitter Heater	0.189 lb/mmBtu	Combustion Tuning	Implemented
Iso Feed Heater	0.189 lb/mmBtu	Combustion Tuning	Implemented

One public hearing will be held for the purpose of receiving comments on the proposed SIP revision. The hearing will be held at 2 p.m. on June 27, 2002, at the Department of Environmental Protection, Southeast Regional Office, Lee Park, 555 North Lane, Suite 6010, Conshohocken, PA. The hearing will represent the opportunity for oral comment to the Department on the proposed SIP revision and will not be a question and answer session. Persons wishing to present testimony at the hearing are encouraged to contact Lynda Rebarchak, Department Community Relations Coordinator at (610) 832-6219 to register prior to the hearing, but may also register at the hearing. Those unable to attend the hearing but who wish to comment should send their written comments to Francine Carlini, Air Quality Program Manager, Department of Environmental Protection, Southeast Regional Office, Lee Park, 555 North Lane, Suite 6010, Conshohocken, PA 19428 by June 27, 2002.

Individuals in need of accommodations as provided for in the Americans With Disabilities Act who would like to attend the hearing should contact Lynda Rebarchak at (610) 832-6219 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department can meet their needs.

Copies of the pertinent documents are available for review at the Department Southeast Regional Office. Appointments for scheduling a review may be made by calling (610) 832-6003.

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, 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. 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

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

03940101. TDK Coal Sales, Inc. (P. O. Box 259, Brockway, PA 15824) revision application received requesting a stream crossing and stream variance for a portion of the unnamed tributary to Holder Run on an existing bituminous surface mine located in Brady's Bend Township, **Armstrong County**, affecting 129.2 acres. Receiving streams: unnamed tributary to Holder Run and to Holder Run to Sugar Creek, classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream of this project. Revision application received April 29, 2002.

65990106. Ralph Smith & Son, Inc. (200 West Second Street, Derry, PA 15627) revision application received requesting to add acres on an existing bituminous surface mine located in Salem Township, **Westmoreland County**, affecting 82.5 acres. Receiving stream: N/A. Revision application received April 29, 2002.

65990101. Gary Gioia Coal Company (319 Karen Drive, Elizabeth, PA 15037). Application received for transfer of permit currently issued to Purco Coal, Inc. for continued operation and reclamation of a bituminous surface mining site located in South Huntingdon Township, **Westmoreland County**, affecting 14.0 acres. Receiving streams: unnamed run to the Youghiogheny River, classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is greater than 10 miles from the proposed site. Transfer application received April 24, 2002.

63020201. John Kosky Contracting, Inc. (P. O. Box 136, Cuddy, PA 15031). Application received for commencement, operation and reclamation of a bituminous surface mine/coal refuse reprocessing facility located in West Pike Run Township, **Washington County**, affecting 22.0 acres. Receiving streams: Little Pike Run, Pike Run, Monongahela River, classified for the following use: TSF. The first downstream potable water supply intake from the point of discharge is Newell Municipal Authority. Application received April 23, 2002.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56870103 and NPDES Permit No. PA0597953, PBS Coals, Inc., P. O. Box 260, Friedens, PA 15541 permit renewal for continued operation of a bituminous surface, auger and clay removal mine and for discharge of treated mine drainage in Brothersvalley and Somerset Townships, **Somerset County**, affecting 228.0 acres. Receiving streams: unnamed tributaries to Kimberly Run to Coxes Creek; unnamed tributaries to Glades Creek; and unnamed tributary to Millers Run to Buffalo Creek classified for the following uses: CWF and WWF. There are no potable water supply intakes within 10 miles downstream. Application received April 26, 2002.

McMurray District Mining Office: 3913 Washington Road, McMurray, PA 15317, (724) 941-7100.

32951301. NPDES Permit #PA0215821, Penn-American Coal, L.P. (R. D. 1, Box 119A, Avonmore, PA 15618) to revise the permit for the Burrell Mine in Burrell Township, **Indiana County** to add 1,084 permit and subsidence control plan acres, Surface Acres Proposed N/A, Underground Acres Proposed 1084, SCP Acres Proposed 1084, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal Acres Proposed N/A, no additional discharges, classified for the following uses: N/A. The first downstream potable water supply intake from the point of discharge is N/A. Application received February 21, 2002.

30020701. NPDES Permit # N/A, Eighty Four Mining Co. (P. O. Box 284, Eighty Four, PA 15330, to renew the permit for Mine 84 in Somerset Township, **Washington County** to renew the permit, Surface Acres Proposed N/A, Underground Acres Proposed N/A, SCP Acres Proposed N/A, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal Acres Proposed N/A, no additional discharges, classified for the following uses: N/A. The first downstream potable water supply intake from the point of discharge is N/A. Application received April 8, 2002.

30020701. NPDES Permit # N/A, Consol PA Coal Co. (1800 Washington Rd., Pittsburgh, PA 15241) to operate the Bailey Central Mine Complex CRDA No. 3 and 4 in Richhill and Gray Townships, **Greene County**, new permit and NPDES discharge Surface Acres Proposed 556.6, Underground Acres Proposed N/A, SCP Acres Proposed N/A, CRDP Support Acres Proposed 183.6, CRDP Refuse Disposal Acres Proposed 373.0, tributary to

Enlow Fork, classified for the following uses: WWF. The first downstream potable water supply intake from the point of discharge is N/A. Application received March 22, 2002.

Noncoal Applications Received

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

28020301 and NPDES Permit #PA0224201. DL George & Sons Construction Company (13321 Midvale Road, Waynesboro, PA 17268) commencement, operation and restoration of a quarry operation in Antrim Township, **Franklin County** affecting 18.5 acres, receiving stream: Paddy Run. Classified for the following use: WWF. Application received April 25, 2002.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

04020301. Atlantic States Materials of PA, Inc. (P. O. Box 269, Mercer, PA 16137). Application received for commencement, operation and reclamation of a large noncoal (sand and gravel) surface mining site located in Darlington Township, **Beaver County**, affecting 71.0 acres. Receiving streams: unnamed tributary to Madden Run, Madden Run, North Fork Little Beaver Creek, classified for the following use: HQ watershed. The first downstream potable water supply intake from the point of discharge is not applicable. Application received April 24, 2002.

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 (Department). 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.

E23-421. O'Neill Builders, 714 Winchester Court, West Chester, PA 19382-7971, Edgmont Township, **Delaware County**, ACOE Philadelphia District.

To construct and maintain a 20-foot long residential driveway bridge consisting of a 12-foot span and 3-foot underclearance across Stackhouse Mill Run, a tributary to Ridley Creek (HQ, TSF). The site is located approximately 500 feet west of the intersection of Stackhouse Mill Road and Ponytrail Drive, Media, PA Quadrangle (N: 15.95 inches; W: 15.25 inches).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E52-178. Vincent C. Giampapa, 67 Highland Avenue, Montclair, NJ 07042, in Greene Township, **Pike County**, U.S. Army Corps of Engineers, Philadelphia District.

To excavate in 0.51 acre of wetlands for the construction of a pond. The project includes placement of fill in 0.25 acre of wetlands associated with the construction of a nonjurisdictional dam and a 0.2-acre secondary wetland impact associated with the impoundment of water over wetlands. The project was previously authorized by Permit No. E52-135, which expired. The project is located approximately 1,400 feet east of the intersection of SR 0447 and T-370. (Newfoundland, PA Quadrangle N: 2.6 inches; W: 4.1 inches).

E35-357. Paul Kozlansky, 1059 Mary Street, Dickson City, PA 18519, in Greenfield Township, **Lackawanna County**, U.S. Army Corps of Engineers, Baltimore District.

To construct and maintain a low-flow crossing consisting of twin 48-inch culverts depressed 6-inches below stream bed elevation across a tributary to South Branch Tunkhannock Creek (CWF) locally known as Smith Creek. The project is located approximately 0.5 mile southeast of the intersection of SR 1013 and Sickler Pond Road (T-511). (Carbondale, PA Quadrangle N: 18.3 inches; W: 13.3 inches).

E35-356. Department of General Services, Bureau of Engineering and Architecture, Tent Building, 18th and Herr Streets, Harrisburg, PA 17125, in City of Scranton, **Lackawanna County**, U.S. Army Corps of Engineers, Baltimore District.

To remove existing structures and to construct and maintain a flood control project (DGS 184-22) in and along a 3,500 foot reach of Meadow Brook (CWF). The project begins at a point approximately 150 feet upstream of Greenridge Street and extends to Meadow Brooks confluence with the Lackawanna River. (Scranton, PA Quadrangle N: 9.5 inches; W: 3.2 inches).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E06-568. Scott Haines, Reading Materials Inc., P. O. Box 79, Skippack, PA 19474 in Douglass Township, **Berks County**, ACOE Philadelphia District

To construct and maintain: (1) Culvert #1 (CV-1), a 120 foot-long reinforced concrete box stream enclosure with a clear span of 5.0 feet and an underclearance of 2.5 feet in an unnamed tributary to Schuylkill River (WWF) at roadway Station 13+45; (2) Culvert #2 (CV-2), a 74 foot-long 30-inch diameter reinforced concrete pipe crossing in an unnamed tributary to the Schuylkill River (WWF) at roadway Station 3+45; (3) Outfall #6, a flared outfall structure with riprap apron installed within a wetland area located at roadway Station 38+00 right side; (4) Fill #1, 0.017 acre of fill within a wetland at roadway Station 42+30 right side; (5) Fill #2, 0.021 acre of fill within a wetland area at roadway Station 46+75 right side; and (6) a 10-inch PVC sanitary sewer line with an 18-inch steel encasement and a 6-inch concrete encasement across an unnamed tributary to the Schuylkill River (WWF) at roadway Station 26+50 right side all for the purpose of developing the Traprock Business Center a 101.74 acre residential, commercial and industrial development located approximately 0.25 mile west of the intersection of Grosstown Road and Benjamin Franklin Highway (SR 2022) along the north side of SR 2022 (Boyertown, PA Quadrangle N: 0.75 inch; W: 9.0 inches) in Douglass Township, Berks County. The permittee is required to provide a minimum of 0.196 acre of replacement wetlands.

E28-300. Donald Martin, 3346 White Church Road, Chambersburg, PA 17201 in Greene Township, **Franklin County**, ACOE Baltimore District

To construct and maintain a home built within the floodway of Pillman Run (WWF) located approximately 120-feet upstream from White Church Road (Scotland, PA Quadrangle N: 14.5 inches; W: 7.75 inches) in Greene Township, Franklin County.

E67-718. Michael Waltmyer, 619 Deer Road, Fawn Grove, PA 17321, in Fawn Township, **York County**, ACOE Baltimore District.

To fill a failing, remote offstream 1/2-acre farm pond within the Bald Eagle Creek Watershed (TSF) (Airville, PA Quadrangle N: 3.2 inches; W: 9.7 inches) in Fawn Township, York County. The amount of wetland impact is considered a de minimis impact of 0.05 acre of palustrine emergent wetland and mitigation is not required.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

E14-420. Pennsylvania Department of Transportation, 1924-30 Daisy Street, Clearfield, PA 16830. I-99 C10, Taylor and Worth Townships, **Centre County** and Snyder Township, **Blair County**, ACOE Baltimore District (Start: Tyrone, PA Quadrangle N: 14.5 inches; W: 10.5 inches—End: Franklinville, PA Quadrangle N: 5.0 inches; W: 9.25 inches).

To construct and maintain: 1) two five-span prestressed concrete I-beam parallel bridges with 65-foot underclearance, named Structures 200 and 201, over North Bald Eagle Creek at Sta. 526+00 located 1 mile southwest of Port Matilda; 2) four 108-foot diameter 92-foot long corrugated metal pipes at Sta. 526+61, named Temporary Crossing #3, across North Bald Eagle Creek directly adjacent to Structures No. 200 and No. 201; 3) two four span continuous composite prestressed concrete I-beam

bridge with a minimum underclearance of 28 feet 1.75 inches, named Structure 109 northbound at Sta. 466+46.55 to 470+60.55 and Structure 110 southbound at Sta. 467+20 to 470+24, over Blue Springs Hollow Run located 2,000 feet upstream from Bald Eagle Creek; 4) two 36-inch diameter 62-foot long corrugated metal pipes at Sta. 467+50 Rt, named temporary stream crossing #2, across Blue Springs Hollow Run for Structure 109/110 construction vehicle stream crossing; 5) 6-foot by 6-foot 221.0-foot long precast concrete box culvert, Structure 104, located 1,100 feet downstream of the SR 0350 at Sta. 132+91.94 to allow an unnamed tributary to Bald Eagle Creek to cross under I-99; and 6) two 30-inch diameter 345-foot long corrugated metal pipes at Sta. 133+25, named temporary stream crossing #1, as required for dewatering and construction vehicle stream crossing for Structure 104.

This project also proposes to relocate two channels associated with Blue Spring Hollow Run. Relocation 1 is 116 feet at Construction Centerline Sta. 468+59, Rt. to Sta. 469+31, Rt. Relocation 2 is 114 feet at Construction Centerline Sta. 469+32, Lt. to Sta. 469+53, Lt.

A total of 10.78 acres of jurisdictional wetlands will be impacted; 8.76 acres will result in a direct impact from construction activities; 2.02 acres will be indirectly impacted and 0.04 acre will be temporarily impacted.

There are 57 stream channels that will be affected by the construction of this proposed project; 17,640 linear feet of stream will be either bridged, culverted, diverted by clean water ditches to culverts or filled; 378,750 cubic yards of fill will be placed within the floodplain of the North Bald Eagle Creek.

E17-370. Department of Conservation and Natural Resources, Forestry District #9, R. R. 1, Box 184, Penfield, PA 15849-0184. Footbridges of Roberts Run and Upper Three Runs, in Goshen and Karthaus Township, **Clearfield County**, ACOE Baltimore District (Huntley, PA Quadrangle N: 6.9 inches; W: 0.25 inch) and (Pottersdale, PA Quadrangle N: 14.38 inches; W: 16.95 inches).

To construct, operate and maintain a single span wooden footbridge across Roberts Run (HQ-CWF) and Upper Three Runs (HQ-CWF) to provide public access to the 73-mile Quehanna Hiking Trail. The wooden footbridge across Roberts Run shall be constructed with a minimum clear span of 30-feet, underclearance of 4.5-feet and a width of 4-feet. The wooden footbridge across Upper Three Runs shall be constructed with a minimum clear span of 40-feet, underclearance of 4-feet and width of 4-feet. The wood cribbing footings/abutments shall be constructed on over-bank areas outside the active stream channel. The footbridge across Roberts Run will be located approximately 1.4-miles southeast of the Mines Road and Caledonia Pike intersection. The footbridge across Upper Three Runs will be located 1,000-feet northwest of the confluence of Laurel Swamp Draft and Upper Three Runs.

E53-375. Department of Conservation and Natural Resources, R. R. 4, Box 212, Emporium, PA 15834. Denton Hill State Park Wastewater Treatment Facility and Outfall, in Ulysses Township, **Potter County**, ACOE Baltimore District (Brookland, PA Quadrangle N: 4.55 inches; W: 11.5 inches).

To construct, operate and maintain 50-feet of treated wastewater effluent conveyance in the floodway and an outfall structure along the channel of Nine Mile Run (HQ-CWF) for the operation of the Denton Hill State

Park sanitary sewage facility. The outfall structure shall be constructed of precast concrete and a minimum of R-4 rock for stream bank protection. The outfall structure shall be installed during stream low flow and dry work conditions by dams and pumping or fluming stream flow around the work area. The installation of the outfall structure will not impact wetlands while impacting 15-feet of Nine Mile Run.

E59-426. Babb Creek Watershed Association, 2538 Highway Rt. 405, Muncy, PA 17756. Anna S. Mine complex AMD Treatment (Babb Creek Watershed) in Morris Township, **Tioga County**, ACOE Baltimore District (Morris, PA Quadrangle N: 22 inches; W: 7.5 inches).

The applicant proposes to treat three acid mine discharges in the Wilson Creek watershed, which is in the Babb Creek Watershed. Currently, two of the three mine discharges flow into Basswood Run and an unnamed tributary to Basswood Run. The discharges will be collected and passed through the created wetland treatment facilities prior to being discharged into an unnamed tributary to Wilson Creek. The third discharge currently flows into the unnamed tributary to Wilson Creek. This discharge will also be collected and routed into the treatment facilities then released into the unnamed tributary to Wilson Creek, 900 linear feet southeast from its collection point. Additional stream impacts will include the placement of two 48-inch culvert pipes and upgrading an existing low flow crossing both on Basswood Run. Three temporary existing wetland impacts are also proposed. These impacts are requested for installation of collection conduits for the diverted streams.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-1376. Kilbuck Properties, L.P., One Atlantic Avenue, Pittsburgh, PA 15202-1707. Kilbuck Township, **Allegheny County**, ACOE Pittsburgh District.

To construct and maintain a 54 inch CCP stormwater outfall on the left bank of Toms Run (WWF) for the proposed Kilbuck Wal-Mart Retail. The outfall is located just north of where Toms Run goes under Route 65 (Ohio River Boulevard) (Emsworth, PA Quadrangle N: 2.8 inches; W: 16.3 inches).

E04-286. Beaver County Department of Engineering, 669 Fifth Street, Beaver, PA 15009. Rochester Township and Borough of Rochester, **Beaver County**, ACOE Pittsburgh District.

To remove the existing Frye Bridge (County Bridge No. 53) having a total span of 206.5 feet with a minimum underclearance of 42.0 feet across the channel of McKinley Run (WWF) and to stabilize and maintain the channel of said stream for the purpose of eliminating a safety hazard. The bridge is located on New York Avenue, just south of the intersection of New York and Vermont Avenues (Beaver, PA Quadrangle N: 15.3 inches; W: 4.9 inches).

E11-296. Dennis A. Storm, 374 Hanlon Road, Gallitzin, PA 16641. Clearfield Township, **Cambria County**, ACOE Baltimore District.

To operate and maintain an existing 9.3-foot steel pipe culvert in Indian Run (CWF) which impacted 0.08 acre of wetlands for the purpose of providing access to the applicant's property. The applicant is also requesting authorization to operate and maintain four small culverts in an unnamed tributary to Indian Run and to construct and maintain a permanent sediment trap along an un-

named tributary to Indian Run (CWF). The project is located off of SR 1012, approximately 1.4 miles west of its intersection with SR 36. (Ashville, PA Quadrangle N: 17.8 inches; W: 5.2 inches).

E26-293. Pennsylvania Department of Transportation, Engineering District 12-0, P. O. Box 459, Uniontown, PA 15401. Nicholson and Springhill Townships, **Fayette County**, ACOE Pittsburgh District.

To remove the existing structure and to construct and maintain a two span prestressed concrete spread box beam bridge with each normal span at 18.0 meters and an underclearance of 2.71 meters over Georges Creek (WWF). Also to construct and maintain three 450 mm diameter outfalls in Georges Creek (WWF) and to temporarily place and maintain fill in 0.031 acre of PEM wetland and to permanently place and maintain fill in a de minimis area of PEM wetland equal to 0.04 acre. Also during construction to construct and maintain two nonconcurrent temporary causeways, each having five 600 mm corrugated metal pipes. The project is located on SR 3003 approximately 3,000 feet southeast of its intersection with SR 0166 (Masontown, PA Quadrangle N: 5.9 inches; W: 4.4 inches).

E63-530. McHolme Builders, Inc., 315 Payday's Drive, Elizabeth, PA 15037-9442. Peters Township, **Washington County**, ACOE Pittsburgh District.

To place and maintain fill in 0.4 acre of wetlands within the Chartiers Creek watershed, to construct and maintain a stormwater detention basin within a tributary to Chartiers Creek (WWF) to construct and maintain a stormwater detention basin within a tributary to Chartiers Creek for a distance of approximately 630 feet, to place and maintain fill along the left bank side of Brush Run (WWF) for a distance of approximately 450 feet and construct and maintain various outfalls to tributaries to Chartiers Creek and Brush Run for a proposed 329 unit new housing development known as Hidden Brook Manor. The proposed development is located off Route 19 between Valley Brook Road and Hidden Valley Road. To compensate for wetland impact the applicant proposes to construct .29 acre of wetland and to pay to the Wetland Replacement Fund. This project also proposes to culvert or fill in approximately 1,300 feet of stream channels, these channels qualify for authorization under the Department's waiver 105(a)(2) (Bridgeville, PA Quadrangle N: 8.4 inches; W: 16.0 inches).

E63-531. Dave and Cathy Johnson, 126 Lampliter Drive, McMurray, PA 15317. Peters Township, **Washington County**, ACOE Pittsburgh District.

To place and maintain fill in 0.07 acre of wetlands (PEM/PSS) adjacent to a horse pasture within a depression to eliminate a potential safety hazard to horses and riders when passing from end of the pasture to the other. The project is located in the northwest corner of the intersection of Thomas and Johnston Roads within the Little Chartiers Watershed (HQ-WWF). This project will also culvert approximately 133 feet of stream channel, this work qualifies for authorization under the Department's waiver 105.12(a)(2) (Bridgeville, PA Quadrangle N: 2.5 inches; W: 13.3 inches).

E65-799. Pennsylvania Department of Transportation, Engineering District 12-0, P. O. Box 459, Uniontown, PA 15401. Municipality of Murrysville, **Westmoreland County**, ACOE Pittsburgh District.

To remove the existing structures and to construct and maintain the following structures and activities as part of the SR 0022, Section B01 Transportation Improvement Project:

To repair and maintain an existing 33.1-foot x 23.0-foot concrete arch culvert over Haymakers Run (HQ-CWF). SR 0022, Station 0+100 (Murrysville, PA Quadrangle N: 9.5 inches; W: 11.0 inches).

To relocate and maintain Turtle Creek (TSF) for a linear distance of 1,474.7 feet, SR 4033, Station 1+207 (Murrysville, PA Quadrangle N: 9.4 inches; W: 10.3 inches).

To construct and maintain a single span prestressed concrete spread box beam bridge having a normal span of 50.0 feet and an underclearance of 12.9 feet over Turtle Creek (TSF). SR 4033, Station 1+207. (Murrysville, PA Quadrangle N: 9.2 inches; W: 10.3 inches).

To operate and maintain a 137.8-foot long, 42-inch diameter reinforced concrete pipe in an unnamed tributary to Turtle Creek (TSF). SR 0022, Station 1+495. (Murrysville, PA Quadrangle N: 9.5 inches; W: 8.7 inches).

To construct and maintain a 16.4-foot long, 18-inch diameter reinforced concrete pipe, a 92.0-foot long, 27-inch diameter reinforced concrete pipe, a 20.0-foot long, 33-inch diameter reinforced concrete pipe and a 10.0-foot long rock-lined outfall in an unnamed tributary to Turtle Creek (TSF). SR 0022, Station 1+700. These pipes and outfall qualify for Department waiver 105.12(a)(2). (Murrysville, PA Quadrangle N: 9.4 inches; W: 8.3 inches).

To relocate and maintain an unnamed tributary to Turtle Creek (TSF) for a linear distance of 105.0 feet; to construct and maintain a 134.0-foot long, 42-inch diameter reinforced concrete pipe; and to construct and maintain a 54-inch diameter outfall at an unnamed tributary to Turtle Creek (TSF). SR 0022, Station 1+988 to 2+220. The pipe and outfall qualify for Department waiver 105.12(a)(2). (Murrysville, PA Quadrangle N: 9.3 inches; W: 7.7 inches).

To construct and maintain a 125.0-foot long, 60-inch diameter reinforced concrete pipe in an unnamed tributary to Turtle Creek (TSF). SR 0022, Station 2+196. (Murrysville, PA Quadrangle N: 9.3 inches; W: 7.5 inches).

To construct and maintain a 197.0-foot long, 7.5-foot x 5.5-foot reinforced concrete box culvert in an unnamed tributary to Turtle Creek (TSF). The invert of the culvert will be depressed 1.0 foot. SR 0022, Station 2+623. (Murrysville, PA Quadrangle N: 9.2 inches; W: 6.6 inches).

To construct and maintain a 139.0-foot long, 21-inch diameter pipe in an unnamed tributary to Turtle Creek (TSF). SR 0022, Station 2+720. This pipe qualifies for Department waiver 105.12(a)(2). (Murrysville, PA Quadrangle N: 9.3 inches; W: 7.4 inches).

To construct and maintain a 78.7-foot long, 48-inch diameter reinforced concrete pipe connected to a 36.0-foot long, 64-inch diameter reinforced concrete pipe in an unnamed tributary to Turtle Creek (TSF). SR 0022, Station 3+008. This pipe qualifies for Department waiver 105.12(a)(2). (Murrysville, PA Quadrangle N: 9.1 inches; W: 6.2 inches).

To construct and maintain a 75.1-foot long, 16.5-foot x 9.0-foot reinforced concrete box culvert in an unnamed tributary to Turtle Creek (TSF). The invert of the box

culvert will be depressed 1.0 foot. SR 0022, Station 3+897. (Murrysville, PA Quadrangle N: 8.5 inches; W: 4.9 inches).

To construct and maintain twin, three-span, prestressed concrete I-beam bridges having normal spans of 65.0 feet, 101.7 feet and 113.9 feet and an underclearance of 34.9 feet over Turtle Creek (TSF). During construction, to construct and maintain two nonconcurrent temporary crossings, each consisting of four 24-inch diameter pipes in Turtle Creek (TSF). SR 0022, Station 4+590. (Murrysville, PA Quadrangle N: 8.0 inches; W: 3.8 inches).

To place and maintain fill in 0.25 acre of wetland (0.06 acres PEM; 0.06 acre PEM/PSS; 0.07 acre PEM/PSS/PFO; and 0.06 acre PEM/POW). The wetlands will be replaced at a 1:1 ratio at the Turtle Creek Watershed Association's Borland Farm Road AMD Treatment Project. Begin: (Murrysville, PA Quadrangle N: 9.5 inches; W: 11.1 inches) and End: (Murrysville, PA Quadrangle N: 7.6 inches; W: 3.0 inches).

E65-801. Greater Greensburg Sewer Authority, P. O. Box 284, Greensburg, PA 15601-0248. South Greensburg Borough, **Westmoreland County**, ACOE Pittsburgh District.

To construct and maintain a 48-inch RCP storm sewer outfall along Jacks Run (WWF) as part of the replacement of an existing combined sewer system with separate stormwater sewer and sanitary sewer systems. The project is located on Huff Avenue off of US Route 119. (Greensburg, PA Quadrangle N: 5.3 inches; W: 7.1 inches).

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E10-357, Pennsylvania Department of Transportation, District 10, 2550 Oakland Avenue, Indiana, PA 15701. SR 0008, Section 250, Main Street Bridge across Connoquenessing Creek, in City of Butler, **Butler County**, ACOE Pittsburgh District (Butler, PA Quadrangle N: 18.8 inches; W: 3.0 inches).

To remove the existing structure and to construct and maintain a multispans dual multigirder bridge having an overall structure length of approximately 1,166 feet and an underclearance of 78 feet across Connoquenessing Creek on SR 0008, Main Street.

E20-517, City of Meadville, 984 Water Street, Meadville, PA 16335, Porter Street Pedestrian Bridge, in City of Meadville, **Crawford County**, ACOE Pittsburgh District (Meadville, PA Quadrangle N: 2.3 inches; W: 1.9 inches).

Replacement of the existing Porter Street Pedestrian Bridge over Mill Run (WWF) near the intersection of Porter and Walnut Streets in the City of Meadville. The replacement bridge will be a pre-engineered single-span bridge with a span of approximately 130 feet and an under clearance of approximately 38 feet.

E25-647, Erie-Western Pennsylvania Port Authority, 100 State Street, Suite 205, Erie, PA 16507. Ore Dock Access Road, in City of Erie, **Erie County**, ACOE Pittsburgh District (Erie North, PA Quadrangle N: 3.5 inches; W: 10.9 inches).

To realign and reconstruct an existing access road within the 100-year flood plain of Lake Erie and to rehabilitate and maintain the existing bridge having an approximate clear span of 67 feet and an underclearance of 15 feet across Mill Creek on the Ore Dock Access Road

extending from the Bayfront Parkway west of the Erie Wastewater Treatment Plant northeast to the Mountfort Terminal.

E42-292, Minard Run Oil Company, 609 South Avenue, Bradford, PA 16701. Bonny Brook Pipeline, in Bradford Township, **McKean County**, ACOE Pittsburgh District (Derrick City, PA Quadrangle N: 2.7 inches; W: 14.1 inches).

Construct and maintain a 6-inch-diameter plastic natural gas pipeline to gather natural gas from new and existing wells owned by the Minard Run Oil Company. The pipeline will cross underneath (by trenching) Minard Run (EV) and two small unnamed tributaries (EV) to Minard Run. The project will disturb 0.004 acre of stream. The project site is approximately 950 feet from the intersection of an access road and SR 770. The access road is on the south side of SR 770 approximately 1.45 miles west of the intersection of SRs 646 and 770.

ENVIRONMENTAL ASSESSMENTS

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

EA32-004SW. Blackleggs Creek Watershed Association, P. O. Box 59, Saltsburg, PA 15725-0059. Conemaugh Township, **Indiana County**, ACOE Pittsburgh District.

To construct and maintain a limestone pond in a reported 0.05 acre of wetland and a treatment wetland within the floodway of approximately 650 feet of an unnamed tributary to Big Run (CWF) and associated outfall structures, for the purpose of treating an acid mine discharge that will be relocated through a utility line stream crossing of Big Run into the aforementioned treatment facilities. The project is located near the intersection of Elders Ridge Road (SR 3019) with Sportmans Road (TR 304) (Avonmore, PA Quadrangle N: 8.9 inches; W: 5.65 inches).

ACTIONS

FINAL ACTIONS TAKEN UNDER THE 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 has taken the following actions on previously received permit applications and requests for plan approval.

Persons aggrieved by an 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, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the 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 to 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 decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

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. PA0026859, Sewage, **Pennsylvania American Water Company**, 114 East Lincoln Highway, Coatesville, PA 19320. This proposed facility is located in South Coatesville Borough, **Chester County**.

Description of Proposed Action/Activity: Renewal to discharge into West Branch Brandywine Creek—3H.

WQM Permit No. 4601413, Sewage, **Schwenksville Borough Authority**, P. O. Box 458, 298 Main at Church Street, Schwenksville, PA 19473. This proposed facility is located in Schwenksville Borough, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the rerating of the existing Schwenksville Borough Authority STP.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

NPDES Permit No. PA-0020940, Sewage, **Tunkhannock Borough Municipal Authority**, 203 West Tioga Street, Tunkhannock, PA 18657-6655. This proposed facility is located in Tunkhannock Borough, **Wyoming County**.

Description of Proposed Action/Activity: Renew NPDES Permit.

NPDES Permit No. PA-0062065, Sewage, **USF Red Star**, 792 S. Main Road, Mountain Top, PA 18787. This proposed facility is located in Dorrance Township, **Luzerne County** and discharge to Balliet Run.

Description of Proposed Action/Activity: Renewal of NPDES Permit.

NPDES Permit No. PA-0035611, Sewage, **Pennsylvania Department of Transportation, Bureau of Design**, P. O. Box 3060, Harrisburg, PA 17105. This proposed facility is located in Lenox Township, **Susquehanna County** and discharges to East Branch Tunkhannock Creek.

Description of Proposed Action/Activity: renewal of NPDES Permit.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

NPDES Permit No. PA0086860, Sewage, **Springfield Township Sewer Authority**, Hollow Creek WWTP, 9211

Susquehanna Trail South, Seven Valleys, PA 17360. This proposed facility is located in Springfield Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary of East Branch Codorus Creek in Watershed 7-H.

NPDES Permit No. PA0081787, Sewage, **Telco Developers, Inc.**, Gretna Springs MHP, 5 Maple Avenue, Manheim, PA 17545. This proposed facility is located in West Cornwall Township, **Lebanon County**.

Description of Proposed Action/Activity: Authorization to discharge to Chickies Creek in Watershed 7-G.

NPDES Permit No. PA0020222, Sewage, **Terre Hill Borough**, P. O. Box 250, Terre Hill, PA 17581. This proposed facility is located in East Earl Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to Black Creek in Watershed 7-J.

WQM Permit No. 0502401, Sewerage, **Jack Decker, Broad Top Township**, P. O. Box 58, Defiance, PA 16633-0057. This proposed facility is located in Broad Top Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization for the construction/operation of the Sixmile Run Wastewater Collection System (Riddlesburg Service Area).

WQM Permit No. 0102403, Sewerage, **James D. Watson, Manager, Gettysburg Municipal Authority**, 601 East Middle Street, Gettysburg, PA 17325-3307. This proposed facility is located in Straban Township, **Adams County**.

Description of Proposed Action/Activity: Authorization for the construction/operation of the Route 30 Pump Station and Sewer System.

NPDES Permit No. PA0084301, Industrial Waste, **Lancaster Malleable Castings Company**, 1170 Lititz Avenue, Lancaster, PA 17601. This proposed facility is located in Manheim Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary to the Little Conestoga Creek in Watershed 7-J.

WQM Permit No. PA0246557, Industrial Waste, **Susquehanna Valley Organics, Corp.**, 3705 Trindle Road, Camp Hill, PA 17011. This proposed facility is located in Lancaster Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to the Conestoga River in Watershed 7-J.

NPDES Permit No. PA0088323 Amendment No. 1, Industrial Waste, **Calpine Construction Company, LP**, Ontelaunee Energy Center, The Pilot House, Second Floor, Lewis Wharf, Boston, MA 02110. This proposed facility is located in Ontelaunee Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to the receiving waters of the Schuylkill River in Watershed 3-C.

NPDES Permit No. PA0088960, Industrial Waste, **Allan Stombaugh, West St. Clair Township/Pleasantville Borough Municipal Authority**, P. O. Box 43, Alum Bank, PA 15521-0043. This proposed facility is located in West St. Clair Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization to discharge to Dunning Creek in Watershed 11-C.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit No. PA0025674 Amendment No. 1, Sewage, **Franklin Township Municipal Sanitary Authority**, 3001 Meadowbrook Road, Murrysville, PA 15668 is authorized to discharge from a facility located at the Meadowbrook Sewage Treatment Plant, Municipality of Murrysville, **Westmoreland County** to receiving waters named Turtle Creek.

NPDES Permit No. PA0219096, Sewage, **Hanover Township Sewer Authority**, 116 Steubenville Pike, Paris, PA 15021 is authorized to discharge from a facility located at Hanover Township Sewer Authority STP No. 1, Hanover Township, **Washington County** to receiving waters named Harmon Creek.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. 2502404, Sewerage, **Samuel Black, Managing General Partner, Black Interests Limited Partnership**, 400 French Street, Erie, PA 16507. This proposed facility is located in Franklin Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a single residence.

WQM Permit No. 4202401, Sewerage, **William Freeman**, P. O. Box 782, Bradford, PA 16701. This proposed facility is located in Lafayette Township, **McKean County**.

Description of Proposed Action/Activity: This project is for a single residence.

WQM Permit No. 4302406, Sewerage, **Norma J. Flickinger**, 2745 South Keel Ridge Road, Hermitage, PA 16148. This proposed facility is located in City of Hermitage, **Mercer 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.

Persons aggrieved by an 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, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the 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 to 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 decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

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>
PAS10G498	Vanderhoeff Builders 341 Fremont Avenue Nottingham, PA 19362	Chester	Elk Township	West Branch Big Elk Creek HQ-TSF-MF
PAS10G505	Green Point Farm, Inc. 402 Bayard Road, Suite 100 Kennett Square, PA 19348	Chester	New London Township	Hodgson Run HQ-TSF-MF
PAS10G516	Tredyffrin/Easttown School District Education Services Center 738 First Avenue Berwyn, PA 19312-1770	Chester	Tredyffrin Township	Valley Creek EV

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10F102	University Area Joint Authority 1570 Spring Valley Rd. State College, PA 16801	Centre	College Township	Spring Creek HQ-CWF
PAS10F101	Department of General Services 8th and Herr Sts. Harrisburg, PA 17120	Centre	Ferguson Township	Spring Creeks Beaver Branch HQ-EV

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>
PAS10L025	NWL Company 1001 LaFayette Drive Farmington, PA 15437	Fayette City Wharton Township	Deadman Run HQ-CWF

APPROVALS TO USE NPDES AND/OR OTHER GENERAL PERMITS

The following parties have submitted: (1) Notices of Intent for Coverage under (1) General NPDES Permits to Discharge Wastewater into the Waters of this 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 this Commonwealth; (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 Nonexceptional 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 Nonexceptional 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>
Thornbury Township Delaware County	PAR10J230	Thornbury Township 6 Township Drive Cheyney, PA 19319	Chester Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Franconia Township Montgomery County	PAR10T809	Peter Becker Community 800 Maple Avenue Harleysville, PA 19438	UNT to Indian Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Cheltenham Township Montgomery County	PAR10T784	The Bigonatti Companies 2310 Terwood Drive Huntingdon Valley, PA 19006	Tookany Creek WWF	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>
Lower Gwynedd Township Montgomery County	PAR10T836	The Nolen Group, Inc. 5051/2 Germantown Pike Lafayette Hill, PA 19444	Wissahickon Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
New Hanover Township Montgomery County	PAR10T763	Prosper S. and Josephine Guerre-Chaley 1776 Swamp Pike Gilbertsville, PA 19525	Minster Creek SF/M	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Skippack Township Montgomery County	PAR10T824	Cedar Valley Homes P. O. Box 178 Cedars, PA 19423	Skippack Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Pottstown Borough Montgomery County	PAR10T830	84 Lumber Company 1019 Route 519—Building 5 Eighty-Four, PA 15330	Schuylkill River WF-M	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Carbon County Franklin Township	PAR101334	Homestead in the Pines 469 Forest St. Lehighton, PA 18235	Sawmill Run CWF	Carbon County Conservation District (610) 377-4894
Northampton County Lehigh Township	PAR10U175	Louis Pektor III 559 Main St., Suite 300 Bethlehem, PA 18018	Bertsch Creek CWF	Northampton County Conservation District (610) 746-1971
Manor Township Lancaster County	PAR10O484	Wilmer L. Shertzer 3755 Locust Grove Rd. Columbia, PA 17512	UNT West Branch Little Conestoga Creek TSF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361
Manheim Township Lancaster County	PAR10O513	School Lane Association 1547 Oregon Pike Lancaster, PA 17601	Conestoga River WWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361
East Hempfield Township Lancaster County	PAR10O541	Hempfield School District 200 Church St. Landisville, PA 17537	Brubaker Run WWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361
Manheim Township Lancaster County	PAR10O542	N & R Inc. 325 Ludwell Dr. Lancaster, PA 17601	Bachman Run WWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361
West Earl Township Lancaster County	PAR10O546	PPL West Earl LLC 11350 Randon Hills Rd. Fairfax, VA 22030	Conestoga River WWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361
Manor Township Lancaster County	PAR10O552	Franklin View Farm 2232 Franklin Rd. Columbia, PA 17512	Strickler and Stamans Runs WWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361
Rapho Township Lancaster County	PAR10O557	H. Glenn Esbenshade 220 Eby Chiques Rd. Mount Joy, PA 17552	Chickies Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361

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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>
Ephrata Township Lancaster County	PAR10O558	Ephrata Community Hospital 169 Martin Ave. Ephrata, PA 17522	Cocalico Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361
East Hempfield Township Lancaster County	PAR10O560	Nissin Foods USA Co. Inc. 2901 Hempland Rd. Lancaster, PA 17601	Brubaker Run WWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361
Manheim Township Lancaster County	PAR10O563	Brethren Village 3001 Lititz Pike, Box 5093 Lancaster, PS 17601	UNT Little Conestoga Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361
Earl Township Berks County	PAR10C389	Jane Diener 1061 Manatawny Rd. Boyertown, PA 19512	Manatawny Creek CWF	Berks County Conservation District P. O. Box 520 1238 County Welfare Rd. Leesport, PA 19533-0520 (610) 372-4657
Windsor Township Berks County	PAR10C401	Angleo Corrado Homes Inc. 271 Berger Rd. Kutztown, PA 19530	Schuylkill River WWF	Berks County Conservation District P. O. Box 520 1238 County Welfare Rd. Leesport, PA 19533-0520 (610) 372-4657
Maidencreek Township Berks County	PAR10C417	Walter Greth Greth Dev. Group Inc. P. O. Box 305 Temple, PA 19560	Willow Creek CWF	Berks County Conservation District P. O. Box 520 1238 County Welfare Rd. Leesport, PA 19533-0520 (610) 372-4657
Tilden Township Berks County	PAR10C421	Joe Jurgielewicz & Son LTD P. O. Box 257 Shartlesville, PA 19554	Mill Creek tributary to Schuylkill River TSF	Berks County Conservation District P. O. Box 520 1238 County Welfare Rd. Leesport, PA 19533-0520 (610) 372-4657
Susquehanna Township Dauphin County	PAR10I281-1	Department of General Services 18th and Herr Streets Harrisburg, PA 17125	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100
Lykens Township Dauphin County	PAR10I295	Kenneth Crissinger Dairy Farm 6313 Route 25 Gratz, PA 17030	Deep Creek CWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100
West Manchester Township York City York County	PAR10Y583	Apple Honda Stewart & March Part. 1020 N. Hartly St. York, PA 17404	Willis Run WWF	York County Conservation District 118 Pleasant Acres Rd. York, PA 17402 (717) 840-7430
West Manchester Township York County	PAR10Y561	Thistle Downs LP. Timothy F. Pasch 2645 Carnegie Rd. York, PA 17402	UNT To Little Conewago Creek	York County Conservation District 118 Pleasant Acres Rd. York, PA 17402 (717) 840-7430

<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>
Carroll Township York County	PAR10Y582	Monaghan Presbyterian Richard H. Lee P. O. Box 381 Dillsburg, PA 17019	UNT to Yellow Breeches CWF	York County Conservation District 118 Pleasant Acres Rd. York, PA 17402 (717) 840-7430
Silver Spring Township Cumberland County	PAR10H289	PPL Electric Utilities Corp. PPL West Shore Service Center Two N. Ninth Street Allentown, PA 18101-1179	Hogestown Run CWF	Cumberland County Conservation District 43 Brookwood Avenue Suite 4 Carlisle, PA 17013 (717) 240-7812
Upper Allen and Lower Allen Townships Cumberland County	PAR10H292	Richard P. Hart The Manor at Fair Oaks 326 Swatara Street Steelton, PA 17113	UNT Cedar Run CWF	Cumberland County Conservation District 43 Brookwood Avenue Suite 4 Carlisle, PA 17013 (717) 240-7812
Centre County College Township	PAR10F160	Sheetz Convenience Store and Shared Entrance Driveways 101 Lakemont Park Blvd. Altoona, PA 16602	UNT Spring Creek CWF	Centre County Conservation District 414 Holmes Ave., Suite 4 Bellefonte, PA 16823 (814) 355-6817
Centre County Potter Township	PAR10F162	Egg Hill Estates and East Egg Hill Estates Lucas Lane and Upper Georges Valley Rd. Spring Mills, PA 16875	UNT To Potter Run and Muddy Creek—tributar- ies of Penns Creek CWF	Centre County Conservation District 414 Holmes Ave., Suite 4 Bellefonte, PA 16823 (814) 355-6817
Columbia County Roaring Creek Township	PAR102154	Hillside Acres Proj. Michael Petro 159 Martin Dr. Catawissa, PA 18720	Tributary of Roaring Creek	Columbia County Conservation District 702 Sawmill Rd. Suite 105 Bloomsburg, PA 17815 (570) 784-1310
Cambria County Richland Township	PAR101083	H. F. Lenz Company 1407 Scalp Avenue Johnstown, PA 15904	UNT Solomon Run WWF	Cambria County Conservation District (814) 472-0686
Fayette County Franklin and Dunbar Townships	PAR10L076	Atlas America, Inc. P. O. Box 611 Moon Township, PA 15108	Redstone Creek WWF	Fayette County Conservation District (724) 438-4497
Somerset County Boswell Borough Jenner Township	PAR106146	North Star School District 1200 Morris Avenue Boswell, PA 15531	Quemahoning Creek CWF	Somerset County Conservation District (814) 445-4652
Mercer County City of Farrell	PAR104376	Steel City Housing Partnership, LP 100 Wood Street Pittsburgh, PA 15222	Shenango River WWF	Mercer County Conservation District (724) 662-2242

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 Allentown	PAR122204	General Mills, Inc. 2132 Downyflake Lane Allentown, PA 18103	Unnamed tribu- tary to Trout Creek WWF	DEP—NERO Water Management 2 Public Square Wilkes-Barre, PA 18711 (570) 826-2511
Susquehanna County Oakland Township	PAR602237	Boughton's Auto Salvage, Inc. R. R. 2 Box 39 Susquehanna, PA 18847	Unnamed feeder to Susquehanna River CWF	DEP—NERO Water Management 2 Public Square Wilkes-Barre, PA 18711 (570) 826-2511

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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>
Luzerne County Hanover Township	PAR602221	Louis Cohen & Son, Inc. P. O. Box 1004 Wilkes-Barre, PA 18703	Solomon Creek CWF	DEP—NERO Water Management 2 Public Square Wilkes-Barre, PA 18711 (570) 826-2511
Lancaster County Mt. Joy Township	PAR213540	Donegal Rock Products LLC Rheems Concrete Plant P. O. Box 10 Rheems, PA 17570	UNT to Donegal Creek CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Clinton Township Lycoming County	PAR324802	Construction Specialties, Inc. P. O. Box 380 Muncy, PA 17756	Turkey Run WWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Berwick Borough Columbia County	PAR234816	Consolidated Container Co., LLC 910 Seventh Ave Berwick, PA 18603	Storm sewer to Susquehanna River (WWF)	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Pine Township Mercer County	PAR808328	Tri County Landfill, Inc. 159 TCI Park Drive Grove City, PA 16127-0669	Unnamed tribu- tary to Wolf Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
North East Borough Erie County	PAR208321	Ridg-U-Rak, Inc. P. O. Box 150 North East, PA 16428-0150	Sixteenmile Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Adams Township Butler County	PAR608314	Tri County Industries, Inc. Tri County Recycling 159 TCI Park Drive Grove City, PA 16127-0669	Hutchman Run to Breakneck Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
City of Corry Erie County	PAR208325	McInnes Steel Company 441 East Main Street Corry, PA 16407-2073	Hare Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Summit Township Butler County	PAR208302	Bear Metallurgical Company 679 East Butler Road Butler, PA 16002-9127	Unnamed tribu- taries to Ohio River Basin and Connoquenessing Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Zelienople Borough Butler County	PAR118321	F.B. Leopold Company, Inc. 227 South Division Street Zelienople, PA 16063-1313	Glade Run to Connoquenessing Creek to Beaver River	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
<i>General Permit Type—PAG-4</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>
Berks County Douglass Township	PAG043690	Brian L. Kanach 101 Gristmill Road Boyertown, PA 19512	Ironstone Creek TSF	DEP—SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707

<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>
Jordan Township Lycoming County	PAG044928	Frank Bomboy 944 Bomboy Blvd. Unityville, PA 17774	UNT to Little Muncy Creek CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Huston Township Centre County	PAG044966	James and Susan White 656 Jack Straw Road Julian, PA 16844	UNT Laurel Run CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Huston Township Centre County	PAG044974	James and Cathy Polinchok 375 Kennel Lane Port Matilda, PA 16870	UNT Bald Eagle Creek CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Bradford Township Clearfield County	PAG044977	David R. Houser 103 Nathan Drive Monaca, PA 15061	UNT West Branch Susquehanna River WWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Franklin Township Erie County	PAG048798	Samuel Black, Managing General Partner Black Interests Limited Partnership 400 French Street Erie, PA 16507	Porter Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Lafayette Township McKean County	PAG048786	William Freeman P. O. Box 782 Bradford, PA 16701	Unnamed tribu- tary to Threemile Run Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Cussewago Township Crawford County	PAG048444	Eugene F. Jr. and Leslie K. Soltesz 19525 Bear Road Venango, PA 16440	Unnamed tribu- tary of French Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
City of Hermitage Mercer County	PAG048795	Norma J. Flickinger 2745 South Keel Ridge Road Hermitage, PA 16148	Unnamed tribu- tary to the West Branch Little Neshannock Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Elk Creek Township Erie County	PAG048445	Kenneth D. Baker 9320 Miller Road Cranesville, PA 16410	Unnamed tribu- tary to East Branch Conneaut Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
<i>General Permit Type—PAG-7</i>				
<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>
Athens Borough Bradford County	PAG074828	Valley Joint Sewer Authority One South River Rd. Athens, PA 18810	Valley Joint Sewer Authority WWTP One River Road	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3655

General Permit Type—PAG-8

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Contact Office & Telephone No.</i>
North Annville Township Lebanon County	PAG083504	Township of Annville P. O. Box 320 Rnnville, PA 17003-0320	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
North Cornwall Township Lebanon County	PAG083503	City of Lebanon Authority 250 Dairy Road Lebanon, PA 17042	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Springettsbury Township York County	PAG083505	Springettsbury Township 1501 Mt. Zion Road York, PA 17402	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

General Permit Type—PAG-8 (SSN)

<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>
Canton Township Bradford County	PAG084822	Canton Borough Authority P. O. Box 237 100 Park Place Canton, PA 17724-0237	Jeff Sechrist Farm Canton Township Bradford County 2 miles east of Canton on SR 414	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3655
Berkey Lilly Farm Biosolids Site Dunkard Township Greene County	PAG086101	Allegheny County Sanitary Authority 3300 Preble Avenue Pittsburgh, PA 15233		Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222- 4745 (412) 442-4000
Bastistig Farm Biosolids Site Burrell Township Armstrong County	PAG086106	City of Johnstown WWTP 241 Asphalt Road Johnstown, PA 15907-0610		Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222- 4745 (412) 442-400

General Permit Type—PAG-9

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Contact Office & Telephone No.</i>
Shirley Township Huntingdon County	PAG093537	Lake's Septic Tank Cleaning HC 62 Box 444 Shade Gap, PA 17255	DEP—SCRO 909 Elmerton Ave Harrisburg, PA 17110 (717) 705-4707
Windsor Township York County	PAG093508	Joines Septic Service Kenneth Joines 440 Dull Road Felton, PA 17322	DEP—SCRO 909 Elmerton Ave Harrisburg, PA 17110 (717) 705-4707

General Permit Type—PAG-9 (SSN)

<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>
Terry Township Bradford County	PAG094827	Lewis Crawford, Jr. R. R. 2, Box 165-A Wyalusing, PA 18853	Ralph Newton Farm 1 mile north of SR 187 at Tarrytown	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3655

<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>
West Branch Township Potter County	PAG094805	David Hinman Inc. Leslie's Septic Service P. O. Box 211 Galeton, PA 16922	Paul Farm Paul Hollow Road 2 miles west of SR 144	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3655

General Permit Type—PAG-12

<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>
Perry County Howe Township	PAG123544	Brent Hershey Hershey Ag 138 Airport Road Marietta, PA 17547-0068	Howe Run Juniata River WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

PUBLIC WATER SUPPLY PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Safe Drinking Water Act for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an 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, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the 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 to 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 decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER**Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).**

Southeast Region: Water Supply Management Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Permit No. 4601510, Public Water Supply.

Applicant **Philadelphia Suburban Water Company**
762 W. Lancaster Avenue
Bryn Mawr, PA 19010

Township Perkiomen
County **Montgomery**
Type of Facility PWS System
Consulting Engineer CET Engineering Services
1240 N. Mountain Road
Harrisburg, PA 17112
Permit to Construct April 30, 2002
Issued

Northeast Region: Water Supply Management Program Manager; 2 Public Square, Wilkes-Barre, PA 18711-0790.

Operations Permit issued to **Lehigh County Authority**, 1053 Spruce Street, P. O. Box 3348, Allentown, PA 18106-0348, PWS ID #3390085, Lynn Township, **Lehigh County** on April 23, 2002, for the operation of facilities approved under Construction Permit #3997501.

Southcentral Region: Water Supply Management Program Manger; 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 0501506, Public Water Supply.

Applicant **Woodbury Borough Water Authority**
Municipality Woodbury Township
County **Bedford**
Type of Facility Addition of three wells to augment the existing sources of supply, construction of a new chlorination facility and the construction of a 150,000-gallon storage tank. Project will also involve abandonment of the existing storage tank and the SWIP affected springs.

Consulting Engineer Mark V. Glenn, P. E.
Gwin, Dobson & Foreman, Inc.
3121 Fairway Dr.
Altoona, PA 16602-4475

Permit to Construct March 18, 2002
Issued

Northcentral Region: Water Supply Management Program Manager; 208 West Third Street, Williamsport, PA 17701.

Permit No. 1402503, Public Water Supply.

Applicant **The Pennsylvania State University**
Office of Physical Plant
University Park, PA 16802

Township Ferguson Township

County **Centre**

PWSID 4140095

Type of Facility PWS—permit to construct inter-connection with the State College Borough Water Authority on Corl Street

Consulting Engineer CET Engineering Services
321 Washington Street
Huntington, PA 16652

Permit to Construct Issued April 30, 2002

Permit No. Minor Amendment, Public Water Supply.

Applicant **United Water Pennsylvania**
4211 East Park Circle
Harrisburg, PA 17111

Town Town of Bloomsburg

County **Columbia**

PWSID 4190008

Type of Facility PWS—approval to construct replacement of floating reservoir cover on 1.7 MG finished water reservoir

Consulting Engineer Michael Gephart, P. E.
United Water Pennsylvania
4211 East Park Circle
Harrisburg, PA 17111

Permit to Construct Issued May 3, 2002

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Borough of Middleport	22 St. Clair Street Middleport, PA 17053	Schuylkill
Borough of New Philadelphia	24 Kimber Street New Philadelphia, PA 17959	
Blythe Township	P. O. Box 91 Cumbola, PA 17930	
Schuylkill Township	P. O. Box 405 Mary-D, PA 17952	

Plan Description: This plan approval is contingent upon the Schuylkill Valley Sewer Authority (Authority) and/or its member municipalities complying with any requirements that may be imposed by the Historical and Museum Commission and the United States Fish and Wildlife Service, regarding the protection of historic and

archaeological resources and plant and animal species, respectively. This review has also not identified any significant environmental impacts resulting from this proposal.

The Plan calls for the construction of a new 0.550 MGD sequencing batch reactor wastewater treatment facility to serve the following areas: Villages of Brockton, Mary-D and Tuscarora located in Schuylkill Township, Boroughs of Middleport and New Philadelphia and the Villages of Kaska, Silver Creek and Cumbola located in Blythe Township. The treatment facility will be located near the Village of Cumbola and discharge treated wastewater to the Schuylkill River. The selected wastewater disposal alternative is described in the Plan as the "One-Plant Alternative." Implementation of the selected alternative and operation of the proposed facilities will be performed by the Authority.

The Plan's selected wastewater disposal alternative also calls for the installation of new wastewater collection and conveyance systems in the Villages of Mary-D, Brockton, Kaska, Silver Creek and Cumbola and within the Boroughs of Middleport and New Philadelphia. The Village of Tuscarora will continue to utilize its existing sanitary wastewater collection system lines. All of these areas will discharge their wastewater to the proposed Cumbola Wastewater Treatment Facility via the proposed interceptor system. All discharge of sanitary wastewater into the existing "wildcat" wastewater collection systems will be discontinued upon final completion of the Plan's selected alternative. Due to this situation, the Plan proposes the construction of additional, new stormwater collection systems in the Village of Brockton and in the Boroughs of Middleport and New Philadelphia. These proposed systems will permit the routing of stormwater to appropriate surface watercourses that had previously been transported by the existing "wildcat" wastewater collection systems.

The Plan's selected wastewater disposal alternative also calls for all portions of the planning area that are not proposed to be served by centralized wastewater collection, conveyance and treatment systems in the Plan, to continue to use onlot wastewater disposal systems as their approved method of wastewater disposal. These areas will also be governed by the requirements of the Sewage Management Program as proposed in Appendix D of the Plan. Each of the four municipalities have also additionally enacted privy and holding tank ordinances to govern the use of these types of facilities within their municipal borders.

Financing of the proposed wastewater collection, conveyance and treatment systems is to be provided by the Pennsylvania Infrastructure Investment Authority.

Implementation of the selected wastewater disposal alternative will require an NPDES Permit for the treated wastewater effluent discharge at the Authority's proposed wastewater treatment facility. The proposed project will also require a Water Management Part II Permit for the construction and operation of the proposed sewage facilities. Both of these permit applications must be submitted in the name of the Authority. Starting construction prior to obtaining a Part II Permit is a violation of The Clean Streams Law.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Borough of Coaldale	P. O. Box 116 Coaldale, PA 18218	Schuylkill

Plan Description: The approved plan proposes a systematic plan to identify and propose corrective measures for portions of the Borough's wastewater collection system that may be subject to excessive amounts of infiltration/inflow. The Corrective Action Plan (CAP) also contains time schedules for the implementation of the activities proposed in the CAP. The CAP is now to be considered an integral part of the municipality's Official Sewage Facilities Plan.

Should conditions be encountered during the implementation of the CAP, which require the alteration of the approved CAP, the Borough of Coaldale shall contact the Department, in writing and discuss the need to alter the CAP at the earliest possible time. Additional wastewater-related improvements, additions, deletions or changes outside of those explicitly described in the CAP must be in compliance with the Department's regulations and be submitted to and approved by the Department in writing.

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>
Bedford Township	1037 Shed Road Bedford, PA 15522	Bedford

Plan Description: The approved plan provides for the construction of a gravity sanitary collection and conveyance system to serve Belden, Blattenburg/Camp Hughes, Camp Sunshine, Cara Heights, Sunnybrook/Hafer, Wolfsburg and Sunrise Terrace as the Plan defines these areas. The sewage flow will be conveyed to Municipal Authority of Bedford Borough treatment facility. The Plan provides for the construction of separate community wastewater treatment facilities for Imlertown and Yount. These facilities will discharge (respectively) to Imlertown Run and Dunning Creek. The Plan also provides for the adoption and implementation of an onlot sewage disposal system management ordinance. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Muncy Creek Township	575 Route 422 Highway Muncy, PA 17756	Lycoming

Plan Description: The approved plan provides for dividing the study area into two districts separated by Muncy Creek. The effluent from these areas will be collected and conveyed to Muncy Borough and Hughesville-Wolf Township Sewage Treatment Plants. Approximately 387 EDUs on the west side and 309 EDUs on the east side of the creek will be provided with new gravity and where needed, pressure sewer collection. Muncy Borough, Hughesville Borough and Wolf Township have all

coadopted this plan and will accept these new flows. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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 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:

Northeast Regional Field Office, Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Miller Property (3655 William Penn Highway), Palmer Township, Northampton County. David A. Everitt, III, Senior Environmental Scientist, MEA Inc., 201 Center Street, Stockertown, PA 18083 has submitted a Final Report (on behalf of Barry Miller, Zinfadel Court West, Easton, PA) concerning the remediation of soils found or suspected to have been contaminated with leaded and/or unleaded gasoline. The report was submitted to demonstrate attainment of the Statewide health standard. A Notice of Intent to Remediate was simultaneously submitted.

Former Alliance America Facility, Borough of Port Carbon, **Schuylkill County.** Christopher Orzechowski, P.G., RT Environmental Services, Inc., 215 W. Church Road, King of Prussia, PA 19406 has submitted a combined Remedial Investigation Report, Risk Assessment Report and Cleanup Plan (on behalf of JDSW Real Estate Limited Partnership, 5th and Mahantango Streets, Pottsville, PA) concerning the remediation of groundwater

found or suspected to have been contaminated with solvents. The reports were submitted in partial fulfillment of a combination of both the Statewide health and site-specific standards.

Spirax Sarco, Inc., City of Allentown, **Lehigh County**. Dr. William K. Ahlert, Manager, Mid-Atlantic Services, Lawler, Matusky and Skelly Engineers, LLP, The Sovereign Building, 609 Hamilton Mall, Allentown, PA 18101 has submitted a Final Report (on behalf of Spirax Sarco, Inc., 1150 Northpoint Boulevard, Blythewood, SC 20106) concerning the remediation of site soils and groundwater found or suspected to have been contaminated with solvent compounds. The report was submitted to demonstrate attainment of the site-specific standard.

Bethlehem Contracting Company, East Allen Township, **Northampton County**. Douglas H. Sammak, P.G., American Analytical & Environmental, Inc., 738 Front Street, Catasauqua, PA 18032 has submitted a Remedial Investigation Report and a Cleanup Plan (on behalf of John Cancelliere, President, Bethlehem Contracting Company, P. O. Box 40, Bath, PA 18014) concerning the remediation of site soils and groundwater found or suspected to have been contaminated with polycyclic aromatic hydrocarbons, BTEX compounds, solvents, lead and other metals. The reports were submitted in partial fulfillment of a combination of the Statewide health and site-specific standards.

PPL Utilities—Former Penn Fuel Gas Manufactured Gas Plant (Jim Thorpe site), Mahoning Township, **Carbon County**. RETEC, 3040 William Pitt Way, Pittsburgh, PA 15238 has submitted a Final Report (on behalf of PPL Utilities, Environmental Management Division, Two North Ninth Street, Allentown, PA 18101-1179) concerning the characterization and remediation of site soils, groundwater and adjacent surface water and sediments found or suspected to have been contaminated with metals, phenolic compounds, cyanide, polycyclic aromatic hydrocarbons and BTEX (benzene, toluene, ethylbenzene and xylene) compounds. The report was submitted in partial fulfillment of a combination of both the Statewide health and site-specific standards.

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 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 reports:

Northeast Region: Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Maffeo Spill (Reading Blue Mountain and Northern Railroad Company Property), Cressona Borough, **Schuylkill County**. James Drasher, Manager of Environmental Services, Aqua-Terra Environmental, Ltd., P. O. Box 4099, Reading, PA 19606 has submitted a Final Report (on behalf of Carl Maffeo, N. Garfield Avenue, Schuylkill Haven, PA) concerning the remediation of soils, sediment and surface water found or suspected to have been contaminated with no. 2 fuel oil constituents. The report demonstrated attainment of the Statewide health standard and was approved on March 27, 2002.

Brown Residence, Forks Township, **Northampton County**. James S. Meenan, III, Environmental Scientist, Marshall Miller & Associates, 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011 has submitted a Final Report (on behalf of Elsi Brown, Klein Road, Easton, PA 18040) concerning the remediation of soils found or suspected to have been contaminated with no. 2 fuel oil constituents. The report demonstrated attainment of the Statewide health standard and was approved on April 24, 2002.

Crown America—Wyoming Valley Mall, Wilkes-Barre Township and Wilkes-Barre City, **Luzerne County**. Jo Hinish, P.G., Chief Hydrogeologist, Mountain Research, Inc., 825 25th Street, Altoona, PA 16601 has submitted a Final Report (on behalf of Crown America Properties, L.P., Pasquerilla Plaza, Johnstown, PA 15907) concerning the remediation of soils and groundwater found or suspected to have been contaminated with lead and other metals, solvents, benzene and other VOCs and polycyclic aromatic hydrocarbons. The report demonstrated attainment of the Statewide health standard and was approved on April 25, 2002.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Hazardous Waste Transporter License Renewed

EAP Industries, Inc., P. O. Box 275, 1575 Smith Township State Rd. Rt., Atlasburg, PA 15004. **License No. PA-AH 0660.** Effective May 1, 2002.

South Jersey Pollution Control, Inc., 209 Harmony Road, P. O. Box 28, Mickleton, NJ 08056. **License No. PA-AH 0145.** Effective May 1, 2002.

Elk Transportation, Inc., 1420 Clarion Street, Reading, PA 19061. **License No. PA-AH 0413.** Effective April 26, 2002.

Ken's Marine Service, Inc., P. O. Box 4001, Bayonne, NJ 07002. **License No. PA-AH S154.** Effective May 2, 2002.

Gensimore Trucking, Inc., P. O. Box 5210, Pleasant Gap, PA 16823. **License No. PA-AH 0048.** Effective May 7, 2002.

Hazardous Waste Transporter License, actions taken under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Hazardous Waste Transporter License Voluntarily Terminated

S & D Environmental Services, Inc., 2350 Paris Pike, Lexington, KY 40505. **License No. PA-AH 0464.** Effective April 29, 2002.

Evans Worldwide, Inc., 251 Industrial Parkway, Branchburg, NJ 08876. **License No. PA-AH 0538.** Effective April 25, 2002.

Hazardous Waste Transporter License Expired

Diablo Systems Incorporated d/b/a Diablo Transportation, Inc., P. O. Box 113, Joplin, MO 64802. **License No. PA-AH 0516.** Effective April 30, 2002.

C.R. Warner, Inc., 6050 West Passyunk Avenue, Philadelphia, PA 19153. **License No. PA-AH 0460.** Effective April 30, 2002.

E. I. DuPont de Nemours and Company, Experimental Station, P. O. Box 80268 Route 141, Wilmington, DE 19880-0268. **License No. PA-AH S227.** Effective April 30, 2002.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permit revoked 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.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 602928, Stout Farm, Borough of Adamstown, 3000 Lancaster Avenue, P. O. Box 546, Adamstown, PA 19601, East Cocalico Township, Lancaster County. This permit has been revoked at the request of the permittee for a site in East Cocalico Township, **Lancaster County**. The permit was revoked by Southcentral Regional Office on April 26, 2002.

Permits approved 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.

Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Permit No. 300624, National Forge Company, One Front Street, Irvine, PA 16329, Brokenstraw Township, **Warren County**. This is an approval of a closure plan revision for a residual waste disposal facility. The revision was approved by the Northwest Regional Office on May 1, 2002.

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.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

GP1-06-03073: Giorgio Foods, Inc. (P. O. Box 96, Temple, PA 19560) on April 29, 2002, was authorized to operate three small natural gas and No. 2 oil fired combustion units under GP1 in Maiden Creek Township, **Berks County**.

GP3-3-05-03010: New Enterprise Stone and Lime Co., Inc. (P. O. Box 77, New Enterprise, PA 16664) on May 2, 2002, was authorized to operate a portable nonmetallic mineral processing plant under GP3 in Snake Spring Township, **Bedford County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.

GP-32-00200: Indiana University of Pennsylvania (S.W. Jack Cogeneration Plant, 525 Pratt Drive, Indiana, PA 15705) (GP-1) on May 3, 2002, for installation of gas and oil fired combustion units in Indiana Borough, **Indiana County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

62-164: IA Construction—Pittsfield Mine (Route 6 North, Pittsfield, PA 16340) on April 30, 2002, for operation of a portable mineral processing plant in Pittsfield Township, **Warren County**.

62-163: IA Construction—Garland Mine (State Route 436, Pittsfield, PA 16340) on April 12, 2002, for operation of a portable mineral processing plant in Pittsfield Township, **Warren 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.

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.

46-0022: ATOFINA Chemicals, Inc. (900 1st Avenue, King of Prussia, PA 19406) on April 25, 2002, for operation of a boiler in Upper Merion Township, **Montgomery County**.

46-0135: Yerger Wood Products, Inc. (3090 Wentling Schoolhouse Road, East Greenville, PA 18041) on April 25, 2002, for operation of a wood grinding hog in Upper Hanover Township, **Montgomery County**.

46-0059A: Handelok Bag Co. (701A West 5th Street, Lansdale, PA 19446) on May 1, 2002, for operation of a four station nonheatset flexographic in Lansdale Borough, **Montgomery County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

36-03125: Susquehanna Valley Organics Corp. (3705 Trindle Road, Camp Hill, PA 17011-4334) on May 3, 2002, for construction of a sludge (biosolids) drying facility that will accept dewatered municipal wastewater solids and convert it into pelletized granules for use as commercial fertilizer in Lancaster Township, **Lancaster County**. This project is subject to 40 CFR Part 61, Subpart E—National Emission Standards for Mercury.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

24-123C: Superior Greentree Landfill (635 Toby Road, Kersey, PA 15846) on April 22, 2002, for operation of temporary candlestick flares in Fox Township, **Elk County**.

24-131D: SGL Carbon Corp. (900 Theresia Street, St. Marys, PA 15857) on April 30, 2002, for modifications to Building 600 in St. Marys, **Elk County**.

16-127B: Piney Creek LP (428 Power Lane, Clarion, PA 16214) on April 30, 2002, for installation of SNCR in Piney Township, **Clarion County**.

43-327A: ELG Metals, Inc. (660 Fourth Street, Greenville, PA 16125) on April 25, 2002, for installation of a baghouse in Pymatuning Township, **Mercer County**.

42-174A: W.R. Case and Sons Cutlery, Co. (High Street Extension, Bradford, PA 16701) for installation of a dust collector in Bradford, **McKean 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.

15-0102: Columbia Transmission Communications (55 Pottstown Pike, Chester Springs, PA 19425) revoked on March 21, 2002, for a 1,850-hp diesel fired generator in West Vincent Township, **Chester County**.

46-313-147: Cabot Corp. (County Line Road, Boyertown, PA 19512) on April 24, 2002, for operation of a refrigerated condenser in Douglass Township, **Montgomery County**.

15-0014C: Saint Gobain Performance Plastics Corp. (57 Morehall Road, Malvern, PA 19355) on April 30, 2002, for operation of an air cleaning control device in East Whiteland Township, **Chester County**.

46-322-007: Waste Management Disposal Services of PA (1425 Sell Road, Pottstown, PA 19464) on January 4, 2002, for operation of a municipal solid waste landfill in West Pottsgrove Township, **Montgomery County**.

23-0001K: Sunoco, Inc. (R&M) (Delaware Avenue and Green Streets, Marcus Hook, PA 19061) on May 2, 2002, for operation of an organic chemical production in Marcus Hook Borough, **Delaware County**.

46-0020C: Superior Tube Co. (3900 Germantown Pike, Colledgeville, PA 19426) on May 2, 2002, for operation of a activated carbon adsorption system in Lower Providence Township, **Montgomery County**.

09-0090: Messer Griesheim Industries, Inc. (One Steel Road East, Morrisville, PA 19067) on May 1, 2002, for operation of a residual cylinder gases in Bristol Township, **Bucks County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

21-05021C: Arnold Fuel Oil, Inc. (P. O. Box 2621, Harrisburg, PA 17105) on April 2, 2002, for installation of a backup vapor recovery unit at its Mechanicsburg North Terminal in Silver Spring Township, **Cumberland County**. This facility is subject to 40 CFR Part 60, Subpart XX—Standards of Performance for Bulk Gasoline Terminals. This plan approval was extended.

36-05067F: C and D Technologies, Inc. (82 East Main Street, Leola, PA 17540) on May 1, 2002, for operation of a lead-acid battery manufacturing plant in Upper Leacock Township, **Lancaster County**. This facility is subject to 40 CFR Part 60, Subpart KK—Standards of Performance for Lead-Acid Battery Manufacturing Plants. This plan approval was extended.

38-03032A: Sun Pipe Line Co. (Ten Penn Center 20th Floor, Philadelphia, PA 19013) on May 1, 2002, for construction of a soil vapor extraction system controlled by a biofilter at its Cornwall Pumping Station in West Cornwall Township, **Lebanon County**. This plan approval was extended.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

14-309-043A: Corning Asahi Video Products Co. (3500 East College Avenue, State College, PA 16801-7555) on April 23, 2002, to extend the authorization to operate a glass furnace (Tank 222) and associated air cleaning device (an electrostatic precipitator) on a temporary basis until August 21, 2002, as well as to extend the authorization to modify a second glass furnace (Tank 221) and associated air cleaning device (an electrostatic precipitator) until August 21, 2002, in College Township, **Centre County**.

53-00005A: Dominion Transmission Corp. (625 Liberty Avenue, Pittsburgh, PA 15222-3199) on April 23, 2002, to extend the authorization to operate a 1,085 horsepower natural gas-fired internal combustion auxiliary generator on a temporary basis until August 21, 2002, at the Greenlick Compressor Station in Stewardson Township, **Potter County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

10-281C: II-VI, Inc. (375 Saxonburg Boulevard, Saxonburg, PA 16056) on April 30, 2002, for a TFM project in Clinton Township, **Butler County**.

42-192B: IA Construction Corp. (Route 59, P. O. Box 568, Franklin, PA 16323) on May 20, 2002, for a batch plant in Lafayette Township, **McKean County**.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

31-03006: Mead Corp. (P. O. Box 317, Alexandria, PA 16611) on May 1, 2002, for operation of the printing facility in Porter Township, **Huntingdon County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

41-00011: John Savoy and Son, Inc. (300 Howard Street, P. O. Box 248, Montoursville, PA 17754) on May 1, 2002, for their wood furniture manufacturing facility in Montoursville Borough, **Lycoming County**. The facility's main sources include 12 natural gas fired space heaters, 6 spray booths, 2 UV coaters, a glue spreader and wood-working operations. This operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

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.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

46-0176: A. Talone, Inc. (318 West Lancaster Avenue, Ardmore, PA 19003) on April 24, 2002, for Synthetic Minor VOC Facility in Lower Merion Township, **Montgomery County**.

09-0023: Laclede Steel Co. (131 Pipe Mill Road, Fairless Hills, PA 19030) revoked on April 30, 2002, for a Facility VOCs/NOx RACT in Falls Township, **Bucks County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

20-00040: Advanced Cast Products, Inc. (18700 Mill Street, Meadville, PA 16335) on May 2, 2002, for an Administrative Amendment of the Title V Operating

Permit to incorporate the conditions of Plan Approval 20-040D in Vernon Township, **Crawford County**.

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 and the NPDES permit application. Mining activity permits issued in response to the 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 Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

49870202R3. Susquehanna Coal Company (P. O. Box 27, 200 East Front Street, Nanticoke, PA 18634) renewal of a coal refuse reprocessing operation in Mt. Carmel and Coal Townships, **Northumberland County** affecting 788.0 acres, receiving stream: Coal Run. Application received February 12, 2002. Renewal issued April 30, 2002.

49970201R. Split Vein Coal Co., Inc. (R. R. 1, Drawer 2, Paxinos, PA 17860) renewal of a coal refuse reprocessing operation in Mt. Carmel Township, **Northumberland County** affecting 72.3 acres, receiving stream: none. Application received February 22, 2002. Renewal issued May 2, 2002.

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

17990123 and NPDES Permit No. PA 0242799. Hepburnia Coal Company, P. O. Box I, Grampian, PA 16838, transfer of an existing bituminous surface mine permit from Thunder Coal Company, located in Penn Township, **Clearfield County** affecting 64.8 acres. Receiving streams: unnamed tributaries to Kratzer Run and to Bell Run to the main streams. Application received April 30, 2001. Permit issued April 26, 2002.

17860144 and NPDES Permit No. PA 0115711. Junior Coal Contracting, Inc., renewal of an existing bituminous surface mine permit located in Decatur Township, **Clearfield County** affecting 324 acres. Receiving streams: unnamed tributary to Moshannon Creek and Shimmel Run. Application received January 30, 2002. Permit issued April 19, 2002.

17980116 and NPDES Permit No. PA 0138091. King Coal Sales, Inc., P. O. Box 712, Philipsburg, PA 16866, major revision to an existing bituminous surface mine permit for a Change in Permit Acreage from 158 to 171 acres. The permit is located in Cooper Township, **Clearfield County**. Receiving streams: unnamed tributary to Sulphur Run and Sulphur Run to Moshannon

Creek to West Branch Susquehanna River. Application received November 2, 2001. Permit issued April 24, 2002.

17010108 and NPDES Permit No. PA 0243108. Swisher Contracting, Inc., P. O. Box 1223, Clearfield, PA 16830, commencement, operation and restoration of a bituminous surface mine-auger permit in Lawrence Township, **Clearfield County** affecting 76 acres. Receiving streams: Orr's Run to the West Branch of the Susquehanna River. Application received July 10, 2001. Permit issued April 26, 2002.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

30010102 and NPDES Permit No. PA0203017. Coresco, Inc. (P. O. Box 1209, Morgantown, WV 26507). Permit issued for commencement, operation and reclamation of a bituminous surface mining site located in Dunkard Township, **Greene County**, affecting 169.0 acres. Receiving streams: unnamed tributaries to Dunkard Creek to Dunkard Creek to the Monongahela River. Application received July 24, 2001. Permit issued May 1, 2002.

03000104 and NPDES Permit No. PA0202746. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Permit revised to add 8.3 acres of coal removal, 5.7 acres of augering and include conventional bonding recalculations at a bituminous surface/auger mining site located in Valley and Kittanning Townships, **Armstrong County**, now affecting 460.9 acres. Receiving streams: unnamed tributary "C" to Mill Run; unnamed tributary "D" to Mill Run; Cowanshannock Creek; unnamed tributary "A" to Cowanshannock Creek; unnamed tributary "C" to Cowanshannock Creek; unnamed tributary "B" to Mill Run; or unnamed tributary "B" to Cowanshannock Creek. Application received September 17, 2001. Permit revision issued May 3, 2002.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56960105 and NPDES Permit No. PA0234168. L. K. Mining, Inc., 323 Coalyard Road, Rockwood, PA 15557. Permit renewal for continued operation of a bituminous surface mine and for existing discharge of treated mine drainage in Milford Township, **Somerset County**, affecting 20.2 acres. Receiving streams: unnamed tributary to South Glade Creek classified for the following uses: WWF. There are no potable water supply intakes within 10 miles downstream. Application received January 29, 2002. Permit issued April 29, 2002.

32970201 and NPDES Permit No. PA0234443. Britt Energies, Inc., 2450 Philadelphia Street, Indiana, PA 15701, permit renewal for reclamation only for continued restoration of a bituminous surface (coal refuse reprocessing) mine in Center Township, **Indiana County**, affecting 4.6 acres. Receiving streams: unnamed tributary to Two Lick Creek classified for the following uses: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 20, 2002. Permit issued April 29, 2002.

11860101 and NPDES Permit No. PA0599191. Laurel Land Development, Inc., P. O. Box 629, Carrolltown, PA 15722, permit renewal for reclamation only for continued restoration of a bituminous surface mine in Blacklick Township, **Cambria County**, affecting 67.0 acres. Receiving streams: Coalpit Run classified for the following uses: CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 19, 2002. Permit issued April 30, 2002.

32970202 and NPDES Permit No. PA0234575. Britt Energies, Inc., 2450 Philadelphia Street, Indiana, PA 15701, permit renewal for reclamation only and for continued restoration of a bituminous surface (coal refuse reprocessing) mine in Center and White Townships, **Indiana County**, affecting 47.8 acres. Receiving streams: Yellow Creek classified for the following uses: TSE. There are no potable water supply intakes within 10 miles downstream. Application received April 15, 2002. Permit issued April 30, 2002.

56920101 and NPDES Permit No. PA0599395. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, permit renewal for reclamation only for continued restoration of a bituminous surface mine and existing discharge of treated mine drainage in Summit Township, **Somerset County**, affecting 49.0 acres. Receiving streams: unnamed tributary to/and Casselman River and Shafer Run classified for the following uses: CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received April 10, 2002. Permit issued April 30, 2002.

32010113 and NPDES Permit No. PA0249106. TLH Coal Company, 4401 Pollock Road, Marion Center, PA 15759, commencement, operation and restoration of a bituminous surface and auger mine and for discharge of treated mine drainage in West Mahoning Township, **Indiana County**, affecting 57.2 acres. Receiving streams: unnamed tributary to Mahoning Creek and Mahoning Creek classified for the following uses: CWF and WWF. There are no potable water supply intakes within 10 miles downstream. Application received November 5, 2001. Permit issued April 30, 2002.

McMurray District Mining Office: 3913 Washington Road, McMurray, PA 15317, (724) 941-7100.

17841607. NPDES Permit #PA0100803, Energy Resources, Inc. (P. O. Box 259, Brockway, PA 15824) to transfer the permit for the coal preparation plant in Bradford Township, **Clearfield County** to transfer permit from Fuel Fabricators, Inc., Surface Acres Proposed N/A, Underground Acres Proposed N/A, SCP Acres Proposed N/A, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal Acres Proposed N/A, no additional discharges, classified for the following uses: N/A. The first downstream potable water supply intake from the point of discharge is N/A. Permit issued April 30, 2002.

17823701. NPDES Permit #PA0617083, Energy Resources, Inc. (P. O. Box 259, Brockway, PA 15824) to transfer the permit for the Refuse Disposal Area No. 1 in Bradford Township, **Clearfield County** to transfer from Bradford Coal Co., Inc., Surface Acres Proposed N/A, Underground Acres Proposed N/A, SCP Acres Proposed N/A, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal Acres Proposed N/A, no additional discharges, classified for the following uses: N/A. The first downstream potable water supply intake from the point of discharge is N/A. Permit issued April 30, 2002.

Noncoal Permits Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

64022804. Robert A. Coleman (P. O. Box 3, Susquehanna, PA 18847) commencement, operation and restoration of a quarry operation in Scott Township, **Wayne County** affecting 5.0 acres, receiving stream: Hiawatha and Balls Creeks. Application received February 22, 2002. Permit issued April 30, 2002.

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

41021001. Glenn O. Hawbaker, Inc., 2801 Canfield Lane, Montoursville, PA 17754. Commencement, operation and restoration of a General Permit for a Short-Term Construction Project in McIntyre Township, **Lycoming County** affecting 2 acres. Application received January 28, 2002. Permit issued April 26, 2002.

18020801. Benson W. Probst, 668 German Road, Lock Haven, PA 17745. Commencement, operation and restoration of a Small Industrial Minerals (Topsoil) permit in Dunnstable Township, **Clinton County** affecting 2.7 acres. Receiving streams: Big Plum Run to Susquehanna River, tributary to Susquehanna River. Application received February 19, 2002. Permit issued April 30, 2002.

17010802. Johnson Brothers Coal Company, R. R. 1, Box 580, Mahaffey, PA 15757. Commencement, operation and restoration of a Small Industrial Minerals (Sandstone) permit in Pike Township, **Clearfield County** affecting 5 acres. Receiving streams: Roaring Run, tributary to Anderson Creek. Application received July 31, 2001. Permit issued April 30, 2002.

14920304 and NPDES Permit No. PA 0207217. Graymont (PA) Inc., P. O. Box 448, Bellefonte, PA 15823. Commencement, operation and restoration of a Large Industrial Minerals, Surface Activity Connected with Underground Mining (Noncoal) permit in Benner Township, **Centre County** affecting 15.5 acres. Receiving streams: unnamed tributary to Buffalo Run and Buffalo Run to Spring Creek to Bald Eagle Creek to the West Branch of the Susquehanna River. Application received October 23, 1992. Permit issued May 1, 2002.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

63920301 and NPDES Permit No. PA0203424T. Langeloth Metallurgical Co., LLC (10 Langeloth Plant Drive, Langeloth, PA 15054). NPDES renewal issued for continued operation and reclamation of a large noncoal surface mine located in Smith Township, **Washington County**, affecting 13 acres. Receiving streams: unnamed tributary to Burgetts Fork to Burgetts Fork to Raccoon Creek to the Ohio River. Application received February 25, 2002. NPDES Renewal issued May 6, 2002.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P. S. §§ 151—161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

09024013. Brubacher Excavating, Inc. (825 Reading Road, Bowmansville, PA 17507) construction blasting in Hilltown Township, **Bucks County** with an expiration date of May 18, 2003. Permit issued April 29, 2002.

09024014. Rock Work, Inc. (1257 DeKalb Pike, R. R. 2, Blue Bell, PA 19422) construction blasting in Upper Makefield Township, **Bucks County** with an expiration date of May 21, 2003. Permit issued April 29, 2002.

35024006. Emmett J. Wilkinson, EJW Corp. (R. R. 2 Box 189, Kingsley, PA 18826) construction blasting in

Archbald Borough, **Lackawanna County** with an expiration date of June 30, 2002. Permit issued April 29, 2002.

45024021. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431) construction blasting in Smithfield Township, **Monroe County** with an expiration date of April 6, 2003. Permit issued April 29, 2002.

64024005. Holbert Explosives, Inc. (237 Masthope Plank Road, Suite A, Lackawaxen, PA 18435) construction blasting in Damascus Township, **Wayne County** with an expiration date of May 23, 2007. Permit issued April 29, 2002.

64024003. Holbert Explosives, Inc. (237 Masthope Plank Road, Suite A, Lackawaxen, PA 18435) construction blasting in Berlin Township, **Wayne County** with an expiration date of May 26, 2002. Permit issued April 29, 2002.

64024004. Holbert Explosives, Inc. (237 Masthope Plank Road, Suite A, Lackawaxen, PA 18435) construction blasting in Berlin Township, **Wayne County** with an expiration date of May 30, 2002. Permit issued April 29, 2002.

55024001. Heister House Mill Works (R. R. 1 Box 214H, Mt. Pleasant Mills, PA 17853) and **Douglas Explosives** (P. O. Box 77, Philipsburg, PA 16866) construction blasting in Perry Township, **Snyder County** with an expiration date of May 31, 2002. Permit issued April 29, 2002.

06014021. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507) construction blasting in Maxatawny Township, **Berks County** with an expiration date of April 8, 2003. Permit issued April 29, 2002.

67024010. J. Roy's, Inc. (Box 125 Bowmansville, PA 17507) construction blasting in Manchester Township, **York County** with an expiration date of April 9, 2003. Permit issued April 29, 2002.

46024024. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507) construction blasting in Lower Merion Township, **Montgomery County** with an expiration date of July 7, 2002. Permit issued April 29, 2002.

15024013. Explo Service, Inc. (P. O. Box 164, 1315 Sheep Hill Road, East Earl, PA 17519) construction blasting in West Nantmeal Township, **Chester County** with an expiration date of March 21, 2003. Permit issued April 30, 2002.

36024036. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507) construction blasting in East Hempfield Township, **Lancaster County** with an expiration date of April 10, 2004. Permit issued April 30, 2002.

36024037. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543) construction blasting in Caernarvon Township, **Lancaster County** with an expiration date of October 17, 2002. Permit issued April 30, 2002.

06024019. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507) construction blasting in St. Lawrence Borough, **Berks County** with an expiration date of April 10, 2003. Permit issued April 30, 2002.

06024020. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507) construction blasting in Bern Township, **Berks County** with an expiration date of July 20, 2002. Permit issued April 30, 2002.

36024038. B.R. Kreider & Son, Inc. (63 Kreider Lane, Manheim, PA 17545) construction blasting in

Manor Township, **Lancaster County** with an expiration date of November 17, 2002. Permit issued April 30, 2002.

21024026. R & M Excavating (403 Hilltop Road, Newburg, PA 17240) construction blasting in Dickinson Township, **Cumberland County** with an expiration date of May 15, 2010. Permit issued April 30, 2002.

67024011. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507) construction blasting in Springfield Township, **York County** with an expiration date of April 10, 2004. Permit issued April 30, 2002.

45024022. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431) construction blasting in Price Township, **Monroe County** with an expiration date of April 12, 2003. Permit issued April 30, 2002.

45024023. Explosives Services, Inc. (7 Pine Street, Bethany, PA 18431) construction blasting in Jackson Township, **Monroe County** with an expiration date of April 15, 2003. Permit issued May 2, 2002.

45024024. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431) construction blasting in Pocono Township, **Monroe County** with an expiration date of April 13, 2003. Permit issued May 2, 2002.

40024007. Explosives Services, Inc. (7 Pine Street, Bethany, PA 18431) construction blasting in Exeter Borough, **Luzerne County** with an expiration date of April 13, 2003. Permit issued May 2, 2002.

39024006. Clair Stahley (P. O. Box 526, Orefield, PA 18069-0526) and **Austin Powder Company** (P. O. Box 289, Northampton, PA) construction blasting in Whitehall Township, **Lehigh County** with an expiration date of August 28, 2002. Permit issued May 2, 2002.

39024007. Allan A. Myers, L.P. (P. O. Box 98, Worcester, PA 19490) construction blasting in Bethlehem Township, **Lehigh County** with an expiration date of July 28, 2002. Permit issued May 2, 2002.

34024001. Glenn O. Hawbaker, Inc. (1952 Waddle Road, P. O. Box 135, State College, PA 16804-0135) and **Douglas Explosives, Inc.** (1 Graham Station, P. O. Box 77, Philipsburg, PA 16866) construction blasting in Fermanagh Township, **Juniata County** with an expiration date of December 31, 2002. Permit issued May 2, 2002.

15024014. Explo-Craft, Inc. (P. O. Box 1332, West Chester, PA 19380) construction blasting in Honebrook Township, **Chester County** with an expiration date of September 21, 2002. Permit issued May 2, 2002.

52024009. Holbert Explosives, Inc. (237 Masthlope Plank Road, Suite A, Lackawaxen, PA 18435) construction blasting in Palmyra Township, **Pike County** with an expiration date of May 28, 2007. Permit issued May 2, 2002.

06024022. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507) construction blasting in Maxatawny Township, **Berks County** with an expiration date of April 16, 2003. Permit issued May 2, 2002.

21024028. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013-0608) construction blasting in Silver Springs Township, **Cumberland County** with an expiration date of April 30, 2004. Permit issued May 2, 2002.

36024040. ABEL Construction Co., Inc. (3925 Columbia Avenue, Mountville, PA 17554) construction blasting in Lititz Borough and Warwick Township, **Lancaster County** with an expiration date of November 30, 2002. Permit issued May 2, 2002.

38024012. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033) construction blasting in Campbelltown Township, **Lebanon County** with an expiration date of May 31, 2003. Permit issued May 2, 2002.

36024039. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543) construction blasting in Manheim Township, **Lancaster County** with an expiration date of November 15, 2002. Permit issued May 2, 2002.

22024005. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543) construction blasting in Derry Township, **Dauphin County** with an expiration date of May 31, 2003. Permit issued May 2, 2002.

67024012. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543) construction blasting in West Manchester Township, **York County** with an expiration date of November 15, 2002. Permit issued May 2, 2002.

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

14024011. HRI, Inc., P. O. Box 155, State College, PA 16804, for construction blasting in Ferguson Township, **Centre County**, with an expected duration of 151 days. Permit issued May 2, 2002. Permit expires: September 30, 2002.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

32024001. Evergreen Landfill, Inc., Center Township, **Indiana County**, expansion of landfill and expected duration of blasting is 30 days from April 29, 2002. Permit issued April 29, 2002.

Persons aggrieved by an 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, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the 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 to 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 decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) 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 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.

Persons aggrieved by an 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, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the 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 to 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 decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

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 §§ 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

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E64-221. Joseph J. and Alyson M. Burkavage, 734 Main Street, Honesdale, PA 18431. Dyberry Township, **Wayne County**, 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 permittee is required to provide for 0.48 acre of replacement wetlands by participating in the Pennsylvania Wetland Replacement Project. The project is located on a 1.91-acre lot, at 120 Bethany Lake Court, abutting the west side of SR 0670, immediately

north of Bethany Borough (Honesdale, PA Quadrangle N: 22.0 inches; W: 6.0 inches).

E39-405. City of Allentown, Bureau of Parks, 2700 Parkway Boulevard, Allentown, PA 18104-5399. City of Allentown, **Lehigh County**, Army Corps of Engineers Philadelphia District.

To construct and maintain a stream restoration project in a 4,135-foot reach of Little Cedar Creek and to replace and repair various golf cart bridges along the same reach. The project's purpose is to stabilize stream banks, reduce sediment load, improve water quality, improve fish habitat and establish a riparian corridor. The project will utilize techniques such as the placement of concrete interlocking blocks in the initial phase and the placement of rock weirs, rock armor and biologs in subsequent phases. The project is known as the Allentown Municipal Golf Course Little Cedar Creek Rehabilitation Project.

Phase I of the multi-phase project includes restoration of 850 linear feet of Little Cedar Creek with work consisting of regrading stream banks and lining the channel with concrete interlocking blocks; removing the existing structure known as Bridge #10 and constructing and maintaining a golf cart bridge having a span of 22 feet and an underclearance of 3.4 feet across Little Cedar Creek; and repairing and maintaining an existing golf cart bridge across Little Cedar Creek known as Bridge #11 with repairs consisting of partial deck replacement and painting of steel beams.

Phase I is located approximately 0.2 mile upstream of Little Cedar Creek's intersection with SR 1002 (Tilghman Street) (Allentown West, PA Quadrangle N: 18.0 inches; W: 5.5 inches).

E45-417. Tobyhanna Township, HC 89, Box 289, State Avenue, Pocono Pines, PA 18350. Tobyhanna Township, **Monroe County**, Army Corps of Engineers Philadelphia District.

To remove the existing structures and to construct and maintain an 8-foot x 5-foot concrete box culvert having a 12-inch culvert depression in Goose Run. The project is located along Klock Road, approximately 300 feet downstream of SR 0115 (Blakeslee, PA Quadrangle N: 14.3 inches; W: 11.4 inches).

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-1368. Forest City Bessemer Court Associates, 1000-B Terminal Tower, 50 Public Square, Cleveland, OH 44113-2267. City of Pittsburgh, **Allegheny County**, ACOE Pittsburgh District.

To construct and maintain a river side tower, landing/boat dock and an extension to the Gateway Clipper Dock along the left bank side of the Monongahela River (WWF) near River Mile 0.5. The landing area will consist of a floating barge with boat slips attached to it. The Gateway Clipper extension will consist of two floating barges. The total length of the facility will be approximately 865 feet long. The project is located downstream of the Smithfield Bridge and extends to approximately 250 feet upstream of the Fort Pitt Bridge (Pittsburgh West, PA Quadrangle N: 10.8 inches; W: 0.6 inch).

E04-272. Pennsylvania Department of Transportation, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017. Independence Township, **Beaver County**, ACOE Pittsburgh District.

To remove the existing bridge and to construct and maintain a new bridge having a span of 108.0 feet with

an underclearance of 15.8 feet across Raccoon Creek (WWF) to construct and maintain several outfall structures on the left bank of said stream, to relocate and maintain approximately 400 feet of the channel of an unnamed tributary to Raccoon Creek and to place and maintain fill in a de minimis area of wetland less than 0.01 acre for the purpose of improving highway safety. The project is located on SR 0151, Section 016. This permit also authorizes the construction of temporary cofferdams and rock barriers. (Aliquippa, PA Quadrangle N: 8.9 inches; W: 9.45 inches).

E11-292. Cambria County Conservation District, 401 Candlelight Drive, Suite 221, Ebensburg, PA 15931. Borough of Patton, **Cambria County**, ACOE Baltimore District.

To restore and maintain the low flow channel of Chest Creek (CWF) as a meandering stream, for a length of approximately 1,645 feet above the Route 36 bridge, to protect and stabilize the toe of the existing flood protection project's earthen dikes (Hastings, PA Quadrangle N: 1.2 inches; W: 3.13 inches).

E26-290. NWL Company, 1001 Lafayette Drive, Farmington, PA 15437. Wharton Township, **Fayette County**, ACOE Pittsburgh District.

To remove an existing culvert, to construct and maintain a single 48-inch reinforced concrete pipe culvert in and two footbridges across, an unnamed tributary to Deadman Run (HQ-CWF) and to place and maintain fill in 0.50 acre of wetlands for the purpose of developing an outdoor store. Secondary impacts may affect 0.06 acre of additional wetland. The permittee will construct 0.61 acre of replacement wetland. Issuance of this permit constitutes approval of the Environmental Assessment for the repair and modification of an existing, nonjurisdictional dam that is located across an unnamed tributary to Deadman Run. The project will cumulatively affect 183 feet of watercourse. The project is located along US Route 40 at its intersection with Schoolhouse Road (Fort Necessity, PA Quadrangle N: 8.3 inches; W: 5.5 inches).

ENVIRONMENTAL ASSESSMENTS

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

EA54-010NE. Schuylkill County Conservation District, 1206 AG Center Drive, Pottsville, PA 17901. Schuylkill Township, **Schuylkill County**, Army Corps of Engineers Philadelphia District.

To construct and maintain a two-stage abandoned mine discharge (AMD) treatment system situated in and along a tributary to the Schuylkill River and a de minimis area of wetlands. The purpose of the project is to treat and reduce AMD loadings discharging from the Bell Colliery directly to the Schuylkill River. The project is located approximately 0.9 mile southwest of the intersection of SR 0209 and Township Road T857 (Delano, PA Quadrangle N: 0.7 inch; W: 6.4 inches).

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D15-359. Somerset Lake Service Corporation c/o Brandywine Valley Properties, P. O. Box 7368, Wilmington, DE 19803-7368. To operate and maintain Basin No. 2 at Somerset Lake across a tributary to Broad Run (CWF) for the purpose of detaining stormwater (Kennett Square, PA Quadrangle N: 6.8 inches; W: 16.2 inches) New Garden Township, **Chester County**.

SPECIAL NOTICES

Certification to Perform Radon-Related Activities in this Commonwealth

In the month of April 2002, the Department of Environmental Protection, under the authority contained in the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the persons listed to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Kevin Adams	113 North Main Street Washington, PA 15301	Testing
Stephen Asbath, Jr.	2260 Black River Road Bethlehem, PA 18015	Mitigation
David Bostak	2843 North Front Street Harrisburg, PA 17110	Testing
Robert Bruno Boro Environmental, Inc.	501 Sharp Avenue Glenolden, PA 19036	Mitigation
Richard Cooper	3650 Concorde Parkway Suite 100 Chantilly, VA 20151	Testing
Thomas d'Arcy Radon Testing Systems	P. O. Box 243 Newtown, PA 18940	Testing
James Davis	614 Lincoln Avenue Jermyn, PA 18433	Testing

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
E. David DeMar DeMar Assoc. Testing Services D.A.R.T. Mitigation Systems	611 Ridge Road Sellersville, PA 18960	Testing and Mitigation
Fred Durham, III	1758 Piccadilly Circle Allentown, PA 18103	Testing
James Fawley	41 Indian Rocks Lake Ariel, PA 18436	Testing
Randon Ferguson	15952 Rt. 322, Suite 3 Clarion, PA 16214	Testing and Mitigation
Richard Finn	6 Glendale Drive Mountain Top, PA 18707	Testing
Frank Glantz	P. O. Box 866 Lemont, PA 16851	Mitigation
Frank Hendron Northeast Inspection Corp.	210 Stonebridge Boulevard New Castle, DE 19720	Testing and Mitigation
Leonard Kelsey Radon Specialists, Inc.	800 Sunset Lane Stroudsburg, PA 18360	Mitigation
Scott Latosky	1153 Stowe Avenue McKees Rock, PA 15136	Testing
Eric Levine	5485 Music Center Drive East Stroudsburg, PA 18301	Testing and Mitigation
Frank Mastroni	3650 Concorde Parkway Suite 100 Chantilly, VA 20151	Testing
Leonard Mathison RadonMaster, LLC	110 Fulton Drive Valencia, PA 16059	Mitigation
Thomas McDonald	3465 Friendship Street Philadelphia, PA 19149	Testing and Mitigation
Samuel McKinstry	2024 Waltz Avenue State College, PA 16801	Mitigation
William McLaughlin	3650 Concorde Parkway Suite 100 Chantilly, VA 20151	Testing
Stephen Mento	P. O. Box 771 Phoenixville, PA 19460	Testing
David Milliron	124 Oakford Park Road Jeannette, PA 15644	Testing
Cristopher Murphy World Inspection Network	4101 Benden Circle Murrysville, PA 15668	Testing
Dennis Nilan	619 Barclay Lane Broomall, PA 19008	Testing and Mitigation
Pillar To Post Home Inspection	660 Second Street Pike Suite 6 Southampton, PA 18966	Testing
Theresa Pratt	800 Mason Court HF Box 3073 Hawley, PA 18428	Testing

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Christian Radomicki	3650 Concorde Parkway Suite 100 Chantilly, VA 20151	Testing
Lisa Roddis Amerispec Home Inspection Service	3216 Kirkwood Highway Suite 304 Wilmington, DE 19808	Testing
Herbert Scott	7398 Tohickon Hill Road Point Pleasant, PA 18950	Testing
Robert Vail	1334 Chapman Lake Road Jermyn, PA 18433	Mitigation
Bradford Whitely	516 Broad Street Montoursville, PA 17754	Testing
David Wotring	R. D. 1, Box 491 Scotrun, PA 18355	Testing

[Pa.B. Doc. No. 02-893. Filed for public inspection May 17, 2002, 9:00 a.m.]

Air Quality Technical Advisory Committee Meeting Change

The Air Quality Technical Advisory Committee meeting scheduled for May 22, 2002, has been rescheduled for May 23, 2002. The meeting will be held in Room G50, State Library and Forum Building, Harrisburg, PA, with a starting time of 8:30 a.m.

This will be a special meeting conducted jointly with the Citizens Advisory Council to discuss long-range planning issues. Questions concerning the agenda can be directed to Terry Black at (717) 787-2030 or e-mail tblack@state.pa.us. The agenda is available through the Public Participation Center on the Department of Environmental Protection's website at <http://www.dep.state.pa.us>.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Terry Black at (717) 787-9495.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-894. Filed for public inspection May 17, 2002, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are on Department of Environmental Protection's (Department) website (www.dep.state.pa.us) at the Public Participation Center page. The "May 2002 Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various Department bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to Department's draft technical guidance documents.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view guidance documents. When this option is not avail-

able, 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 Department at (717) 783-8727.

In addition, bound copies of some of Department's documents are available as Department 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.

Final Technical Guidance

DEP ID: 254-2212-501. Title: County Option to Retain or Eliminate Municipal Waste Flow Control. Description: This document, originally effective in 1997, was developed to provide guidance to counties regarding their option to retain or eliminate municipal waste flow control as part of their county municipal waste management plan. In 1998, however, the Department developed policy #254-2212-504 entitled "Guidelines for the Development of County Municipal Waste Management Plan Revisions." This document incorporated and contains all relevant information from #254-2212-501, making the former policy unnecessary. Therefore, the rescission of #254-2212-501 will not detrimentally impact the operations of the waste management program and will only clarify the appropriate municipal waste management plan revisions that should be followed. Effective Date: May 18, 2002. Contact: Sally Lohman at (717) 787-7382 or e-mail Lohman.sally@state.pa.us.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-895. Filed for public inspection May 17, 2002, 9:00 a.m.]

Request for Applications for Pollution Prevention and Energy Efficiency Grants Through the Pennsylvania Environmental and Energy Challenge Grant Program

Applications are now being accepted for the Pennsylvania Environmental and Energy Challenge (PEEC) Grant Program, through the Department of Environmental Protection (Department), Office of Pollution Prevention and Compliance Assistance.

PEEC is a new grant program providing funds to address pollution prevention, pollution reduction and energy efficiency, with an emphasis on renewable and alternative energy. New and innovative projects and technologies will be preferred.

For this first year, the Department projects to invest more than \$1.5 million in a variety of projects, including sustainable use of natural resources, toxics reduction in the environment, enhancement of biological diversity, climate change mitigation and ground level ozone mitigation.

Applications can be downloaded online at www.dep.state.pa.us (directLINK "2002 PEEC Grant"). The deadline for submitting applications to the Department Grants Center is July 3, 2002. Applications must be postmarked or hand delivered by 4 p.m. on July 3, 2002. Faxed copies will not be accepted.

To request an application or obtain more information concerning the PEEC Grant Program, visit www.dep.state.pa.us (directLINK "OPPCA"), send e-mail to depp2@state.pa.us or contact the Department Grants Center at (877) PAGREEN or (717) 705-5400. Written correspondence should be addressed to PEEC Grants, DEP Grants Center, 15th Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8776, Harrisburg, PA 17105-8776.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-896. Filed for public inspection May 17, 2002, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES

Proposed Plan for the Disposition of Commonwealth Property

The Department of General Services (Department), under the authority of The Administrative Code of 1929, has published this proposed property disposition plan for review by the public and approval of the General Assembly. The proposed plan is available for review at www.dgs.state.pa.us/realestate/re.htm.

Persons wishing to comment on the proposed plan should write to Stephen Squibb, Department of General Services, Bureau of Real Estate, Room 505 North Office Building, Harrisburg, PA 17125, within 30 days from the date of this notice. Correspondence should include the name and address of the writer and "Property Disposition Plan" should be noted in the lower right corner of the envelope. If more detailed information is desired concerning a particular property, written requests may also be directed to the previous address.

General Description of Properties

This property disposition plan is only a proposal to offer for sale the following described real property.

Offering No. 1

Pennhurst Center—The property consists of 110-acres and 21 buildings. The property is located off Brown Drive, East Vincent Township, PA.

Offering No. 2

Southampton-Byberry Road Parcel—The property consists of 1.4 acres. The property is located on Southampton Byberry Road, Philadelphia, PA.

Offering No. 3

New Kensington Parcel—The property consists of approximately 0.5 acre. The property is located on Woodland Drive, New Kensington, PA.

The Department is not guaranteeing to sell any or all of the referenced property. Final determination of sale will be conditioned upon approval from the Legislature and responses received from this notice.

General Terms and Conditions for Properties that may be Offered for Sale

The terms and conditions for the sale of approved properties and the form of purchase will be determined by the Department depending on market conditions, proposals received and the best interests of the Commonwealth. The Department will offer properties for sale either through an auction, sealed bid or request for proposal. Offers below fair market value or fair consideration established through independent appraisal will be rejected.

Consideration will be given to lump sum purchase, installment purchase, lease purchase or fair consideration, the components of which include: job retention/creation, economic growth, community development, highest and best use, public purpose, expansion of local tax base, short term site redevelopment and cash to the Commonwealth.

KELLY POWELL LOGAN,
Secretary

[Pa.B. Doc. No. 02-897. Filed for public inspection May 17, 2002, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Alle-Kiski Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Alle-Kiski Medical Center has requested an exception to the requirements of 28 Pa. Code § 51.23 (relating to positron emission tomography).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: DH, PAExcept.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact, Director, Division of Acute and Ambulatory Care at (717) 783-8980, 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. 02-898. Filed for public inspection May 17, 2002, 9:00 a.m.]

Application of Mahoning Valley ASC for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Mahoning Valley ASC has requested an exception to the requirements of 28 Pa. Code § 571.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 9.5.F2 (relating to ambulatory (outpatient) operating rooms) and 9.5.F4 (relating to a designated step-down recovery area).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: DH, PAExcept.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact Director, Division of Acute and Ambulatory Care at (717) 783-8980, 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. 02-899. Filed for public inspection May 17, 2002, 9:00 a.m.]

Application of Pittsburgh Specialty Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Pittsburgh Specialty Hospital

has requested an exception to the requirements of 28 Pa. Code § 571.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 9.5.D1 (relating to covered entrances for pickup of patients after surgery), 9.5.F2.d (relating to minimum size of Class C operating rooms) and 9.5.H2.a(3) (relating to details and finishes on ceilings in restricted areas).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: DH, PAExcept.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact Director, Division of Acute and Ambulatory Care at (717) 783-8980, 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. 02-900. Filed for public inspection May 17, 2002, 9:00 a.m.]

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 Education (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 December 23, 2001, through April 30, 2002. Future publications of decisions on exception requests will appear on a quarterly basis.

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, Sandra Knoble, 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

<i>Regulation</i>	<i>Facility Name</i>	<i>Relating to</i>	<i>Req. Published</i>	<i>Decision</i>
28 Pa. Code § 51.3	St. Vincent Outpatient Center-Union City	notification	2/9/02	granted/ denied in part
28 Pa. Code § 51.3(g)	UPMC Shadyside	elopements	3/16/02	granted
28 Pa. Code § 51.6	Tyler Memorial Hospital	identification of personnel	7/21/01	granted
28 Pa. Code § 51.6(b)	DuBois Regional Medical Cr.	identification of personnel	1/19/02	granted
28 Pa. Code § 51.22	Hahnemann University Hosp.	cardiac catheterization	11/17/01	granted
28 Pa. Code § 51.23	Indiana Hospital	PET scanning services	3/23/02	granted
28 Pa. Code § 51.23	Latrobe Area Hospital	PET scanning services	8/18/01	granted
28 Pa. Code § 51.23	Punxsutawney Area Hospital	PET scanning services	1/19/02	granted
28 Pa. Code § 51.23	DuBois Medical Center	PET scanning services	2/9/02	granted
28 Pa. Code § 51.23	Charles Cole Memorial Hosp.	PET scanning services	2/16/02	granted
28 Pa. Code § 51.23	Sewickley Valley Hospital	PET scanning services	12/01/01	granted
28 Pa. Code § 107.2	Hanover Hospital	medical staff membership	3/2/02	granted
28 Pa. Code § 107.62	UPMC Health System Hosp.	oral orders	12/22/01	denied
28 Pa. Code § 117.30	Children's Hosp. of Pittsburgh	emergency paramedic services	1/12/02	not necessary
28 Pa. Code § 137.3	Soldiers and Sailors Memorial Hospital	director of obstetrical services	2/16/02	granted
28 Pa. Code § 138.1	Hahnemann University Hosp.	cardiac catheterization	11/17/01	granted
28 Pa. Code § 143.5	Soldiers and Sailors Memorial Hospital	medical supervision of podiatric patients	2/9/02	denied
28 Pa. Code § 153.1	Brookville Hospital	min. construction standards—7.10.H. Cardiac Cath Lab, specifically 7.10.H2—minimum sq. ft, 7.10.H3—x-ray control room, 7.10.H4—x-ray equip room	4/6/02	granted
28 Pa. Code § 153.1	St. Mary Medical Center	minimum construction stds		not necessary
28 Pa. Code § 153.1	UPMC Horizon	minimum construction stds	9/22/01	granted
28 Pa. Code § 153.1	Holy Spirit Hospital	minimum construction stds	1/19/02	granted
28 Pa. Code § 153.1	Bariatric Care Center	minimum construction stds 7.30.B2 (relating to dimensions of elevator cars)	2/2/02	granted
28 Pa. Code § 153.1	Children's Hosp. of Phila.	minimum construction stds 7.2.B4 handwashing stations, 7.3.A3, patient space in critical care units, 7.3.B2 toilets in coronary critical care units	3/2/02	granted
28 Pa. Code § 153.1	Abington Memorial Hospital	minimum construction stds 7.8.A3(l)	2/16/02	granted

Exception Requests—Ambulatory Surgical Facilities

<i>Regulation</i>	<i>Facility Name</i>	<i>Relating to</i>	<i>Req.</i>	<i>Published Decision</i>
28 Pa. Code § 571.1	Phoenixville Hospital	minimum construction stds (9.5.F2c(1)(2) relating to class B operating rooms)	1/26/02	granted
28 Pa. Code § 571.1	Delco Gastroenterology	minimum construction stds 9.9.A1 (relating to procedure rooms)	1/19/02	not necessary
28 Pa. Code § 571.1	Susquehanna Surgery Center	minimum construction stds	1/19/02	granted
28 Pa. Code § 571.1	Sal P. Calabro, MD	minimum construction stds	11/3/01	granted/denied in part
28 Pa. Code § 571.1	Delco Gastroenterology, P.C.	minimum construction stds 9.30.B (relating to size of elevators)	3/23/02	granted
28 Pa. Code § 571.1	Dermatologic SurgiCenter	minimum construction stds 9.5.F5(b)(c)(I)(k) surgical service areas	3/2/02	granted
28 Pa. Code § 571.1	Dermatologic SurgiCenter	minimum construction stds 9.5.H1(a) minimum public corridor widths	12/22/01	granted

Exception Requests—Nursing Care Facilities

<i>Regulation</i>	<i>Facility Name</i>	<i>Relating to</i>	<i>Req.</i>	<i>Published Decision</i>
28 Pa. Code § 201.18(e)	Sacred Heart Hosp. Transitional Care Facility	management	2/23/02	temp approval
28 Pa. Code § 201.18(e)	Transitional Care Unit (Bon Secours)	management	12/15/01	temp approval
28 Pa. Code § 205.10(a)	The Lutheran Home	doors	3/2/02	granted
28 Pa. Code § 205.36(e)	St. Mary's of Asbury Ridge	bathing facilities	1/19/02	granted
28 Pa. Code § 205.36(h)	Highland Park Care Center	bathing facilities	2/16/02	granted
28 Pa. Code § 205.38(a)	The Lutheran Home	toilet facilities	3/2/02	granted
28 Pa. Code § 205.38(a)(b)	St. Luke's Trans Care Unit	toilet facilities	12/15/01	granted
28 Pa. Code § 205.6(a)	St. Mary's Home of Erie	function of building	10/27/01	not required
28 Pa. Code § 205.6(a)	Garvey Manor	function of building	12/15/01	granted
28 Pa. Code § 205.6(a)	ManorCare Health	function of building	7/14/01	granted
28 Pa. Code § 205.6(a)	Presbyterian Health Center	function of building	12/15/01	granted
28 Pa. Code § 205.6(a)	Mt. Macrina Manor	function of building	1/19/02	granted
28 Pa. Code § 205.6(a)	Brethren Home Community	function of building	12/1/01	granted
28 Pa. Code § 205.6(a)	ManorCare Hlth Svcs—Jersey Shore	function of building	12/1/01	not required
28 Pa. Code § 205.6(a)	ManorCare Health Services-Williamsport North	function of building	12/22/01	not required
28 Pa. Code § 205.6(a)	ManorCare Health Services—King of Prussia	function of building	1/19/02	granted
28 Pa. Code § 205.6(a)	Asbury Health Center	function of building	12/15/01	granted

<i>Regulation</i>	<i>Facility Name</i>	<i>Relating to</i>	<i>Req. Published</i>	<i>Decision</i>
28 Pa. Code § 205.6(a)	Westmoreland Manor	function of building	3/9/02	granted
28 Pa. Code § 205.6(a)	Sharon Regional Health Sys Skilled Care Center	function of building	3/16/02	granted
28 Pa. Code § 205.6(a)	Rheems Nursing Center, Inc.	function of building	12/22/01	granted
28 Pa. Code § 205.6(a)	Beverly Healthcare Meadville	function of building	3/9/02	not required
28 Pa. Code § 205.6(a) granted	Charles M. Morris Nsng & Rehab Center	function of building	2/9/02	
28 Pa. Code § 205.6(a)	Beverly Health Care Fayetteville	function of building	2/9/02	denied
28 Pa. Code § 205.6(a)	Spruce Manor Nsng & Rehab Center	function of building	2/2/02	granted
28 Pa. Code § 205.6(a)	Angela Jane Pavilion	function of building	2/2/02	granted
28 Pa. Code § 205.6(a)	Mount Macrina Manor Nsng & Rehab Center	function of building	2/16/02	granted
28 Pa. Code § 205.67(k)	Moravian Manor	electrical requirements	1/19/02	granted
28 Pa. Code § 205.71(a)	Sycamore Creek Nsng Center	bed and furnishings	11/17/01	not required
28 Pa. Code § 211.9(g)	Butler Memorial Hospital Transitional Care	pharmacy services	2/9/02	not required
28 Pa. Code § 201.18(e)	United Community Hospital Transitional Care Center	management	4/20/02	temp approval
28 Pa. Code § 205.6(a)	Morrison's Cove Home	function of building	4/13/02	denied
42 CFR 483.20(b)(2)(I)	Dallastown Nursing Center	resident assessment	1/19/02	denied

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-901. Filed for public inspection May 17, 2002, 9:00 a.m.]

Health Policy Board Meeting

The Health Policy Board is scheduled to hold a meeting on Wednesday, June 12, 2002, at 10 a.m. in Room 907, Health and Welfare Building, Seventh and Forster Streets, Harrisburg, PA.

For additional information or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do should contact Joseph May at (717) 772-5298, for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

This meeting is subject to cancellation without notice.

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-902. Filed for public inspection May 17, 2002, 9:00 a.m.]

Request for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Health Care Center at White Horse Village
535 Gradyville Road
Newtown Square, PA 19073

This request is on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax: (717) 772-2163, e-mail address: PAEXCEPT@HEALTH.STATE.PA.US.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact V/TT: (717) 783-6514 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. 02-903. Filed for public inspection May 17, 2002, 9:00 a.m.]

HISTORICAL AND MUSEUM COMMISSION

National Register Nominations to be Considered by the Historic Preservation Board

The Historic Preservation Board (Board) meeting to be held on June 11, 2002, will start at 9:45 a.m. in Room 304 (Council Chambers), State College Municipal Building, 243 South Allen Street, State College, PA. Individuals with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to participate, should contact Helena Johnson at (717) 783-2698 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Board can accommodate their needs. Persons with questions or comments should contact the Bureau for Historic Preservation at (717) 783-8946.

Allegheny Plateau

1. Ridgway Historic District, roughly bounded by the Borough line on the south, Hyde Avenue Extension, East Main Street and Sherman Avenue on the east, Erie Alley, Race Street, Main Street and Elm Street on the north and North Broad Street, State Street and Water Street on the west, Ridgway, Elk County

Anthracite Region and Poconos

2. St. Gabriel's Catholic Parish Complex, 122-142 South Wyoming Street, Hazleton, Luzerne County

Great Valley and Piedmont Region

3. Warburton House, 1929 Sansom Street, Philadelphia

4. Berkley Historic District, Berkley and Snyder Roads, Ontelaunee Township, Berks County

5. Cline's Church of the United Brethren in Christ, Cline's Church Road 1/2 mile south of SR 34, Menallen Township, Adams County

Ridge and Valley

6. Everett Historic District, roughly bounded by West Fifth, Borough and Hill Streets, River Lane, South Street and Barndollar Avenue, Everett, Bedford County

Southwestern Pennsylvania

7. Aaron Building, Pittsburgh Street and Apple Street, City of Connellsville, Fayette County

8. Connellsville National Bank Building, 101 East Crawford Street, City of Connellsville, Fayette County

9. Dr. J. C. Mclenathan House and Office, 134 South Pittsburgh Street, City of Connellsville, Fayette County

10. Colver-Rogers Farmstead, East of LR 30055 at T-159, Morgan Township, Greene County

11. Dager-Wonsettler Farmstead, 1044 National Pike, 1/2 mile northwest of intersection of SR 519 and US 40, Amwell Township, Washington County

12. Bethel African Methodist Episcopal Church of Monongahela City, southwest corner of Seventh and West Main Streets, Monongahela City, Washington County

13. Penrose Wolf Building, 450 Main Street, Rockwood, Somerset County

BRENT D. GLASS,
Executive Director

[Pa.B. Doc. No. 02-904. Filed for public inspection May 17, 2002, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(d) of the Regulatory Review Act (71 P. S. § 745.5(d)) 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 section 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 regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of Public Comment Period</i>	<i>IRRC Comments Issued</i>
7-372	Environmental Quality Board Safe Fill (32 Pa.B. 564 (February 2, 2002))	4/3/02	5/3/02

Environmental Quality Board Regulation No. 7-372
Safe Fill
May 3, 2002

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 Environmental Quality Board (EQB) must respond to these comments when it submits the final-form regulation. If the final-form regulation is not delivered by April 5, 2004, the regulation will be deemed withdrawn.

1. General.—Protection of the public health; Fiscal impact; Reasonableness; Clarity.

Senate Environmental Resources and Energy Committee

A joint letter was submitted on behalf of the Senate Environmental Resources and Energy Committee (Senate Committee) on April 22, 2002, by Senator Mary Jo White, Chairperson and Senator Raphael J. Musto, Democratic Chairperson. The Senate Committee expressed three concerns:

- The complexity of the regulation may lead to confusion for those who use the materials. Specifically, the definition of “safe fill” exceeds two pages and the permit-by-rule (PBR) provisions appear restrictive and cumbersome to the point where people may not want to bother using or receiving the material.
- It appears the regulation will place significant costs on the regulated community and even State agencies.
- Several commentators expressed the fear that the cost of sampling, analysis, recordkeeping and permitting will force contractors to send the material to a landfill because the disposal costs will be lower.

We share these concerns. We object to the complexity of the proposed regulation, the costs it will impose and the likelihood that valuable landfill space will be filled with materials that do not pose a threat to the public health or environment.

Scope and complexity of the regulation

The proposed provisions are complex and, in many cases, unnecessarily restrictive. Furthermore, the scope of this regulation reaches virtually all excavations within the Commonwealth, ranging from excavations at large scale projects to small excavations by an individual contractor.

In regard to cost projections, the EQB states in the Preamble,

The proposed amendments will result in huge savings to the regulated community by avoiding disposal costs. Under the proposed safe fill regulations, the savings from disposal cost are estimated at \$500 million if it is assumed that approximately 50% or more of the estimated 20 million cubic yards of soil and other materials generated annually in this Commonwealth will qualify for use as safe fill or used under one or more of the five permits-by-rule.

The EQB’s estimate presumes that this material is now being sent to landfills. Commentators have stated that this is not the case. Therefore, while it may not have been the EQB’s intention, the proposed regulation may force large quantities of materials that are currently being used as fill to be disposed in landfills. Liability concerns

all but negate the option in the regulation to presume there is no contamination. Hence, for the majority of projects the regulation presents a choice between the following:

- Make a safe fill determination which entails:
 - Extensive research of the excavation site and analysis of the material to determine what regulatory category the material falls under.
 - Depending on the result of the analysis, find a site that has the proper zoning to accept the material.
 - Assuming there is an appropriate site located within a reasonable distance, transport the material under appropriate regulatory requirements.
 - File the proper paperwork with the Department and keep records.
 - Dispose of the material in a landfill under known guidelines and costs with virtually no liability.

The EQB has not demonstrated that the regulation is in the public interest. This regulation has the potential to decrease limited landfill capacity and increase the cost of virtually all projects that involve excavation.

The detailed comments that follow focus on the regulation as proposed. However, we believe that the EQB could better protect the public health and environment and reduce the fiscal impact of this rulemaking by focusing on fundamental objectives while eliminating extraneous requirements and restrictions. The fundamental question is whether the material is contaminated to the point that it threatens the public health or environment. To focus on this question, the entire regulation should be revised as follows:

- Define “fill” as the materials in the proposed definition of safe fill without the extensive conditions or qualifiers.
- Redefine “safe fill” as any fill that does not contain materials that exceed the Land Recycling and Environmental Remediation Act of 1995 (Act 2) residential standards. Eliminate the extensive conditions or qualifiers from the proposed definition of safe fill.
- Develop substantive provisions within the body of the regulation, not the definition, that specify the criteria safe fill must meet. Further specify that safe fill is not waste and is not subject to any of the waste regulations. The regulation should also allow the option to determine whether or not “fill” is “safe fill” based on a due diligence review or testing.
- List in a separate section materials that are exempt, such as material moved in a right-of-way, small quantities of historic fill or blended agricultural soil that meets the Act 2 residential standards.
- Simplify and consolidate the PBRs to the extent possible. Specifically, PBRs should apply to fill materials that meet the nonresidential Act 2 standards and should be limited to Act 2 nonresidential uses.

Advanced Notice of Final Rulemaking

This proposed rulemaking has received extensive comment, including suggested language changes. As previously noted, it affects virtually all excavation within this Commonwealth. To allow full consideration of amendments to this regulation, the EQB should issue an advanced notice of final-form rulemaking. This would allow interested parties and the EQB the opportunity to resolve as many concerns as possible prior to the submittal of the final-form regulation.

2. Responsible party.—Clarity; Reasonableness.

The regulation places responsibilities on many parties for testing and placing a material. However, commentators expressed confusion over who is responsible under different circumstances. For example, the commentators questioned who is the responsible party if fill is properly placed, but subsequently removed. It would appear that the person who takes possession of the fill would be the party who has control over future use of the fill and responsibility for any possible harmful effects from the fill. The regulation should clearly state who is responsible for the material from excavation to placement, including who has ultimate responsibility for the fill after it is placed.

CHAPTER 271. MUNICIPAL WASTE MANAGEMENT—GENERAL PROVISIONS

3. Section 271.1. Definitions.—Need; Clarity.

Historic fill

The term “historic fill” is used once in the municipal waste (Chapter 271) regulations. The term is used in § 271.2(c)(7) to designate historic fill is subject to regulation as residual waste instead of municipal waste. This definition is not needed in the municipal waste regulations. In its place, a cross reference to the residual waste definition of historic fill in § 287.1 should be added to § 271.2(c)(7).

Surface waters

This term is used several times in § 271.103(i). For clarity, it should be defined.

4. Section 271.101. Permit requirement.—Reasonableness.

Subsection (b)(3)(ii) is being deleted. This subsection allows waste from land clearings to be managed without a permit if it is separated from other waste. The proposed regulation does not contain similar provisions. The final-form regulation should retain this provision.

5. Section 271.103. Permit-by-rule for municipal waste processing facilities other than for infectious or chemotherapeutic waste; qualifying facilities; general requirements.—Need; Reasonableness; Clarity.

Subsection (g) Mechanical processing facility

The first sentence of this subsection contains several requirements. For clarity, the final-form regulation should list each condition as a separate sentence.

Paragraph (1) imposes a 350 ton limit on the amount of material that may be received in a day by a mechanical processing facility. Commentators have noted that this limitation would extend the duration and increase the cost of many highway construction projects. In the final-form regulation, the EQB should consider increasing the daily limit of material received or allowing different limits for material received from highway construction projects.

Paragraph (2) begins with the following phrase, “The facility shall *and* maintain . . .” (Emphasis added.) The final-form regulation should correct this typographical error.

Paragraphs (3) and (4) require incoming waste to be processed within 30 days and processed waste to be removed within 60 days. Commentators have noted that construction work is seasonal and the proposed time periods are not practical. In the final-form regulation, the EQB should allow more flexible time periods to accommo-

date the seasonal nature of some construction projects and allow different time periods for material received from highway construction projects. In addition, the EQB should consider allowing longer time periods for processing and removing waste for facilities that are not near populated areas.

Subsection (i) Brick, block or concrete

The phrase “segregated brick, block or concrete” is not clear. The regulation does not explain what “segregated” means. Is the brick, block or concrete to be segregated from each other or other materials? If the term “segregated” is needed, the regulation should clearly explain what segregation is required.

This subsection only applies to contaminated segregated brick, block or concrete from commercial or residential sites. The segregated brick, block or concrete from industrial sites should also be included in this PBR if it meets the additional criteria.

Paragraph (1) addresses numeric criteria that must be met. Paragraph (5) addresses acceptable placement of material. We have concerns with these paragraphs, which are addressed under Comment 11, PBR provisions.

Paragraph (3) states that “waste material shall be sampled and analyzed in accordance with § 287.11(b) and (c) or (d) (relating to safe fill numeric standards).” To be consistent with the other PBR provisions, this statement should be changed to, “waste material shall be sampled and analyzed in accordance with § 287.11(b) and *either* (c) or (d).” (Emphasis added.)

Paragraph (4)(i) states that waste material “. . . may not exceed 10% of the numeric standards calculated in paragraphs (1) and (2).” Paragraph (4)(ii)(A) states, “The waste material received shall meet 10% of the numeric standards calculated in paragraphs (1) and (2).” Is the requirement in paragraph (4)(ii)(A) a maximum or minimum requirement? These requirements should be made clear and consistent in the final-form regulation.

CHAPTER 287. RESIDUAL WASTE MANAGEMENT—GENERAL PROVISIONS

6. Section 287.1. Definitions.—Fiscal impact; Protection of the public health; Reasonableness; Need; Feasibility; Clarity.

Historic fill

There are six concerns with this definition.

First, why is there a presumption that the material is contaminated? Also, why is there a need to check for visible staining and odor? Commentators who have raised these questions suggest historic fill should be tested to determine whether it is contaminated. We agree. The regulation should allow a material to be tested to determine its health and environmental impacts.

Second, this definition contains substantive provisions. Definitions describe terms, but are not enforceable. The substantive portions of the definition should be moved to the body of the regulation.

Third, the limit of “125 cubic yards per excavation location” is vague. It is unclear whether this limit applies to each individual excavation at a construction site or to an entire construction site. The regulation should be clearer on this point.

Fourth, the 125 cubic yard limit is not practical. Commentators have suggested raising the limit to 250 cubic yards or more. The EQB should consider these recommendations when drafting the final-form regulation.

Fifth, subparagraph (ii)(B) allows an exemption when “there is no visible staining, odor *or other sensory nuisance* associated with the material.” (Emphasis added.) Aside from sight and odor, what “other sensory nuisance” would a person use to qualify the material for exemption? We also question the need for and clarity of sight and odor restrictions other than odors that would constitute a public nuisance.

Finally, a commentator suggests revising the 1988 cutoff date to the date the final-form regulation becomes effective. The Department should make this amendment or explain the basis and need for the 1988 cutoff date.

Safe fill

We object to this definition because it contains numerous substantive provisions. Definitions describe terms, but are not enforceable. The definitions of the proposed regulation include lengthy substantive provisions. These requirements should be in the body of the regulation.

We also object to the length of this definition. The definition contains more than 900 words in more than 25 paragraphs. The removal of substantive provisions will significantly shorten the definition, making it easier to comprehend.

Appropriate level of due diligence

Several provisions within this definition require an “appropriate level of due diligence.” We have three concerns with this phrase.

First, use of the phrase “appropriate level of” is subjective. How can a person know when they have achieved this standard? This phrase should be deleted.

Second, the EQB should define the term “due diligence” and clearly establish within the body of the regulation what legal standard must be met to achieve “due diligence.”

Finally, assuming the regulation is amended to provide a clear due diligence standard, will the person who demonstrates due diligence be immune from liability for the material? The regulation should clearly state what benefits are gained by meeting the due diligence standard.

Subparagraph (i)

Uncontaminated

This subparagraph repeatedly uses the term “uncontaminated.” We object to its use for the following reasons.

First, this requirement is vague because the term “uncontaminated” is not defined or set forth in the body of the regulation.

Second, it is unclear why the term is needed. The definition states, “Material that is uncontaminated soil . . . and that meets one of the following requirements:” Therefore, the material must be “uncontaminated” and, in addition, meet another requirement, such as the numeric standards. The additional qualifier “uncontaminated” is unnecessary.

Finally, we question why a material that meets the numeric standards, would not qualify as safe fill. As previously stated, if a material meets the Act 2 residential standards, it should be considered safe. The term “uncontaminated” should be deleted from the regulation.

Uncontaminated used asphalt

Commentators question whether any used asphalt would qualify as safe fill since used asphalt is likely to contain oil and other contaminants from the asphalt mix

itself and from vehicles. This would be a major change from current practice. They suggest allowing more reasonable standards for constituents inherent in an asphalt mix and de minimis quantities of oil. We agree that the standards for used asphalt should be reviewed so that the material can be reused or used as fill, rather than placed in a landfill. In addition, if the asphalt material meets the Act 2 residential standards, it should be considered safe.

Segregated brick, block or concrete

Subparagraph (i) uses the phrase “*segregated brick, block and concrete.*” (Emphasis added.) We have two concerns.

First, the regulation does not explain what “segregated” means. Are the brick, block or concrete to be segregated from each other or from other materials? If the term “segregated” is needed, the regulation should clearly explain what segregation is required.

Second, consistent with our comment on other materials, if the material meets Act 2 residential standards, it should be considered safe.

Resulting from construction or demolition activities from residential and commercial properties

Commentators believe the classification scheme is overly restrictive and does not account for the high degree of variability in many circumstances. For example, they believe brick, block and concrete from any property should be allowed to qualify as safe fill if the materials can meet other conditions for safe fill. As previously stated, if material from an industrial property meets the Act 2 residential standards, why is it in the public interest to exclude this material from being safe fill?

Subparagraph (i), clause (A)

Under clause (A), a material could meet the numeric standards, but fail under subclause (I) because it was subject to a release in the past, or subclause (II) because it is stained or smells. A persistent odor from a material could present a public nuisance. However, we question why the other parameters are reasonable. If a material is demonstrated to meet the numeric standards for safe fill, why should it be disqualified based on past history of a spill, staining or an odor that dissipates soon after excavation?

Clause (A) requires a material to meet the numeric standards, but does not specify whether sampling and analysis are required. Whereas, clause (C) specifically states the material could meet the numeric standards without sampling and analysis. If sampling and analysis is required under clause (A), the regulation should specifically state this requirement.

Subparagraph (i), clause (A), subclause (I)

Subclause (I) uses the term “release.” We have two concerns.

First, what if a release occurred, but is no longer discernable because the release biodegraded or was remediated? Once again, the Act 2 residential standards should be the determining factor on whether the material is considered safe. This would have already been done under clause A. Therefore, subclause (I) should be deleted.

Second, if subclause (I) is retained, what constitutes a “release” is unclear because the term is not defined. The regulation should define or cross reference the definition of “release.”

Subparagraph (i), clause (A), subclause (II)

We have two concerns with subclause (II) which allows an exemption when "There is no visible staining, odor or other sensory nuisance associated with the material."

First, since the regulation uses numeric standards, there is no need for "visible staining" or "odor" criteria. Two commentators stated roadway materials could not meet these requirements. We further question at what point these criteria would not be met. While we agree that an odor can present a public nuisance, the EQB should limit this provision to this possibility and delete the rest of these criteria. If these criteria are retained, the EQB should explain the need for them, why it is in the public interest to exclude roadway materials, and how a person can evaluate "visible staining" and "odor" consistently.

Second, aside from sight and odor, what "other sensory nuisance" would a person use to qualify the material for the exemption?

Subparagraph (i), clause (B)

This clause requires a material to meet the numeric standards, but does not specify whether sampling and analysis are required. However, clause (C) specifically states a material can meet the numeric standards without sampling and analysis. If sampling and analysis are required under clause (B), the regulation should specifically state the requirements.

Clause (B) ends with the phrase "and meets the requirements of clause (A)." If all of clause (A) is required to be met, we have two concerns.

First, the requirement to meet Table 1 is duplicative because this is already specified in clause (B). Second, why would this circumstance require a material to meet both Tables 2 and 3 whereas other provisions only require a material to meet Table 2 or 3? If the intent is to only require a material to meet clause (A)(I) and (II), similar to the requirement in subparagraph (ii), the language should be amended accordingly.

Subparagraph (i), clause (C)

This clause states, "Based on an appropriate level of due diligence and knowledge of the site, the material meets the safe fill numeric standards without sampling and analysis and meets the requirements of Clause (A)." We have two concerns.

First, assuming there is liability associated with this determination, we question whether this provision can be used as a practical standard. How could a person guarantee a material meets safe fill numeric standards without testing it? Even if the fill was safe when it left the property, how could that person defend their safe fill determination if the fill was subsequently suspected to be the source of contamination? The EQB should explain how this provision can be met and how the person can be protected from liability after the fill has been placed elsewhere.

Second, this requirement states the material meets "the safe fill numeric standards," but does not specify which standards. Clause (A) specifically requires the material to meet "the numeric standards referenced in § 287.11... and listed in Appendix A, Tables 1 and 2..." Clause (C) should specifically state the standards the safe fill is presumed to meet.

Subparagraph (ii)

The opening phrase is not clear for four reasons.

First, in addition to our concern with substantive provisions within definitions, this subparagraph does not define safe fill, but rather provides exceptions to what is a waste. Further, this subparagraph duplicates the PBR in § 287.102(l). Subparagraph (ii) should be moved from this definition and placed within the body of the regulation.

Second, it presents several conditions by reference. It may be clearer to just state the requirements rather than refer to provisions in subparagraph (i).

Third, subparagraph (ii) is inconsistent with subparagraph (i). Subparagraph (ii) includes materials "that exceed the numeric limits in Appendix A, Table 1 or either Table 2 or 3." Subparagraph (i)(A) and (B) provide specific circumstances and relate those circumstances to the applicable tables of numeric standards. To be consistent, subparagraph (ii) should also relate the listed circumstances to the appropriate tables.

Finally, subparagraph (ii) should include a reference to the requirements that must also be met under subparagraph (viii).

Subparagraph (ii), clause (A)

This provision limits material movement to the area within a right-of-way. We have two concerns with this clause.

First, this provision should allow temporary storage of materials offsite so that a contractor can work with material efficiently.

Second, a right-of-way could cover miles if it involves a roadway or utility transmission line. Will the EQB allow this?

Subparagraph (ii), clause (B)

Clause (B) is unclear for three reasons.

First, clause (B) only states "the material is moved offsite..." Since the material exceeds numeric standards of one of the Tables under subparagraph (ii), clause (B) should specify where this material can be used.

Second, the phrase "and never used for nonresidential purposes" is unclear. Is the intent that the property was never used for nonresidential purposes?

Finally, the terms "residential" and "nonresidential" should be defined by cross-referencing the Act 2 definitions.

Subparagraph (iii)

This subparagraph states, "The term includes soil moved from a fruit orchard under development where pesticides were used in an authorized manner in conjunction with standard horticultural practices. If the soil exceeds the numeric limits in Appendix A, Table 1 or either Table 2 or 3, and meets one of the following requirements, it is considered 'safe fill':..." We have three concerns.

First, the phrase "a fruit orchard under development" is vague. The crux of this provision appears to be soil removed from land where pesticides may have been used. Is it relevant whether development is involved? If so, what specifically constitutes "development"?

Second, how could it be verified "pesticides were used in an authorized manner in conjunction with standard horticultural practices"?

Third, subparagraph (iii) is inconsistent with subparagraph (i). Subparagraph (iii) includes materials "that exceed the numeric limits in Appendix A, Table 1 or

either Table 2 or 3." Subparagraph (i)(A) and (B) provide specific circumstances and relate those circumstances to the applicable tables of numeric standards. To be consistent, subparagraph (iii) should also relate the specific circumstances to the appropriate tables.

Subparagraph (iii), clause (A)

The EQB should explain the basis for the presumption that these soils are "safe fill" for commercial or industrial purposes when they exceed numeric standards?

Also, clause (A) should cross reference the additional requirements in subparagraph (viii).

Subparagraph (iii), clause (B)

This clause allows soil to be blended with other soil to meet the limits. Is the soil required to be retested to verify the blending was successful?

Subparagraph (iv)

To be consistent with other subparagraphs, the second sentence should state "... Table 1 or either Table 2 or 3..." However, we reiterate our concern with inconsistent language as stated in our comment on subparagraphs (ii) and (iii).

Subparagraph (iv), clause (B)

As explained in our comment on subparagraph (iii)(B), is the soil required to be retested to verify the blending was successful?

Subparagraph (v)

This subparagraph is inconsistent with the parallel provisions in the definition of "historic fill." Subparagraph (ii)(A) and (B) of the definition of "historic fill" differ from subparagraph (i)(A)(I) and (II) in the definition of "safe fill," in regard to due diligence, the determination of a release and chemical contaminants. The EQB should revise these provisions to make them consistent.

Subparagraph (vi)

Commentators have questioned the meaning of the phrase "along surface waters." The EQB should define or clarify this phrase to better describe the applicable areas.

This subparagraph also addresses circumstances similar to dredging operations. For clarity, this subparagraph should be more clearly distinguished from dredging operations.

Clause (A) states "... and placement of the material does not cause an exceedance of the water quality standards in Chapters 16 and 93 (relating to water quality toxics management strategy—statement of policy; and water quality standards)." The EQB should explain the legal basis for requiring universal compliance with a statement of policy.

Clauses (A) and (B)(I) are unclear. Clause (A) states "may not exceed 10%" and Clause (B)(I) states "shall meet 10%." Why do these differ?

Clause (B)(I) states, "The material received meets 10% of the numeric standards...." Why is the word "received" used? To be consistent with clause (B), this should state, "the material placed...."

Subparagraph (vii)

This subparagraph states, "The person using the material has the burden of proof to demonstrate that the material is safe fill." We have three concerns.

First, the proposed shift in the burden of proof is inconsistent with rules and regulations of the Environ-

mental Hearing Board found at 25 Pa. Code § 1021.101(b). The EQB should justify shifting the burden of proof in this instance.

Second, as previously stated, this is a substantive provision that should be moved to the body of the regulation.

Third, it is not clear who the person "using" the material is. The regulation should specifically state who the user is.

Subparagraph (viii)

There are two concerns.

First, this provision is substantive and should be moved to the body of the regulation.

Second, this subparagraph begins with the phrase "If, based on a determination made under subparagraph (i), the material exceeds the numeric standards under subparagraphs (ii), (iii) or (iv)..." Subparagraphs (ii)—(iv) do not contain the numeric standards. Subparagraph (viii) would be clearer by stating, "exceeds the numeric standards referenced in subparagraphs (ii), (iii) or (iv)..."

Subparagraph (ix)

This is a substantive provision that should be moved to the body of the regulation. In addition, this subparagraph states the material will not be regulated as waste "when used as fill." We have four concerns.

First, this subparagraph is unnecessarily restrictive by limiting use to fill. Commentators believe these materials could be used for construction, bedding for pipelines or other purposes. If the material is uncontaminated or meets the residential numeric standards, what is the basis for regulating the material as a waste and why would its final use matter? The phrase "when used as fill" should be deleted unless the EQB can justify its need.

Second, why are the handling, transportation and storage of a material also going to be regulated? The EQB should explain the basis for and need to regulate a material after it is demonstrated the material meets the safe fill standards.

Third, who is responsible for identifying a material as a waste? Commentators have suggested that the person responsible should be the generator, not the transporter. We agree that if a person only transported the material and was not given any indication the material is a waste, the generator, not the transporter, should be responsible for any violations. Otherwise, this would place an unreasonable, costly and time consuming burden on transporters to independently determine whether the material is a waste before transporting the material. The regulation should establish the generator as the responsible party for determining whether or not the material is a waste.

Finally, the term "fill" is not directly defined.

Sediment

This definition includes "materials deposited or overlain by water..." A commentator believes this definition is overly broad and suggests changing the word "or" to "and." We agree that this definition is too broad and should be revised as suggested.

Site undergoing remediation activities

A commentator suggested expanding this definition to include other remediation activities such as hazardous site cleanup. Why is the definition limited to remediation activities to be conducted under Act 2?

Additional definitions

As mentioned within other comments, the terms and phrases “along surface waters,” “nonresidential property,” “residential property” and “surface waters” are used but not defined. The EQB should define these terms. We suggest cross referencing the Act 2 definitions of “nonresidential property” and “residential property.”

Additionally, the term “surface waters” is used in the PBR requirements. Commentators expressed the need for a precise definition so that they can comply with the restriction against placing materials within 100 feet of surface waters. For clarity, this term should be defined.

7. Section 287.2. Scope.—Need; Reasonableness; Duplication; Clarity.

A commentator questioned the applicability of the safe fill regulations to remediation sites under the Federal Resource Conservation and Recovery Act (RCRA). The commentator states the management of excavated materials within a RCRA site should comply with Federal permit requirements whereas management for offsite relocation of materials should be done under the Solid Waste Management Act. The commentator suggests that the management of excavated materials under RCRA should be exempted from compliance with the safe fill requirements. The EQB should clarify whether the safe fill regulations apply to RCRA sites. If the safe fill regulations do apply to RCRA sites, the EQB should explain the need to include RCRA sites and how the safe fill regulations can be reasonably coordinated with Federal permits.

8. Section 287.11. Safe fill numeric standards.—Clarity; Reasonableness; Conflict with existing regulations.

Detection of contaminants

Commentators have provided examples where many of the numeric standards contained in the regulation are below the detection levels of currently available analytical techniques. They state many of the standards listed are not measurable using generally accepted Environmental Protection Agency (EPA) testing methodology. This would exclude material from being categorized as safe fill due to limitations of instrumentation and methodology. In the final-form regulation, the EQB should insure that all of the proposed numeric standards can be accurately measured by current laboratory methodology.

The regulation prescribes specific tests and specific sampling techniques. Commentators have requested various alternatives to the sampling and analysis procedures, such as including the Synthetic Precipitation Leaching Procedure in the regulation. To the extent possible, flexibility should be added to these procedures. In addition, the EQB should consider adding a process whereby a request for use of an alternate procedure could be made if the process is appropriate for the material being tested.

In situ sampling

Commentators have noted that the proposed regulation requires sampling and analysis after material has been excavated. They note that this is impractical and would create significant delays for construction projects. In the final-form regulation, the EQB should allow in situ sampling of materials.

Subsection (a)

The first sentence should read, “When conducting sampling and analysis, safe fill numeric standards for regulated substances listed in Appendix A, Tables 1, 2 and 3

shall be calculated as follows.” The final-form regulation should incorporate this change.

Paragraph (1) is not clear. Commentators have noted that virtually all soils and soil-like material contain copper and zinc at varying concentrations. Thus, the sampling and analysis requirement would not be applicable to most material. For clarity, the final-form regulation should delete the qualifier “containing substances other than copper and zinc.”

Paragraph (3) refers to calculating numeric standards under paragraph (1). For clarity, the requirements of paragraph (3) should be included under paragraph (1).

Subsection (b)

Paragraph (1)(i)—(iii) and paragraph (2)(iii) describe required sampling and analysis procedures. We have three concerns.

First, why is field screening required to determine where to take additional samples in paragraph (1)(i)(B) and (C)?

Second, volumes of material less than 125 cubic yards require eight samples. Volumes of material greater than 125 and less than or equal to 3,000 cubic yards require 12 samples. Volumes of material greater than 3,000 would require an additional 12 samples. Thus, 3,001 cubic yards of material would require 24 samples. Commentators have noted that these requirements are overly intensive, especially for large projects. They recommend a tiered testing approach for large volumes of material that are likely to show common constituent characteristics. The final-form regulation should provide a more flexible testing scheme that adequately protects the public health and reduces costs for the regulated community.

Third, does the EPA manual adequately address how to perform every sampling technique required in this subsection?

Subsections (b)—(d)

Sampling forms the basis of determining whether a material meets the safe fill numeric standards. The terms “composite sample,” “grab sample” and “discrete sample” are used throughout these subsections. For clarity, these terms should be defined.

Subsection (c)

In paragraph (1), the measured numeric value for a substance from a composite sample must be equal to or less than half the safe fill numeric standard as listed in Appendix A, Tables 1—3. The regulated community has questioned the science behind this determination and also the reasonableness of it. The final-form regulation should explain the basis for using this standard.

Subsection (d)

Commentators have noted that there is an inconsistency between this subsection and existing regulations found at § 250.707. Subsection (d) specifies that 75% of the discrete samples of the material shall be equal to or less than the safe fill numeric standard for each substance with no single sample exceeding more than twice the safe fill standard for a substance. This is commonly referred to as the “75%/2X test.” Section 250.707 uses what is known as the “75%/10X test.” We question the need for this higher standard in this regulation.

Subsection (e)

This subsection states that for sediments “sampling and analyses shall be conducted in accordance with guidance developed by the Department.” We have three concerns.

First, if these requirements are not in the regulation, they could be changed without the opportunity for comment. The EQB should explain why these requirements are not in the regulation.

Second, this guidance is not described in the Preamble. It is not clear what guidance the Department will provide. Does the EPA have procedures for sampling and analysis that could be referenced? The EQB should explain what sampling and analysis will be required.

Finally, given the detailed requirements for sampling and analysis in subsections (b)–(d), why does sampling and analysis of sediment differ?

9. Section 287.101. General requirements for permit.—Clarity.

Existing subsection (b) specifically states the use of clean fill does not require a permit. Under the amendment to subsection (b), the term clean fill is being deleted. However, safe fill was not added. Safe fill should be added to this list to clearly reinforce that a permit is not required for safe fill.

10. Section 287.102. Permit-by-rule.—Clarity; Reasonableness.

Classes of facilities that are subject to PBR

As noted in subsection (a) of the existing regulation, this section sets forth classes of facilities that are subject to PBR. The four subsections being added through this rulemaking apply to material, not facilities. This inconsistency should be corrected in the final-form regulation.

Subsection (j) Contaminated soil resulting from agricultural practices

Paragraph (1) states that, “. . . soil may be analyzed for pesticides . . .” The final-form regulation should state that the soil “shall be analyzed for pesticides.

Subsection (l) Contaminated soil, dredged material or used asphalt impacted by a release or contaminated soil, dredged material or used asphalt that exceeds safe fill numeric standards as the result of urbanization

As published in the *Pennsylvania Bulletin*, this subsection is mislabeled as (l). The final-form regulation should change this subsection to (k).

The title of this subsection is long and redundant. This title is used in the body of the regulation and describes a certain type of material that can be placed through the use of a PBR. For clarity, this title should be shortened in the final-form regulation.

Commentators have noted that the phrase, “as a result of urbanization” is vague. The final-form regulation should define urbanization and explain how it is relevant to this PBR or delete it.

Subsection (m) Contaminated soil placed at a receiving site undergoing remediation activities

Paragraph (14) requires areas to be “. . . promptly vegetated to minimize and control erosion or capped to minimize infiltration.” The phrase “promptly vegetated” is vague. The final-form regulation should specify how soon an area must be vegetated, with consideration given to the winter season when ground may be frozen. In addition, how would one know whether to vegetate or cap an area?

11. PBR provisions.—Clarity; Protection of public health; Reasonableness.

Section 271.103(i) adds a PBR provision for material classified as brick, block or concrete. Section 287.102 adds PBR provisions for four types of material. They are:

- Contaminated soil resulting from agricultural practices (agriculture).
- Contaminated soil, dredged material or used asphalt impacted by a release or contaminated soil, dredged material or used asphalt that exceed safe fill numeric standards as the result of urbanization (soil, dredged material and asphalt).
- Historic fill.
- Contaminated soil placed at a receiving site undergoing remediation activities (remediation).

We have several concerns about common requirements which appear in all of the PBR subsections.

Streamlining of PBRs

Each of the PBR subsections contains numerous requirements, several of which are identical. Commentators have suggested that the PBR provisions be consolidated into one PBR provision. In the final-form regulation, the EQB should consider streamlining the five PBR subsections into two or three PBRs or consolidating the common PBR paragraphs into one subsection.

Numeric criteria

Commentators have noted that PBR material can only be placed at commercial and/or industrial sites; yet, the PBR material to be placed must meet the residential medium specific concentrations (MSCs) under Act 2. They have suggested that the numeric standards be based on the nonresidential MSCs under Act 2. We agree. In the final-form regulation, the EQB should adopt the numeric standards of nonresidential MSCs under Act 2.

Deemed to have a waste permit

The five PBRs begin with sentences that are not grammatically correct. As a result, it is unclear who the holder of the various PBRs would be. The beginning of all five sentences can be paraphrased as follows: The placement of PBR material from known areas of contamination shall be deemed to have a residual/municipal waste permit when used. Commentators have noted their confusion as to who the responsible party is when placing PBR material. For clarity, the final-form regulation should change the subject of the sentences from the word “placement” to the entity responsible for the material.

Use of various PBR material

For material to be placed under a PBR, it can only be used for specific purposes at commercial and industrial properties. For example, for material to be placed under the agriculture PBR, it must be used for one of the following purposes: to bring an area to grade; as construction material; for control of fire and subsidence events or in reclamation of mines; if the reclamation work is approved by the Department or if performed under contract with the Department. Conversely, historic fill can only be used for construction material. This requirement is restrictive. If the material meets the nonresidential Act 2 standards, it should be allowed to be used at any nonresidential property.

The agriculture and contaminated soil, dredged material and asphalt PBR allow the respective material to be used for the control of fire and subsidence events. We have two concerns.

First, fire and subsidence events could pose an immediate danger to public safety and must be dealt with in an expeditious manner. Would the record-keeping requirements still apply? Is it reasonable to exclude the use of this material for controlling fires and subsidence events

in residential zones? Is it reasonable to require testing of material before it is used to control fires or in subsidence events? If it is not feasible to perform the required tests before the material is used, this provision should be removed from the final-form regulation.

Second, is the public health adequately protected if pesticide laden soil or contaminated soil, dredged material and used asphalt are used to control fire? Could the application of heat to elements or chemicals found in the PBR material cause those elements or chemicals to become airborne?

Placement of material within 100 feet of surface water or within 300 feet of a water source

Commentators have noted that the requirements that PBR material not be placed within 100 feet of surface waters or within 300 feet of a water source would severely limit their ability to place PBR material anywhere in this Commonwealth. In particular, this requirement would cause time delays and increased costs for road construction work. Since erosion and sedimentation plans are also required, we question the need for these provisions.

Direct contact pathways

The agriculture and historic fill PBRs require that direct contact pathways be eliminated. To protect the health of citizens, should direct contact pathways be eliminated when any PBR material is placed?

Other engineering controls

The agriculture and historic fill PBRs use the phrase "other engineering controls" in paragraph (3). For clarity, the final-form regulation should explain what this phrase means. In addition, the historic fill PBR allows the use of uncontaminated dredged material to eliminate direct contact pathways and the agriculture PBR does not. We question the reason behind this difference.

Commercially/industrially zoned and unzoned properties

The five PBRs contain provisions that state, "... material shall only be used under this permit on properties that are zoned exclusively for commercial and industrial uses." Commercial and industrial districts can be zoned for multiple uses. For example, private schools and day care centers could be allowed in a downtown commercial district. Each local government is responsible for establishing what types of uses are allowed in commercial and industrial districts and those uses can vary. Given this fact, is the public health adequately protected when PBR material is placed in commercial or industrial districts that allow a wide variety of uses? To adequately protect public health, we recommend deleting the requirement that the material can only be used on "commercial and industrial zoned properties" and replacing it with "non-residential property" as defined in Act 2.

For unzoned properties, contaminated soil can only be used in an area where the background is equal to or greater than the concentration of contamination of soil being placed. This requirement is too restrictive and is not needed. It should be deleted from the final-form regulation.

Written notice requirements for persons who receive and use material from known areas of contamination

The five PBRs contain provisions that require persons receiving and using fill to submit written notice to the Department that includes certain information. We have two concerns.

First, it is unclear who "receives and uses" material and therefore is required to provide notice to the Department. The regulation should clearly designate who must provide notice. Additionally, if more than one person is required to provide this notice, the final-form regulation should clearly state this.

Second, the final-form regulation should specify to what address the written notice should be sent.

Recordkeeping requirements for persons using and distributing material

The five PBRs contain provisions that require persons using and distributing material to maintain records of analytical evaluation of the material. We have two concerns.

First, it is unclear who is "using and distributing" material and therefore must keep certain records. The regulation should clearly designate who must keep records. Additionally, if more than one person is required to keep the records, the final-form regulation should clearly state this.

Second, the regulation should specify how long records are to be kept.

Odor or other public nuisance

The agriculture, soil, dredged material and asphalt, and remediation PBRs contain paragraphs that prohibit placed material from creating, "... odor or other public nuisance resulting from chemical contaminants in the soil." The historic fill and brick, block and concrete PBRs contain paragraphs that prohibit placed material from creating "... odor or other public nuisance associated with ..." the historic fill or brick, block and concrete. We have two concerns.

First, what standard would be used to determine if material has an odor or creates a public nuisance?

Second, three of the five PBRs contain the phrase "resulting from chemical contaminants in the soil." We question the need for this phrase.

Material placed in accordance with this permit

The five PBRs contain a paragraph that states the materials placed in accordance with the applicable permit shall "cease to be a waste" as long as the material "remains in place." We have two concerns.

First, if it is a waste until it is placed, would all of the municipal or residual waste requirements apply prior to placement? Would those who transport the material be required to follow Department of Environmental Protection regulations pertaining to transporting of waste? If so, we question the reasonableness of the requirement.

Second, commentators have concerns with this paragraph as it relates to material moved after it has been placed. If placed material is subsequently moved, does it revert to its classification as waste? Would placed material have to be retested before it is moved again? For clarity, the final-form regulation should address how placed material that is subsequently moved should be treated.

12. Appendix A.—Clarity; Implementation procedures.

Table 2

In the title, the word "regulated" is misspelled.

Referencing MCSs under Act 2

Commentators have noted that the safe fill numeric standards are based on the MSCs for residential property under Act 2. They note that if the MSC standards under Act 2 were changed, the regulated community would be forced to comply with two separate sets of standards. We agree and suggest that a cross-reference to the Act 2 MSC standards be included in the final-form regulation.

13. Section 287.611. Authorization for general permit.—Clarity.

Subsection (g) states, "The Department may issue a general permit on a regional or Statewide basis for the use, as construction material, of soil and other materials that do not meet the *clean fill criteria*." (Emphasis added.) This rulemaking deletes the definition and criteria for "clean fill" from other sections. The term "clean fill" needs to be replaced with the term "safe fill" in subsection (g).

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 02-905. Filed for public inspection May 17, 2002, 9:00 a.m.]

INSURANCE DEPARTMENT

Capital Advantage Insurance Company; Filing 2002-1; Gatekeeper Preferred Provider Organization; ERISA Exemption Certificate Filing

On May 3, 2002, Capital Advantage Insurance Company submitted an application for review and approval by the Insurance Department (Department) and the Department of Health of an ERISA-Exempt Gatekeeper Preferred Provider Organization filing and certificate, filing CAIC-2002-1, pertaining to the incorporation of primary care gatekeeper services into the health benefit plans of self-funded clients in the 21-county Capital region of South Central Pennsylvania and Lehigh Valley service area. The application was submitted in accordance with the provisions of 31 Pa. Code Chapter 152 (relating to preferred provider organizations).

Capital Advantage Insurance Company is a wholly owned subsidiary of Capital Blue Cross.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Jeffrey Russell, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, within 15 days upon publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-906. Filed for public inspection May 17, 2002, 9:00 a.m.]

Highmark Blue Cross Blue Shield and Keystone Health Plan West; Fair Payment Provision; Filings No. FPRHA-AM-02-WP and FPRMCHA-AM-02-WP

On May 3, 2002, Highmark Inc. d/b/a Highmark Blue Cross Blue Shield and Keystone Health Plan West, Inc.

submitted filings FPRHA-AM-02-WP and FPRMCHA-AM-02-WP to the Insurance Department (Department) and the Department of Health for review and approval. The filings propose the use of a provision, the "Fair Payment Rate Provision," which would be used based on negotiated payment arrangements, in the Hospital and Managed Care Hospital Agreements with some hospitals in the 29-county region in western Pennsylvania. The purpose of this provision is to assure that the acute care payment rates negotiated with Highmark are no higher than those of most other contracted "Non-Governmental Payors."

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg and Pittsburgh.

Interested parties are invited to submit written comments, suggestions or objections to Richard Stoner, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-907. Filed for public inspection May 17, 2002, 9:00 a.m.]

Highmark Inc. d/b/a Pennsylvania Blue Shield; Filing No. 200205; Direct Pay Medicare Supplement Subscription Agreement; Plan E (Form MB/E)

Highmark Inc. d/b/a Pennsylvania Blue Shield submitted Filing Number 200205 seeking approval of Medicare Supplement standardized Plan E policy forms and rates, to be offered to individuals in the 21 counties of the Capital region in South Central Pennsylvania, for coverage effective immediately.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Actuary, Insurance Department, Accident and Health Bureau, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, within 15 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-908. Filed for public inspection May 17, 2002, 9:00 a.m.]

Highmark Inc. d/b/a Pennsylvania Blue Shield; Filing No. 200211; Direct Pay Medicare Supplement Subscription Agreement; Plan I (Form MB/I)

Highmark Inc. d/b/a Pennsylvania Blue Shield submitted Filing Number 200211 seeking approval of Medicare Supplement standardized Plan I policy forms and rates, to be offered to individuals in the 21 counties of the Capital region in South Central Pennsylvania, for coverage effective immediately.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Actuary, Insurance Department, Accident and Health Bureau, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120 within 15 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-909. Filed for public inspection May 17, 2002, 9:00 a.m.]

Mid-Atlantic Title, Inc. d/b/a Perry & Kellas, Inc.; Prehearing

License Denial; Doc. No. AG02-04-043

The proceeding in this matter will be governed by 2 Pa.C.S. §§ 501—508, 701—704 (relating to Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure). A prehearing telephone conference initiated by this office is scheduled for June 27, 2002, at 10:30 a.m. Each party shall provide the Hearings Administrator a telephone number to be used for the telephone conference on or before May 23, 2002. A date for a hearing shall be determined, if necessary, at the prehearing/settlement conference.

If an attorney or representative for a party attending the conference does not have complete settlement authority relative to this matter, the party or persons with full settlement authority shall be available by telephone during the conference. At the prehearing telephone conference, the parties shall be prepared to discuss settlement, stipulations, witnesses and the documents anticipated for use at the hearing, estimated time for the hearing, special evidentiary or legal issues and other matters relevant to the orderly, efficient and just resolution of this matter. Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before June 13, 2002, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before June 20, 2002.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodations to participate in the hearing, should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-910. Filed for public inspection May 17, 2002, 9:00 a.m.]

Pennsylvania Professional Liability Joint Underwriting; Rate Filing

On April 30, 2002, the Insurance Department (Department) received from the Pennsylvania Professional Liability Joint Underwriting Association a filing proposing to:

- Apply an overall rate adjustment of 37.7% to all classes of health care providers.
- Move two specialties from one class to another class.
- Change the relativity for four classes.
- Change the relativity of nursing homes to hospitals.
- Change the relativity for three territories and introduce a new territory.
- Increase the maximum administrative fee.
- Make modifications to the Individual Risk Premium Modification plan for physicians and surgeons.
- Increase the policy writing minimum premium for physicians and surgeons.

Unless formal administrative action is taken prior to June 29, 2002, the rates within the subject filing may be deemed into use upon the effective date, September 1, 2002, by operation of law.

A copy of the filing will be available for public inspection during normal working hours, by appointment, at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Ken Creighton, ACAS, Insurance Department, Bureau of Regulation of Rates and Policies, 1311 Strawberry Square, Harrisburg, PA 17120, e-mail at kcreighton@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-911. Filed for public inspection May 17, 2002, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68), in connection with the termination of the insured's automobile policy. The hearings will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Philadelphia PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Mark and Margaret Bandera; file no. 02-210-01291; AAA Mid-Atlantic Insurance Company; doc. no. PH02-04-045; June 21, 2002, 9:30 a.m.

Francenia Emery; file no. 02-267-01043; AAA Mid-Atlantic Insurance Company; doc. no. PH02-04-046; June 21, 2002, 10:30 a.m.

Joseph Van Story; file no. 02-267-01615; Progressive Insurance Company; doc. no. PH02-04-048; June 21, 2002, 11:30 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, wit-

nesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-912. Filed for public inspection May 17, 2002, 9:00 a.m.]

John C. Smouse; Prehearing

License Denial; Doc. No. AG02-04-035

A prehearing telephone conference initiated by the Administrative Hearings Office shall occur on June 11, 2002, at 2 p.m. The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure). A hearing will be held on July 9, 2002, at 10 a.m. in Room 200, Administrative Hearings Office, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102. At the prehearing telephone conference, the parties shall be prepared to discuss settlement, stipulations, witnesses and the documents anticipated for use at the hearing, estimated time for the hearing, special evidentiary or legal issues and other matters relevant to the orderly, efficient and just resolution of this matter. Pending hearing, parties shall exchange proposed exhibits, the names of witnesses, provide an offer of proof with respect to each witness and informally attempt to resolve undisputed facts by stipulation.

On or before May 28, 2002, each party shall file with the Administrative Hearings Office by facsimile at (717) 787-8781 and serve upon the other party by facsimile an entry of appearance designating the lead attorney or representative to receive service or orders, filings and communications in this matter, together with that person's address, telephone number and facsimile number. Each party shall similarly designate the lead attorney or

representative who will attend the prehearing conference, if different than the person designated for service. Except as established at the prehearing conference, both parties shall appear at the scheduled hearing prepared to offer all relevant testimony or other evidence. Each party must bring documents, photographs, drawings, claims, files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents for photographs into evidence shall bring enough copies for the record and for each opposing party.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed by May 28, 2002, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before June 4, 2002.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodations to participate in the hearing, should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-913. Filed for public inspection May 17, 2002, 9:00 a.m.]

LEGISLATIVE REFERENCE BUREAU

Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of Bulletin). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

Executive Board

Resolution #CB-02-044, Dated March 14, 2002. This resolution authorizes the side letter of agreement between the Commonwealth and the Pennsylvania State Corrections Officers Association. The agreement provides for the salary placement and cash payments for specific employees covered by the H1 agreement who were assigned to Step "0" as of July 1, 2001.

Resolution #CB-02-073, Dated April 1, 2002. This resolution authorizes the side letter between the Commonwealth and the District 1199P, Service Employees International Union, AFL-CIO, CLC, regarding salary adjustments for certain RN 1, 2 and Community Health Nurse classifications and changes to the Collective Bargaining Agreement.

Resolution #CB-02-074, Dated April 1, 2002. This resolution authorizes the side letter between the Commonwealth and the Pennsylvania Nurses Association regarding salary adjustments for certain RN Supervisor classifications and changes to the Memorandum of Understanding.

Resolution #CB-02-088, Dated April 29, 2002. This resolution authorizes the side letter between the Commonwealth and AFSCME regarding reimbursement for the cost of safety shoes for Farm Workers 1 and 2 who work at four racetracks and for Pesticide Inspectors who work in the Bureau of Plant Industry, Department of Agriculture.

Governor's Office

Manual M205.2—Meeting Room Facilities, Amended March 27, 2002.

Manual M215.3—Field Procurement Handbook, Revision No. 3, Dated March 25, 2002.

Manual M315.1—Municipal Tax Rate Schedules, Revision No. 3, Dated April 1, 2002.

Management Directive No. 515.10—Selection and Appointment to Non-Civil Service Positions, Amended April 3, 2002.

Management Directive No. 620.1—Coal Sampling and Reporting, Revision No. 1, Dated April 23, 2002.

GARY R. HOFFMAN,
Director,
Pennsylvania Bulletin

[Pa.B. Doc. No. 02-914. Filed for public inspection May 17, 2002, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The Liquor Control Board seeks the following new site:

Philadelphia County, Wine & Spirits Shoppe #5123, 9th and Girard Avenue, Philadelphia, PA 19121.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space within a 1/2-mile radius of 9th and Girard Avenue, Philadelphia.

Proposals due: June 7, 2002, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert J. Jolly, (215) 482-9671

The following Liquor Control Board leases will expire:

Montgomery County, Wine & Spirits Shoppe #4601, 307 E. Church Road, King of Prussia, PA 19406.

Lease Expiration Date: November 30, 2003

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,500 net useable square feet of new or existing retail commercial space within a 1 mile radius of Route 202 and Henderson Road, King of Prussia.

Proposals due: June 7, 2002, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly, (215) 482-9671

Montgomery County, Wine & Spirits Shoppe #4615, 26 E. Fourth Street, East Greenville, PA 18041.

Lease Expiration Date: May 31, 2003

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space within a 1 mile radius of Routes 29 and 663, East Greenville.

Proposals due: June 7, 2002, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly, (215) 482-9671

Montgomery County, Wine & Spirits Shoppe #4632, Gwynedd Crossing Shopping Center, 1200 Bethlehem Pike, North Wales, PA 19454.

Lease Expiration Date: January 31, 2003

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,500 net useable square feet of new or existing retail commercial space within a 1 mile radius of Routes 63 and 309, North Wales.

Proposals due: June 7, 2002, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly, (215) 482-9671

Montgomery County, Wine & Spirits Shoppe #4634, 2014 Old Arch Road, Norristown, PA 19401.

Lease Expiration Date: September 30, 2003

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space within a 1 mile radius of Old Arch Road and Birchwood Avenue, Norristown.

Proposals due: June 7, 2002, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly, (215) 482-9671

Philadelphia County, Wine & Spirits Shoppe #5102, 4721 Oxford Avenue, Philadelphia, PA 19124.

Lease Expiration Date: May 31, 2003

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 net useable square feet of new or existing retail commercial space within a 1/2-mile radius of Oxford and Frankford Avenues, Philadelphia.

Proposals due: June 7, 2002, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly, (215) 482-9671

Philadelphia County, Wine & Spirits Shoppe #5122, 8 Penn Center Plaza, 1628 JFK Boulevard, Philadelphia, PA 19103.

Lease Expiration Date: June 30, 2003

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space within a 1/2-mile radius of 17th and JFK Boulevard, Philadelphia.

Proposals due: June 7, 2002, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly, (215) 482-9671

Dauphin County, Wine & Spirits Shoppe #2204, 107 North Front Street, Steelton, PA 17113.

Lease Expiration Date: June 30, 2003

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,600 to 3,400 net useable square feet of new or existing retail commercial space along SR 230 in the Borough of Steelton.

Proposals due: June 7, 2002, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Ronald Hancher, Jr., (717) 657-4228

Philadelphia County, Wine & Spirits Shoppe #5153, 2115 North 22nd Street, Philadelphia, PA 19121.

Lease Expiration Date: July 31, 2002

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 6,000 net useable square feet of new or existing retail commercial space within a 1/2-mile radius of the intersection of 22nd and Diamond Street in Philadelphia.

Proposals due: May 31, 2002, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly, (215) 482-9671

JOHN E. JONES, III,
Chairperson

[Pa.B. Doc. No. 02-915. Filed for public inspection May 17, 2002, 9:00 a.m.]

MILK MARKETING BOARD

Hearing and Presubmission Schedule for all Milk Marketing Areas; Over-Price Premium

Under the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Areas 1—6 on May 17, 2002, at 1 p.m. in Room 202, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits to amend Official General Order A-913 concerning the frequency of adjustment of the over-price premium which is currently done on a monthly basis.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered an appearance. Other persons who wish to present evidence may be included on the Board's list of parties by: (1) having their attorney file with the Board on or before 4 p.m. on May 13, 2002, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 (relating to form of notice of appearance); or (2) if unrepresented by counsel, filing with the Board by 4 p.m. on May 13, 2002, notification of their desire to be included as a party.

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the parties shall have available in the hearing room at least 20 additional copies made available for the use of nonparties attending the hearing.

1. By 4 p.m. on May 14, 2002, each party shall file with the Board seven copies and ensure receipt by all other parties of one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on May 15, 2002, each party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents or records in other proceedings before the Board, or wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, § 35.165, § 35.167 or § 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110. Persons who require this information in an alternate format should call (717) 787-4194 or (800) 654-5984 (Pennsylvania Relay Service for TDD users).

LYNDA J. BOWMAN,
Secretary

[Pa.B. Doc. No. 02-916. Filed for public inspection May 17, 2002, 9:00 a.m.]

Sunshine Meeting Dates for 2002-2003

In accordance with the Sunshine Act of 1986 (P. L. 388, No. 84), the Milk Marketing Board has established the following meeting dates for Fiscal Year 2002-2003:

<i>Date</i>	<i>Time</i>	<i>Place</i>
July 10, 2002	1 p.m.	Rm. 202 Agriculture Bldg. 2301 N. Cameron Street Harrisburg, PA 17110-9408
August 7, 2002	1 p.m.	Rm. 202 Agriculture Bldg. 2301 N. Cameron Street Harrisburg, PA 17110-9408
September 4, 2002	1 p.m.	Rm. 202 Agriculture Bldg. 2301 N. Cameron Street Harrisburg, PA 17110-9408
October 2, 2002	1 p.m.	Rm. 202 Agriculture Bldg. 2301 N. Cameron Street Harrisburg, PA 17110-9408

<i>Date</i>	<i>Time</i>	<i>Place</i>
November 6, 2002	1 p.m.	Rm. 202 Agriculture Bldg. 2301 N. Cameron Street Harrisburg, PA 17110-9408
December 4, 2002	1 p.m.	Rm. 202 Agriculture Bldg. 2301 N. Cameron Street Harrisburg, PA 17110-9408
January 8, 2003	1 p.m.	Rm. 202 Agriculture Bldg. 2301 N. Cameron Street Harrisburg, PA 17110-9408
February 5, 2003	1 p.m.	Rm. 202 Agriculture Bldg. 2301 N. Cameron Street Harrisburg, PA 17110-9408
March 5, 2003	1 p.m.	Rm. 202 Agriculture Bldg. 2301 N. Cameron Street Harrisburg, PA 17110-9408
April 2, 2003	1 p.m.	Rm. 202 Agriculture Bldg. 2301 N. Cameron Street Harrisburg, PA 17110-9408
May 7, 2003	1 p.m.	Rm. 202 Agriculture Bldg. 2301 N. Cameron Street Harrisburg, PA 17110-9408
June 11, 2003	1 p.m.	Rm. 202 Agriculture Bldg. 2301 N. Cameron Street Harrisburg, PA 17110-9408

Persons with a disability who require an alternate format may call (717) 787-4194.

LYNDA J. BOWMAN,
Secretary

[Pa.B. Doc. No. 02-917. Filed for public inspection May 17, 2002, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Certificate of Public Convenience Without Hearing

A-211890F5000. Tri-Valley Water Supply, Inc. Application of Tri-Valley Water Supply, Inc. for issuance of a Certificate of Public Convenience and other approvals, if any, as may be necessary under 66 Pa.C.S. (relating to Public Utility Code), evidencing approval of its acquisition of the stock of Anthony H. Sander and Lucille P. Sander and transfer of control to Gregory Sander.

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 June 3, 2002, under 52 Pa. Code (relating to public utilities).

Applicant: Tri-Valley Water Supply

Through and By Counsel: Thomas T. Niesen, Esquire, Sharon E. Webb, Esquire, Thomas, Thomas, Armstrong & Niesen, 212 Locust Street, P. O. Box 9500, Harrisburg, PA 17108-9500.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-918. Filed for public inspection May 17, 2002, 9:00 a.m.]

Entry of Orders Establishing Interim Guidelines

On April 23, 2002, Final Orders establishing Interim Guidelines were entered in the following proceedings.

Final Interim Guidelines Establishing Procedures for Changing Local Service Providers for Jurisdictional Telecommunications Companies Doc. No. M-000011582

Interim Guidelines Establishing Customer Information for Jurisdictional Telecommunications Companies Doc. No. M-00011582F0002

Interim Guidelines Establishing Quality of Service Procedures for Jurisdictional Telecommunications Companies Doc. No. M-00011582F0003

Interim Guidelines Establishing Local Service Provider Abandonment process for Jurisdictional Telecommunications Companies Doc. No. M-00011582F0004

These Interim Guidelines establish voluntary standards for telecommunications carriers in this Commonwealth. They may be accessed on the Commonwealth website, puc.paonline.com.

Additionally, the website contains scheduling information on four related collaborative rulemakings:

Procedures for Changing Local Service Providers; Doc. No. M-00011583

Customer Information; Doc. No. M-000115843

Quality of Service; Doc. No. M-00011585

Local Service Provider Abandonment Process; Doc. No. M-00011586.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-919. Filed for public inspection May 17, 2002, 9:00 a.m.]

Railroad With Hearing

A-00117976. Carnegie Borough. Application of Carnegie Borough for approval of the construction of a crossing where East Main Street crosses, at grade, the tracks of the Pittsburgh & Ohio Central Railroad, located in the Borough of Carnegie, Allegheny County, PA.

An initial hearing on this matter will be held Thursday, June 6, 2002, at 10 a.m. in the 11th Floor Hearing Room, Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, PA, when and where all persons in interest may appear and be heard, if they so desire.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-920. Filed for public inspection May 17, 2002, 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 June 10, 2002, as set forth at 52 Pa. Code § 3.381 (relating to the applications for the transportation of property, household goods in use 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-00117497, F.2. Hans Schack and Mark Schack, Copartners t/d/b/a Allegheny Business Limousine (4432 Coleridge Street, Pittsburgh, Allegheny County, PA 15201)—persons in limousine service, between points in the County of Allegheny. *Attorney:* John A. Pillar, 680 Washington Road, Suite B101, Pittsburgh, PA 15228.

A-00118890. Leonardo R. Rodriguez t/d/b/a A Taxi (160 Hudson Avenue, Haverstraw NY 10927)—persons upon call or demand in the County of Berks.

Application of the following for approval of the *beginning of the exercise of the right and privilege of operating motor of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under the application*

A-00118835, F.2. Easton Coach Company (1200 Conroy Place, Easton, Northampton County, PA 18040), a Pennsylvania corporation—(1) groups and parties of persons from that portion of Monroe County south of US Highway Route 209 and west of Pennsylvania Highway Route 33, east of Pennsylvania Highway Route 33, south of a line due east and west through Bossardsville to the Northampton County Line, to points in Pennsylvania, and return; and (2) groups and parties of persons from that portion of Northampton County east of Pennsylvania Highway Route 33 and north of US Highway Route 22, including the city of Easton and the Laneco Shopping Center in Palmer Township, Northampton County, at the intersection of William Penn Highway and Stone's Crossing Road, to points in Pennsylvania located within an airline distance of 75 statute miles of the limits of the city of Easton, Northampton County, plus Derry Township, Dauphin County, and return; with both of the previous rights subject to the following conditions: That no right, power or privilege is granted to perform transportation in trackless trolleys; that not right, power or privilege is granted to perform transportation in school bus type vehicles; and that all service shall be provided in vehicles with a seating capacity of 15 passengers or less, including the driver; which is to be a transfer of the rights authorized under the certificate issued at A-00108988 to Vectour of Pennsylvania, Inc., subject to the same limitations and conditions. *Attorney:* Vincent A. Vietti, Eleven Penn Center, 14th Floor, 1835 Market Street, Philadelphia, PA 19103

Application of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods by transfer as described under the application.*

A-00118885. Nicholas Moving & Storage, Inc. (611 Branchton Road, Slippery Rock, Butler County, PA 16057), a Pennsylvania corporation—(1) household goods in use, between points in the county of Butler; (2) household goods in use, from points in the county of

Butler, to other points in Pennsylvania, and vice versa; and (3) property, excluding household goods in use, between points in Pennsylvania; which is to be a transfer of the rights authorized under the certificate issued at A-00090110, F.2 to O. H. Nicholas Transfer & Storage Co., subject to the same limitations and conditions. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

Application of the following for the approval of the *transfer of stock as described under the application.*

A-00116324, F.5000. Grace Limo Service, Inc. (4620 Weymouth Street, Philadelphia PA 19120), a Pennsylvania corporation—stock transfer—for approval of the transfer of 100 shares of the issued and outstanding stock from Steve Alizzi to Wael Soltan (50 shares) and Ahmed Soltan (50 shares).

Application of the following for *amendment to the certificate of public convenience approval of the right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under the application.*

A-00106029, F.2, AM-A. Berwyn Taxi Service, Inc. (225 Green Street, Malvern, Chester County, PA 119355), a Pennsylvania corporation—for the discontinuance of service and cancellation of its certificates of public convenience at A-00106029 and A-00106029, F.2. The discontinuance is for all of its authority to transport persons upon call or demand in the townships of Tredyffrin, Eastown, Willistown, East Whiteland and West Whiteland; and the borough of Malvern, all in Chester County.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-921. Filed for public inspection May 17, 2002, 9:00 a.m.]

Standard for Comparing Local Service Options for Use in a Consumer Education Program on Telephone Competition; Doc. No. M-00011580

Public Meeting held
April 11, 2002

Commissioners Present: Glen R. Thomas, Chairperson; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr., statement attached; Terrance J. Fitzpatrick; Kim Pizzingrilli

Order

By the Commission:

On November 9, 2001, the Commission issued a Tentative Order requesting comments on the possible establishment of a universal standard for comparing local service options for use in a Consumer Education Program on Telephone Competition. The Commission envisioned that this "standard offer" would be similar to the "price to compare" for electric generation that was fundamental to the success of consumer education in the Electric Choice program. By establishing such a tool, the Commission viewed the standard offer as a way to reduce customer confusion and give customers the essential information that they need to do comparison shopping for local telephone service. It was intended that the standard offer

would be used when consumers apply for residential telephone service by phone with a local exchange carrier (LEC) service representative providing the customer with this information. However, the Commission was uncertain about what information/standard would assist consumers in shopping, but would, at the same time, foster competition in the local telephone service market. Therefore, the Commission also asked commentators to respond to six specific questions regarding the possible effects of establishing such a universal standard on competition.

The Tentative Order was published at 31 Pa.B. 6763 (December 8, 2001). The Tentative Order provided for a 10-day comment period. The deadline for filing comments was December 18, 2001. Eleven parties filed comments. They include the Office of Consumer Advocate (OCA), Office of Small Business Advocate (OSBA), the Office of Trial Staff (OTS), Pennsylvania Telephone Association (PTA), Verizon Pennsylvania Inc. and Verizon North Inc. (VZ), the Commission's Consumer Advisory Council (CAC), AT&T Communications of Pennsylvania, Inc. (AT&T), MCI Worldcom Network Services, Inc. (MWCOWM), RCN Telecom Services of Philadelphia Inc./RCN Telecom Services Inc. (RCN), National ALEC Association/Prepaid Communications Association (NALA/PCA) and Metro Teleconnect Companies, Inc. (Metro Teleconnect).

The Commission considered all the comments and expresses its appreciation to the commentators for their helpful information and thoughtful observations.

Discussion

Various commentators (AT&T, MWCOWM, Metro Teleconnect, PTA, VZ, RCN, NALA/PCA) are opposed to the implementation of a universal standard to compare the price of the local service options for a number of reasons. In its comments, MWCOWM expressed its concerns about the Commission setting a price to compare for basic local service.

AT&T expressed concerns about the Commission developing a price to compare chart that would set a universal price to compare. AT&T states that it is "difficult to envision how the price to compare chart could be maintained accurately and reliably in light of the Commission's own recently enacted rules governing local exchange tariff filing requirements. 52 Pa. Code §§ 53.57, et seq. Those new rules, for example, permit carriers to implement certain price changes on as little as one day's notice. See, e.g. 52 Pa. Code § 53.59(a).

PTA's comments address the impracticality of implementing a standard for local service. PTA states that local service can potentially involve a multitude of varying rate components that make a single simple comparison price virtually impossible to ascertain. One example is that local service can be priced as a fixed rate without usage, or based solely upon usage or some combination. PTA also states that to further complicate usage charges some Incumbent Local Exchange Companies (ILECs) have rate bands that provide for varying charges for usage based upon an individual customer's location or the exchange's aggregate calling patterns.

According to PTA, all LECs must assess mandated charges (e.g., subscriber line charge, emergency 911 surcharge, PA relay charge, federal universal service charge, taxes, etc.), but all do not have the same obligation to collect these charges. For example, some Competitive Local Exchange Carriers (CLECs) frequently forego application of the subscriber line charge by incorporating their costs directly into the end-user, consumer rates. PTA adds

that ILECs may be bound by interstate tariffs that forestall transition from interstate cost recovery to intrastate local rates. NALA/PCA comments on the difficulties associated with determining the rate in extended calling areas.

VZ also comments about the impracticality of producing a standard for comparing prices for local service options. VZ explains that, for example, it has five different rate groups across the state and at least eight major classes of basic service, some with further variations and some available in some areas but not in others. VZ does concede that the residential flat monthly rate for unlimited calling is probably the most unobjectionable price comparison. However, VZ points out that the LEC flat rate price differences in different geographic areas of Pennsylvania would need to be taken into account. For example, VZ flat rate service charges vary both by five usage rate groups and by four density cells—resulting in numerous different discreet flat rate charges that are dependent upon where the consumer lives.

There were fewer commentators (OCA, OSBA, CAC, and OTS) that expressed general support for the Commission's efforts to construct a price to compare tool. OCA, although arguing in favor of implementing the rate comparison standard, recognizes that such a standard would be difficult to formulate. OCA submits that in order to accurately reflect the full range of local service pricing options available, the Commission should recognize that the standard or monthly local service charge will vary depending upon whether a customer is enrolled in a flat or measured usage plan. Also, OCA states that different types of "flat monthly fee" rate options may be selected corresponding to the various types of enlarged calling areas that customers may choose, including Local Area Unlimited calling (VZ's basic flat rate calling option). Additionally, OCA points out that flat monthly rate plans may vary in price upon location. For example, Sprint offers flat rate calling packages that vary based upon the rate groups or rate bands under which customers take service. Such rate bands usually vary by the exchange in which the consumer resides.

The OSBA states that it "... disagrees with the idea of obligating the industry to offer any random service elements as a package or plan represented for price comparisons. However, offering basic or baseline service packages or plans for price comparisons and distinct services or elements standing-alone for price comparison is reasonable." Nevertheless, the OSBA asserts that small business customers have different needs and that the price to compare data would have to be different. As such, "small businesses cannot depend upon the unlimited local calling area to be sufficient for its telecommunications needs."

For example, the OSBA states:

"The information for price to compare data should contain at a minimum: (1) the business flat monthly rate for unlimited local calling within the calling area equal to, or larger than the calling area provided by the ILEC,¹ (2) the rate for toll calls (intraLATA intrastate calls), (3) the rate for the stand-alone component for voicemail, (4) the rate for the stand-alone component of Caller ID, and (5) the rate for the stand-alone component of call forwarding. These components may be different from those experienced by residential customers."

¹ Typically this is the "B1" rate.

As a result of these comments, the Commission has determined that the implementation of a universal standard to compare the price of local service options is not practical given the nature of local service in this Commonwealth.² However, we believe that the price of a LEC's least expensive local basic service option is fundamental information that the consumer should have so that he or she can make an intelligent decision in selecting among LECs and their various service packages. Moreover, the Commission firmly believes that all LECs must comply with those provisions of Chapter 64 that require LECs to make consumers aware of the least cost local service option when they apply for local telephone service. LECs are free to discuss the other service options including bundled service packages once they inform applicants of the least cost service option as required by existing regulations.³

The Commission's position on offering bundled local service packages is explained in our North Pittsburgh order, Docket No. P-00011899. PTA and AT&T note in their comments that the Commission found North Pittsburgh Telephone Company's (North Pittsburgh) single rate plan to be in the "consumer's interest" when it granted the company a petition for waiver of certain sections of Chapter 64. While the Commission recognizes the benefits of companies selling bundled service packages, it also recognizes its obligation to enforce the consumer protection provisions of its regulations. The Commission's decision to grant waivers to North Pittsburgh was based on the company's assurance that it would "honor the underlying goal of the Chapter 64 requirements at issue, namely the preservation of the residential customer's basic service." North Pittsburgh's implementation of single rate package plans would be "conducted in a manner which retains the protection afforded by Chapter 64." The Commission did not waive any fundamental protection relating to the application process, information provided at the time of application, suspension/termination or dispute resolution⁴. The waivers granted to North Pittsburgh apply only if an applicant or customer elects to buy a bundled service. Specifically, the waivers apply only to monthly billing and the application of customer payments, as long as the account is not in collection for past due amounts. Therefore, the price of a LEC's least expensive local basic service option must be provided to all customers during the application process.

Again, we believe that the price of a LEC's least expensive local basic service option is fundamental information that the consumer should have so that he or she can make an intelligent decision in selecting among LECs and their various service packages. All LECs are obligated to comply with the provisions of § 64.191(b)(1), which requires LECs to "explain and give the price of the least expensive type of single party service." We further believe that all LECs should provide information on the least expensive type of single party service upon request of the customer of record for an existing account.

² As the Commission has decided against implementing a price to compare standard because of impracticality, it is unnecessary to discuss other issues raised by the commentators.

³ According to § 64.191(b)(1) if an applicant applies for service by telephone the LEC service representative shall explain and give the price of the least expensive single-party basic service.

⁴ The North Pittsburgh Telephone Company also agreed to provide a disclosure statement (subject to the right of the Commission to review the disclosure statement) to customers who order a single price package plan which details the billing practice in the event a customer fails to pay under the agreed terms of the package plan. In addition, the Commission directed North Pittsburgh to "identify on bills those charges for which failure to pay will not result in disconnection of the customer's basic service, pursuant to the FCC's ruling concerning Truth-in-Billing and Billing-Format⁵." See, CC Docket No. 98-170; FCC 00-111, released July 13, 2000. The Commission found that "the single rate package plan and proposed billing methodology are in the consumer's interest provided that all assertions with respect to notice to the consumer to be contained in the disclosure statement are satisfied."

Accordingly, we will direct the Office of Communications to include, in the Commission's Consumer Education Program, materials to educate consumers about their right to request and receive information about the least expensive local basic service option when making application to a LEC for service or upon request to the LEC by an existing customer. Also, because this regulatory requirement is already in place, we do not see that additional costs will be imposed on the LECs by having the Consumer Education Program develop and distribute materials that inform consumers that they have a right to request such information.

Various commentators who opposed the implementation of the local service option pricing standard commented on alternatives and volunteered to help in their formulation. PTA indicated that the Consumer Education Fund should be used to provide information to consumers about telecommunications choices, the various services available and the types of questions that consumers can ask to receive information that can be used in making decisions about their telecommunication service choices.

VZ suggests that the Commission's Bureau of Consumer Services with input from the LEC industry develop both a customer education brochure and Commission website features that provide information consumers should know when making decisions about selecting telecommunication services. Both the brochure, that would be distributed via the Commission's normal customer education channels, and the website should include a user-friendly checklist (printable from the website) with side by side service/price entries. The checklist would allow customers to do an easy cost comparison by deciding and checking off the specific LEC services the customer wants and then calling the LEC serving the customer's area to obtain, write down and compare rates for these services. To the extent that the services desired are included in LEC service packages, the checklist should contain space to note package contents and prices to facilitate price comparisons with other LECs' services and packages.

RCN suggests that given the overlap of the subject matter the Consumer Education Plan should be addressed in the Customer Information collaborative. Docket M-00011582.

Commission Staff is already formulating the Consumer Education Program in conjunction with the Council on Utility Choice⁵ (CUC). Moreover, the CUC has representatives from the telecommunications industry and consumer organizations so the formulation of the Consumer Education Program has input from a range of interested parties. Therefore, it is unnecessary to assign to the Collaborative on Customer Information the task of designing a Consumer Education Program. However, we adopt Verizon's suggestion that the Commission's Bureau of Consumer Services be included as part of the Commission staff charged with formulating our Consumer Education Program in conjunction with the Council on Utility Choice. The other suggestions, including Verizon's proposal that industry and BCS develop an education brochure and that information be posted on the Commission's website, are more appropriate forwarded to the Office of Communications and the CUC for their consideration; *Therefore*;

⁵ The Council on Utility Choice members include representatives from OCA, CAC, and PTA.

It is Ordered That:

1. The Tentative Order on *Standard for Comparing Local Service Options for Use in a Consumer Education Program on Telephone Competition* is not adopted as proposed.

2. The Consumer Education Program include materials to educate consumers about their right to request and receive information about the least expensive local basic service options when contacting LECs for service pursuant to Commission regulations at 52 Pa. Code § 64.191.

3. That a copy of this order and any accompanying statements of the Commissioners be served upon all jurisdictional LECs, the commentators at this docket, the Pennsylvania Telephone Association, the Pennsylvania Cable and Telecommunication Association, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, posted on the Commission's website at <http://puc.paonline.com> and shall be made available to all other interested parties.

4. That this Order be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,
Secretary

Standards for Comparing Local Service Options for Use in a Consumer Education Program on Telephone Competition	Public Meeting April 11, 2002 APR-BCS-0001* Doc. No. M-00011580
Interim Guidelines Establishing Procedures for Changing Local Service Providers for Jurisdictional Telephone Companies	Public Meeting April 11, 2002 APR-BCS-0002 Doc. No. M-00011582
Interim Guidelines Establishing Customer Information Guidance to Local Service Providers for Jurisdictional Telecommunications Companies	Public Meeting April 11, 2002 APR-BCS-0003 Doc. No. M-00011582, F0002
Interim Guidelines for Establishing Quality of Service Procedures for Jurisdictional Telecommunications Companies	Public Meeting April 11, 2002 APR-BCS-0004 Doc. No. M-00011582, F0003
Interim Guidelines Establishing Local Service Provider Abandonment Process for Jurisdictional Telecommunications Companies	Public Meeting April 11, 2002 APR-BCS-0005 Doc. No. M-00011582, F0004

Statement of Commissioner Aaron Wilson, Jr.

In these cases, the Commission sought comments regarding proposed guidelines on (1) Comparing Local Service Options for Use in Consumer Education; (2) Procedures to Change One's Local Service Provider; (3) Customer Information to be provided to consumers by Local Service Providers; (4) Quality of Service guidelines for Local Service Providers; and (5) Abandonment Processes when a Local Service Provider exits the market.

I have legal and policy concerns about these guidelines. I urge the regulated community and the public to address those concerns.

The Legality of the Interim Guidelines. I understand the commentators' claim that these "interim guidelines" may not be enforceable because binding requirements can only be established under the Commonwealth Documents Law

and the Regulatory Review Act. I am concerned that staff dismisses this claim by noting that "*adherence* to these guidelines will *result* in reasonable and adequate service as required by Section 1501 of the Public Utility Code." Docket No. M-000111582, F0002 at 25, emphasis added. This approach appears very similar to a general rule of future applicability, which, if violated, will have adverse consequences on a utility's compliance with Section 1501 of the Public Utility Code. *Redmond v. Milk Marketing Board*, 363 A.2d 841, 843 (1976); *The Choice Between Adjudication and Rulemaking for Developing Administrative Policy in Pennsylvania*, 4 Widener Journal of Law 374-402 (1995). This Commission has very recently been criticized for using policy statements to issue binding norms. See Docket No. L-00010152, Proposed Revisions to 52 Pa. Code § 41.14, Statement of Senator David J. Brightbill.⁶

The General Scope of the Interim Guidelines. The definition sections in the guidelines on Local Service Options, Changing Local Service Providers, Customer Information, Quality of Service, and Abandonment are limited to telecommunications services. That approach overlooks the fact that information services, a legal term crafted by the federal government's Federal Communications Commission (FCC) to justify their regulatory control over internet policy, are of critical importance and interest to all customers in this Commonwealth. The guidelines should include information services and other services, notwithstanding the FCC's current position that it alone is the sole source provider of internet policy, so that Pennsylvania can act in response to future developments expanding the scope of our authority to promote internet access or broadband development. It is easier to exercise concurrent or reserved power in response to newly acquired authority than to do develop a complete set of new regulations. See *California ISP Association, Inc. v. Pacific Bell Telephone Company* (U-1001-C); *SBC Advanced Solutions, Inc. (U-6346-C) and Does 1-20*, Case No. 01-07-27, March 28, 2002 (Interstate authority of the Federal Communications Commission does not automatically preempt state authority in matters related to Digital Subscriber Line (DSL) transport and information services).⁷

The Statutory Obligation to Serve, the Provider of Last Resort Problem, and Bond Requirements. In the telecommunications industry, some carriers have obligations to serve while other carriers may not. In addition, the larger incumbent local service providers can function, and they do, as de facto providers of last resort when another local service provider exits a market without proper assurances that all consumers can continue their telecommunications and information services. The obligation to serve and the de facto provider of last resort functions cannot be delivered without cost. Those costs may be particularly aggravated in those instances, and we have had them here at the Commission, where local service providers exit the market before the appropriate arrangements are in place to make sure that all consumers continue to receive their services.

The Commission resolved some of those problems in the electric and gas industries by the imposition of minimum bond requirements. These interim guidelines are silent on this. The industry and the public are urged to evaluate this issue and to propose solutions in the collaborative.

⁶ The fact that interim guidelines were used in restructuring the electric and gas industries, under specific State law and without legal objection by the regulated community, does not necessarily justify agency actions acting under Federal and State law.

⁷ This case is cited to underscore the uncertain and tentative nature of state and federal authority on the internet, internet access, and broadband deployment involved in the "information services" sector of the evolving telecommunications industry.

Docket No. M-00011580—Local Service Options for Consumer Education. This nonbinding guideline requires all local service providers to “comply” with Chapter 64 by informing a consumer about “the least expensive basic service option” although the guidelines do not implement “a universal standard to compare the price of local service options.” Docket No. M-00011580 at 5. If this “least expensive option” is for service other than a “flat monthly fee for all such calls made,” Section 1324(a) of the Public Utility Code requires that the local service provider offer the option of service for a flat monthly fee. The interim guidelines may be encouraging the violation of Section 1324(a) because consumers are not advised of their minimum Section 1324(a) options.

Docket No. M-00011582—Changing Local Service Providers. Staff limits the scope of these guidelines to “residential customers” with the exception of E911 and Directory Listings/White Pages. 911 and Directory Listings/White Pages apply to all customers. Annex A at I.B. I have two concerns.

First, the Commission’s definition of basic local universal service, defined in Docket No. I-00940035 (March 30, 1995) at p. 16, adopts and expands on the Federal Communications Commission (FCC) definition of basic local universal service. The FCC definition includes, inter alia, access to directory assistance, operator services, emergency services, and telecommunications relay service, without regard to customer class. The approach taken in these guidelines may not be consistent that approach or the Commission’s own precedent under state and federal law.

Second, staff does not fully explain why the guidelines apply to business customers, or consumers in the parlance of Docket No. M-00011580, for some purposes but not others. This is significant.

Today, the Commission has before it, at Docket No. A-310886F2000, a local service provider’s proposal to abandon service to 377 of its business customers. The service provider, however, only has plans to “transition” 177 of those 377 customers to an alternative service provider. The remaining 200 customers are left with the obligation to provide “customer instructions” to the old service provider, even though that provider is no longer subject to our jurisdiction, in order to continue service.

The abandonment of customers and their services before customer transition plans are completed, and which assure customers that their service will not be interrupted, results in a crisis management approach to transitions that can only increase transition costs. Moreover, unlike the electric and gas industries, there are no compensatory bonds available to compensate the successor local service providers for the increased cost of taking on new customers with a myriad of service needs at the last possible moment.

This is not conjecture.

Last week, a company with 2 facilities, 82 direct dial lines, 23 channels, and 150 employees contacted the Commission because their local service provider is abandoning service in such a shortened time period (30 days as opposed to 60 days) that it will lose local service and be unable to operate unless the Commission and Verizon cooperate to solve the problem. The employer was told in March 2002, when they first contacted the Commission, that “we have no authority” over such matters and to contact the FCC.

This is not a new problem.

The Commissions’ failure to expressly develop meaningful exit procedures before we approve abandonments of service and the failure to include business customers within the guidelines’ ambit may be unwise. This practice ensures that customers will continue to experience inadequate “transitions” and deal with a Commission that may be less interested in their lost service or service quality problems in comparison to residential customers.

The Chairman remands the issue of including businesses to the collaborative. I reluctantly support that approach because I prefer to include business customers and leave the details to the collaborative. The concern that the inclusion of business customers requires another layer of regulation overlooks economic reality. Business customers, and most particularly the small and mid-sized businesses, provide the jobs, economic development, tax sources, and assessment base that benefit the residential customer class. Businesses rely on safe, adequate, and reasonable utility services in order to provide residential Pennsylvanians with the employment they need to meet their utility obligations. The failure to include business, given their economic role in this Commonwealth, may be counterproductive to competition and the public interest.

Docket No. M-00011582, F002—Customer Information Guidance. Consistent with my comment on Changing Local Service Providers, I am very concerned that this guideline is also limited only to residential customers.

Docket No. M-00011582, F003—Quality of Service Procedures. I am disturbed by staff’s approach to the Communications Workers of America’s (CWA) comments about service quality declines. I am not as certain as staff that the Commission’s processes, which are very removed from the day-to-day field operations in the industry, are sufficient to justify dismissing comments about service quality declines as irrelevant. I urge the CWA to use their experience and expertise in the collaborative by providing us with concrete suggestions to resolve any industry-wide service quality issues.

I am also interested in comments on why this guideline is not a rule of universal applicability, normally reserved for regulations as opposed to policy statements, given staff’s frank admission that the guideline constitutes the “ground rules” for all Local Service Providers. See Staff Recommendation at p. 5.

Finally, this voluntary guideline focuses almost exclusively on Transfers of Customer Base (Involuntary Migration). The guideline assumes that a service provider abandons all service in the Commonwealth when they abandon customers. That is not always the case. There have been cases where the service provider merely wants to shed customers while remaining in business or abandons some customers while retaining the abandoned exchanges in their tariff. Comments on managing this challenge are sought.

Docket No. M-00011852, F0004—Abandonment Process for Local Service Providers. This guideline, in direct contrast to the others, appears to include business customers. See Annex A, Part I.A(1) and Staff Recommendation at p. 3. I commend staff’s approach, but wonder why the wisdom of this approach was not adopted in the other guidelines.

I also have a few comments on the Pre-Termination Embargo Process. First, the Pre-Termination Embargo Process does not apparently distinguish between undis-

puted and disputed reasons for a service embargo. See Annex A, Part III.B.(1)-(4).

Second, the Pre-Termination Embargo Process' confine nonpayment of charges disputes to the filing of a "complaint" as opposed to invoking Alternative Dispute Resolution (ADR) or any of the Commission's other informal and cost-effective processes. See Annex A, Part III, C.(4).

Third, the Embargo Notification is provided only to the Secretary and the Bureau of Consumer Services. The Commissioners should be notified as well given their role at the Commission. See Annex A, Part III, D. (1)(c).

Fourth, the obligations of Section V.D (1) can be triggered by a certificate authorizing abandonment or revoking a certificate to provide service even if those actions arguably terminate the Commission's jurisdiction. It may make more sense to confirm that an exiting service providing complies with our abandonment measures before any order issues that will terminate our authority.

Fifth, the staff fails to include the Commission's own customer service telephone numbers as a contact source for more information on Customer Notices. Although I recognize that the local service provider might be the contact of first resort, there must be a time and place to inform the consumer about the Commission's availability. That needs to be addressed.

[Pa.B. Doc. No. 02-922. Filed for public inspection May 17, 2002, 9:00 a.m.]

Telecommunications Without Hearing

A-310633F0002AMA. Level 3 Communications, LLC. Application of Level 3 Communications, LLC, for approval to offer, render, furnish or supply telecommunications services as a Competitive Local Exchange Carrier in the service territories of Alltel Pennsylvania, Inc., Armstrong Telephone Company North, Armstrong Telephone Company Pennsylvania, Bentleyville Telephone Company, Buffalo Valley Telephone Company, Citizens Telephone Company of Kecksburg, Citizens Telecommunications Company of New York, Commonwealth Telephone Company, Conestoga Telephone and Telegraph Company, Denver and Ephrata Telephone and Telegraph Company, Deposit Telephone Company, Frontier Communications of Breezewood, et al., Hancock Telephone Company, Hickory Telephone Company, Ironton Telephone Company, Lackawaxen Telecommunications Services, Inc., Laurel Highland Telephone Company, Marianna and Scenery Hill Telephone Company, North Penn Telephone Company, North Pittsburgh Telephone Company, North-Eastern Pennsylvania Telephone Company, Palmerton Telephone Company, Pennsylvania Telephone Company, Pymatuning Independent Telephone Company, South Canaan Telephone Company, Sprint Communications Company, LP, TDS Telecom/Mahanoy and Mahantango, TDS Telecom/Sugar Valley Telephone, United Telephone Company of PA, Venus Telephone Corporation, West Side Telephone Company and Yukon Waltz Telephone Company.

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 June 3, 2002, under 52 Pa. Code (relating to public utilities).

Applicant: Level 3 Communications, LLC

Through and By Counsel: Daniel P. Delaney, Esquire, Kirkpatrick and Lockhart, LLP, Payne Shoemaker Building, 240 North Third Street, Harrisburg, PA 17101-1507.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-923. Filed for public inspection May 17, 2002, 9:00 a.m.]

Water Service Without Hearing

A-210104F0016. Pennsylvania-Suburban Water Company. Application of Pennsylvania-Suburban Water Company for approval of the right to begin to offer, render, furnish or supply water service to the public in an additional portion of Thornbury Township, Delaware 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 June 3, 2002, under 52 Pa. Code (relating to public utilities).

Applicant: Pennsylvania-Suburban Water Company

Through and By Counsel: Mark J. Kropilak, Esquire, 762 West Lancaster Avenue, Bryn Mawr, PA 19010.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-924. Filed for public inspection May 17, 2002, 9:00 a.m.]

Water Service Without Hearing

A-212285F0102. Pennsylvania-American Water Company. Application of Pennsylvania-American Water Company for approval of the right to offer, render, furnish or supply water service to the public in portions of Perkiomen 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 June 3, 2002, under 52 Pa. Code (relating to public utilities).

Applicant: Pennsylvania-American Water Company

Through and By Counsel: Velma A. Redmond, Esquire, Susan Simms Marsh, Esquire, 800 West Hersheypark Drive, P. O. Box 888, Hershey, PA 17033-0888.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-925. Filed for public inspection May 17, 2002, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Proposals

The Philadelphia Regional Port Authority (PRPA) will accept proposals for Project #0239.P (Pocket Planners/2003 Diaries), until 2 p.m. on Thursday, May 30, 2002. The proposal documents can be obtained from the Direc-

tor of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Fl., Philadelphia, PA 19134, (215) 426-2600 and will be available May 21, 2002. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 02-926. Filed for public inspection May 17, 2002, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

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

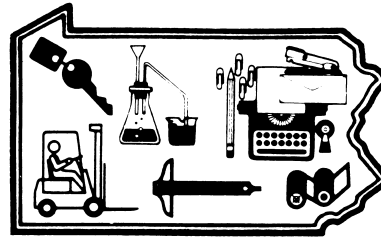
Effective April 15, 2002, the Department of General Services (Department), Bureau of Purchases, will no longer send vendors notices of the availability of invitations for bids or requests for proposals (by fax or other means). Bidding/contracting opportunities will be posted on the Department's website. Vendors who are interested in competing for a particular contracting opportunity with this Commonwealth will be able to download the particular invitation for bids or request for proposals.

The website address for viewing bidding/contracting opportunities and for obtaining copies of invitations for bids and requests for proposals is www.dgs.state.pa.us. To access the information on this website, vendors must select "Procurement" followed by "Bidding Opportunities."

If a vendor wishing to participate does not have access to a computer, public libraries offer free access to the Internet. Additionally, a vendor can obtain a copy of an individual invitation for bids or request for proposals by calling Vendor Services at (717) 787-2199 or (717) 787-4705, or by visiting us at 414 North Office Building, Harrisburg, PA.

Contact Susan Plecker, Website Manager, at (717) 787-1105 or Ray Cunningham, Vendor Information Section Supervisor, at (717) 787-5862, concerning questions or problems in gaining access to bidding/contracting opportunities information or in locating and downloading invitations for bids or requests for proposals.

KELLY POWELL LOGAN,
Secretary



Commodities

SU-01-24 Shippensburg University is seeking vendors interested in providing Sanyo Projectors, cables and lecterns. Vendors interested in receiving a bid package must request in writing to Karen A. Coldsmith, Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257; Phone (717) 477-1386 or Fax (717) 477-1350

Department: State System of Higher Education
Contact: Karen Arita Coldsmith (717) 477-1386

1309151 Rebid Retail Pro-Point of Sales System or Equivalent. BID OPENING DATE: 05/21/02

Department: General Services
Location: Harrisburg, PA
Duration: FY 2001-02
Contact: Vendor Services (717) 787-2199

SU-01-32 Supply and install circuit master unit manufactured by Body Masters. Unit to be configured to occupy a space of 25'6" X 19' and will include the following stations: CM422 Leg Extension 200 LB, CM420 Standing Leg Curl 100 LB, CM290 Single Hi/Lo Pulley 150 LB, CM292 Cable Cross Over 2X150 LB with attachments (2 each of these units), CM226 Tricep Press 150 LB, CM264 Incline Chest Press 300 LB, CM240 Lat Pull 300 LB, CM260 Pec Dec 200 LB, CM242 Low Row 300 LB. Request for bid package may be faxed to 717-477-1350.

Department: State System of Higher Education
Location: Shippensburg University, Shippensburg, PA 17257
Duration: System to be furnished in June 2002.
Contact: Mona M. Holtry 717-477-1386

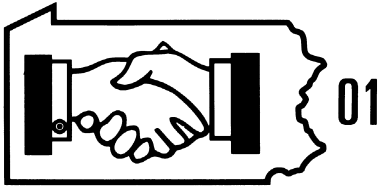
RFP-#094 Slippery Rock University is soliciting bids for a vendor to provide an audio/visual system for the multi-purpose room in the University Union Building. Interested vendors are to contact the Purchasing Department at (724) 738-2079 to request a bid packet. Bids will be due in the Purchasing Department on May 21, 2002 by 2:00 p.m.

Department: State System of Higher Education
Location: Slippery Rock University, Slippery Rock, PA
Contact: Kathy Powell (724) 738-4771

LE-010009 2 Each - Mercury Outboard Engines, Model 200XL Optimax, 25" Shaft

Department: Fish and Boat Commission
Location: 1601 Elmerton Ave., Harrisburg, PA 17110
Duration: One Time Purchase
Contact: Dennis Grove 717-705-7915

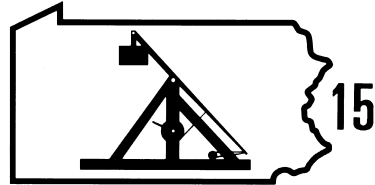
SERVICES



Advertising

SU-01-26 Shippensburg University seeks proposal from qualified marketing and design firms to provide services for the development of an admissions publications package for the recruitment of undergraduate students. Contractor must have a minimum of 5 years experience developing design and marketing materials for admissions for colleges and universities. Requests for the RFP may be faxed to 717-477-4004.

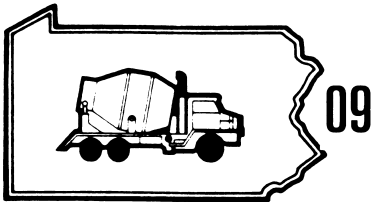
Department: State System of Higher Education
Location: Shippensburg University, Shippensburg, PA 17257
Duration: September 1, 2002 through June 30 2003
Contact: Deborah K. Martin 717-477-1121



Environmental Maintenance Service

110093 Provide on-call drilling equipment and personnel for soils and geological investigations in Allegheny, Beaver and Lawrence counties. Complete specifications will be available when bid packages are distributed.

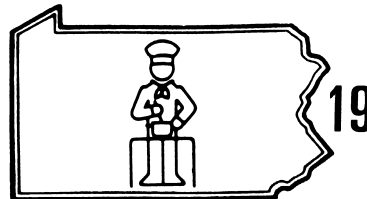
Department: Transportation
Location: Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017
Duration: Contract will be for an original period of one year from the effective date. Contract will be renewable by mutual consent for a total of four one-year renewals. Escalation per year will be negotiated and shall not exceed the current Producer Price Index.
Contact: Joseph W. Schultz, P.E. (412) 429-4923



Construction & Construction Maintenance

DGS A 553-91 PROJECT TITLE: Renovate Bathrooms-Central Building 07, BRIEF DESCRIPTION: Renovate bathrooms which includes doors, new partitions, ceramic tile, plumbing fixtures, duct work, fans, light fixtures and power requirements. ESTIMATED RANGE: \$100,000.00 to 500,000.00 General, Plumbing and Electrical Construction. PLANS DEPOSITS: \$25.00 per set payable to: COMMONWEALTH OF PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. Mail a separate check for \$5.00 per set or provide your express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th & Herr Streets, Harrisburg, PA 17125, Tel: 717/787-3923. Bid Date WEDNESDAY, June 5, 2002 at 2:00 P.M.

Department: General Services
Location: Selinsgrove Center, Selinsgrove, Snyder County, PA
Duration: 150 CALENDAR DAYS FROM DATE OF INITIAL JOB CONFERENCE
Contact: Contract and Bidding Unit 717/787-6556



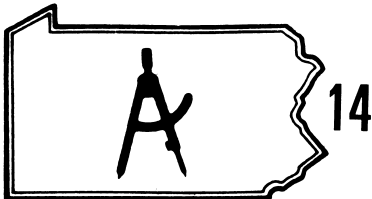
Food

M-886 Fresh/frozen/chilled meat & meat products; poultry & poultry products; fish; and cheeses, to be delivered only at request of facility.

Department: Labor and Industry
Location: Hiram G. Andrews Center, (FOB Shipping Platform) 727 Goucher St., Johnstown, PA 15905
Duration: July, August, September, 2002
Contact: Christine A. Sloan, Pur. Agt. 814-255-8228

633500 Bread, Rolls & Related Products, Fresh, to be delivered 3 times per week, (Mon., Thurs. & Sat.) exclusive of Holidays, during working hours, 7 am to 3 pm. Daily quantities will be specified by the hospital dietician monthly.

Department: Public Welfare
Location: Warren State Hospital, 33 Main Dr., N. Warren, PA 16365-5099
Duration: 07/01/02 - 12/31/02
Contact: Bobbie Muntz, PA III 814-726-4496



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.

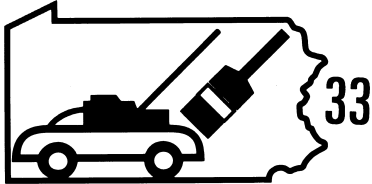
Department: Transportation
Location: Various
Contact: www.dot2.state.pa.us



Personnel, Temporary

20133 A Dental Hygienist is needed to provide professional dental services, including cleaning of the teeth and gums, prophylaxes, educates inmates on proper oral hygiene care. This individual works with minimal supervision from the Dentist at SCI-Chester. More detailed information may be obtained from the Institution.

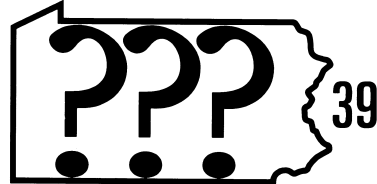
Department: Corrections
Location: SCI-Chester, 500 E. 4th Street, Chester, PA 19013
Duration: September 1, 2002 to August 31, 2003.
Contact: Jackie Newson, Purchasing Agent 610-490-4370



Property Maintenance

Bid #8523 Furnish all labor, materials & equipment to cut, trim and maintain grass area, at the PA State Police, Erie Liquor Control Enforcement facility, FOUR (4) cuttings per month. Fertilization/weed control of the grass area FOUR (4) times per year. Trim shrubs (THREE (3)) times per year. Trim to include edging along sidewalks and driveways. Detailed Work Schedule & Bid must be obtained from Facility Management Division, 717-705-5951.

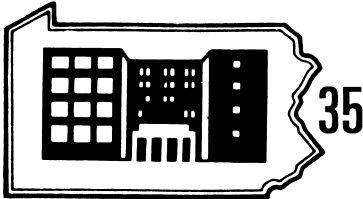
Department: State Police
Location: Erie Liquor Control Enforcement, 8349 Perry Highway, Erie, PA 16509
Duration: 7/1/02 to 6/30/05
Contact: Donna Enders 717-705-5951



Miscellaneous

RFP 02-01 The purpose of this RFP is to solicit proposals to develop 5 items for an incident management system as follows: 2 emergency response protocols based on the PA DOC emergency policy & future emergency response needs, 1 lesson plan for command post training for commanders, 1 lesson plan for immediate responder training - to be delivered by emergency preparedness coordinators, & 1 instructor development course for command post training for commanders adjunct instructors.

Department: Corrections
Location: PADOC Training Academy, 1451 North Market Street, Elizabethtown, PA 17022
Duration: Approx. 18 months
Contact: Mr. Balinger Brown 717-361-4308



Real Estate Services

93427 LEASE OFFICE SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Department of Public Welfare with 11,493 useable square feet of office space with a minimum parking for 25 vehicles, within the corporate city limits of Philadelphia, Philadelphia County, PA. Downtown locations will be considered. For more information on SFP #93427 which is due on July 1, 2002 visit www.dgs.state.pa.us or call (717) 787-4394.

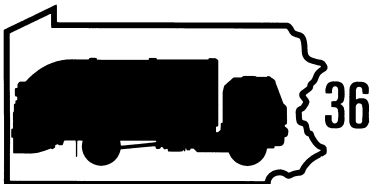
Department: Public Welfare
Location: 505 North Office Building Harrisburg, PA 17125
Contact: Mrs. Cynthia T. Lentz (717) 787-0952

93381 LEASE OFFICE SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Labor and Industry with 5,090 useable square feet of office space in Lancaster County, PA with a minimum parking for 10 vehicles. Downtown locations will be considered. For more information on SFP #93381 which is due on July 8, 2002 visit www.dgs.state.pa.us or call (717) 787-4394.

Department: Labor and Industry
Location: 505 North Office Building Harrisburg, PA 17125
Contact: Jennings K. Ward (717) 787-7412

93428 LEASE HANGAR/OFFICE SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Pennsylvania State Police with 6,800 useable square feet of hangar/office space with minimum parking for twelve (12) vehicles. The offered space must be located within the Arnold Palmer Regional Airport, Latrobe, Westmoreland County, Pa. For more information on SFP #93428 which is due on July 8, 2002 visit www.dgs.state.pa.us or call (717) 787-4394.

Department: State Police
Location: 505 North Office Building Harrisburg, PA 17125
Contact: John Hocker 717-787-4396



Sanitation

08-056008 Install and maintain dumpsters throughout Schuylkill County Stockpiles.

Department: Transportation
Location: Stockpiles are located through out Schuylkill County.
Duration: This is a two year contract with one two year renewal.
Contact: Jerry Richter Sr., Purchasing Agent (570) 385-0800

SP-22020016 Statewide contract for maintenance, service, alterations, modifications, repairing of radio equipment, removal & installation of radio equipment. Installation and maintenance of radio tower equipment, including fabrication of necessary radio cabinets in connection with radio equipment. Engineering study for completion of required forms for FCC licenses throughout Pennsylvania.

Department: Fish and Boat Commission
Location: Statewide
Duration: July 1, 2002 to June 30, 2007
Contact: Dennis Grove 717-705-7915

[Pa.B. Doc. No. 02-927. Filed for public inspection May 17, 2002, 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 POWELL LOGAN,
Secretary

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
6350-03 sup#6	05/09/02	Anteon	\$90,000.00
6350-03 sup#6	05/09/02	Perfect Order	30,000.00
6350-03 sup#6	05/09/02	SimplexGrinnell	465,000.00
6350-03 sup#6	05/09/02	Unisys	390,000.00
6640-02	05/07/02	Applied Biosystems	50,000.00
6640-02	05/07/02	Clarke Mosquito Control	50,000.00
6640-02	05/07/02	Immucell	50,000.00
6640-02	05/07/02	John W Hock	50,000.00
6640-02	05/07/02	Medtox Diagnostics	50,000.00
6640-02	05/07/02	Neogen (KY)	50,000.00
6640-02	05/07/02	Neogen (MI)	50,000.00
6640-02	05/07/02	Oasure Technologies	50,000.00
6640-02	05/07/02	Para Scientific	50,000.00

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
6640-02	05/07/02	Synbiotics	50,000.00
8415-04 rip#3/ sup#3	05/09/02	Northeastern Uniforms & Equipment	5,000.00
1195111-01	05/06/02	Amity Fence	43,926.00
1263211-01	05/06/02	G R Sponaugle & Sons	41,332.98
1274221-01	05/06/02	George D Boyer & Sons	77,422.00
1297121-01	05/06/02	Telesensory	24,220.00
1311201-01	05/06/02	River's Truck Center	66,893.00
8141940-01	05/06/02	I A Construction	627,822.72
8506160-01	05/06/02	Triple R Truck Parts	17,580.00
8506240-01	05/06/02	Terre Hill Concrete Products	34,500.00

KELLY POWELL LOGAN,
Secretary

[Pa.B. Doc. No. 02-928. Filed for public inspection May 17, 2002, 9:00 a.m.]

