

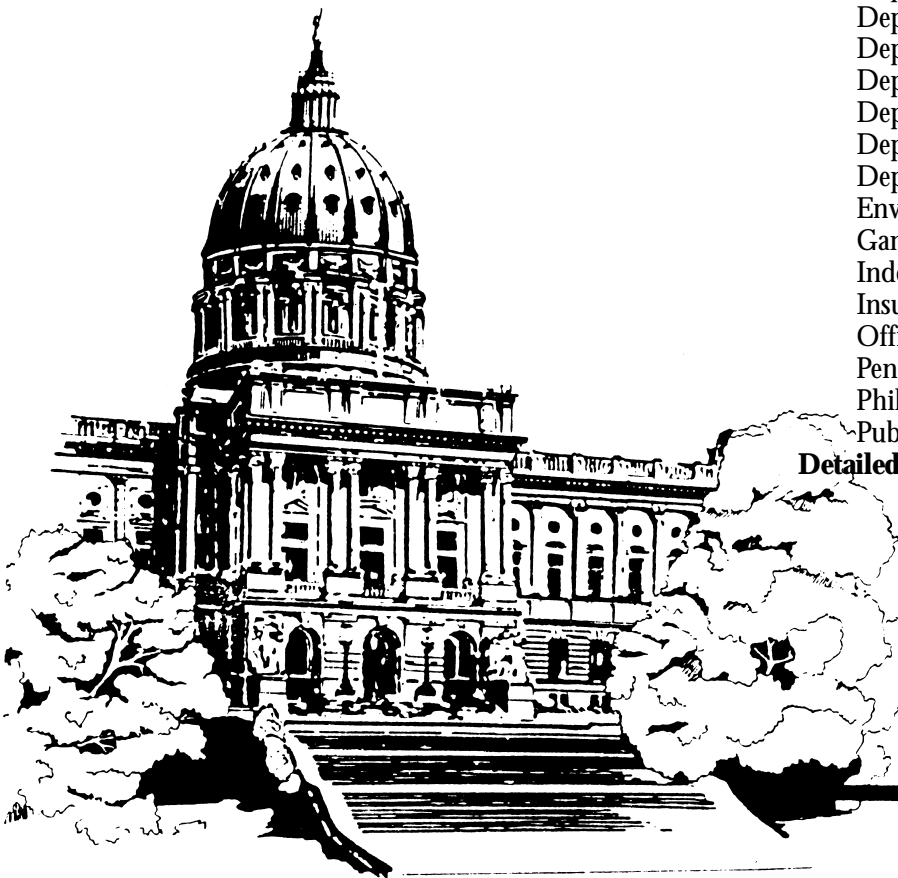
PENNSYLVANIA BULLETIN

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Agencies in this issue:

The Courts
Department of Banking
Department of Conservation and Natural Resources
Department of Education
Department of Environmental Protection
Department of General Services
Department of Health
Department of Public Welfare
Department of Revenue
Department of State
Department of Transportation
Environmental Hearing Board
Game Commission
Independent Regulatory Review Commission
Insurance Department
Office of the Budget
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
Public School Employees' Retirement Board

Detailed list of contents appears inside.



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**Latest Pennsylvania Code Reporter
(Master Transmittal Sheet):**

No. 337, December 2002

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CONTENTS

THE COURTS

DISCIPLINARY BOARD OF THE SUPREME COURT	
Notice of disbarment (2 documents)	6338
LOCAL COURT RULES	
Lehigh County	
Adoption of local rule of civil procedure 223.1 per- taining to exhibits; no. 2002 J 107	6337
Montgomery County	
Amendment to local rule civil procedure—rule 4019*	6337
SUPREME COURT	
The act of June 29, 2002 (P. L. 663, No. 100), the Right-to-Know Law; no. 141; magisterial doc. no. 1; book no. 2	6338

EXECUTIVE AGENCIES

DEPARTMENT OF BANKING	
Notices	
Action on applications	6374
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES	
Notices	
Snowmobile and ATV Advisory Committee meeting .	6375
DEPARTMENT OF EDUCATION	
Rules and Regulations	
Compliance with the No Child Left Behind Act of 2001	6359
DEPARTMENT OF ENVIRONMENTAL PROTECTION	
Rules and Regulations	
Corrective amendment to 25 Pa. Code §§ 93.9l, 93.9n, 93.9q, 93.9v and 93.9z	6361
Notices	
Applications, actions and special notices	6375
Availability of technical guidance	6394
Board and committee meeting schedules for 2003 . .	6394
DEPARTMENT OF GENERAL SERVICES	
Notices	
Contract awards	6457
State contracts information	6452
DEPARTMENT OF HEALTH	
Notices	
Applications for exception:	
The Medical Center at Beaver	6398
Shamokin Area Community Hospital	6398
Health Policy Board meetings	6398
Procedures applicable to Right-to-Know request	6399
Requests for exception; long-term care nursing facil- ities	6400

DEPARTMENT OF PUBLIC WELFARE

Rules and Regulations	
Invoicing for services	6364
Notices	
Deletion of procedure codes from the Medical Assist- ance program fee schedule for psychologists	6401
Publication and availability of the Temporary As- sistance for Needy Family State Plan	6401

DEPARTMENT OF REVENUE

Notices	
Pennsylvania Cash In A Flash instant lottery game .	6422

DEPARTMENT OF STATE

Rules and Regulations	
Connection schedule for the Statewide Uniform Reg- istry of Electors (SURE)	6339
Statewide Uniform Registry of Electors (SURE)	6340

DEPARTMENT OF TRANSPORTATION

Notices	
Approved speed-timing devices and appointment of maintenance and calibration stations	6424

ENVIRONMENTAL HEARING BOARD

Notices	
Allegheny Ludlum Corporation v. DEP; EHB doc. no. 2002-313-L	6427

GAME COMMISSION

Proposed Rulemaking	
Antlerless deer licenses	6370
Importation of wildlife	6368

INDEPENDENT REGULATORY REVIEW COMMISSION

Notices	
Actions taken by the Commission	6428
Notice of comments issued	6429

INSURANCE DEPARTMENT

Notices	
Coal Mine Compensation Rating Bureau; workers' compensation loss cost filing	6446
Continental Insurance Company; personal automo- bile rate/rule filing	6446
Continental Insurance Company; personal property (homeowners) rate/rule filing	6447
Kempster, Michael L; hearing	6447
Patterson, Patricia; hearing	6447
Prudential Property and Casualty Insurance Com- pany; private passenger auto insurance rate filing	6447

OFFICE OF THE BUDGET

Notices	
Statutory cost of living increases for salaries of State officials and the heads of departments, boards and commissions	6448

Now Available Online at <http://www.pabulletin.com>

6330

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Notices

Telecommunications (5 documents)..... 6449, 6450

PHILADELPHIA REGIONAL PORT AUTHORITY

Notices

Request for bids 6450

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Notices

Hearings scheduled 6451

READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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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.

4 Pa. Code (Administration)

Adopted Rules

1	2982
5	3695, 5043
6	2109, 2984, 4030
7	2987, 2989, 3070, 3199, 4687
182	6339
183	6339, 6340
259	3201
263	5638
401	3211
402	3211
403	3211
405	3211

Proposed Rulemaking

61	5277
63	5277
65	5278
182	5892
183	5892

Statements of Policy

9	255, 948, 1227, 1412, 1539, 1879, 2224, 2598, 2767, 3400, 4238, 4487, 5080, 5422, 5960
68	615
86	4358
95 (with correction)	1643, 1723

6 Pa. Code (Aging)

Adopted Rules

15	2412
----	------

7 Pa. Code (Agriculture)

Adopted Rules

151	3893
-----	------

Proposed Rulemaking

21	66
31	1046
35	1046
41	1046
43	1046
45	1046
46	1046
47	1046
49	1046
53	1046
55	1046
59	4717
61	1046
63	1046
78	1046
79	1046
80	1046
81	1046
106	2468
130d	1965
138	775
138e	775
150	3953
1381	775

10 Pa. Code (Banks and Banking)

Adopted Rules

44	1180
----	------

12 Pa. Code (Commerce, Trade and Local Government)

Proposed Rulemaking

145	5075
-----	------

Statements of Policy

123	4161
-----	------

17 Pa. Code (Conservation and Natural Resources)

Adopted Rules

11	5843
----	------

Proposed Rulemaking

11	1611
23	2851
51	4364

22 Pa. Code (Education)

Adopted Rules

4	17, 5266
73	1844
213	2326
237	6256
403	6096, 6359

Proposed Rulemaking

4	882, 905
237	2995

Statements of Policy

233	2226
-----	------

25 Pa. Code (Environmental Protection)

Adopted Rules

86	2686
87	2686
88	2686
90	2686
93	2691, 4363, 4695, 6098, 6257, 6361
96	6101
109	3894
121	2327
126	2327
130	4819, 4824
245	5883
260a	6102
261a	6102
262a	6102
263a	6102
264a	6102
265a	6102
270a	6102
901	878, 4125
977	1515, 6258
1021	3085, 3390, 5883

Proposed Rulemaking

86	2217
93	427, 2219, 2994, 4866
96	428
121	5178
129	5178

145	5178
271 (with correction)	564, 882
287 (with correction)	564, 882
901	1661, 1868, 4869
1021	1980

**28 Pa. Code (Health)
Adopted Rules**

6	3484
23	1305
27	491, 2435, 3597
28	2435
211	491
501	2435
701	1183, 3201, 5638
705	1183
709	1183
711	1183
713	1183, 3201
715	5638
1001	6117
1003	6117
1005	6117
1007	6117
1051	6117

Proposed Rulemaking

6	796
18	4581, 4850
25	3223
1101	4585
1103	4585
1105	4585
1107	4585
1109	4585
1113	4585

**31 Pa. Code (Insurance)
Adopted Rules**

65	1516
89	1475, 1847, 5743, 5747
89a	1475, 5747, 6128
89b	6128
146b	5268
148	5409
148a	5409

Proposed Rulemaking

83a	1869
115	609
146b	1406
148	1873
148a	1873
165	3398

**34 Pa. Code (Labor and Industry)
Adopted Rules**

111	6043
113	6043
129 (with correction)	5415
401 (with correction)	1849, 2114

Proposed Rulemaking

101 (with correction)	4720, 5079
111	1518
131	1518
401	4127
403	4127
405	4127

Statements of Policy

126	6137
130	3495

37 Pa. Code (Law)

Statements of Policy

200	4037
411	4489

40 Pa. Code (Liquor)

Adopted Rules

9 (with correction)	5512, 5658
---------------------	------------

Proposed Rulemaking

5	5664
---	------

**49 Pa. Code (Professional and Vocational Standards)
Adopted Rules**

3	5751
13	423
15	3633
16	249, 3217
18	249
19	3485
23	2886
25	3220
27	1194
29	561, 4234
31	1861
35	1644
40	1658, 3942
41	424, 2114, 5956
47 (with correction)	1197, 5885, 5957
48 (with correction)	1197, 5885, 5957
49 (with correction)	1197, 5885, 5957

Proposed Rulemaking

3	5416
7	5279
9	1731
19	5417, 5418, 6134
21	5666
25	1734
29	946, 5759
31	2997
33	5283, 5284
36	4871

52 Pa. Code (Public Utilities)

Adopted Rules

29	5888
33	5888
35	5888
63	1723
71	1723

Proposed Rulemaking

1	4727
3	4727
5	4727
35	797
63 (with correction)	1986, 2116

55 Pa. Code (Public Welfare)

Adopted Rules

105 (with correction)	4435, 5048
123 (with correction)	4435, 5048
125 (with correction)	4435, 5048
133 (with correction)	4435, 5048, 5048
140 (with correction)	4435, 5048

141 (with correction) 4435, 5048, 5048
 145 (with correction) 4435, 5048
 151 (with correction) 4435, 5048
 153 (with correction) 4435, 5048
 165 (with correction) 4435, 5048
 177 (with correction) 4435, 5048
 178 (with correction) 4435, 5048
 181 (with correction) 4435, 5048
 183 (with correction) 4435, 5048, 5048
 187 (with correction) 4435, 5048, 5048
 281 (with correction) 4435, 5048
 1101 6364
 1187 734, 1962
 1223 5513

Proposed Rulemaking

133 431
 141 431
 178 4854
 181 4860, 4854
 183 431
 1121 4864
 2600 4839
 2620 4839

Statements of Policy

4210 2895
 6000 2117

58 Pa. Code (Recreation)

Adopted Rules

1 2443
 3 2443
 5 2443
 9 2443
 11 2443
 13 2443
 21 2443
 23 2443
 25 2443
 27 2443
 31 2443
 33 2443
 53 3488, 4483, 6128
 61 1962, 4483, 5658
 63 4485, 5658
 65 1962, 4483
 69 4707
 71 1725, 4485
 73 1725, 4485
 91 1865
 93 3488
 101 5659
 109 1865, 5659
 111 1865, 5659, 5661, 5662
 115 5659
 131 3945
 135 (with correction) 1305, 4235, 4486, 4709
 137 6368
 139 3392, 3945
 141 1305, 3945, 4711, 4712, 4714, 5889
 143 1305, 3945, 4714, 5890, 6370
 147 1307, 4715

Proposed Rulemaking

51 4726
 53 1217, 1729, 6261
 61 1729, 3493, 4869
 63 3493, 6130

65 1729, 4869
 69 1728, 4724
 91 4726
 93 1217, 4726
 101 3493
 109 3493
 111 3493, 3951, 5958, 6132
 115 3493
 131 1219
 135 1224, 2894
 137 6134
 139 1219, 1401
 141 1219, 2889, 2891, 2892, 5759
 143 1219, 2888, 3952
 147 2893, 6261

61 Pa. Code (Revenue)

Adopted Rules

31 1213
 101 250, 253
 816 5516
 870 5516
 871 2758, 3396, 5144, 5516

Proposed Rulemaking

951 5893

67 Pa. Code (Transportation)

Adopted Rules

211 2466

Proposed Rulemaking

71 1396
 171 1396

201 Pa. Code (Rules of Judicial Administration)

Adopted Rules

7 2196

Proposed Rulemaking

19 245

204 Pa. Code (Judicial System General Provisions)

Adopted Rules

29 875, 4813, 5507
 82 2864
 85 1838
 89 1838, 5175
 93 1838
 209 2750
 211 876, 4814, 6075

Proposed Rulemaking

83 1302
 89 1302

207 Pa. Code (Judicial Conduct)

Adopted Rules

1 2864, 3698, 5402
 4 733, 2864, 3698, 5402
 5 2864, 3698
 7 5402
 33 1386, 5951
 51 5951

Proposed Rulemaking

1 4433
 4 4433
 51 3882

210 Pa. Code (Appellate Procedure)

Adopted Rules

5 5402
 9 5402
 11 5402
 15 5402
 21 5402
 25 1839
 31 876
 35 3076
 37 876
 65 3076, 4122

Proposed Rulemaking

1 2751, 5259
 9 5259
 11 5259
 13 2751, 3075, 5259
 15 5259
 17 5260
 19 5261
 21 2751
 33 5260

231 Pa. Code (Rules of Civil Procedure)

Adopted Rules

200 548, 3884, 3885, 3886, 5175, 5262
 1000 2315
 1900 5632
 1910 3389, 5044, 5263, 5632
 1915 5632
 1920 5263, 5632
 1930 3389, 5263

Proposed Rulemaking

200 245, 247, 2866
 400 2866
 1000 1038, 2866, 3886
 1500 2866
 1600 2866
 1900 1387
 1910 1387, 2753, 3482
 1915 1387
 1920 1387
 2000 2866
 2020 2866
 2050 2866
 2100 2866
 2150 2866
 2170 2866
 2200 2866
 2220 2866
 2250 2866
 2300 2866
 2320 2866

2350 2317, 2866
 3000 2866
 4000 2866
 Part III 311

234 Pa. Code (Rules of Criminal Procedure)

Adopted Rules

1 1391, 1630, 2582, 4814
 2 2582, 5406
 5 2582
 7 1393
 8 2582
 9 1173, 1391, 1840
 10 2582, 4122

Proposed Rulemaking

1 1039, 2197, 6247
 4 1042, 3887, 6247
 5 1042, 6248
 7 6076

237 Pa. Code (Juvenile Rules)

Statements of Policy

101 4037
 201 4037
 301 4037

246 Pa. Code (Minor Court Civil Rules)

Adopted Rules

200 2199, 6078, 6080
 300 1176, 2199, 2206
 400 2199, 2207
 500 1176, 2199, 2207, 6080
 1000 2199

Proposed Rulemaking

100 5875
 300 2318, 4032
 400 5046
 1000 2318

249 Pa. Code (Philadelphia Rules)

Unclassified 422, 1178, 2113, 2212, 2596, 4033, 5509, 6249

252 Pa. Code (Allegheny County Rules)

Unclassified 2323, 4034

255 Pa. Code (Local Court Rules)

Unclassified 9, 10, 11, 13, 14, 248, 312, 313, 314, 315, 548, 555, 556, 733, 1044, 1045, 1178, 1179, 1303, 1514, 1631, 1958, 2113, 2323, 2597, 2670, 2754, 2755, 2756, 2881, 2882, 2883, 2885, 2991, 3076, 3389, 3483, 3632, 3892, 4035, 4036, 4123, 4124, 4332, 4356, 4693, 4815, 4816, 5176, 5177, 5264, 5509, 5636, 5742, 5876, 5882, 5952, 5953, 5954, 6083, 6090, 6091, 6250, 6337

THE COURTS

Title 255—LOCAL COURT RULES

LEHIGH COUNTY

Adoption of Local Rule of Civil Procedure 223.1 Pertaining to Exhibits; No. 2002 J 107

Order

Now, this 10th day of December, 2002, *It Is Ordered* that the annexed Lehigh County Rule of Civil Procedure 223.1 pertaining to exhibits in the 31st Judicial District composed of Lehigh County be, and the same is, promulgated herewith, to become effective on the 30th day following publication of this rule in the *Pennsylvania Bulletin*.

The Court Administrator of Lehigh County is directed to:

1. File seven (7) certified copies of this Order with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one disk copy with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy with the Civil Procedural Rules Committee.
4. File one (1) copy with the Clerk of Courts of the Lehigh County Court of Common Pleas.
5. Forward one (1) copy for publication in the *Lehigh County Law Journal*.

By the Court

WILLIAM H. PLATT,
President Judge

Rule 223.1 Exhibits

(a) Exhibits admitted at trial

(i) At the conclusion of a trial or hearing, all exhibits larger than 8-1/2 x 11 inches which are part of the record shall be reduced to that size, and all tangible objects which are part of the record, shall be photographed in color by the party originally proffering the evidence. The 8-1/2 x 11 inch reductions and color photographs shall be substituted in the record for the original exhibits and tangible object unless the trial judge, upon motion or sua sponte, or an appellate court, shall direct otherwise.

(ii) Whenever a videotape deposition of a witness is presented at a trial or hearing, the videotape cassette shall be marked as an exhibit as required by Pa.R.C.P. 4017.1. At the conclusion of the trial or hearing, the videotape cassette shall be returned for safekeeping to the party who presented it and that party shall maintain custody of the cassette until conclusion of all appellate proceedings in the case, unless the trial judge upon motion or sua sponte shall direct otherwise.

(iii) Whenever a videotape deposition of a witness is presented at trial or hearing, it shall be accompanied by a transcript of the deposition as required by Pa.R.C.P. 4017.1(a)(2). The accompanying transcript shall be marked as an exhibit and retained in the record of the proceedings. In the event the record of the trial or hearing is transcribed for appellate or other purposes, the exhibit of the transcript accompanying the deposition

shall be considered the official transcript of the testimony of the deponent. It shall not be necessary for the trial court reporter or court monitor to also transcribe the audio portion of the videotape deposition which was presented at trial or hearing, so long as the record clearly reflects which part of the audio portion of the videotape deposition was offered into evidence and admitted.

(b) Disposition of exhibits after trial

(i) After trial, exhibits admitted into evidence shall be retained by the clerk of courts until it is determined whether an appeal has been taken from a final judgment. If an appeal has been taken, the exhibits shall be retained by the clerk of courts until disposition of the appeal.

(ii) Within sixty (60) days of the final disposition of all appeals or the date when no further appeal may be taken under the Pennsylvania Rules of Appellate Procedure, the party who offered the exhibits may reclaim them from the clerk of courts. Any exhibits not so reclaimed may be destroyed or otherwise disposed of by the clerk of courts.

(iii) Notwithstanding the above, any person who has a possessory or legal interest in any exhibit which has been introduced into evidence may file a claim for such exhibit within thirty (30) days after trial. The presiding judge shall determine the validity of such claim and determine the manner and timing of disposition.

[Pa.B. Doc. No. 02-2303. Filed for public inspection December 27, 2002, 9:00 a.m.]

MONTGOMERY COUNTY

Amendment to Local Rule of Civil Procedure— Rule 4019*

Order

And Now, this 2nd day of December, 2002, the Court hereby amends Montgomery County Local Rule of Civil Procedure Rule 4019*. Discovery Master. This Rule shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in the *Legal Intelligencer*. In conformity with Pa.R.C.P. 239, seven (7) certified copies of the within Order shall be filed by the Court Administrator with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) certified copy shall be filed with the Civil Procedural Rules Committee. One (1) copy shall be filed with the Prothonotary, one (1) copy with the Clerk of Courts, one (1) copy with the Court Administrator of Montgomery County, one (1) copy with the Law Library of Montgomery County and one (1) copy with each Judge of this Court.

By the Court

S. GERALD CORSO,
President Judge

Rule 4019*. Discovery Master

In order to facilitate the prompt disposition of discovery matters, the Court adopts Local Rule of Civil Procedure

4019* implementing what shall be known as the "Discovery Master Program" as follows:

- (1) ****
- (2) ****
- (3) ****
- (4) ****

(5) In civil actions in which the damages sought exceed the jurisdictional limit for compulsory arbitration, any party may request the Court Administrator to list the case for a Discovery Management Conference before a Discovery Master. The Discovery Master may recommend a Discovery Management Order, which establishes the following:

(i) A date for completion of all discovery, except for depositions for use at trial;

(ii) A date for plaintiff to submit expert reports and curricula vitae of said experts, or answer expert interrogatories;

(iii) A date for defendant to submit expert reports and curricula vitae of said experts, or answer expert interrogatories.

(6) The parties may, by agreement in writing, extend any dates set forth in the Discovery Management Order.

(7) Upon request of any party, for good cause shown, the Discovery Master may recommend an extension of any dates set forth in the Discovery Management Order.

[Pa.B. Doc. No. 02-2304. Filed for public inspection December 27, 2002, 9:00 a.m.]

SUPREME COURT

The Act of June 29, 2002 (P. L. 663, No. 100), the Right-to-Know Law; No. 141; Magisterial Doc. No. 1; Book No. 2

Order

Per Curiam:

And Now, this 12th day of December, 2002, pursuant to this Court's authority under Article V, Section 10(c) of the Constitution of Pennsylvania to provide for the assignment and reassignment of classes of actions among the several courts as the needs of justice require, proceedings pursuant to Section 4(b) of the Act of June 29, 2002 (P. L. 663, No. 100), 65 P. S. § 66.4(b), are hereby *Assigned To and Shall Be Commenced In* the courts of common pleas, pending promulgation of necessary rules of practice and

procedure to govern actions in local magisterial districts as provided for in said statute.

[Pa.B. Doc. No. 02-2305. Filed for public inspection December 27, 2002, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that William W. Freihofer having been disbarred on consent from the practice of law in the Commonwealth of New Jersey by Order dated June 14, 2002, the Supreme Court of Pennsylvania issued an Order on December 10, 2002, disbaring William W. Freihofer from the Bar of this Commonwealth, effective January 9, 2003. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of 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. 02-2306. Filed for public inspection December 27, 2002, 9:00 a.m.]

Notice of Disbarment

Notice is hereby given that Joseph F. Muto having been Disbarred from the practice of law in the Commonwealth of New York by Order dated March 19, 2002, the Supreme Court of Pennsylvania issued an Order on December 10, 2002, disbaring Joseph F. Muto from the Bar of this Commonwealth, effective January 9, 2003. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of 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. 02-2307. Filed for public inspection December 27, 2002, 9:00 a.m.]

RULES AND REGULATIONS

Title 4—ADMINISTRATION

DEPARTMENT OF STATE

[4 PA. CODE CHS. 182 AND 183]

Connection Schedule for the Statewide Uniform Registry of Electors (SURE)

The Department of State (Department) adds Chapter 183 (relating to establishment, implementation and administration of the Statewide Uniform Registry of Electors). The act of January 31, 2002 (P. L. 18, No. 3) (act) provided for a new voter registration law and repealed the Pennsylvania Voter Registration Act (PVRA) (25 P. S. §§ 961.501—961.5109). Most of the statutory provisions of the PVRA were renumbered or materially revised under the act. Section 1222(f) of 25 Pa.C.S. (relating to SURE system) requires a comprehensive package of regulations, including the promulgation of regulations necessary to establish, implement and administer the Statewide Uniform Registry of Electors (SURE) system.

The act also provides in 25 Pa.C.S. § 1222(e) that the Department shall establish, by regulation, a schedule for each county voter registration commission (commission) to be connected to the SURE system. This final-form rulemaking provides for that schedule. Notice of the proposed rulemaking was published at 32 Pa.B. 5892 (November 30, 2002) followed by a 10 calendar day public comment period. Additional regulations to comply with the requirements of 25 Pa.C.S. § 1222(f) will be issued in the near future. The implementation schedule regulations are set forth in Annex A.

In addition to adding Subpart E (relating to Statewide Uniform Registry of Electors), this final-form rulemaking also makes two minor amendments to Part VIII (relating to Bureau of Commissions, Elections and Legislation). First, the Department corrects the title of Part VIII. Second, the Department reserves Chapter 182, which had provided for a Statewide Central Registry Feasibility Study. Although this study was conducted, the enactment of the act no longer requires regulations for a feasibility study.

Section 2 of the act provides that the promulgation of this final-form rulemaking is exempt from section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732-204(b)) and is exempt from the Regulatory Review Act (71 P. S. §§ 745.1—745.14). Public comment was requested in accordance with section 201(4) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1201(4)), known as the Commonwealth Documents Law (CDL).

See 32 Pa.B. 6340 (December 28, 2002) for a final-omitted rulemaking concerning Chapter 183.

Responses to Comments

Publication of the proposed rulemaking was followed by a 10 calendar day public comment period during which the Department received comments from representatives of Monroe, Adams and Butler Counties. These county representatives expressed concerns that the time-line for the implementation of the Commonwealth's SURE system is established in a way that implementation is scheduled to occur more quickly than necessary and that the Commonwealth should take a longer time to implement the system. The Department has evaluated these comments and its current implementation status and deter-

mined that the time line is appropriate. Based upon its evaluation, the Department does not see a need to alter the proposed implementation schedule and thus the schedule is being published as proposed.

Purpose

The purpose of the final-form rulemaking is to establish a schedule for each county voter registration commission to be connected to the SURE system, as required by 25 Pa.C.S. § 1222(e). The final-form rulemaking first defines the categories of the counties to be connected to the SURE system in § 183.1 (relating to definitions). Section 183.2 (relating to schedule for connection to the SURE system) sets forth the schedule for each category of county to be connected to the SURE system.

In developing the schedule for connection to the SURE system, the Department seeks to maximize the accuracy, integrity and protection of registration records on a Statewide basis in accordance with 25 Pa.C.S. § 1222(e).

Fiscal Impact

This final-form rulemaking will have some fiscal impact upon the Department and on the commissions. Because this is a new system, it is impossible to anticipate with specificity the impact upon the fiscal operations of the Department and the 67 commissions. However, it is anticipated that the implementation schedule of the SURE system, as contained in this final-form rulemaking, will result in a centralized system providing compliance and other administrative efficiencies to the commissions regarding the programs and procedures that they are required to conduct under Federal and State laws. State funding has been appropriated to the Department to provide for the implementation of this system in the commissions. The implementation of the SURE system will result in increased expenditures for new programs and procedures required by both the act and Federal law. These expenditures may be offset by commensurate grants provided for under Federal law.

Paperwork Requirements

Paperwork requirements will not be substantially altered as a result of the final-form rulemaking.

Regulatory Review

Section 2 of the act provides that the promulgation of the final-form rulemaking is exempt from section 204(b) of the CDL (45 P. S. § 1204(b)) and is exempt from the Regulatory Review Act. On November 28, 2002, the final-form rulemaking published for public comment in the *Pennsylvania Bulletin*, in accordance with section 201(4) of the CDL.

Contact Person

Interested persons may contact L. Lawrence Boyle, Deputy Chief Counsel, Department of State, 302 North Office Building, Harrisburg, PA 17120-0029, lboyl@state.pa.us.

Findings

The Secretary finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) Even though the final-form rulemaking was exempted from the public comment requirements of the

CDL by Act 150 of 2002, a public comment period was provided and all comments were considered.

(3) This final-form rulemaking does not enlarge the purpose of proposed rulemaking published at 32 Pa.B. 5892.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the act identified in this Preamble.

Order

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

(a) The regulations of the Department, 4 Pa. Code Chapters 182 and 183, are amended by deleting §§ 182.1 and 182.2 and by adding §§ 183.1 and 183.2 to read as set forth in Annex A, with the ellipses referring to the final-omitted rulemaking at 32 Pa.B. 6340.

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

(c) The Department 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 on December 30, 2002, which is 30 days from publication of the proposed rulemaking in the *Pennsylvania Bulletin* on November 30, 2002, in accordance with section 203 of the CDL (45 P. S. § 1203).

C. MICHAEL WEAVER,
Secretary of the Commonwealth

Fiscal Note: Fiscal Note 16-30 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 4. ADMINISTRATION

**PART VIII. BUREAU OF COMMISSIONS,
ELECTIONS AND LEGISLATION**

Subpart D. ELECTIONS

CHAPTER 182. (Reserved)

§ 182.1. (Reserved).

§ 182.2. (Reserved).

**Subpart E. STATEWIDE UNIFORM REGISTRY OF
ELECTORS**

**CHAPTER 183. ESTABLISHMENT,
IMPLEMENTATION AND ADMINISTRATION OF
THE STATEWIDE UNIFORM REGISTRY OF
ELECTORS**

§ 183.1. Definitions.

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

* * * * *

Group 1 counties—Armstrong, Dauphin, Fayette, Franklin, Greene, Perry, Somerset, Washington and Westmoreland Counties.

Group 2 counties—Carbon, Luzerne, Monroe, Montgomery, Pike, Schuylkill and Wayne Counties.

Group 3 counties—Chester, Delaware, Juniata, Lehigh, Mifflin, Northampton and Philadelphia Counties.

Group 4 counties—Bedford, Berks, Blair, Centre, Lancaster, Lebanon and York Counties.

Group 5 counties—Clinton, Columbia, Fulton, Huntingdon, Lycoming, Snyder and Union Counties.

Group 6 counties—Bradford, Crawford, Elk, Lackawanna, Montour, Potter, Sullivan, Susquehanna and Wyoming Counties.

Group 7 counties—Clarion, Erie, Forest, Lawrence, Mercer, Tioga, Venango and Warren Counties.

Group 8 counties—Cambria, Cameron, Clearfield, Indiana, Jefferson, McKean and Northumberland Counties.

* * * * *

Phase 1 counties—Adams, Beaver, Butler and Cumberland Counties.

Phase 2 counties—Allegheny and Bucks Counties.

Phase 3 counties—Group 1 counties, Group 2 counties, Group 3 counties, Group 4 counties, Group 5 counties, Group 6 counties, Group 7 counties and Group 8 counties.

* * * * *

§ 183.2. Schedule for connection to the SURE system.

(a) Phase 1 counties shall be connected to the SURE system by December 31, 2002.

(b) Phase 2 counties shall be connected to the SURE system by the May 20, 2003, municipal primary.

(c) Phase 3 counties shall be connected to the SURE system by the November 4, 2003, municipal election. Phase 3 counties shall be connected in the following order:

- (1) Group 1.
- (2) Group 2.
- (3) Group 3.
- (4) Group 4.
- (5) Group 5.
- (6) Group 6.
- (7) Group 7.
- (8) Group 8.

[Pa.B. Doc. No. 02-2308. Filed for public inspection December 27, 2002, 9:00 a.m.]

[4 PA. CODE CH. 183]

Statewide Uniform Registry of Electors (SURE)

The Department of State (Department) adopts Chapter 183 (relating to establishment, implementation and administration of the Statewide Uniform Registry of Electors). The act of January 31, 2002, P. L. 18, No. 3 (act) provided for a new voter registration law, and repealed the act of June 30, 1995 (P. L. 170, No. 25), known as the Pennsylvania Voter Registration Act (PVRA) (25 P. S. §§ 961.501—961.5109). Most of the statutory provisions of the PVRA were renumbered or materially revised under the act. Section 1222(f) of 25 Pa.C.S. (relating to SURE system), requires comprehensive regulations, including the promulgation of regulations necessary to establish, implement and administer the Statewide Uniform Registry of Electors (SURE) system. The act also sets forth other requirements, which are also addressed in this final-omitted rulemaking.

In addition to the enactment of the act this year, on October 29, 2002, President George W. Bush signed into law H.R. 3295, the Help America Vote Act (HAVA) of 2002 (42 U.S.C.A. §§ 15301—15545). Among the provisions of this bill are requirements for voter registration application forms and a statewide voter registration database. The relevant requirements of HAVA are included in the Annex.

Section 2 of the act provides that the promulgation of these regulations is exempt from section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732-204(b)), is exempt from the Regulatory Review Act (71 P.S. §§ 745.1—745.14) and is exempt from section 201 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1201), known as the Commonwealth Documents Law (CDL).

Purpose

This final-omitted rulemaking sets forth regulations to establish, implement and administer the SURE system, in accordance with 25 Pa.C.S. § 1222(f), in addition to other requirements contained in the act.

Subpart E. Statewide Uniform Registry of Electors

Chapter 183 (relating to establishment, implementation and administration of the Statewide Uniform Registry of Electors) is amended to set forth 17 new sections which include general provisions regarding: definitions; residence of applicants or registrants; uniform procedures for the county voter registration commissions (commissions) relating to entering data, accepting or rejecting applications, identifying and removing duplicates, updating information, and maintaining communications between commissions and between the Department and the commissions; training requirements for commissions and their employees; standardized forms; records; retention of records; street lists; public information lists; government agency voter registration procedures; commission and government agency voter registration requirements; reports to the Department; and enforcement authority of the Department. (See 32 Pa.B. 6339 (December 28, 2002) for another rulemaking concerning Chapter 183.)

Chapter 183. Establishment, Implementation and Administration of the SURE system

Section 183.1. Definitions.

This section adds new terms not defined in the act. The definition of a Voter Registration Mail Application Form (VRMA) not only includes the requirements of 25 Pa.C.S. § 1327(a) (relating to preparation and distribution of applications), but also the requirements for citizenship, age, driver's license number and the last four digits of the applicant's Social Security number in compliance with section 303(a)(5)(A)(i)(I) and (II) of the HAVA (42 U.S.C.A. § 15483(a)(5)(A)(i)(I) and (II)). The new definitions include the variety of mailings that are required by the act as well as various voter registration application forms and key concepts for voter registration. One key definition is "resident," as 25 Pa.C.S. § 1302 (relating to residence of electors) provides the criteria for residency. Another important definition is that of a government agency, which includes not only those agencies enumerated in 25 Pa.C.S. § 1325 (relating to government agencies), but also the Department of Transportation (PENNDOT), where many qualified electors make application to register to vote or change voter registration information, as provided in 25 Pa.C.S. § 1323 (relating to application with driver's license application).

Section 183.3. Residence of applicants and registrants.

In § 183.3, the Department provides guidance to the commissions, defined in 25 Pa.C.S. § 1102 (relating to

definitions), on how to determine residency in compliance with 25 Pa.C.S. § 1302. Because the Department and the commissions have received numerous questions regarding residency since the enactment of the PVRA in 1995, the Department believes that it is necessary to provide guidance to the commissions to ensure that the SURE system will comply with all of the provisions of the act. To assist the commissions in determining residency, the Department added to § 183.3(a)(5) the criteria that Congress set forth at section 303(b)(2)(A)(ii)(II) of HAVA for identifying registrants who vote by mail for the first time. Using the documents listed in this subsection will not only assist a commission in properly identifying a registrant, but also in determining residency.

Section 183.4. Uniform procedures for a commission relating to entering data into the SURE system.

In accordance with 25 Pa.C.S. § 1222(f), the Department provides procedures for the process and manner of entering information into the SURE system in subsection (a), and the type and form of information to be entered in subsection (b). Subsection (c) grants to a commission the ability to enter additional information if it chooses to do so. In subsection (d), the regulation designates those on the staff of a commission who may add, modify or delete information in the commission's records on the SURE system. Subsection (e) designates additional information that a commission is required to enter on the SURE system, regarding the acceptance and verification of applications, in compliance with 25 Pa.C.S. § 1328 (relating to approval of registration applications).

Section 183.5. Uniform procedures for a commission relating to accepting or rejecting applications on the SURE system.

Section 1328 of 25 Pa.C.S. provides the framework for accepting or rejecting voter registration applications. Subsection (a) delegates to each commission the decision for accepting or rejecting applications, in accordance with 25 Pa.C.S. § 1222(c)(9). The procedures for verifying the signatures of each registrant are set forth in subsection (b), while subsection (c) provides that a commission shall use reasonable efforts to ascertain any information that is incomplete, inconsistent or unclear on an applicant's application form. Subsection (d) addresses how a commission shall handle an application if an applicant fails to designate a political party, and subsection (e) provides guidance on handling applications submitted in person. Finally, subsection (f) delineates what information is optional on an application form, in compliance with 25 Pa.C.S. § 1327(a).

Section 183.6. Uniform procedures for a commission relating to the process for identifying and removing duplicate records in the SURE system.

Section 1222(f)(1) of 25 Pa.C.S. requires that the Department promulgate regulations on the process for identifying and removing duplicates. Furthermore, one of the purposes of the SURE system is to identify and remove duplicate registrations on a countywide and Statewide basis, as provided at 25 Pa.C.S. § 1222(c)(17). In addition, HAVA requires the elimination of duplicate names from the computerized voter registration list at section 303(a)(2)(B)(iii). In § 183.6(a), the Department establishes the procedures for the commissions to use in identifying duplicate registration records for a new application or for an existing record where a commission's record contains the most recent date of application for the potential duplicate. Where a commission's record is not the most recent, similar procedures are found at

§ 183.6(b). Under subsections (a) and (b), the commission shall first identify record matches based on the first and last name as well as the date of birth of the applicant or registrant. Then the commission uses the unique identifier, the last four digits of an applicant's or registrant's Social Security number and the signature of the applicant or registrant to determine whether a record is a potential duplicate. The applicant or registrant is notified when a commission takes final action in determining whether a record is a duplicate.

Subsection (c) provides additional methods, including mailings or any requests, which can be in person or by telephone, by which commissions shall obtain additional information to determine if records are duplicates. Subsection (d) includes the methods for removing duplicates using the following sources: the Department of Health, in accordance with 25 Pa.C.S. § 1505 (relating to death of registrant); PENNDOT, as provided in 25 Pa.C.S. § 1323; the National change of address (NCOA) voter removal program in 25 Pa.C.S. § 1901(b)(1)(i) (relating to removal of electors); and the confirmation mailing in 25 Pa.C.S. § 1901(b)(1)(ii). To clarify the procedures, the NCOA mailing procedures and the confirmation mailings are discussed separately for mailings within the county and outside the county.

Section 183.7. Uniform procedures for a commissions relating to the manner and time frame for updating information in the SURE system.

Section 1222(f)(1) of 25 Pa.C.S. requires that the Department promulgate regulations on the manner and time frame for updating information in the SURE system. Subsection (a) lists the information necessary to be processed within 14-calendar days, while subsection (b) provides guidance on the time frame for processing the voter identification card, in accordance with 25 Pa.C.S. § 1328(c).

Section 183.8. Uniform procedures for a commission relating to the manner and form of communications between commissions and between the Department and a commission.

Regulations on this subject are required by 25 Pa.C.S. § 1222(f)(1), and the regulations clarify that the SURE system will be the primary means of communications between commissions as well as communications between the Department and a commission.

Section 183.9. Training requirements for commissions and their employees.

The Department included in this section initial training requirements in subsection (a) and any additional training requirements in subsection (b) in accordance with 25 Pa.C.S. § 1222(f)(2).

Section 183.10. Standardized forms.

In accordance with 25 Pa.C.S. § 1105(a) (relating to standardized forms), the Department prescribes the voter registration and absentee ballot application forms in this section. Subsection (a) provides a list of those forms that must be prepared or approved by the Department: the VRMA; forms printed by other organizations; the voter identification card; a rejection notice; a confirmation notice; and all forms prepared by the Department or generated by the SURE system. Subsection (b) requires that the Department approve the following forms before they are used for voter registration: the motor vehicle voter registration application form to be used by PENNDOT; the declination form to be used by voter registration agencies; and removal notices. Subsection (c)

includes a list of items that a Statewide Voter Registration Application may not require, while subsection (d) provides that all application forms for official absentee ballots shall contain the information required by section 1302(b) of the Pennsylvania Election Code (25 P.S. § 3146.2(b)) and be on a form prescribed or approved in advance by the Department. Subsection (e) provides for maintaining the confidentiality of information on forms, such as a driver's license number or the last four digits of a registrant's Social Security number. Finally, subsection (f) excludes the Federal voter registration application forms from this section.

Section 183.11. Records.

Because 25 Pa.C.S. § 1405(c) (relating to retention of records) requires the Department to promulgate regulations on the retention of records, the Department determined that it was necessary to first promulgate regulations on the requirements for general registers, which it did in subsection (a) to supplement the provisions in 25 Pa.C.S. § 1401 (relating to general register), as well as the requirements for district registers, which it did in subsection (b) to supplement the provisions in 25 Pa.C.S. § 1402 (relating to district registers). In § 183.11(a)(2), the Department clarifies that a commission need not keep a copy of the removal notices sent to each registrant, but shall retain only one copy of the sample mailing for all registrants. For each registrant's record, the commission shall enter the type of reply sent by the registrant, including the date the mailing was sent and returned. Additional recordkeeping requirements are included in subsection (c) for mailings sent by a commission. Subsection (d) clarifies that all requests for the information contained in the district or general register shall be processed as a public information request and be subject to the requirements of §§ 183.13 and 183.14 (relating to street lists; and public information lists). Subsection (e) provides guidance to the commissions for implementing 25 Pa.C.S. § 1402(f) so that the commissions may review the accuracy of both the district and general registers after each election. Finally, subsection (f) addresses the procedures that a commission shall follow for the records of inactive registrants, in compliance with 25 Pa.C.S. § 1901 (relating to removal of electors).

Section 183.12. Retention of Records.

Sections 1325(j) and 1405(c) of 25 Pa.C.S. specifically require the Department to promulgate regulations on the retention of records and forms. Subsection (a) provides for the maintenance and destruction of forms used by government agencies, in compliance with 25 Pa.C.S. § 1325(j). At subsection (b), the Department provides for the maintenance and destruction of the district register, as required by 25 Pa.C.S. § 1405(a). In subsection (c), the Department addresses the maintenance of voter registration cards, as required by 25 Pa.C.S. § 1405(c). Subsection (d), providing for the maintenance and destruction of records, including those dealing with mailings made under 25 Pa.C.S. §§ 1501 and 1901, is necessary to ensure that the SURE system will comply with all of the provisions of the act.

Section 183.13. Street Lists.

Section 1403(b) of 25 Pa.C.S. (relating to street lists) requires a voter registration commission to make copies of street lists available for public inspection subject to reasonable safeguards and regulations. Subsection (d) clarifies that the street list shall be distributed free of charge to the categories of officials, political parties, political bodies and candidates, enumerated in 25 Pa.C.S.

§ 1403(c). Providing the list free of charge is based on the language in 25 Pa.C.S. § 1403(c) and (d). Under 25 Pa.C.S. § 1403(c), the act requires the Department and the commissions to distribute the list upon request, with no reference to a charge, to the categories of officials and organizations listed in that subsection. In contrast, 25 Pa.C.S. § 1403(d) provides that a commission may, for a reasonable fee, distribute the street list to other organized bodies of citizens. Furthermore, the provision of the street list in an electronic format at no charge is based on the Commonwealth Court's interpretation of a similar provision of section 703 of the PVRA (25 P. S. § 961.703) in *Hessley v. Campbell*, 751 A.2d 1211 (Pa. Cmwlth. 2000).

A list of items that shall not be made available for public inspection or copying is included in § 183.13(c)(5), with appropriate cross references to the statutory provisions relating to confidentiality for those items in § 183.13(c)(5)(i) and (ii). A registrant's driver's license number and the last four digits of a registrant's social security number are not available for public inspection or copying under §§ 183.13(c)(5)(iii) and 183.14(c)(3) regarding street lists and public information lists because these items are being used by the commission to confirm the identity of applicants and registrants. Releasing this information publicly could jeopardize an applicant's or registrant's personal security. A registrant's unique identification number remains confidential under §§ 183.13(c)(5)(iii) and 183.14(c)(3) because it too is only being used by the commission to confirm the identity of registrants. Releasing this information publicly could jeopardize the security of the SURE system because the unique identifier is the main component for a commission's management of its data. In §§ 183.13(g) and 183.14(k), neither a street list nor a public information list may be published on the Internet, because doing so would compromise the ability of a commission or the Department to provide these lists to those entities or individuals entitled to them within the criteria specified in 25 Pa.C.S. §§ 1403 and 1404.

Section 183.14. Public Information Lists.

This section is included because 25 Pa.C.S. § 1404(b)(1) (relating to public information lists) provides that the Department may promulgate reasonable regulations governing access to the public information list. Subsection (a) lists the information that the Department or a commission is required to provide, in compliance with 25 Pa.C.S. § 1404(a)(1). Reasonable safeguards addressing recent increased security concerns after the events of September 11, 2001, are set forth in subsection (b), while subsection (c) lists those items that shall not be made available for public inspection or copying. Subsections (c)(4) and (5) set forth reasonable safeguards regarding the inspection and copying of public information lists to, for example, protect the home residence information of specified law enforcement personnel and to provide for an opt-out procedure for specific individuals, such as victims of domestic violence, who can demonstrate that their personal safety would be at risk if their home address were to be revealed. The exemptions for home residence information were not included for street lists in § 183.13(c)(5) because 25 Pa.C.S. § 1403(c) and (d) limit the access to street lists to a much smaller audience than the public information lists in 25 Pa.C.S. § 1404. The cost for the records, the timing of the release of the records and the form of the records are addressed at subsections (i) and (j), as provided by 25 Pa.C.S. § 1404(c)(1).

Section 183.15. Agency Voter Registration Procedures.

To comply with 25 Pa.C.S. § 1325(a) and (j) regarding voter registration requirements for government agencies, the Department provides guidance to these agencies to ensure that the SURE system will comply with all of the provisions of the act, as required by 25 Pa.C.S. § 1222(f)(3).

Section 183.16. Commission and government agency voter registration requirements.

Section 1327(c)(3) of 25 Pa.C.S. requires that commissions and government agencies provide Voter Registration Mail Application (VRMAs) forms to the public, political parties, political bodies, candidates, and local, state and Federal government offices. The regulations at this section implement these requirements of the act.

Section 183.17. Reports to the Department.

So that a commission may comply with 25 Pa.C.S. § 1406(a) (relating to reports) to make reports to the Department, and the Department may comply with 25 Pa.C.S. § 1406(b) to make reports to the General Assembly, the Department provides guidance to a commission regarding the timing and the contents of the reports that the commission must provide to the Department to ensure that the SURE system will comply with all of the provisions of the act.

Section 183.18. Enforcement Authority of the Department.

To ensure compliance with 25 Pa.C.S. §§ 1803 and 1804 (relating to power of department; and relief), the Department provides guidance to the commissions and those government agencies responsible for providing voter registration opportunities under the act to ensure that the SURE system will comply with all of the provisions of the act.

Fiscal Impact

This final-omitted rulemaking will have some fiscal impact upon the Department with limited impact on the commissions. Because this is a new system, it is impossible to anticipate with specificity the impact upon the fiscal operations of the Department and the 67 commissions. However, it is anticipated that the implementation of the SURE system, as contained in this regulation, will result in a centralized system providing compliance and other administrative efficiencies to the commissions regarding the programs and procedures that they are required to conduct under Federal and State laws. State funding has been appropriated to the Department to provide for the implementation of this system in the commissions. The implementation of the SURE system will also result in increased expenditures for new programs and procedures required by both the act and HAVA. These expenditures may be offset by commensurate grants provided for under HAVA.

Paperwork Requirements

Paperwork requirements will not be substantially altered as a result of this final-omitted rulemaking.

Regulatory Review

Section 2 of the act provides that the promulgation of these regulations is exempt from section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732-204(b)), is exempt from the Regulatory Review Act (71 P. S. §§ 745.1—745.14) and section 201 of the CDL.

Contact Person

Interested persons may contact L. Lawrence Boyle, Deputy Chief Counsel, Department of State, 302 North Office Building, Harrisburg, PA 17120-0029 or e-mail lboyl@state.pa.us.

Findings

The Secretary finds that this final-omitted rulemaking is necessary and appropriate for administering and enforcing the act identified in this Preamble.

Order

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

(a) The regulations of the Department, 4 Pa. Code, are amended by adding §§ 183.1 and 183.3—183.18 to read as set forth in Annex A, with ellipses referring to the final-form rulemaking at 32 Pa.B. 6339.

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

(c) The Department 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 30 days after publication of this final rulemaking, in accordance with section 203 of the CDL (45 P. S. § 1203).

C. MICHAEL WEAVER,
Secretary of the Commonwealth

Fiscal Note: 16-31. (1) General Fund; (2) Implementing Year 2002-03 is \$390,000*; (3) 1st Succeeding year 2003-04 is \$1,080,625*; 2nd Succeeding Year 2004-05 is \$896,100*; 3rd Succeeding Year 2005-06 is \$896,100*; 4th Succeeding Year 2006-07 is \$149,350*; 5th Succeeding Year 2007-08 is \$0; (4) Fiscal Year 2001-02 \$n/a; Fiscal Year 2000-01 \$n/a; Fiscal Year 1999-00 \$n/a; (7) General Government Operations; (8) recommends adoption.

*This is the estimated additional computer costs for the SURE System.

Annex A**TITLE 4. ADMINISTRATION****PART VIII. BUREAU OF COMMISSIONS,
ELECTIONS AND LEGISLATION****Subpart E. STATEWIDE UNIFORM REGISTRY OF
ELECTORS****CHAPTER 183. ESTABLISHMENT,
IMPLEMENTATION AND ADMINISTRATION OF
THE STATEWIDE UNIFORM REGISTRY OF
ELECTORS****§ 183.1. Definitions.**

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

AVN—Address verification notice—A notice mailed by the commission to confirm that a registrant has moved from the address recorded on the registrant's registration records.

Act—25 Pa.C.S. §§ 1101—3302 (relating to voter registration).

Assistance—Includes entering information on a VRMA on behalf of the applicant if the applicant is unable to complete the information himself and witnessing the applicant's mark if the applicant is unable to sign the form. If the individual assisting the applicant is an

employee of a governmental agency, assistance shall include entering the agency code in the space provided for assistance and making a note of the assistance on the applicant's Declination Form. The term does not include signing the application on behalf of the applicant.

CAVN-IC—Change of address verification notice within the county—A notice mailed by the commission to determine if a registrant has moved from the address indicated on the registrant's registration records to a different address within the same county.

CAVN-OC—Change of address verification notice outside the county—A notice mailed by the commission to determine if a registrant has moved from the address indicated on the registrant's registration records to a different address outside the county.

CM—Confirmation mailing—A notice mailed by the commission to the registrants in the county, except those registrants previously marked as inactive, in which a registrant may verify or correct address information, as described at section 1901(b)(1)(ii) of the act (relating to removal of electors).

Candidate—Includes both candidates for nomination and election.

Canvass—The act of verifying registration records in an election district by visiting the physical location at which the registrant is registered to vote.

Card—Includes any form of correspondence pertaining to voter registration.

Day—A calendar day.

Deceased Voters List—The list provided to the Department and the commissions by the Department of Health in accordance with section 1505(a) of the act (relating to death of registrant).

Declination Form—The form on which an individual indicates his desire to register to vote or not to do so, and which is used in administering voter registration in accordance with section 1325(b) of the act (relating to government agencies). The failure to sign a PENNDOT VRA is a declination.

Duplicate—A registration record for which another registration record already exists for the same registrant or applicant.

Federal Voter Registration Application—An application for voter registration which is produced by the Federal government.

Government agency—An office which provides voter registration applications under section 1323 of the act (relating to application with driver's license application) and section 1325 of the act.

* * * * *

Inactive registrant—A registrant who has been mailed a notice in accordance with the act and who has not returned or otherwise responded to the notice; or a registrant who has been designated inactive in accordance with section 1901(c) of the act.

NCA—Notice of change of address—A notice mailed upon receipt of information that a registrant may have moved.

NCOA—National change of address—The voter removal program authorized by section 1901(b)(1)(i) of the act.

PENNDOT—The Department of Transportation of the Commonwealth.

Personal information—Any of the following:

- (i) Name of an individual.
- (ii) Address of residence and mailing address (if different than address of residence).
- (iii) Date of birth.
- (iv) Telephone number.
- (v) Race.
- (vi) Driver's license number.
- (vii) Last four digits of an individual's Social Security number.
- (viii) Federal or State employee designation, if any.
- (ix) Name of municipality of residence.
- (x) Identification of an individual's ward and district.
- (xi) Designation of party including the date of enrollment.
- (xii) An individual's signature or mark.

* * * * *

Resident—An individual who possesses residence in a district in accordance with section 1302 of the act (relating to residence of electors).

Unique identifier—The SURE registration number required by section 1222(c)(3) of the act (relating to SURE system).

VRA—Voter Registration Application—Any of the following:

- (i) A VRMA.
- (ii) A registration application used in accordance with section 1323 of the act.
- (iii) A registration application prepared by a commission and approved by the Department for purposes of in-person voter registration in accordance with section 1322 of the act (relating to in-person voter registration).
- (iv) A Federal voter registration application.
- (v) A voter registration application form approved by the Secretary.

VRMA—Voter registration mail application form—The Statewide voter registration application form, in accordance with section 1327(a) of the act (relating to preparation and distribution of applications), which contains:

- (i) The following requests for information from applicants:
 - (A) Full legal name or common derivative thereof.
 - (B) Address of residence, including municipality of residence, in accordance with section 1302 of the act.
 - (C) Mailing address if different than address of residence.
 - (D) Whether the applicant has been registered to vote in the past.
 - (E) Name, address and county of previous registration and the year of that registration.
 - (F) Designation of political party.
 - (G) Date of birth, which shall appear in the standard month-day-year sequence.
 - (H) Telephone number.

- (I) Race.
- (J) Sex.
- (K) The question "Are you a citizen of the United States of America?" and boxes for the applicant to check yes or no.
- (L) The question "Will you be 18 years of age on or before election day?" and boxes for the applicant to check yes or no.
- (M) A driver's license number.
- (N) The last four digits of the applicant's Social Security number.
- (O) A registrant's unique identifier.

(ii) The following statements or declarations from applicants:

- (A) The registration declarations and affirmations required by section 1327(b) of the act.
- (B) The registration statement required by section 303(b)(4)(A)(iii) of the Help America Vote Act of 2002 (42 U.S.C.A. § 15483(b)(4)(A)(iii)).
- (iii) The following requests for information from any individual providing assistance to an applicant in the completion of a VRMA:
 - (A) Name.
 - (B) Address of residence.
 - (C) Telephone number.

(b) The definitions of section 1102 of the act (relating to definitions) are incorporated by reference.

§ 183.3. Residence of applicants or registrants.

- (a) The following rules shall apply in determining residence of applicants or registrants.
 - (1) A registrant may not claim more than one place of residency for voter registration purposes.
 - (2) A registrant who registers to vote at a different residence loses residence for voter registration purposes in the place of former residence.
 - (3) An applicant without a specific address may indicate on the map of the VRMA where the applicant lives. If the applicant has no permanent address, the applicant shall do the following:
 - (i) Note on the map the place where the applicant spends most of his time, which shall serve as the applicant's residence.
 - (ii) Provide a mailing address, which may be a post office box, general delivery at a post office or a shelter where the applicant spends time.
 - (4) An applicant who is a student at an institution of higher education located within this Commonwealth, may register in the district in which the applicant resides while attending the institution.
 - (5) In determining eligibility under section 1301(a) of the act (relating to qualifications to register), residence begins on the day when the applicant commences to physically reside within the district and includes the day of the next election. A commission may use a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the applicant or registrant as evidence in determining residency.
 - (b) A commission may accept a post office box as an address of residence only if no other address is available for an applicant.

§ 183.4. Uniform procedures for the commissions relating to entering data into the SURE system.

(a) A commission shall enter information into the SURE system by typing, scanning or electronically entering the data.

(b) A commission shall enter the following information into the SURE system for a registrant or applicant:

- (1) Personal information.
- (2) Voting history for registrants.
- (3) Agency code, if applicable.
- (4) The status of the record, including pending, rejected, active/inactive, canceled and deceased.
- (5) In accordance with sections 1222(c)(3) and 1328(c)(1) of the act (relating to SURE system; and approval of registration applications), the unique identification number indicated by the SURE system as the applicant's SURE registration number.
- (6) Any other information required by the Department.
- (7) The date, type of correspondence to and from the commission, action or inaction by the applicant or registrant, and any subsequent action by the commission for the following mailings sent to the applicant or registrant. The scanned images of mailings sent to an applicant or registrant may not be attached to registration records in the SURE system.
 - (i) The NCOA in section 1901(b)(1)(i) of the act (relating to removal of electors).
 - (ii) The AVN.
 - (iii) The CM in section 1901(b)(1)(ii) of the act.
 - (iv) The Five Year Notice in section 1901(b)(3) of the act.
 - (v) The NCA.
 - (vi) The CAVN-IC.
 - (vii) The CAVN-OC.
 - (viii) The canvass in section 1901(b)(2) of the act.
 - (ix) The "Ten Day Rule" Notice in section 1328(c)(4)(ii) of the act (relating to approval of registration applications).
 - (x) The removal notices in section 1501 of the act (relating to removal notices).

(8) The voter registration source, which includes a designation of whether an applicant made application to register to vote in person, by mail, or through PENNDOT or another State agency.

(9) The application type, such as a new application, a change of name, a change of address or a change of party.

(10) Absentee voter indicator and tracking, if applicable.

(11) "Fail-safe" voting indicators, if applicable, as provided in section 1501(b)(2) and (3) of the act and section 1902 of the act (relating to procedure for voting following failure to return notification card).

(12) Any disability of a registrant and any assistance that may be required when voting, as provided in section 1504 of the act (relating to disability).

(13) Removal information by the registrant, if applicable, as provided in section 1501 of the act.

(14) The applicant's or registrant's digitized signature. If the commission does not have a digitized signature

available for a registrant, the Department may utilize the digitized signature on file at PENNDOT if the registrant applied to register to vote at PENNDOT and used a digitized signature.

(c) A commission may enter the following information into the SURE system:

(1) Those attachments that enable the commission to ensure the accuracy and currency of a registrant's registration record. The commission may not attach to a record the scanned images of correspondence it mails to an applicant or registrant.

(2) A county identifier that is different from the unique identifier and which the commission uses for internal administrative purposes only. If the registrant moves to a residence outside a commission's jurisdiction, the new commission's voter identification number, if any, shall supersede the previous commission's voter identification number.

(d) Only registrars or the designees of a commission may add, modify or delete information in the commission's registration records in the SURE system.

(e) A commission shall enter the following information into the SURE system in the manner indicated:

- (1) Applications approved and accepted.
- (2) Applications in process of verification.
- (3) A record of rejected applications, together with a notation of the type and date of correspondence sent to rejected applicants, which shall be retained in a special file.
- (4) The signature of an approved applicant.

§ 183.5. Uniform procedures for the commissions relating to accepting or rejecting applications on the SURE system.

(a) A commission shall be responsible for making the final decision to accept or reject an applicant's application to register to vote in accordance with section 1328 of the act (relating to approval of registration applications).

(b) A commission shall verify the signature of a registrant in the following manner:

(1) If a registrant, either in person or in writing, requests a change of name, party affiliation, or address within the same county, the commission shall attempt to verify the signature of the voter.

(2) If the commission verifies that the signature is valid and from the registrant in question, the commission shall:

- (i) Make the change.
- (ii) Send the registrant, by nonforwardable mail, a voter identification card that reflects the change, as provided by section 1328(c) of the act.

(3) If the commission is not satisfied that the request is from the registrant in question, the commission shall mail a notice to the applicant, directing the applicant to appear at the office of the commission to answer, under oath, any questions that the commission considers necessary. If the applicant fails to appear as directed, the commission may not make the change requested, and shall inform the applicant in writing of this decision.

(c) Except as provided at subsection (d), a commission shall use reasonable efforts to ascertain information that is necessary for voter registration and is incomplete, inconsistent or unclear on an applicant's application form.

Reasonable efforts shall include mailing a notice to the applicant or contacting the applicant by phone, if available. The commission shall notify the applicant of the reason the application could not be accepted and provide the opportunity for the applicant to complete the form.

(d) If an applicant fails to designate political party affiliation on a VRMA, the commission shall register the applicant without indicating political party affiliation, and the commission shall notify the applicant that the applicant will not be permitted to vote for candidates in a primary election.

(e) The commission need not correspond with an applicant, in accordance with section 1322 of the act (relating to in-person voter registration), if the applicant makes application to register to vote in person with the commission, and the commission rejects the application in the applicant's presence. In accordance with section 1322(a) of the act, if the commission accepts the application, it shall mail the applicant an identification card as provided by section 1328(c) of the act.

(f) The following items on a VRMA and any other approved voter registration form are additional or optional information and may not be considered when determining the acceptance or rejection of the application as provided in section 1327(a) of the act (relating to preparation and distribution of applications):

- (1) Sex.
- (2) Telephone number.
- (3) Race.
- (4) Date.
- (5) Prior registration information.
- (6) Alternate mailing address.

(i) The applicant may provide an alternate mailing address, separate from the residence address. The alternate mailing address may only be used for mailing information to the applicant.

(ii) In accordance with section 1328(c) of the act, the voter identification card shall be mailed to the applicant's address of residence.

- (7) Unique identifier.

(8) The last four digits of an applicant's Social Security number if the applicant's driver's license number is provided.

§ 183.6. Uniform procedures for the commissions relating to the process for identifying and removing duplicate records in the SURE system.

(a) A commission shall use the following process for identifying duplicate registration records for a new application or for an existing record where a commission's registration record contains the most recent date of application for the potential duplicate.

(1) At a minimum, a commission shall identify record matches using an applicant's or registrant's first and last name as well as date of birth.

(2) If, upon examining the criteria in paragraph (1), the commission believes that the record is or may be a duplicate, it shall use any of the following items, if available, to determine if the record is a duplicate:

- (i) The unique identifier.

(ii) The last four digits of an applicant's or registrant's Social Security number.

(iii) The driver's license number of an applicant or registrant.

(3) If, upon examining the criteria in paragraph (1), the commission believes that the record is or may be a duplicate and the criteria in paragraph (2) are not available or are incomplete, it shall examine the signature of the applicant or registrant to determine if the record is a match. If the commission believes that the signatures match, it shall follow the procedures in paragraph (6).

(4) If the following apply, the commission shall mail the registrant a request for the information in paragraph (2)(ii) and (iii):

(i) The records are within a commission's jurisdiction.

(ii) A record match is identified under the criteria of paragraph (1).

(iii) The criteria under paragraph (2) are unavailable or incomplete.

(iv) The criteria in paragraph (3) are not determined to be a match.

(5) If a record match is identified under the criteria of paragraphs (1) and (2), the following shall apply:

(i) If the records are within a commission's jurisdiction, the record shall be deemed a duplicate and the commission shall update its registration records to reflect information on the most recent application. If one of the records is a new application, the commission shall send a voter identification card to the applicant in accordance with section 1328(c) of the act (relating to approval of registration applications).

(ii) If the record is not within a commission's jurisdiction, the commission shall notify the commission in the other county of the potential duplicate registration record. The commission in the former county shall cancel the registrant's registration record and notify the registrant by nonforwardable mail on a form approved by the Department that the registrant's registration is a duplicate and has been cancelled.

(6) If a registration record match is identified under the criteria of paragraphs (1) and (3), the following shall apply:

(i) If the records are within a commission's jurisdiction, the record shall be deemed a duplicate and the commission shall update its registration records to reflect information on the most recent application. If one of the records is a new application, the commission shall send a voter identification card to the applicant in accordance with section 1328(c) of the act.

(ii) If the records are outside a commission's jurisdiction, the commission shall notify the commission in the registrant's former county of residence that the registrant's registration record may be a duplicate. The commission shall notify the registrant by nonforwardable mail on a form approved by the Department that the registrant's registration appears to be a duplicate. If this notice is returned by the postmaster or not returned by the registrant 30 days prior to the next election, the commission shall cancel the registrant's registration and notify the registrant by forwardable mail. In accordance with sections 1501(b)(1) and 1901(d)(1)(i) of the act (relating to removal notices; and removal of electors), the acceptance of a subsequent application for voter registration in another county shall serve as confirmation in writing that the registrant has changed residence to a location outside the county in which the registrant was

registered and thereby loses voter registration status in the former county of residence. If the registrant returns the notice and the commission is satisfied with the explanation, no further action is required by the commission.

(7) If a record match is identified under the criteria of paragraph (2)(i) or (iii), the record shall be deemed a duplicate and the following shall apply:

(i) If the records are within a commission's jurisdiction, the commission shall update its registration records to reflect information on the most recent application. If one of the records is a new application, the commission shall send a voter identification card to the applicant in accordance with section 1328(c) of the act.

(ii) If the records are outside a commission's jurisdiction, the commission shall notify the commission in the registrant's former county of residence that the registrant's registration record is a duplicate and should be cancelled. The commission in the former county shall cancel the registrant's registration record and notify the registrant by nonforwardable mail on a form approved by the Department that the registrant's registration is a duplicate and has been cancelled.

(8) If the following apply, the commission may not consider the records as duplicates without additional information. A commission shall obtain additional information by following the procedures in subsection (c) and other procedures the commission deems appropriate.

(i) A registration record match is identified under the criteria of paragraph (1).

(ii) The criteria under paragraph (2) are unavailable or incomplete.

(iii) The criteria under paragraph (3) are not determined to be a match.

(b) A commission shall use the following process for identifying existing duplicate registration records where a commission's registration record does not contain the most recent date of application for the potential duplicate:

(1) At a minimum, record matches shall be identified using a registrant's first and last name as well as date of birth.

(2) If, upon examining the criteria in paragraph (1), the commission believes that the record is or may be a duplicate, it shall use any of the following items, if available, to determine if the record is a duplicate.

(i) The unique identifier.

(ii) The last four digits of a registrant's Social Security number.

(iii) The driver's license number of a registrant.

(3) If, upon examining the criteria in paragraph (1), the commission believes that the record is or may be a duplicate and the criteria in paragraph (2) are not available or are incomplete, it shall examine the signature of the registrant to determine if the record is a match. If the commission believes that the signatures match, it shall follow the procedures in paragraph (5).

(4) If a record match is identified under the criteria of paragraphs (1) and (2), the commission shall cancel the registrant's registration record and notify the registrant by nonforwardable mail on a form approved by the Department that the registrant's registration is a duplicate and has been cancelled.

(5) If a registration record match is identified under the criteria of paragraphs (1) and (3), the following shall apply:

(i) If the records are within a commission's jurisdiction, the record shall be deemed a duplicate and the commission shall update its registration records to reflect information on the most recent application.

(ii) If the records are outside a commission's jurisdiction, the commission shall notify the commission in the registrant's former county of residence that the registrant's registration record may be a duplicate. The commission shall notify the registrant by nonforwardable mail on a form approved by the Department that the registrant's registration appears to be a duplicate. If this notice is returned by the postmaster or not returned by the registrant 30 days prior to the next election, the commission shall cancel the registrant's registration and notify the registrant by forwardable mail. In accordance with sections 1501(b)(1) and 1901(d)(1)(i) of the act, the acceptance of a subsequent application for voter registration in another county shall serve as confirmation in writing that the registrant has changed residence to a location outside the county in which the registrant was registered and thereby loses voter registration status in the former county of residence. If the registrant returns the notice and the commission is satisfied with the explanation, no further action is required by the commission.

(6) If a record match is identified under the criteria in paragraph (2)(i) or (iii), the record shall be deemed a duplicate and the commission shall cancel the registrant's registration record and notify the registrant by nonforwardable mail on a form approved by the Department that the registrant's registration is a duplicate and has been cancelled.

(7) If the following apply, the commission may not consider the records duplicates without additional information. A commission shall obtain additional information by following the procedures in subsection (c) and other procedures the commission deems appropriate:

(i) A registration record match is identified under the criteria of paragraph (1).

(ii) The criteria under paragraph (2) are unavailable or incomplete.

(iii) The criteria under paragraph (3) are not determined to be a match.

(c) A commission shall use the following method for obtaining additional information to identify duplicate registration records. The commission shall ask a registrant for the following information when the commission mails an applicant or registrant correspondence relevant to the maintenance and accuracy of the voter registration records, including mailings listed under § 183.4(b)(7) (relating to uniform procedures for the commissions relating to entering data into the SURE system) or request for additional information from an applicant:

(1) The registrant's driver's license number.

(2) The last four digits of a registrant's social security number.

(3) Verification of the registrant's date of birth.

(4) Missing information that is required on the district or general register.

(d) A commission shall use the following methods for removing duplicate registration records from other sources:

(1) The commission shall implement the following processes for identifying matches on records containing death notices received from the Department of Health, in accordance with section 1505 of the act (relating to death of registrant):

(i) The Department will transmit the Deceased Voters List to the county of residence on the SURE system.

(ii) If the record matches the first and last name, date of birth, and the last four digits of the registrant's Social Security number, the commission shall cancel the registrant's registration record. If the record matches at least the first and last name and date of birth, the commission shall investigate. In its investigation, the commission may utilize the other sources available at section 1505(b) of the act to determine if the record should be cancelled.

(iii) Once a month, the commission shall run a check against the SURE system to determine if the Department of Health Deceased Voter's List contains information on voters registered in its county.

(iv) The commission shall process the Deceased Voter's List within 10 days of its receipt and cancel the registration of those registrants that it determines are deceased in accordance with section 1505 of the act.

(v) Except as provided at section 1505(b) of the act, a commission cannot remove a registrant simply because an individual, other than an employee of the office of the register of wills, claims that the registrant has moved or died. The commission shall have the documentation listed in section 1505(b) of the act before removing any name from the voter registration list.

(2) A commission shall implement the following processes for identifying record matches on changes of address received from PENNDOT:

(i) The commission shall compare the records to its registration records on the SURE system.

(ii) The commission shall determine if the individual is a registrant in its county.

(iii) The commission shall determine from the SURE system if the change of address is within the jurisdiction of the commission or outside the jurisdiction of the commission.

(A) For address changes within the commission's jurisdiction, the commission shall mail a voter identification card, in accordance with section 1328 of the act, within 10 days of its receipt. Changes of address made after the voter registration deadline preceding an election shall be processed within 10 days after the election.

(B) For address changes outside the commission's jurisdiction, the SURE system will notify the county of prior residence. The former commission will process the changes in accordance with section 1323(c)(4) of the act (relating to application with driver's license application) and forward the registrant's record and voting history to the new county of residence if the record is within the former commission's jurisdiction. A commission shall process the transfer within 10 days in accordance with section 1328 of the act. Changes of address made after the voter registration deadline preceding an election shall be processed within 10 days after the election.

(iv) If the voter identification card in subparagraph (iii)(A) is returned by the postmaster, the commission shall use the following procedures:

(A) The commission shall complete the applicable items on the CAVN-IC and mail it to the registrant at the new address. The commission shall mail the CAVN-ICs first

class, nonforwardable, return postage guaranteed. The commission shall mark the registrant's registration record as inactive.

(B) If the registrant does not return the CAVN-IC within 10 days, the commission shall process the change of address, making the necessary corrections in the general and district registers.

(C) If the registrant returns the CAVN-IC, signed and dated, with an explanation of why the registrant's address should not be changed for voter registration purposes and the commission is satisfied with the explanation, the commission may not change the address.

(D) If the postmaster returns the CAVN-IC, the commission shall complete the applicable information on the AVN and mail it to the registrant's former address in accordance with section 1901(d)(2) of the act. Because this notice was sent as a result of information submitted by the registrant to PENNDOT and as a result of mail being returned by the postmaster as undeliverable, the commission shall check both corresponding boxes at the top of the notice.

(E) If the registrant returns the AVN, signed and dated, 30 days before the election, confirming the change of address, the commission shall update the registrant's voter registration record accordingly, in accordance with section 1901(d)(3) of the act.

(F) If the registrant returns the AVN, signed and dated, 30 days before the election, with an explanation of why the registrant's address should not be changed for voter registration purposes and the commission is satisfied with the explanation, the commission shall update the registrant's voter registration record and mark it as active.

(G) The commission shall require a written affirmation before it permits an inactive registrant to vote in an election during the time period beginning with the date the AVN is mailed and ending on the day after the date of the second General Election for Federal office that occurs after the date of the notice. If the registrant does not vote in an election during that period, the commission shall cancel the registrant's registration.

(v) If the commission determines that a registrant listed on the PENNDOT Change of Address report has changed his address to another county and is a registered elector in the county, the commission shall use the following procedures:

(A) The commission shall mail the CAVN-OC to the registrant at the new address. The Commission shall mail the CAVN-OCs first class, nonforwardable, return postage guaranteed. The commission shall mark the registrant's voter registration record as inactive.

(B) If the registrant does not return the CAVN-OC within 10 days, the commission shall cancel the registration in its county and transfer the registrant's voter registration record, including voting history, to the county to which the registrant has changed the registrant's address. The commission shall send to the registration office in the county of the registrant's new residence the information needed to process the transferred registration record including the registrant's new address.

(C) If the registrant returns the CAVN-OC, signed and dated, with an explanation of why the registrant's address should not be changed for voter registration purposes and the commission is satisfied with the explanation, the commission may not change the address, and the voter registration records shall remain in the county.

(D) If the postmaster returns the CAVN-OC, the commission shall complete the applicable information on the AVN and mail it to the registrant's former address in accordance with section 1901(d)(2) of the act. Because this notice was sent as a result of information submitted by the registrant to PENNDOT and as a result of mail being returned by the postmaster as undeliverable, the commission shall check both corresponding boxes at the top of the notice.

(E) If the registrant returns the AVN, signed and dated, 30 days before the election, confirming the change of address, the commission shall cancel the registrant's voter registration. The commission shall maintain the record for 5 years in accordance with section 1904(a) of the act.

(F) If the registrant returns the AVN, signed and dated, 30 days before the election, with an explanation of why the registrant's address should not be changed for voter registration purposes and the commission is satisfied with the explanation, the commission shall update the registrant's voter registration record and mark it as active.

(G) The commission shall require a written affirmation before it permits a registrant to vote in an election during the time beginning with the date the AVN is mailed and ending on the day after the date of the second General Election for Federal office that occurs after the date of the notice. If the registrant does not vote in an election during that period, the commission shall cancel the registrant's registration.

(vi) If the commission determines that registrants identified on the PENNDOT Change of Address Report have changed their residence to another state and are registered voters in the county, the commission shall implement the following procedures:

(A) The commission shall complete the applicable information on the AVN and mail it to the registrant's former address in accordance with section 1901(d)(2) of the act. The commission shall check the box at the top of the notice indicating that the notice was sent as a result of information submitted by the registrant to PENNDOT. The commission shall mark the registrant's registration record as inactive.

(B) If the registrant returns the AVN, signed and dated, 30 days before the election, confirming the change of address, the commission shall cancel the registrant's voter registration. The commission shall maintain the record for 5 years in accordance with section 1904(a) of the act (relating to files).

(C) If the registrant returns the AVN, signed and dated, 30 days before the election, with an explanation of why the registrant's address should not be changed for voter registration purposes and the commission is satisfied with the explanation, the commission shall update the registrant's registration record and mark it as active.

(D) The commission shall require a written affirmation before it permits a registrant to vote in an election during the time period beginning with the date the AVN is mailed and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice. If the registrant does not vote in an election during that period, the commission shall cancel the registrant's registration.

(3) A commission shall implement the following processes for identifying matches on records obtained from a

NCOA conducted by the commission in accordance with section 1901(b)(1)(i) of the act:

(i) Within 1 year of certification by the Secretary that all counties have been connected to the SURE system, and at least once per year thereafter, the Department will purchase the NCOA list.

(ii) The Department will compare the list to the SURE system database.

(iii) The SURE system will determine if the data contains a registered voter, and, if so, in what county.

(iv) The Department will notify the commission of the address change.

(v) The commission shall send appropriate mailings in accordance with section 1901(b)(1) of the act.

(vi) The commission shall maintain the status of the mailing and response, including the dates, on the SURE system.

(vii) The commission, if it chooses, may purchase the NCOA list for processing this voter removal program.

(4) A commission shall identify matches on records for changes of address within the same county based on information obtained from the NCOA program, in accordance with section 1901(b)(1)(i) of the act. In the case of registrants whose mailing is not returned by the United States Postal Service (Postal Service), the commission is not required to take any further action. If a mailing to a registrant is returned by the Postal Service, the commission shall categorize the returned mail into one of two categories: returned mail with information from the Postal Service indicating a change of address within the county and returned mail with information from the Postal Service indicating a change of address outside the county or with no further address information available.

(i) The commission shall update the registrant's voter registration records to indicate the new address. The commission shall complete a NCA and send it to the registrant's prior address by forwardable mail with a postage prepaid preaddressed return form.

(ii) If the registrant returns the NCA, signed and dated, verifying the change of address, the commission is not required to take any further action because the registrant's voter registration records have already been updated.

(iii) If the registrant returns the NCA, signed and dated, with an explanation of why the registrant's address should not be changed for voter registration purposes and the commission is satisfied with the explanation, the commission shall correct the voter registration records accordingly.

(iv) If the postmaster returns the NCA or if the registrant does not return the NCA, the commission shall complete, mark and mail an AVN to the registrant's former address in accordance with section 1901(d)(2) of the act.

(v) If the registrant returns the AVN, signed and dated, 30 days before the election, confirming the change of address, the commission is not required to take any further action because the registrant's voter registration records have already been updated.

(vi) If the registrant returns the AVN, signed and dated, 30 days before the election, with an explanation of why the registrant's address should not be changed for voter registration purposes and the commission is satis-

fied with the explanation, the commission shall correct the voter registration records accordingly.

(vii) If the registrant does not return the AVN 30 days before the election or if it is returned by the Postal Service as undeliverable, the commission shall mark as inactive the registrant's voter registration card or mark the individual's record on the SURE system as inactive. The cards and records marked as inactive shall constitute the inactive file of registered voters for the county. The commission shall include these cards with the other registration cards sent to the precincts on election day.

(viii) The commission shall require a written affirmation before it permits an inactive registrant to vote in an election during the time beginning with the date the AVN is mailed and ending on the day after the date of the second General Election for Federal office that occurs after the date of the notice. If the registrant does not vote in an election during that period, the commission shall cancel the registrant's registration.

(5) A commission shall implement the following procedures for identifying matches on records to an address outside the county obtained from a NCOA, in accordance with section 1901(b)(1)(i) of the act. In the case of registrants whose mailing is not returned by the Postal Service, the commission is not required to take any further action. If a mailing to a registrant is returned by the Postal Service, the commission shall categorize the returned mail into one of two categories: returned mail with information from the Postal Service indicating a change of address within the county and returned mail with information from the Postal Service indicating a change of address outside the county or with no further address information available.

(i) The commission shall complete the applicable information on the NCA and send it to the registrant's prior address by forwardable mail with a postage prepaid preaddressed return form by which the registrant may verify or correct the address information as required by section 1901(b)(1)(ii) of the act.

(ii) If the registrant returns the NCA, signed and dated, verifying the change of address, the commission shall cancel the registrant's voter registration.

(iii) If the registrant returns the NCA, signed and dated, with an explanation of why the registrant's address should not be changed for voter registration purposes and the commission is satisfied with the explanation, the commission may not change the registrant's voter registration.

(iv) If the postmaster returns the NCA or if the registrant does not return the NCA, the commission shall complete, mark and mail an AVN, to the registrant's former address in accordance with section 1901(d) of the act.

(v) If the registrant returns the AVN, signed and dated, 30 days before the election, confirming the change of address, the commission shall cancel the registrant's voter registration.

(vi) If the registrant returns the AVN, signed and dated, 30 days before the election, with an explanation of why the registrant's address should not be changed for voter registration purposes and the commission is satisfied with the explanation, the commission may not change the address.

(vii) If the registrant does not return the AVN 30 days before the election or if it is returned by the Postal Service as undeliverable, the commission shall mark as

inactive the registrant's voter registration card. The commission shall include the cards with the other registration cards sent to the precincts on election day.

(viii) The commission shall require a written affirmation before it permits an inactive registrant to vote in an election during the time beginning with the date the AVN is mailed and ending on the day after the date of the second General Election for Federal office that occurs after the date of the notice. If the registrant does not vote in an election during that period, the commission shall cancel the registrant's registration.

(6) The commission may, as one of its mandatory voter removal programs, establish a program to maintain the accuracy of voter registration records for the county by sending a direct, nonforwardable first class "Return If Undeliverable—Address Correction Requested" mailing to the registrants in the county whose registration records are not marked as inactive. A commission shall implement the following procedures for identifying matches on records where the commission ascertains that a registrant has changed his address to an address within the county based on information supplied by the postmaster from a returned CM, conducted by the commission in accordance with section 1901(b)(1)(ii) of the act:

(i) The commission shall update the registrant's voter registration records to indicate the new address. The commission shall complete the applicable information on the NCA and send it to the registrant's prior address by forwardable mail with a postage prepaid preaddressed return form by which the registrant may verify or correct the address information, as required by section 1901(b)(1) of the act.

(ii) If the registrant returns the NCA, signed and dated, verifying the change of address, the commission is not required to take any further action because the registrant's voter registration records have already been updated.

(iii) If the registrant returns the NCA, signed and dated, with an explanation of why the registrant's address should not be changed for voter registration purposes and the commission is satisfied with the explanation, the commission shall correct the voter registration records accordingly.

(iv) If the postmaster returns the NCA or if the registrant does not return the NCA, the commission shall complete, mark and mail an AVN to the registrant's former address in accordance with section 1901(d) of the act.

(v) If the registrant returns the AVN, signed and dated, 30 days before the election, confirming the change of address, the commission is not required to take any further action because the registrant's voter registration records have already been updated.

(vi) If the registrant returns the AVN, signed and dated, 30 days before the election, with an explanation of why the registrant's address should not be changed for voter registration purposes and the commission is satisfied with the explanation, the commission shall correct the voter registration records accordingly.

(vii) If the registrant does not return the AVN 30 days before the election or if it is returned by the Postal Service as undeliverable, the commission shall mark the record as inactive on the registrant's voter registration card. The cards marked as inactive shall constitute the inactive file of registered voters for the county. The

commission shall include these cards with the other registration cards sent to the precincts on election day.

(viii) The commission shall require a written affirmation before it permits an inactive registrant to vote in an election during the time period beginning with the date the AVN is mailed and ending on the day after the date of the second General Election for Federal office that occurs after the date of the notice. If the registrant does not vote in an election during that period, the commission shall cancel the registrant's voter registration.

(7) A commission shall implement the following procedures for identifying matches on records where the commission ascertains that a registrant has changed his address to an address outside the county based on information supplied by the Postal Service from a returned CM, conducted by the commission in accordance with section 1901(b)(1)(ii) of the act, or if no further address information is available:

(i) The commission shall complete the applicable information on the NCA and send it to the registrant's prior address by forwardable mail with a postage prepaid preaddressed return form by which the registrant may verify or correct the address information as required by section 1901(b)(1) of the act.

(ii) If the registrant returns the NCA, signed and dated, verifying the change of address, the commission shall cancel the registrant's voter registration.

(iii) If the registrant returns the NCA, signed and dated, with an explanation of why the registrant's address should not be changed for voter registration purposes and the commission is satisfied with the explanation, the commission may not change the registrant's voter registration.

(iv) If the postmaster returns the NCA or if the registrant does not return the NCA, the commission shall complete and mail an AVN to the registrant's former address in accordance with section 1901(d) of the act.

(v) If the registrant returns the AVN, signed and dated, 30 days before the election, confirming the change of address, the commission shall cancel the registrant's voter registration.

(vi) If the registrant returns the AVN, signed and dated, 30 days before the election, with an explanation of why the registrant's address should not be changed for voter registration purposes and the commission is satisfied with the explanation, the commission may not change the address.

(vii) If the registrant does not return the AVN 30 days before the election or if it is returned by the Postal Service as undeliverable, the commission shall mark inactive the registrant's voter registration card. The commission shall include these cards with the other registration cards sent to the precincts on election day.

(viii) The commission shall require a written affirmation before it permits an inactive registrant to vote in an election during the time beginning with the date the AVN is mailed and ending on the day after the date of the second General Election for Federal office that occurs after the date of the notice. If the registrant does not vote in an election during that period, the commission shall cancel the registrant's voter registration.

(8) A commission shall report duplicate applications in categories according to the agency or method by which the duplicate was generated.

§ 183.7. Uniform procedures for the commissions relating to the manner and time frame for updating information in the SURE system.

(a) The following information shall be processed within 14 days of receipt by the commission:

(1) Initial PENNDOT applications.

(2) VRMAs.

(3) PENNDOT changes of address from the Department.

(4) PENNDOT changes of address transferred from other counties.

(5) Correspondence from registrants according to voter removal programs in accordance with section 1901 of the act (relating to removal of electors).

(6) Transfers in accordance with section 1502 of the act (relating to transfer of registration).

(7) The Deceased Voter's List received from the Department of Health in accordance with section 1505 of the act (relating to death of registrant).

(8) Other updates to a registrant's record.

(b) After 10 days, if an envelope containing a voter identification card is returned as undeliverable, the commission shall investigate, in accordance with section 1328(c)(5) of the act (relating to approval of registration applications). When processing in-person voter registration applications, the commission may not provide a voter identification card on the day of application. The commission shall mail the voter identification card to the applicant's address to verify that mail can be received by the applicant at the address on the application form, as required by section 1328(c) of the act.

§ 183.8. Uniform procedures for the commissions relating to the manner and form of communications between commissions and between the Department and a commission.

(a) After the Secretary certifies that all counties have been connected to the SURE system, the commissions shall use the SURE system as the primary means of communication between the commissions.

(b) Once the Secretary certifies that all counties have been connected to the SURE system, the SURE system shall serve as the primary means of communication between the Department and a commission with regard to voter registration.

§ 183.9. Training requirements for the commissions and their employees.

(a) Registrars, employees and clerks of a commission who are responsible for voter registration shall attend the Department's initial training sessions on the SURE system according to the SURE implementation schedule prior to the commission's connection to the SURE system. Upon completion of the initial training, attendees will be certified by the Department. The Department will notify the commission at least 2 weeks prior to its training session.

(b) In addition to the training required in subsection (a), registrars and the employees and clerks of a commission who are responsible for voter registration may be required to complete additional training at other times and places as determined by the Department.

§ 183.10. Standardized forms.

(a) A commission shall use the following forms only in a form prepared or approved by the Department:

- (1) The VRMA.
- (2) Blank voter registration application forms, which a private organization or individual may print at its expense, provided that the form, content and copy have received prior approval from the Department, in accordance with section 1327(a)(8) of the act (relating to preparation and distribution of applications).
- (3) Voter identification card.
- (4) Rejection notice.
- (5) Confirmation notice.
- (6) District registers generated by the SURE system that are sent to polling places on election day.
- (7) All forms prepared by the Department or generated by the SURE system.
- (b) The following forms will be approved by the Department:
 - (1) The motor vehicle voter registration application form to be used by PENNDOT.
 - (2) The declination form to be used by voter registration agencies.
 - (3) Removal Notices.
 - (c) A Statewide VRA may not require:
 - (1) Notarization or other formal authentication
 - (2) Any additional information, other than the information necessary to enable election officials to:
 - (i) Determine the eligibility of the applicant.
 - (ii) Administer voter registration and other parts of the election process.
 - (d) Applications for official absentee ballots shall:
 - (1) Contain the information required by 1302(b) of the Pennsylvania Election Code (25 P. S. § 3146.2(b)).
 - (2) Be on a form prescribed by the Department or on a form approved in advance by the Department.
 - (e) Correspondence and forms from a commission to an applicant or registrant that contain confidential information, including information listed in § 183.14(c) (relating to public information lists), shall be designed to protect the confidentiality of the information sent and requested.
 - (f) This section does not apply to Federal voter registration applications.

§ 183.11. Records.

- (a) A commission shall implement the following procedures for general registers:
 - (1) After a commission is connected to the SURE system, the general register of the commission shall be the SURE system, which shall be the official register for the commission.
 - (2) The general register shall contain:
 - (i) The information required in section 1401(a) of the act (relating to general register).
 - (ii) The status of the registrant and only one sample copy of the removal notices mailed to registrants under section 1501 of the act (relating to removal notices), responses sent by the registrant and a record of dates including the date the mailing was sent and the date the registrant responded to the commission.
 - (iii) The status of the registrant and only one sample copy of the removal notices or list maintenance notices mailed to registrants under section 1901 of the act

(relating to removal of electors), responses sent by the registrant, and a record of dates including the date the mailing was sent, the date the registrant responded to the commission and the action taken by the commission.

(b) The district register, which is located on the SURE system, shall contain:

- (1) The information required in section 1402 of the act (relating to district registers).
- (2) The bar code of the registrant.
- (3) The political party enrollment of the registrant.
- (4) The date of birth of the registrant.
- (5) The SURE registration number of the registrant.
- (6) An indication of whether the registrant's status is active or inactive.

(c) A commission shall maintain the following records:

(1) The names and addresses of the registrants to whom any information mailings, including notices referenced in §§ 183.4(b)(7) and 183.6 (relating to uniform procedures for the commissions relating to entering data into the SURE system; and uniform procedures for the commissions relating to the process for identifying and removing duplicate records in the SURE system), are mailed.

(2) Information concerning whether or not the registrant responded to the mailing as of the date the records are inspected.

(3) A copy of the sample mailing sent to the applicant or registrant.

(4) The list used to generate the mailing.

(d) Information on the general and district registers shall be accessible for public inspection and copying in accordance with §§ 183.13 and 183.14 (relating to accessibility to street lists; and public information lists).

(e) Immediately after an election, a commission shall examine the district and general registers to determine the accuracy of both registers in accordance with section 1402(f) of the act. The commission shall compare the signature of an elector on the district register used in the election with the signatures on file in the district and general registers. As a result of this comparison, if the commission suspects fraud, impersonation or forgery, the commission shall report in writing to the district attorney any evidence or indication of the discrepancy. If an election officer recorded an elector as removed, deceased or challenged and prevented the elector from voting, the commission shall investigate and make appropriate corrections to the general and district registers in accordance with the act.

(f) A commission shall follow the procedures in this chapter for inactive records of registrants.

(1) The commission shall make an inactive record active when the registrant responds to the mailing that designated the registrant as inactive, votes at an election, registers again, reports a change of name, address, telephone number or political party affiliation, or in some way contacts the commission.

(2) A commission shall send inactive records to the polls on election day.

(3) A commission shall allow an inactive voter to vote, sign petitions, and have the other privileges of a registered voter.

(4) A commission is not required to send mailings in accordance with section 1901 of the act to inactive voters.

§ 183.12. Retention of records.

(a) Maintenance and destruction of forms used by government agencies to provide voting information.

(1) The declination form shall be preserved in the agency for 22 months from the date the agency receives it.

(2) The agency shall forward the completed voter registration application form to the appropriate commission in accordance with sections 1323(c) and 1325(f) of the act (relating to application with driver's license application; and government agencies), as appropriate. The applicant may request that the agency submit the completed voter registration application form on the applicant's behalf.

(b) Maintenance and destruction of the district register.

(1) A commission shall preserve the district registers for each election used prior to the commission's connection to the SURE system 5 years after the commission is connected to the SURE system, after which time, the commission shall destroy the district register.

(2) After a commission is connected to the SURE system, the commission shall use the district registers generated by the SURE system as the district registers are updated on the SURE system.

(c) Maintenance of voter registration cards.

(1) After a commission is connected to the SURE system, it shall transfer data from any new voter registration cards it receives to the SURE system within 14 days in accordance with § 183.7 (relating to uniform procedures for the commission relating to the manner and time frame for updating information in the SURE system).

(2) The commission shall maintain voter registration cards it receives after connection to the SURE system for 90 days after one general or municipal election.

(d) Maintenance and destruction of other records:

(1) A commission shall maintain the records that a commission attached to a registrant's record in accordance with § 183.4(c)(1) (relating to uniform procedures for the commissions relating to entering data into the SURE system) for 90 days after the registrant votes in any primary or election.

(2) A commission shall maintain for 2 years the following records, after which time, the commission shall destroy the records:

(i) One original of a list maintenance mailing made in accordance with section 1901 of the act (relating to removal of electors). This list shall include one example of the items in the mailing and a list of the recipients of the mailing. The commission shall make this list available for public inspection and copying in accordance with § 183.14 (relating to public information lists).

(ii) All returned mailings from registrants under section 1901 of the act, time-stamped and arranged by district and alphabetically by last name. The commission shall note the status of the response in the registrant's record on the SURE system within 10 days of its receipt. The commission shall make this list available for public inspection and copying in accordance with the provisions of § 183.14 (relating to public information lists). However, the signature of a registrant may not be photocopied.

(iii) All miscellaneous records concerning activities conducted for the purpose of determining the accuracy of official lists of registered voters.

(iv) Records relative to mailings and responses to mailings conducted in accordance with section 1501 of the act (relating to removal notices).

(v) The Deceased Voters List containing the name, address, date of birth and date of death of registrants in accordance with section 1505 of the act (relating to death of registrant).

(vi) Lists of the names of registrants who were mailed notices prior to cancellation of their voter registration, in accordance with section 1405(b)(2) of the act (relating to retention of records).

(vii) Records in accordance with section 1405(b)(1) of the act.

(3) A commission shall maintain the following records for 5 years, after which time, the commission shall destroy the records:

(i) All records of registrants whose voter registration has been cancelled. In accordance with section 1904(a) of the act (relating to files), a commission shall remove registration records pertaining to a registrant whose registration is cancelled. The commission shall mark on the registration records of a cancelled registrant the word "cancelled" and the date and cause of cancellation. Removed records shall be retained separate from registrants for 5 years, after which time, the commission shall no longer maintain removed records of cancelled registrants.

(ii) Affidavits, affirmations, declarations and other records relative to cancelled registrants.

(iii) Records referenced in subsection (c)(2) and paragraph (1).

(iv) PENNDOT Change of Address Reports, Transaction Control Sheets and the other miscellaneous records relative to activities conducted for the purpose of determining the accuracy of the official list of registrants.

(v) Except as provided in paragraph (2)(ii), records relative to mailings conducted in accordance with section 1901 of the act (relating to removal of electors).

(vi) Affirmations and other records relative to section 1902 of the act (relating to procedure for voting following failure to return notification card).

(vii) Voter Registration Activity Reports forwarded from the county voter registration offices to the Department in accordance with section 1406 of the act (relating to reports).

(viii) Other nonessential miscellaneous voter registration records as determined by the commission.

(ix) Voter registration totals.

(4) A commission shall retain its paper voter registration records relative to the conversion to the SURE system until January 1, 2005, or until the Secretary has certified that the commission is converted to the SURE system, whichever comes first. After this date or the certification, the commission shall destroy its paper records within 90 days.

(5) A commission shall retain permanently minutes of meetings of the commission for administrative, legal and historical purposes.

§ 183.13. Street lists.

(a) Not later than 15 days before an election, a commission shall prepare and add information from the SURE system for an election district a list of the names and addresses of its registrants as of that date who reside in the district. The list will reflect voter activity reported to

the commission within 30 days preceding an election. The commission shall prepare updates to the list on at least a biweekly basis. The list shall be arranged in the following manner as requested:

- (1) By streets and house numbers.
- (2) Alphabetically by last name of the registrant.
- (3) In a manner whereby the location of the registrant's residence can be identified.
- (b) A commission shall retain two copies of the street list, enter the data on the SURE system and send a copy of the list to the Department, in accordance with section 1403(b) of the act (relating to street lists).

(c) Street lists will be available for public inspection and copying at the Department and the commissions during business hours, subject to reasonable safeguards, including but not limited to:

(1) A commission and the Department will maintain a form prescribed by the Department that includes the name, address of record and telephone number of an individual who inspects or obtains a copy of the list, as well as verification that a commission or Department official confirmed the identification of the individual requesting access to the street list or its duplication. This form will not be available for public inspection or copying.

(2) Before inspecting the street list or obtaining names of registrants or other information from the list, an individual shall provide identification to the public official having custody of the street list and shall state in writing on a form prescribed by the Department that any information obtained from the list will not be used for purposes unrelated to elections, political activities or law enforcement, as required by section 1404(b)(3) and (c)(2) of the act (relating to public information lists).

(3) No individual inspecting the street list may tamper with, alter, destroy or remove it from the premises of the commission or the Department.

(4) A commission and the Department will require that a commissioner, or an authorized commission or Department employee is able to observe the record or document at all times while it is being inspected and safeguard it against alteration, destruction or removal.

(5) The following items may not be made available for public inspection or copying:

- (i) The signature of a registrant in an electronic format, as provided in section 1403(a) of the act.
- (ii) The identity of a voter registration agency through which a qualified registrant is registered, as provided by 42 U.S.C.A. § 1983gg(8)(a)(6) and (8)(i)(1), known as the National Voter Registration Act.
- (iii) The registrant's unique identifier, driver's license number and the last four digits of a registrant's Social Security number.

(6) During SURE system conversion periods or emergency conditions, access to the list may be postponed temporarily.

(d) The Department and a commission will distribute the street list upon request free of charge to the following entities:

- (1) Officials concerned with the conduct of elections.
- (2) Political parties and political bodies.
- (3) Candidates.

(e) As provided at section 1403(d) of the act, the Department or a commission may distribute the street list to organized bodies of citizens for a reasonable fee, determined by the office providing the copies, which shall include the cost of reproduction and postage, when the list will be mailed to an organized body of citizens.

(f) The Department and a commission will supply, as provided in subsections (d) and (e), the street list in a paper copy or in an electronic format.

(g) The street list may not be published on the Internet.

§ 183.14. Public information lists.

(a) Subject to the exceptions in subsection (c), a commission or the Department will provide replies to inquiries concerning individual registrants that are submitted on a form prescribed by the Department. The list will reflect voter activity reported to the commission and the Department within 30 days preceding an election. The commission and the Department will prepare updates to the list on at least a biweekly basis. With respect to the inquiry, the commission or the Department will provide the following information:

- (1) The name of the registrant.
- (2) The address of the registrant.
- (3) The date of birth of the registrant.
- (4) The voting history of the registrant.

(b) A commission and the Department will make copies of the public information lists available for public inspection during business hours, subject to reasonable safeguards, including:

(1) A commission and the Department will maintain a form prescribed by the Department that includes the name, address and telephone number of an individual who inspects or obtains a copy of the public information list, as well as verification that a commission or Department official confirmed the identification of the individual requesting access to the street list or its duplication. This form will not be available for public inspection or copying.

(2) No individual inspecting the public information list may tamper with, alter, destroy or remove it from the premises of a commission or the Department.

(3) A commission and the Department will require that a commissioner or an authorized commission or Department employee is able to observe the record or document at all times while it is being inspected and safeguard it against alteration, destruction or removal.

(4) No individual who inspects the public information list, obtains a copy of the public information list or who acquires names of registrants from the list may use the information contained in the list for purposes unrelated to elections, political activities or law enforcement, as required by section 1404(b)(3) and (c)(2) of the act (relating to public information lists).

(5) Before inspecting the public information list or obtaining names of registered electors or other information from the list, the individual shall provide identification to the public official having custody of the public information list and shall state in writing on a form prescribed by the Department that any information obtained from the list will not be used for purposes unrelated to elections, political activities or law enforcement, as required by section 1404(b)(3) and (c)(2) of the act.

(c) The following items may not be made available for public inspection or photocopying:

(1) The signature of a registrant or applicant, as provided at section 1403(a) of the act.

(2) The identity of a voter registration agency through which a registrant is registered, as provided by 42 U.S.C.A. § 1983gg(8)(a)(6) and (i)(1), known as the National Voter Registration Act.

(3) The registrant's unique identifier, a registrant's or applicant's driver's license number and the last four digits of a registrant's or applicant's Social Security number.

(4) The home addresses of the following categories of applicants or registrants submitting proof of their employment, who may provide an alternate mailing address, such as an office address, under section 1327(a)(1)(iii) of the act (relating to preparation and distribution of applications), which the commission shall then make available to the public on public information lists. A commission shall adopt procedures designed to ensure that the confidentiality of these home addresses is maintained. A commission shall inform the Department of the home address designated as confidential under this section. A request may be submitted at any time and shall be subject to renewal in accordance with subsection (f).

(i) "Peace officers," as defined in 18 Pa.C.S. § 501 (relating to definitions), including "parole officers," as defined in the act of August 6, 1941 (P. L. 861, No. 323) (61 P. S. § 331.27) and "Federal law enforcement officers," as defined in 18 U.S.C.A. § 115(c)(1);

(ii) "Correctional employees," as defined in section 2 of the Police Officer, Firefighter, Correction Employee and National Guard Member Child Beneficiary Education Act (24 P. S. § 7202), and correction officers, as defined in 71 Pa.C.S. § 5102 (relating to definitions).

(iii) "Judicial officials," as defined in 18 Pa.C.S. § 4953.1(c) (relating to retaliation against prosecutor or judicial official) and United States judges, as defined in 18 U.S.C.A. § 115(c)(3).

(iv) All state prosecutors, as defined at 18 Pa.C.S. § 4953.1(c), and investigators employed by prosecutors, including prosecutors and investigators employed by the Attorney General.

(5) The home addresses of the following categories of applicants, qualified electors or registrants, who may apply in writing on a form approved by the Department to the commission to be permitted to provide an alternate mailing address, such as an office address, under section 1327(a)(1)(iii) of the act, which the commission shall then make available to the public on public information lists. The commission, in determining whether to grant the request for confidentiality of the home address, shall consider the explanation provided, review the documentation submitted and verify, to the extent possible, the veracity of the explanation and documentation. Once a commission decides to make the home address of a registrant confidential, the commission shall promptly inform the registrant and the Department of the home address designated as confidential under this section. A commission shall adopt procedures for ensuring that the confidentiality of the home addresses of these registrants is maintained. A request may be submitted at any time and shall be subject to renewal in accordance with subsection (f).

(i) Individuals who have received Protection from Abuse orders for their own personal safety, in accordance with 23 Pa.C.S. §§ 6102 and 6108 (relating to definitions; and relief).

(ii) Individuals who have been granted a protection order due to being stalked, or who have been a victim of the crime of stalking when the defendant has been convicted of stalking, as defined in 18 Pa.C.S. § 2709(b) (relating to harassment and stalking).

(iii) Other individuals who can demonstrate that their personal safety is endangered by revealing their home address.

(6) The Deceased Voters List, which is received by the commission from the Department of Health in accordance with section 1505 of the act (relating to death of registrant).

(d) For those registrants choosing to provide an alternate mailing address under subsection (c)(4) and (5) and for those registrants granted permission by the commission to provide an alternate mailing address, a commission shall inform the registrants that they shall notify the commission within 30 days of any change in their status and the consequences for their failure to do so. If a registrant does not inform the commission within 30 days of a change in the registrant's status, the commission may publish the registrant's home address on a public information list without following the requirements in subsection (f). The commission shall review at least biannually the home addresses designated as confidential under this section and report to the registrant and the Department any changes that it makes to these records. The commission and its employees shall be immune from prosecution if they negligently release the confidentiality of a home address for those registrants listed in subsection (c)(4) and (5).

(e) The commission shall grant access to a registrant's home address that is considered confidential under subsection (c)(4) or (5), if the information is requested by a law enforcement agency or Federal or State court.

(f) If a commission decides to rescind the confidentiality of a home address for a registrant based upon information received from the registrant provided under subsection (d), the commission shall notify the registrant and provide the registrant the opportunity to do one of the following:

- (1) Address the commission in writing or in person.
- (2) Rescind the registrant's voter registration.

(g) When a commission rejects an application under subsection (f), the registrant may appeal the decision to the court of common pleas in the county in which the registrant resides.

(h) During SURE system conversion periods or emergency conditions, access to the list may be postponed temporarily.

(i) Within 10 days of receiving a written request accompanied by the payment of the cost of reproduction and postage, the Department or a commission will distribute the public information list to any registrant in this Commonwealth for a reasonable fee, determined by the office providing the copies, as provided by section 1404(c)(1) of the act (relating to public information lists).

(j) The Department and a commission will supply the public information list in a paper copy or in an electronic format.

(k) The list may not be published on the Internet.

§ 183.15. Government agency voter registration procedures.

(a) Those agencies designated in section 1325(a) of the act (relating to government agencies) shall comply with the following requirements.

(1) A voter registration agency shall post in a conspicuous place in its offices a sign that indicates that an individual may register to vote in that office.

(2) An agency shall provide VRMA forms to individuals with an application, reapplication and application for recertification, renewal or change of address in the agency office or during home visits. The agency shall assist in completing the VRMA unless assistance is refused, and collect and forward the completed VRMAs to the appropriate commission. VRMAs need not be provided if the individual declines to apply to register to vote. The applicant may submit the VRMA to his commission of residence or request that the agency submit the voter registration application to the applicant's commission of residence.

(3) At an agency, a registrant may change the registrant's name, address or political party affiliation on the VRMA.

(4) The information required by the VRMA to register to vote shall be printed legibly in ink.

(5) A voter registration agency may not accept a VRMA that includes any erasure of, or line drawn through, information provided by the applicant relating to the applicant's political party affiliation.

(6) A voter registration agency shall include with a VRMA or group of VRMAs that are transmitted to the county clerk or registrar of voters a transmittal form as prescribed and provided by the Department.

(7) Agency employees assisting with voter registration applications may not influence the applicant's political preference, display partisan allegiance, discourage registration, alter benefits or imply that benefits will be altered based on registration.

(8) The identity of the agency where an applicant applies for voter registration may not be disclosed to the public.

(9) The designated agency shall transmit a completed VRMA to the appropriate commission within 10 days after it is received unless it was received within 5 days before the registration deadline, in which case it shall be transmitted not later than 5 days of its receipt.

(10) Any individual may obtain and complete a VRMA at a public assistance agency but the agency shall only include in specific totals reported to the Department those individuals who are making application, reapplication and application for recertification, renewal or change of address in the agency office or during home visits.

(b) Those agencies designated in section 1325(a) of the act shall assist interested individuals in making application to register to vote by complying with the following requirements.

(1) When an individual does any of the following—make an application, reapplication, application for recertification, renewal or change of address—the agency representative shall ask the individual: “If you are not registered to vote where you live now, would you like to apply to register to vote here today?”

(2) The agency representative shall inform the individual that applying to register or declining to register to vote will not affect the availability or degree of assistance that will be provided by the agency.

(3) The agency representative shall give the individual a Declination Form, ask the individual to read it carefully, and assist the individual in completing the Declination Form if requested (the Declination Form contains important information for the individual and records the individual's decision about whether the individual wants to apply to register to vote at that time).

(i) If the individual does not want to register to vote, the agency representative shall ask the individual to mark the “No” box and have the individual sign and date the Declination Form. If the individual is already registered to vote, the agency representative shall have the individual also mark the box “No, I am already registered to vote where I live now.” If the individual refuses to mark any boxes or otherwise complete the form, the agency may consider the refusal to be a decision not to apply to register to vote at this time and shall note this on the Declination Form, along with the individual's name and address.

(ii) If the individual wants to register to vote, the agency representative shall ask the individual to mark the “Yes” box and to sign and date the Declination Form. The agency representative shall then give the individual a VRMA.

(4) The agency representative shall assist the individual in completing the VRMA, unless the individual refuses the assistance. The agency representative shall offer the individual the same degree of assistance in completing the VRMA and Declination Form as is provided by the agency with regard to the completion of its own forms, unless the individual refuses assistance. The agency representative shall inform the individual that he may complete the VRMA in the agency's office or take it home to complete. The applicant may submit the VRMA to the applicant's commission of residence or request that the agency submit the VRMA to the applicant's commission of residence. If the applicant decides to complete the VRMA at the applicant's home, the applicant may mail the VRMA directly to the appropriate commission office at the applicant's own expense or return it to the agency at a later date.

(5) The agency shall mark the VRMA forms with the code assigned to its agency. The agency site coordinator will instruct agency representatives what the agency's code is. The various codes are preprinted in the top left-hand corner of the return address portion of the VRMA form. The agency representative shall circle or place a mark on the agency's code before giving the form to the individual, regardless of whether the individual completes it in the agency office or takes it home to complete.

(6) If the agency representative determines that an application the representative receives from an applicant is illegible, the representative shall cause a computer-generated copy of the information contained in the records to be attached to the application.

(7) The agency shall send the completed application form to the appropriate commission office according to where the applicant resides.

(8) Declination forms shall be destroyed after 22 months from the date of their creation.

(9) A voter registration agency shall, in cooperation with the county clerk or registrar of voters, conduct training programs once every 6 months to familiarize the employees of the agency with the required procedures for registering applicants through the agency.

(10) A voter registration agency shall maintain a record of the transmittal of an application to the county clerk or registrar of voters in accordance with the agency's schedule for the retention and disposal of records.

(c) In accordance with section 1323 of the act (relating to application with driver's license application), applications for a motor vehicle driver's license or renewal will, if the applicant so desires, serve as an application for voter registration or an update to a previous application. The application used includes the information contained on an official voter registration application including the voter eligibility requirements, an attestation by the applicant with a signature under penalty of perjury that the applicant meets the eligibility requirements, and the penalty for submitting a false voter registration application.

(d) A State agency shall comply with the standards for confidentiality of voter registration records as set forth in the act and in this chapter.

§ 183.16. Commission and government agency voter registration requirements.

(a) A commission and a government agency office, including those offices in section 1325(a) of the act (relating to government agencies), shall comply with the following requirements regarding the VRMA forms:

(1) Have Statewide VRMAs available during normal office hours.

(2) Mail a Statewide VRMA promptly in response to an applicant's request.

(3) Have these forms available at the locations where commission personnel are conducting in-person registration.

(4) Maintain on hand an adequate number of current Statewide VRMAs.

(5) After new Statewide VRMAs are printed and the previous forms are depleted, replace the previous forms with the new forms.

(b) A commission and a government agency office shall notify the Department of any change of address of the county voter registration commission or agency office.

§ 183.17. Reports to the Department.

(a) A commission shall provide information required under this section by March 1 of each year to the Department on a form prescribed by the Department.

(b) The report shall consist of the following:

(1) The total number of registrants.

(2) The total number of voter registration applications submitted to the commission from the following categories: in person, PENNDOT, mail, agencies and other means.

(3) The total number of duplicate voter registration applications submitted to the commission from the following categories: in person, PENNDOT, mail, agencies and other means.

(4) The total number of valid voter registration applications submitted to the commission from the following

categories: in person, PENNDOT, mail, agencies and other means.

(5) The number of PENNDOT changes of address to an address within the county, to an address outside the county and the total number of both.

(6) The total number of registrants who were marked inactive during the reporting period.

(7) The total number of registrants whose registration records are marked inactive.

(8) The total number of notices sent by the commission in accordance with section 1901(d)(2) of the act (relating to removal of electors) and the number of responses from registrants.

(9) The total number of registrants whose registration records were cancelled under Chapter 19 of the act (relating to provisions contingent on federal law) excluding those marked inactive.

(10) The total number of registrants whose registration records were cancelled in accordance with the May 1998 Settlement of Statutory Claims.

(11) The total number of notices sent by the commission in accordance with section 1901 of the act.

(12) The total number of voter registration records transferred to other commissions.

(13) Additional information, as determined by the Secretary, that would assist the Department in assessing the administration of voter registration and elections in the Commonwealth.

§ 183.18. Enforcement authority of the Department.

(a) The Department will review the compliance of the 67 commissions and those responsible for providing voter registration opportunities under the act. If an audit is conducted during a calendar year, the Department will make a public report on the audit which will be included in the annual report to the General Assembly on compliance with the act. The Department will require responses and clarification from a commission, or any entity required to provide voter registration under the act, for the Secretary to determine if the commission or any entity is in compliance with any part of the act. The Department will have complete access to the registration records for monitoring and enforcing compliance with the act or this chapter. A commission shall supply the Department with the relevant documents concerning an inquiry within 10 days of receipt of the Department's inquiry. If a commission fails to respond or provides an incomplete response, the Secretary may take the actions specified in Chapter 18 of the act (relating to enforcement). If the Secretary determines that a commission is not in compliance, the Secretary may take the actions specified in Chapter 18 of the act. The investigations and materials provided, except those required to remain confidential according to the act and this chapter, shall be available during and after the inquiry, for public inspection and shall be maintained for 2 years. The Department will require the commission to be in full compliance no later than 30 days preceding an election.

(b) The Department will investigate the complaints filed with the Department regarding a commission's compliance with the act or this chapter, and the Secretary may take the actions specified in Chapter 18 of the act.

(c) If a commission does not comply with the act or this chapter, the Secretary may take the actions specified in Chapter 18 of the act.

[Pa.B. Doc. No. 02-2309. Filed for public inspection December 27, 2002, 9:00 a.m.]

Title 22—EDUCATION

DEPARTMENT OF EDUCATION

[22 PA. CODE CH. 403]

Compliance with the No Child Left Behind Act of 2001

The Department of Education (Department) amends Chapter 403 (relating to compliance with the No Child Left Behind Act of 2001) to add the definitions and sections to read as set forth in Annex A.

Contact Person

Questions regarding these standards should be directed to Dr. Frances Warkowski, Director of the Bureau of Special Education, Department of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 783-2311.

Effective Date

The standards will be effective upon publication in the *Pennsylvania Bulletin*.

Statutory Authority

The Department acts under the authority of section 2603-B(d)(10)(i) of the Public School Code of 1949 (24 P. S. § 26-2603-B(d)(10)(i)) (code), which was added by section 31 of the act of June 29, 2002 (P. L. 524, No. 88) (Act 88). Section 2603-B(d)(10)(i) of the code empowers the Department, with the approval of the State Board of Education (State Board), to adopt standards to comply with the No Child Left Behind Act of 2001 (NCLB) (Pub. L. No. 107-110, 115 Stat. 1425) to maintain the eligibility of the Commonwealth to receive Federal funding for education programs. Under section 2603-B(d)(10)(i) of the code, the State Board must approve or disapprove the standards within 30 days of submission to its office or at its next scheduled meeting, whichever is sooner. Failure of the State Board to approve or disapprove the standards within the time prescribed results in the standards proposed by the Department being deemed approved.

Standards promulgated by the Department under section 2603-B(d)(10)(i) of the code shall be deposited with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, see section 2603-B(d)(10)(ii) of the code, but are exempt from the following laws:

(a) Sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1205), known as the Commonwealth Documents Law.

(b) Section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732-204(b)).

(c) The Regulatory Review Act (71 P. S. §§ 745.1—745.14).

In light of these exemptions and the express approval of the State Board, the Department is depositing these standards for publication as final-form.

Description of Process

On November 13, 2002, the Department presented to the State Board two sets of proposed standards necessary to comply with NCLB. On November 13, 2002, a special committee of the State Board established to work with the Department in the development and review of standards necessary to comply with the NCLB conducted a public meeting to review and discuss the standards proposed by the Department and to receive public comment on the proposal.

At the regular business meeting of the State Board held November 14, 2002, the Secretary of Education made a detailed presentation explaining the Department's proposed standards. At its November 14, 2002, meeting, the State Board publicly voted to approve the proposed standards presented by the Department. On November 14, 2002, the Chairperson of the State Board signed two resolutions delineating the standards. Those resolutions were published at 32 Pa.B. 6030 (December 7, 2002).

Background and Need for Standards

On January 8, 2002, President George W. Bush signed NCLB into law. The NCLB, *inter alia*, amends Titles I and III of the Elementary and Secondary Education Act of 1965 (ESEA) (Pub. L. No. 89-10, 79 Stat. 27) (Improving the Academic Achievement of the Disadvantaged) (20 U.S.C.A. §§ 6301—6578 and 6801—7014). The purpose of Title I is to ensure that all children have the opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State achievement standards and academic assessments. In furtherance of this purpose, Title I provides grants to State education agencies and subgrants to local education agencies. To remain eligible for funding under Title I, State and local education agencies shall comply with the NCLB.

Section 1119(a) of Title I, as added by the NCLB (20 U.S.C.A. § 6319(a)), requires that, beginning with the 2002-2003 school year, all newly hired teachers supported with Title I funds are highly qualified. Section 1119(a) of Title I further provides that by the end of the 2005-2006 school year each state shall ensure that all teachers teaching in core academic subjects are highly qualified.

Section 1119(f) of Title I requires that all Title I funded instructional paraprofessionals hired by a local educational agency (LEA) must hold a high school diploma or GED. Section 1119(c) of Title I requires that all Title I funded instructional paraprofessionals hired by an LEA after January 8, 2002, hold an associate's degree or have completed at least 2 years of study at an institution of higher education or meet a rigorous standard of quality demonstrated by means of a state or local assessment. Section 1119(d) of Title I requires that all Title I funded instructional paraprofessionals hired by an LEA prior to January 8, 2002, hold an associate's degree, have completed at least 2 years of study at an institution of higher education or meet a rigorous standard of quality demonstrated by means of a state or local assessment requirements by January 8, 2006.

Description of Standards

The standards proposed by the Department and approved by the State Board affirm the use of flexibility in the current certification system and approve additional certification avenues designed to provide new routes for becoming certified to teach in this Commonwealth. More specifically, the standards support the continued use of the intern certificate to provide flexible and accelerated pedagogical training and the structuring of the student

teaching semester to include assessments of pedagogical skills in lieu of a written test. In regard to additional certification avenues, the standards provide that: 1) individuals holding Pennsylvania instructional certificates are eligible to add additional subject areas to existing certificates by means of satisfactory performance on an appropriate subject-matter test or tests; 2) individuals certified in other states who have 3 years of teaching experience in another state during the 7 years immediately prior to application are eligible to obtain Pennsylvania certification without meeting further academic and testing requirements; and 3) those individuals completing a Board approved National teacher-training program are eligible to obtain Pennsylvania certification without meeting further academic and testing requirements.

The standards also establish that the Department will develop a process for reviewing local assessments designed to determine whether Title I funded instructional paraprofessionals demonstrate the rigorous standard of quality required by NCLB.

Fiscal Impact

These standards are necessary to ensure that the State and its local educational agencies remain eligible to receive Federal funding under Titles I and III of ESEA. The standards will not result in new costs to the State, as the Department will continue to access State Title I funds. In addition, Title II of the Higher Education Act of the ESEA (Flexibility and Accountability), as amended by the NCLB, provides grants for professional development activities needed to implement certification programs designed to assure that educators are highly qualified. The standards may result in costs to some teachers, particularly those in middle school, who may be required to obtain an additional area of certification. However, the standards provide a method for obtaining additional areas of certification by means of subject testing instead of the traditionally required teacher preparation program, which may be more costly.

School districts may incur some cost to administer and score assessments used to determine whether Title I funded instructional paraprofessionals demonstrate the rigorous standards of quality required by the NCLB. Costs associated with these local assessments will be funded through the Federal funds as required by the NCLB.

Paperwork Requirements

The additional paperwork requirements resulting from these standards are minimal and mandated by the NCLB.

Regulatory Review

Under section 2603-B(d)(10)(iii) of the Public School Code of 1949, these standards are exempt from the Regulatory Review Act.

Findings

The Department finds that:

- (1) Proposed rulemaking in advance of the promulgation of standards is not required under section 2603-B(d)(10)(iii)(A) of the code, added by section 31 of Act 88, which expressly provides that the standards are exempt from the requirements of sections 201–205 of the Commonwealth Documents Law.
- (2) The State Board approved the proposed standards by public vote at its November 14, 2002, meeting.
- (3) The promulgation of these standards is necessary for compliance with the NCLB.

Order

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

(a) The standards of the Department, 22 Pa. Code Chapter 403, are amended by amending § 403.2; and by adding §§ 403.4 and 403.5 to read as set forth in Annex A.

(b) The Secretary of Education will certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) The order shall take effect upon publication in the *Pennsylvania Bulletin*.

CHARLES B. ZOGBY,
Secretary

Fiscal Note: 6-285. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 22. EDUCATION

PART XVI. STANDARDS

CHAPTER 403. COMPLIANCE WITH THE NO CHILD LEFT BEHIND ACT OF 2001

§ 403.2. Definitions:

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

AYP—Adequate yearly progress as defined by section 1111(b)(2)(C) of Title I (20 U.S.C.A. § 6311(b)(2)(C)), added by NCLB.

Associate's degree—Associate's degree as described in § 31.21(b)(1) (relating to curricula).

Core academic subjects—Core academic subjects as defined by section 9101(11) of the ESEA (20 U.S.C.A. § 7801(11) (relating to definitions)), as amended by the NCLB.

Department—The Department of Education of the Commonwealth.

ESEA—The Elementary and Secondary Education Act of 1965 (20 U.S.C.A. §§ 6301–7941), as amended by the NCLB.

Highly qualified elementary teacher—Highly qualified elementary teacher as defined by section 9101(23) of the ESEA (20 U.S.C.A. § 7801(23)), as amended by the NCLB.

Highly qualified middle or secondary teacher—Highly qualified middle or secondary teacher as defined by section 9101(23) of the ESEA (20 U.S.C.A. § 7801(23)), as amended by the NCLB.

Institution of higher education—Institution of higher education as defined by section 9101(24) of the ESEA (20 U.S.C.A. § 7801(24)).

LEA—A local educational agency.

NCLB—The No Child Left Behind Act of 2001 (Pub. L. No. 107–110, 115 Stat. 1425) (20 U.S.C.A. §§ 6053e, 6054b, 6055h, 6056a, 1041–1044, 3427 and 6052).

PSSA—The Pennsylvania System of State Assessment.

Public School Code—The Public School Code of 1949 (24 P. S. §§ 1-101–27-2702).

State Board—The State Board of Education of the Commonwealth.

Title I—Title I of the ESEA (20 U.S.C.A. §§ 6301—6578), as amended by the NCLB.

Two years of study at an institution of higher education—Completion of 48 credits at an institution of higher education.

§ 403.4. Highly qualified teachers.

(a) *Requirements of NCLB.* With the exception of teachers teaching in a public charter school who are exempt from certification under section 1724-A of the Public School Code of 1949 (Public School Code) (24 P. S. § 17-1724-A):

(1) Section 1119(a) of Title I (20 U.S.C.A. § 6319(a) (relating to teacher qualifications and measurable objectives)), added by the NCLB, requires LEAs receiving assistance under the NCLB to ensure that, beginning with the 2002-2003 school year, all newly hired teachers supported with Title I funds are highly qualified.

(2) Section 1119(a) of Title I, added by NCLB, requires each state to ensure that all teachers teaching in core academic subjects within the state are highly qualified by the end of the 2005-2006 school year.

(b) *Current certification system.*

(1) The Department may continue to utilize the intern certification program described in Chapters 49 and 354 (relating to certification of professional personnel; and preparation of professional educators), which culminates in the issuance of an Instructional I Certificate (see §§ 49.91, 49.92 and 354.24(5) and (6) (relating to criteria for eligibility; term of validity; and academic performance)) to provide flexible and accelerated pedagogical training to teachers who have demonstrated competency in a subject area, provided that the first year of teaching includes intensive supervision by an approved institution.

(2) In accordance with Chapter 49, the student teaching semester may be structured to include assessment of the pedagogical skills of teacher candidates in lieu of the Principles of Learning assessment currently used to assess professional knowledge and practice.

(c) *Additional certification avenues.* Provided that at the time of application for Pennsylvania instructional certification, the applicant satisfies the basic certification requirements of the Public School Code (see 24 P. S. §§ 11-1109, 12-1202 and 12-1209 (relating to qualifications; State certificates; and disqualifications)), and all other requirements in Chapters 49 and 354 which are not contrary to paragraphs (1)—(3):

(1) Teachers holding an Instructional I certificate issued under the Public School Code (24 P. S. §§ 1-101—14-1411) may add an instructional area to the certificate by passing an appropriate content area test in the area to be certified without meeting further academic and testing requirements.

(2) Teachers certified to teach in other states who have completed 3 years of teaching experience during the 7 years immediately prior to application, all of which has been satisfactory, may be certified to teach in this Commonwealth without meeting further academic and testing requirements.

(3) Teachers successfully completing a National teacher-training program approved by the State Board that requires a candidate to demonstrate mastery of the subject area to be taught and professional knowledge needed for classroom effectiveness may be certified to

teach in this Commonwealth without meeting further academic and testing requirements.

(i) To the extent that the approved National teacher-training program involves a classroom teaching component requiring certification, the Department may issue an intern certificate to the teacher for use during the program.

(ii) The American Board for Certification for Teacher Excellence and Teach for America were approved by the State Board by means of resolution on November 14, 2002. See 32 Pa.B. 6030 (December 7, 2002).

(iii) National teacher-training programs identified for State Board consideration after December 28, 2002, may be approved by State Board resolution without the need to amend this chapter.

§ 403.5. Paraprofessionals.

(a) *Requirements of NCLB.*

(1) Section 1119(f) of Title I (20 U.S.C.A. § 6319(f)) added by NCLB, requires that all Title I funded instructional paraprofessionals hired by an LEA to hold a high school diploma or GED.

(2) Section 1119(c) of Title I (20 U.S.C.A. § 6319(c)), added by NCLB, requires that all Title I funded instructional paraprofessionals hired by an LEA after January 8, 2002, to have one of the following:

(i) An associate's degree.

(ii) Completed at least 2 years of study at an institution of higher education.

(iii) Met a rigorous standard of quality demonstrated through a state or local assessment.

(3) Section 1119(d) of Title I (20 U.S.C.A. § 6319(d)) requires that all Title I funded instructional paraprofessionals hired by an LEA prior to January 8, 2002, meet the requirements of paragraph (2) by January 8, 2006.

(b) *Local assessments.*

(1) To accomplish the mandates described in subsection (a)(2)(iii), LEAs may utilize a local assessment.

(2) The Department will develop a process for reviewing local assessments to determine that they satisfy the requirements of the NCLB.

[Pa.B. Doc. No. 02-2310. Filed for public inspection December 27, 2002, 9:00 a.m.]

Title 25—ENVIRONMENTAL PROTECTION

DEPARTMENT OF ENVIRONMENTAL PROTECTION
[25 PA. CODE CH. 93]

Corrective Amendment to 25 Pa. Code §§ 93.9l, 93.9n, 93.9q, 93.9v and 93.9z

The Department of Environmental Protection has discovered a discrepancy between the agency text of 25 Pa. Code §§ 93.9l, 93.9n, 93.9q, 93.9v and 93.9z (relating to Drainage Lists L, N, Q, V and Z) as deposited with the Legislative Reference Bureau and as published at 32 Pa.B. 4695—4707 (September 28, 2002) and the official

text published in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 337), and as currently appearing in the *Pennsylvania Code*. The amendments made by the Department at 32 Pa.B. 4695—4707 were codified incorrectly.

Therefore, under 45 Pa.C.S. § 901: The Department of Environmental Protection has deposited with the Legislative Reference Bureau a corrective amendment to 25

Pa. Code §§ 93.9l, 93.9n, 93.9q, 93.9v and 93.9z. The corrective amendment to 25 Pa. Code §§ 93.9l, 93.9n, 93.9q, 93.9v and 93.9z is effective as of December 7, 2002, the date the defective official text was announced in the *Pennsylvania Bulletin*.

The correct version of 25 Pa. Code §§ 93.9l, 93.9n, 93.9q, 93.9v and 93.9z appears in Annex A, with ellipses referring to the existing text of the regulations.

Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION
Subpart C. PROTECTION OF NATURAL RESOURCES
ARTICLE II. WATER RESOURCES
CHAPTER 93. WATER QUALITY STANDARDS
ANTIDegradation REQUIREMENTS**

§ 93.9l. Drainage List L.

**Susquehanna River Basin in Pennsylvania
West Branch Susquehanna River**

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		* * * * *		
4—Spring Creek	Main Stem, PA 550 Bridge to Mouth	Centre	HQ-CWF	None
		* * * * *		

§ 93.9n. Drainage List N.

**Susquehanna River Basin in Pennsylvania
Juniata River**

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		* * * * *		
3—Kishacoquillas Creek	Basin, Source to Frog Hollow	Mifflin	CWF	None
4—Frog Hollow	Basin	Mifflin	HQ-CWF	None
3—Kishacoquillas Creek	Basin, Frog Hollow to Tea Creek	Mifflin	CWF	None
4—Tea Creek	Basin	Mifflin	HQ-CWF	None
3—Kishacoquillas Creek	Main Stem, Tea Creek to Railroad Bridge between Yeagertown and Burnham	Mifflin	TSF	None
4—Unnamed Tributaries to Kishacoquillas Creek	Basins, Tea Creek to Yeagertown/Burnham Railroad Bridge	Mifflin	TSF	None
4—Honey Creek	Basin	Mifflin	HQ-CWF, MF	None
3—Kishacoquillas Creek	Main Stem, Yeagertown/Burnham Railroad Bridge to SR 2005 (Mill Road) Bridge at Mount Rock	Mifflin	HQ-CWF	None
4—Unnamed Tributaries to Kishacoquillas Creek	Basins, Yeagertown/Burnham Railroad Bridge to Mill Road Bridge	Mifflin	TSF	None
4—Hungry Run	Basin	Mifflin	TSF	None

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
4—Buck Run	Basin	Mifflin	TSF	None
3—Kishacoquillas Creek	Main Stem, Mill Road Bridge to Mouth	Mifflin	TSF	None
4—Unnamed Tributaries to Kishacoquillas Creek	Basins, Mill Road Bridge to Mouth	Mifflin	TSF	None
		* * * * *		

§ 93.9q. Drainage List Q.

Ohio River Basin in Pennsylvania

Allegheny River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		* * * * *		
3—French Creek	Main Stem, PA-NY State Border to Mouth	Venango	WWF	None
		* * * * *		
4—Le Boeuf Creek	Basin, Source to Trout Run	Erie	TSF	None
5—Trout Run	Basin	Erie	HQ-CWF	None
		* * * * *		

§ 93.9v. Drainage List V.

Ohio River Basin in Pennsylvania

Monongahela River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		* * * * *		
5—Rasler Run	Basin	Fayette	HQ-CWF	None
		* * * * *		

§ 93.9z. Drainage List Z.

Potomac River Basin in Pennsylvania

Potomac River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		* * * * *		
3—West Branch Antietam Creek	Basin, Source to SR 997 Bridge	Franklin	HQ-CWF	None
3—West Branch Antietam Creek	Basin, SR 997 Bridge to Confluence with East Branch	Franklin	CWF	None
		* * * * *		

[Pa.B. Doc. No. 02-2311. Filed for public inspection December 27, 2002, 9:00 a.m.]

Title 55—PUBLIC WELFARE

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 1101]

Invoicing for Services

The Department of Public Welfare (Department) adopts amendments to § 1101.68 (relating to invoicing for services) to read as set forth in Annex A, under the authority of section 201(2) of the Public Welfare Code (code) (62 P. S. § 201(2)).

Notice of proposed rulemaking is omitted in accordance with section 204(1)(iv) and (3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(1)(iv) and (3)), known as the Commonwealth Documents Law (CDL), and 1 Pa. Code § 7.4(1)(iv) and (3) (relating to omission of notice of proposed rulemaking) because:

- The amendment relates to Commonwealth grants and benefits. The amendment deals with the requirements for claim submissions under the Medical Assistance (MA) Program.
- The Department finds that publication of this amendment as proposed is unnecessary and contrary to the public interest. The purpose of this amendment is to make the time limits for claim submissions uniform for all MA providers by extending the time period for MA nursing facility providers and intermediate care facility for the mentally retarded (ICF/MR) providers (referred to collectively as long-term care providers) to submit claim adjustments and to resubmit rejected claims. By allowing long-term care providers additional time to adjust and correct their claim submissions, the amendment will enable long-term care providers to receive payment for claims that would have otherwise been denied solely because the providers were unable to submit "clean claims" within the requisite time frames. The Department anticipates that the amendment will also reduce paperwork and administrative expense for both long-term care providers and the Department by decreasing the number of appeals related to rejected claims, as well as requests for regulatory exceptions.

Purpose of the Final-Omitted Rulemaking

The final-omitted rulemaking gives long-term care providers the same time limit for submitting claim adjustments and resubmissions of rejected claims as is currently permitted other MA provider types. The final-omitted rulemaking also clarifies when a long-term care provider's billing period begins and ends.

Need for the Final-Omitted Rulemaking

The Department is the Commonwealth agency responsible for the administration of the Commonwealth's MA Program, which provides coverage of basic health care services to medically and financially needy Commonwealth residents. To ensure timely and efficient processing of MA provider payment claims,¹ the Department has

¹ The Commonwealth's MA Program is one of the largest Medicaid Programs in the Nation. During Federal Fiscal Year (FFY) 1998, for example, only three states (New York, California and Texas) had total Medicaid spending that exceeded the Commonwealth. See Kaiser Family Foundation, State Health Facts Online, Total (Federal and State) Medicaid Spending, FFY 1998; www.statehealthfacts.kff.org. On average, more than 1.4 million individuals were eligible to receive services each month through the MA Program from 58,801 fee-for-service (FFS) providers from July 1, 1999, to June 30, 2000 (FY 99-00). MA providers submitted more than 60 million FFS claims for payment to the Department in FY 99-00. The Department approved 83% of the submitted claims, and, on average, paid the providers' claims for payment within 30 days of submission. See Office of Medical Assistance Statistical Report Fiscal Year 1999-2000, www.dpw.state.pa.us/omap/geninf/statreport/omap9900FFSsrv.asp (last modified August 23, 2002).

established, through the promulgation of regulations, time limits and other requirements for claim submissions, commonly known as the "180-day rule." See § 1101.68.

Under the 180-day rule, an MA provider must submit a correct original invoice to be received by the Department within 180 days of the date the provider renders service to an eligible MA recipient. If a provider other than a long-term care provider submits an invoice within the 180-day time frame, but the invoice is amended or is rejected by the Department as incorrectly completed, the provider may resubmit the claim or submit a corrected claim so long as the resubmission is received by the Department within 365 days of the date of service. See § 1101.68(b)(3). The current regulation gives long-term care providers less time than other providers to submit a "clean claim." Section 1101.68 specifies that a long-term care provider must submit its original invoice and any resubmissions to be received by the Department within 180 days of the last day of the month in which service was provided. *Id.*²

At the time the 180-day rule was first adopted, the Department decided that a shorter time frame for claim submissions for long-term care providers was necessary to have timely information on MA paid days available for auditing and cost settlement purposes. In 1996, the Department adopted the case-mix prospective payment system for nursing facility services. Under this prospective payment system, the Department no longer retrospectively cost-settles payments to nursing facilities. Although the Department does audit nursing facility cost reports under the case-mix payment system, the audits are used solely to set per diem rates and peer group prices for future rate-setting periods and the Department does not need MA paid days information to conduct these audits. While the Department continues to reimburse ICF/MR providers using a retrospective cost-based payment system, the Department has concluded that extending the claim adjustment and resubmission time limits for ICF/MR providers will not impede the audits or cost settlements for these providers. Consequently, the Department has determined that, under current circumstances, the shorter time frame is no longer necessary and that long-term care providers should be afforded the same time limits for claim adjustments and resubmissions as other MA providers.

When the Department promulgated § 1101.68 in 1990, the Department stated that the regulation was intended "to reduce the number of unnecessary exception requests by providers, which cause delays in the reimbursement system . . . to [require providers to] submit claims to the Department as soon as possible to ensure timely reimbursement . . . [and to] increase invoicing efficiency among the provider community." 20 Pa.B. 6165 and 6166 (December 15, 1990). The Department finds that this amendment is fully consistent with the regulation's intended goal.

Requirements

The final-omitted rulemaking will make the time limits for claim adjustments and resubmissions uniform for all

² If a provider submits a claim for payment beyond the 180-day time period, the Department will reject it unless the provider meets the requirements for an exception to the 180-day rule under § 1101.68(c) and (d). The exceptions to the 180-day rule are limited, and must involve either: (1) a delay in the determination of a patient's MA eligibility (§ 1101.68(c)(1)); or (2) a delay in the response to a request for payment from a third party (§ 1101.68(c)(2)). In addition, a provider must comply with certain other requirements to qualify for an exception to the 180-day rule. These amendments make no changes to the existing 180-day exception provisions contained in § 1101.68(c) and (d).

MA providers by extending the time period for long-term care providers to submit claim adjustments and resubmit rejected claims. By allowing long-term care providers additional time to adjust and correct their claim submissions, the final-omitted rulemaking will enable long-term care providers to receive payment for claims that would have otherwise been denied solely because the providers were unable to submit "clean claims" within the requisite time frames.

The Department anticipates that the final-omitted rulemaking will reduce paperwork and administrative expense for both long-term care providers and the Department by decreasing the number of requests for regulatory exceptions, and by reducing the number of appeals related to rejected claims. While exception requests should only be submitted when one of the regulatory exception criteria is met, requests are sometimes made simply because a claim has been rejected. Since the final-omitted rulemaking should decrease the number of rejected claims, it should also decrease the number of exception requests.

Section 1101.68 is being amended to clarify and revise the claim submission requirements for long-term care providers. The final-omitted rulemaking amends subsection (b)(1) to clarify that long-term care providers have 180 days from the end date of a billing period to submit an original or initial invoice and clarify when a billing period begins and ends. The final-omitted rulemaking does not alter existing Departmental policy, but simply changes the language of the section to better reflect that policy. In addition, the final-omitted rulemaking revises subsection (b)(3) by extending the time limit within which long-term care providers must submit claim adjustments and resubmit rejected claims to the Department from 180 days of the monthly service end date to 365 days of the end date of a billing period.

Affected Organizations

The Department and long-term care providers are affected by the final-omitted rulemaking. As a result of the final-omitted rulemaking, the Department will extend the time frame for long-term care providers to submit claim adjustments and resubmit rejected claims.

Fiscal Impact

Commonwealth—The Department will experience increased costs because additional claims will be paid as a result of the extended time frames. However, the Department will also realize savings from claim adjustments returning overpayments. In addition, because the extended time frames should reduce the number of 180-day exception requests and denied claims, the Department's administrative costs related to the processing of 180-day exception requests and the litigation of rejected claims might also be reduced.

Political Subdivisions—County nursing homes may receive additional payments as a result of the extension of the time frames for the submission of claim adjustments and resubmissions. In addition, because the extended time frames should reduce the number of 180-day exception requests and denied claims, county homes' administrative costs related to the submission of 180-day exception requests and the litigation of rejected claims may also be reduced.

Private Sector—Private nursing facilities and ICFs/MR may receive additional payments as a result of the

extension of the time frames for the submission of claim adjustments and resubmissions. In addition, because the extended time frames should reduce the number of 180-day exception requests and denied claims, the facilities' administrative costs related to the submission of 180-day exception requests and the litigation of rejected claims may also be reduced.

General Public—No impact is anticipated.

Paperwork Requirements

This final-omitted rulemaking will decrease the amount of paperwork generated by the Commonwealth and by long-term care facilities. Extending the time frame for the submission of claim adjustments and the resubmission of rejected claims to 365 days will decrease the number of 180-day exception requests received by the Department which result from long-term care facilities' failure to meet the 180-day submission requirements.

Effective Date

This final-omitted rulemaking shall be effective January 1, 2003.

Sunset Date

A sunset date is not anticipated. Regulations will continue to be reviewed on an ongoing basis by the Department and the Medical Assistance Advisory Committee (Committee).

Public Comments

The final-omitted rulemaking was discussed and comments were solicited at the Long-Term Care Subcommittee of the Committee on February 9, 2000, and at the meeting of the Committee on February 24, 2000. These meetings were open to the public. Comments received on the draft regulation were unanimously favorable.

Although this final-omitted rulemaking is being adopted without prior notice, interested persons are invited to submit their written comments within 30 days from the date of this publication for consideration by the Department as to whether the regulation should be revised in the future. Comments should be sent to the Department of Public Welfare, Office of Medical Assistance Programs, Attention: Regulations Coordinator, Room 515 Health and Welfare Building, Harrisburg, PA 17105. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on November 4, 2002, the Department submitted copies of this final-omitted rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. On the same date, the final-omitted rulemaking was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(d) of the Regulatory Review Act, on November 25, 2002, this final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, on December 12, 2002, IRRC met and approved this final-omitted rulemaking.

Findings

The Department finds that:

(1) Public notice of intention to adopt the amendment in this order is not required since the rulemaking relates to Commonwealth grants and benefits. Publication of proposed rulemaking is unnecessary and contrary to the public interest under section 204(1)(iv) and (3) of the CDL and the regulation thereunder, 1 Pa. Code § 7.4(1)(iv) and (3).

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

Order

The Department, acting under the authority of the code, orders that:

(a) The regulations of the Department, 55 Pa. Code Chapter 1101, are amended by amending § 1101.68 to read as set forth in Annex A.

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

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

(d) This order shall be effective January 1, 2003.

FEATHER O. HOUSTOUN,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 6428 (December 28, 2002).)

Fiscal Note: 14-480. (1) General Fund; (2) Implementing Year 2002-03 is \$944,000; (3) 1st Succeeding Year 2003-04 is \$2,275,000; 2nd Succeeding Year 2004-05 is \$2,275,000; 3rd Succeeding Year 2005-06 is \$2,275,000; 4th Succeeding Year 2006-07 is \$2,275,000; 5th Succeeding Year 2007-08 is \$2,275,000; (4) 2001-02 Program—\$761,877,000; 2000-01 Program—\$722,565,000; 1999-00—\$693,625,000; (7) Medical Assistance—Long Term Care; (8) recommends adoption. Funding for these changes is included in the 2002-03 budget.

Annex A**TITLE 55. PUBLIC WELFARE****PART III. MEDICAL ASSISTANCE MANUAL****CHAPTER 1101. GENERAL PROVISIONS****FEES AND PAYMENTS****§ 1101.68. Invoicing for services.**

(a) *Invoices.* When billing for MA services or items, a provider shall use the invoices specified by the Department or its agents, according to billing and other instructions contained in the provider handbooks.

(b) *Time frame.* MA providers shall submit invoices correctly and in accordance with established time frames. For purposes of this section, time frames referred to are indicated in calendar days.

(1) A provider shall submit original or initial invoices to be received by the Department within a maximum of 180 days after the date the services were rendered or

compensable items provided. Nursing facility providers and ICF/MR providers shall submit original or initial claims to be received by the Department within 180 days of the last day of a billing period. A billing period for nursing facility providers and ICF/MR providers covers the services provided to an eligible recipient during a calendar month and starts on the first day service is provided in that calendar month and ends on the last day service is provided in that calendar month.

(2) Departmental receipt of a claim is evidenced by appearance of the claim on a remittance advice (RA). The claim reference number (CRN) identifies when the claim was received by the Department. The first digit of the CRN indicates the year. The next three digits refer to the Julian Calendar date.

(3) Resubmission of a rejected original claim or a claim adjustment shall be received by the Department within 365 days of the date of service, except for nursing facility providers and ICF/MR providers. Resubmission of a rejected original claim or claim adjustment by a nursing facility provider or an ICF/MR provider shall be received by the Department within 365 days of the last day of each billing period.

(4) A claim which has been submitted to the Department not appearing within 45 days following that submission, should be resubmitted by the provider. Similarly, a claim which appears as a pend on a remittance advice and does not subsequently appear as an approved or rejected claim before the expiration of an additional 45 days should be resubmitted immediately by the provider.

(c) *Invoice exception criteria.* Invoices submitted after the 180-day period will be rejected unless they meet the criteria established in paragraph (1) or (2).

(1) Eligibility determination was requested within 60 days of the date of service and the Department has received an invoice exception request from the provider within 60 days of receipt of the eligibility determination.

(2) Payment from a third party was requested within 60 days of the date of service and the Department has received an invoice exception request from the provider within 60 days of receipt of the statement from the third party.

(d) *Other invoice exception requirements.* In addition to the requirements in subsection (c), the following requirements apply:

(1) A provider shall submit invoice exception requests in writing to the Office of Medical Assistance Programs.

(2) A request for an invoice exception shall include supporting documentation, including documentation to and from the CAO or third party. A correctly completed invoice shall accompany the request.

(3) The Department may request additional documentation to justify approval of an exception. If the requested documentation is not received within 30 days from the date of the Department's request, a decision will be made based on available information.

(4) Invoice exceptions will be granted on a one time basis. Exception claims rejected through the claims processing system due to provider error will not be granted additional exceptions. Claims may be resubmitted directly to the claims processing system in accordance with

subsection (b). The claim shall indicate the CRN of the exception claim on the invoice.

(5) No exceptions to the normal invoice processing deadlines will be granted other than under this section. In addition, if a provider's claim to the Department incurs a delay due to a third party or an eligibility determination, and the 180-day time frame has not elapsed, the provider shall still submit the claim through the normal claims processing system. A request for an exception to

the 180-day time frame is not required whenever the provider can submit the claim within that 180-day period.

(6) No exceptions will be granted for claims which were submitted for normal processing within normal deadlines and rejected by the Department due to provider error.

[Pa.B. Doc. No. 02-2312. Filed for public inspection December 27, 2002, 9:00 a.m.]

PROPOSED RULEMAKING

GAME COMMISSION

[58 PA. CODE CH. 137]
Importation of Wildlife

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 8, 2002, meeting, proposed the following change:

Amend § 137.1 (relating to importation, sale and release of certain wildlife) to allow cervids to be imported under certain circumstances and conditions.

This proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed amendments is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposed rulemaking was made public at the October 8, 2002, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until January 7, 2003.

1. Introduction

The Commission is proposing to amend § 137.1 to allow the importation of wildlife under very limited circumstances.

2. Purpose and Authority

Section 2163 of the code (relating to unlawful importation of game or wildlife) makes it unlawful to bring into this Commonwealth any living game or wildlife the importation of which is prohibited by the Commission. Section 137.1(a) essentially prohibits the importation of all game and wildlife. The proposed changes to that regulation will allow the importation of game and wildlife in very limited situations.

Section 2102(c) of the code (relating to regulations) directs that: "The Commission shall promulgate regulations concerning the transportation, introduction into the wild, importation, exportation, sale, offering for sale or purchase of game or wildlife or the disturbing of game or wildlife in their natural habitat." This section provides the authority for this proposed rulemaking.

3. Regulatory Requirements

This proposed rulemaking will relax current restrictions and allow cervids to be imported under certain circumstances and conditions.

4. Persons Affected

Persons importing cervids will be affected by this proposed rulemaking.

5. Cost and Paperwork Requirements

This proposed rulemaking should not result in any additional cost or paperwork.

6. Effective Date

This proposed rulemaking will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. Contact Person

For further information regarding this proposed rulemaking, contact David E. Overcash, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-151. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 137. WILDLIFE

§ 137.1. Importation, sale and release of certain wildlife.

(a) Unless otherwise provided in this section or the act, it is unlawful for a person to import, possess, sell, offer for sale or release within this Commonwealth the following animals or birds or the eggs of the birds or a crossbreed or hybrid of the animals or birds which are similar in appearance:

(1) *In the family Felidae.* Species and subspecies, except species which are commonly called house cats which may be possessed but not released into the wild. Lawfully acquired bobcats—*Lynx rufus*—may be imported by licensed propagators specifically for propagation **[or]** for fur farming purposes. Importation permits and transfer permits as mentioned in subsections (d) and (e) are not required for bobcats imported for propagation **[and]** for fur farming purposes. Bobcats imported under this exception and their progeny may not be sold or transferred for wildlife pet purposes or released into the wild.

(2) *In the family Canidae.* Species and subspecies of the coyote, the red and gray fox and a full-blooded wolf or crossbreed thereof not licensed by the Department of Agriculture. Lawfully acquired **coyotes and red or gray foxes** may be imported by licensed propagators **[for the enhancement of their stock]** specifically for propagation for fur farming purposes. **Coyotes and red and gray foxes imported under this exception and their progeny may not be sold or transferred for wildlife pet purposes or released into the wild.** This subsection does not permit the sale for release or the release of the mammals into the wild.

* * * * *

(c) Nothing in this section prevents zoological gardens, **exotic wildlife dealers or exotic wildlife possession permit holders** from importing wildlife.

* * * * *

(e) Transfer of **[lawfully imported]** wildlife **imported under subsection (d)**, or its progeny, or parts thereof, to a second party by sale, trade, barter or gift may only be done subject to the following:

* * * * *

(f) Live wildlife imported for any reason shall be accompanied by a **[health]** certificate of **veterinary**

inspection signed by [a licensed] an accredited veterinarian [stating that the wildlife is in good health].

(g) [A person violating this section is subject to the penalties provided in the act.] Except as provided in subsection (h), a person wishing to import any members of the family cervidae shall first obtain an importation permit from the Commission subject to the following:

(1) An application for an importation permit shall state the name and address of the applicant, the name and address of the person supplying the cervid, the common and scientific name and the number of cervids to be covered by the permit, the purpose for which the cervids are being imported, the qualifications of the applicant to use the cervids for the stated purpose and the location where the cervids will be housed or retained. The application must be received by the Commission at least 10 days prior to the proposed import date and be accompanied by an owner's statement that to his knowledge the cervids to be imported have never resided on a premise or come in contact with equipment used on a premise where Chronic Wasting Disease (CWD) was ever diagnosed. If the cervids are to be purchased at auction the name and address of the person supplying the cervids and number of cervids purchased shall be reported to the Commission by means of telephone or fax on the date of purchase. An applicant must receive a confirmation number before the animals are imported. A copy of the completed permit will be forwarded to the applicant.

(2) The shipment shall be accompanied at all times by a certificate of veterinary inspection completed by an accredited veterinarian in compliance with the Department of Agriculture health requirements. The certificate shall remain with the permittee's records for 5 years. The applicant shall identify the herd of origin and the herd of destination on both the permit application and the certificate of veterinary inspection. The cervids to be imported shall be identified to the herd they are being transferred or sold from by at least one permanent unique identifier to include, legible tattoo, United States Department of Agriculture (USDA) approved eartag, breed registration or other state approved permanent identification methods and one temporary identifier. If a microchip is used for identification, the owner shall provide the necessary reader.

(3) Herds of origin must be able to demonstrate a minimum of 5 years in a CWD monitoring program. CWD monitoring programs shall meet the following minimum standards or adopted National standards acceptable to the Commission:

(i) In states where CWD has been found in free-ranging wildlife, the state program shall have perimeter fencing requirements adequate to prevent ingress, egress or contact with cervids.

(ii) Surveillance based on testing of all cervid deaths over 16 months of age.

(iii) Physical herd inventory with annual verification reconciling animals with records by an accredited veterinarian or state or Federal personnel

is required. Inventory is to include a cross-check of all available animal identifications with the herd inventory and specific information on the disposition of all animals not present.

(iv) Herd additions are allowed from herds with equal or greater time in an approved state CWD monitoring program with no negative impact on the certification status of the receiving herd. If herd additions are acquired from a herd with a later date of enrollment, the receiving herd reverts to the enrollment date of the sending herd. If a herd participating in the monitoring program acquires animals from a nonparticipating herd, the receiving herd shall start over with a new enrollment date based upon the date of acquisition of the animals. If a new herd begins with animals of a given status, that status will be retained by the new herd, based upon the lowest status of animals received. Animals of different status which are commingled during marketing or transport will revert to the lowest status.

(v) The state or province of origin shall list CWD as a reportable disease and impose an immediate quarantine on a herd or premise, or both, when a CWD animal is found.

(vi) Animal health officials in the state or province of origin shall have access to herd records from the time the herd is enrolled in the CWD monitoring program or for 5 years, whichever is less, including records of deaths and causes of death.

(h) A person wishing to import any members of the family cervidae for slaughter within 72 hours at a USDA inspected facility and in accordance with the Department of Agriculture requirements shall first obtain an importation permit from the Commission subject to the following:

(1) An application for importation permit shall state the name and address of the applicant, the name and address of the person supplying the cervid, the common and scientific name and the number of cervids to be covered by the permit, that the cervids are being imported for immediate slaughter and the location where the cervids will be slaughtered. The application must be received by the Commission at least 10 days prior to the proposed import date and be accompanied by an owner's statement that to his knowledge the cervids to be imported have never resided on a premise or come in contact with equipment used on a premise where CWD was ever diagnosed.

(2) Cervids from herds that are known to have been infected with CWD within the last 5 years may not be imported.

(3) If cervids are from states or provinces where CWD has been detected, herds of origin shall be able to demonstrate a minimum of 5 years in a CWD monitoring program as described in subsection (g)(3).

(4) Cervids shall be individually identified as to the herd of origin by legible tattoo, ear tag or other method approved by the Commission.

(5) Cervids may not have contact with any other animals not for immediate slaughter.

(i) A person violating this section is subject to the penalties provided in the act.

[Pa.B. Doc. No. 02-2313. Filed for public inspection December 27, 2002, 9:00 a.m.]

**[58 PA. CODE CH. 143]
Antlerless Deer Licenses**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 8, 2002, meeting proposed the following changes:

Amend Chapter 143, Subchapter C (relating to antlerless deer licenses) to provide for the processing and issuance of antlerless deer licenses in new, noncounty based deer management units.

This proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for this proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposed rulemaking was made public at the October 8, 2002, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until January 7, 2003.

1. Introduction

The Commission is proposing to amend Chapter 143, Subchapter C to provide for issuance of antlerless deer licenses on the basis of new deer management units.

2. Purpose and Authority

Antlerless deer licenses are currently issued on a county basis. This system does not take into account variations in topography, habitat and other factors affecting deer. To improve deer management, the Commission is proposing to issue antlerless deer licenses on the basis of improved management units.

Section 2722(g) of the code (relating to regulations) provides that: "The Commission shall adopt regulations for: . . . (2) The administration, control and performance of activities conducted pursuant to the provisions of this chapter." The changes were proposed under this authority.

3. Regulatory Requirements

This proposed rulemaking will provide for the processing and issuance of antlerless deer licenses on a new, noncounty based deer management unit basis.

4. Persons Affected

Persons applying for antlerless deer licenses will be affected by this proposed rulemaking.

5. Cost and Paperwork Requirements

This proposed rulemaking will result in some additional cost to the Commission in the form of expenses to sort and forward antlerless deer license applications to county treasurers.

6. Effective Date

This proposed rulemaking will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. Contact Person

For further information regarding this proposed rulemaking, contact David E. Overcash, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-150. (1) Game Fund; (2) Implementing Year 2003-04 is \$30,000; (3) 1st Succeeding Year 2004-05 is \$30,000; 2nd Succeeding Year 2005-06 is \$30,000; 3rd Succeeding Year 2006-07 is \$30,000; 4th Succeeding Year 2007-08 is \$30,000; 5th Succeeding Year 2008-09 is \$30,000; (4) 2002-03 Program—\$N/A; 2001-02 Program—\$N/A; 2000-01 Program—\$N/A; (7) General Government Operations; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

**CHAPTER 143. HUNTING AND FURTKER
LICENSES**

Subchapter C. ANTLERLESS DEER LICENSES

§ 143.41. Purpose and scope.

* * * * *

(b) The Commission, after reviewing reproductive data, will establish the number of antlerless deer licenses allocated to each [county] deer management unit. Licenses will be distributed among county treasurers for issuance on the basis of percentage of land each county represents in the unit.

(c) An application shall be accepted without restriction or regard to the [Commonwealth] applicant's county of residence. The [county treasurer may choose one of the following methods of selecting] following procedure shall be adhered to when determining successful applicants for licenses:

(1) [Conduct an impartial, random public drawing.] Accept applications on a first-come-first-served basis.

(2) [Accept applications on a first-come-first-served basis.] The Commission in Harrisburg will serve as the central receiver for all mail-in applications in all deer management units.

(3) Envelopes received by first class mail delivered through and by the United States Postal Service will be examined as soon as practicable, unopened, to determine the number of applications received as well as to verify delivery to the intended deer management unit.

(4) This process of application distribution will continue until the available supply of licenses for that deer management unit is exhausted.

(d) The Commission may act in the capacity of [agent] a county treasurer for issuing antlerless licenses in a [county] deer management unit if authority to issue licenses has been removed from [the] any or all county [treasurer] treasurers in the deer management unit.

(e) Notwithstanding the provisions of this chapter limiting the number of licenses available, the Commission

will [issue] authorize antlerless deer licenses to be issued regardless of an established quota to:

(1) A resident of this Commonwealth within 60 days of discharge from active duty under honorable conditions from the United States Armed Forces or United States Coast Guard. **The issuing county treasurer will designate the license for a specific deer management unit by writing the unit's alphanumeric designation on the face of the license.**

(2) A disabled veteran as defined in 34 Pa.C.S. § 2706 (b)(1) (relating to resident license and fee exemptions). **The issuing county treasurer will designate the license for a specific deer management unit by writing the unit's alphanumeric designation on the face of the license.**

(3) **An applicant whom the Executive Director has determined to have been erroneously denied a license.**

§ 143.42. Definitions.

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

[County] **Deer management unit allocation**—The number of licenses allocated by the Commission to an individual [county] **deer management unit.**

* * * * *

Date issued—The date placed on the license by a county treasurer or the Commission indicating when the license was mailed or given to the person named on the license.

Deer management unit—A Commission wildlife management unit or any other geographic area so designated by the Commission.

* * * * *

Envelope—The official envelope issued with a regular hunting license which shall be used by the applicant to mail completed applications to the [county treasurer] Commission.

* * * * *

License—The numbered back tag which is issued by the county treasurer or the Commission authorizing the holder thereof to hunt antlerless deer in a specific [county] deer management unit. [Each license has its own antlerless deer ear tag and antlerless deer harvest report card attached to be used only for tagging and reporting an antlerless deer harvested.]

[**Public drawing**—An impartial, random drawing, open to public view to select successful applicants for licenses.]

Unsold tag—An antlerless deer license permitting properly licensed persons to take an antlerless deer during any firearms antlerless deer season, archery or flintlock muzzleloader and muzzleloader deer seasons in the [county] deer management unit of issue.

* * * * *

§ 143.43. Preamble.

(a) An application shall be submitted to [a county treasurer] the Commission deer management unit

address in Harrisburg and a license shall be issued [by him] only in accordance with the act and this subchapter.

* * * * *

§ 143.45. Completing and submitting applications.

(a) Except as otherwise provided in § 143.52 (relating to procedure for unlimited antlerless licenses) and for those applications submitted by qualified landowners, it is unlawful for a county treasurer to accept an application [in a manner other than by standard mail delivery through and by the United States Postal Service] other than from the Commission. County treasurers with unsold antlerless deer licenses shall accept applications over the counter and may immediately issue licenses beginning on the first Monday in November.

(b) [Except for qualified landowners, an application may not be accepted by a county treasurer prior to the start of the normal business day on the first Monday in August.] The Commission will not accept antlerless deer license applications other than by first class mail delivered through and by the United States Postal Service.

(c) [The application shall be legibly completed, in its entirety, in accordance with instructions on the application.] Applications may not be accepted by the Commission prior to the start of the normal business day on the first Monday in August.

(d) [The application shall be mailed only in the envelope provided.] The application shall be legibly completed, in its entirety, in accordance with instructions on the application.

(e) [Applications are limited to not more than three per envelope.] The application shall be mailed only in the envelope provided.

(f) [The appropriate preprinted number on the outside of the envelope shall be circled indicating the number of applications enclosed.] Applications are limited to not more than three per envelope.

(g) [The envelope shall contain return first class postage and be self-addressed. If requirements of this subsection are not met, applications shall be placed in a dead letter file and may be reclaimed by the applicant upon contacting the county treasurer. Postage, both forward and return, is the responsibility of the applicant.] The appropriate preprinted number on the outside of the envelope shall be circled indicating the number of applications enclosed.

(h) [Unless otherwise ordered by the Director, remittance shall be in the form of a negotiable check or money order payable to "County Treasurer" for applications enclosed, and in the total amount specified in the act for each license. Cash may be accepted by county treasurers for over the counter sales.] The envelope shall contain return first class postage and be self-addressed. If requirements of this subsection are not met, applications shall be placed in a dead letter file and may be reclaimed by the applicant upon contacting the Commission's Hunting License Division in Harrisburg. Postage, both forward and return, is the responsibility of the applicant.

(i) Unless otherwise ordered by the Director, remittance shall be in the form of a negotiable check or money order payable to "County Treasurer" for applications enclosed, and in the total amount specified in the act for each license. Cash may be accepted by county treasurers for over the counter sales.

§ 143.46. [Public drawing] (Reserved).

[(a) A county treasurer electing to conduct a public drawing shall do so on the first Wednesday after the first Monday in August. It is the responsibility of a county treasurer who elects to conduct a public drawing to contact the news media in the respective county and the Commission, no later than the second Friday in July, informing them of the time and place where the drawing will be held.

(b) An application received immediately preceding the drawing shall be included in the drawing.

(c) Envelopes containing applications shall be drawn and inspected, unopened, to determine if they comply with § 143.45 (relating to completing and submitting applications).

(d) If the conditions listed in § 143.45 are met, it constitutes initial acceptance, and the appropriate number of licenses shall be assigned. If these conditions are not met, the enclosed applications shall be rejected and returned to the sender as soon as possible, and no license will be assigned. The public drawing shall proceed in like manner until the county allocation is exhausted or applications are depleted.

(e) Applications received over and above the county allocation which are not drawn, shall be returned to the applicants in the appropriate envelope as soon as possible. The applications shall be mailed from the nearest United States Post Office no later than the close of the normal business day the first Wednesday following the drawing, and before issuance of a license.

(f) At the conclusion of the public drawing, the county treasurer shall, at his earliest convenience, open and inspect accepted applications. If an application in an accepted envelope fails to meet the applicable requirements in § 143.45, the applications in the envelope shall be rejected. The back tags initially assigned to that envelope shall be marked VOID across the face in ink. The rejected applications shall be returned by the county treasurer to the sender as soon as practicable, prior to issuance of a license.]

§ 143.47. [Procedure when public drawing does not exhaust county allocation of licenses] (Reserved).

[(a) Applications shall continue to be received by mail, and licenses shall be assigned to applicants meeting the requirements in § 143.45 (relating to completing and submitting applications) on a first-come-first-served basis until the county allocation is exhausted. An application which does not meet § 143.45 requirements will be returned to the sender as soon as practicable.

(b) A license shall be issued in accordance with § 143.49 (relating to issuing licenses).]

§ 143.48. First-come-first-served license issuance.

(a) [Except when conducting a public drawing as set forth in § 143.46 (relating to public drawing), a county treasurer shall accept envelopes] Envelopes containing applications **will be accepted** on a first-come-first-served basis. Envelopes shall be inspected **by the Commission in Harrisburg**, unopened, to determine if they comply with § 143.45 [(a),] (b), [(d)] (c), (e) and [(f)] (g) (relating to completing and submitting applications).

(b) If the conditions in § 143.45 [(a),] (b), [(d)], (c), (e) and [(f)] (g) are met, it constitutes initial acceptance, and the [**appropriate number of licenses shall be assigned**] applications will be forwarded to a county treasurer within the deer management unit for issuance of the appropriate number of licenses. If the conditions are not met, the enclosed applications shall be rejected and returned to the sender as soon as possible [, and no license will be assigned] .

(c) The first-come-first-served procedure shall continue until the [county's] deer management unit's allocation is exhausted [or applications are depleted] .

(d) Applications received over the [county] deer management unit's allocation shall be returned to the applicants as soon as [possible] practicable. [They shall be mailed from the nearest United States Post Office no later than the close of the normal business day on the first Friday following the first Monday in August, and before issuance of a license.]

(e) Envelopes containing applications initially accepted for the issuance of a license shall be opened and inspected by the county treasurer at his earliest convenience. If an application in an accepted envelope fails to comply with § 143.45 (relating to completing and submitting applications), applications enclosed in the accepted envelope shall be rejected and returned by the county treasurer to the sender as soon as practicable. The back tags initially assigned to the envelope shall be marked VOID across the face in ink. [Rejected applications shall be returned by the county treasurer to the sender as soon as practicable.]

§ 143.49. Issuing licenses.

(a) Licenses may [not] be issued by county treasurers [prior to the start of the normal business day on the first Thursday following the first Monday in August, or until excessive or rejected applications have been returned, whichever occurs first.] immediately following receipt of applications from the Commission.

(b) Licenses shall be validated by the addition of the county treasurer's or the Director's signature or signature stamp, date of issue and the applicant's regular hunting license back tag number. The county treasurer shall write in ink the applicant's regular hunting license back tag number on the antlerless deer ear tag. **The county treasurer shall write in ink the assigned antlerless license number on the face of the check or money order.**

(c) Except as otherwise provided in § 143.52 (relating to procedure for unlimited antlerless licenses) and for qualified landowners, licenses issued shall be delivered to

successful applicants in the envelope by **[standard]** first class mail through and by the United States Postal Service. Licenses shall be placed with the United States Postal Service no later than the third Monday in September, except for licenses issued under § 143.51(f) (relating to application and issuance of unsold tags) which shall be placed with the United States Postal Service no later than **[the fourth Monday in September]** **October 1**. If more than one application is mailed to the county treasurer in the same envelope, the licenses shall be mailed to the person whose name appears on the return section of the envelope. The person receiving the additional licenses is responsible for delivering them to the appropriate people.

§ 143.50. Procedure for nonresidents of this Commonwealth.

[County treasurers] The Commission having unsold licenses on the third Monday in August and thereafter shall accept applications **for those units** in compliance with § 143.45 (relating to completing and submitting applications) from nonresidents of this Commonwealth.

§ 143.51. Application and issuance of unsold tags.

* * * * *

(d) **[Remittance]** Unless otherwise ordered by the Director, remittance in the form of a negotiable check or money order for the total amount due as specified in the act, payable to "County Treasurer," shall accompany the application.

(e) Unsold tags shall be validated by the addition of the county treasurer's **or Director's** signature or signature stamp, date of issue and the applicant's regular hunting license back tag number. The county treasurer shall write in ink the applicant's regular hunting license back tag number on the antlerless deer ear tag.

(f) Beginning on the second Monday in September, residents and nonresidents of this Commonwealth are eligible to apply for one additional unsold tag by **[mail]** mailing to the appropriate Commission deer management unit address in Harrisburg.

§ 143.52. Procedure for unlimited antlerless licenses.

(a) **[Beginning on the fourth Monday in August, residents and nonresidents of this Commonwealth shall be eligible to apply to any county within the special regulations areas defined in § 141.1 (relating to special regulations areas) for an unlimited number of antlerless deer licenses by mail. Applicants shall be limited to submitting not more than three applications per official envelope.]** The Executive Director must designate by April 30 of each year those deer management units where hunters will be allowed to apply for an unlimited number of antlerless deer licenses.

(b) **[Beginning on the date specified in subsection (a), county treasurers within the special regulations areas defined in § 141.1 (relating to special regulations areas) shall accept antlerless applications over the counter from residents and nonresidents of this Commonwealth and may immediately issue licenses to applicants.]** Beginning on the fourth Monday in August, residents and nonresidents of this Commonwealth shall be eligible to apply to designated deer management units for an unlimited number of antlerless deer licenses by mailing the application to the appropriate Commission deer management unit address in Harrisburg.

(c) Beginning on the date specified in subsection (b), county treasurers within the designated deer management units shall accept antlerless applications over the counter from residents and nonresidents of this Commonwealth and may immediately issue licenses to applicants.

§ 143.53. Reapplication.

(a) A person whose application has been rejected and returned may secure a new official envelope from a hunting license issuing **[agency]** agent and reapply for a license by:

(1) If applicable, correcting the errors which caused the original application to be rejected and **[forwarding]** returning it to the **[county treasurer]** Commission deer management unit address in Harrisburg.

(2) Changing on the application the designated **[county]** deer management unit in which the applicant desires to hunt and forwarding it to **[the county treasurer]** another Commission deer management unit address in Harrisburg.

(b) A person who was issued a license **[which]** that was subsequently lost in the United States mail and never received by the licensee may, upon submitting an affidavit stating this fact, receive a replacement license from **[the originating]** a county treasurer **[at no additional cost]** within the deer management unit for which the license was intended. There will be no additional cost for this license Prior to issuing a replacement license, county treasurers shall first verify through their records or through communication with another county treasurer that the applicant was issued the original license.

§ 143.54. Validity of license.

An antlerless deer license is valid for taking antlerless deer only in the **[county]** deer management unit designated on the antlerless deer license.

[Pa.B. Doc. No. 02-2314. Filed for public inspection December 27, 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 December 17, 2002.

BANKING INSTITUTIONS

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-9-02	S&T Bank Indiana Indiana County	111 Resort Plaza Dr. Blairsville Indiana County	Opened
12-9-02	Bank of Hanover and Trust Company Hanover York County	One W. Market St. York York County	Opened
12-12-02	Irwin Bank and Trust Company Irwin Westmoreland County	Lots 4 and 6 Triangle Drive Greensburg Westmoreland County	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-6-02	S&T Bank Indiana Indiana County	Route 119 Black Lick Burrell Township Indiana County	Effective
12-6-02	S&T Bank Indiana Indiana County	Chestnut Ridge Plaza, Route 22 East Blairsville Indiana County	Effective

Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Active</i>
12-13-02	Farmers First Bank Lititz Lancaster County	Amendment to Article Fifth of the Articles of Incorporation provides for an increase in authorized capital stock to 2 million shares with a par value of \$5 per share.	Approved and Effective
12-13-02	Fulton Bank Lancaster Lancaster County	Amendment to Article Fifth of the Articles of Incorporation provides authorization for the bank to issue preferred stock.	Approved Effective 12-15-02
12-16-02	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Amendment to Article Third of the Articles of Incorporation provides for the exercise of full trust powers.	Approved and Effective
12-16-02	Clearfield Bank & Trust Company Clearfield Clearfield County	Amendment to Article Fifth of the Articles of Incorporation provides for a decrease in the number of shares of common stock the bank is authorized to issue to 9,959,209 shares, par value \$1.5625.	Approved and Effective

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

PAUL H. WENTZEL, Jr.,
Acting Secretary

[Pa.B. Doc. No. 02-2315. Filed for public inspection December 27, 2002, 9:00 a.m.]

**DEPARTMENT OF
CONSERVATION AND
NATURAL RESOURCES****Snowmobile and ATV Advisory Committee Meeting**

The Snowmobile and ATV Advisory Committee of the Department of Conservation and Natural Resources (Department) will hold a meeting on Monday, January 6, 2003, at 9:30 a.m. in Room 105, First Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting or agenda items should be directed to GERALYN UMSTEAD at (717) 772-9087.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact GERALYN UMSTEAD at (717) 772-9087 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN C. OLIVER,
Secretary

[Pa.B. Doc. No. 02-2316. Filed for public inspection December 27, 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 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 and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0061301	Starlight Inn Corporation P. O. Box 27 Starlight, PA 18461-0027	Wayne County Buckingham Township	Unnamed tributary of Shehawken Creek 1C	Y

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

<i>NPDES No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0046094 (Sewerage)	United States Army Corps of Engineers Baltimore District Ives Run Recreation Area R. D. 1, Box 65 Tioga, PA 16946-9733	Tioga Township Tioga County	Hammond Reservoir 4A	Y
PA0114111 (Sewerage)	United States Army Corps of Engineers Baltimore District South Shore Recreation Area R. D. 1, Box 65 Tioga, PA 16946-9733	Lawrence Township Tioga County	Cowanisque Reservoir 4A	Y
PA0114880 (Sewerage Nonpublic)	Church of Jesus Christ Latter Day Saints c/o Altoona PA FM Group P. O. Box 483 Hollidaysburg, PA 18648	Columbia North Centre Township	Unnamed tributary of West Branch Brair Creek 5D	Y

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

PAS202206, Industrial, **Aurora Equipment Co.**, 225 Main Street, Tatamy, PA 18085. This proposed facility is located in Tatamy Borough, **Northampton County**.

Description of Proposed Activity: Renewal of NPDES industrial stormwater permit.

The receiving stream, Bushkill Creek, is in the State Water Plan watershed no. 1D and is classified for HQ, CWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for the Keystone Water Company is located on the Delaware River, approximately 40 miles below the point of discharge.

Two stormwater outfalls subject to stormwater Appendix J optional monitoring requirements.

PAS202205, Industrial, **Fabricated Components, Inc.**, P. O. Box 431, Stroudsburg, PA 18360. This proposed facility is located in Stroudsburg City, **Monroe County**.

Description of Proposed Activity: Renewal of NPDES stormwater permit.

The receiving stream, Little Pocono Creek, is in the State Water Plan watershed no. iE and is classified for HQ, CWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for the Keystone Water Company is located on the Delaware River, approximately 50 miles below the point of discharge.

Two stormwater outfalls subject to stormwater Appendix J optional monitoring requirements.

PA0064246, Sewage, **West Mahanoy Township Supervisors**, 190 Pennsylvania Ave., Shenandoah Heights, PA 17976. This proposed facility is located in West Mahanoy Township, **Schuylkill County**.

Description of Proposed Activity: issuance of a new NPDES permit to discharge treated sewage into Shenandoah Creek.

The receiving stream, Shenandoah Creek, is in the State Water Plan watershed no. 6B and is classified for CWF. The nearest downstream public water supply intake for Dauphin Consolidated Water Co. is located on the Susquehanna River, over 25 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0385.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>
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		
pH	6.0 to 9.0 standard units at all times		
Total Residual Chlorine	1.2		2.8

PA0046388, Sewage, **Butler Township Authority**, St. Johns, PA 18247. This proposed facility is located in Butler Township, **Luzerne County**.

Description of Proposed Activity: renewal of NPDES permit to discharge treated sewage.

The receiving stream, Nescopeck Creek, is in the State Water Plan watershed no. 5D and is classified for TSF and aquatic life. The nearest downstream public water supply intake for the Danville Water Supply is located on the Susquehanna River, approximately 40 miles below the point of discharge.

The proposed concentration (mg/l) effluent limits for Outfall 001 based on a design flow of .71 (dry weather flow). The mass (lbs/day) effluent limits were based on a flow of 1.2 MGD (wet weather flow).

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Instantaneous (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
Dissolved Oxygen	A minimum of 5 mg/l at all times		
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		
pH	6.0 to 9.0 standard units at all times		
Total Residual Chlorine	1		2

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

PA0228672, Sewage, SIC 4952, **Muddy Run Regional Authority**, P. O. Box 474, Madera, PA 16661-0474. This proposed facility is located in Glen Hope Borough, **Clearfield County**.

Description of Proposed Activity: Pending issuance of an NPDES permit for a proposed discharge of treated sewage wastewater.

The receiving stream, Clearfield Creek, is in the State Water Plan watershed 8-C and is classified for WWF. The nearest downstream public water supply intake for the Pennsylvania American Water Company is located in Milton, approximately 204.7 river miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.022 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40		50
TSS	30	45		60
Total Chlorine Residual	1.0			2.3
Fecal Coliforms (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		
pH	6.0 to 9.0 Std. Units at all times			

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; (412) 442-4000.

PA0097276, Industrial Waste, SIC 4941, **Fairchance Borough Council**, 125 West Church Street, Fairchance, PA 15436. This application is for renewal of an NPDES permit to discharge backwash water from the Fairchance Borough Water Treatment Plant in Georges Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, Cave Hollow Creek, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the Dunkard Valley Joint Municipal Authority, located at the Monongahela River, 12 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.006 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report				
Total Suspended Solids			30		60

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Total Iron			2.0		4.0
Aluminum (T)			0.7		1.4
Manganese (T)			1.0		2.0
Total Residual Chlorine (1st Month to 36th Month) (37th Month to Expiration)			0.5	Monitor and Report	1.0
pH	not less than 6.0 nor greater than 9.0				

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 an application 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).

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Application No. 5602407, Sewerage, **John Golden**, 581 Murray Road, Salisbury, PA 15558. Application for the construction and operation of a single residence sewage treatment plant to serve the Golden residence located in Greenville Township, **Somerset County**.

Application No. 5602408, Sewerage, **James and Phyllis Bandstra**, 1570 Causeway Drive, Friedens, PA 15541. Application for the construction and operation of a

single residence sewage treatment plant to serve the Bandstra residence located in Stonycreek Township, **Somerset County**.

NPDES Stormwater Individual Permit

The following parties have applied for an NPDES permit to discharge stormwater associated with a construction activity into waters of this Commonwealth. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit conditions. These proposed determinations are tentative. Limitations are provided as erosion and sediment control best management practices 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 who 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 PAS10G556, Stormwater, **Conrad Pyle**, 372 Rose Hill Road, West Grove, PA 19390 has applied to discharge stormwater associated with a construction activity located in Penn Township, **Chester County** to unnamed tributary to Big Elk Creek (HQ).

**PUBLIC WATER SUPPLY (PWS)
PERMIT**

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 who 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).

Southeast Region: Water Supply Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Permit No. 0902510, Public Water Supply.
 Applicant **Warminster Municipal Authority**
 Township **Warminster**
 Responsible Official **Geoffrey Smith**
 415 Gibson Avenue
 Warminster, PA 18974
 Type of Facility **PWS**
 Consulting Engineer **CKS Engineers, Inc.**
 88 S. Main Street
 Doylestown, PA 18901

Application Received **December 12, 2002**
 Date
 Description of Action **Construction of a booster station.**

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, 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: Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Jones Property (former Serafin's Service Station), City of Wilkes-Barre, **Luzerne County.** James V. Strickland, P. G., Geological and Environmental Associates, Inc., West Mountain Road, Plymouth, PA 18651 has resubmitted a Notice of Intent to Remediate (on behalf of Donald Jones, P. O. Box 197, Gunderland, NY 12084) concerning the identification of existing environmental conditions related to site soils and groundwater found or suspected to have been contaminated with gasoline constituents. The applicant proposes to meet the Special Industrial Area standard. A summary of the Notice of Intent to Remediate was published in *The Citizens' Voice* on October 7, 2002.

Northcentral Region: Environmental Cleanup Program, 208 West Third Street, Williamsport, PA 17701.

David Slonaker Property, Rockefeller Township, **Northumberland County.** Marshall Miller & Associates, on behalf of David Slonaker, R. R. 4, Box 201C, Sunbury, PA 17801, has submitted a Notice of Intent to Remediate soil contaminated with BTEX and PAHs. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *News Item*. See entry in the Actions section of this *Pennsylvania Bulletin*.

MUNICIPAL WASTE GENERAL PERMITS

Application 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 Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and the Beneficial Use of Municipal Waste.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Application No. WMGM021. Academy Recycling Inc., 8901 Torresdale Ave., Philadelphia, PA 19154. For the mechanical processing of uncontaminated rock, stone, gravel, brick, block and concrete from construction and demolition activities prior to beneficial use as roadway subbase and aggregate and for the mechanical processing of soil and yard waste prior to beneficial use as clean fill. The application was deemed administratively complete by the Division of Municipal and Residual Waste on October 17, 2002.

This is a correction of a notice published at 32 Pa.B. 5536 (November 9, 2002). That notice erroneously stated that this was an application for a Residual Waste General Permit.

Comments concerning the application should be directed to Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Rachel Carson State Office Bldg., P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. Persons

interested in obtaining more information about the general permit application may contact the Division of Municipal and Residual Waste at the previous phone number. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of November 9, 2002, the original date of publication of notice of receipt of the application. Comments may recommend revisions to and approval or denial of the application.

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. 101429. Richard S. Burns & Co. Inc., 4300 Rising Sun Ave., Philadelphia, PA 19140-2720, City of Philadelphia. This application requests an increase in the capacity of the transfer station and processing facility and also requests an increase in the permit area to include the area where permit-by-rule activities currently take place. Facility is located in the City of Philadelphia. The application was received by the Southeast Regional office on December 10, 2002.

AIR QUALITY

INTENT TO ISSUE PLAN APPROVALS AND OPERATING PERMITS

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 and intends to issue plan approvals and/or operating permits to the following facilities.

Copies of these applications, draft permits, review summaries and other support materials are available for review in the Regional Offices identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Interested persons may submit written comments, suggestions or objections concerning the proposed Title V permit to the regional office within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day public comment period shall include the name, address and telephone number of the persons submitting the comments, along with the reference number of the proposed permit. The comments should also include a concise statement of any objections to the permit issuance and the relevant facts upon which the objections are based.

The Department reserves the right to hold a public hearing on the proposed action based upon the informa-

tion received during the public comment period and will provide notice of any scheduled public hearing at least 30 days in advance of the hearing. If a hearing is scheduled, notice will be provided to each applicant, protestant or other participants in writing or by publication in a newspaper or the *Pennsylvania Bulletin*, except where the Department determines that notification by telephone will be sufficient. Notice will also be provided to anyone who requests in writing to be notified concerning the scheduling of a hearing.

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.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702

28-03043: CAM Superline, Inc. (5878 Bullitt Road, Greencastle, PA 17225) for construction of a spray paint booth at its new trailer manufacturing facility in Washington Township, **Franklin County**.

67-05046C: United Defense, LP (1100 Bairs Road, York, PA 17404) for the raising of emission limitations due to painting operations at its Ground Systems Division in West Manchester Township, **York County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

43-170E: Werner Co. (93 Werner Co., Greenville, PA 16125) for modification of the pultrusion process in **Mercer County**. The facility currently has Title V Operating Permit No. 43-00170. 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.

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.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Michael Saffo, Facilities Permitting Chief, (570) 826-2531.

40-302-147: Fairchild Semiconductor Corp. (125 Crestwood Road, Mountain Top, PA 18707) for installation of two Cleaver Brooks boilers in Wright Township, **Luzerne County**. Both boilers will be fired with natural gas the primary fuel and no. 2 fuel oil as a backup fuel. NOx emissions will be minimized by using low NOx burners for both boilers. Expected NOx emissions from each boiler will be less than 30 ppm from each boiler when firing with natural gas. The company will operate

the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system. 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.

35-303-011D: Dunmore Materials—Division of Haines and Kibblehouse, Inc. (P. O. Box 196, Skip-pack, PA 19474) for modification of an asphalt plant to allow for the combustion of alternate fuels, specifically to allow the use of waste derived liquid fuel (WDLF) and natural gas as fuel. WDLF will be heated in a preheater prior to being used. Particulate emissions from the plant will be controlled by a baghouse. Expected particulate emission rate will be less than 0.02 grain/dscf. This facility is a non-Title V facility. Modification will not increase the existing emission rates for the pollutants. The modification will provide the facility necessary flexibility with respect to the uncertainty of future fuel costs. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

44-05011: Overhead Door Corp. (23 Industrial Park Road, P. O. Box 110, Lewistown, PA 17044) for operation of a sectional and rolling steel door manufacturing facility in Granville Township, **Mifflin County**. Spray painting of the manufactured doors produces VOC emissions. Emissions from other activities are minimal. The Title V Operating Permit will contain appropriate monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of their Title V Operation Permit.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

15-00084: Latta Veterinary Clinic (725 East Washington Street, West Chester, PA 19380) for a non-Title V Facility, State-only, Natural Minor Operating Permit in West Goshen Township, **Chester County**. The Latta Veterinary Clinic operates and maintains an animal crematory, from which the main pollutants emitted are NOx and PM. NOx and PM emissions from this facility are less than 1 ton per year. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

01-05018: McClarin Plastics, Inc. (P. O. Box 486, Hanover, PA 17331-0486) for operation of a reinforced fiberglass plastic manufacturing facility in Conewago Township, **Adams County**. The facility VOC emissions will be limited to less than 50 tpy. Facility emissions of individual and aggregate HAPs will be limited to less than 10 tpy and 25 tpy, respectively. The State only operating permit will include testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

06-03079: Interstate Container, LLC (P. O. Box 317, Reading, PA 19603-0317) for operation of a corrugated and solid fiber box manufacturing facility controlled by a low NOx burner and flue gas recirculation in the City of Reading, **Berks County**. The facility is not subject to Title V (State only operating permit). The facility has the maximum potential to emit of 1.3 tons of particulate, 77.6 tons of SOx, 9.2 tons of CO, 27.3 tons of NOx and 0.7 ton of VOC. The permit will include monitoring, recordkeeping, work practices and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

36-05090: Hershey Foods Corp., Y and S Candies, Inc. (400 Running Pump Road, Lancaster, PA 17603) for operation of their candy manufacturing facility in East Hempfield Township, **Lancaster County**. The facility has the potential to emit 77.6 tons of particulate, 0.18 ton of SOx, 11 tons of CO, 44.2 tons of NOx and 48.6 tons of VOC. The permit will include monitoring, recordkeeping, work practices and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

38-03030: Washington Street Castings, Inc. (376 Mountville Drive, Lebanon, PA 17042) for operation of a gray iron foundry in Swatara Township, **Lebanon County**. The facility has the potential to emit 10 tons per year of SOx, 16 tons per year of PM, 40 tons per year of NOx, 10 tons per year of VOCs and less than 1 ton per year of carbon monoxide and lead. The State-only operating permit shall contain additional testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

38-05028: Curwood Specialty Films (5 Keystone Drive, Lebanon, PA 17042) for operation of a flexible packaging printing facility in South Lebanon Township, **Lebanon County**. The State-only operating permit will limit VOC emissions to 50 tons per year and total HAP emissions to 25 tons per year. The permit will also contain monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

67-03008: York Label (405 Willow Springs Lane, York, PA 17405) for operation of a label printing facility in East Manchester Township, **York County**. Emissions from the printing presses are estimated at 9 tpy of VOCs. The State-only operating permit shall contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

67-05057: Fypon, Ltd. (22 West Pennsylvania Avenue, Stewartstown, PA 17363) for operation of a molded millwork production facility in Stewartstown Borough, **York County**. The State-only operating permit will limit

VOC emissions to less than 50 tons annually and HAP emissions to less than 25 tons annually. The permit will include monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality requirements.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

20-00262: Generant Co., Inc. (18254 Technology Drive, Meadville, PA 16335) for a Natural Minor Permit to operate a valves and pipe fittings manufacturing facility in the City of Meadville, **Crawford County**.

61-00200: Webco Industries, Inc. (363 Seneca Street, Oil City, PA 16301) for a Natural Minor Permit for operation of two natural gas-fired annealing furnaces for a cold draw tube-manufacturing process in Oil City, **Venango County**.

25-00958: Ridg-U-Rak, Inc., Stateline Facility (12340 Gay Road, North East, PA 16428) for a Natural Minor Operating Permit for the facility in North East Township, **Erie County**. The facility's sources of emissions are natural gas fired space and process heaters.

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, 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 and 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.

E23-309. Exelon Generation Company, 200 Exelon Way DSA-I-E, Kennett Square, PA 19348, Eddystone Borough, **Delaware County**, ACOE Philadelphia District.

To perform the following activities in and along the bank of the Delaware River (WWF-MF) at the mouth of the Crum Creek extending downstream approximately 2,750 feet associated with the existing Eddystone generating station:

1. To remove approximately 40,500 cubic yards of accumulated sediment from the vicinity of the cooling water intake structure.
2. To deepen the existing mooring area and adjacent approach area in the navigation channel to 34 feet. The channel will be modified from the ship channel to the eddystone generating station. Dredging will remove approximately 4 feet and 13,500 cubic yards of bed material from the Delaware River.
3. To operate and maintain the aforementioned facility and mooring areas.

The site is located southwest of the confluence of Crum Creek and the Delaware River (Bridgeport, NJ-PA USGS Quadrangle N: 19.0 inches; W: 10.25 inches).

E23-433. SEPTA, 1234 Market Street, 12th Floor, Philadelphia, PA 19107, Darby Borough, **Delaware County**, ACOE Philadelphia District.

To perform the following activities associated with the Darby Transportation Center in and along the floodway of Darby Creek (TSF-MF), located between MacDade Boulevard, Main Street and Darby Creek (Lansdowne, PA Quadrangle N: 8.0 inches; W: 2.0 inches).

Work consists of:

1. Removal of an existing steel bridge over Darby Creek.
2. Removal of an existing bus shelter and bus parking/turnaround area within the floodway of Darby Creek.
3. To construct and maintain a new bus terminal platform consisting of:
 - A platform with four loading berths.
 - A new cartway that will connect Main Street to MacDade Boulevard.
 - A pedestrian walkway and linear park that will run parallel with the cartway along Darby Creek.
 - A 24-inch stormwater outfall and associated drainage system.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E39-417. City of Bethlehem, Department of Parks and Public Properties, 10 East Church Street, Bethlehem, PA 18018, in City of Bethlehem, **Lehigh**

County, U. S. Army Corps of Engineers, Philadelphia District.

To remove existing structures and to construct and maintain various improvements to West Sand Island Park in and along the Lehigh River (WWF) and the Lehigh Canal (CWF). Improvements include grading and landscaping and the construction of a picnic pavilion/storage building, restroom facilities, parking facilities, gravel pads, a boat launching ramp, several docks and various other site amenities. The project is located on West Sand Island (Allentown East, PA Quadrangle N: 7.0 inches; W: 1.5 inches).

E39-416. Red Maples, P. O. Box 246, Trexlertown, PA 18087-0226, in Upper Macungie Township, **Lehigh County**, U. S. Army Corps of Engineers, Philadelphia District.

To place fill in 0.11 acre of wetlands within the Spring Creek Watershed for the purpose of constructing the Red Maples Mobile Home Park. The project is located adjacent to Grange Road (T-540) approximately 0.4 mile northwest of its intersection with SR 0222 (Allentown West, PA Quadrangle N: 11.2 inches; W: 10.8 inches).

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E53-381. Thomas Leete, 502 Maple Street, Coudersport, PA 16915. Leete Minor Road Crossing East Branch Fishing Creek and Associated Wetlands, in Hebron Township, **Potter County**, ACOE Pittsburgh District (Coudersport, PA Quadrangle N: 14.3 inches; W: 12.1 inches).

To modify, operate and maintain an existing minor road crossing the East Branch-Fishing Creek (HQ-CWF) and its associated wetlands to provide access to private property. The minor road crossing East Branch-Fishing Creek shall be modified by excavating a flood relief channel at the eastern approach. Modification and maintenance work shall be completed at stream low flow. Since East Branch-Fishing Creek is a wild trout fishery, no modification or future repair work shall be completed between October 31 and December 31 without prior written approval from the Fish and Boat Commission. The project permanently impacts 25 feet and 3,600 square feet of wetland. The project is located along the western right-of-way of SR 4005 approximately 1,000 feet south of SR 4004 and SR 4005 intersection. The minor road crossing impacts 3,600-square feet of wetlands, for which the permittee shall construct 3,600 square feet of replacement wetlands on site to mitigate the impacts.

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).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

NPDES Permit No. PA0062821, Industrial Waste, **Schuylkill County Municipal Authority**, 221 South Centre Street, P. O. Box 960, Pottsville, PA 17901. This proposed facility is located in Branch Township, **Schuylkill County** and discharge to West Branch of the Schuylkill River.

Description of Proposed Action/Activity: Renewal of NPDES Permit.

NPDES Permit No. PA0036439, Sewage, **Department of Public Welfare—White Haven Center**, R. R. 2, Box 2195, White Haven, PA 18661. This proposed facility is located in Foster Township, **Luzerne County**.

Description of Proposed Action: Renewal of NPDES Permit.

NPDES Permit No. PA0061468, Sewage, **Ron Albert—Liberty Mobile Home Park**, R. R. 3, Box 205, Montrose, PA 18801-8809. This proposed facility is located in Liberty Township, **Susquehanna County** and discharge to unnamed tributary to Snake Creek.

Description of Proposed Action/Activity: Renewal of NPDES permit.

WQM Permit No. 5402403, Sewerage, **Heisler's Cloverleaf Dairy, Inc.**, 743 Catawissa Road, Tamaqua, PA 18252. This proposed facility is located in Walker Township, **Schuylkill County**.

Description of Proposed Action/Activity: Application for permit to construct sewage treatment facility.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

NPDES Permit No. PA0113107, Sewerage SIC 4952, **Columbia County**, Court House, Bloomsburg, PA 17815. This existing facility is located in Briar Creek Township, **Columbia County**.

Description of Proposed Action/Activity: Renewal of NPDES Permit for discharge of 0.02 MGD from the sewage plant serving Briar Creek Park. Discharge is to East Branch Briar Creek.

NPDES Permit No. PA0228613, Sewage 4952, **George Schenawolf**, R. R. 6, Box 260, Danville, PA 17821. This proposed facility is located in Union Township, **Union County**.

Description of Proposed Action/Activity: Applicant granted an NPDES permit to discharge treated sewage wastewater to the Susquehanna River from a small flow treatment facility serving four residences.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit No. PA0003000, Industrial Waste, **Centria**, 401 FSC Industrial Park, 14th Street, Ambridge, PA 15003 is authorized to discharge from a facility located at Ambridge Plant, Ambridge Borough, **Beaver County** to receiving waters named Ohio River.

NPDES Permit No. PA0093076, Sewage, **S-2 Properties**, P. O. Box 24509, Pittsburgh, PA 15234 is authorized to discharge from a facility located at Brookhaven Estates Mobile Home Park Sewage Treatment Plant, South Franklin Township, **Washington County** to receiving waters named unnamed tributary of Chartiers Creek.

Permit No. 1102401, Sewage, **Lilly Borough Sewer Authority**, 417 Cleveland Street, Lilly, PA 15938. Construction of sanitary sewers located in Lilly Borough, **Cambria County** to serve Lilly Borough.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. 3702408, Sewerage, **Linda Rough**, 3530 Ellwood Road, New Castle, PA 16101. This proposed facility is located in Shenango Township, **Lawrence County**.

Description of Proposed Action/Activity: This project is for a single residence.

WQM Permit No. 2502420, Sewerage, **Clark R. Troutman**, 12687 Route 98, Edinboro, PA 16412. This proposed facility is located in Elk Creek Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a single residence.

WQM Permit No. 2502423, Sewerage, **Pamela J. Rapoza**, 9363 Holden Road, Union City, PA 16438. This proposed facility is located in Union Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a single residence.

WQM Permit No. 2002425, Sewerage, **Scott E. and Theresa J. Anthony**, 22922 Hobbs Road, Meadville, PA 16335. This proposed facility is located in East Mead Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for a single residence.

WQM Permit No. 6202409, Sewerage, **Rickey E. Browning**, 836 East 33rd Street, Erie, PA 16504. This proposed facility is located in Pittsfield Township, **Warren County**.

Description of Proposed Action/Activity: This project is for a single residence.

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 the Commonwealth. The approval for coverage under these general NPDES permits is subject to applicable effluent limitations. Monitoring, reporting requirements and other conditions set forth in the general permit; (2) General Permits for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in 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 and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Westmoreland County Rostraver Township	PAR10X306	FC Robinson Partners Four Gateway Center, Suite 212 Pittsburgh, PA 15222	UNT to Pollock Run WWF	Westmoreland County Conservation District (724) 837-5271

General Permit Type—PAG-3

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Ellwood City Borough Lawrence County	PAR118332	L & N Metallurgical Products Company 3 Fountain Avenue Ellwood City, PA 16117	Connoquenessing Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
City of Erie Erie County	PAR208322	PSB Industries, Inc. 1202 West 12th Street Erie, PA 16501-1318	Cascade Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-4

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Shenango Township Lawrence County	PAG048854	Linda Rough 3530 Ellwood Road New Castle, PA 16101	Unnamed tributary to McKee Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Elk Creek Township Erie County	PAG048845	Clark R. Troutman 12687 Route 98 Edinboro, PA 16412	Unnamed tributary of Cussewago Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Union Township Erie County	PAG048857	Pamela J. Rapoza 9363 Holden Road Union City, PA 16438	Unnamed tributary to South Branch French Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Monroe Township Clarion County	PAG048498	Herbert Vance 834 Bodenhorn Road Sligo, PA 16255	Unnamed tributary to Piney Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Penn Township Butler County	PAG048495	Scott A. Kriley 4190 Woodland Road Butler, PA 16002	Unnamed tributary to Thorn Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
East Mead Township Crawford County	PAG048853	Scott E. and Theresa J. Anthony 22922 Hobbs Road Meadville, PA 16335	Unnamed tributary to Little Sugar Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Pittsfield Township Warren County	PAG048850	Rickey E. Browning 836 East 33rd Street Erie, PA 16504	Unnamed tributary to Gar Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Leroy Township Bradford County	PAG045031	Shirley and James Brenchley R. R. 1, Box 206A Canton, PA 17724	Towanda Creek TSF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Montour Township Columbia County	PAG044902	Melinda J. Leiby 275 Quarry Drive Bloomsburg, PA 17815	UNT to Montour Run CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666

General Permit Type—PAG-7

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
Bayville, NJ	PAG079913	Ocean County Utilities Authority 501 Hickory Lane Bayville, NJ 08721	Ocean County Utilities Authority 501 Hickory Lane Bayville, NJ 08721	BWSWM (717) 787-8184

General Permit Type—PAG-8

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
Danville Wastewater Treatment Plant	PAG084802	Borough of Danville 235 Mill Street Danville, PA 17821	Danville WWTP Route 11 Danville, PA 17821	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
South Kearny, NJ	PAG089901	Spectraserv, Inc. 75 Jacobus Avenue South Kearny, NJ 07032	Spectraserv, Inc. 75 Jacobus Avenue South Kearny, NJ 07032	BWSWM (717) 787-8184

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. 4697516, Public Water Supply.

Applicant	Audubon Water Company 2650 Eisenhower Drive Norristown, PA 19403
Township	Lower Providence
County	Montgomery
Type of Facility	PWS
Consulting Engineer	Evans Mill Environmental, Inc. P. O. Box 735 Uwchland, PA 19480
Permit to Construct Issued	December 11, 2002

Operations Permit issued to **Phoenixville Borough Water Department**, PWS ID 1150077, Phoenixville Borough, **Chester County** on December 11, 2002, for the operation of facilities approved under Construction Permit No. 1501507.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a).

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>
Ralpho Township	30 S. Market St. Elysburg, PA 17824	Northumberland

Plan Description: The approved plan provides for the construction of a new sewage collection system to serve the Sunnyside/Overlook area of Ralpho Township. The collection system will include new gravity sewers with pump stations and a force main. The sewage will be conveyed to the Ralpho Township Municipal Authority main sewage treatment plant. The project cost is estimated to be \$2,492,800. The new collection system will be owned and operated by the Municipal Authority of Sunnyside/Overlook. The Department's review of the sew-

age 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.

Jones Property (former Serafin's Service Station), City of Wilkes-Barre, Luzerne County. James V. Strickland, P. G., Geological and Environmental Associates, Inc., West Mountain Road, Plymouth, PA 18651 has resubmitted a Baseline Environmental Report (on behalf of Donald Jones, P. O. Box 197, Guilderland, NY 12084) concerning the identification of existing environmental conditions related to site soils and groundwater found or suspected to have been contaminated with gasoline constituents. The report was submitted in partial fulfillment of the Special Industrial Area Standard.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

David Slonaker Property, Rockefeller Township, Northumberland County. Marshall Miller & Associates, on behalf of David Slonaker, R. R. 4, Box 201C, Sunbury, PA 17801, has submitted a Final Report concerning soil contaminated with BTEX and PAHs. This Final Report is intended to demonstrate attainment of the Statewide Health Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, Administration of the Land Recycling and Environmental Remediation Standards Act (Act) requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the Act. 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. 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. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the Act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. 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 plans and reports:

Northeast Region: Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Sickler Residence, Choconut Township, **Susquehanna County**. Kevin Van Kuren, P. G., Hydrocon Services, Inc., 16 East Minor Street, Emmaus, PA 18049 submitted a Final Report (on behalf of Scott Sickler, R. R. 1, Friendsville, PA) concerning the remediation of soils found or suspected to have been contaminated with diesel fuel, hydraulic fluids, gear oil and antifreeze as the result of a vehicular accident that occurred on the subject property. The report documented attainment of the Statewide Health Standard and was approved on December 12, 2002.

Earlin Property Release (former Milford Chrysler), Milford Borough, **Pike County**. Salvatore Sciascia, President, S&M Management, Inc., P. O. Box 1429, 522 Routes 6 and 209, Milford, PA submitted a Final Report (on behalf of Bruce Earlin, Cummings Hill Road, Milford, PA 18337) concerning the remediation of site soils found or suspected to be contaminated with leaded gas petroleum products. The report documented attainment of the Statewide Health Standard and was approved on December 3, 2002.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southeast Region: Regional Solid Waste Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Permit No. 100549. Waste Management Disposal Services of PA Inc., 1121 Bordentown Rd., Morrisville, PA 19067, Douglass and West Pottsgrove Townships, **Berks and Montgomery Counties**. The amended waste management permit is for modifications to the gas management plan of the Eastern Expansion portion of the Pottstown Landfill. The permit was modified by the Southeast Regional Office on December 13, 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: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702

GP3-22-03015A: Haines and Kibblehouse, Inc. (P. O. Box 196, Skippack, PA 19474) on December 13, 2002, was authorized to operate a portable nonmetallic mineral processing plant under GP3 in Lower Swatara Township, **Dauphin County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

GP5-17-10B: Fairman Drilling Co. (R. R. 1, Helvetia Road, DuBois, PA 15801-0288) on November 7, 2002, for construction and operation of a 215 horsepower natural

gas-fired reciprocating internal combustion compressor engine equipped with an air/fuel ratio controller and a three-way catalytic converter under the General Plan Approval and General Operating Permit for Natural Gas Production Facilities (BAQ-GPA/GP-5) in Greenwood Township, **Clearfield 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.

46-0037L: Cabot Performance Materials (County Line Road, Boyertown, PA 19512) on December 12, 2002, for operation of a tantalum flake powder project in Douglass Township, **Montgomery County**.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Mark Wejkszner, Acting New Source Review Chief, (570) 826-2531.

39-318-111: Gateway Industrial Services (805 Harrison Street, Allentown, PA 18103) on October 25, 2002, for construction of two paint spray booths and one drying oven with associated air cleaning device in Allentown, **Lehigh County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

21-05031B: Waste Systems International, Inc. (620 Newville Road, Newburg, PA 17240) on December 9, 2002, for installation of a portable stone processing plant controlled by wet suppression at the Sandy Run, Mostoller and Cumberland County landfills in Bedford, **Somerset and Cumberland Counties**. This source is subject to 40 CFR Part 60, Subpart OOO—New Source Performance Standards for Nonmetallic Mineral Processing Plant.

67-05092C: Starbucks Coffee Co. (3000 Espresso Way, York, PA 17402) on December 9, 2002, for installation of two hot chaff collection systems at its York Roasting Plant in East Manchester Township, **York County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.

32-00365A: Rosebud Mining Co. (301 Market Street, Kittanning, PA 16201) on December 10, 2002, for installation of screen at Dutch Run Deep/Parker Mine in Washington Township, **Indiana County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940

16-00133: Clarion Bathware, Inc. (16273 Route 208, Marble, PA 16334) on December 3, 2002, for reissuance of the Title V Operating Permit to operate a fiberglass bathware manufacturing facility in Washington Township, **Clarion County**. The facility is a major facility due to its potential to emit VOCs and styrene.

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.

23-0001E: Sunoco, Inc.—R and M (Delaware Avenue and Green Street, Marcus Hook, PA 19061) on December 12, 2002, for operation of a storage tank in Marcus Hook Borough, **Delaware County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

08-399-048: OSRAM SYLVANIA Products, Inc. (Hawes Street, Towanda, PA 1884-0504) on December 5, 2002, for operation of five ammonium chloride solution storage tanks and associated air cleaning devices (five conservation vents and one fiber bed diffusion filter) on a temporary basis until April 4, 2003, in North Towanda Township, **Bradford County**. The plan approval was extended.

49-313-032J: Merck and Co., Inc. (P. O. Box 600, Danville, PA 17821) on December 12, 2002, to authorize a minimum water flow rate of 16 gallons per minute, instead of the 20 gallons per minute previously required, for the venturi jet portion of a scrubbing system (CL-1053) used to control the air contaminant emissions from a pharmaceutical reactor (RE-1022) in Riverside Borough, **Northumberland County**.

12-399-016: Micron Research Corp. (Route 120 West, P. O. Box 269, Emporium, PA 15834) on December 11, 2002, to allow an air cleaning device (an afterburner) on a batch carbon bake furnace to be turned off when the furnace is in the cool-down portion of its operating cycle in Shippen Township, **Cameron County**.

Plan Approvals Denied, Terminated, Modified, Suspended or Revoked under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and the provisions of 25 Pa. Code §§ 127.13b and 127.13c.

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.

23-0014B: Kimberly-Clark Corp. (Front and Avenue of the States, Chester, PA 19013) for Plan Approval application to use up to 8% tire derived fuel replacing equivalent amount of anthracite culm as fuel in No. 10 circulating fluidized bed boiler at their facility in City of Chester, **Delaware County**. This Plan Approval application was denied because the applicant did not provide pertinent information necessary to perform a best available technology analysis required by 25 Pa. Code § 127.12(a)(5). The company was sent two technical deficiency letters requesting additional information. In the pre-denial letter, the company was specifically asked to provide economic analysis of control technologies available to reduce emissions of dioxin based on permanent use of TDF. The company failed to provide this information.

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.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

15-00085: Lincoln University (1570 Baltimore Pike, Lincoln University, PA 19352) on December 10, 2002, for operation of a Synthetic Minor Operating Permit in Lower Oxford Township, **Chester County**.

46-00181: EnPro Industries, Inc. (1600 Industry Road, Hatfield, PA 19440) on December 12, 2002, for operation of a Natural Minor Operating Permit in Hatfield Township, **Montgomery County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

05-03003: Chestnut Ridge School District (P. O. Box 80, Fishertown, PA 15539) on December 9, 2002, for operation of two bituminous coal fired boilers at the Chestnut Ridge Middle School in East Saint Clair Township, **Bedford County**.

05-03004: Chestnut Ridge School District (P. O. Box 80, Fishertown, PA 15539) on December 9, 2002, for operation of four bituminous coal fired boilers for the Central Elementary and High School complex in East Saint Clair Township, **Bedford County**.

07-03039: Carn-Weaver Funeral Home (2036 Broad Avenue, Altoona, PA 16601) on December 9, 2002, for operation of a human crematory in the City of Altoona, **Blair County**.

07-05035: Grannas Bros. Stone and Asphalt Co., Inc. (P. O. Box 488, Hollidaysburg, PA 16648-9802) on December 9, 2002, for operation of a batch asphalt plant in Frankstown Township, **Blair County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

03-00023: Allegheny Energy Supply Co., LLC—Armstrong Station (4350 Northern Pike, Monroeville, PA 15907) for operation of two coal-fired boilers in Washington Township, **Armstrong County**. This is a renewal of the Title IV (Acid Rain) operating permit.

03-00027: Reliant Energy Northeast Management Co.—Keystone Station (1001 Broad Street, Johnstown, PA 15907) for operation of two coal fired boilers in Plumcreek Township, **Armstrong County**. This is a renewal of the Title IV (Acid Rain) operating permit.

30-00099: Allegheny Energy Supply Co.—Hatfield's Ferry Station (4350 Northern Pike, Monroeville, PA 15907) for operation of three coal-fired boilers in Monongahela Township, **Greene County**. This is a renewal of the Title IV (Acid Rain) operating permit.

32-00040: Reliant Energy Mid-Atlantic Power Holdings—Seward Station (1001 Broad Street, Johnstown, PA 15907) for operation of three coal-fired boilers in East Wheatfield Township, **Indiana County**. This is a renewal of the Title IV (Acid Rain) operating permit.

32-00055: EME Homer City Generation, LP—Homer City Station (1750 Power Plant Road, Homer City, PA 15748) for operation of three coal-fired boilers in

Center Township, **Indiana County**. This is a renewal of the Title IV (Acid Rain) operating permit.

32-00059: Reliant Energy Northeast Management Co.—Conemaugh Station (1001 Broad Street, Johnstown, PA 15907) for operation of two coal-fired boilers in West Wheatfield Township, **Indiana County**. This is a renewal of the Title IV (Acid Rain) operating permit.

63-00016: Allegheny Energy Supply Co.—Mitchell Station (4350 Northern Pike, Monroeville, PA 15907), for operation of four coal-fired boilers in Union Township, **Washington County**. This is a renewal of the Title IV (Acid Rain) operating permit.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

62-00149: Interlectric Corp., Inc. (1401 Lexington Avenue, Warren, PA 16365) on December 9, 2002, for a Synthetic Minor Permit to operate an electric lamp bulbs and tube manufacturing company in City of Warren, **Warren County**. The facility has accepted a limitation on the facilities potential to emit VOCs.

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.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: Muhammad Zaman, Facilities Permitting Chief, (570) 327-0512.

08-399-037: OSRAM SYLVANIA Products, Inc. (Hawes Street, Towanda, PA 18848) on December 6, 2002, for operation of an air cleaning device (a cartridge collector) identified in the operating permit to control the particulate matter emissions from two pieces of metal powder processing equipment (a granulator and a dumping station) not previously identified in the permit in North Towanda Township, **Bradford County**.

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 P.S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)). (Note: Water Obstruction and Encroachment Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.)

Permits Issued and Actions on 401 Certifications

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

E46-907. Upper Providence Township, 1286 Black Rock Road, P. O. Box 406, Oaks, PA 19456-0406, Upper Providence Township, **Montgomery County**, ACOE Philadelphia District.

To construct and maintain a 36-inch diameter stormwater outfall structure along Schuylkill River (WWF-MF) that will extend an existing stormwater outfall pipe at Port Providence Road approximately 550 feet, crossing under the Schuylkill Canal (WWF-MF). This work is associated with the proposed Port Providence Stormwater Improvement Project. The site is located approximately 400 feet northwest of the intersection of Canal Street and Port Providence Road (Collegeville, PA USGS Quadrangle N: 0.9 inch; W: 17.0 inches).

E46-925. Borough of Pottstown, Pottstown Borough Hall, 100 E. High Street, Pottstown, PA 19464, Pottstown Borough, **Montgomery County**, ACOE Philadelphia District.

To construct and maintain an approximately 300-foot long proposed road (Keystone Boulevard) and a multiuse trail situated along the floodway and floodplain of the Schuylkill River (WWF-MF) to provide access for the future industrial and commercial development. Limit of the work will begin just west of College Drive and Manatawny Creek (Pottstown, PA Quadrangle N: 21.6 inches, W: 5.0 inches) and will extend 3,000 feet along the existing PECO right-of-way running parallel to the Schuylkill River and will end (Pottstown, PA Quadrangle N: 21.6 inches, W: 6.6 inches).

E46-920. Bryn Mawr College, 101 North Merion Avenue, Bryn Mawr, PA 19010, Lower Merion Township, **Montgomery County**, ACOE Philadelphia District.

To modify and relocate an approximately 1,400 linear-foot reach of Mill Creek and an unnamed tributary to Mill Creek, locally known as the Ashbridge Park tributary. The project proposes to remove stone retaining walls in both watercourses, to remove three culverts in the Ashbridge Park tributary, to relocate the stream around a reconfigured parking area and construct a wooden pedestrian bridge across the relocated channel. Both watercourses will be modified to adjust the width, meander pattern and to create floodplain areas. The new stream channel design will consist of vortex rock weirs, rock cross vanes, root wad revetments, live branch layering, boulder toe protection and boulder bank stabilization. The project site is located directly west of the intersection of Ashbridge Road and Airedale Road (Norristown, PA Quadrangle N: 5.6 inches; W: 9.9 inches).

E09-841. Orleans Homebuilders, One Greenwood Square, Suite 101, Bensalem, PA 19020, Newtown Township, **Bucks County**, ACOE Philadelphia District.

To construct and maintain 642 linear feet of twin 34-inch by 53-inch elliptical reinforced concrete stream enclosure in and along an unnamed tributary of Core Creek (CWF, MF). The structure will replace several existing private enclosures and driveway crossings along the west side of Upper Silver Lake Road located within 700 feet of the intersection of Upper Silver Lake Road and Newtown Yardley Road. The project also proposes to construct and maintain approximately 69 linear feet of 18-inch high by 8-foot wide concrete box culvert crossing of an unnamed tributary of Core Creek to replace the existing culvert crossing of the Upper Silver Lake Road at the intersection with Newtown Yardley Road. The project site is located at the corner of Upper Silver Lake Road and Newtown Yardley Road (Langhorne, PA Quadrangle; N: 19.5 inches and W: 4 inches).

E46-928. Montgomery County Department of Roads and Bridges, Court House, P. O. Box 311, Norristown, PA 19404-0311, Cheltenham Township, **Montgomery County**, ACOE Philadelphia District.

To operate and maintain the after-the-fact 42-inch outfall connection to the existing Glenside Area Flood Protection Project identified as Department Project No. C46: 1, D.G.S. 180-11 which carries water to the Tacony Creek (WWF) located at Glenside Avenue immediately east of Keswick Avenue (Germantown, PA Quadrangle N: 18.5 inches, W: 3.55 inches).

E15-686. Nelson Realty Trust, 100 Vanguard Boulevard, Malvern, PA 19355, Uwchland Township, **Chester County**, ACOE Philadelphia County.

To perform the following activities associated with the Nelson Realty Trust Campus project:

1. To remove an existing road crossing consisting of a 48-inch span and 36-inch rise box culvert, to construct and maintain, in its place, a 38-foot long open bottom twin cell concrete culvert, consisting of a 6-foot span and 4-foot rise and associated utilities across an unnamed tributary to Shamona Creek (HQ-TSF-MF) at the existing Farm House Road.

2. To construct and maintain a 92-foot long open bottom twin cell concrete culvert, consisting of a 10-foot span and 2.5-foot rise and associated utilities across an unnamed tributary to Shamona Creek (HQ-TSF-MF) at the proposed Wellington Drive.

3. To construct and maintain an 87-foot long open bottom twin cell concrete culvert, consisting of a 7.5-foot

span and 3.5-foot rise and associated utilities across an unnamed tributary to Shamona Creek (HQ-TSF-MF) at the proposed Victory Drive.

4. To construct and maintain an 82-foot long open bottom twin cell concrete culvert, consisting of a 12.5-foot span and 4-foot rise across an unnamed tributary to Shamona Creek (HQ-TSF-MF) at the proposed Victory Drive.

5. To install and maintain a sanitary sewer line across an unnamed tributary to Shamona Creek (HQ-TSF-HQ) and its adjacent wetlands (PFO) at three locations.

The permittee shall construct and maintain 0.80 acre of replacement wetlands to compensate for 0.28 acre of permanent and 0.25 acre of temporary wetlands impact. The site is located just south of Pennsylvania Turnpike Interchange 23 (Downingtown, PA USGS Quadrangle N: 11.0 inches; W: 5.4 inches).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E39-398A. Department of Transportation, Engineering District 5-0, 1713 Lehigh Street, Allentown, PA 18103, Upper Macungie and Lower Macungie Townships, **Lehigh County**, Army Corps of Engineers Philadelphia District.

To amend Permit No. E39-398 to authorize the following activities associated with Phase II of the SR 0222 Bypass Project:

1. To remove the existing Weilers Road Bridge and to construct and maintain a twin cell concrete box culvert depressed 1 foot below stream bed elevation, having cell dimensions of 25 feet by 7 feet (7.6 m by 2.1 m) across Schaefer Run.

2. To construct and maintain a four-span concrete I-beam bridge, having normal spans averaging 147.5 feet (45.0 m) and an average underclearance of approximately 49 feet (15.0 m) across Schaefer Run.

3. To construct and maintain a six-span concrete I-beam bridge, having normal spans averaging 95.5 feet (29.1 m) and an average underclearance of approximately 28 feet (8.5 m) across Schaefer Run.

4. To construct and maintain a channel change consisting of realigning and reestablishing vegetation along 218 feet (66.4 m) of Schaefer Run.

5. To remove the temporary stream enclosure under the Breinigsville Interchange embankment, to remove the existing structure under Hamilton Boulevard, to remove the existing structure under Breinigsville Road and to construct and maintain a 497-foot (151.5 m) long single cell concrete box stream enclosure depressed 1 foot below stream bed elevation, having cell dimensions of 18 feet by 8 feet (5.4 m by 2.4 m) in a tributary to Schaefer Run.

6. To construct and maintain a 446-foot (136.0 m) long twin cell concrete box stream enclosure depressed 1 foot below stream bed elevation, having cell dimensions of 23 feet by 7 feet (7.0 m by 2.1 m) in Iron Run.

7. To construct and maintain various stormwater outfalls in the floodway of Iron Run.

8. To place fill in 1.0 acre (0.39 ha) of wetlands within the Little Lehigh Creek Watershed.

The following activities associated with Phase I of the SR 0222 Bypass Project were authorized by Permit E39-398.

1. To construct and maintain a 318-foot (97 m) temporary stream enclosure consisting of a 60-inch (1,500 mm) reinforced concrete pipe and a 30-inch (750 mm) reinforced concrete pipe in a tributary to Schaefer Run.

2. To place and maintain fill in the floodway of Schaefer Run for the purpose of constructing a portion of the Breinigsville Interchange embankment.

3. To construct and maintain stormwater outfalls in the floodways of Schaefer Run and a tributary to Schaefer Run and to construct and maintain an intake structure in Spring Creek.

The mitigation area for the entire SR 0222 project was constructed during Phase I. The permittee was required to provide 1.45 acres (0.59 ha) of replacement wetlands.

The entire project involves construction of 6.5 miles (10.5 km) of SR 0222 on a new alignment north of the current alignment and 3.4 miles (5.5 km) of SR 0100 on a new alignment west of the current alignment. The project will also include the construction of and improvements to secondary roads.

The improvements to SR 0222 will begin near the SR 0222/SR 0309 Interchange (Allentown West, PA Quadrangle N: 12.8 inches; W: 6.0 inches) in Lower Macungie Township, Lehigh County and extend 6.5 miles (10.5 km) west to the town of Breinigsville near the SR 0222/T546 intersection (Topton, PA Quadrangle N: 7.2 inches; W: 0.2 inch) in Upper Macungie Township, Lehigh County. The improvements to SR 0100 will begin near the SR 0100/T463 intersection (Allentown West, PA Quadrangle N: 5.6 inches; W: 3.3 inches) in Lower Macungie Township, Lehigh County and extend 3.4 miles (5.5 km) north to the SR 0100/T568 intersection (Allentown West, PA Quadrangle N: 11.8 inches; W: 1.6 inches) in Upper Macungie Township, Lehigh County.

E40-606. Kimberly A. Coffee, R. R. 1, Box 78, Harveys Lake, PA 18618. Harveys Lake Borough, **Luzerne County**, Army Corps of Engineers Baltimore District.

To modify and maintain an existing house and dock structure in Harveys Lake, with work consisting of constructing a 24-foot by 14-foot cantilevered addition on the lakeward side of the existing house. The project is

located at Pole No. 164 (Harveys Lake, PA Quadrangle N: 22.1 inches; W: 6.8 inches).

E40-603. Department of Transportation, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501. Dupont Borough, **Luzerne County**, Army Corps of Engineers Baltimore District.

To remove the existing structure and to construct and maintain a stream enclosure of Mill Creek, consisting of approximately 170 linear feet of 14.0-foot by 8.0-foot precast reinforced concrete box culvert, followed by approximately 25 linear feet of a cast-in-place reinforced concrete box culvert transition section that will tie into the existing downstream box culvert. A precast concrete U-channel transition section will be constructed, extending approximately 50 feet upstream of the proposed stream enclosure to the existing concrete trapezoidal channel. The project is located along SR 2035, Section 371, Segment 0220, Offset 1694 (Bear Creek Road), immediately upstream of SR 0315 Northbound (Chestnut Street) (Avoca, PA Quadrangle N: 12.5 inches; W: 17.1 inches).

E64-233. Marlin Minks, 34—43 82nd Street, Jackson Heights, NY 11372-2920. Canaan Township, **Wayne County**, Army Corps of Engineers Philadelphia District.

To remove the existing structure and to construct and maintain a private single-span bridge, having a span of approximately 16 feet and an underclearance of 5.4 feet, across Headley Brook; and to construct and maintain two road crossings of wetlands, including the placement of fill in a de minimis area of wetlands equal to 0.04 acre, for the purpose of providing access to a home site. The project is located on the south side of T-399, approximately 2,000 feet upstream of the confluence of Headley Brook and Van Auken Creek (Honesdale, PA Quadrangle N: 14.8 inches; W: 13.0 inches).

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

E08-395. Department of Transportation, District 3-0, P. O. Box 218, Montoursville, PA 17754-0218. Traffic Improvement Project in Towanda Borough, **Bradford County**, ACOE Baltimore District (Towanda, PA Quadrangle N: 3.3 inches; W: 9.1 inches).

To construct and maintain the following activities at the following locations:

<i>Regulated Activity No.</i>	<i>Type of Activity</i>	<i>Station No.</i>	<i>Description of Impact</i>
1	Permanent	136+40 to 172+50	Stream encroachment—fill covers 3,600 ft ² /43,200 m ² (1,097 m ² /4,013 m ²) of stream bank along the perennial WWF Susquehanna River for construction of stabilized slope.
2	Permanent	136+40 to 172+50	Floodway encroachment of the 100-yr. floodplain—148,285 ft ² (3.40 acres) or 13,774 m ² (1.38 ha) of the floodway filled by construction of stabilized slope.
3	Permanent	146+00	Stream relocation—310 ft ² /930 m ² (94 m ² /86 m ²) of intermittent WWF stream (Mix Run). Mix Run culvert and headwall to be relocated through a 96-inch diameter reinforced concrete pipe 30 ft. upstream resulting in improved alignment over existing. The section of Mix Run to be relocated is currently conveyed through an enclosed culvert system.
4	Permanent	156+70	Stream enclosure (52 inch diameter reinforced concrete pipe culvert extension)—30 ft ² /90 m ² (9 m ² /8 m ²) to intermittent WWF stream.

The proposed project will also include the following temporary impacted activity:

<i>Regulated Activity No.</i>	<i>Type of Activity</i>	<i>Station No.</i>	<i>Description of Impact</i>
2	Temporary	136+40 to 172+50	Stream encroachment—360,383 ft ² (5.98 acres) or 24,190 m ² (2.42 ha)—cofferdam footprint for construction of stabilized slope. An existing access road in the vicinity of Mix Run will be utilized to access the cofferdam and construction area.

SPECIAL NOTICES

BUREAU OF DEEP MINE SAFETY

Request for Variance

The Department of Environmental Protection (Department), Bureau of Deep Mine Safety (Bureau), has received a request for variance from Mears Enterprises, Inc. The following notification contains a summary of this request. A complete copy of the variance request may be obtained from Allison Gaida, (724) 439-7469 or from the Bureau website at <http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>.

The Department is publishing a summary of the request to solicit comments from affected parties on the proposed variance request. Comments may be used by the Bureau to assist in its investigation of the variance request. Comments will be accepted for 30 days following the publication of this notice. Comments should be addressed to Paul L. Hummel, Acting Director, Bureau of Deep Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401

Section 702 of the Bituminous Coal Mine Act (act) provides a mechanism for operators to obtain variances from specific requirements of the Act to accommodate the adoption of new machinery, equipment, tools, supplies, methods, or processes.

Section 242(c) of the act states that where belt conveyors are installed, main stoppings and regulators shall be so arranged as to reduce the quantity of air traveling in the belt conveyor entry to a minimum for effective ventilation and to provide an intake air split as an escapeway from the face are to the main air current.

Summary of the Request: Mears Enterprises, Inc. requests to use a point carbon monoxide early warning fire detection system and entries in common with the belt conveyor entry at the Dora No. 8 Mine.

[Pa.B. Doc. No. 02-2317. Filed for public inspection December 27, 2002, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are on the Department of Environmental Protection's (Department) website (www.dep.state.pa.us) at the Public Participation Center page. The "July 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 the 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 the Department at (717) 783-8727.

In addition, bound copies of some of the 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 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: 383-5500-213. Title: Small Water Systems Regionalization Grant Program. Description: This document will apply to any county, borough, township, authority or community water system interested in applying for a Small Water Systems Regionalization Grant. Effective Date: This document is a substantial revision of the previously existing guidance document, originally effective in November 1997. Contact: Trudy Troutman at (717) 783-3795, trutrouma@state.pa.us.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-2318. Filed for public inspection December 27, 2002, 9:00 a.m.]

Board and Committee Meeting Schedules for 2003

Following is a list of 2003 meetings of advisory and other boards and committees associated with the Department of Environmental Protection (Department). Notice of these meetings is being given in accordance with the Sunshine Act.

These schedules and an agenda for each meeting will be available through the Public Participation Center on the Department's website at <http://www.dep.state.pa.us>.

Most of the meetings will be held in the Rachel Carson State Office Building, 400 Market Street, Harrisburg, across from the AMTRAK station. Public parking is available in the Chestnut Street Parking Garage.

Agricultural Advisory Board

Meetings of the Agricultural Advisory Board will begin at 10 a.m. in Room 105 of the Rachel Carson State Office Building. The meeting dates are as follows:

February 19, 2003
April 16, 2003
June 18, 2003
August 27, 2003
October 15, 2003
December 17, 2003

Contact: Dean Auchenbach, Bureau of Watershed Management, P. O. Box 8465, Harrisburg, PA 17105-8465, (717) 772-5668, dauchenbac@state.pa.us.

Air Quality Technical Advisory Committee (AQTAC)

Meetings of the Air Quality Technical Advisory Committee will begin at 8:30 a.m. in the Rachel Carson State Office Building as follows:

January 16, 2003	Room 105
March 25, 2003	Room 105
May 22, 2003	2nd Floor Training Room
July 24, 2003	Room 105
September 25, 2003	Room 105
November 20, 2003	2nd Floor Training Room

Contact: Terry Black, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-9495, tblack@state.pa.us.

Bituminous Mine Safety Advisory Committee

Meetings of the Bituminous Mine Safety Advisory Committee will begin at 10 a.m. in the Fayette County Health Center, Uniontown, PA. The meeting dates are as follows:

January 8, 2003
April 9, 2003
July 9, 2003
October 8, 2003

Contact: Allison Gaida, Bureau of Deep Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401, (724) 439-7469, agaida@state.pa.us.

Certification Program Advisory Committee

Meetings of the Certification Program Advisory Committee will begin at 10 a.m. Contact Lynn Rice for meeting locations. The meeting dates are as follows:

January 15, 2003
March 20, 2003
April 9, 2003
July 23, 2003
October 8, 2003

Contact: Lynn Rice, Bureau of Office Systems and Services, P. O. Box 8454, Harrisburg, PA 17105-8454, (717) 787-5326, mlrice@state.pa.us.

Chesapeake Bay Advisory Committee to the Department

Meetings of the Chesapeake Bay Advisory Committee will begin at 9 a.m. in Room 105 of the Rachel Carson State Office Building. The meeting dates are as follows:

March 6, 2003
June 5, 2003
September 4, 2003
December 4, 2003

Contact: Dean Auchenbach, Bureau of Watershed Management, P. O. Box 8465, Harrisburg, PA 17105-8465, (717) 772-5668, dauchenbac@state.pa.us.

Citizens Advisory Council (CAC)

Meetings of the Citizens Advisory Council will be held the third Tuesday of each month in Room 105 of the Rachel Carson State Office Building. The meetings typically begin at 12:30 p.m. unless otherwise noted. The meeting dates are as follows:

January 14, 2003
February 18, 2003
March 18, 2003

April 15, 2003
*May 21, 2003 (Wednesday)
June 17, 2003
July 15, 2003
September 16, 2003
October 21, 2003
November 18, 2003

* The May meeting is scheduled for Wednesday due to Primary Election Day on May 20.

Contact: Stephanie Mioff at (717) 787-4527, smioff@state.pa.us.

Cleanup Standards Scientific Advisory Board (CSSAB)

Meetings of the Cleanup Standards Scientific Advisory Board will begin at 9:30 a.m. in Room 105 of the Rachel Carson State Office Building. Additional meetings may be scheduled to accommodate agenda items for the CSSAB. The meeting dates are as follows:

March 19, 2003
September 17, 2003

Contact: Marilyn Wooding or Thomas Fidler, Bureau of Land Recycling and Waste Management, (717) 783-7509, mwooding@state.pa.us or tfidler@state.pa.us.

Coal and Clay Mine Subsidence Insurance Fund Board

The annual meeting of the Coal and Clay Mine Subsidence Insurance Fund Board will begin at 10 a.m. in the 14th Floor Conference Room of the Rachel Carson State Office Building. The meeting date is as follows:

November 18, 2003

Contact: Lawrence Ruane, Bureau of Mining and Reclamation, P. O. Box 8462, Harrisburg, PA 17105-8462, (717) 783-9590, lruane@state.pa.us.

Coastal Zone Advisory Committee

Meetings of the Coastal Zone Advisory Committee will begin at 9 a.m. in the 2nd Floor Training Room of the Rachel Carson State Office Building. The meeting dates are as follows:

May 23, 2003
December 10, 2003

Contact: Everald McDonald, Coastal Zone Bureau, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 772-5619, emcdonald@state.pa.us.

Environmental Justice Advisory Board

Meetings of the Environmental Justice Advisory Board will begin at 10:30 a.m. in Room 105 of the Rachel Carson State Office Building. The meeting dates are as follows:

February 4, 2003
April 1, 2003
June 3, 2003
August 5, 2003
October 7, 2003
December 2, 2003

Contact: Lorraine Wagner, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-1566, lowagner@state.pa.us.

Environmental Quality Board (EQB)

Meetings of the Environmental Quality Board will begin at 9 a.m. the third Tuesday of each month in Room 105 of the Rachel Carson State Office Building. The meeting dates are as follows:

January 21, 2003 (Cancelled)	July 15, 2003
February 18, 2003	August 19, 2003
March 18, 2003	September 16, 2003
April 15, 2003	October 21, 2003
*May 21, 2003	November 18, 2003
June 17, 2003	December 16, 2003

* The May meeting is scheduled for Wednesday due to Primary Election Day on May 20.

Contact: Sharon Trostle or Michele Tate, Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, shtrostle@state.pa.us or mtate@state.pa.us.

Laboratory Accreditation Advisory Committee

Meetings of the Laboratory Accreditation Advisory Committee will begin at 10 a.m. in Room 105 of the Rachel Carson State Office Building. The meeting dates are as follows:

February 13, 2003
 April 8, 2003
 June 12, 2003
 September 11, 2003
 December 5, 2003

Contact: Richard H. Sheibley, Bureau of Laboratories, P. O. Box 1467, Harrisburg, PA 17105-1467, (717) 705-2425, rsheibley@state.pa.us.

Low-Level Waste Advisory Committee (LLWAC)

The annual meeting of the Low-Level Waste Advisory Committee will begin at 9 a.m. in Room 105 of the Rachel Carson State Office Building.

September 18, 2003

Contact: Rich Janati, Bureau of Radiation Protection, (800) 232-2786 or (717) 787-2163, rjanati@state.pa.us.

Mining and Reclamation Advisory Board (MRAB)

The Mining and Reclamation Advisory Board will hold quarterly meetings as indicated. One meeting will be a combination of a field trip and full board meeting (2 days total). Three quarterly meetings will begin at 10 a.m. in the Rachel Carson State Office Building. The meeting dates and locations are as follows:

January 9, 2003	16th Floor Delaware Room
April 24, 2003	Room 105
July 9-10, 2003	Field Trip—location to be announced
October 23, 2003	16th Floor Delaware Room

Contact: Marylinda Freyermuth, Office of Mineral Resources Management, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-5338, mfreyermt@state.pa.us.

Nonpoint Source Liaison Workgroup (NPS)

Meetings of the Nonpoint Source Liaison Workgroup will begin at 10 a.m. in Room 105 of the Rachel Carson State Office Building. The meeting dates are as follows:

June 10, 2003
 October 23, 2003

Contact: Fran Koch, Bureau of Watershed Management, P. O. Box 8555, Harrisburg, PA 17105-8555, (717) 783-2289, fkoch@state.pa.us.

Oil and Gas Technical Advisory Board (TAB)

Meetings of the Oil and Gas Technical Advisory Board will begin at 10 a.m. in the 10th Floor Conference Room

of the Rachel Carson State Office Building. The meeting dates are as follows:

April 8, 2003
 October 9, 2003

Contact: James E. Erb or Joyce Williams, Bureau of Oil and Gas Management, P. O. Box 8765, Harrisburg, PA 17105-8765, (717) 772-2199, jerb@state.pa.us or joywilliam@state.pa.us.

Pennsylvania Association of Sewage Enforcement Officers (PASEO)/DEP Work Group

Meetings of the Pennsylvania Association of Sewage Enforcement Officers (PASEO)/DEP Work Group will be held at the Ramada Inn in State College, PA. Contact Karen Fenchak for meeting times. The meeting dates are as follows:

April 15, 2003
 October 7, 2003

Contact: Karen Fenchak, Bureau of Water Supply and Wastewater Management, P. O. Box 8774, Harrisburg, PA 17105-8774, (717) 787-8184, kfenchak@state.pa.us.

Radiation Protection Advisory Committee (RPAC)

Meetings of the Radiation Protection Advisory Committee will begin at 9 a.m. in the 14th Floor Conference Room of the Rachel Carson State Office Building. The meeting dates are as follows:

March 5, 2003
 October 1, 2003

Contact: Louis Ray Urciuolo, Bureau of Radiation Protection, P. O. Box 8469, Harrisburg, PA 17105-8469, (717) 787-3720, lurciuolo@state.pa.us.

Recycling Fund Advisory Committee (RFAC)

Meetings of the Recycling Fund Advisory Committee will begin at 10 a.m. in the Rachel Carson State Office Building as follows:

February 13, 2003	2nd Floor Training Room
July 10, 2003	Room 105

Contact: Diana Welker or Lawrence Holley, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7382, diwelker@state.pa.us or lholley@state.pa.us.

Alternate Technology Subcommittee of the Sewage Advisory Committee

Meetings of the Alternate Technology Subcommittee of the Sewage Advisory Committee will begin at 10:30 a.m. in Room 105 of the Rachel Carson State Office Building. The meeting dates are as follows:

March 20, 2003
 October 1, 2003

Contact: Milt Lauch, Bureau of Water Supply and Wastewater Management, P. O. Box 8774, Harrisburg, PA 17105-8774, (717) 787-8184, mlauch@state.pa.us.

Sewage Advisory Committee (SAC)

Meetings of the Sewage Advisory Committee will begin at 10:30 a.m. in Room 105 of the Rachel Carson State Office Building. The meeting dates are as follows:

March 27, 2003
 October 8, 2003

Contact: Milt Lauch, Bureau of Water Supply and Wastewater Management, P. O. Box 8774, Harrisburg, PA 17105-8774, (717) 787-8184, mlauch@state.pa.us.

Small Business Assistance Program Compliance Advisory Committee

Meetings of the Small Business Assistance Program Compliance Advisory Committee will begin at 10 a.m. in the 14th Floor Conference Room of the Rachel Carson State Office Building. The meeting dates are as follows:

January 22, 2003
 April 23, 2003
 July 23, 2003
 October 22, 2003

Contact: Jon Miller or Aliza Bland, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-9257, jonmiller@state.pa.us or albland@state.pa.us.

Solid Waste Advisory Committee

Meetings of the Solid Waste Advisory Committee will begin at 10 a.m. as follows:

March 13, 2003	Room 105, Rachel Carson State Office Building
May 8, 2003	Room 105, Rachel Carson State Office Building
September 11-12, 2003	King's Gap Environmental Education Center, Carlisle
November 13, 2003	2nd Floor Training Room, Rachel Carson State Office Building

Contact: Dawn Heimbach or Gayle Leader, Bureau of Land Recycling and Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471, (717) 787-9871, daheimbach@state.pa.us or gleader@state.pa.us.

State Board for Certification of Sewage Enforcement Officers (SEO)

Meetings of the State Board for Certification of Sewage Enforcement Officers will be held as follows. Contact Renee Nease for meeting locations.

March 14	10 a.m.
June 20	10 a.m.
September 12	10 a.m.
December 12	9:30 a.m.

Contact: Renee Nease, Certification, Licensing and Bonding, P. O. Box 8454, Harrisburg, PA 17105-8454, (717) 787-6045, mnease@state.pa.us.

State Board for Certification of Water and Wastewater Systems Operators

Meetings of the State Board for Certification of Water and Wastewater Systems Operators will begin at 9 a.m. Contact Lynn Rice for meeting locations. The meeting dates are as follows:

January 14, 2003
 March 18, 2003
 April 11, 2003
 June 13, 2003
 September 19, 2003
 December 19, 2003

Contact: Lynn Rice, Bureau of Office Systems and Services, P. O. Box 8454, Harrisburg, PA 17105-8454, (717) 787-5326, mlrice@state.pa.us.

State Solid Waste Plan Subcommittee

Meetings of the State Solid Waste Plan Subcommittee will begin at 10 a.m. in the 14th Floor Conference Room

of the Rachel Carson State Office Building. The meeting dates are as follows:

January 9, 2003
 April 10, 2003
 June 12, 2003
 August 14, 2003
 October 9, 2003

Contact: Diana Welker or Lawrence Holley, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7382, diwelker@state.pa.us or lholley@state.pa.us.

Storage Tank Advisory Committee (STAC)

Meetings of the Storage Tank Advisory Committee will begin at 10 a.m. in the 10th Floor Conference Room of the Rachel Carson State Office Building. The meeting dates are as follows:

February 4, 2003
 June 3, 2003
 September 2, 2003
 December 9, 2003

Contact: Crystal L. Thompson, Bureau of Land Recycling and Waste Management, P. O. Box 8762, Harrisburg, PA 17105-8762, (717) 772-5829, (800) 42-TANKS (within this Commonwealth), crthompson@state.pa.us.

Technical Advisory Committee on Diesel-Powered Equipment

Meetings of the Technical Advisory Committee on Diesel-Powered Equipment (TAC) will begin at 10 a.m. in the Fayette County Health Center in Uniontown, PA. The meeting dates are as follows:

January 21, 2003
 April 15, 2003
 July 15, 2003
 October 21, 2003

Contact: Allison Gaida, Bureau of Deep Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401, (724) 439-7469, agaida@state.pa.us.

Technical Assistance Center for Small Water Systems (TAC)

Meetings of the Small Water Systems Technical Assistance Center Board will begin at 9:30 a.m. in Room 105 of the Rachel Carson State Office Building. The meeting dates are as follows:

January 23, 2003
 May 15, 2003
 August 14, 2003
 November 13, 2003

Contact: Ray Braun, Bureau of Water and Wastewater Management, (717) 787-0122, rbraun@state.pa.us.

Small Water Systems Technical Assistance Center Board Ad Hoc Committee

The Small Water Systems Technical Assistance Center Board Ad Hoc Committee will meet on January 8, 2003, at 9:30 a.m. in the 5th Floor Conference Room of the Rachel Carson State Office Building.

Contact: Ray Braun, Bureau of Water and Wastewater Management, (717) 787-0122, rbraun@state.pa.us.

Water Resources Advisory Committee (WRAC)

Meetings of the Water Resources Advisory Committee will begin at 9:30 a.m. in Room 105 of the Rachel Carson State Office Building. The meeting dates are as follows:

March 12, 2003
 May 14, 2003
 July 9, 2003
 September 10, 2003
 November 12, 2003

Contact: Carol Young, Bureau of Water Supply and Wastewater Management, (717) 787-9637, cayoung@state.pa.us.

Wetlands Protection Advisory Committee (WETPAC)

Meetings of the Wetlands Protection Advisory Committee will begin at 10 a.m. in Room 105 of the Rachel Carson State Office Building. The meeting dates are as follows:

February 27, 2003
 May 22, 2003
 August 28, 2003
 November 20, 2003

Contact: Kelly Heffner, Bureau of Watershed Management, (717) 772-5970, kheffner@state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the individual listed for each board or committee or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-2319. Filed for public inspection December 27, 2002, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of The Medical Center at Beaver for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that The Medical Center at Beaver has requested an exception to the requirements of 28 Pa. Code § 138.14(c) (relating to programs and services).

This 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, ra-paexcept@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 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 the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for Speech and/or Hearing Impaired Persons, V/TT: (717) 783-6514 or

the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-2320. Filed for public inspection December 27, 2002, 9:00 a.m.]

Application of Shamokin Area Community Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Shamokin Area Community Hospital has requested an exception to the requirements of 28 Pa. Code §§ 107.61 and 107.62 (relating to written orders; and oral orders).

This 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, ra-paexcept@state.pa.us.

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 the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for Speech and/or Hearing Impaired Persons, V/TT: (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-2321. Filed for public inspection December 27, 2002, 9:00 a.m.]

Health Policy Board Meetings

The Health Policy Board has set its calendar for the year 2003. The meeting dates are scheduled as follows:

March 12, 2003
 June 11, 2003
 September 17, 2003
 December 10, 2003

Meetings will begin at 10 a.m. in Room 907, Health and Welfare Building, 7th and Forster Streets, Harrisburg, PA.

These meetings are subject to cancellation without notice.

For additional information or persons with a disability who wish to attend a meeting and require an auxiliary aid, service or other accommodation to do so, should contact Joseph May at (717) 772-5298 or for speech and/or hearing impaired persons V/TT (717) 783-6514 or

the Pennsylvania AT&T Relay Services at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-2322. Filed for public inspection December 27, 2002, 9:00 a.m.]

Procedures Applicable to Right-to-Know Request

This written policy identifies the procedures for requesting records from the Department of Health (Department) under the act of June 21, 1957 (P. L. 390) (65 P. S. §§ 66.1—66.9), known as the Right-to-Know Law (RTKL). This policy supplements Management Directive 205.36.

Requests

1. A request to the Department made under the RTKL must be in writing and must:

- a. Identify the requester by name.
- b. Aver whether the requester is resident of this Commonwealth.
- c. Identify a return mailing address.
- d. Expressly state that the request is being made under the RTKL.
- e. Bear the requester's signature.

2. RTKL requests must be sent or delivered by mail, hand-delivery or facsimile transmission. Other than facsimile transmission, no electronic transmission is acceptable. The Department will not accept verbal requests.

3. RTKL requests must be sent or delivered to Director of Communications Office, Communications Office, Department of Health, 808 Health and Welfare Building, P. O. Box 90, Harrisburg, PA 17108-0090, fax: (717) 772-6959.

4. If a RTKL request is sent to a Department office other than the Communications Office, that office may return the request to the requester and inform the requester that the request must be sent to the Communications Office.

5. The regular business hours of the Communications Office are 8 a.m. to 4:30 p.m., Monday through Friday. RTKL requests received by the Communications Office after the close of regular business hours shall be deemed to have been received by that office on the following business day. For example, a facsimile transmission received at 10 p.m. on a Friday is deemed to be received on the following Monday (unless that Monday is a nonbusiness day, such as a holiday).

6. Only a natural person and a resident of this Commonwealth is entitled access to public records under the RTKL. In determining whether a requester is a resident of this Commonwealth, the Director of the Communications Office (Director) may require the requester to provide proof of residency, such as a photographic identification. For example, a driver's license containing a picture of the requester and showing a Commonwealth address is photographic identification.

7. A RTKL request may be denied if it does not identify the records requested with sufficient specificity. In conducting an initial review of a RTKL request, the Director may contact (or attempt to contact) the requester to obtain clarification or additional information to aid the Director in responding to the request. The request should

contain a telephone number, fax number or e-mail address where the Director may reach the requester.

8. The Director shall make a final or interim response to a RTKL request within 10 business days after receiving the request. A business day does not include: a Saturday or Sunday; a day when the offices of the Department are closed for all or part of a day due to a State holiday; partial and full day closings of State offices under management directives; a day when the offices of the Department are closed due to a natural disaster; or a day when Department offices are closed at the request or direction of a local, State or Federal law enforcement agency or official. For purposes of determining the end of the 10-business-day period, the day a RTKL request is received (or deemed received) is not counted.

9. A response that denies a request (either in whole or in part) will list all of the specific reasons relied on by the Director for denying the request and will include one or more citations of supporting authority. If a reason for denial is a determination that an identified document is not a public record, the specific reason for that determination will be included.

10. In the event that the Director's final response is a denial or a partial denial, the response to the requester will contain: 1) the typed or printed name, title, business address, business telephone number and signature of the public official or employee on whose authority the denial is issued; 2) a notice informing the requester of his or her right to file exceptions with the Department; 3) a statement of the procedure that the requester shall follow to file exceptions contesting the denial; 4) the name and mailing address of the Department's RTKL exceptions unit; and 5) the words "Mailing Date" followed by date that is the mailing date.

11. If the Director does not respond to the request within 10 business days after a RTKL request is docketed as having been received, a RTKL request shall be deemed to have been denied and the requester may file an exception.

Exceptions

12. Exceptions to a written denial must be filed within 15 business days of the mailing date of the written denial.

13. Exceptions to a deemed denial must be filed within 15 calendar days of the date the request is deemed denied.

14. Exceptions to a denial or partial denial of a request must be set forth in writing and must be correctly addressed and submitted to the Department's Deputy Secretary for Administration (Deputy Secretary). Exceptions submitted to any other official, office or address are defective and do not stop the running of the 15-day exceptions period. Exceptions must be sent or delivered to Deputy Secretary for Administration, Department of Health, 815 Health and Welfare Building, P. O. Box 90, Harrisburg, PA 17108-0090, fax: (717) 772-6959.

15. Exceptions are filed on the mailing date to the Deputy Secretary.

16. When exceptions are submitted by posting them through the United States mail, their mailing date is the date of the postmark on the envelope. If the postmark is illegible, the mailing date is deemed to be the calendar day that immediately preceded the date on which the exceptions are received, unless that immediately preceding date is a Sunday or a Federal holiday.

17. If exceptions are filed in person, by facsimile transmission, by courier service, by overnight mail or parcel delivery service, or in any way other than by sending them through the United States mail, their mailing date is deemed to be the date the exceptions are received by the Deputy Secretary, except that exceptions received by the Deputy Secretary after the close of the usual business hours of that office are deemed to be received on the next business day. The regular business hours of the Deputy Secretary's office are 8 a.m. to 4:30 p.m., Monday through Friday.

18. Exceptions to a denial or a partial denial of a request may not be submitted through the use of email.

19. Exceptions that are untimely will be dismissed for that reason.

20. Exceptions must state the reason upon which the requester asserts that the record to which the requester has been denied access is a public record. Reasons not set forth during the 15-day period in which exceptions must be filed are deemed to be waived and will be disregarded by the Deputy Secretary.

21. Exceptions must address the reasons stated by the Director in denying the request. Exceptions that fail to comply with this requirement will be dismissed for that reason.

22. If the request is denied due to a deemed denial, the requester is not required to set forth any grounds for contesting the denial. The Deputy Secretary shall consider the cases for both the requester and the Director. The Director may raise available defenses to the request.

23. Unless the requester agrees otherwise, when a requester files exceptions to a denial, the Deputy Secretary will issue a final determination within 30 calendar days of the mailing date of the exceptions. If the requester requests a hearing, the Deputy Secretary may condition the grant of that request upon the requester's written consent or agreement to an extension of the time for a decision on the exception.

24. Exceptions are resolved by a final determination, which is a final order of the Deputy Secretary. A final determination shall be set forth in writing. If the Deputy Secretary determines that the Director correctly denied the request for access, the Deputy Secretary will issue a written explanation to the requester of the reason for the denial by the last day a decision on the exception is due.

25. Either the requester or the Director may request a hearing on the exceptions. The decision to hold a hearing rests in the discretion of the Deputy Secretary and is not appealable.

Access

26. Providing a requester with physical access to a document in an office of the Department is a "response" for the purposes of the RTKL. Only the Director has the authority to permit this access. Hours of access shall be 8 a.m. to 4:30 p.m., Monday through Friday.

27. A public record will be provided to the requester in the medium requested if the record exists in that medium. Otherwise, the public record will be provided in the medium in which it exists. Where the record is only available in electronic form, the Department will print it out on paper if the requester so requests.

28. The Department may make its public records available through its website. However, if access to public

records is available only through electronic means, the Department will provide access to the records at an office of the Department.

29. With the concurrence of the Department, a requester may bring his or her own photocopying equipment, computers and other equipment into the Department's offices for the purposes of making copies of public records.

Fees

30. *Photocopies*—One "photocopy" is either a single-sided copy or one side of a double-sided copy. One side of a standard 8.5" × 11" page is \$0.15 if using the agency's copiers.

One side of any irregular sized page will be determined on an as-needed basis, with the fee to be not less than \$0.15 and not more than \$0.25.

31. *Other Materials*

PC Diskettes—\$1 per disk

Microfilm/microfiche—\$30 per page

32. *Postage*

Material fitting into standard letter envelope is mailed at no charge.

Material fitting into a nonstandard envelope is mailed at actual cost.

33. If redaction is required before the public records can be accessed or copied for the benefit of the requester, the Department will charge the requester \$10 per hour with a minimum charge of \$10.

34. The cost to certify the copies for the purpose of legally verifying the public record shall be \$1 per side of a standard 8.5" × 11" page.

35. The Department may require prepayment if the anticipated cost to fulfill the request exceeds \$100. Unless prepayment is made by certified check, access will be denied until a regular check clears. If the fee is for copying only, the Department shall allow access to the records but shall refuse to make copies until the fee is paid. If the fee includes redaction costs, the Department shall deny access to the requester until the redaction fee is paid. If the requester pays any fee by check, the payee shall be "Pennsylvania Department of Health."

This policy can also be obtained on the Department's website at <http://www.health.state.pa.us> or by contacting the Department's Communications Office at (717) 787-1783. Questions regarding this policy may be directed to the same office.

For additional information contact Kenneth E. Brody, Department of Health, (717) 783-2500 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

ROBERT S. ZIMMERMAN, Jr.,

Secretary

[Pa.B. Doc. No. 02-2323. Filed for public inspection December 27, 2002, 9:00 a.m.]

Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.18(e) (relating to management):

Somerset Hospital Center for Health
225 South Center Street
Somerset, PA 15501-2008

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6 (relating to function of building):

Delaware Valley Veterans' Home
2701 Southampton Road
Philadelphia, PA 19154

The Highlands Care Center
P. O. Box 10, Main Street
LaPorte, PA 18626

These requests are 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, paexcept@health.state.pa.us.

Those persons who wish to comment on this 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 require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotape or Braille) should contact the Division of Nursing Care Facilities at the address or phone numbers previously listed or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services, (800) 654-5984.

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-2324. Filed for public inspection December 17, 2002, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Deletion of Procedure Codes from the Medical Assistance Program Fee Schedule for Psychologists

The Department of Public Welfare (Department) announces that effective January 1, 2003, it is deleting certain procedure codes from the Medical Assistance (MA) Program Fee Schedule—Expanded Services for Children Under 21 Years of Age—Provider Type 41 (Fee Schedule for Psychologists). This will be accomplished by revising and reissuing the MA Fee Schedule for Psychologists that was attached to MA Bulletin No. 01-01-09; 41-01-06, Additional Place-of-Service (Office) for Psychotherapy, issued June 1, 2001, and effective June 1, 2001. This change affects only services rendered by psychologists.

The Department, in consultation with the Pennsylvania Psychiatric Society and Pennsylvania Psychological Association, has determined that procedure codes 99201—99353 are not within a psychologist's scope of practice. In addition, section 3(2) of the Professional Psychologists Practice Act (63 P. S. § 1203(2)) prohibits persons licensed as psychologists from engaging in any manner in the practice of the healing arts as defined in the laws of the

Commonwealth. Accordingly, the Department is eliminating these codes for psychologists.

The procedure codes to be deleted are as follows:

99201	99202	99203	99204
99205	99211	99212	99213
99214	99215	99231	99232
99233	99241	99242	99243
99244	99245	99251	99252
99253	99254	99255	99271
99272	99273	99274	99275
99341	99342	99343	99351
99352	99353		

Section 1150.61(a) of 55 Pa. Code (relating to guidelines for fee schedule changes) authorizes the Department to publish a notice in the *Pennsylvania Bulletin* when fees are changed and when procedures, services or items are added to, or deleted from, the MA Program Fee Schedule.

Fiscal Impact

No fiscal impact is anticipated.

Contact Person

A copy of this notice is available for review at local County Assistance Offices. Interested persons are invited to submit written comments to this notice to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Deputy Secretary's Office, Attention: Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120.

Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-NOT-342. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 02-2325. Filed for public inspection December 27, 2002, 9:00 a.m.]

Publication and Availability of the Temporary Assistance for Needy Family State Plan

The Department of Public Welfare is publishing, in its entirety, an updated Temporary Assistance for Needy Families (TANF) State Plan. The State Plan was developed in accordance with the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193). The Act provides each state with a TANF Block Grant and the opportunity, with broad Federal guidelines, to design and operate its own programs. The original State Plan was published at 27 Pa.B. 342 (January 18, 1997). An updated Plan was published at 29 Pa.B. 5658 (October 30, 1999) and was effective for 2 years. A new TANF plan for subsequent 2-year periods must be submitted to the United States Department of Health and Human Services (DHHS) for completeness.

The updated State Plan incorporates changes identified through suggestions and recommendations from the public and through an ongoing review of the TANF program. The updated State Plan will be submitted to DHHS in December 2002 to begin the official 45-day comment period required by law.

Future amendments to the Plan will incorporate suggestions and recommendations received during the comment period.

Copies of the State Plan are available for all interested individuals and groups upon written request to Edward J. Zogby, Director, Bureau of Policy, Office of Income Maintenance, Room 431 Health and Welfare Building, Harrisburg, PA 17120. Persons may also request copies by facsimile machine at (717) 787-6765, using the above address on your cover document, or by means of the Department of Public Welfare's Web Site at <http://www.dpw.state.pa.us/>.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

FEATHER O. HOUSTON,
Secretary

**PENNSYLVANIA TEMPORARY ASSISTANCE FOR
NEEDY FAMILIES STATE PLAN**

I. PURPOSE

II. INTRODUCTION

III. PROGRAM GOALS

IV. MEASURING RESULTS

V. PUBLIC INVOLVEMENT

A. Public Availability and Review

B. Additional Outreach

C. Public Comments

**VI. OUTLINE OF PENNSYLVANIA'S TEMPORARY
ASSISTANCE FOR NEEDY FAMILIES (TANF)
PROGRAM**

A. General Provisions

1. Program Administration

2. Access to Benefits

3. Defining Assistance/Non-Assistance Benefits

4. Defining Needy Families

**5. Personal Responsibility—The Agreement of
Mutual Responsibility**

**6. Time Limit and Work Requirements for Receipt
of TANF**

7. Determining Eligibility

8. Child Support Requirements

9. Work and Self-sufficiency

10. Education in the Work First Environment

11. Noncompliance with the RESET Program

12. Supporting Employment with Child Care

13. Coordination with Child Welfare

14. Safeguarding Information

15. Transfers of TANF Block Grant Funds

16. Reductions of Out-of-Wedlock Births

**17. Education and Training to Reduce Statutory
Rape**

18. Identifying Domestic Violence

19. Link with Medicaid

20. Food Stamp Outreach

B. Special Provisions

1. Time-Out Initiative

2. Extended TANF Cash Assistance

**3. Families Entering Pennsylvania from Another
State**

4. Treatment of Noncitizens

5. Delivery of Benefits

6. Right to Appeal

7. Community Service Option

**VII. OFFICE OF CHILDREN YOUTH AND FAMI-
LIES AMENDMENT**

**A. Other State Programs and Services Designed
to Meet the Purposes of TANF**

1. General Relationship to TANF Purposes

**2. Family Preservation, Reunification and Sup-
port Services Designed to Promote TANF Purposes**

**3. Services Provided to Dependent and Delin-
quent Children Who Have Been Placed into Resi-
dential Care**

CERTIFICATIONS

FUNDING

**PENNSYLVANIA TEMPORARY ASSISTANCE FOR
NEEDY FAMILIES (TANF)**

STATE PLAN

I PURPOSE

This document outlines and updates the Commonwealth of Pennsylvania's plan for providing assistance to families with children from funds provided under Title I of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (P. L. 104-193), and the TANF Final Rules published in the Federal Register on April 12, 1999. The Act amends Section 402 of the Social Security Act to require that states submit a plan to the U. S. Department of Health and Human Services (DHHS) that outlines how the state will provide Temporary Assistance for Needy Families (TANF) benefits. Implementation was effective March 3, 1997. Submission of this State Plan renewal commits Pennsylvania to continue operation of its TANF State Program. Implementation is effective October 1, 2002.

II INTRODUCTION

On May 16, 1996, Act 1996-35 (Act 35) was signed into law. It was a dramatic welfare reform plan designed to move families off the welfare rolls and into the work force. The provisions of the Act encourage personal and parental responsibility, emphasize self-sufficiency through employment, strengthen child support requirements, and increase penalties for welfare fraud. It is a common-sense approach that provides Pennsylvania with the core components for reform of our welfare system. The TANF provisions of PRWORA provided the opportunity to make that reform a reality.

When signed into law on August 22, 1996, PWRORA ended the 60-year Federal welfare entitlement program known as Aid to Families with Dependent Children (AFDC) and the Federal JOBS employment and training program. In its place, each state was provided with a block grant for designing and operating its own welfare program within broad TANF requirements. These requirements include stringent work activity participation rates and a lifetime limit of five years for the receipt of

benefits. The TANF Block Grant and the Final Rules published in the Federal Register on April 12, 1999, provided Pennsylvania with the opportunity to build on the core components of Act 35 to create a welfare system that makes the best use of welfare dollars.

The TANF Program is designed to provide short-term assistance to families when the support of one or both parents is interrupted. It also provides supplemental support when family income from employment and other sources is not sufficient to meet basic needs. It is not intended to provide long-term support or become a way of life. The provisions of the TANF Program are intended to meet one or more of the following basic purposes of this program as articulated in the Federal statute and regulation:

- Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
- Encourage the formation and maintenance of two-parent families.

III PROGRAM GOALS

The primary goal of Pennsylvania's TANF Program is to provide support to families as they make the transition from dependence on welfare to self-sufficiency and, finally, to long-term self-support. The following goals provide the framework on which the Program is designed:

1. *Promote Personal Responsibility*

Pennsylvania's TANF Program is based on the principle that welfare should provide temporary cash assistance to families and individuals, providing basic support that enables them to move to self-sufficiency. Inherent in this belief is the notion that the welfare recipient must be personally responsible for taking the necessary steps to end his or her dependence on a welfare "check."

2. *Move Recipients into Jobs*

For most recipients, the way to self-sufficiency and economic independence is through a job. Pennsylvania's approach provides the client with the opportunity to build work skills and a work history.

3. *Provide Work Incentives and Supports*

If we are to encourage employment, families must be better off if they work than if they depend on welfare. By allowing eligible families to receive supplemental cash assistance in addition to a paycheck, Pennsylvania's TANF Program rewards work and helps families establish a financial base that will support self-sufficiency. The TANF Program also supports family efforts to work by providing allowances for work-related expenses, such as child care and transportation.

4. *Break the Cycle of Dependency Through Education*

A high school diploma is critical to both short-term and long-term prospects for independence through employment. It opens the door to meaningful, productive employment. Training in a skill or trade, on-the-job training, job-search and job-readiness preparation classes and workshops, among other activities, provide a menu of opportunity for long-term self-sufficiency. Pennsylvania's

Road to Economic Self-sufficiency through Employment and Training (RESET) Program encourages people to pursue education and training as a means of, and in addition to, meeting work requirements.

5. *Strengthen Families and Support Children*

Both parents play a role in achieving self-sufficiency. The TANF Program requires parents to fulfill their fundamental responsibilities to their children through a strengthened child support enforcement system.

6. *Simplify Program Administration*

Pennsylvania must be able to use resources productively—to assist the client in developing and successfully implementing his or her own plan for self-sufficiency. As administrators of the public welfare system, we must have two goals: to help recipients of public assistance become self-sufficient and to ensure that tax dollars funding welfare programs are used wisely.

IV MEASURING RESULTS

Monitoring implementation progress and evaluating attainment of program goals is an integral component of Pennsylvania's TANF Program. The primary focus of monitoring and evaluating activities is to gather data about a comprehensive set of performance indicators and performance measures which are used to document clear, specific program outcomes.

The detailing of a definitive set of performance indicators and measures continues to evolve as program planning decisions are made and modified. The ongoing program evaluation information system includes such performance indicators and measures as:

- The proportion of the active TANF caseload who are working
- The proportion of TANF applicants diverted from ongoing caseload status to employment
- The average length of stay in active TANF status
- The average number of stays in active TANF status
- The work experiences and quality of life indicators of former TANF recipients
- The relationships between provision of work incentives and family support allowances and successful, long-term employment
- The relationships among program components which focus on clients assuming personal responsibility, implemented primarily through the use of an Agreement of Mutual Responsibility, and successful long-term employment
- The relationships among a variety of program components designed to provide education and training and successful, long-term employment
- The relationships of program components designed to strengthen and support families and appropriate indicators of success
- The relationship between program simplification changes and timely and accurate benefits
- The relationship between TANF program changes and indicators of fraud, waste and abuse
- The use (and continued use after cash benefits end) of other subsidized or social service support programs

A primary focus of program evaluation efforts associated with implementation of the TANF Program is to develop, maintain and refine, where necessary, an inte-

grated and comprehensive evaluation information system which provides data and information on outcome and performance measures related to key components of TANF. These data are used to provide ongoing monitoring assessments of program implementation and to provide summary statements describing attainment of program goals. In order to ensure the appropriate degree of program accountability, the measures used are defined by data and information which are timely, accurate, valid, reliable, credible and easily communicated.

This information system is composed of TANF data and available data for pre-TANF welfare programs. The information system is supplemented by those data and information necessary to track the provisions of the TANF legislation and satisfy mandated reporting requirements. This collection of data about TANF participants, combined with data detailing critical program components, provides documentation of specific outcome and performance measures established for the TANF goals. Additionally, analyses of the data available in this information system combined with data from other sources provide important information about the configurations of participant and program characteristics which produce the most favorable long-term outcomes. Comparisons of these relationships between participant and program characteristics and their effects on outcome measures across time permit systematic, evolutionary, incremental shaping of TANF programs to effectively meet the TANF goals.

V PUBLIC INVOLVEMENT

A. Public Availability and Review

The Commonwealth of Pennsylvania's TANF State Plan will be made available for public review on December 28, 2002 in the *Pennsylvania Bulletin*. Copies of the TANF State Plan are available at the 67 County Assistance Offices (CAOs) around the State and on the Department of Public Welfare's (the Department) Website (<http://www.dpw.state.pa.us>).

The State Plan was also submitted to key stakeholder groups for review and comment. These groups include members of the legislature and the Governor's Cabinet, as well as associations representing county government, client advocacy groups, business interests and community agencies providing a variety of services to recipients of public assistance.

B. Additional Outreach

The TANF State Plan will be published in its entirety in the *Pennsylvania Bulletin*. The *Pennsylvania Bulletin* is the official gazette of the Commonwealth of Pennsylvania and is the temporary supplement to the Pennsylvania Code, the official codification of agency rules and regulations. The Bulletin also serves as the vehicle whereby agencies publish proposed programmatic and regulatory changes. The Notice published in the *Bulletin* will indicate that comments on the TANF State Plan are to be directed to the Department of Public Welfare, Office of Income Maintenance.

The Income Maintenance Advisory Committee (IMAC) will receive a briefing on the TANF State Plan. IMAC is composed of current and former welfare recipients, representatives of welfare rights organizations, employment and training specialists and other client advocates. IMAC advises the Department on policies, procedures and other activities related to the programs administered by the Office of Income Maintenance.

C. Public Comments

During the 45-day public review period, the Department will accept comments on the TANF State Plan from the general public.

The Department's ongoing review of the TANF Program includes review and consideration of public comments along with the tracking of outcomes of the TANF Program. The Department will submit amendments to the State Plan on an as-needed basis.

VI OUTLINE OF PENNSYLVANIA'S TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) PROGRAM

Although the TANF Program replaced the former Federal cash benefits program known as Aid to Families with Dependent Children (AFDC), many of the rules and procedures under which the Department administered AFDC remain in effect as part of the TANF Program. These rules and procedures are contained in Chapter 55 of the Pennsylvania Code of regulations (55 Pa. Code), Notices of Rule Change to the Code published in the *Pennsylvania Bulletin*, Office of Income Maintenance (OIM) Bulletins, OIM Operations Memoranda and Departmental Handbooks. Financial eligibility criteria for Maintenance of Effort (MOE)-funded assistance and services are the same as for other TANF assistance and services, except MOE claimed for child care under the provisions of 45 CFR § 263.3 follows the financial eligibility criteria established under the Child Care and Development Fund State Plan and associated State regulations.

New or revised rules and procedures are set forth in the State Plan. These changes and revisions are adopted pursuant to the authority of PRWORA, Pennsylvania's Act 35, §§ 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)) and Act 1997-58 (P. L. 549, No. 58).

Federal statute 42 U.S.C.A. § 609(a)(7)(B)(i) provides for the possibility of separate and segregated state programs. Stakeholders were consulted and input was solicited. The decision to create a segregated state program is incorporated and included in this State Plan.

A. GENERAL PROVISIONS

1. Program Administration

The Department is responsible for administering the TANF Program in 67 CAOs. While program requirements are applied consistently Statewide, the maximum TANF benefit varies from county to county based on the four benefit schedules currently in effect.

The Department continues to use private contractors to supplement the work of the CAOs to provide services, such as job search, job-readiness preparation, education and training services, and to assist clients to enter the work force, retain jobs and advance in employment.

Persons who receive TANF benefits on or after March 3, 1997 are subject to all requirements of the TANF Program. Recipients are subject to the 60-month lifetime limit and the work requirements of Act 35 beginning March 3, 1997.

2. Access to Benefits

Pennsylvania continues to provide access to TANF benefits and related services in each of the Commonwealth's 67 counties based on the policies and procedures in effect.

3. Defining Assistance/Non-Assistance Benefits

Assistance

For purposes of applying TANF time limits, work and work activity requirements and child support assignment requirements, the term "assistance" is defined as cash payments, vouchers and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items and general incidental expenses). "Assistance" also includes:

- Stipends and allowances for participation in education and training by non-employed cash assistance recipients;
- Needs-based payments to individuals in any work activity whose purpose is to supplement the money they receive for participating in the activity; and
- Supportive services such as transportation and TANF-funded child care provided to non-employed cash assistance recipients.

If a benefit falls within the definition of assistance, the benefit counts as assistance even when receipt of the benefit is conditioned on participation in work experience, community service or other work activities.

Non-Assistance

The final Federal TANF Rules of April 12, 1999 include the potential for funding a class of benefits known as "non-assistance." Pennsylvania excludes from the definition of "assistance" activities that support employed former TANF recipients or those who are eligible for, but not receiving "assistance." For example, case management services, job retention programs, child care and wage subsidies may be provided as on-going supports to employed former cash assistance recipients. These services and benefits received by the family are considered "non-assistance," and the family receiving them after leaving cash assistance is no longer using months of time-limited TANF assistance.

The Department incorporated a total of 25 non-assistance initiatives included in the FY 2002-2003 budget that provide work supports and other services to eligible low-income families and non-custodial parents. Although these work supports and services are funded with TANF funds, they are excluded from the definition of "assistance" in 45 CFR § 260.31. As a result, these work supports and services do not count towards the 60-month TANF time limit. In addition, persons receiving these benefits are not subject to the TANF work requirement or to a Federally-imposed child support requirement. Pursuant to 45 CFR § 260.31, the term "non-assistance" is defined below:

Non-Assistance includes:

- Non-recurrent, short-term benefits that:
 - Are designed to deal with a specific crisis situation or episode of need;
 - Are not intended to meet recurrent or ongoing needs; and
 - Will not extend beyond four months.

OR

- Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision and training);

OR

- Supportive services such as child care and transportation provided to families who are employed;

OR

- Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement and other employment-related services that do not provide basic income support.

In accordance with 45 CFR § 260.31 and subject to the availability of resources, the Department intends to provide funding included in the FY 2002-2003 budget for the following non-assistance initiatives to certain needy families, based on the program descriptions and eligibility set forth in each initiative appearing on page 8 through page 22.

Job Retention, Advancement and Rapid Re-employment Services

Effective April 2001, this initiative provides job retention, advancement and rapid re-employment services to needy families and non-custodial parents who are not served through existing contracted programs. The purpose of the job retention and advancement services is to help participants retain employment and move to better employment whenever possible. Services provided under this initiative may include:

- Case management
- Supportive services not provided by the CAO
- Programs and activities for participants' children, e.g. tutoring and before and after school programs for participant's children while the participants engage in employment activities such as paid work experience
- Job development
- Job placement
- Skills training
- Education incentives

Eligibility for this initiative is limited to needy families, as defined on page 22, or a non-custodial parent of a minor child. The needy family or non-custodial parent must have a gross annual earned income that does not exceed 235 percent of the Federal Poverty Income Guidelines (FPIGs). Additionally the adult in the family or the non-custodial parent must:

- Be working in unsubsidized employment at the time of application for the program;

AND

- Not be participating in any employment and training program funded through the Department, including the job retention periods for those programs.

This initiative meets TANF purpose number two - end dependence of needy parents on government benefits by promoting job preparation, work and marriage, and is funded with commingled funds.

Place-Based Employment

Effective July 2000, this initiative brings together resources to focus on needy families and non-custodial parents in public housing developments. Public housing developments have historically been areas where long-term dependency has co-existed with poverty and joblessness. The goal of this initiative is to collaborate with public housing authorities to help transform low-work, high-welfare dependency housing developments into high-work, low-welfare communities. Services such as job

readiness/preparation, job-search instruction and life skills classes are provided. The two main service components are:

- Employment-related activities and services
- Community support including fostering work-related information sharing through peer support and aid from other residents

Services provided under this initiative may include:

- Job search
- Job coaching
- Case management
- Mentoring and peer support activities
- Skills training
- Financial incentives such as bonuses, gift certificates and shopping vouchers to employed participants. Bonuses are nonrecurring and do not cover living allowances or basic needs.
- Transitional services

Eligibility for this initiative is limited to needy families, as defined on page 22, or a non-custodial parent of a minor child. The needy family or non-custodial parent must have a gross annual earned income that does not exceed 235 percent of the FPIGs. Additionally, the adult in the family or the non-custodial parent must reside in public or assisted housing developments.

This initiative meets TANF purpose number two—end dependence of needy parents on government benefits by promoting job preparation, work and marriage, and is funded with commingled funds.

The Pennsylvania Higher Education Assistance Agency (PHEAA) Initiative

Effective July 2000, this initiative provides financial support in the form of loans, grants and work-study to assist eligible needy individuals with the costs of tuition, books and fees associated with attending post-secondary educational programs.

Eligibility for this initiative is limited to needy families, as defined on page 22, or a non-custodial parent of a minor child. The needy family or non-custodial parent must have a gross annual earned income that does not exceed 235 percent of the FPIGs. Additionally, the adult in the family or the non-custodial parent must:

- Be attending a post-secondary educational program;
- AND
- Be a current or former TANF recipient.

This initiative meets TANF purpose number two—end dependence of needy parents on government benefits by promoting job preparation, work and marriage, and is funded with commingled funds.

The Community College Program

Effective July 2000, this initiative supplements an existing program known as the Up Front Job Placement Program by permitting individuals who have participated in Up Front to have access to a variety of programs through community colleges. The Workforce Investment Act fiscal agent that runs Up Front subcontracts to the college. The funding received by the college is used to purchase slots in various training programs offered by the college. The funding is also used to support the costs incurred by the college for intensive case management offered to these clients. Blending the Community College

initiative with the Up Front Program encourages individuals who may be new to the welfare rolls to engage early in training activities that lead to permanent employment. In addition, the Department has set aside funding for community colleges to design and develop remedial curricula for working TANF or former TANF families.

Eligibility for this initiative is limited to needy families, as defined on page 22, who have a gross annual earned income that does not exceed 235 percent of the FPIGs. Additionally the adult in the family must be a current or former TANF recipient.

This initiative meets TANF purpose number two—end dependence of needy parents on government benefits by promoting job preparation, work and marriage, and is funded with commingled funds.

Child Care Provided to Employed Families

Effective July 2000, this initiative provides subsidized child care benefits to eligible employed families who need child care to participate in unsubsidized employment, subsidized employment and/or education/training activities.

Eligibility for this initiative is limited to needy families, as defined on page 22, who have a gross annual earned income that does not exceed 235 percent of the FPIGs. Additionally the adult in the family must:

- Be working;
- AND
- Be a current or former TANF recipient.

This initiative meets TANF purpose number two—end dependence of needy parents on government benefits by promoting job preparation, work and marriage, and is funded with commingled funds.

Workforce Investment Board's (WIBs) Transportation Grant Initiative

Effective July 2000, this initiative funds additional transportation services to employed families in an effort to resolve specific public transportation-related barriers, including transportation to child care providers, and second and third shift employment for those transitioning to self-sufficiency. Services contracted through the WIBs may include:

- Reverse commutes
- Guaranteed ride home program services
- Vanpooling
- Carpooling
- Shared taxi service
- Automobile acquisition

Eligibility for this initiative is limited to needy families, as defined on page 22, who have a gross annual earned income that does not exceed 235 percent of the FPIGs. Additionally, the adult in the family must:

- Be working;
- AND
- Reside in certain rural or semi-urban WIB areas;
- AND
- Be in a Department-funded employment and training program through the local WIB.

This initiative meets TANF purpose number two—end dependence of needy parents on government benefits by

promoting job preparation, work and marriage, and is funded with commingled funds.

Eye-glass and Hearing Device Initiative—Non-Medical

Effective July 2000, this initiative provides a cost-limited non-recurring, short-term benefit towards the actual cost of eyeglasses and/or hearing exams and devices to help clients seek and maintain employment. These benefits are available to eligible individuals through the Department's RESET-contracted provider in whose program they are participating. Services provided under this initiative include:

- Eye exam and the purchase of eyeglasses (once per year per individual and actual cost up to a maximum of \$100)
- Hearing exams and hearing devices (once a year per individual and actual cost up to a maximum of \$1,000)

Eligibility for this initiative is limited to needy families, as defined on page 22, or a non-custodial parent of a minor child who meets the eligibility criteria of the Fatherhood Initiative. The needy family or non-custodial parent must have a gross annual earned income that does not exceed 235 percent of the FPIGs. Additionally, the adult applicant must:

- Demonstrate the need for eyeglasses through an eye exam;

OR

- Demonstrate the need for an exam with an audiologist and hearing devices through referral by an M.D.;

AND

- Be enrolled with a Department-contracted program provider funded through the Department's RESET program;

AND

- Need the eyeglasses or hearing devices for participation in pre-employment, education, training or other approved activities related to job search and placement in employment.

This initiative meets TANF purpose number two—end dependence of needy parents on government benefits by promoting job preparation, work and marriage, and is funded with commingled funds.

The Workforce Investment Act's (WIA) Youth Development Program

Effective May 2000, this initiative is a work-based learning opportunity provided to youth or young adults ages 14-21 through local WIBs. This program supports the following goals:

- Improving educational achievement
- Preparing for and succeeding in employment
- Supporting life-skill development
- Developing youth potential, including leadership opportunities

Subsidized wages are provided under this initiative.

Eligibility for this initiative is limited to a youth or young adult between the ages of 14-21 who are enrolled in the Summer Youth Program administered by the Department of Labor and Industry.

This initiative meets TANF purpose number three—prevent and reduce the incidence of out-of-wedlock preg-

nancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies. This initiative is funded with 100 percent segregated Federal funds.

Clients with Mental Health, Substance Abuse, Developmental and Learning Disabilities and Related Barriers to Employment—Non-Medical

Effective February 2002, this initiative provides specialized services to enable current and former TANF families with barriers to begin employment or to continue to work. These specialized services include mental health services, anger management counseling, non-medical substance abuse counseling services, assessment and evaluation for developmental and learning disabilities, assistive technology and equipment and vocational rehabilitation services to needy individuals who have physical or mental disabilities. Continuation of services that were critical in helping families find employment may also be critical in helping them maintain employment. Services provided under this initiative may include:

- Assessment
- Drug and alcohol treatment
- Physical therapy
- Vocational rehabilitation services
- Case management

Eligibility for this initiative is limited to needy families, as defined on page 22, or a non-custodial parent of a minor child. The needy family or non-custodial parent must have a gross annual earned income that does not exceed 235 percent of the FPIGs. Additionally the adult in the family or the non-custodial parent must be a current or former TANF recipient.

This initiative meets TANF purpose number two—end dependence of needy parents on government benefits by promoting job preparation, work and marriage, and is funded with commingled funds.

The Fatherhood Initiative

Effective April 2001, this initiative is designed to assist non-custodial parents of minor children to return to or remain in school, obtain their high school diploma or General Equivalency Diplomas (GEDs), develop responsible parenting skills, become positive role models for their children and become productive members of their communities. Service provided under this initiative may include:

- Intensive case management
- Parenting and child development education
- Decision making
- Self-discipline
- Anger management
- Problem-solving skills
- Assistance in paternity establishment
- Year-round programming
- GED
- High school
- Skills training

Eligibility for this initiative is limited to a non-custodial parent of a minor child with a gross annual earned income that does not exceed 235 percent of the FPIGs.

This initiative meets TANF purpose number two—end dependence of needy parents on government benefits by promoting job preparation, work and marriage; purpose three—prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and purpose four—encourage the formation and maintenance of two-parent families. This initiative is funded with 100 percent segregated Federal funds.

Home Access Program Initiative

Effective July 2000, this initiative is designed to provide assistance to repair homes via non-recurring, short-term benefits to low-income families that include a disabled adult or child in the household. These benefits may be provided to such families who are in the process of purchasing a home where repairs are needed to facilitate accessibility or to families who presently own a home needing repairs. Benefits may be offered to homeowners and potential homeowners to support efforts to become self-sufficient and secure or retain work. Many existing homes contain obvious barriers to persons with disabilities, making it difficult for those persons to enter or leave their living quarters to seek and maintain employment. Also, some individuals may unexpectedly acquire a disability and find that their home contains structural barriers making them virtually homebound and unable to return to work.

Eligibility for this initiative is limited to needy families, as defined on page 22, who have a gross annual earned income that does not exceed 235 percent of the FPIGs.

This initiative meets TANF purpose number two—end dependence of needy parents on government benefits by promoting job preparation, work and marriage, and is funded with 100 percent segregated Federal funds.

The Elect Initiative

Effective April 2001, this initiative is designed to assist parents or non-custodial parents of minor children to return to or remain in school, obtain their high school diploma or GEDs, develop responsible parenting skills, become positive role models for their children and become productive members of their communities. Services provided under this initiative may include:

- Intensive case management
- Parenting and child development education
- Decision making
- Year-round programming
- GED
- High school

Eligibility for this initiative is limited to a parent of a minor child or a non-custodial parent. The parent of a minor child or non-custodial parent must have a gross annual earned income that does not exceed 235 percent of the FPIGs.

This initiative meets TANF purpose number two—end dependence of needy parents on government benefits by promoting job preparation, work and marriage; purpose three—prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and purpose four—encourage the formation and maintenance of two-parent families. This initiative is funded with commingled funds.

Family Savings Accounts

Effective July 2001, this initiative uses matched savings to help finance the purchase of a new home, pay for educational expenses, pay for day care to enable job training, start a new business or other activities that are approved by the Department of Community and Economic Development (DCED).

This initiative is administered by DCED.

Eligibility for this initiative is limited to needy families, as defined on page 22, or a non-custodial parent of a minor child. The needy family or non-custodial parent must have a gross annual earned income that does not exceed 200 percent of the FPIGs.

This initiative meets TANF purpose number two—end dependence of needy parents on government benefits by promoting job preparation, work and marriage, and is operated under 42 U.S.C.A. § 404(a)(1). This initiative is funded with 100 percent segregated Federal funds.

Nurse-Family Partnership

Effective October 2001, this initiative provides home visitation management services to eligible low-income, first-time mothers only. The home visitors are nurses who follow guidelines that focus on the mother's personal health, quality of care provided to the child and the parents' own life-course development.

The purposes of this initiative are as follows:

- To improve pregnancy outcomes by helping women practice sound health-related behaviors, including obtaining good prenatal care from their physicians, improving diet and reducing use of cigarettes, alcohol and illegal drugs.
- To improve child health and development by helping parents provide more responsible and competent care for their children.
- To improve families' economic self-sufficiency by helping parents develop a vision for their own future, plan future pregnancies, continue their education and find jobs.

Eligibility for this initiative is limited to women who are first-time mothers with a dependent child, or women pregnant with their first child and who have a gross annual earned income that does not exceed 235 percent of the FPIGs.

This initiative meets TANF purpose number three—prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies. This initiative is funded with 100 percent segregated Federal funds.

Digital Divide

Effective February 2002, this initiative seeks to help bridge the technology digital divide and narrow the access gap that exists for low-income families. Digital Divide grants are available to qualified community organizations that bring digital technologies, including increasing computer and high-speed Internet access and computer literacy skills, to low-income Pennsylvania residents.

Both non-needy and needy families are eligible for this initiative. However, organizations must prioritize service for needy families, as defined on page 22, or a non-custodial parent of a minor child. The needy family or non-custodial parent must have a gross annual earned income that does not exceed 235 percent of the FPIGs.

This initiative meets TANF purpose number four—encourage the formation and maintenance of two-parent families and is funded with 100 percent segregated Federal funds.

Child Care Challenge Grants

Effective July 2001, this initiative is part of a multi-year Early Childhood Initiative designed to make sure Pennsylvania's children are healthy, safe and ready for school. The grants are intended to improve access to child care that is so often a necessity for many hardworking families.

The purpose of the grant is to enhance child care programs in vulnerable communities and to support cognitive development efforts for at-risk children. The Child Care Challenge Grant Program provides grants to non-profit and for-profit organizations to increase center-based child care capacity in underserved areas. Capacity refers to increasing the number of centers, increasing the size of existing centers, and retaining centers by assisting with upgrades to allow for better performance. This does not include construction, rehabilitation or expansion of centers.

Many centers are offering non-traditional hours to support families moving from welfare to work.

At the time of application, Child Care Resource Developers verify whether a shortage of child care for low-income families exists in that area. Eligibility for this initiative is limited to applicants who are licensed child care centers or in the process of becoming licensed and who use the grant to provide child care services to children from low-income families whose income does not exceed 235 percent of the FPIGs.

This initiative meets TANF purpose number two—the dependence of needy parents on government benefits by promoting job preparation, work and marriage, and is funded with 100 percent segregated Federal funds.

"I Am Your Child"

Effective October 2001, this initiative is a national public awareness and engagement campaign created by the Rob Reiner Foundation to help people understand the direct connection between the loving support, nurturing and education of a young child and the child's healthy brain development.

"I Am Your Child" includes a free six-video set and other educational materials designed to educate new parents. The videos cover child development, health and nutrition, safety, literacy, discipline and child care. The videos were made available to all new parents beginning in January 2002.

Eligibility for this initiative is limited to families or adults who have a newborn baby.

This initiative meets TANF purpose number four—encourage the formation and maintenance of two-parent families, and is funded with 100 percent segregated Federal funds.

Civil Legal Assistance

Effective July 2001, this initiative is a two-year pilot project. It is an effort to provide one-stop legal assistance for civil matters to victims of domestic violence in six locations throughout the State. Services include those not covered under Title IV-D funding, such as help in obtaining Protection from Abuse Orders from county courts, child custody court orders, encouragement to file for child

support when the victim is the custodial parent, spousal support if needed and TANF waivers of work requirements.

Funding is provided to Pennsylvania Legal Services to assist with Protection From Abuse Orders and to look out for the victim's safety when filing for child support and child custody.

Eligibility for this initiative is limited to families that include a victim of domestic violence who have a gross annual earned income that does not exceed 235 percent of the FPIGs.

This initiative meets TANF purpose number one—provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives, and is funded with commingled funds.

School Prevention Education Program (Rape Prevention)

Effective July 2001, this initiative supports prevention education for school children on resisting unwanted sexual advances. Public relations campaigns have empowered middle school students to resist unwanted sexual advances by using posters, music CDs and magazines.

A new web site is available, www.teenpcar.org, which addresses students' concerns, including statutory rape.

Curriculum related to sexual violence is provided to teachers and community groups.

In the State Fiscal Year 1997-98, TANF funds began to fund additional prevention education programs that address statutory rape, for middle school students (grades 6 through 9) as well as high school age students. In Fiscal Year 2001-2002, additional TANF funds were added to expand the school prevention education efforts and to determine how to better approach middle school boys on the subject of rape prevention.

This initiative meets TANF purpose number three—prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing incidences of these pregnancies. This initiative is funded with 100 percent segregated Federal funds.

STOP Violence Against Women Formula Grant Program

Effective October 2001, this initiative is designed to improve the criminal justice system's response to violence against women and to enhance the services available to women who have been victims of violent crimes.

Funding supports programs that provide services to victims of domestic violence or rape. The TANF funds are used specifically for the victims' services component of this program.

Agencies eligible to apply for STOP funding are county governments or a county's private non-profit victim services agency. To receive funding, the county must have a coordinating team comprised of, at a minimum, representatives from law enforcement, prosecution and victim services.

This initiative meets TANF purpose number three—prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and purpose four—encourage the formation and maintenance of two-parent families. This initiative is funded with 100 percent segregated Federal funds.

Head-Start Collaboration Project

Effective October 2001, this initiative focuses on the priority of child care, education and job training for families as they make the transition from welfare to work. The strategy has been to create awareness and provide resources and technical assistance to support the development of full-day/full-year services through local Head-Start child care partnerships.

In addition to child care services, Head-Start provides early education enrichment, literacy and intervention programs which pattern the child into becoming a responsible youth who can make educated decisions.

Funding assists with the expansion of full-day/full-year child care options to low-income families.

Eligibility for this initiative is limited to applicants who are Head-Start Centers and who use the grant to provide Head-Start child care services to children from low-income families who meet the Head-Start eligibility criteria and whose incomes do not exceed 235 percent of the FPIGs.

This initiative meets TANF purpose number three—prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies. This initiative is funded with 100 percent segregated Federal funds.

Weed and Seed Program

Although effective September 1995, this initiative did not receive TANF funds to support this program until July 2002. Its purpose is to create a strong partnership between the community and law enforcement, resulting in social and economic revitalization for the neighborhood and family. This initiative targets medium-sized Pennsylvania communities that are especially challenged by poverty, crime, teenage pregnancy, broken families, educational failure and elevated rates of school dropouts.

In addition to the nine current community sites, five more are scheduled to open by the end of 2002. In fiscal year 2002-2003, TANF funds will support new programs or enhance existing programs.

This initiative meets TANF purpose number three—prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing incidence of these pregnancies; and purpose four—encourage the formation and maintenance of two-parent families. This initiative is funded with 100 percent segregated Federal funds.

Women in Need—Alternatives to Abortion

Effective July 2002, this initiative provides pregnancy and parenting support to women in need. The program primarily provides information and counseling that promote childbirth instead of abortion and assists pregnant women in their decision regarding adoption or parenting. Services are provided free to women participating in the program.

Real Alternatives, which uses the Women in Need project as its vehicle to manage State funding, has received TANF funds for Alternatives to Abortion in the 2002-2003 Appropriations Act 7-A of 2002.

Eligibility for this initiative is limited to women who have a gross annual earned income that does not exceed 185 percent of the FPIGs. Additionally the women must:

- Be pregnant;
- OR
- Suspect they are pregnant;
- OR
- Be the parent of an infant less than 12 months of age.

This initiative meets TANF purpose number four—encourage the formation and maintenance of two-parent families, and is funded with 100 percent segregated Federal funds.

Housing Collaboration Initiative (Housing Rehabilitation Program)

Effective October 2002, this initiative seeks to alleviate one of the most common problems for many low-income families: housing in need of repairs. The program provides funding for local housing rehabilitation and repair for homeowners and minor alteration/renovation for rental properties.

DCED reserves the right to alter the funding request based on the application demand and quality.

Eligible applicants for funding include units of local government and redevelopment authorities. Nonprofit entities seeking to undertake rehabilitation can partner with their local government or redevelopment authority to apply on their behalf.

Eligibility for this initiative is limited to families that include a dependent child under the age of 18 living in the home. The family also must have a gross annual income below 80 percent of the median family income for the geographic area where the home is located (the same as Section 8 income limits), or have a gross annual income that does not exceed 235 percent of the FPIGs.

This initiative meets TANF purpose number one—provide assistance to needy families so that children may be cared for in their homes or in the homes of relatives; purpose two—end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; and purpose four—encourage the formation and maintenance of two-parent families. This initiative is funded with 100 percent segregated Federal funds.

Critical Job Training Grants

Effective February 2002, this initiative is designed to make Pennsylvania more responsive to the critical workforce shortages that are the result of skill deficiencies, distressed industries and employee dislocations.

Program participants receive industry-specific training in high demand occupations, leading to immediate job placement and/or advancement.

Eligibility for this initiative is limited to needy families, as defined on page 22, (excluding pregnant women) or a non-custodial parent of a minor child. The needy family or the non-custodial parent must have a gross annual earned income that does not exceed 235 percent of the FPIGs. Additionally, a non-custodial parent must have a support order(s) in good standing.

This initiative meets TANF purpose number two—end the dependence of needy parents on government benefits by promoting job preparation, work and marriage, and is funded with 100 percent segregated Federal funds.

4. *Defining Needy Families*

A needy family is defined as a minor child and his parent(s) or other adult specified relative with whom he

lives who meet the income and resource standards established under this TANF State Plan. Eligibility for TANF is also extended to pregnant women who have no other children living with them.

Minor Child

A minor child is under age 18 or is age 18 and a full-time student in a secondary school or in the equivalent level of vocational or technical training.

Specified Relative

A specified relative is defined as an adult who:

- Is exercising responsibility for the care and control of the child by making and carrying out plans for the support, education and maintenance of the child and applying for assistance on behalf of the child. The finding that a relative is exercising care and control of the child is made whether the relative is the parent or other relative of the child.
- Is maintaining a home in which the child lives with him or her, or is in the process of setting up a home where the child will go to live with him or her within 30 days after receiving the first TANF payment.
- Is related to the child as follows:
 - A blood relative who is within the fifth degree of kinship to the dependent child, including a first cousin once removed. Second cousins and more remote cousins are not within the fifth degree of kinship. A first cousin once removed is the child of one's first cousin or the first cousin of one's parent. The fifth degree of kinship includes great-great grandparents and great-great-great grandparents. The fifth degree of kinship also includes other relationships prefixed by great, great-great, grand or great-grand. Blood relatives include those of half-blood.
 - A parent by legal adoption and any of the adopting parent's blood or adoptive relatives as described above.
 - Stepfather, stepmother, stepbrother and stepsister.
 - A spouse of any of the relatives described above even though the marriage is terminated by death, separation or divorce.

Minor Parent

A minor parent is defined as:

- A TANF eligible person under 18 years of age who has never been married and is the natural parent of a dependent child living with the minor parent, or is pregnant or;
- A GA-eligible person 16 or 17 years of age who has never been married and is the natural parent of a dependent child living with the minor parent or is pregnant.

If the minor parent cannot return to the home of a parent, legal guardian, or other relative, the Department, in consultation with the county children and youth agency, will provide assistance to the minor parent and dependent child in locating a second-chance home, maternity home or other appropriate adult-supervised supportive arrangement unless the agency determines that the minor parent's living situation is appropriate.

When both parents are living with a child, the family may qualify for TANF only if one or both parents are incapacitated or unemployed.

Certain persons who live with the minor child must be included in the application for assistance. These members of the TANF mandatory budget group include the TANF child, the biological or adoptive parents of the TANF child and blood-related or adoptive siblings of the TANF child as long as they also meet TANF eligibility requirements.

A family, for purposes of the 60-month time limit, is defined as a minor child and his parent(s) or other adult specified relative with whom he lives and who is applying on the child's behalf. A family does not include a specified relative who is not included in the TANF mandatory budget group and is seeking TANF assistance only for the minor child.

Absence of a Minor Child

Under TANF, a specified relative may continue to receive benefits for an otherwise eligible minor child who is absent, or expected to be absent, from the home. The State may choose between several periods of temporary absence: not less than 30 days, up to 45 days, up to 180 days or more than 180 days if good cause is established.

Pennsylvania elects to define temporary absence as one that does not exceed 180 consecutive days.

A caretaker relative of a minor child who fails to notify the CAO of the minor child's absence by the end of the five-day period, that begins with the date it becomes clear to the specified relative that the child will be absent for more than 180 consecutive days, is ineligible for TANF for a period of 30 days.

5. Personal Responsibility—The Agreement of Mutual Responsibility

Pennsylvania is exercising the TANF option to establish an individual responsibility plan, known as the Agreement of Mutual Responsibility (AMR). The AMR establishes the obligations to be undertaken by the recipient to develop a path towards self-sufficiency regarding participation in work or work-related activities. The Department supports those efforts by providing supportive services and referrals. The following individuals are required to sign the AMR:

- Adult applicants and recipients who are required to sign the Application for Benefits, whether they are not exempt from or have good cause for not meeting the work requirements.
- Pregnant teens or minor parents who sign the Application for Benefits on their own behalf.

The AMR stresses the temporary nature of cash assistance and focuses on the steps the recipient must take to establish a path toward self-sufficiency. The AMR also specifies the penalties for failure to comply and the actions to be taken by the Department to support the efforts of the recipient. Refusal to sign the AMR, without good cause, will result in ineligibility for the person required to sign the AMR.

NOTE: Refusal of the applicant/recipient to sign the AMR, without good cause, while applying for or receiving Extended TANF results in ineligibility of the entire family rather than just the person required to enter into the AMR. The explanation of the Extended TANF program can be found in Section B "Special Provisions" of this document.

As part of completion of the AMR, the CAO determines whether the client is exempt from or has good cause for

not participating in work/work-related activities. For clients required to participate in work and work-related activities, the AMR includes a requirement to conduct an initial job search for up to eight weeks. The job search will serve as the initial assessment of the skills, work experience and employability of each adult recipient. In addition to the initial job search, the AMR is also used to outline other work participation activities and obligations for nonexempt clients. Penalties for noncompliance, without good cause, with work/work-related requirements set forth on the AMR, were applied beginning March 3, 1997.

Pursuant to Act 35, the AMR will include the following obligations, when appropriate to the individual or family situation.

- Receive prenatal care as recommended by the doctor or clinic and/or ensure that children are immunized, receive periodic health screening and appropriate medical treatment.
- Take steps, if needed, which will improve a child's school attendance and improve his or her chances for earning a high school diploma.
- Submit to a substance abuse assessment by the local county authority if the CAO determines that a person may have a substance-abuse problem that presents a barrier to employment. If the assessment indicates that a drug or alcohol problem exists, the client will be required to participate in and complete an approved treatment program. If a person fails to enter or complete a program, he or she can comply by providing proof of substance-free status by submitting to periodic drug testing.
- Make appropriate payments to service providers from allowances given for child care and other special needs provided to enable the client to fulfill his or her commitment to engage in work or a work-related activity.
- Comply with work and work-related activity requirements.
- Meet other obligations specified on the AMR related to self-sufficiency and parenting responsibilities.

These obligations are basic personal and parental responsibilities which are important to the physical and mental well-being of the family. If not addressed, they not only represent potential barriers to employment, but could increase the likelihood that welfare dependency will be passed from one generation to the next.

The Department will establish penalties and good cause criteria for noncompliance before implementing sanctions associated with these obligations.

6. *Time Limit and Work Requirements for Receipt of TANF*

Receipt of TANF assistance is limited to a total of 60 months (five years) in the lifetime of an adult head-of-household or spouse of head-of household. The assistance received as an adult (over age 18) head of household or spouse of head of household counts towards the limit. Assistance received by a pregnant minor head of household, minor parent head of household or minor married to the head of household also counts towards the limit. Periods of receipt need not be consecutive to count towards the 60 months. If the TANF budget group includes only a child(ren), the 60-month limit does not apply.

After receiving a total of 24 months of cash assistance, an individual must meet the work requirements by working or participating in any combination of work and approved work activity for at least an average of 20 hours per week, unless the individual is exempt or has good cause for not doing so.

Beginning March 3, 1997, the Department activated both the 60-month TANF time clock and the pre-/post-24 month work requirement clock for recipients. For applicants, these clocks are activated when cash assistance is authorized. The Department tracks time by counting days. For purposes of the TANF time limit, 60 months equals 1830 days. For purposes of applying appropriate work/work activity requirements, 24 months equals 732 days.

7. *Determining Eligibility*

Pennsylvania is following rules, regulations and procedures in effect prior to the TANF implementation date, except for the following provisions that are authorized or required by State law (Act 35 and Act 58) or by Federal law:

Earned Income Disregard

The gross earned income of recipients is subject to a continuous 50 percent disregard. The disregard encourages recipient families to work and provides additional financial support as they make the transition from welfare to self-sufficiency. Applicants may qualify for the 50 percent disregard if they have received TANF in one of the four months prior to application or if their income is equal to or less than the standard of need. The deduction for the cost of dependent care for an incapacitated adult is made following application of the 50 percent disregard.

Earned Income: Sanctioned, Disqualified or Otherwise Ineligible Individuals

The earned income of sanctioned, disqualified or otherwise ineligible budget group members is treated uniformly by computing their income as if these persons were included in the budget group. This method ensures equitable treatment of all TANF households.

This provision will be implemented upon final rule-making as published in the *Pennsylvania Bulletin*.

Income Exclusions

Income excluded under current State regulations remains the same under TANF except for the following:

- Educational assistance in the form of loans, grants and scholarships is excluded as income.
- Income-in-kind for services rendered is excluded from consideration in the determination of eligibility.
- The first \$50 per budget month of court-ordered or voluntary support payments received by the budget group, excluding arrearages, is excluded as income. All support received, less the support pass-through, is counted when determining eligibility.

Resources

Resources that are excluded from determining eligibility under current regulation remain the same except for the following:

- The cash value of life insurance is excluded as a resource.
- An educational savings account established to pay for post-secondary educational expenses directly to an approved educational institution is excluded as a resource.

- Educational assistance in the form of loans, grants and scholarships is excluded as a resource.
- One motor vehicle, regardless of value, is excluded as a resource.
- The nine-month time period for disposing of non-resident real property, during which time a family may receive TANF, is extended as long as the family is continuing to make a good faith effort to sell the property.
- A Family Savings Account established pursuant to 73 P.S. §§ 400.2101–2103, Act 1997-23 is excluded as a resource.

Lump Sum Income

Lump sum income is counted as income only in the month that it is received. Any funds that remain from the lump sum in months following the month of receipt are counted as a resource.

This provision will be implemented upon final rulemaking as published in the *Pennsylvania Bulletin*.

Budgeting Method: Semi Annual Reporting (SAR)

The income of applicants and recipients affects the TANF benefit as follows:

- The income adjustment is based on the best estimate of the expected income (prospective budgeting). The estimate is based upon verified information provided by the client.
- Monthly income will be determined by multiplying the average weekly income by four (4.0).
- Recipients will be required to complete and submit a reporting form semi-annually.
- Recipients will be required to report increases in earned income in excess of \$100 and all other changes such as household composition, address, job start, etc. within 10 days of the change.
- There will be no reconciliation of income. No overpayments (underestimates) will be processed unless it was due to a client's failure to properly report income. Underpayments (overestimates) will not be corrected unless they are the result of a worker error.
- An income adjustment that reduces or increases the grant will be made for the first TANF payment date for which the deadline can be met following advance notice to the client.

This revised budgeting method will be implemented upon final rulemaking as published in the *Pennsylvania Bulletin*.

Penalty for Noncooperation with Child Support Requirements

If a parent or other caretaker relative fails to cooperate in establishing paternity or in establishing, modifying or enforcing a child support order, without good cause in accordance with Act 58, the cash assistance allowance, which is the monthly assistance grant, is reduced by 25 percent. The grant remains reduced until the parent or caretaker relative demonstrates cooperation.

Penalty for Conviction of Welfare Fraud

An applicant or recipient who has been convicted of securing or attempting to secure, or aiding or abetting or attempting to aid or abet any individual in securing General Assistance, TANF, Medicaid or Federal Food Stamps by means of a willfully false statement or misrepresentation, or by impersonation, or by willfully failing to

disclose a material fact regarding eligibility either before or at the time of, or subsequent to the application for assistance is ineligible for cash assistance. The period of ineligibility is 6 months from the date of the first conviction, 12 months from the date of the second conviction, and permanently from the date of the third conviction.

Satisfaction of Criminal Penalties

An individual who has been sentenced for a felony or misdemeanor offense and who has not satisfied the penalty imposed by the court is ineligible for TANF. An individual who is required to pay fines, cost and restitution, and who is in compliance with an approved payment plan, may be eligible for TANF.

Fraudulent Misrepresentation of Residence

An individual is ineligible for TANF for a period of ten years if he is convicted in a Federal or state court of fraudulent misrepresentation of residence for the purpose of receiving TANF, Medicaid, Food Stamps or Supplemental Security Income in two or more states simultaneously.

Penalty for Conviction of a Felony Offense for Possession, Use or Distribution of a Controlled Substance

In accordance with Federal TANF requirements, an individual who is convicted under Federal or state law of a felony offense that was committed after August 22, 1996, related to the possession, use or distribution of a controlled substance is permanently ineligible for TANF. The Federal law allows states to opt out of applying this permanent ineligibility provision; however, to do so, a state must enact a law after enactment of PRWORA. Pennsylvania reserves the right to opt out of the Federal requirement that imposes a permanent bar.

State law specifies that a person convicted of a felony is ineligible for assistance until he has satisfied the penalty imposed by the court.

Failure To Appear At Criminal Court Proceeding

An individual who, as a defendant, fails to appear at a criminal court proceeding when issued a summons or bench warrant is ineligible for TANF until he complies with the summons or bench warrant.

Fugitive Felon

An individual who is fleeing to avoid prosecution or custody or confinement following a conviction for a felony or who is violating probation or parole imposed under Federal or State law is ineligible for TANF. If the individual receives a Presidential pardon for the conduct the individual is not ineligible as a fugitive felon or probation/parole violation, for any month beginning after the pardon.

Violation of Probation or Parole

An individual who is in violation of the terms of probation or parole is ineligible for TANF until he complies.

Definition of Unemployed/The 100-Hour Rule

Eligibility for TANF in two-parent households where there is no incapacity is based on the unemployment of the principal wage-earner parent. Pennsylvania eliminated the 100-hour rule from the definition of "unemployment." Eligibility for TANF is not affected by employment of the principal wage-earner parent that equals or exceeds 100 hours per month unless earnings exceed appli-

cable income limits. Elimination of this rule strengthens two-parent families and promotes employment and self-sufficiency.

□ **Family Savings Account**

A Family Savings Account (FSA) established pursuant to 73 P. S. §§ 400.2101-2103, Act 1997-23, is excluded as a resource when determining eligibility. The FSA Program is administered through local service providers under the direction and approval of DCED for the purpose of promoting self-sufficiency. An FSA is a family savings account that is opened and maintained by a saver in the program. Based on the approved plan, the FSA may be used to help finance the purchase of a new home, pay for educational or entrepreneurial expenses, or other approved activities. Deposits are matched by DCED with funds from TANF, the State Legislature and other Federal funds. This initiative is pursuant to 42 U.S.C.A. § 404(a)(1).

8. *Child Support Requirements*

Cooperation with the Department or the court in identifying a non-custodial parent, establishing paternity and establishing an order for support continue to be prerequisites to receiving benefits, unless the applicant/recipient establishes good cause for not doing so. Current State policies with respect to child support are revised as follows:

- Applicants must appear before, and obtain from, the Domestic Relations Section of the Court of Common Pleas, a certification of cooperation with child support enforcement requirements prior to authorization of TANF benefits. The Secretary of the Department may waive the personal appearance requirement for a county court or Domestic Relations Section following review of a written request from the county which establishes that another procedure would be as efficient and effective.
- The definition of cooperation is expanded by requiring an applicant or recipient to take the following actions:
 - Identify the parent(s) of any child for whom assistance is sought or received. This includes an appearance by the applicant or recipient, with the child, for scheduled genetic testing.
 - Keep scheduled appointments with the Department or Domestic Relations Section.
 - Provide truthful and accurate information and documents requested by the Department or Domestic Relations Section.
 - Sign and return any forms requested by the Department or Domestic Relations Section.
 - Appear as a witness and provide testimony at judicial and other hearings as requested by the Domestic Relations Section.
 - Pay to the Department any support payment received directly from the noncustodial parent after an assignment of support has been made.
- The failure of the mother to identify by name the father of a child creates a presumption of noncooperation which may be rebutted only by clear and convincing evidence.
- If an applicant or recipient provides the names of two putative fathers subsequently excluded from paternity by genetic testing, the second exclusion creates a

presumption of noncooperation, which may be rebutted only by clear and convincing evidence.

- Either the Title IV-A agency (CAO), the local Title IV-D agency (Domestic Relations Section of the Court of Common Pleas) or the Court of Common Pleas can will be permitted to determine whether the applicant or recipient has failed to cooperate and lacked good cause for such failure.
- In accordance with Act 58, the State may retain the support collected on behalf of a TANF family up to the amount of the cumulative assistance paid to the family.

The State will distribute child support collected on behalf of families receiving TANF cash assistance as follows:

- First pay to the Federal government an amount equal to the Federal share of the amount collected.
- Second, pass through to the TANF family the State share of remaining current support collected, up to \$50 per month, without decreasing the amount of cash assistance provided. In no case will a TANF family be paid more than one support pass-through in a month.
- Third, retain the remainder of the amount collected to reimburse the Commonwealth, capped at an amount equal to the total assistance paid to the TANF family.
- Fourth, pay to the TANF family any remaining amounts of support collected in accordance with Federal law.

9. *Work and Self-sufficiency*

As established by Act 35, recipients of TANF in Pennsylvania are enrolled in an employment and training program known as RESET to enable them to obtain employment and become self-sufficient. The primary means to achieve self-sufficiency is through work. This approach emphasizes a work-first approach as part of a continuum of services which can establish a work history, with increasing wages, and benefits that lead, over time, to economic independence and self-sufficiency.

□ **Exemptions**

To be considered exempt from RESET requirements, recipients must be:

- under the age of 18 and pursuing a high school diploma or GED;
- an individual with a verified physical or mental disability which temporarily or permanently precludes him from any form of employment or work-related activity;
- the parent/caretaker relative of a child under the age of 6 for whom an alternate child care arrangement is unavailable; or
- the custodial parent in a one-parent household who is caring for a child under the age of 12 months. Pennsylvania is exercising the option to allow this exemption; however, it may be granted for a total of only 12 months in the parent's lifetime. The 12 months do not need to be consecutive.

An individual who is exempt because of a physical or mental disability is required to participate in a work or work-related activity when the condition ceases as follows:

- If the condition ceases in the first 22 months that the individual receives cash assistance, the recipient is required to participate immediately.
- If the condition ceases after the individual has received cash assistance more than 22 months, the recipient is required to participate within eight weeks.

A specified relative who is exempt for providing care to a child under the age of six is required to participate in a work or work-related activity as soon as child care is available.

An exempt individual under 18 years of age is required to participate in RESET upon:

- becoming 18 years of age;
- attaining a high school diploma or a certificate of high school equivalency; or
- ceasing to pursue a high school diploma or a certificate of high school equivalency.

An exempt custodial parent in a one-parent household who is caring for a child under the age of 12 months is required to participate when the child becomes 12 months old, the parent chooses to end the exemption, or when the parent has exhausted the 12-month lifetime limit for this exemption.

An individual who is exempt may volunteer to participate in RESET. Exempt volunteers may participate in the RESET activity of their choice, provided they meet the eligibility criteria for those activities or programs. Exempt individuals who volunteer to participate in contracted programs must meet all of the requirements of those programs. Such requirements include, but are not limited to, attendance and participation. Exempt volunteers need not conduct an initial job search prior to beginning to participate and are not subject to sanction for noncompliance with the work requirements.

Determinations of good cause will be made using the criteria found in 55 Pa. Code § 165.52.

NOTE: The time an individual spends in "Exemption" or "Good Cause" status counts towards the 60-month time limit.

Requirements During the First 24 Months

During the first 24 months, the individual must, as an initial work-related activity, conduct a job search for up to eight weeks or until employment of at least 20 hours per week is found, whichever occurs first. If at the end of eight weeks the individual has not found employment for at least 20 hours per week, he is required to participate in additional work-related activities specified on the AMR, which may include additional job search.

If the individual does not secure employment for an average of at least 20 hours per week during the job search, the work-related activity requirement may be met by participation in any one or combination of the following:

- job search
- job readiness/preparation activities
- subsidized employment
- work experience
- on-the-job training
- workfare
- community service

- any employment and training program funded or approved by the Department
- vocational education
- general education
- English-as-a-Second-Language
- job skills training

After 12 months of participation in vocational education, general education, education in ESL, or job skills training, a recipient who wishes to continue education or training will be required to participate in another work-related activity in addition to the education or training.

Requirements After 24 Months

After 24 months of receiving cash assistance, the individual must, for an average of at least 20 hours per week, work in unsubsidized employment or participate in any one or combination of the following:

- subsidized employment
- work experience
- on-the-job training
- community service
- workfare

Since implementation of RESET in 1997, Pennsylvania has decided to grant good cause for failure to meet the minimum 20-hour weekly work requirement to certain individuals who have received cash assistance for 24 or more months. These individuals include those pregnant or parenting recipients under the age of 22 who are attending high school or participating in a GED program for at least 20 hours per week until graduation or receipt of a GED, whichever occurs first.

Good Cause for Education (Pre- and Post-24 Months)

Individuals who meet one of the following criteria may be granted up to 6 months of good cause for not meeting the work and work-related activity requirements. The criteria include: individuals who are participating in an internship, student teaching or practicum for at least 20 hours per week and individuals who began to participate in an approved education or training activity that began during the first 24 months—if the total hours of lab time, instruction and work or work-related activity equals at least 20 hours per week.

Additionally, individuals who are 18-22 and pursuing a high school diploma or GED are excused from meeting the work and work-related activity requirements during the first 24 months of receipt of TANF. Pregnant or parenting individuals under age 22 who are enrolled in high school or attending a minimum 20-hour per week GED program, may be granted good cause from meeting the 20-hour weekly work requirement after having received 24 months of cash assistance until the individual graduates from high school, receives a GED or reaches 22 years of age, whichever occurs first.

Special Allowances for Supportive Services for Work and Work-related Activities

Individuals who participate in work-related activities specified in their AMR may be eligible for supportive services provided by the Department, including costs for transportation and other work supports. Payments for work supports, when available, will be made by the CAO for actual costs up to the Department's established maximums.

10. *Education in the Work First Environment*

Since the implementation of welfare reform in Pennsylvania, education in the form of literacy initiatives, pursuit of a high school diploma or GED, ESL, Adult Basic Education, post-secondary schooling and vocational skill training has been a part of the continuum of work-related activities.

Indeed, Pennsylvania law is unusual in that it permits significant flexibility to pursue education or training as the sole work-related activity for a full year. This opportunity is crucial for those individuals who do not find work during the initial job search. In fact, during the entire five years on welfare, individuals may pursue an education as long as they also meet the minimum 20-hour weekly work requirement upon receiving TANF for 24 months (unless they establish good cause under 55 Pa. Code § 165.52 for not doing so).

National research continues to document the superior effectiveness of models that combine work with education and training. Education can be part of an approved plan to reach self-sufficiency regardless of the number of months of assistance the client has received.

Employment always has been the primary goal of our TANF program. We continue to encourage individuals to begin developing a work history early in their welfare experience. However, the role of education will continue to be emphasized for individuals who have been successful in finding employment and are now seeking career advancement in order to move to self-sufficiency.

Some of our current refinements include:

- Contracted program designs that currently include various courses of education. The Department will strive to maintain these and even increase them where appropriate;
- Structured outreach efforts that began with post-secondary institutions and will be expanded to include community literacy programs;
- Programs and procedures that assist individuals in completing their educational activities while meeting work requirements; and
- Development of case management programs that will support and assist individuals enrolled in post-secondary education to stay in school and meet the challenges of parenthood as well as those associated with participation in education while working.

Pennsylvania will continue to mesh employment and training efforts designed specifically for welfare recipients into the larger workforce development system at every appropriate point. Collaboration with the One-Stop system mandated by the Workforce Investment Act has been ongoing with partnerships developing at the state and county levels.

11. *Noncompliance with the RESET Program*

A sanction is imposed on any individual required to participate in RESET who willfully, without good cause:

- Fails to accept a bona fide offer of employment in which the individual is able to engage;
- Voluntarily terminates employment;
- Fails or refuses to accept referral to participate in or continue to participate in an available work-related activity, including work-related activities specified on the AMR;

- Fails to accept referral to, work in, or retain employment in which the individual is able to engage, and participate in work activity specified on the AMR;
- Fails to seek employment;
- Fails to maintain employment;
- Reduces earnings;
- During the first 24 months of cash assistance, fails to participate in one of the following work-related activities, if not employed at least 20 hours per week: subsidized employment; work experience; on-the-job training; community service; workfare; job search, whether independent or assisted, and job readiness and job preparation activities; vocational educational training or job skills training; any employment and training program funded or approved by the Department that provides one stop access to intensive case management, training, education, job readiness and training, job search and individual job development that leads to job placement;
- After receiving 24 months of cash assistance, fails to participate for an average of at least 20 hours per week in one of the following work activities: unsubsidized employment, subsidized employment, work experience, community service, on-the-job training or workfare;
- Fails to agree to fulfill RESET participation requirements; or
- Fails to apply for work at the time and in the manner as the Department may prescribe. If good cause is not established, the individual will receive an Advance Notice advising of the proposed sanction. The sanctions for failure to comply with the work or work-related activity requirements are required by 62 P. S. § 432.3.

Sanctions for Failure to Comply with RESET Requirements

A mandatory RESET participant who willfully fails to cooperate with the work or work-related activity requirement, participate in RESET or accept a bona fide offer of employment, or who terminates employment, reduces earnings or fails to apply for work, without good cause, shall be disqualified from receiving cash assistance.

The period of the sanction is:

First occurrence - 30 days or until the individual is willing to comply with RESET, whichever is longer.

Second occurrence - 60 days or until the individual is willing to comply with RESET, whichever is longer.

Third occurrence - permanently.

If the reason for sanction occurs in the first 24 months, the sanction applies only to the individual.

If the reason for the sanction occurs after the first 24 months, the sanction applies to the entire budget group.

In lieu of the sanctions set forth above, if an employed individual voluntarily, without good cause, reduces his earnings by not fulfilling the 20-hour work requirement during the first 24 months, the cash grant is reduced by the dollar value of the income that would have been earned if the individual would have fulfilled his 20-hour work requirement, until the 20-hour requirement is met.

NOTE: If an employed individual voluntarily, without good cause, reduces his earnings by not fulfilling the 20-hour work requirement after having received cash assistance for 24 months, the entire budget group is subject to durational sanctions.

The Department has opted not to impose a sanction on Medicaid benefits for recipients who fail to comply with work and work-related activity requirements.

12. *Supporting Employment with Child Care*

The Department has provided information about subsidized child care benefits available under the "Child Care Works" program in the Child Care Development Block Grant State Plan submitted in June 1999 for the period October 1, 1999 through September 30, 2001. Support for child care costs for eligible TANF recipients participating in approved work-related activities provides access to a full range of child care opportunities. Consumer education materials and information about minimal health and safety standards are available to all TANF clients and participating providers. Information about day care options, as well as availability and location of care, continues to be available through the Department's contracted Child Care Information Service agencies.

13. *Coordination with Child Welfare*

The State recognizes the need to strengthen the existing line of communication between the local CAOs and the local County Children and Youth Agencies (CCYAs). A workgroup developed a set of inter-agency protocols to coordinate efforts to serve mutual clients. The process eliminates development of conflicting service plans and eliminates the possibility of conflicting program requirements. The protocols require that the activities outlined on the AMR, prepared in the CAOs, should be coordinated with the Family Service Plan that is prepared at the CCYA. All 67 CAOs and CCYAs implemented county protocols to ensure a local service delivery system that enables families to reach self-sufficiency while providing a safe environment for the child. Additionally, prior to the imposition of a sanction for non-compliance with the work requirement, CAOs are required to contact CCYAs to determine if a family may have good cause for such non-compliance.

14. *Safeguarding Information*

Pennsylvania continues to operate its welfare program in a manner that safeguards information about individuals and families receiving assistance. The State intends to adhere to the provisions on the safeguarding of information in effect prior to implementation of TANF, with the addition of the following provisions:

- The Department exchanges information with the Pennsylvania State Police, the Pennsylvania Board of Probation and Parole, the State Department of Corrections, county law enforcement and corrections agencies, and local law enforcement and corrections agencies. This information is used to identify persons who have been sentenced for a felony or misdemeanor and have not satisfied the penalty imposed by law, fugitive felons and persons convicted of drug-related felonies.
- The Department will furnish the current address of a recipient to a Federal, State or local law enforcement officer who certifies that the location or the apprehension of the recipient is within his official capacity.

However, the Department will furnish the address only on the request of the officer and only if the officer

furnishes the Department with the name of the recipient and states that the recipient is fleeing to avoid prosecution, or custody, or confinement after conviction for a felony or high misdemeanor under State law, or the recipient has information that is necessary for the officer to conduct his official duties.

15. *Transfers of TANF Block Grant Funds*

Pennsylvania continues to provide supportive and emergency assistance through TANF or other State programs as follows:

- Pennsylvania reserves the option to transfer TANF funds to the Child Care and Social Services Block Grants.

16. *Reductions of Out-of-Wedlock Births*

The Department, through its Office of Social Programs, is the agency responsible for services that can reduce out-of-wedlock births. This reduction is being addressed from two perspectives:

- Provision of family planning services for low-income families without regard to income for those who are 16 and 17 years old; within Department of Health under Federal funding through Title V of the Maternal and Child Health (MCH) Block Grant to teens under age 16.
- Abstinence education for adolescents with family incomes less than 185 percent of the FPIGs. The Department of Health, through the Abstinence Education and Related Services (AERS) Initiative, and as part of the Governor's Project for Community Building, has implemented a five-year comprehensive statewide plan to promote abstinence as a positive lifestyle decision for young adolescents. The primary target populations are youth, males and females, 9-14 years of age.

In Federal Fiscal Year 2003-2004, the Department intends to provide funding to implement up to 28 new community-based AERS projects and up to ten new AERS Planning Projects. These projects will be selected through a statewide competitive bid process. The projects will provide abstinence education and related services to children and adolescents in a variety of settings. When appropriate, related services include: mentoring, adult supervision and counseling. Community-based AERS projects that address at least one of the following subcategories will be given greater funding consideration: 1) the disparities in pregnancy and birth rates experienced by black and Hispanic youth or 2) children with special health care needs.

In addition, the Department proposes, through the use of TANF dollars, to 1) fund three regional Health Trainings for Physicians and other health professionals, 2) plan and implement an annual youth development event and, 3) continue to implement an abstinence education curriculum, that is culturally and linguistically sensitive to Hispanic youth, at eight Bi-lingual Learning Centers located in areas of the State with large populations of Hispanic youth who are at risk for premature sexual activity, early teen pregnancy and other high-risk behaviors. The Department will also use MCH Block Grant to promote parent education by offering child and adolescent development training sessions.

A statewide media campaign continues to raise public awareness of the benefits of abstinence, the potentially negative consequences of early teen pregnancies

and the central role of parents as the primary educators of their children regarding sexual matters. The Department solicited the input of youth focus groups to assist in the design and development of a media campaign aimed at youth in the primary target population. The youth focused "W8" (WAIT) media campaign resulted from this effort. Incentives such as a strobe light key chain, tee shirt and CD cases are currently being distributed to encourage youth to choose to wait to have sex.

Pennsylvania is exercising the option to provide mentoring, counseling, and adult supervision to promote abstinence from sexual activity.

For TANF, services are focused on adolescents and provided by current contractors.

In 1994, there were 51,354 out-of-wedlock births, of which 14,843 or 28.9 percent were to women 19 years of age or younger. In 1995, there were 49,042 out-of-wedlock births, of which 14,436, or 29.4 percent, were to women 19 years of age or younger. In 1996, there were 47,828 out-of-wedlock births, of which 13,907 or 29.1 percent were to women 19 years of age or younger. In 1997, there were 47,182 out-of-wedlock births, of which 13,457 or 28.5 percent were to women 19 years of age or younger. In 1998, there were 47,803 out-of-wedlock births, of which 13,454, or 28.1 percent, were to women 19 years of age or younger. In 1999, there were 47,596 out-of-wedlock births, of which 13,311, or 28 percent, were to women 19 years of age or younger. In 2000, there were 47,593 out-of-wedlock births, of which 12,925, or 27.2 percent, were to women 19 years of age or younger. In 1998, Pennsylvania reduced its number of out-of-wedlock births by 28.1 percent, exceeding its set goal of a 28.15 percent reduction in out-of-wedlock births.

17. *Education and Training to Reduce Statutory Rape*

Pennsylvania convened a Statutory Rape Task Force to address the issue of teen pregnancies that result from relationships with older men. Through a contract with the Pennsylvania Coalition Against Rape (PCAR), the Department launched an ad campaign and educational program to increase awareness of the statutory rape laws among middle school, junior high, and high school students and staff. In fiscal year 2001-2002 Prevention Education Programs were presented in 67 of Pennsylvania's counties. PCAR representatives, along with Equalogy, the company that developed the curriculum, have received a tremendous amount of response from students and staff who were unaware of the legal issues regarding youths that are involved with persons who are significantly older. The ad campaign consists of 1) posters placed on public buses in Philadelphia as well as in school hallways or nurses' offices, 2) a teen magazine geared toward girls, 3) a video about issues of sexual violence awareness and prevention, 4) a brochure to provide hands-on information to teens on sexual violence, 5) a music CD of songs about teens in various relationship situations and 6) free concerts at underage dance clubs. The artists on the CD and performing at the concerts encourage the teens not to give in to peer pressure.

Although the Task Force's efforts have largely focused on school-aged females, the Task Force will explore means to reach school-age males and young adult males.

18. *Identifying Domestic Violence*

Pennsylvania exercised the Federal TANF option to certify that it will screen for and identify victims of domestic violence. Since 1997, the Department has collaborated with the Pennsylvania Coalition Against Do-

mestic Violence (PCADV), its statewide contractor providing services to victims of this abuse, to develop a program to screen for and identify domestic violence victims among TANF applicants and recipients. This collaboration has taken place under the auspices of the Domestic Violence/TANF Task Force.

The Task Force developed a training program (including a video role play) that provides information on identifying and understanding victims of domestic violence as well as guidance on how a caseworker should use this information to perform his/her job. Victims of domestic violence may qualify for temporary waivers of TANF program requirements such as time limits on receipt of cash assistance, employment and training requirements and cooperation with child support requirements.

To avoid asking each individual specific questions on domestic violence, the Task Force developed several forms of universal notification. A brochure and palm card that explain domestic violence and contain the telephone numbers of local domestic violence agencies are available for distribution in the CAOs. These items may be dispensed by the caseworker or placed in areas of the CAO such as the women's restroom for discreet access. Four different domestic violence awareness posters are also available for posting in the CAOs. One of the posters specifically explains that the requirements for work, child support and minor parents may be waived temporarily for those who are or have been victims of domestic violence. In addition, the Common Application Form includes a tear-out sheet explaining domestic violence, good cause and the possibility of being temporarily excused from certain program requirements.

The Department has also revised its regulations governing good cause for failing to cooperate with child support requirements based on a claim of domestic violence. Applicants/recipients who are unable to safely provide documentation of good cause within the established time frames for providing verification may sign an affirmation of this fact and be granted good cause.

19. *Link with Medicaid*

TANF eliminated the automatic granting of Medicaid benefits to cash assistance recipients. However, it provided states the opportunity to maintain the link by ensuring that their TANF design is no less restrictive in certain financial and non-financial criteria. Since Pennsylvania's TANF Program does ensure this, TANF cash recipients will continue to receive Medicaid benefits.

Additionally, Pennsylvania has implemented several operational changes to ensure that individuals transitioning from TANF receive all Medicaid benefits for which they are eligible. The Department has instructed caseworkers to: 1) determine Medicaid eligibility when closing a cash case; 2) authorize extended Medicaid as appropriate; 3) issue a notice of Medicaid eligibility when closing a cash case; and 4) determine Medicaid eligibility when rejecting a cash application. Also, computer enhancements have been developed to: 1) flash warning messages to remind caseworkers to review Medicaid when rejecting or closing a cash case; and 2) open automatically cases for extended Medicaid based on closing codes. These enhancements are supported by supervisory review and management monitoring of every cash case closing when an immediate opening of Medicaid does not occur.

The Department works with the Pennsylvania Department of Insurance to develop and maintain a joint application for the Children's Health Insurance Program,

the AdultBasic Program and the Medicaid Program, which streamlines the application process for individuals and families.

Pennsylvania also has engaged in several outreach efforts to support the aforementioned operational initiatives. For example, staffers including the Healthy Babies/Healthy Kids Hotline number, are included with every system-generated closing or application rejection.

Pennsylvania has a continuing commitment to provide families with the Medicaid coverage to which they are eligible.

20. Food Stamp Outreach

Pennsylvania recently agreed to join with the United States Department of Agriculture Food and Nutrition Service (FNS) as partners in a nationwide Food Stamp Public Education Campaign. In addition to distributing the campaign brochures, posters and flyers provided by FNS, the Department recently met with community agencies to solicit their ideas and help in developing strategies for effective food stamp outreach, including the possibility of working with community-based organizations. The Department also plans to work with the Nutrition Education Network to tap their expertise in the development of a comprehensive outreach plan.

B. SPECIAL PROVISIONS

1. Time-Out Initiative

The Department incorporated a segregated State-funded program in the FY 2001-2002 budget, known as the Time-Out Initiative. This initiative encourages early participation in work and/or other employment-related activities by providing incentives for families that exceed minimum work participation requirements. In addition, the Time-Out Initiative provides incentives to families who are addressing barriers to self-sufficiency by working towards goals for self-sufficiency that are tailored to their individual needs and situations. By segregating State funds from Federal TANF funds, individuals who otherwise qualify for TANF may receive cash assistance under the segregated state-funded program that does not count towards the 60-month lifetime limit (42 U.S.C.A. § 609(a)(7)(B)(i)).

In accordance with 42 U.S.C.A. § 609(a)(7)(B)(i) and subject to the availability of resources, the Department intends to provide funding included in the FY 2002-2003 budget for the Time-Out initiative.

Time-Out from the 60-month time limit may be granted to individuals in the following groups if all other TANF eligibility criteria are met:

Working

- A recipient who is working 30 hours per week in paid subsidized or unsubsidized employment;

OR

- A two-parent family, working in paid employment a combined total of 55 hours per week;

OR

- A self-employed recipient working at least 30 hours per week, (self-employed individuals must demonstrate they are working the functional equivalent of 30 hours per week at minimum wage);

OR

- A recipient who is working at least 20 hours per week in paid subsidized or unsubsidized employment or paid work experience and is also engaged

in approved employment and training activities so that the total work plus education/training hours per week equals or exceeds 30;

OR

- A two-parent family in which one parent is incapacitated and the other parent is working at least 30 hours per week or is working at least 20 hours per week and engaged in employment and training activities as defined above.

NOTE: The approved employment and training activities may include GED, English-as-a-Second-Language (ESL) and post-secondary education.

Early Engager

- To be considered an early engager, a recipient must have completed the required eight-week initial job search, unless the recipient is excused from completing an initial job search because he has been granted good cause or is an exempt volunteer;

AND

- Begins a contracted or otherwise Department-approved Employment and Training program for at least 30 hours per week in the first 12 months of cash assistance;

OR

- Is enrolled in a post-secondary educational activity defined as full-time by the college, university, or institution in the first 12 months of cash assistance.

NOTE: The employment and training activity may include GED or ESL classes. However, participation in GED or ESL services alone is not sufficient to qualify under this criterion.

Exempt Volunteer

- A recipient who is exempt from participating in work or work-related activities due to a verified physical or mental disability;

AND

- Who participates in the Maximizing Participation Project (MPP). The MPP is an initiative that is designed to assist TANF recipients reach their potential through intensive case management and the provision of services that are deemed necessary to improve their lives and the lives of their children. This project employs a team-centered approach to developing a services plan that fosters self-sufficiency in clients who experience or have experienced physical or mental illnesses. Members of this team, in addition to the CAO caseworker, may include knowledgeable professionals from partnering agencies and offices.

Kinship Caregiver

- A non-parental caretaker who has received 24 months or more of cash assistance for himself/herself and a related minor dependent child, or has care and control of a related minor dependent child as a result of court-ordered placement by Children and Youth Services;

AND

- Is not receiving cash assistance for children of his/her own;

AND

- Is meeting the minimum 20-hour weekly work requirement, is exempt or has good cause for not meeting work requirements.

Victim of Domestic Violence

- An individual who has been identified as a victim of domestic violence.

Eligibility for participation in the Time-Out initiative is limited to those families who meet the income, resource, and non-financial eligibility factors associated with the TANF program. Individuals eligible for Time-Out under the Working, Early Engager, or Exempt Volunteer criteria may qualify for 12 months of Time-Out in a life time.

Victims of domestic violence may receive a Time-Out for six months with an additional six months if the need still exists. Victims of domestic violence may receive up to 12 months of Time-Out under this criterion and an additional 12 months of Time-Out under the Working, Early Engager or Exempt Volunteer criteria if they qualify. Kinship caregivers may receive Time-Out indefinitely as long as they meet the criteria specified above under the "Kinship Caregiver" heading. The limit on the number of months a person may receive Time-Out applies regardless of whether the months are consecutive.

An individual may receive Time-Out under one criterion and later receive Time-Out under another criterion, as long as the combined periods do not exceed the 12-month lifetime limit (excluding kinship caregivers and victims of domestic violence). For example, an individual may receive Time-Out for four months while participating in a contracted employment and training program. He/she begins unsubsidized employment for 30 hours per week and continues to receive Time-Out for eight months, the balance of the 12-month period.

This initiative meets TANF purpose number one—provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives, and TANF purpose number two—end dependence of needy parents on government benefits by promoting job preparation, work and marriage.

2. Extended TANF Cash Assistance

Pennsylvania's provision for receipt of TANF beyond the 60-month Federal time limit is known as Extended TANF. Regulations at 42 U.S.C.A. § 608(a)(7)(C) and 45 CFR § 264.1(c) give states the option to extend TANF beyond the 60-month limit to families that have a hardship as defined by the State or include an individual who has been battered or subjected to extreme cruelty (domestic violence). The number of families that may receive Extended TANF is limited to 20 percent of the average monthly number of families receiving TANF during the current or preceding fiscal year. Pennsylvania is exercising this option.

Anyone who has exhausted 60 months of TANF may qualify for Extended TANF if they meet applicable eligibility requirements. The Department allowed for an Extended TANF contingency period from March 2002 through October 2002, because the final Extended TANF regulations were not published until October 12, 2002 (32 Pa.B. 5048). During the contingency period, TANF families who exhausted the 60-month time limit automatically continued to receive cash assistance, if otherwise eligible, without having to apply for Extended TANF. The number of families eligible for Extended TANF during the contingency period did not exceed the 20 percent average monthly caseload.

The Extended TANF program was implemented on October 28, 2002. TANF families who exhaust the 60-month time limit or who were granted Extended TANF during the contingency period are required to apply for Extended TANF cash assistance and meet eligibility requirements, as defined below. Among those who may qualify for Extended TANF are:

- Recipients who are exempt or have good cause for not meeting the work requirements;
- Recipients who are required to meet the work requirements and are not working or working less than 30 hours per week; and
- Recipients who are victims of domestic violence.

Families who exhaust the TANF time limit and have their cash assistance discontinued may apply for and receive Extended TANF at a future time, if they are otherwise eligible.

3. Families Entering Pennsylvania from Another State

In light of the decisions below, no regulation will be promulgated to implement 62 P. S. § 432(5)(ii).

Effective March 3, 1997, Pennsylvania implemented 62 P. S. § 432(5)(ii), which requires the Department to provide benefits based on the level provided by a family's former state if the family had resided in the State for less than 12 months. On October 6, 1997, the U.S. District Court for the Eastern District of Pennsylvania preliminarily enjoined the Department from enforcing this multi-tier durational residency provision in the case of *Maldonado et al. v. Houstoun et al.* On September 9, 1998, that preliminary injunction was upheld by the U.S. Court of Appeals for the Third Circuit.

On May 24, 1999, following its decision in *Saenz v. Roe*, 119 S.Ct. 1518 (1999), striking California's two-tier durational residency requirement, the U.S. Supreme Court denied Pennsylvania's Petition for Certiorari seeking review of the Third Circuit's decision in *Maldonado*.

4. Treatment of Noncitizens

Pennsylvania is exercising the options available in Title IV of PRWORA to continue or to authorize TANF benefits for non-citizens who are "qualified aliens," as defined by PRWORA, and who meet all other eligibility requirements.

5. Delivery of Benefits

Pennsylvania continues to operate the TANF Program based on the rules and regulations for delivery of benefits in effect prior to implementation. Eligible recipients receive continuing benefits in two semi-monthly cash payments delivered primarily through the Electronic Benefits Transfer (EBT) System.

During the fiscal year 1997-1998, Pennsylvania implemented a Statewide EBT system to replace the paper-based welfare benefits issuance system. EBT is a state-of-the-art means for electronically issuing welfare recipient benefits through a statewide network of automatic teller machines and point-of-sale devices to electronically deliver cash assistance and food stamp benefits throughout the Commonwealth.

6. Right to Appeal

Pennsylvania will continue to follow the appeal and fair hearing regulations and procedures consistent with 55 Pa. Code Chapter 275.

7. *Community Service Option*

Pennsylvania has opted out of the provision to require a parent or caretaker to participate in community service if that parent or caretaker has received assistance for two months, is not exempt from work participation and is not engaged in work.

VII OFFICE OF CHILDREN YOUTH AND FAMILIES AMENDMENT

A. Other State Programs and Services Designed to Meet the Purposes of TANF

1. *General Relationship to TANF Purposes*

TANF provides states the flexibility to develop and implement innovative approaches to address TANF purposes. Therefore, effective October 1, 1999, the Department, through the Office of Children, Youth and Families (OCYF), county children and youth agencies (CCYAs) and juvenile probation offices (JPOs) has operated a segregated TANF Federally-funded program. The segregated TANF Federally-funded program is reasonably related to the TANF goals of providing assistance to needy families so that children may be cared for in their own homes or in the homes of relatives, preventing and reducing the incidence of out-of-wedlock pregnancies, and encouraging the formation and maintenance of two-parent families. These goals will be promoted through the provision of services described under sections 2 and 3 below. Services are also provided in any manner that Pennsylvania was authorized to use funds received under Title IV-A or Title IV-F of the Social Security Act, as such titles were in effect on September 30, 1995, including as specified in Section V.

2. *Family Preservation, Reunification and Support Services Designed to Promote TANF Purposes.*

The services listed in this section are provided as non-assistance services to needy families. The services listed in this section are reasonably related to the goals of assisting needy families so that children may be cared for in their own homes or homes of relatives including children placed in the homes of relatives, encouraging the formation and maintenance of two-parent families and preventing and reducing the incidence of out-of-wedlock pregnancies, i.e., TANF purposes 1, 3 and 4. These services are intended to break the cycle of social, emotional and economic dependency by providing the necessary interventions, supports and services to families experiencing various forms of crises and dysfunction, e.g. substance abuse, lack of parenting skills, marital/relationship problems. The provision of services identified in this section will enable families and children to develop the skills and supports necessary to overcome their problems in functioning, thereby providing them with a stable foundation upon which additional competencies related to permanent and stable relationships and responsible parenting can be built. Stable relationships and responsible parenting skills are essential for creating an environment in which two-parent families can continue to exist or come into existence. The existence of stable relationships and responsible parenting skills is also essential to breaking the cycle of out-of-wedlock pregnancies.

The following family preservation, reunification and support services are provided or arranged for families and for children residing in their homes (and for children who are temporarily in foster care and who are expected to return to the home within the temporary absence period established by the State) by OCYF, CCYAs or JPOs, as determined necessary and appropriate. The services are

provided as non-assistance services to assist needy families. For purposes of this section, "needy" is defined as having a household income of less than 400 percent of the Federal poverty level.

- Parent/Child Visitation
- Intensive Family Preservation Services
- Casework/Case Management Services
- Diagnostic and Assessment Services
- Family Support Services including Respite Care
- Family Centers
- Counseling Services
- Parenting and Home Management Services
- Independent Living Services
- Preventive Services focused on promoting family stability and responsible behavior of individuals and reducing economic dependence
- Delinquency Prevention/Remediation Services
- Day Treatment and Protective Day Care Services
- Non-Medical Substance Abuse Services
- Other In-home Services
- Programs Promoting Responsible Fatherhood
- Adoption Services

3. *Services Provided to Dependent and Delinquent Children Who Have been Placed into Residential Care*

TANF funds may be used to pay for services as authorized in the approved Title IV-A State Plan in effect as of September 30, 1995.

CERTIFICATIONS

The State will operate a program to provide Temporary Assistance for Needy Families (TANF) so that children may be cared for in their own homes or in the homes of relatives; to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage; to prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and encourage the formation and maintenance of two-parent families.

This program is known as Temporary Assistance for Needy Families (TANF)

Executive Officer of the State: Governor Mark Schweiker

In administering and operating a program which provides Temporary Assistance for Needy Families with minor children under title IV-A of the Social Security Act, the State certifies the following:

CERTIFICATION THAT THE STATE WILL OPERATE A CHILD SUPPORT ENFORCEMENT PROGRAM.

The Department of Public Welfare will operate a child support enforcement program under the approved Title IV-D State Plan.

CERTIFICATION THAT THE STATE WILL OPERATE A FOSTER CARE AND ADOPTION ASSISTANCE PROGRAM.

The Department of Public Welfare will operate, during the fiscal year, a foster care and adoption assistance program under the State Plan approved under part E, and the State will take such actions as are

necessary to ensure that children receiving assistance under such part are eligible for Medical Assistance under the State Plan under Title XIX of the Social Security Act.

CERTIFICATION OF THE ADMINISTRATION OF THE PROGRAM.

The Department of Public Welfare will administer and supervise the program known as Temporary Assistance for Needy Families for the fiscal year. Local governments and private sector organizations will be consulted regarding the plan and design of welfare services in Pennsylvania so that services are provided in a manner appropriate to local populations; and these same local governments and private sector organizations will have had at least 45 days to submit comments on the plan and the design of such services.

CERTIFICATION THAT THE STATE WILL PROVIDE INDIANS WITH EQUITABLE ACCESS TO ASSISTANCE.

The Commonwealth of Pennsylvania, during the fiscal year, will provide each member of an Indian tribe, who resides in the State and is not eligible for assistance under a tribal family assistance plan approved under section 412, with equitable access to assistance under the State's TANF Program.

CERTIFICATION OF STANDARDS AND PROCEDURES TO ENSURE AGAINST PROGRAM FRAUD AND ABUSE.

The Commonwealth of Pennsylvania has established and is enforcing standards and procedures to ensure against program fraud and abuse, including standards and procedures concerning nepotism, conflicts of interest among individuals responsible for the administration and supervision of the State program, kickbacks, and the use of political patronage.

OPTIONAL CERTIFICATION OF STANDARDS AND PROCEDURES TO ENSURE THAT THE STATE WILL SCREEN FOR AND IDENTIFY DOMESTIC VIOLENCE.

The Department of Public Welfare will establish and enforce standards and procedures to:

- screen and identify individuals receiving assistance under this part with a history of domestic violence while maintaining the confidentiality of such individuals;
- refer such individuals to counseling and supportive services; and
- waive, pursuant to a determination of good cause, other program requirements such as time limits (for so long as necessary) for individuals receiving assistance, residency requirements, child support cooperation requirements, and family cap provisions, in cases where compliance with such requirements would make it more difficult for individuals receiving TANF assistance to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence.

FUNDING

Section 403(a)(1)(A) provides that each eligible State shall be entitled to receive for each of the fiscal years

1996 through 2002, a grant in an amount equal to the State family assistance grant as defined in section 403(a)(1)(B).

I. Payments to Agency Administering the TANF Program.

Please provide payment for the TANF Program to the same organization administering the TANF Program as of March 3, 1997.

II. State Payments for TANF Program

Payments for the TANF Program are to be made to the Pennsylvania Department of Public Welfare.

The Commonwealth of Pennsylvania's estimate for each quarter of the fiscal year by percentage is:

For FY 2002 and Future Years

1st Quarter	2nd quarter	3rd quarter	4th quarter
25%	25%	25%	25%

[Pa.B. Doc. No. 02-2326. Filed for public inspection December 27, 2002, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Cash In A Flash Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Cash In A Flash.

2. *Price:* The price of a Pennsylvania Cash In A Flash instant lottery game ticket is \$1.00.

3. *Play Symbols:* Each Pennsylvania Cash In A Flash instant lottery game ticket will contain one play area featuring a "Winning Number" area and a "Your Numbers" area. The play symbols and their captions located in the "Winning Number" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN) and 14 (FORTN). The play symbols and their captions located in the "Your Numbers" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN) and a Safe Symbol (SAFE).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the "Your Numbers" area are: \$1.⁰⁰ (ONE DOL), \$2.⁰⁰ (TWO DOL), \$4.⁰⁰ (FOR DOL), \$6.⁰⁰ (SIX DOL), \$10.⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$80\$ (EIGHTY) and \$500 (FIV HUN).

5. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$4, \$6, \$10, \$20, \$40, \$80 and \$500. A player can win up to five times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 15,600,000 tickets will be printed for the Pennsylvania Cash In A Flash instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$500 (FIV HUN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(b) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Safe Symbol (SAFE), and a prize play symbol of \$500 (FIV HUN) appears under the Safe Symbol (SAFE), on a single ticket, shall be entitled to a prize of \$500.

(c) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$80\$ (EIGHTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$80.

(d) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Safe Symbol (SAFE), and a prize play symbol of \$80\$ (EIGHTY) appears under the Safe Symbol (SAFE), on a single ticket, shall be entitled to a prize of \$80.

(e) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$40\$ (FORTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(f) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Safe Symbol (SAFE), and a prize play symbol of \$40\$ (FORTY) appears under the Safe Symbol (SAFE), on a single ticket, shall be entitled to a prize of \$40.

(g) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$20\$ (TWENTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(h) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Safe Symbol (SAFE), and a prize play symbol of \$20\$ (TWENTY) appears under the Safe Symbol (SAFE), on a single ticket, shall be entitled to a prize of \$20.

(i) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$10.⁰⁰ (TEN DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(j) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Safe Symbol (SAFE), and a

prize play symbol of \$10.⁰⁰ (TEN DOL) appears under the Safe Symbol (SAFE), on a single ticket, shall be entitled to a prize of \$10.

(k) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$6.⁰⁰ (SIX DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$6.

(l) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Safe Symbol (SAFE), and a prize play symbol of \$6.⁰⁰ (SIX DOL) appears under the Safe Symbol (SAFE), on a single ticket, shall be entitled to a prize of \$6.

(m) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$4.⁰⁰ (FOR DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(n) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Safe Symbol (SAFE), and a prize play symbol of \$4.⁰⁰ (FOR DOL) appears under the Safe Symbol (SAFE), on a single ticket, shall be entitled to a prize of \$4.

(o) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$2.⁰⁰ (TWO DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(p) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Safe Symbol (SAFE), and a prize play symbol of \$2.00 (TWO DOL) appears under the Safe Symbol (SAFE), on a single ticket, shall be entitled to a prize of \$2.

(q) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Safe Symbol (SAFE), and a prize play symbol of \$1.⁰⁰ (ONE DOL) appears under the Safe Symbol (SAFE), on a single ticket, shall be entitled to a prize of \$1.

(r) Holders of tickets upon which any one of the "Your Numbers" play symbols matches the "Winning Number" play symbol and a prize play symbol of \$1.⁰⁰ (ONE DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

When Any of Your Numbers Match the Winning Number or Get A "SAFE" Symbol and Win With Prize(s) of:

<i>Prize(s) of:</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 15,600,000 Tickets</i>
\$1	\$1	1:15.79	988,000
\$1 w/Safe	\$1	1:12	1,300,000
\$1 × 2	\$2	1:75	208,000
\$2 w/Safe	\$2	1:75	208,000
\$2	\$2	1:75	208,000
\$2 × 2	\$4	1:250	62,400
\$4 w/Safe	\$4	1:250	62,400
\$4	\$4	1:500	31,200
\$2 × 3	\$6	1:750	20,800

When Any of Your Numbers Match the Winning Number or Get A "SAFE" Symbol and Win With

<i>Prize(s) of:</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 15,600,000 Tickets</i>
\$6 w/Safe	\$6	1:750	20,800
\$6	\$6	1:1,500	10,400
\$2 × 5	\$10	1:150	104,000
\$10 w/Safe	\$10	1:150	104,000
\$10	\$10	1:150	104,000
\$10 × 2	\$20	1:3,000	5,200
\$4 × 5	\$20	1:3,000	5,200
\$20 w/Safe	\$20	1:1,500	10,400
\$20	\$20	1:3,000	5,200
\$20 × 2	\$40	1:7,500	2,080
\$10 × 4	\$40	1:7,500	2,080
\$40 w/Safe	\$40	1:7,500	2,080
\$40	\$40	1:7,742	2,015
\$10 × 2 + \$20 × 3	\$80	1:30,000	520
\$40 × 2	\$80	1:30,000	520
\$80 w/Safe	\$80	1:30,000	520
\$80	\$80	1:30,000	520
\$500 w/Safe	\$500	1:240,000	65
\$500	\$500	1:240,000	65

Safe = Automatic win

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Cash In A Flash instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Cash In A Flash, prize money from winning Pennsylvania Cash In A Flash instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Cash In A Flash instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Cash In A Flash or through normal communications methods.

LARRY P. WILLIAMS,
Secretary

[Pa.B. Doc. No. 02-2327. Filed for public inspection December 27, 2002, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Approved Speed-Timing Devices and Appointment of Maintenance and Calibration Stations

The Department of Transportation (Department), Bureau of Motor Vehicles (Bureau), under the authority of 75 Pa.C.S. § 3368 (relating to speed timing devices), has approved for use, until the next comprehensive list is published, subject to interim amendment, the following electronic speed-timing devices (radar); electronic speed-timing devices (nonradar), which measure elapsed time between measured road surface points by using two sensors; and electronic speed timing devices (nonradar), which calculate average speed between any two points.

Under 75 Pa.C.S. § 3368(c)(2), the Department has approved, for use only by members of the State Police, the following electronic speed-timing devices (radar) when used in the stationary mode only:

(1) Falcon Radar (identified on the radar housing as FALCON). Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, KS 66215.

(2) H.A.W.K. Traffic Safety Radar System (identified on the radar housing as H.A.W.K.). Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, KS 66215.

(3) KR-10, Stationary Radar (identified on the radar housing as KR-10). Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, KS 66215.

(4) KR-10, Stationary Radar (identified on the radar housing as KR-10). Manufactured by Kustom Electronics, Incorporated, 8320 Nieman Road, Lenexa, KS 66214.

(5) KR-10SP, Stationary Radar (identified on the radar housing as KR-10SP). Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, KS 66215.

(6) KR-10SP, Stationary Radar (identified on the radar housing as KR-10). Manufactured by Kustom Electronics, Incorporated, 8320 Nieman Road, Lenexa, KS 66214.

(7) Model 100, Decatur RA-GUN (identified on the radar housing as RA-GUN). Manufactured by Decatur Electronics, Incorporated, 715 Bright Street, Decatur, IL 62522.

(8) Genesis-I. Manufactured by Decatur Electronics, Incorporated, 715 Bright Street, Decatur, Illinois 62522.

(9) Genesis Handheld (GHS). Manufactured by Decatur Electronics, Incorporated, 715 Bright Street, Decatur, IL 62522.

(10) Stalker Dual, Manufactured by Applied Concepts, Incorporated, 730 F, Avenue, Suite 200, Plano, TX 75074.

(11) Stalker Dual SL. Manufactured by Applied Concepts, Incorporated, 730 F, Avenue, Suite 200, Plano, TX 75074.

(12) Stalker Dual DSR, Manufactured by Applied Concepts, Incorporated, 730 F, Avenue, Suite 200, Plano, TX 75074.

(13) TS-3. Manufactured by MPH Industries, Incorporated, 316 East 9th Street, Owensboro, KY 42303.

(14) Vindicator (VH-1) (Identified on the radar housing as Vindicator). Manufactured by MPH Incorporated, 316 East 9th Street, Owensboro, KY 42303.

(15) MPH Model K-15. Manufactured by MPH Industries, Incorporated, 316 East 9th Street, Owensboro, KY 42303.

(16) Stalker. Manufactured by Applied Concepts, Incorporated, 730 F, Avenue, Suite 200, Plano, TX 75074.

(17) Eagle Plus. Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, KS 66215-3347.

Under 75 Pa.C.S. § 3368(c)(3), the Department has approved, for use by any police officer, the following electronic speed-timing devices (nonradar) which measure elapsed time between measured road surface points by using two sensors:

(1) Electrical Speed Timing System. Manufactured by Richard Hageman, 98 South Penn Dixie Road, Nazareth, PA 18064.

(2) Model TK 100, Excessive Speed Preventor. Manufactured by Systems Innovation, Incorporated, Steam Hollow Road, R. D. 2, Hallstead, PA 18822.

(3) Model TK 100, Excessive Speed Preventor. Manufactured by Targetron, Incorporated, 190 Angletown Road, Muncy, PA 17756.

(4) Speed Chek (identified on the housing as Speed Chek model one, manufactured for The Union Agency, Unionville, PA 19375). Manufactured by Sterner Lighting Systems, Incorporated, 351 Lewis Avenue, Winsted, MN 55395.

(5) Model TK 100, Excessive Speed Preventor Infrared. Manufactured by Systems Innovation, Incorporated, Steam Hollow Road, R. D. 2, Hallstead, PA 18822.

(6) Model TK 100, Excessive Speed Preventor Infrared. Manufactured by Targetron, Incorporated, 190 Angletown Road, Muncy, PA 17756.

(7) Enradd, Model EJU-91. Manufactured by Y.I.S. Incorporated, 1049 Hartley Street, P. O. Box 3044, York, PA 17404.

(8) Enradd, Model EJU-91 with Noncontact Road Switch System. Manufactured by Y.I.S. Incorporated, 1049 Hartley Street, P. O. Box 3044, York, PA 17404.

Under 75 Pa.C.S. § 3368(c)(1) and (3), the Department has approved the use of electronic and mechanical stopwatches as speed-timing devices for use by a police officer. The Department has approved these speed-timing devices upon submission of a certificate of stopwatch accuracy indicating that a stopwatch has been successfully tested in accordance with the requirements of 67 Pa. Code Chapter 105 (relating to mechanical, electrical and electronic speed-timing devices). The Department issues an approved speed-timing device certificate for the device, as required by 67 Pa. Code § 105.72 (relating to equipment approval procedure). The Department does not publish a listing of these approved speed-timing devices because they are approved individually by serial number and police department. Therefore, if a citation is contested, it is necessary for the police department to show both the certificate of stopwatch accuracy, which was issued within 60 days of the citation, and an approved speed-timing device certificate issued by the Bureau.

Under 75 Pa.C.S. § 3368(c)(3), the Department has approved, for use by any police officer, the following electronic speed-timing device (nonradar) which calculates average speed between any two points:

(1) VASCAR-plus. Manufactured by Traffic Safety Systems, a division of Power Systems & Controls, Incorporated, 3206 Lanvale Avenue, Richmond, VA 23230.

(2) VASCAR-plus II. Manufactured by Traffic Safety Systems, a division of Power Systems & Controls, Incorporated, 3206 Lanvale Avenue, Richmond, VA 23230.

(3) VASCAR-plus III. Manufactured by Traffic Safety Systems a division of Power Systems & Controls, Incorporated, 3206 Lanvale Avenue, Richmond, VA 23230.

(4) V-SPEC-Manufactured by Y.I.S. Incorporated, 1049 Hartley Street, P. O. Box 3044, York, PA 17404.

(5) Tracker by Patco. Manufactured by Kustom Signals, Incorporated, 9325 Pflumm Lenexa, KS 66215.

The Department, under 75 Pa.C.S. § 3368(d) has appointed the following stations for calibrating and testing speed-timing devices until the next comprehensive list is published, subject to interim amendment.

The Department has appointed, under 75 Pa.C.S. § 3368(d), the following Official Electronic Device Testing Stations for radar devices, which may only be used by members of the State Police:

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969 (Appointed: 12/22/01, Station R8).

Guth Laboratories, Incorporated, 590 North 67th Street, Harrisburg, Dauphin County, PA 17111-4511 (Appointed: 01/27/97, Station R2).

Simco Electronics, 2125 South West 28th Street, Allentown, Lehigh County, PA 18103 (Appointed: 09/19/96, Station R9).

Thomas Associates R & E Inc., 65 S. Mountain Boulevard, Mountain Top, Luzerne County, PA 18707 (Appointed: 03/28/83, Station R7).

Wisco Calibration Services, Inc., 1002 McKee Road, Oakdale, Allegheny County, PA 15071 (Appointed: 07/14/99, Station R10).

YIS/Cowden Group, 1049 North Hartley Street, York, York County, PA 17404 (Appointed: 01/14/75, Station R3).

The Department has appointed, under 75 Pa.C.S. § 3368(b), the following Official Speedometer Testing Stations:

Auto Electric & Speedometer Service, 7019 Beaver Dam Road, Levittown, Bucks County, PA 19057 (Appointed: 03/14/74, Station S54).

Auto Technology-Vocational Technical School Laboratory, 540 North Harrison Road, Pleasant Gap, Centre County, PA 16823 (Appointed: 02/10/69, Station S22).

Bob's Speedometer Service, Incorporated, 1920 West Marshall Street, Norristown, Montgomery County, PA 19403 (Appointed: 11/15/77, Station S79).

Briggs-Hagenlocher, 1110 Chestnut Street, Erie, Erie County, PA 16501 (Appointed: 03/25/93, Station S39).

James M. Coulston, Incorporated, 2915 Swede Road, Norristown, Montgomery County, PA 19401 (Appointed: 02/11/75, Station S49).

Dave's Service Center, 3617 Nicholas Street, Easton, Northampton County, PA 18045 (Appointed: 10/29/76, Station S33).

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969—also authorized to use mobile units (Appointed: 11/25/63, Station S19).

Gabe's Speedometer Service, 2635 West Passyunk Avenue, Philadelphia, Philadelphia County, PA 19145 (Appointed: 06/03/97, Station S85).

Humenicks Auto Electric, 646 East Diamond Avenue, Hazleton, Luzerne County, PA 18201 (Appointed: 11/13/67, Station S74).

Izer Garage, 4616 Buchanan Trail East, Zullinger, Franklin County, PA 17272 (Appointed: 02/23/53, Station S106).

George's Garage, 868 Providence Road, Scranton, Lackawanna County, PA 18508 (Appointed: 04/15/98, Station S8).

K & M Automotive Electric Service, 1004-24th Street, Beaver Falls, Beaver County, PA 15010 (Appointed: 11/13/67, Station S23).

Mack Enterprises of Reading, 4226 Pottsville Pike, Reading, Berks County, PA 19605 (Appointed: 05/15/79, Station S1).

Mahramus Specialty Auto Service, 286 Muse Bishop Road, Cannonsburg, Washington County, PA 15317 (Appointed: 01/03/84, Station S7).

Melody Lakes Tire & Auto Care, Incorporated, 1113 North West End Boulevard, Quakertown, Bucks County, PA 18951 (Appointed: 09/15/71, Station S38).

North Boro Speedometer Service, 547 California Avenue, Pittsburgh, Allegheny County, PA 15202 (Appointed: 11/02/78, Station S69).

Powl's Speedometer Service, Incorporated, 2340 Dairy Road, Lancaster, Lancaster County, PA 17601—also authorized to use mobile units (Appointed: 06/09/97, Station S82).

Rabold's Services, 2034 Boas Street, Harrisburg, Dauphin County, PA 17103—also authorized to use mobile units (Appointed: 06/29/62, Station S67).

S & D Calibration Services, 1963 Route 837, Monongahela, Washington County, PA 15063—also autho-

rized to use mobile units (Appointed: 03/22/83, Station S35).

Stewart's Speedometer & Auto Parts, 112 South Third Street, Youngwood, Westmoreland County, PA 15601 (Appointed: 03/20/80, Station S58).

Thoman Auto Electric, Incorporated, 227 Valley Street, Lewistown, Mifflin County, PA 17044 (Appointed: 10/03/78, Station S104).

Thomas Auto Electric, 109 North 9th Street, Stroudsburg, Monroe County, PA 18360 (Appointed: 07/24/89, Station S105).

The Department has appointed, under 75 Pa.C.S. § 3368(d), the following Official Electronic Device Testing Stations for nonradar devices, which measure elapsed time between measured road surface points by using two sensors:

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969—also authorized to use mobile units (Appointed: 04/07/93, Station EL3).

Rabolds Services, 2034 Boas Street, Harrisburg, Dauphin County, PA 17103—also authorized to use mobile units (Appointed: 02/27/92, Station EL22).

S & D Calibration Services, 29 Prosperity Street, Monongahela, Washington County, PA 15063—also authorized to use mobile units (Appointed: 03/14/02, Station EL1).

S & D Calibration Services, 115 Walnut Drive, Eighty Four, Washington County, PA 15330—also authorized to use mobile units (Appointed: 09/14/82, Station EL11).

Speed Enforcement, Incorporated, R. D. 1, Box 32, Randolph Road, Great Bend, Susquehanna County, PA 18821—also authorized to use mobile units (Appointed: 03/26/85, Station EL14).

Systems Innovation, Incorporated, Steam Hollow Road, R. D. 2, Hallstead, Susquehanna County, PA 18822—also authorized to use mobile units (Appointed: 12/01/78, Station EL2).

Targetron, Incorporated, 190 Angletown Road, Muncy, Lycoming County, PA 17756—also authorized to use mobile units (Appointed: 05/07/91, Station EL21).

Mahramus Specialty Auto Service, 285 Muse Bishop Road, Cannonsburg, Washington County, PA 15317 (Appointed: 07/31/97, Station EL18).

YIS/Cowden Group, 1049 North Hartley Street, York, York County, PA 17404—also authorized to use mobile units (Appointed: 02/20/80, Station EL7).

The Department has appointed, under 75 Pa.C.S. § 3368(d), the following Official Stopwatch Testing Stations:

Beerbower Incorporated, 1546 East Pleasant Valley Boulevard, Altoona, Blair County, PA 16602 (Appointed: 09/02/77, Station W14).

George L. Cogley, 1222 Liberty Avenue, Natrona Heights, Allegheny County, PA 15065 (Appointed: 09/27/77, Station W9).

Department of General Services Metrology, Room B-124, Transportation and Safety Building, Harrisburg, Dauphin County, PA 17120 (Appointed: 03/09/79, Station W18).

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969—also authorized to use mobile units (Appointed: 10/28/77, Station W29).

Green Jewelers, Route 819, Armbrust, Westmoreland County, PA 15616 (Appointed: 06/23/78, Station W41).

Hostetter's Jewelers, 2 Hill Street, Shrewsbury, York County, PA 17361 (Appointed: 11/18/77, Station W30).

Leitzel's Jewelry, 422 East, Myerstown, Lebanon County, PA 17067 (Appointed: 09/01/87, Station W58).

Leitzel's Jewelry Store, 296 Center Street, Millersburg, Dauphin County, PA 19061 (Appointed: 07/28/77, Station W7).

Mount Jewelers, 153 North Hanover Street, Carlisle, Cumberland County, Pa. 17013 (Appointed: 09/21/87, Station W59).

Precision Watch Repair Company, 1015 Chestnut Street, Room 1010, Philadelphia, Philadelphia County, PA 19107 (Appointed: 09/24/80, Station W54).

Rabold's Services, 2034 Boas Street, Harrisburg, Dauphin County, PA 17103—also authorized to use mobile units (Appointed: 09/15/86, Station W56).

Oscar Roth Jewelers, 659 Memorial Highway, Dallas, Luzerne County, PA 18612 (Appointed: 09/22/78, Station W47).

S & D Calibration Services, 29 Prosperity Street, Monongahela, Washington County, PA 15063—also authorized to use mobile units (Appointed: 03/14/02, Station W1).

S & D Calibration, 115 Walnut Drive, Eighty Four, Washington County, PA 15330—also authorized to use mobile units (Appointed: 10/10/89, Station W61).

Servinsky Jewelers, 610 Second Street, Cresson, Cambria County, PA 16630 (Appointed: 05/18/78, Station W40).

Systems Innovation, Incorporated, Steam Hollow Road, R. D. 2, Hallstead, Susquehanna County, PA 18822—also authorized to use mobile units (Appointed: 04/22/91, Station W63).

Targetron, Incorporated, 190 Angletown Road, Muncy, Lycoming County, PA 17756—also authorized to use mobile units (Appointed: 05/07/91, Station W64).

Wolf's Jewelry, 314 Market Street, Lewisburg, Union County, PA 17837 (Appointed: 10/06/77, Station W22).

YIS/Cowden Group, 1049 North Hartley Street, York, York County, PA 17404—also authorized to use mobile units (Appointed: 08/30/89, Station W60).

The Department has appointed, under 75 Pa.C.S. § 3368(d), the following Official Electronic Device Testing Stations for nonradar devices which calculates average speed between any two points:

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969—also authorized to use mobile units (Appointed: 02/11/93, Station EM23).

Rabolds Services, 2034 Boas Street, Harrisburg, Dauphin County, PA 17103—also authorized to use mobile units (Appointed: 02/27/92, Station EM22).

S & D Calibration Services, 29 Prosperity Street, Monongahela, Washington County, PA 15063—also authorized to use mobile units (Appointed: 03/14/02, Station EM1).

S & D Calibration, 115 Walnut Drive, Eighty Four, Washington County, PA 15330—also authorized to use mobile units (Appointed: 09/14/82, Station EM6).

Speed Enforcement, Incorporated, R. D. 1, Box 32, Randolph Road, Great Bend, Susquehanna County, PA 18821—also authorized to use mobile units (Appointed: 02/27/85, Station EM13).

Systems Innovation, Incorporated, Steam Hollow Road, R. D. 2, Hallstead, Susquehanna County, PA 18822—also authorized to use mobile units (Appointed: 10/02/80, Station EM2).

Mahramus Specialty Auto Service, 285 Muse Bishop Road, Canonsburg, Washington County, PA 15317 (Appointed: 08/13/97, Station EM12).

Targetron, Incorporated, 190 Angletown Road, Muncy, Lycoming County, PA 17756—also authorized to use mobile units (Appointed: 05/07/91, Station EM21).

YIS/Cowden Group, 1049 North Hartley Street, York, York County, PA 17404—also authorized to use mobile units (Appointed: 12/20/80, Station EM5).

Comments, suggestions or questions may be directed to Peter Gertz, Manager, Administrative and Technical Support Section, Vehicle Inspection Division, Bureau of Motor Vehicles, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104, (717) 783-5842.

BRADLEY L. MALLORY
Secretary

[Pa.B. Doc. No. 02-2328. Filed for public inspection December 27, 2002, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Allegheny Ludlum Corporation v. DEP; EHB Doc. No. 2002-313-L

Allegheny Ludlum Corporation has appealed the issuance by the Department of Environmental Protection of an NPDES permit to Allegheny Ludlum Corporation for a facility in Vandergrift Borough, Westmoreland County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by interested parties on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code

§ 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,
Chairperson

[Pa.B. Doc. No. 02-2329. Filed for public inspection December 27, 2002, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m. on Thursday, December 12, 2002, and announced the following:

Actions Taken—Regulations Approved:

Department of Public Welfare #14-480: Invoicing for Services (amends 55 Pa. Code Chapter 1101)

Department of Agriculture #2-140: Aquaculture Development Plan (adds 7 Pa. Code Chapter 106)

Deputy Sheriffs' Education and Training Board #35-28: Deputy Sheriffs' Education and Training Board (amends 37 Pa. Code Chapter 421)

Insurance Department #11-146: Public Adjuster Contracts and Licensing (amends 31 Pa. Code Chapter 115)

Approval Order

Public Meeting held
December 12, 2002

Commissioners Voting: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson, by phone; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner, by phone

Department of Public Welfare—Invoicing for Services; Regulation No. 14-480

On November 4, 2002, the Independent Regulatory Review Commission (Commission) received this regulation from the Department of Public Welfare (Department). This rulemaking amends 55 Pa. Code Chapter 1101. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This final-omitted regulation specifies the time frame nursing facility providers and intermediate care facilities for the mentally retarded providers have to submit original invoices. It also amends the time frame these facilities have to submit claim adjustments and resubmit rejected claims. The amendments will make the time frames consistent with other Medical Assistance provider types.

We have determined this regulation is consistent with the statutory authority of the Department (62 P. S. § 201(2)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
December 12, 2002

Commissioners Voting: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson, by phone; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner, by phone

Department of Agriculture—Aquaculture Development Plan; Regulation No. 2-140

On May 3, 2002, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Agriculture (Department). This rulemaking adds Chapter 106 to 7 Pa. Code. The proposed regulation was published in the May 18, 2002, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on November 4, 2002.

This regulation establishes Pennsylvania's Aquaculture Development Plan. Mandated by Act 94 of 1998, the regulation establishes seven programs designed to promote and encourage development of Pennsylvania's aquaculture industry.

We have determined this regulation is consistent with the statutory authority of the Department (3 Pa.C.S. §§ 4201—4223) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
December 12, 2002

Commissioners Voting: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson, by phone; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner, by phone

Deputy Sheriffs' Education and Training Board—Deputy Sheriffs' Education and Training Board; Regulation No. 35-28

On January 25, 2001, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Deputy Sheriffs' Education and Training Board (Board). This rulemaking amends 37 Pa. Code Chapter 421. The proposed regulation was published in the February 10, 2001, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on November 7, 2002.

This final-form regulation expands the scope of the basic training curriculum required for newly hired deputy sheriffs. The Board intends to increase the basic training course from 560 hours to 760 hours. The regulation, mandated by Act 10 of 1998, includes curriculum such as motor vehicle code enforcement, patrol procedures and investigative techniques. Through the expanded basic training, the Board will enable deputy sheriffs to exercise broader powers of arrest.

We have determined this regulation is consistent with the statutory authority of the Board (71 P. S. §§ 2104—2106) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
December 12, 2002

Commissioners Voting: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson, by phone; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner, by phone

Insurance Department—Public Adjuster Contracts and Licensing; Regulation No. 11-146

On January 23, 2002, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Insurance Department (Department). This rulemaking amends 31 Pa. Code Chapter 115. The proposed regulation was published in the February 2, 2002, *Pennsylvania Bulletin* with a 30-day public com-

ment period. The final-form regulation was submitted to the Commission on November 7, 2002.

This final-form rulemaking amends Chapter 115, which regulates the licensing and conduct of public adjusters and public adjuster solicitors. These amendments include: deleting a number of terms; revising the cancellation notice; clarifying the insured's right to cancel the contract; deleting sections found in the act; eliminating references to prior effective dates; and formalizing the Department's policy with respect to licensing of public adjusters and public adjuster solicitors.

We have determined this regulation is consistent with the statutory authority of the Department (63 P. S. § 1608) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 02-2330. Filed for public inspection December 27, 2002, 9:00 a.m.]

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 Committee comment period. The Commission 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 has issued comments on the following proposed regulations. 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 the Public Comment Period</i>	<i>IRRC Comments Issued</i>
14-475	Department of Public Welfare Personal Care Homes (32 Pa.B. 4939 (October 5, 2002))	11/4/02	12/5/02
10-170	Department of Health Public Swimming and Bathing Places (32 Pa.B. 4850 (October 5, 2002))	11/4/02	12/5/02
14-479	Department of Public Welfare Pharmaceutical Services (32 Pa.B. 4864 (October 5, 2002))	11/4/02	12/5/02
14-477	Department of Public Welfare Income Provisions for Categorically Needy NMP-MA and MNO-MA (32 Pa.B. 4860 (October 5, 2002))	11/4/02	12/5/02
16A-7013	State Board of Certified Real Estate Appraisers Biennial Renewal Fees and Examination Fees (32 Pa.B. 4871 (October 5, 2002))	11/4/02	12/5/02

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
14-478	Department of Public Welfare Resource Provisions for Categorically NMP-MA and MNO-MA; Income Provisions for Categorically Needy NMP-MA and MNO-MA (32 Pa.B. 4854 (October 5, 2002))	11/4/02	12/5/02

Department of Public Welfare Regulation No. 14-475
Personal Care Homes
December 5, 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 Department of Public Welfare (Department) must respond to these comments when it submits the final-form regulation. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

1. Comments from the General Assembly.—Legislative intent; Statutory authority; Fiscal impact; Reasonableness; Setting lesser standards of compliance for small businesses when lawful and feasible; Implementation procedure; Clarity.

During our review of this regulation, we identified issues that raised questions related to the criteria of the Regulatory Review Act. Many of these issues were also raised in the comments submitted by the House Health and Human Services Committee (House Committee), Senator Vincent Hughes, Minority Chairperson of the Senate Public Health and Welfare Committee and Senator Mary Jo White, Majority Caucus. Comments and concerns raised by the House Committee and Senators Hughes and White are included in the Commission's comments.

2. General.—Consistency with the statute; Protection of public health, safety and welfare; Fiscal impact; Reasonableness; Clarity.

Services provided by personal care homes

Several commentators expressed concerns as to whether this proposed regulation imposes a "medical model" rather than a "social model" on personal care homes (PCHs). The statute at 62 P. S. § 1001 defines a "personal care home" as:

... any premises in which food, shelter and personal assistance or supervision are provided for a period exceeding twenty-four hours for four or more adults who are not relatives of the operator, who do not require the services in or of a licensed long-term care facility but who do require assistance or supervision in such matters as dressing, bathing, diet, financial management, evacuation of a residence in the event of an emergency or medication prescribed for self administration.

By statute, PCHs are designed for people who are not eligible for a long-term care facility. However, this proposed regulation requires PCHs to provide services that are similar to those provided in long-term care facilities. For example, the proposed requirements for secured units in §§ 2600.231 and 2600.232 are similar to standards for

long-term care facilities and existing regulations in 28 Pa. Code §§ 205.2 and 211.8. Other examples are the new requirements for assessments and support plans for residents in §§ 2600.225 and 2600.226. These are very similar to the existing regulations for long-term care facilities in 28 Pa. Code § 211.11. The Department should explain how this regulatory model matches the statutory definition that residents of a PCH are persons "who do not require the services in or of a licensed long-term care facility."

Inspections

The Department, in § 2600.11(b), proposed reducing the frequency of required inspections from the current annual requirement. A majority of the commentators support retaining annual inspections. They contend that this would better protect the health, safety and welfare of the residents of PCHs. The Department's rationale for this change should be contained in the preamble of the final-form regulation.

Cost

PCH owners and operators assert that the actual costs of complying with the proposed regulation will be greater than the cost estimates included in the regulatory analysis form prepared by the Department. Commentators contend that the increased costs of compliance will be significant and burdensome, resulting in increased rates or cuts in services, or both. The impact will be especially significant for small PCHs given their limited revenue base. Did the Department consider the fiscal impact of this proposed regulation on smaller PCHs?

One anticipated cost increase is developing plans and procedures including emergency plans and incident reporting. Providers contend that costs in dollars and human resources will be burdensome and possibly prohibitive and will divert staff from direct care to administrative duties. Has the Department considered developing standardized forms and procedures which might be used by PCHs across this Commonwealth?

The Department should reassess its cost estimates for this regulation, and examine their impact on the PCH industry as a whole and on smaller PCHs in particular. Provisions within the regulation where the cost impact should be examined include §§ 2600.57—2600.60, 2600.90, 2600.101, 2600.130, 2600.225 and 2600.226.

3. Section 2600.4. Definitions.—Protection of public health, safety and welfare; Consistency with other regulations; Reasonableness; Clarity.

"Advocate," "designee," "designated contact person," "designated person" and "responsible person"

These terms are used in numerous provisions within the regulation but only one of them is defined in this section. The meaning of each term needs to be defined and used consistently throughout the regulation. In addition, the definition should describe the legal authority, if any, of each individual.

The definition of “designee” is included in this section and reads:

The person authorized to act in the absence or in capacity of another. The authorization shall be documented in the resident’s records when it concerns a resident’s designee, and documented in the personnel records when it concerns the administrator’s designee.

The definition gives the term a dual meaning that requires a reader to use the context of a provision to determine whether the word “designee” refers to the resident’s designee or administrator’s designee. This may cause unnecessary confusion.

Rather than use the term “designee” for someone who is authorized to make decisions for the resident, the final-form regulation should use a separate term for this function. For example, the Department of Health includes a definition of “responsible person” in its existing regulations for long-term care nursing facilities at 28 Pa. Code § 201.3 that reads:

A person who is not an employee of the facility and is responsible for making decisions on behalf of the resident. The person shall be so designated by the resident or the court and documentation shall be available on the resident’s clinical record to this effect. An employee of the facility will be permitted to be a responsible person.

Ancillary staff

The definition says that ancillary staff “does not provide services provided by direct care staff.” This is unclear. May ancillary staff assist with instrumental activities of daily living (IADL) but not provide assistance with activities of daily living (ADL)?

Direct care staff

Does direct care staff also assist with IADL?

IADL

Should “securing health care” be added as one of the IADLs?

Long-term care ombudsman

Some commentators have indicated that the phrase “older individuals” should be replaced with “residents,” since these ombudsmen serve anyone in certain categories of need, regardless of age.

Neglect

This definition is identical to the statutory definition of this term in the Older Adults Protective Services Act (OAPSA) in 35 P.S. § 10213. Rather than repeat the definition verbatim, the final-form regulation should reference the definition in section 10213 of the OAPSA.

Personal care home or home

First, the existing regulations use the acronym “PCH.” The regulation should use one term consistently rather switching between “home” or “personal care home.” To avoid confusion and be concise, the regulation should use “PCH.” Second, the word “home” is used throughout the regulation, in various contexts that may be referring to the physical facility, administrator, other staff or another entity. For clarity, these references should specify the “legal entity,” “direct care staff” or the precise person or agency.

Restraint

Subparagraph (ii) of this definition says, “The term does not include devices used to provide support . . . as long as the resident can easily remove the device.” What if the device is needed as described, but the resident cannot remove it independently? Needing assistance with the device might be the reason he moved to the PCH. This definition should be consistent with the use of the term in § 2600.202.

Volunteer

Subparagraphs (i) and (ii) are substantive. The provisions in these subparagraphs should be placed in the Staffing section.

4. Section 2600.5. Access requirements.—Statutory authority; Protecting public welfare; Reasonableness; Consistency with other regulations; Clarity.

Subsection (a)

This subsection authorizes the Department to enter, visit and inspect any PCH and to have full and free access to the PCH’s records and residents. Does the Department intend to conduct inspections at any time of the day or night, or only during normal business hours? Also, does the Department intend to inspect the private living space and personal property of residents? If so, do residents have the right to object? How will the Department be provided with access to records if the inspection is conducted at a time when the staff responsible for the records under § 2600.254(b) is not available? We question the Department’s statutory authority to provide for administrative inspections without time, place and scope restrictions. (See *New York v. Burger*, 482 U.S. 691 (1987).)

Subsection (b)

This subsection requires the administrator and staff to provide immediate access to other State agencies, representatives of the Department of Aging’s OAPSA Program and the Long-Term Ombudsman Program to the PCH’s residents and records. We have several questions and concerns with this provision.

First, there are no place, time and scope restrictions. Second, we question the Department’s jurisdiction for requiring access for personnel of the Department of Aging and other State agencies. Third, by granting access to personnel of other State agencies, this section violates a resident’s right to confidentiality, secured under § 2600.17.

5. Section 2600.11. Procedural requirements for licensure or approval of personal care homes.—Protection of public health, safety and welfare.

Commentators have argued both for and against announced versus unannounced inspections. Clarify the intent and rationale for whether inspections will be announced or unannounced under subsection (a).

6. Section 2600.16. Reportable incidents.—Protection of public health, safety and welfare; Reasonableness; Clarity.

We have several questions and concerns.

Will a resident’s designee or responsible person be notified of reportable incidents?

Are there others who should be notified in the event of certain incidents, outside of the Department’s representatives? Some advocates contend that certain third parties, such as the Area Agency on Aging (AAA), should be notified.

Will the Department conduct investigations of reportable incidents? Under what circumstances would the Department investigate?

Subsection (a)(1)

Some advocates contend that a resident's death, regardless of the reason, should be reported, because the requirement would eliminate the need for an administrator to judge whether the death resulted from "unusual circumstances" or other possibly subjective reasons.

Subsection (a)(5)

Unexplained absence for 24 hours (or less, according to the support plan) is listed as a reportable incident. Should "elopement from a secured unit for any period of time" be added to the list of reportable incidents?

Subsection (b)

Is the Department developing standard or model procedures that may be used by all PCHs for reportable incidents? A model would enhance consistency of reporting, give reasonable assurance to providers that they are meeting the Department's objectives, and save providers time and money.

Subsections (c)–(e)

The regulation proposes that each incident will be reported "immediately" in a manner to be determined, and then a preliminary written notification shall be submitted, followed by a final written report. Many providers were concerned with the addition of burdensome paperwork. Has the Department considered listing reportable incidents, along with corresponding levels of reporting requirements for each?

7. Section 2600.17. Confidentiality of records.—Protection of public health, safety and welfare; Clarity.

See comments for § 2600.5. This section should be consistent with §§ 2600.5 and 2600.254.

8. Section 2600.19. Waivers.—Clarity.

Subsection (a)(1) indicates that the Department may grant a waiver if "There is no jeopardy to the residents of the home." Since there are no absolute guarantees of safety in any case, we suggest substituting "There is no reason to believe the waiver will jeopardize the residents of the home."

Considering the provisions in subsection (a)(1), why is subsection (a)(3) needed?

The proposal in subsection (g) states, "A structural waiver will not be granted to a new facility. . . ." Does the Department intend to grandfather existing facilities? Please clarify.

9. Section 2600.20. Resident funds.—Protection of public health, safety and welfare; Feasibility; Reasonableness; Clarity.

Subsection (a)

If the PCH assumes responsibility for maintaining a resident's financial resources, who may have access to these records and funds?

Does "maintaining" mean the same as "managing," as defined in subparagraph (i) under the term "financial management" in § 2600.4? If not, please clarify.

Subsection (b)(1)

This subsection states that when the PCH "assumes the responsibility of maintaining a resident's financial resources," then "there shall be documentation of counseling

sessions, concerning the use of funds and property, if requested by the resident." This kind of counseling goes beyond the definition of "financial management." A number of providers point out that they are not qualified to provide the kind of counseling described in this section, and do not attempt to provide it. Would a professional financial advisor conduct this kind of counseling session? If so, does the Department intend for the PCH to secure a professional financial advisor for the resident? Therefore, would the professional financial advisor keep the record of counseling, and must the PCH also keep these records?

Subsection (b)(4)

We have several concerns.

The proposal states, "The resident shall be given funds requested within 24 hours if available, and immediately if the request is for \$10 or less. This service shall be offered on a daily basis."

What does "if available" mean? Does it mean cash on hand in the PCH, or in the resident's bank account?

Since the service is to be provided "immediately" and "offered on a daily basis," even \$10 cash on hand per resident might be a large amount of cash stored in the PCH, especially for large PCHs, and especially during days on which banks are closed. Some providers have expressed concern regarding the possibility of theft, or the possibility of errors in records procedures, if staff members must have access to cash during hours when an administrator is not present. This service should be limited to business hours.

Subsection (b)(12)

The proposal states, "Upon discharge or transfer of the resident, the administrator shall immediately return the resident's funds being managed or being stored by the home to the resident." We have several concerns.

Clarify "immediately." Immediate transfer of funds might not be feasible without notice.

Clarify "transfer," especially in the case of a resident's temporary placement elsewhere.

Further, we suggest that the regulation address how the PCH should handle pending charges that the resident owes.

10. Section 2600.26. Resident-home contract: information on resident rights.—Protection of public health, safety and welfare; Reasonableness; Clarity.

Subsection (a)(1)(ii)

This provision states that the initial contract shall specify "the actual amount of allowable resident charges for each service or item." Must additional or optional services, which are not included in the basic contract be itemized?

Must the list of services included in the contract be listed, along with the charge to the resident for each of these services? Many PCHs "bundle" the services covered by the agreed-to contract price. Must they list each ADL and IADL with a price for each item?

Subsection (a)(1)(viii) and (ix)

This subsection indicates that the PCH's rules and "requirements related to home services" shall be listed in the contract, "including whether the home is designated as a smoking or nonsmoking home." How are these rules enforced? In conjunction with §§ 2600.42(u) and 2600.228, does a resident's breaking of the rules in the

contract constitute a breach of contract, for which the PCH may discharge the resident? For example, what may the PCH do to protect the health and welfare of other residents if one resident continues to smoke in a non-smoking facility, or continually violates the civil rights of other residents?

Give some examples to illustrate "requirements of home services."

Subsection (a)(1)(x)

This subsection requires 30 days' advance notice if the PCH intends to change a contract. What recourse does a PCH have to make immediate changes to the contract, if needed for the health and welfare of a resident?

Subsection (a)(3)

The new resident is given 72 hours to rescind a contract. Should a similar right-of-rescission be extended to the PCH, in the event that further information indicates the placement might be inappropriate?

Subsection (d)

This provision states, "The service needs addressed in the resident's support plan shall be available to the resident 365 days a year." Should "personal care" or "ADL" be inserted prior to "service needs"? Depending on what is in the support plan, some optional services and IADLs might be occasionally unavailable, for example on holidays.

Resident choice

In its comments under this section, the Elder Law Project of Community Legal Services, Inc. noted the need to protect residents from unforeseen changes in the food choices and menus at a PCH. It cited examples of new owners of an established PCH imposing an all-vegetarian diet on their residents, and a PCH that decided to suddenly take coffee and other sources of caffeine off the menu.

PCH residents may have limited access to other residential alternatives or difficulty in finding, and moving to, new residential facilities. The Department should consider what steps could be taken to protect residents from sudden and unforeseen changes in the food offered by a PCH. Perhaps, this section could give guidance in addressing this issue in the contracts between PCHs and residents.

11. Section 2600.29. Refunds.—Clarity.

The second sentence of the subsection (d) states, "In the event of the death of a resident, the administrator shall refund the remainder of previously paid charges to the estate of the resident when the room is vacated and within 30 days of death." Clarify how to determine the due date of a refund "when the room is vacated and within 30 days of death."

12. Section 2600.41. Notification of rights and complaint procedures.—Protection of public health, safety and welfare; Reasonableness.

Some commentators have pointed out that some residents do not maintain relationships with family members or have no family. Throughout this and other sections, should "family" be replaced with "resident's designee" or "responsible person"?

Subsections (a) and (e) state that the resident shall have the right to lodge complaints, and the like, "without fear or threats of retaliation . . ." A PCH has no control over whether a resident has "fears." The Department should consider deleting the words "fear or."

13. Section 2600.42. Specific rights.—Protecting public health, safety and welfare; Reasonableness; Clarity.

Subsection (a)

This section lists a number of bases for which a resident may not be discriminated against. We have two questions and concerns.

Is it considered discrimination if a resident is discharged due to the development of a disability that a PCH is not equipped to handle, either because of the design of the physical plant or lack of qualified staff?

Has the Department considered using the Pennsylvania Human Relations Act as guidance for protected classes?

Subsection (e)

This section states, "Local calls shall be without charge."

Does this prohibit a PCH from providing telephone service with pay phones or charging residents for basic phone service?

Subsections (i) and (j)

These subsections state, "A resident shall receive assistance in accessing "various kinds of health care" and "A resident shall receive assistance in attaining clean, seasonal clothing that is age and gender appropriate." Clarify the following terms: "assistance," "accessing" and "attaining." Do these services include paying for a resident's health care and clothing? Who is responsible for providing the services?

Subsection (l)

This sections states, "A resident shall have the right to purchase, receive and use personal property." May personal storage space availability be taken into account?

Subsection (n)

If a resident wishes to relocate to another facility, please clarify the nature and extent of the "assistance" that the PCH must provide.

Subsection (q)

The second sentence states, "Residents shall perform personal housekeeping tasks directly related to the resident's personal space but may not perform tasks in lieu of a staff person who is otherwise required to perform these tasks."

Will this provision require residents to perform housekeeping tasks in their personal spaces? As an alternative, should "shall" be changed to "may"?

Are residents permitted to perform tasks as a volunteer if they so desire? Some commentators indicated that many able residents take pleasure in performing meaningful tasks that they enjoyed doing prior to moving to the PCH, and that there are benefits to the mental and emotional health of residents when they participate in these activities. Does the Department intend to prohibit residents from performing duties or working in PCHs as volunteers? Who would be responsible for monitoring compliance with this subsection?

Subsection (u)

In conjunction with §§ 2600.26(a)(1)(viii) and (ix) and 2600.228, what course may a PCH pursue if a resident violates rules agreed to in the contract? For example, what may the PCH do to protect the health and welfare

of other residents if one resident continues to smoke in a nonsmoking facility or continually ignores civil rights of other residents?

Subsection (w)

To whom does the resident have the right to appeal a discharge?

May the resident remain in the PCH while the discharge decision is being appealed? Does the Department review appeal policies and procedures?

Subsection (x)

This section states, "A resident shall have the right to immediate payment by the personal care home to [of] resident's money stolen or mismanaged by the home's staff." Commentators questioned the intent and meaning of the word "mismanaged." The final-form regulation should define this term.

Subsection (z)

Explain the role of the PCH in protecting a resident's "right to be free from excessive medication." Commentators noted that the level of medication is either by choice of a resident or under the supervision of a physician.

14. Section 2600.53. Staff titles and qualifications for administrators.—Reasonableness; Clarity.

Subsection (a) lists qualifications for becoming an administrator. Commentators indicate that not all prospective administrators meet these criteria, yet would do well in that capacity. The Department should consider adding an additional level of qualification for a person who has either graduated from high school or obtained a GED and has a specified amount of direct care experience.

15. Section 2600.55. Exceptions for staff qualifications.—Clarity.

Subsection (c) states, "a 16 or 17 year old may be employed as a staff person . . ." This does not indicate whether staff in this age group may work as direct care staff. For clarity, the Department should add "direct care" in front of "staff" in this subsection.

16. Section 2600.56. Staffing.—Clarity.

Subsection (a)

This subsection contains the phrase "resident with special needs." What does the Department consider to be "special needs"? This phrase should be defined in § 2600.4.

Subsection (c)

Commentators indicate that requirements in this subsection are creating confusion, and may be interpreted to require an administrator or a designee to be present at the PCH 24 hours per day. If that is the Department's intention, the language should be clarified in subsection (c) to make this clear. If it is not, we suggest splitting subsection (c) into two subsections. The first sentence should remain as subsection (c), and the second sentence should become a new subsection.

Subsection (d)

The two sentences in this subsection are not directly related and should be in separate subsections. The first sentence includes several subject areas that should be in separate paragraphs or a list format (see §§ 2.1, 2.8 and 2.9. Paragraph and sentence structure on pages 4, 6 and 7 of the *Pennsylvania Code & Bulletin Style Manual*).

17. Section 2600.57. Administrator training and orientation.—Reasonableness; Clarity.

Subsection (b)

This subsection includes the phrase, ". . . has successfully completed and passed 80 hours of competency-based internship . . ." What does the Department deem to be "successfully completed"? Will there be a Department-required examination at the end of the internship? What is required for one to pass?

Subsection (c)(6)

This subsection combines mental illness and gerontology on the list for administrator competency-based training. These are two different areas of study and should be separated.

Subsection (e)

This subsection requires "at least 24 hours of annual training relating to the job duties, which include the following . . ." for administrators. We have two questions.

First, how did the Department determine the 24-hour training requirement?

Second, is the administrator required to have annual training each year for each of the subject areas in the list in this subsection? If this is merely a list of subjects from which a person may choose, the Department should clarify this language in the final-form version.

18. Section 2600.58. Staff training and orientation.—Protection of public health, safety and welfare; Reasonableness; Clarity.

Subsection (c)

This subsection has the phrase, "Prior to direct contact with residents, all direct care staff shall successfully complete . . ." This indicates that before an employee can have contact with a resident, the competency-based training must be completed and passed. However, we understand that supervised on-the-job training is acceptable. To reflect the Department's intention, our suggestion is to add "unsupervised" before "contact."

Subsection (e)

Commentators indicated that increasing the continuing education requirements to 24 hours annually is both unnecessary and excessive. This provision is more prescriptive than continuing education requirements for hospital nursing staffs. In 28 Pa. Code § 109.52, the existing regulations of the Department of Health do not set a minimum number of hours for continuing education. The Department should consider reducing the required minimum of hours.

Subsection (g)

This subsection requires that volunteers meet the annual 24-hour training requirement. What is the need for this training when a volunteer does not perform direct care tasks?

Also, the Department defines the phrase "direct care staff" in § 2600.4 to include volunteers. This section also includes "ADL—activities of daily living." The definition of "ADL" in this section includes the phrase, "and additional personal care activities such as nail care and hair care." If the Department removes volunteers from direct care requirements, does it also intend to prohibit volunteers from performing hair and nail care in the PCH?

Subsection (h)

This subsection states that the requirement for training does not apply when training is completed "prior to the staff person's date of hire." In what time frame before the date of hire does the Department want this training to have been completed?

19. Section 2600.60. Individual staff training plan.—Economic impact; Reasonableness.

Commentators have indicated that the requirements in this section for the PCH to create written individual staff training plans for each employee is unnecessary and would be burdensome. They indicate that the requirements for individual plans would have already been covered in the staff training plan and the annual performance reviews. Before requiring PCHs to complete the individual training plans, the Department should consider the time and fiscal impact of the provision.

20. Section 2600.83. Temperature.—Protection of public health, safety and welfare.

We have received statements from commentators that a constant temperature above 80°F may be too warm for some residents, due to their medical conditions or medication regimen. To protect the public health, safety and welfare of all residents, should subsection (b) establish a maximum indoor temperature?

21. Section 2600.85. Sanitation.—Reasonableness; Clarity.

Subsection (b) includes the phrase "or other animals." Commentators have indicated that this can be interpreted to mean that pets, or service or therapy animals, are not allowed in the PCH. Does the Department intend to eliminate pets from PCHs?

22. Section 2600.90. Communication system.—Fiscal impact; Clarity.

Commentators have indicated that subsection (b) would be cost prohibitive if it requires a new, high-tech communications system. However, Department staff has indicated that the requirements in this subsection are not meant to be that extensive. The language in subsection (b) should be clarified to reflect the Department's intention.

23. Section 2600.96. First aid supplies.—Protection of public health, safety and welfare; Reasonableness.

Subsection (a) requires a PCH to have a first aid kit "... at a minimum, in each building." Depending on the size of the building, the response time to reach the other side of a building may not be beneficial to aiding the resident in a timely manner. For larger buildings, the Department should consider requiring that a first aid kit be kept on each floor or for a designated number of rooms.

24. Section 2600.98. Indoor activity space.—Clarity.

This section is intended to set forth the requirements for the indoor activity area in a PCH. However, subsections (c)—(e) do not relate to this topic. These subsections should be deleted from this section and their contents should be included in a more appropriate section, such as § 2600.221.

In addition, the third sentence in subsection (f) uses nonregulatory language that is suitable for a guidance document. This sentence should be deleted or reworded.

25. Section 2600.101. Resident bedrooms.—Reasonableness; Clarity.*Subsections (a)—(c)*

These subsections deal with square footage requirements for resident bedrooms. However, there is no "grandfather" provision for current facilities. Commentators have indicated that this could hinder their ability to keep some of their current residents in the facility. Has the Department considered "grandfathering" current facilities?

Subsection (k)(1) and (2)

PCHs and residents indicated that many residents supply their own mattresses. Subsection (k)(1) requires that a bed in a PCH have a fire retardant mattress. Did the Department consider the costs to residents or PCHs of replacing their current mattresses and the need for this expense if the PCH is a smoke-free facility?

Subsection (k)(2) requires, "A mattress that is plastic-covered if supplied by the home." Is it necessary for every resident to use a plastic-covered mattress if they are not incontinent?

Subsection (r)

This subsection requires that all bedrooms shall have at least "one comfortable chair." Although this language is in the existing regulation, commentators have indicated that this would become quite costly if they are responsible for purchasing any chair that the resident deems comfortable. Who is responsible for determining what is comfortable? Who is responsible for supplying the chair?

26. Section 2600.102. Bathrooms.—Reasonableness.

In subsection (c), what is the Department's rationale for increasing the ratio from the current 8 people to 15 people for each bathtub or shower?

27. Section 2600.105. Laundry.—Reasonableness; Clarity.

Subsection (g) requires lint to be removed from all clothes to reduce the risk of fire. Did the Department intend to require instead that lint be removed from dryers?

28. Section 2600.107. Internal and external disasters.—Clarity.

Subsection (a) requires the PCH to have their emergency procedures "approved by qualified fire, safety and local emergency management offices." Is this intended to be same as the defined term, "fire safety expert"? For clarity, the Department should describe whom the Department deems to be "qualified" to make these judgments.

Subsection (c)(1) is "contact names." Is this intended to be the resident's designated person? The Department should clarify what the term "contact names" is supposed to encompass.

29. Section 2600.123. Emergency evacuation.—Reasonableness; Clarity.

Subsection (d) refers to "an emergency evacuation plan as specified in § 2600.107 (relating to internal and external disasters)." However, the term "emergency evacuation plan" cannot be found in § 2600.107. To what "plan" is subsection (d) referring? The regulation should define these terms and use them consistently in the regulation.

30. Section 2600.130. Smoke detectors and fire alarms.—Fiscal impact; Reasonableness.

Some commentators state that requirements in subsection (e) will be cost prohibitive, requiring that an expen-

sive new fire alarm system be installed throughout the entire building. Has the Department considered allowing alternatives such as permitting a PCH to install a fire alarm for a hearing impaired person only in areas that would be utilized by that person?

31. Section 2600.132. Fire drills.—Reasonableness.

Subsection (d) requires PCHs to evacuate their residents in 2 1/2 minutes when conducting a fire drill. Commentators claim that this requirement will lead to injuries and undue stress on residents. The Department should consider maintaining the current 5 minute standard.

Also, commentators have indicated that evacuating residents completely out of the building in certain weather conditions could also lead to injuries and stress. In contrast, the regulations for fire drills in long-term care facilities in 28 Pa. Code § 209.8 do not require complete evacuation of the facility. Can an alternate “fire safety area,” referenced in subsections (d) and (h), be a location within the PCH? The Department should clarify.

32. Section 2600.141. Resident health exam and medical care.—Fiscal impact; Reasonableness; Feasibility; Need; Clarity.

Subsection (a)

This subsection requires a resident to have a comprehensive health examination documented on a standardized form provided by the Department. The examination must occur 60 days prior to admission to the PCH or within 30 days after admission. If the resident remains in the PCH, the resident is to have an annual health examination. The subsection also sets forth 11 items that must be included in the examination.

We have three concerns.

First, there is no indication of who is responsible for payment for this examination. In contrast, § 2600.142(a) includes this statement: “This requirement does not mandate a home [PCH] to pay for the cost of these medical and behavioral care services.”

In addition, a health care provider who is independent of the PCH, and not a PCH’s home doctor, should perform the thorough health examination. In many situations, residents may have health coverage plans that pay for health examinations. These residents would not want to pay higher rates for the PCH to cover similar expenses. The final-form regulation should clearly identify who is responsible for paying for the health examination.

Second, if the resident is seeing a primary care provider on a regular basis, has a comprehensive and documented medical record and has undergone a complete examination within the last year, why is it necessary for the resident to have another examination within 60 days before admission to a PCH? Part of this subsection is based on 62 P.S. § 1057.3(a)(2), which states that each resident of a PCH is required to “receive a complete medical examination by a physician prior to, or within 30 days of, admission.” While the statute uses the 30-day period for obtaining an examination after admission, it does not set a time period for examinations before admission. The Department should explain the basis for the 60-day period.

Third, it is unclear whether the “standardized form” referenced in this subsection is the same as the current form MA-51 with which many PCH owners and operators are familiar. If it is the same form, the final-form regulation should reference the MA-51.

The Pennsylvania Association of Non-Profit Homes for the Aging (PANPHA) identified several concerns with the list of required contents for the health examination. These concerns include:

- “Body positioning and movement stimulation for residents, if appropriate” in subsection (a)(8) appeared to be a condition of people who need to be in a nursing home. Hence, it should be deleted.

- In subsection (a)(9), the meaning of “health status with required written consent in accordance with applicable laws” is unclear. PANPHA asked if this phrase meant “Do-Not-Resuscitate orders.” In addition to clarifying this phrase, the subsection should contain specific reference to the “applicable laws” in the final-form regulation.

- Subsection (a)(10) reads: “Specific precautions to be taken if the resident has a communicable disease, to prevent spread of the disease to other residents.” These words should be deleted since there is already training for staff on personal hygiene and proposed training for staff on universal precautions for communicable diseases. PANPHA observed: “If the resident has active TB, most (if not all) personal care homes do not have the physical plant requirements to safely care for such a resident.” Hence, the Department should explain the need for this subsection in the final-form regulation or delete it.

- To follow the structure of the list, subsection (a)(11) should read: “Mobility assessment, update annually or at the Department’s request.”

Subsection (b)

This subsection reads:

Residents shall have access to medical care. If a resident needs assistance obtaining this care, the home shall make the arrangements for the resident.

These statements and their intent are unclear and could be readily seen as having a significant, if not unlimited, scope. Commentators including the Department of Aging suggested revisions. The second sentence could be read to require that PCHs provide medical care. If this is the case and the PCH is required to provide medical services, the character of the facility has changed from a PCH to a long-term care facility or hospital. If the intent is that PCHs may not hinder access to medical care, this is what the section should state. If the intent is that a PCH provide transportation to medical care, subsection (b) should be deleted because it is redundant since this requirement is in § 2600.171.

33. Section 2600.142. Physical and behavioral health.—Fiscal impact; Protection of public health, safety and welfare; Reasonableness; Consistency with other regulations; Implementation procedures; Clarity.

Subsection (a)

There are four concerns.

First, this subsection describes items that PCHs will include in the resident’s support plan. Either the language of this subsection should be moved to § 2600.226 or this subsection should include a reference to § 2600.226 in the final-form regulation.

Second, rather than requiring each PCH to “address in the resident’s support plan the dental, vision, hearing, mental health or other behavioral care services” that will be available, the PCH should be directed to discuss these services with the resident or resident’s responsible person and document the services in the plan.

Third, the subsection refers to health care services as “deemed necessary by the health exam.” In the final-form regulation, this subsection should state that the resident’s physician determines the necessity of these services.

Finally, according to Paxton Ministries, a resident might have a case manager from a mental health service provider and that agency, rather than the PCH, would make referrals. The final-form regulation should recognize that PCHs must work with the mental health services provided by the county and that the responsible authorities will make the decisions and referrals.

Subsection (b)

If a resident refuses routine medical or dental examination or treatment, this subsection requires the PCH to document “the refusal and the continued efforts to *train* the resident about the need for health care” (emphasis added) in the resident’s record. PANPHA suggests that the word “train” should be changed to “educate” or “inform.” We agree. Also, the final-form regulation should identify who is responsible for the efforts to “educate” and “inform” the resident.

Subsection (c)

In a situation where the resident has a serious medical or dental condition, this subsection states “reasonable efforts shall be made to obtain consent for treatment from the resident or a designee, in accordance with applicable laws.” There are three concerns.

First, who is responsible for these “efforts”?

Second, if the PCH administrator is responsible, should this subsection also require documentation of these efforts in the resident’s records?

Finally, what are the “applicable laws”? In the final-form regulation, this subsection should include specific references or citations to the applicable laws.

34. Section 2600.143. Emergency medical plan.—Fiscal impact; Protection of public health, safety and welfare; Reasonableness; Clarity.

Subsection (a)

The first sentence of this subsection reads: “The home shall have a written emergency medical plan that ensures immediate and direct access to emergency medical care and treatment.” Commentators expressed concern with the intent of this wording by stating that PCHs are not medical facilities. PANPHA wrote that a plan cannot ensure or guarantee immediate and direct access to emergency care and treatment. There are many factors beyond the control of a PCH that affect the availability of emergency care. This sentence should be clarified regarding its intent or it should be deleted from the final-form regulation.

Subsection (d)

The regulation requires that specific information be made available at all times for each resident in case of a medical emergency. There are concerns with the following items in the list of contents for this information:

Subsection (d)(9) requires that the emergency information include a “power of attorney.” Some commentators questioned this phrase and suggested clarifications. Is this contact information for the responsible person who is authorized to exercise the “power of attorney” for the resident? In addition, one commentator suggested that the words “if applicable” should be added because a

resident may not have a designated power of attorney. The intent of this subsection should be explained in the final-form regulation.

Subsection (d)(10) requires that the information include the current address and telephone numbers of “a designated contact person.” What if a resident does not have a designated contact person?

Subsection (d)(12) appears to be redundant and should be deleted, unless the Department can justify its retention. It requires “an individualized plan to contact the resident’s family or designated emergency contact person.” This is very similar to subsection (d)(10), which requires the PCH to contact a designated person who could be a relative.

Subsection (e)

If a physician determines that the resident’s medical condition indicates a need for transfer to a hospital or long-term care facility, the PCH administrator is required to notify the resident’s designated contact person or family member, or both, if appropriate. Paxton Ministries indicated that there are legal limitations regarding contacts made when an individual is hospitalized for psychiatric reasons under Federal regulations under the Health Insurance Portability and Accountability Act (HIPAA). The Department should review the HIPAA regulations to ensure that this subsection is not in conflict with Federal directives.

35. Section 2600.144. Use of tobacco and tobacco-related products.—Protection of public health, safety and welfare; Reasonableness; Clarity.

Subsection (b)(2)

This subsection requires a PCH to ensure that proper safeguards are taken at all times to protect the rights of nonsmoking residents. Commentators indicated that the language was vague. The final-form regulation should indicate what specific steps a PCH should implement to protect nonsmoking residents. If it means that a designated area for smoking must be in a separate room that is ventilated to prevent smoke from entering the rest of the PCH, this requirement should be set forth in the final-form regulation.

Subsection (d) and (e)

Subsection (d) prohibits smoking during transportation of residents by the PCH. Subsection (e) prohibits smoking in resident bedrooms. One commentator suggested that rather than creating mandated prohibitions, the regulation should require PCHs to disclose its policies concerning the use of tobacco to prospective residents. The Department should explain the justification for these prohibitions or delete them from the final-form regulation. In addition, the final-form regulation should require that PCHs disclose their policies on smoking and methods to protect nonsmokers to prospective residents regardless of whether the prohibitions are retained.

Subsection (f)

This provision requires that the designated smoking area be included in the written fire safety procedures. However, this subsection provides no guidance on how the designated smoking area is to be addressed in the fire safety procedures. Does it mean that fire safety procedures for the smoking area should be developed and discussed? The final-form regulation should clarify this requirement.

Subsection (g)

Subsection (g) appears to be a subpart of subsection (f) and may be unnecessary. It should be deleted or its one sentence should be incorporated into subsection (f) in the final-form regulation.

36. Section 2600.145. Supervised care.—Reasonableness; Clarity.

This section states that a resident in need of services beyond what is available at the PCH shall be referred to the appropriate assessment agency. Commentators indicated that this section should include a reference to the resident's physician as well as identify the types of assessment agencies to which a resident is to be referred. PANPHA noted that the AAA is the appropriate assessment agency for publicly funded elderly persons. Whether it is the county AAA, county mental health agency or another agency, the final-form regulation should indicate the types of assessment agencies that are appropriate for different types of PCH residents.

37. Section 2600.161. Nutritional adequacy.—Consistency with other regulations; Reasonableness; Clarity.*Subsection (b)*

The first sentence states: "At least three nutritionally well-balanced meals shall be *provided* daily to the resident" (emphasis added). In contrast, subsection (a) reads: "Meals shall be *offered* which meet the nutritional needs of the residents . . ." (emphasis added). Since many PCH residents may leave their PCHs at will and may go out for meals with relatives or friends, the word "offered" is more appropriate and should be used in both subsections (a) and (b).

Subsection (d)

Explain why subsection (d) is needed, since subsection (a) contains the requirements for nutritional needs and subsection (b) requires "three nutritionally well-balanced meals."

Subsection (e)

This subsection mandates: "Dietary alternatives shall be available for a resident who has special health needs, religious beliefs regarding dietary restrictions or vegetarian preferences." There are two concerns.

First, this subsection is in conflict with subsection (d) that requires each meal contain items from all four food groups. For example, many vegetarians do not consume dairy products.

Second, commentators indicated that many PCHs do not have the resources available to offer alternative diets. Rather than mandating this service, the final-form regulation should require that a PCH discuss food preferences or dietary requirements with a prospective resident. The PCH can inform a prospective resident as to whether it can accommodate the resident's dietary needs, and the prospective resident can either choose that PCH or look for another PCH or a different type of facility.

Subsection (f)

This subsection requires PCHs to provide "therapeutic diets as prescribed by a physician or certified nurse practitioner." Commentators stated that not every PCH offers this service. Most do not have a dietitian on staff. In addition, PCH residents have the right to come and go from the PCH at will and the PCH cannot be sure that the resident remains on the therapeutic diet. In PCHs where most of the residents are supplemental security

income (SSI) recipients, it may be cost prohibitive to provide this service. This subsection should be deleted or amended in the final-form regulation to apply only to PCHs that offer this type of service. If a PCH cannot provide this type of service, the final-form regulation should require that the PCH disclose this to prospective residents or to agencies or parties seeking to place others at the PCH.

Subsection (g)

The second sentence of this subsection reads: "Other beverages shall be available and offered to the resident at least every 2 hours." Many commentators criticized this requirement as expensive, impractical and unnecessary. Many PCH residents are capable of getting their own beverages. The Department should either delete this sentence from the final-form regulation or should provide a rationale for it.

38. Section 2600.162. Meal preparation.—Protection of public health, safety and welfare; Consistency with other regulations; Reasonableness; Clarity.*Subsection (a)*

This provision requires PCHs to prepare foods in a consistency that meets the needs of the residents. Paxton Ministries indicated that this type of requirement would be cost prohibitive for a nonmedical facility serving SSI recipients. Instead of making it mandatory, this type of service or the lack of it should be disclosed to prospective residents before they move into the PCH and be set forth in the "resident-home contract" under § 2600.26.

Subsection (c)

The first clause of this subsection reads: "There may not be more than 14-16 hours between the evening meal and the first meal of the next day, unless a resident's physician has prescribed otherwise . . ." Commentators observed that this rule would allow a PCH to serve the evening meal at 8 p.m. and wait until noon the next day to serve breakfast. They indicated that this was not healthy or safe. The final-form regulation should reduce this period to 14 hours or require that a snack be offered during the period between the evening meal and breakfast.

Subsection (d)

PCHs must procure food "from sources approved or considered satisfactory by Federal, State or local authorities." There are two concerns. First, what is meant by "considered satisfactory"? Second, what agencies are included in the phrase "Federal, State or local authorities"?

Subsection (e)

If a resident misses a meal, this subsection requires the PCH make available and offer food to the resident that is adequate to meet nutritional requirements. Commentators indicated that this was an unreasonable and impractical requirement for many PCHs. Rather than mandating that all PCHs provide food 24 hours per day, the final-form regulation should require that PCHs inform residents of their policies concerning missed meals.

Subsection (f)

Meals at PCHs are required to include a variety of hot and cold food under this subsection. PHCA-CALM noted that depending on the season or weather, the PCH with resident input may decide not to offer both hot and cold food at some meals. The subsection should be amended in the final-form regulation to allow a PCH to adjust its menu based on the preferences of its residents.

Subsection (h)

This subsection requires that adaptive eating equipment or utensils be made available and meet the needs of the residents. This is unnecessary since this requirement is already set forth in § 2600.104(d). The words “and utensils” should be moved to § 2600.104(d) and § 2600.162(h) should be deleted.

39. Section 2600.164. Withholding or forcing food prohibited.—Protection of public health, safety and welfare; Reasonableness; Clarity.

There are three concerns.

First, subsection (a) reads: “A home may not withhold meals, beverages, snacks or desserts as punishment.” Paxton Ministries suggested adding language stating that food and drink may be withheld when necessary due to scheduled medical or dental procedures. This clarification should be added to the final-form regulation.

Second, there is a need for clarification of subsection (b), which provides: “A resident may not be forced to eat food.” The Elder Law Project and Pennsylvania Protection and Advocacy, Inc. recommended that the regulation be amended to require the PCH staff to use “all appropriate cueing to encourage and remind residents to eat and drink.” However, if the PCH staff cannot do this, the regulation should require referrals to medical care personnel and transfer to an appropriate facility.

Third, subsection (c) requires PCH staff to observe whether a resident refuses to eat consecutively during a 24-hour period. If the resident is not eating, the resident’s physician or family should be contacted. Paxton Ministries notes that it will be very difficult to verify that all residents are eating in a large independent living facility where residents are free to come and go, and may go out for meals. Generally, this behavior would be noted in addition to other symptoms of physical or psychiatric deterioration. The Department should review this subsection and determine whether it needs to include observations of other symptoms to include situations when the PCH staff is unable to observe a resident at each meal.

40. Section 2600.171. Transportation.—Protection of public health, safety and welfare; Reasonableness; Consistency with other regulations; Clarity.

This section sets forth requirements for transportation of residents provided by the PCH via staff or volunteers. There are five concerns.

First, it is not clear how the various requirements in § 2600.56, which are based on hours and needs of the residents, would translate into staffing level during the transport of one or more residents under subsection (a)(1). This subsection states that the staff-to-resident ratios specified in § 2600.56 will apply during transportation. Section 2600.56 contains 13 subsections. The intent of subsection (a)(1) needs to be explained in the final-form regulation.

Second, what is the purpose of the requirement in subsection (a)(5) that one of the staff members transporting residents has completed the initial new hire direct care staff training? The final-form regulation should be amended to recognize the value and experience of existing staff.

Third, unless there is a need for the inclusion of “syrup of ipecac” as one of the required items in the vehicle’s first aid kit as set forth in subsection (a)(6), it should be deleted. One commentator noted that the American Red Cross did not recommend this item.

Fourth, this section should also instruct PCHs to utilize the Medical Assistance Transportation program for SSI recipients. This should be included in the final-form regulation. In addition, the Department should assist PCHs in linking SSI residents with this program.

41. Section 2600.181. Self-administration.—Protection of public health, safety and welfare; Reasonableness; Consistency with other regulations; Clarity.

Associations representing PCH owners and operators, organizations of advocates for PCH residents, the City of Philadelphia Behavioral Health System and many individual commentators were united in calling for a program to properly train PCH staff in medication administration. A program would resolve many of the concerns with medications administered to PCH residents.

Several commentators, including the City of Philadelphia, noted the existence of medication administration training programs for staff in other residential settings. These programs could readily be used as models for a program for PCH staff. The program would include training and a written examination to determine competency. We agree with commentators. Has the Department explored the development of a program for PCH staff? The final-form regulation should be amended to include certification of PCH staff who assist residents in medication administration.

In addition to the need for a training program, there are specific concerns with the proposed regulation.

First, subsection (c) should be amended in the final-form regulation to recognize that it is the resident’s physician who determines whether the resident can self-administer medications.

Second, the ability of a person to self-administer medication is a determination that should be based on the clinical experience, observations and judgment of a health care professional such as a physician or certified nurse practitioner. PCH staff should be required to defer to the judgment of these licensed professionals rather than refer to a regulation to determine who can self-administer. This should be clarified in subsection (e).

42. Section 2600.182. Storage and disposal of medication and medical supplies.—Protection of public health, safety and welfare; Reasonableness; Consistency with other regulations; Clarity.

Many commentators generally found the requirements in this section to be unclear and unworkable. For example, subsection (d) requires that “prescription, OTC [over the counter] and CAM [complimentary and alternative medications] shall be stored separately.” One commentator asked from what are these medications to be stored separately. In addition, several PCHs indicated that it was safer and more efficient to store medications for same individual together.

The application of this section is unclear when residents administer their own medications without assistance and store their medications in their rooms. If a resident is using nonprescription medications without assistance, why is it necessary for the PCH to be involved?

43. Section 2600.183. Labeling of medications.—Reasonableness; Clarity.

One commentator questioned the use of the term “original container.” It indicated that many residents

receive medications in “bubble packs” provided by pharmacies. It was unclear whether this section matches this situation.

Commentators also questioned the requirement in subsection (d) concerning “sample medications.” The subsection requires sample medications to be identified by the “resident’s use and accompanied by a physician’s order.” Many PCH residents receive sample medications from physicians outside the PCH who do not always communicate to the PCH the reasons for these medications. Commentators are unclear how this regulation would apply to these situations. The final-form regulation should recognize that there are a variety of residents with different relationships to their PCHs. In many situations, the PCHs are not involved in arranging medical care for their residents.

44. Section 2600.185. Use of medications.—Protection of public health, safety and welfare; Reasonableness; Clarity.

Subsection (c) states: “Verbal changes in medication may only be made by the prescriber” One commentator asked that this subsection be deleted because there are situations when the original prescriber is unavailable, but an available practitioner needs to make changes in the medication order due to negative side effects. The final-form regulation should be amended to recognize the need for flexibility in emergency situations.

In addition, commentators suggested that this section include language stating that medications shall only be administered to the resident for whom they were prescribed. We agree.

45. Section 2600.186. Medication records.—Reasonableness; Consistency with other regulations; Clarity.

Subsection (a) states: “If a resident stores medications for self-administration in the resident’s room, a current list of prescribed medications taken by the resident as reported to the home shall be maintained in that resident’s record.” There are two concerns:

First, what types of medications does this subsection cover? Is it referring to prescription, CAM and OTC medications?

Second, how is this provision consistent with the storage requirements in § 2600.182? If a resident stores medications in her or his room, is the PCH responsible for the proper storage of these medications?

46. Section 2600.225. Initial assessment and the annual assessment.—Reasonableness; Clarity.

This section requires the completion of a written assessment on standardized forms provided by the Commonwealth within 72 hours of, or before, admission. Subsection (a) states that the PCH administrator, a designee, whether this person represents the PCH or resident is unclear, or a human service agency may complete the assessment. Subsection (b) requires that the initial and annual assessment include the following areas: background information, medical assessment, social assessment, ADL assessment, IADL assessment, mobility assessment, medication assessment and psychological assessment.

The section provides no guidance regarding the content of these assessment areas or the qualifications of the individuals who would complete the annual assessments. Furthermore, there is no indication about who is to pay for these assessments. Some PCHs recommend that this

assessment should be the responsibility of the referring agency. The Department needs to explain how this requirement will be implemented.

In addition, the terms “human service agency” in subsection (a) and “State agency” in subsection (d)(3) should be defined.

47. Section 2600.228. Notification of termination.—Protection of public health, safety and welfare; Reasonableness; Clarity.

This section requires that if a PCH initiates a discharge or transfer of a resident, it must provide the resident with a 30-day advance written notice. Commentators expressed concerns with situations when a PCH would need to immediately remove a resident from the facility because the resident may be threatening the health and safety of other residents or staff. One example was a PCH where most of the residents have mental health issues.

Subsection (d) provides that the Department may determine that removal of the resident at an earlier time is necessary to protect the resident. But, this subsection only addresses removal or discharge when the PCH intends to close. The final-form regulation should be amended to address situations when a resident needs to be removed quickly to protect both the resident and others at the PCH or for other reasons that impact the other residents of the PCH. This section should be consistent with §§ 2600.42(u) and 2600.26(a)(1)(viii) and (ix).

48. Sections 2600.231—2600.241. Secured units.—Protection of public health, safety and welfare; Consistency with other regulations; Reasonableness; Clarity.

Sections 2600.231—2600.241 concern secured units in PCHs. However, commentators indicated that the provisions were incomplete. For example, both Community Legal Services and the Office of the State Ombudsman in the Department of Aging stress the need for the development of criteria to determine who may be admitted to a secured unit, staffing requirements and provisions for oversight by the Department.

Commentators also noted confusing requirements that either conflict with, or appear to duplicate, other provisions in other sections of the regulation. Examples include the provisions for restraints in § 2600.231 which conflict with the “specific rights” listed in § 2600.42(p) and § 2600.231(10) concerning lighting, which is also covered by § 2600.87. The Department should address these issues in the final-form regulation.

49. Sections 2600.261—2600.264. Enforcement.—Protection of public health, safety and welfare; Reasonableness; Clarity.

These sections contain provisions concerning the classification of violations, penalties, revocation or nonrenewal of licenses and implementation of policies and plans. PCHs, advocates and the City of Philadelphia urged the Department to adopt the recommendations of the Personal Care Home Advisory Committee (Advisory Committee). They believe that the enforcement tools and policies set forth in the recommendation of the Advisory Committee would address concerns with PCHs.

The recommendations of the Advisory Committee include unannounced annual licensure inspections, implementation of the current classification system of violations, ban on admissions for PCHs without full license, increased requirements for plans of correction, quicker decisions by the Department on appeals, better disclosure

of public information that pertains to PCHs and the establishment of a complaint investigation team. The Department should incorporate these recommendations into the final-form regulation.

50. Section 2600.263. Revocation or nonrenewal of licenses.—Protection of public health, safety and welfare; Implementation procedure;

The Northern Area Personal Care Home Administrators Association made two recommendations to improve enforcement activities and provide information to prospective residents. First, it suggested that there should be a ban on admissions for PCHs with a provisional license due to violations.

Second, it suggested that information regarding provisional licenses due to violations be made available on the Department website. The Department should consider these recommendations for enhancing enforcement and providing consumers with useful information about PCHs.

51. Forms prescribed by the Department.—Reasonableness; Implementation procedures; Clarity.

Several provisions of the regulation refer to standardized forms or form provided by the Department. Section 2600.141(a) requires that a health examination be documented on standardized forms provided by the Department. Section 2600.225(a) requires that an initial assessment of a resident be documented on a standardized form "provided by the Commonwealth, within 72 hours of admission or within 72 hours prior to admission." The Department should include information in the final-form regulation on how residents and PCH staff can obtain copies of these required forms. For example, a toll-free telephone number could be used to make requests, or copies could be made available on the Department's website.

52. Referencing other laws and regulations and approval by other agencies.—Consistency with other regulations; Clarity.

In certain sections of this regulation, the Department references other regulations, laws and statutes, and approvals or methods approved by other regulatory agencies. The provisions of this regulation require PCHs to follow these other regulations, policies and statutes. To avoid confusion, the Department should cite the specific regulations or statutes that set forth these requirements. Sections missing specific references include §§ 2600.13, 2600.14(e), 2600.18, 2600.43(a), 2600.52, 2600.53(g), 2600.57(e)(6), 2600.103(j), 2600.106(1), 2600.130(c), 2600.182(f) and (h), 2600.231(8) and 2600.240(xiii).

This proposed regulation includes Fire Safety Approval standards in § 2600.14 and applicable Fire Safety standards in §§ 2600.121—2600.133. To avoid confusion and conflict, the Department should consider deleting the applicable provisions in these proposed sections and incorporate by reference all applicable fire safety standards from Department of Labor and Industry regulations.

53. Editorial Changes.—Clarity.

Sections 2600.1 and 2600.19(g)

"Assure" should be "ensure."

Section 2600.4.

Insert a comma between "visit" and "inspect" in the definition of "agent." "A premise" should be replaced with "any premises" in the definition of "personal care home."

Section 2600.42.

In subsection (g), "365 days" should be "365 days per year."

Under subsection (x), the word "to" between "home" and "resident's" should be changed to the word "of."

Section 2600.171.

There are two typographical errors in subsection (a)(2). The letter "a" between the words "appropriate" and "safety" should be deleted, and the word "restraint" should be "restraints."

Section 2600.184.

In subsection (b)(3), the phrase "limited access to medication storage areas" is incomplete.

Department of Health Regulation No. 10-170
Public Swimming and Bathing Places
December 5, 2002

We submit for consideration the following objection and recommendation regarding this regulation. The objection and recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which has not been met. The Department of Health (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

1. Section 18.30. Water Samples.—Clarity.

Subsection (d)(3) states that the Department may require additional water samples be taken. It is not clear how the permittee will be notified by the Department that additional water samples are required. Subsection (d)(3) should be amended to specify that the permittee will receive written notice from the Department when additional water samples are required.

Department of Public Welfare Regulation No. 14-479
Pharmaceutical Services
December 5, 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 Department of Public Welfare (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

1. General.—Disapproval by a Standing Committee; Policy Decision Requiring Legislative Review; Protection of the Public Health, Safety and Welfare; Economic and Fiscal Impact; Feasibility; Reasonableness.

Disapproval by the House Health and Human Services Committee; Policy decision requiring legislative review

The House Health and Human Services Committee (House Committee) disapproved the proposed amendments. In their letter dated October 9, 2002, the House Committee stated that a unanimous vote had been taken

to "... express in the strongest possible terms our opposition to this regulation at the proposed stage."

The Senate Public Health and Welfare Committee Minority Chairperson Vincent Hughes submitted a letter opposing this rulemaking. In his letter dated November 21, 2002, the Minority Chairperson stated that he was "... not convinced that the Department has adequately explored alternatives to reducing reimbursement."

We agree with both the House and Senate concerns and herein state our objections to the proposed amendments.

2. Determination of Dispensing Fee and Estimated Acquisition Cost (EAC) of Drugs—Economic Impact; Reasonableness.

The proposed regulation sets the dispensing fee for legend and nonlegend drugs at \$4.25, a 25¢ increase over the current dispensing fee. The regulation establishes the EAC for drugs at the average wholesale price (AWP) of the drug minus 15%. This represents a reduction in drug cost reimbursement compared to the current level of AWP minus 10%. Commentators have questioned the reasonableness of the proposed dispensing fee and EAC.

In 2001, the average reimbursement to pharmacies was \$51.24 per claim using AWP minus 10% and a \$4 dispensing fee. Under the proposed regulation at AWP minus 15% and a \$4.25 dispensing fee, the average reimbursement to pharmacies would be \$48.91. This represents an average decrease in reimbursement per prescription of \$2.33. In 2001, the Department approved approximately 14.4 million claims. Therefore, the estimated annual decrease in pharmacy drug acquisition cost reimbursement resulting from the proposed regulation is \$33,552,000.

Act 53 of 1996 directed the Department and the Department of Aging (Aging) to conduct a study to determine the cost of filling a prescription and providing pharmacy services in this Commonwealth. To fulfill this mandate, the Department and Aging contracted with Pricewaterhouse Coopers (PwC) to conduct a study to estimate pharmacy drug acquisition costs and profitability for the Medical Assistance (MA) Fee-for-Service and the Pharmaceutical Assistance Contract for the Elderly programs.

To determine the EAC, the PwC report examined data from a 1996 study on the acquisition cost of brand name drugs conducted by the Office of Inspector General for the United States Department of Health and Human Services (OIG study). The OIG study examined pharmacy costs for ten randomly selected states and the District of Columbia. The Commonwealth was not included in the OIG study. The results of the OIG study estimated that the National average for pharmacies' acquisition cost for brand name prescription drugs was AWP minus 18.3%.

The PwC study estimated that the average dispensing costs in this Commonwealth in 1997 were \$6.22, compared to the National average of \$6.06. In determining the estimated dispensing costs in this Commonwealth, the PwC study relied on a 1998 study by the National Association of Chain Drug Stores (NACDS). The PwC study also determined that dispensing fees paid by state Medicaid programs fell within a range of \$4.01 to \$4.50.

Commentators, including the Pennsylvania Pharmacy Council, the Pennsylvania Association of Chain Drug Stores, the Pennsylvania Pharmacists Association and individual pharmacy operators, challenge the validity of the OIG study. They note that the OIG study was challenged, and as a result, the EAC for brand name

drugs revised to AWP minus 17.2%. Commentators, however, still question the methodology used in the revised report. Commentators also object to the proposed dispensing fee, asserting that the actual dispensing costs are significantly higher. Some commentators suggest a dispensing fee of \$7.35 would reflect the actual cost to dispense a prescription in this Commonwealth. Another commentator noted that a 2000 NACDS study found the cost of dispensing a Medicaid prescription at \$7.14.

We have several concerns related to the EAC and dispensing fees in the proposed regulation.

First, Act 53 of 1996 directed the Department to conduct a study of the dispensing costs and drug acquisition costs in this Commonwealth. However, the OIG study, on which the PwC relied, did not include this Commonwealth. Furthermore, PwC did not conduct an independent survey of drug acquisition costs or dispensing fees within this Commonwealth. Therefore, we question whether the Department has met the mandate of Act 53 of 1996.

Second, the proposed \$4.25 dispensing fee falls significantly short of the \$6.22 average dispensing cost cited in the PwC study. The Department should explain why it accepts the EAC estimates in the PwC study, but rejects the dispensing cost estimate in the same study.

Finally, without Commonwealth-specific data, we cannot determine if the proposed EAC of AWP minus 15% is a reasonable representation of Commonwealth pharmacists' drug acquisition costs. We are also unable to determine if the proposed 25¢ increase in the dispensing fee is sufficient to adequately reimburse pharmacists for their actual dispensing costs. Consistent with the directive in Act 53 of 1996, the Department should conduct a Commonwealth-specific study of drug acquisition costs and dispensing costs to determine any necessary modification to the reimbursement levels in the existing regulations. The Department should also include an analysis of the economic impact of revisions to reimbursement levels on participating MA program pharmacies.

3. Additional Reimbursement for Long-Term Care (LTC) Pharmacies.—Economic Impact; Reasonableness.

In current and proposed regulations, LTC pharmacies receive the same dispensing fee reimbursement rate that other pharmacies receive. In their comments, the LTC Pharmacy Alliance (LTCPA) and other LTC pharmacies listed specific services that LTC pharmacies provide that traditional retail pharmacies commonly do not provide. Examples of these services include 24-hour service, providing and maintaining emergency drug kits and developing drug carts to be used on specific floors of specific LTC facilities. LTCPA estimates the cost for a LTC pharmacy to dispense a prescription is \$11.37 based on a study by the accounting firm BDO Seidman. LTCPA further estimates that this regulation will reduce the reimbursement to LTC pharmacies by approximately \$22 million.

The 2000 Pennsylvania Legislative Budget and Finance Committee report estimates that it costs a LTC pharmacy an additional \$2.87 to dispense a prescription. Other states such as Maryland, New Jersey, Florida, Virginia and Michigan provide additional reimbursement to LTC pharmacies based on the cost to provide additional services.

Given the Pennsylvania Legislative Budget and Finance Committee 2000 report, the costs associated with additional services provided by LTC pharmacies and supplemental reimbursement given by other states, the

Department should provide additional reimbursement to LTC pharmacies or explain why additional reimbursement is not justified.

4. Pharmacy Carve-Out.—Reasonableness; Economic Impact.

Senator Hughes submitted comments objecting to the proposed regulation due to concerns that the Department has not fully explored alternatives to reducing pharmacy reimbursement. Senator Hughes specifically addressed “carving-out” pharmaceutical services from managed care as an option to be explored as a cost cutting measure. He suggested that the Department complete a comprehensive analysis of pharmacy “carve-out” to determine if additional pharmacy rebates resulting from a “carve-out” would exceed the potential increase in administrative costs associated with operating pharmaceutical services on a fee-for-service basis.

Additionally, the Philadelphia Association of Retail Druggists (PARD) asserts that “carving-out” pharmacy services would generate substantial increases in drug manufacturer rebates. Specifically, PARD estimates that “carving out Pharmacy from the Health Choices program would generate an increase of \$136 million/year in manufacturers rebates and control drug costs.”

Has the Department evaluated the “carve-out” option? If so, what are the evaluation results, and why hasn’t it been pursued as an option to reducing pharmacy reimbursement?

5. Effective Date of the Regulation.—Reasonableness; Economic Impact.

The Preamble to the proposed regulation sets the effective date as October 1, 2002. There is no statutory mandate for retroactive implementation of the proposed regulation. Absent a mandate, we find it unreasonable for the Department to retroactively lower reimbursement to pharmacists participating in the MA program. Furthermore, the administrative costs of recalculating prior pharmacy reimbursements could be substantial, and could significantly reduce anticipated savings associated with retroactive implementation. The effective date of the regulation should be set as the date of final publication in the *Pennsylvania Bulletin*.

**Department of Public Welfare Regulation No. 14-477
Income Provisions for Categorically Needy
NMP-MA and MNO-MA
December 5, 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 Department of Public Welfare (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

1. General.—Disapproval by a Standing Committee; Policy Decision Requiring Legislative Review; Protection of the Public Health, Safety and Welfare; Economic and Fiscal Impact; Feasibility; Reasonableness.

Disapproval by the House Health and Human Services Committee; Policy decision requiring legislative review

The House Health and Human Services Committee (House Committee) disapproved the proposed amend-

ments. In their letter dated October 21, 2002, the House Committee found “that the proposed changes will jeopardize the health and well being of many Pennsylvanians. The Committee unanimously and adamantly opposes” this regulation.

The Senate Public Health and Welfare Committee (Senate Committee) submitted a letter opposing this rulemaking. In their letter dated November 25, 2002, the Senate Committee believed this regulation “is not in the public interest as it fails to protect the public health and ultimately will result in additional costs for the Commonwealth and municipal governments.”

We agree with both the House and Senate Committees’ concerns and herein state our objections to the proposed amendments.

Protection of the public health, safety and welfare

There are three concerns related to our criterion of protection of the public health, safety and welfare.

First, the Department estimates 7,196 individuals will lose NMP benefits and 14,802 individuals will lose Medicaid eligibility as a result of these amendments. The House Committee described this population as “Pennsylvania’s most needy and vulnerable citizens.” Commentators have described these individuals as generally elderly, disabled or experiencing mental health problems. The Department should include a comprehensive description of the affected population in the final-form regulation.

Second, these amendments will cause many individuals to lose their prescription drug coverage. Commentators stated that without prescription coverage, many individuals won’t be able to afford necessary medication. Among the commentators’ concerns is the loss of independence for the elderly and individuals with mental illness. The Department gave no estimate of how the loss of this assistance will impact health. The Department needs to explain how the health, safety and welfare of the individuals will be protected upon the implementation of this regulation. The Department also needs to explain in detail what other assistance the individuals may be eligible for and whether the level of assistance is sufficient for the individuals to maintain their health.

Finally, the House Committee “is very concerned about the potentially harmful impact of the proposed changes on Pennsylvania’s most needy and vulnerable citizens.” The Department should explain in the Preamble to the final-form regulation the alternatives considered to accomplish cost savings and why this regulation is the most reasonable way to cut costs in relation to other alternatives available to the Department.

Economic and fiscal impact; Feasibility

The House Committee and most commentators questioned whether the amendments will save or cost the Commonwealth money in the long run. The amendments: may cause increased hospitalizations and/or nursing home care; may simply shift costs to other programs; or may increase the cost of uncompensated care. We object to the lack of comprehensive economic and fiscal data in the Preamble and the Regulatory Analysis Form (RAF). The information provided fails to include analysis of these costs and therefore does not reflect the full impact of the proposed amendments, and calls into question the feasibility of the savings the Department claims will be accomplished by the amendments. In the Preamble and RAF for the final-form regulation, the Department must fully explain and quantify the overall impact of the amendments and demonstrate that the benefits outweigh

the adverse effects and negative fiscal impact. Specifically, the Department must quantify the cost increases in the following four areas.

First, in the Preamble, the Department acknowledges the following may experience increases in enrollment:

- The Department's Medical Assistance for Workers with Disabilities program.
- The Insurance Department's CHIP and Adult Basic Programs.
- The Department of Aging's PACE/PACENET Program.

The Department must quantify the number of individuals who could be shifted to other programs and the costs for the final-form regulation in order to demonstrate the full impact of the regulation on state government.

Second, compounding our first concern, is the effect on matching Federal funds. The Department acknowledges in the Preamble that there will be a loss of Federal matching funds, but this loss was not included in the RAF. The Department also needs to demonstrate whether the Department's savings and loss of Federal funds will be greater than the costs incurred by other programs, some of which are fully funded by the Commonwealth.

Third, the Department also states in the Preamble that there is potential for healthcare providers to have an increase in uncompensated care. These increases could affect both local governments and private providers. Some counties operate county-run nursing homes or clinics. Those affected persons who lose coverage could utilize these services when their coverage is eliminated, increasing uncompensated costs for these entities. Private providers could be affected in similar ways, through hospital stays, emergency room visits and other provided services. For the Commission to determine whether the amendments are in the public interest, the Department must provide these costs.

Finally, we question the economic impact on those individuals whose eligibility is eliminated by this regulation. Individuals who lose coverage will be faced with significant increases for health care. Given the limited income of this group, they could lose their homes, considerable amounts of their savings and other resources that could contribute to financial independence and security. Other individuals who can't afford to replace lost health coverage may experience medical problems that will inhibit their ability to maintain employment. If this assistance is lost, affected individuals could be forced into other assistance programs. How will this regulation affect individuals whose eligibility is eliminated by this regulation?

2. Section 181.12. Retroactive eligibility.—Clarity.

Section 181. 14. Eligibility under MNO-MA spend-down.—Clarity.

Sections 181.12(2) and 181.14(d)(1)(v) contain a time period of 3 months. How was this time frame determined?

State Board of Certified Real Estate Appraisers Regulation No. 16A-7013

Biennial Renewal Fees and Examination Fees

December 5, 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 State Board of Certified Real Estate Appraisers (Board) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

General.—Economic impact; Reasonableness.

This proposed regulation establishes and increases biennial renewal fees for certified real estate appraisers, certified brokers and appraisers and certified Pennsylvania evaluators. We understand that these fees are being established or increased due to the Board's potential for impending deficits.

The proposed fee for all three licensure categories is \$225. The Preamble states, "The biennial renewal fees defray general operating expenses and overhead - primarily in the areas of investigation, prosecution and enforcement. . . ." To justify these proposed fees, the Board should explain whether these three areas are distributed equally among the three licensure categories.

The Board should also state why a one-time increase is a suitable solution to the potential for large deficits. Were any alternatives, such as a number of gradual increases, considered?

Department of Public Welfare Regulation No. 14-478 Resource Provisions for Categorically NMP-MA and MNO-MA; Income Provisions for Categorically Needy NMP-MA and MNO-MA

December 5, 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 Department of Public Welfare (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

1. General.—Disapproval by a standing committee; Policy decision requiring legislative review; Protection of the public health and safety; Economic and fiscal impact; Feasibility.

Disapproval by the House Health and Human Services Committee; Policy decision requiring legislative review

The House Health and Human Services Committee (House Committee) disapproved the proposed amendments. The House Committee's concerns were explained in a letter dated October 10, 2002. The House Committee found the amendments detrimental to senior citizens and stated "There is no doubt that, dependent on the limited resources and earnings available to them, impoverishment for the community spouse would be inevitable."

The Senate Public Health and Welfare Committee (Senate Committee) submitted a letter opposing a portion of this rulemaking. In their letter dated November 25, 2002, the Senate Committee objected "to the proposal to eliminate the home maintenance deduction." Further comments on this issue are contained in Comment 7.

We agree with both the House and Senate Committees' concerns and herein state our objections.

Protection of the Public Health and Safety; Potential hardship on the Community Spouse

Under the “resource first” model, a community spouse (CS) can retain and invest resources from the institutionalized spouse (IS) to bring his or her income to the Federal mandated minimum. When the IS dies, the CS will still be able to rely on those resources for income. Under the “income first” model, more of these resources will be spent by the IS to spend down to meet the Medical Assistance (MA) program’s eligibility requirements. This could result in a dramatic reduction in the CS’s income when the IS dies.

Many commentators do not believe the regulation will achieve the projected savings and will present a severe hardship on the CS. Comments submitted by elder law attorneys provide examples of the potential hardship for ISs and CSs. These examples point to situations where individuals would possibly lose their residences, as well as substantial amounts of their life savings, if the Commonwealth adopted the “income first model.” The Department should address the impact on individuals that would result from moving from the resource first model to the income first model.

Economic impact; Feasibility

The House Committee stated that “rather than being a Medical Assistance cost containment measure, this regulation will force more seniors into poverty, resulting in their reliance on public assistance for survival.” The incomplete fiscal data in the Preamble and the Regulatory Analysis Form (RAF) does nothing to refute this statement. The information provided simply does not reflect the full impact of the proposed amendments.

Specifically, we have four major concerns in the area of economic impact: the financial impact on the CS; the financial impact on a temporarily institutionalized individual due to the deletion of the deduction for maintenance of their home; the financial impact on the Commonwealth in terms of additional demand for services for an impoverished CS or temporarily institutionalized individual who loses their home; and the impact on the projected savings for the Commonwealth of the purchase of annuities by CSs and ISs to protect financial resources. These issues are discussed in more detail in Comments 5–7.

2. Clarity of the amendments in relation to other regulations and statutes—Consistency with existing regulations and statutes; Clarity.

Several commentators stated the amendments are similar to existing provisions in the *United States Code*, but vary in the use of terms and application of those terms. The Department should review the amendments in conjunction with Federal regulations and statutes. In addition, some commentators cited inconsistency with the *Pennsylvania Code*. The Department should make the final-form regulation consistent with the Federal and State requirements.

3. Effective date—Implementation procedures; Clarity.

This regulation is unclear regarding how parties will be affected once the final-form version is promulgated. Will the implementation of this rulemaking be tied to the initial date of application? The Department should add a section to this regulation outlining the timeline for implementation and compliance with this regulation.

4. Section 178.2. Definitions.—Clarity.

“MAMMNA,” “MIMMNA” and “shelter expense allowance”

These definitions contain substantive provisions. However, substantive provisions in definitions are not enforceable. Therefore, these substantive provisions should be moved to the body of the regulation.

5. Section 178.124. Resource eligibility for the institutionalized spouse.—Economic and fiscal impact; Reasonableness; Feasibility.

This section includes the formulas for calculating the monthly income for a CS. We have a number of concerns and questions.

Spousal refusal

First, this proposed rulemaking would require the CS to spend-down assets to qualify the IS for MA. In some cases, the CS may refuse to make these amounts available to an IS, due to the potential impoverishment of the CS. The rulemaking does not address this situation. The Department should include procedures dealing with CS refusal in the final-form regulation.

Interest income

Second, how will the amount of interest be determined? Subsection (b)(2)(i)(B) includes “Interest and other income generated by the community spouse resource . . . are included as unearned income of the community spouse.” The Department should develop a mechanism for determining the interest rate it will use to calculate the CS’s unearned income toward the CS’s MMNA in the final-form regulation. Rather than specifying a fixed rate in the regulation, the Department should tie the rate to a published index such as the interest rate on T-bills.

Treatment of Social Security Income (SSI)

Third, § 178.124(b)(2)(viii) states that the IS’s income consists of the IS’s total gross monthly income as defined in § 181.452(a). Section 181.452(a) incorporates § 181.101. This section includes SSI as total gross monthly income for the IS. Section 178.124(b)(2)(viii) requires the total gross monthly income of the IS be attributed to the CS for the purposes of calculating the CS’s MMNA.

Section 407(a) of the Social Security Act (act) (42 U.S.C.A. § 407) states:

The right of any person to any future payment under this title [42 U.S.C.A. §§ 401 et seq.] shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this title [42 U.S.C.A. §§ 401 et seq.] shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

The Second Circuit Court of Appeals in *Robbins v. DeBuono*, 218 F.3d 197 (2nd Cir. 2000) held that the assignment of the IS’s SSI to a CS is in violation of section 407(a) of the act. Both *Robbins* and section 407(a) of the act appear to prohibit the transfer of SSI. The Department should explain its authority for allowing the transfer of the IS’s SSI benefits or modify its regulations to exclude them.

Annuity purchase

Finally, commentators pointed out that the ability to purchase an actuarially sound immediate annuity to protect financial resources would deprive the Commonwealth of the savings it hopes to realize by implementing this regulation. The Department should add language

specifying how it will treat these annuities and explain whether it considered these annuities when calculating the projected savings of this proposed regulation.

6. Section 178.174. Disposition of assets and fair consideration provisions for transfers on or after July 30, 1994.—Economic and fiscal impact; Reasonableness.

Subsection (d)

Section 178.174(d)(1) and (2) requires reporting of all assets transferred by an individual or an individual's spouse. We have three questions. First, do these paragraphs apply to post eligibility transfers? Second, it would appear that any transfer by a CS would impact the IS's eligibility for MA. Is this what the Department intended? The Department should explain.

Finally, is there a de minimis exception to subsection (d)? Commentators have pointed out examples where small transfers of assets could trigger reporting requirements, which would in turn trigger partial month ineligibility penalties. In the examples given, the penalties in some cases would amount to less than a day of eligibility. The Department should explain the need for these reporting requirements and how the benefits outweigh the costs. The Department also should consider adding a de minimis exception to this subsection in the final-form regulation.

7. Section 181.452. Posteligibility determination of income available from an MA eligible person toward the cost of care.—Economic and fiscal impact; Protection of the public health and safety; Reasonableness; Clarity.

This section sets forth deductions from an MA eligible person's total gross income. We have two questions.

Subparagraph (d)(5)(iii)

First, this subparagraph allows a total deduction limit of \$10,000 for necessary medical or remedial care not covered under the MA Program. The Department should explain how the \$10,000 amount was determined and the basis for including this required amount.

Additionally, the Department acknowledges in the Preamble that there will be potential costs to county and private long-term care facilities for residents who incur an outstanding unpaid medical expense. Has the Department quantified these costs?

Deletion of subsection (d)(6)

Second, this paragraph allowed a home maintenance deduction for short nursing home stays. The proposed rulemaking deletes this deduction. The elimination of this paragraph could leave individuals without enough financial resources to care for or keep their homes. The Department should explain why the deletion of this deduction is in the public interest.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 02-2331. Filed for public inspection December 27, 2002, 9:00 a.m.]

INSURANCE DEPARTMENT

Coal Mine Compensation Rating Bureau; Workers' Compensation Loss Cost Filing

On December 16, 2002, the Insurance Department (Department) received from the Coal Mine Compensation Rating Bureau (CMCRB) a filing for a loss cost level change for Workers' Compensation insurance. This filing is made in accordance with section 705 of Act 44 of 1993. The CMCRB requests an overall 9.7% increase in collectible loss costs, effective April 1, 2003, on a new and renewal basis. Also, the CMCRB has calculated the Employer Assessment Factor effective April 1, 2003, to be 5.41%, compared to 7.06% presently in effect. The filing also includes revisions to the current Experience Rating Plan.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Ken Creighton, ACAS, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, 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. 02-2332. Filed for public inspection December 27, 2002, 9:00 a.m.]

Continental Insurance Company; Personal Automobile Rate/Rule Filing

On December 12, 2002, the Insurance Department (Department) received from Continental Insurance Company a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 6.9% increase amounting to \$5,996,500 annually, to be effective June 1, 2003.

Unless formal administrative action is taken prior to February 10, 2003, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Michael W. Burkett, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, mburkett@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-2333. Filed for public inspection December 27, 2002, 9:00 a.m.]

Continental Insurance Company; Personal Property (Homeowners) Rate/Rule Filing

On December 12, 2002, the Insurance Department (Department) received from Continental Insurance Company a filing for a rate level change for personal property (homeowners) insurance.

The company requests an overall 6.6% increase amounting to \$2,638,900 annually, to be effective June 1, 2003.

Unless formal administrative action is taken prior to February 10, 2003, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Michael W. Burkett, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, mburkett@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-2334. Filed for public inspection December 27, 2002, 9:00 a.m.]

Michael L. Kempfski; Hearing

Order to Show Cause; Doc. No. SC02-09-015

A hearing in this case is scheduled for February 25, 2003, at 10 a.m. in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17020.

A joint stipulation of facts must be filed with the Administrative Hearings Office by February 14, 2003.

By February 19, 2003, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) a statement of contended facts; (2) the names and address of witnesses along with the specialties of experts to be called; (3) a list of documents to be used at the hearing; (4) a list of special evidentiary or other legal issues; and (5) the estimated time for that party's case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness designated on the prehearing statement. A report subsequently received from a party's expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office.

Both parties shall appear at the scheduled hearing prepared to offer all relevant testimony or other evidence. Each party must bring documents, witnesses and any other items 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.

Persons with a disability who wish to attend the previously referenced 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. 02-2335. Filed for public inspection December 27, 2002, 9:00 a.m.]

Patricia Patterson; Hearing

Appeal of Patricia Patterson under 40 P. S. §§ 991.2101—991.2193; Doc. No. HC02-12-006; File No. 02-168-07211

Under 40 P. S. §§ 991.2101—991.2193, notice is hereby given that the appellant in this action has requested a hearing in connection with the appellant's managed health care plan. The hearing will be held in accordance with the requirements of the act of June 17, 1998 (P. L. 464, No. 68), 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)

This administrative hearing will be held on February 26, 2003, at 1:30 p.m. at the Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA. Failure by the appellant to appear at the scheduled hearing may result in dismissal with prejudice.

Each party may appear with or without counsel and offer relevant testimony and/or other relevant 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 or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, the Insurance 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 the previously referenced 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. 02-2336. Filed for public inspection December 27, 2002, 9:00 a.m.]

Prudential Property and Casualty Insurance Company; Private Passenger Auto Insurance Rate Filing

On December 16, 2002, the Insurance Department (Department) received from Prudential Property and Ca-

sualty Insurance Company a filing for a proposed rate level change for private passenger auto insurance.

The company requests an overall 16.0% increase amounting to \$14.066 million annually, to be effective May 21, 2003.

Unless formal administrative action is taken prior to February 11, 2003, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Bureau of Regulation of Rates and Policies, Room 1311, Strawberry Square, Harrisburg, PA 17120, xlu@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-2337. Filed for public inspection December 27, 2002, 9:00 a.m.]

OFFICE OF THE BUDGET

Statutory Cost of Living Increases for Salaries of State Officials and the Heads of Departments, Boards and Commissions

Section 3(e) of the Public Official Compensation Act, the act of September 30, 1983 (P. L. 160, No. 39) as amended by section 2 of the act of October 19, 1995 (P. L. 324, No. 51), mandates that the salaries of the Governor, Lieutenant Governor, State Treasurer, Auditor General, Attorney General and the heads of the departments and members of boards and commissions shall be increased by applying the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area for the most recent 12 month period for which figures have been officially reported by the United States Department of Labor, Bureau of Labor Statistics (BLS) immediately prior to the date adjustment is due to take effect.

As required by section 3(e) of the Public Official Compensation Law, the Governor has determined, based on the change in the CPI-U (PA-DE-NJ-MD) over the past 12 months as reported by the BLS on November 19, 2002, that the salaries covered by that law shall be increased by 1.6% effective January 1, 2003. The following chart sets out the agency head position, the salary prior to the adjustment, the percentage amount of the adjustment and the new salary:

COLA Adjustment for Elected and Appointed Officials Receiving Salaries Contained in Act 1995-51

COLA Adjustment is Based on the Percent Change in the CPI-U for PA-DE-NJ-MD, CMSA, for the 12 Month Period Ending October 2002

<i>Position</i>	<i>Salary Prior to 1/1/2003</i>	<i>COLA Adjustment</i>	<i>Salary Effective 1/1/2003</i>
Governor	\$142,142	1.6%	\$144,416
Lieutenant Governor	\$119,399	1.6%	\$121,309
State Treasurer	\$118,262	1.6%	\$120,154
Auditor General	\$118,262	1.6%	\$120,154
Attorney General	\$118,262	1.6%	\$120,154
Large Agency Head	\$113,714	1.6%	\$115,533
Secretary of Education			
Secretary of Environmental Protection			
Secretary of Health			
Secretary of Labor and Industry			
Secretary of Public Welfare			
Secretary of Transportation			
Secretary of Corrections			
Medium Agency Head	\$108,028	1.6%	\$109,756
Secretary of Aging			
Secretary of Community and Economic Development			
Secretary of General Services			
Secretary of Revenue			
State Police Commissioner			
Secretary of Conservation & Natural Resources			
Small Agency Head	\$102,343	1.6%	\$103,980
Adjutant General			
Secretary of Agriculture			
Secretary of Banking			
Secretary of the Commonwealth			
Insurance Commissioner			
Liquor Control Board			
Chairperson	\$57,766	1.6%	\$58,690
Member	\$55,491	1.6%	\$56,379

<i>Position</i>	<i>Salary Prior to 1/1/2003</i>	<i>COLA Adjustment</i>	<i>Salary Effective 1/1/2003</i>
Civil Service Commission			
Chairperson	\$65,000	1.6%	\$66,040
Member	\$62,500	1.6%	\$63,500
State Tax Equalization Board			
Chairperson	\$19,901	1.6%	\$20,219
Member	\$18,477	1.6%	\$18,773
Milk Marketing Board			
Chairperson	\$18,477	1.6%	\$18,773
Member	\$17,768	1.6%	\$18,052
Securities Commission***			
Chairperson	\$31,091	1.6%	\$31,588
Member	\$28,364	1.6%	\$28,818
Athletic Commission			
Chairperson	\$14,927	1.6%	\$15,166
Member	\$14,214	1.6%	\$14,441
Board of Pardons			
Member	\$13,077	1.6%	\$13,286
Public Utility Commission			
Chairperson	\$110,528	**	\$112,256
Member	\$108,028	1.6%	\$109,756
Environmental Hearing Board*			
Chairperson	\$110,528	*	\$112,256
Member	\$108,028	*	\$109,756

* The Environmental Hearing Board (Board) is not contained in Act 1995-51, but separate legislation requires that the Board's members receive the same compensation as the Pennsylvania Public Utility Commission (PUC).

** Act 1995-51 requires that the PUC Chairperson shall receive \$2,500/yr. more than PUC Members.

*** Per Act 1998-51.

ROBERT A. BITTENBENDER,
Secretary

[Pa.B. Doc. No. 02-2338. Filed for public inspection December 27, 2002, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Telecommunications

A-310125F7001. AT&T Communications of Pennsylvania, Inc. and Verizon North, Inc. Joint petition of AT&T Communications of Pennsylvania, Inc. and Verizon North, Inc. for approval of Amendment No. 1 to an Interconnection, Resale and Unbundling Agreement under section 252(e) of the Telecommunications Act of 1996.

AT&T Communications of Pennsylvania, Inc. and Verizon North, Inc., by its counsel, filed on December 4, 2002, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of Amendment No. 1 to an Interconnection, Resale and Unbundling Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the AT&T Communications of Pennsylvania, Inc. and Verizon North, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-2339. Filed for public inspection December 27, 2002, 9:00 a.m.]

Telecommunications

A-310510F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and CTSI, LLC. Joint petition of The United Telephone Company of Pennsylvania d/b/a Sprint and CTSI, LLC for approval of an Opt-In Master Interconnection and Resale Agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and CTSI, LLC, by its counsel, filed on November 21, 2002, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an Opt-In Master Interconnection and Resale Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the United Telephone Company of Pennsylvania d/b/a

Sprint and CTSI, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-2340. Filed for public inspection December 27, 2002, 9:00 a.m.]

Telecommunications

A-310651F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and Service Electric Telephone Company, LLC. Joint petition of The United Telephone Company of Pennsylvania d/b/a Sprint and Service Electric Telephone Company, LLC for approval of a Master Interconnection and Resale Agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and Service Electric Telephone Company, LLC, by its counsel, filed on November 19, 2002, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a Master Interconnection and Resale Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the The United Telephone Company of Pennsylvania d/b/a Sprint and Service Electric Telephone Company, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-2341. Filed for public inspection December 27, 2002, 9:00 a.m.]

Telecommunications

A-311208F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and Talk Unlimited Now, Inc. Joint petition of The United Telephone Company of Pennsylvania d/b/a Sprint and Talk Unlimited Now, Inc. for approval of a Master Interconnection and Resale Agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and Talk Unlimited Now, Inc., by its counsel, filed on November 27, 2002, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a Master Interconnection and Resale Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the

The United Telephone Company of Pennsylvania d/b/a Sprint and Talk Unlimited Now, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-2342. Filed for public inspection December 27, 2002, 9:00 a.m.]

Telecommunications

A-311229F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and United States Cellular, Inc. Joint petition of The United Telephone Company of Pennsylvania d/b/a Sprint and United States Cellular, Inc. for approval of a Commercial Mobile Radio Services Interconnection Agreement and Amendment No. 1 under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and United States Cellular, Inc., by its counsel, filed on November 21, 2002, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a Commercial Mobile Radio Services Interconnection Agreement and Amendment No. 1 under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the The United Telephone Company of Pennsylvania d/b/a Sprint and United States Cellular, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-2343. Filed for public inspection December 27, 2002, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for the following projects to refrigerate 35,000 s.f. of the Tioga III Building:

- Project #02-147.1—General Construction
- Project #02-147.2—Refrigeration
- Project #02-147.4—Electrical Work
- Project #02-147.8—Insulation

PRPA will accept bids until 2 p.m. on Thursday, January 16, 2003. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available December 31, 2002. The

cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal opportunity laws and regulations.

A mandatory prebid job site meeting will be held on January 9, 2003, at 10 a.m. at the foot of Tioga St. at Delaware Ave., Philadelphia, PA.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 02-2344. Filed for public inspection December 27, 2002, 9:00 a.m.]

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Hearings Scheduled

Hearings have been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of Claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

February 12, 2003	Vivian A. Smith (D) (Death Benefit)	12 p.m.
March 12, 2003	Louis M. Wainwright (D) (Death Benefit)	1 p.m.

Persons with a disability who wish to attend the previously listed hearings and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant to the Executive Director, (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

DALE H. EVERHART,
Secretary

[Pa.B. Doc. No. 02-2345. Filed for public inspection December 27, 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.

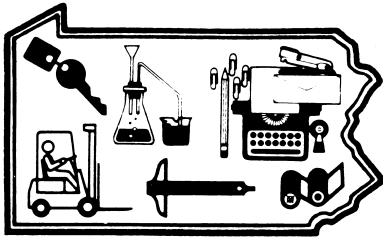
 (For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

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

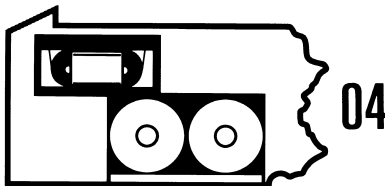


Commodities

BE-02002 Software system to manage the fulfillment of the circulation for the PA Angler and Boater Magazine. Conversion, initial training, consultation, first year support/upgrades. Bid Opening Date: 1/9/03.

Department: Fish and Boat Commission
Location: Harrisburg, PA
Duration: One Time Purchase.
Contact: Dennis Grove, (717) 705-7915

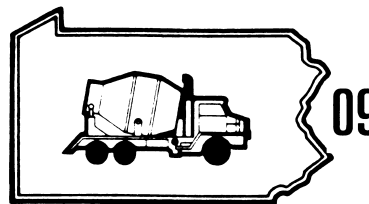
SERVICES



Audio/Video

ADV 171 Indiana University of Pennsylvania is seeking qualified vendors to respond to a Request for Proposal to furnish cable television system operation and/or programming services, related equipment and billing services for 15 residential buildings and other select locations on the IUP main campus in Indiana, PA 15701. Requests for copies of the bid package should be made in writing referencing ADV#171 and directed to the attention of Barbara Cerovich, Contracts Administrator, IUP, Robertshaw Building, 650 S. 13th Street, Indiana, PA 15705; Fax No. (724) 357-2670; e-mail Cerovich@iup.edu. Interested vendors must submit their response to be placed on the bidders list no later than January 10, 2003.

Department: State System of Higher Education
Location: Indiana University of Pennsylvania, Indiana, PA 15705
Duration: Three years with option for 2 year renewal
Contact: Barbara Cerovich, (724) 357-2301



Construction & Construction Maintenance

C82-103.1 Garden Street Pumping Station Improvements, Civil/Mechanical. Complete and in place improvements to the pumping station shall include, but not be limited to, the following: demolition of the existing pumping station and outlet structure, installation of a new pumping station consisting of a substructure and enclosure including heating and ventilation equipment, three vertical axial flow stormwater pumps, sump pump, piping, valves and fittings, trash rack, discharge chamber with gravity drain inlet flap valve and levee drainage pipe inlet sluice gates, hand railing, access hatches, ladder and staff gage, installation of a new 30-inch, RCP discharge pipe/gravity drain, concrete outlet structure and elastomeric check valve, installation of new concrete levee access steps, sidewalk, retaining walls and generator pad, television inspection of existing levee drainage pipes, installation of new pumping station level transducer system and secondary float switches, and all other work as specified and indicated on the contract documents. Pre-bid meeting will be held January 15, 11:00 AM at the Garden Street Pumping Station site. This project issues December 27, 2002. Payment in the amount of \$15.00 must be received before bid documents will be sent.

Department: Environmental Protection
Location: Borough of Sayre, Bradford County
Duration: 300 calendar days after notice to proceed or December 31, 2003, whichever comes first
Contact: Construction Contracts Section, (717) 783-7994

C8:2-103.2 Garden Street Pumping Station Improvements, Electrical. Complete and in place improvements to the pumping station shall include, but not be limited to, the following: demolition and removal of the existing pumping station electrical equipment, installation of new electrical service and distribution equipment, Motor control center, grounding, lighting, and appurtenant items, installation of new standby power generator, weatherproof generator enclosure, and automatic transfer switch, installation of new autodialer and telephone service, installation of new digital pump station control system, installation of new security intrusion alarm system, transferring of electric service from the existing to the new pumping station, and all other work as specified and indicated on the contract documents. This project issues December 27, 2002. Pre-bid meeting will be held January 15, 11:00 AM at the Garden Street Pumping Station site. Payment in the amount of \$15.00 must be received before bid documents will be sent.

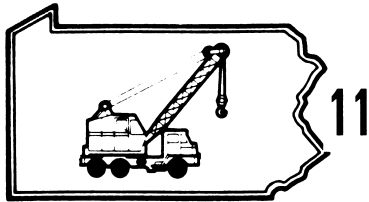
Department: Environmental Protection
Location: Borough of Sayre, Bradford County
Duration: 300 calendar days after notice to proceed or December 31, 2003, whichever comes first
Contact: Construction Contracts Section, (717) 783-7994

SU-921B SU-921B Structural Maintenance Seavers Apartments—Phase 2. Invitation To Bid-Shippensburg University of the State System of Higher Education invites General Contractors to request bid documents for this project. Work includes all work necessary to repair concrete, brickwork, steel painting and handrail replacement. Prospective Bidders may obtain project plans for a nonrefundable fee of \$40.00 from STV Architects, 205 West Welsh Drive, Douglassville, PA 19518, ATTN: Virginia Stoudt, 610-385-8325. Pre-Bid Meeting with site visit immediately to follow will be held on January 3, 2003 at 10:00 AM in Reed Operations Center Conference Room. Bids Due: January 22, 2003 at 4:00 PM in Old Main Room 300. Public Bid Opening: January 23, 2003 at 2:00 PM., Old Main Room 203B. Non-Discrimination and Equal Opportunity are the policies of the Commonwealth and of the PA State System of Higher Education.

Department: State System of Higher Education
Location: Shippensburg University, Shippensburg, PA 17257
Duration: Completion 7-25-03
Contact: Deborah K. Martin, (717) 477-1121

401-BL-665 Renovations to Bakeless Hall HVAC—Provide all labor, equipment and material necessary to replace the existing cooling tower with associated condenser water pumps, replacement of existing unit ventilators and fan coil units, installation of new rooftop air handling units, installation of new automatic temperature control system and electrical power connections to the equipment. There will be an HVAC and Electrical prime contract on this project. To obtain the bid documents for this project submit a non-refundable \$100.00 deposit to Rettew Associates, Inc., 3897 Adler Place, Suite 120C, Bethlehem, Pa. 18017; Phone: (610) 866-8330. Documents should be available late December 2002, and all information regarding bid dates and prebid will be included in the package.

Department: State System of Higher Education
Location: Bloomsburg University, Bloomsburg, PA
Duration: 77 Calendar Days
Contact: Joe Quinn, (570) 389-4311

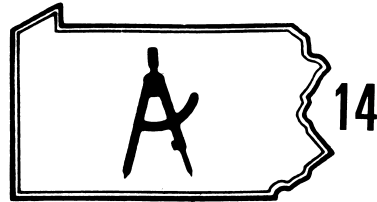


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Demolition—Structural Only

064072 Demolition and or removal of structure and improvements. Bids due 1/16/03, opened 1/17/03. Bidders MUST be Prequalified with PENNDOT for Building Demolition.

Department: Transportation
Location: 929 Plymouth Road, Gwynedd, PA 19436
Duration: OPEN
Contact: Linda Bunt, (610) 205-6784



14

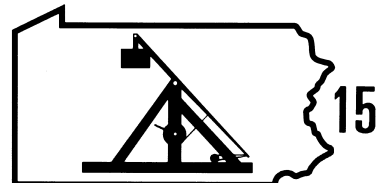
Engineering Services

PR30004015 Hydrogeologic investigations to be conducted at the Corry Fish Culture Station, Erie County, and the Oswayo Fish Culture Station, Potter County. The goal of the project is to determine the hydrogeologic framework at these two properties to facilitate locations and development of on-site water supply wells. Scope of the work will consist of three basic tasks including: A) Conduct a geologic review of the properties and area immediately surrounding the PFBC facilities and prepare two geological reports of the results of all work conducted in all three tasks, B) Conduct a representative geophysical survey on each property and C) Install one hollow stem auger test boring at each site at a location determined in Task B. Work to be completed from March 1—June 30, 2003.

Department: Fish and Boat Commission
Location: PA Fish and Boat Commission, Corry Fish Culture Station, Erie County and Oswayo Fish Culture Station, Potter County, PA
Duration: June 30, 2003
Contact: Kathi Tibbott, (814) 359-5130

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



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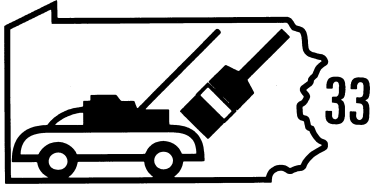
Environmental Maintenance Service

BF 481-101.1 Abandoned Mine Land Reclamation, Beechdale Mining, Inc., Mining Permit No. 56900144-04. Work essentially consists of 95,800 c.y. clearing, grubbing and grading, 50 c.y. ditch excavation, 150 s.y. high velocity erosion control mulch blanket and 45 acre seeding. This project issues December 27, 2002. Payment in the amount of \$10.00 must be received before bid documents will be sent.

Department: Environmental Protection
Location: Brothersvalley Township, Somerset County
Duration: 180 calendar days after notice to proceed
Contact: Construction Contracts Section, (717) 783-7994

BF 441-101.1 Abandoned Mine Land Reclamation, McCandless Mining Company, Mining Permit No. 1079112-01-0, 01-2. The work consists of clearing and grubbing, 32,000 c.y. grading, and 9.6 acre seeding. Federal funds are available for this project from the \$37.8 million 2001 Pennsylvania AML grant. This project issues December 27, 2003. Payment in the amount of \$10.00 must be received before bid documents will be sent.

Department: Environmental Protection
Location: Brady Township, Butler County
Duration: 180 calendar days after notice to proceed
Contact: Construction Contracts Section, (717) 783-7994



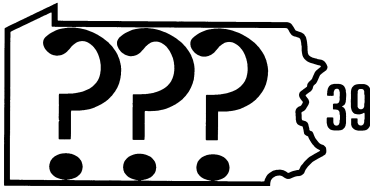
Property Maintenance

#120201 Carpet: Furnish and Install, Vision @ Work Carpet. Contractor to provide and install 6' Cove Base, all reducer strips and adhesive. Installation method: Direct Glue. Vendor to do an on-site visit for exact measurement before submitting bid.

Department: Public Welfare

Location: Ebensburg Center, Department of Public Welfare, Rt. 22 West, PO Box 600, Ebensburg, PA 15931

Contact: Cora Davis, Purchasing Agent, (814) 472-0288



Miscellaneous

12ROW04 APPLICATION FOR LEASE OF RIGHT-OF-WAY: Notice is hereby given that pursuant to Title 67 Pa. Code § 7495.4(d), an application to lease highway right-of-way has been submitted to the Department by the Borough of Donora, of 603 Meldon Avenue, Donora, Pennsylvania 15033, seeking to lease highway right-of-way of 23,040 square feet originally acquired as parcels 179, 181, 182 and 183 by Commonwealth Plans for Legislative Route 1099, Section 002. The area, previously known as tax map lots 42, 44, 46, 48, 50, 52, 54 and 56, is located adjacent to the western side of McKean Avenue (SR 0857) between Walnut Street and Chestnut Street in the Borough of Donora, Washington County, Pennsylvania and will be used for the erection of a war memorial to honor the Borough of Donora natives who have served in our Nation's wars and armed conflicts. Interested persons are invited to submit, within thirty (30) days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to Michael H. Dufalla, P.E., District Engineer, Engineering District 12-0, PO Box 459, Uniontown, PA 15401. Questions regarding this application may be directed to: Steve Holowach, Real Estate Specialist, PO Box 459, Uniontown, PA 15401, e-mail sholowach@state.pa.us, fax (724) 425-3009 or telephone (724) 439-7144.

Department: Transportation

Location: PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, Engineering District 1200, PO Box 459, 805 North Gallatin Avenue Extension, Uniontown, PA 15401

Duration: Unspecified . . . infinite time period.

Contact: Steve Holowach, Real Estate Specialist, (724) 439-7144

8598-02 Provide Transportation and Counseling Services to The State Correctional Institution at Muncy, PA

Department: Corrections

Location: State Correctional Institution, Route 405, P.O. Box 180, Muncy, PA 17756

Duration: 1 to 3 Year Contract; Start date: 7/1/03

Contact: Cindy Lyons, (570) 546-3171

[Pa.B. Doc. No. 02-2346. Filed for public inspection December 27, 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
4500007862	12/16/02	Galls	\$50,725.00
4500010029	12/16/02	Continental Flooring	47,299.99
4500011296	12/16/02	Quality Health Products	21,810.00
4500012505	12/16/02	Industrial Organizational Solutions	117,440.00

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
4500016478	12/16/02	Digital Ink	30,367.40
4500016649	12/16/02	John D. Lucas Printing	40,845.00

KELLY POWELL LOGAN,
Secretary

[Pa.B. Doc. No. 02-2347. Filed for public inspection December 27, 2002, 9:00 a.m.]

