

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 The act of January 31, 2002 (P. L. 18, No. 3) (act) provided for a new voter registration law and repealed the Pennsylvania Voter Registration Act (PVRA) (25 P. S. §§ 961.501—961.5109).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.

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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
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[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.]
