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# PENNSYLVANIA BULLETIN

Volume 29  
Saturday, January 9, 1999 • Harrisburg, Pa.  
Number 2  
Pages 161—320

See Part II page 271 for the  
Department of Public Welfare's  
Subsidized Child Day Care  
Eligibility

## **Part I**

### **Agencies in this issue:**

The General Assembly  
The Courts  
Department of Banking  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of Public Welfare  
Department of Transportation  
Executive Board  
Fish and Boat Commission  
Human Relations Commission  
Insurance Department  
Liquor Control Board  
Pennsylvania Public Utility Commission  
Public School Employes' Retirement Board  
Securities Commission  
Turnpike Commission

**Detailed list of contents appears inside.**

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

**No. 290, January 1999**

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**PENNSYLVANIA**



**BULLETIN**

(ISSN 0162-2137)

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# READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

## ***Pennsylvania Bulletin***

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

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

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

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

## **Adoption, Amendment or Repeal of Regulations**

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

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

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

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

## **Citation to the *Pennsylvania Bulletin***

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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## List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 1999.

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# PENNSYLVANIA BULLETIN

Volume 29  
Saturday, January 9, 1999 • Harrisburg, Pa.

Number 2

## **Part II**

This part contains the  
Department of Public Welfare's  
Subsidized Child Day Care Eligibility



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# THE GENERAL ASSEMBLY

## Recent Actions During the 1998 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 1998 Regular Session.

### 1998 VETOES—Vetoes 2 and 3 (numerical)

<i>Veto No.</i>	<i>Veto Date</i>	<i>Bill No.</i>	<i>Printer's No.</i>	<i>Subject Matter</i>
1998-2	Dec. 23	SB279	PN1340	Vehicle Code (75 Pa.C.S.)—protective equipment for motorcycle riders and C. Vance DeiCas Memorial Highway designation
1998-3	Dec. 23	HB2261	PN4163	Mental Health or Mental Retardation Facility Closure Act—enactment

### Effective Dates of Statutes

The effective dates specified above for laws and appropriation acts were contained in the applicable law or appropriation act. Where no date is specified or where the effective date specified is prior to the date of enactment, the effective date is 60 days after final enactment except for statutes making appropriations or affecting budgets of political subdivisions. See 1 Pa.C.S. §§ 1701—1704 (relating to effective dates of statutes).

### Advance Copies of Statutes

Section 1106 of Title 1 of the Pennsylvania Consolidated Statutes provides that the prothonotaries of each county shall file advance copies of statutes in their offices for public inspection until the Laws of Pennsylvania are generally available. Section 2406(h) of The Administrative Code of 1929 provides that the Department of General Services shall distribute advance sheets of the Laws of Pennsylvania to each law judge of the courts, to every county and public library of this Commonwealth, and to each member of the General Assembly. These copies shall be furnished without charge. The Department shall also mail one copy of each law enacted during any legislative session to any person who pays to it the sum of \$20.

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore, State Records Center Building, 1825 Stanley Drive, Harrisburg, PA 17103, accompanied by a check or money order in the sum of \$20, payable to the "Commonwealth of Pennsylvania."

### Legislative Bills and Documents

Copies of Senate Bills and Documents may be obtained from: Document Room, Senate of Pennsylvania, Room 34A, Main Capitol Building, Harrisburg, PA 17120, (717) 787-6732.

Copies of House Bills and Documents may be obtained from: Document Room, House of Representatives, 35 Main Capitol Building, Harrisburg, PA 17120, (717) 787-5320.

CARL L. MEASE,  
*Director*  
*Legislative Reference Bureau*

[Pa.B. Doc. No. 99-38. Filed for public inspection January 8, 1999, 9:00 a.m.]

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[231 PA. CODE CH. 200]

#### Proposed Amendment to Rule 223 Governing Conduct of Jury Trial; Proposed Recommendation No. 154

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 223 governing conduct of a jury trial be amended as set forth in the recommendation. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court.

All communications in reference to the proposed recommendation should be sent not later than March 5, 1999 to: Harold K. Don, Jr., Esquire, Counsel, Civil Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, Pennsylvania 17055, or E-Mail to [civil.rules@supreme.court.state.pa.us](mailto:civil.rules@supreme.court.state.pa.us).

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure nor will it be officially adopted or promulgated by the Court.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 200. BUSINESS OF COURTS

#### Rule 223. Conduct of the Jury Trial.

(a) Subject to the requirements of due process of law and of the constitutional rights of the parties, the court may make and enforce rules and orders covering any of the following matters, inter alia:

(1) Limiting the number of witnesses whose testimony is similar or cumulative;

(2) Limiting the number of attorneys representing the same party or the same group of parties, who may actively participate in the trial of the case or may examine or cross-examine a witness or witnesses;

(3) Regulating the number and length of addresses to the jury or to the court;

(4) Regulating or excluding the public or persons not interested in the proceedings whenever the court deems such regulation or exclusion to be in the interest of the public good, order or morals.

**Official Note: [ Berks Rules 308 and 314 limit the number of witnesses. The rules of several counties limit the number of trial counsel who may address the jury. Time limits are placed upon addresses to the jury in the rules of about ten counties. ]**

Trial courts in Pennsylvania customarily exercise discretion as to the exclusion of persons from the court room in the interest of good order and morals.

The [ subject matter of former Rule 223(b) regulating the ] exclusion of the taking of photographs or radio or television broadcasting is [ now ] governed by Canon 3A(7) of the Code of Judicial Conduct [ , adopted November 21, 1973 and effective January 1, 1974 ].

(b) [ Rescinded. ]

(1) The court may use one or more of the procedures provided in paragraphs (2) and (3) as may be appropriate in the particular case.

**Official Note: It is not intended that this rule limit the inherent power of the court.**

(2) The court may permit jurors to

(i) take notes and use them throughout the trial and during the jury's deliberation,

**Official Note: Jurors' notes should remain in the custody of the court officer when court is not in session.**

(ii) submit questions to the court to be asked of the witnesses, and

(iii) view a premises or a thing in or on a premises.

**Official Note: See Rule 219 governing view of premises.**

(3) The court may

(i) permit specified testimony to be read back to the jury upon the jury's request,

(ii) charge the jury at any time during the trial,

**Official Note: The court is not limited to charging the jury after the closing argument by the attorneys,**

(iii) make exhibits and a portion of trial transcripts, excluding videotaped exhibits and transcripts, available to the jury during its deliberations, and

(iv) provide the jury with a written charge or written instructions.

#### Explanatory Comment

The jury trial has been the subject of recent national attention. For example, this attention has been manifested in the adoption by the American Bar Association of Civil Trial Practice Standards, the publication by the Council for Court Excellence, District of Columbia Jury Project, of *Juries for the Year 2000 and beyond, Proposals to Improve the Jury Systems in Washington D.C.* (1998) and the promulgation of court rules in Arizona.

The Civil Procedural Rules Committee is proposing the amendment of Rule 223 governing the conduct of a jury trial by adding new subdivision (b). The purpose of the proposed amendment is to facilitate the jurors' understanding of the case.

It is not the Committee's purpose to devise an elaborate rule or detailed procedure. The rule is designed to be a catalog of options available to the court, advising both the bench and bar of the options and the court's power to invoke them. Thus, the proposed revision is not meant to restrict the court's inherent powers in conducting a jury trial.

Proposed subdivision (b) of Rule 223 lists two categories of procedures. Paragraph (2) contains procedures through which the court may allow the jurors to actively participate in the trial: (i) taking notes, (ii) submitting questions to the court to be asked of the witnesses, and (iii) viewing a premises or a thing in or on a premises. Paragraph (3) contains procedures which the court may employ for the benefit of the jurors: (i) permitting specified testimony to be read back to the jury upon the jury's request, (ii) charging the jury at any time during the trial, (iii) making exhibits and portions of trial transcripts, other than videotaped exhibits and transcripts, available to the jury during its deliberations, and (iv) providing the jury with a written charge or written instructions.

The use of these procedures is subject to the discretion of the court as set forth in paragraph (1) of new Rule 223(b): "The court may use one or more of the procedures provided in paragraphs (2) and (3) as may be appropriate in the particular case."

*By the Civil Procedural  
Rules Committee*

EDWIN L. KLETT,  
*Chairperson*

[Pa.B. Doc. No. 99-39. Filed for public inspection January 8, 1999, 9:00 a.m.]

## PART I. GENERAL

### [231 PA. CODE CHS. 200 AND 400]

#### Proposed Amendments Governing Electronic Filing of Legal Papers; Proposed Recommendation No. 153

The Civil Procedural Rules Committee proposes that the Rules of Civil Procedure be amended by adding new Rule 205.4 governing electronic filing of legal papers and amending Rule 440 governing service of legal papers other than original process. The recommendation is being published to the bench and bar for comments and suggestions prior to its submission to the Supreme Court.

All communications in reference to the proposed recommendation should be sent not later than March 5, 1999 to: Harold K. Don, Jr., Esquire, Counsel, Civil Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, Pennsylvania 17055, or E-Mail to [civil.rules@supreme.court.state.pa.us](mailto:civil.rules@supreme.court.state.pa.us).

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules nor will it be officially adopted or promulgated by the Court.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 200. BUSINESS OF COURTS

#### Rule 205.1. Filing Legal Papers. Mailing. Personal Presentation by Attorney Not Necessary.

\* \* \* \* \*

**Official Note: For the electronic filing of legal papers, see Rule 205.4.**

#### Rule 205.3. Filing Pleadings and Other Legal Papers with the Prothonotary. Originals and Copies.

\* \* \* \* \*

**Official Note: For the electronic filing of legal papers, see Rule 205.4.**

*(Editor's Note: The following is a new rule. It is printed in regular type to enhance readability.)*

#### Rule 205.4. Electronic Filing of Legal Papers.

(a) As used in this rule,

"electronic filing" means the electronic transmission of legal papers by means other than by facsimile transmission, and

"filing party" means an attorney, party or other person who files a legal paper by means of electronic filing, and

"legal paper" means a pleading or other paper filed in an action, but does not include

(1) a writ of summons or a complaint that is original process naming an original defendant or an additional defendant, unless the court by local rule provides otherwise, or

(2) a notice of appeal from an award of a board of arbitrators or a notice of appeal or other legal paper, the filing of which is prescribed by the Rules of Civil Procedure Governing Actions and Proceedings before District Justices.

(b) A party may file a legal paper with the prothonotary by means of electronic filing if electronic filing is permitted by general rule, rule of court or special order of court. The filing shall be in the format of Adobe PDF, WordPerfect for Windows, Microsoft Word for Windows or such other format as permitted by the rule or order. Except as otherwise provided by law, a legal paper filed electronically shall be deemed the equivalent of the original document.

(1) The electronic filing of a legal paper constitutes

(i) a certification by the filing party that the original hard copy was properly signed and, where applicable, verified, and

(ii) a certification as provided by the signature to a legal paper under Rule 1023(b), the violation of which shall subject to the sanction provision of Rule 1023(c).

(2)(i) The filing party shall maintain the original hard copy of the document filed and produce it upon request.

(ii) Any other party at any time may require the filing party to file the original hard copy by filing with the prothonotary and serving upon the filing party a notice to file the original hard copy with the prothonotary within fourteen days of the filing of the notice.

(c)(1) A prothonotary who is authorized to accept filings by electronic transmission shall provide electronic access at all times. A legal paper filed electronically and received before five o'clock p.m. shall be considered filed on that date. A legal paper filed electronically and received after five o'clock p.m. shall be considered filed on the next business day of the court. The time and date of filing and receipt shall be that registered by the prothonotary's computer.

(2) The prothonotary may designate a website for the electronic filing of legal papers. Access to the website shall be available to

(i) an attorney through the use of the attorney's current certificate number issued by the Court Administrator of Pennsylvania, and

(ii) a party, an attorney who does not have a current certificate number issued by the Court Administrator of Pennsylvania or other person by means of an identification number issued by the website administrator.

(d) A filing party shall pay the cost of the electronic filing of a legal paper in advance by depositing with the prothonotary sufficient funds or by authorizing payment by credit or debit card.

(e)(1) A filing party shall be responsible for

(i) any delay, disruption, interruption of the electronic signals and readability of the document electronically filed, and

(ii) the maintenance of sufficient funds deposited with the prothonotary or of a credit or debit account to cover the cost of electronic filing.

(2) The filing party accepts the risk that a document filed by means of electronic filing may not be properly or timely filed with the prothonotary.

(f) When electronic filing is permitted as set forth in subdivision (b), the court by local rule shall provide for

(1) the maintenance by the prothonotary of an electronic file only, or of an electronic and such hard copy files as set forth in the rule,

**Official Note:** A hard copy file is not required by this rule. If the local rule requires a hard copy file, the requirement may extend to all case or only to certain specified cases. For example, the court may require hard copy files for cases listed for trial or scheduled for argument while maintaining only electronic files for all other cases.

(2) additional procedures, if necessary, to ensure the security of the web site and the electronic files,

(3) procedures for the payment of prothonotary's fees and costs, and

(4) such other procedures and matters necessary to the operation of a system of electronic filing.

## CHAPTER 400. SERVICE OF ORIGINAL PROCESS

### SERVICE OF LEGAL PAPERS OTHER THAN ORIGINAL PROCESS

#### Rule 440. Service of Legal Papers Other than Original Process.

(a)(1) Copies of all legal papers other than original process filed in an action or served upon any party to an action shall be served upon every other party to the action. Service shall be made

(i) by handing or mailing a copy to or leaving a copy for each party at the address of the party's attorney of record endorsed on an appearance or prior pleading of the party, or at such other address as a party may agree, or

**Official Note:** Such other address as a party may agree might include a mailbox in the prothonotary's office or an e-mail address.

(ii) by transmitting a copy by facsimile to the party's attorney of record as provided by subdivision (d).

(iii) by transmitting a copy electronically as provided by subdivision (e)

(2)(i) If there is no attorney of record, service shall be made by handing a copy to the party or by mailing a copy to or leaving a copy for the party at the address endorsed on an appearance or prior pleading or the residence or place of business of the party, or by transmitting a copy by facsimile as provided by subdivision (d) **or by transmitting a copy electronically as provided by subdivision (e).**

(ii) If such service cannot be made, service shall be made by leaving a copy at or mailing a copy to the last known address of the party to be served.

\* \* \* \* \*

**(e) A legal paper may be served by electronic transmission, other than facsimile transmission, if the parties agree thereto or an electronic mail address is included on an appearance or prior legal paper filed with the court. Service is complete when transmission is confirmed as complete. A paper served electronically is subject to the certifications set forth in Rule 205.4(b)(2).**

#### Explanatory Comment

Proposed Rule 205.4 governing the electronic filing of legal papers and the amendment to Rule 440 to provide for the electronic service of legal papers are being published as a preliminary working draft to solicit comments and suggestions from the bench and bar. The recommendation is the first step in a process of introducing the concept of electronic documents into a system accustomed solely to paper documents and it is anticipated that changes in the procedural rules will be needed as technological progresses.

The purpose of the recommendation is not to provide a comprehensive manual but, rather, guidelines for the electronic filing and service of legal documents. It is an attempt to accommodate the rules of civil procedure with developing technological capabilities in a way which will enhance the efficient practice of law and administration of the courts. These rules are structured in general terms to allow for the varying technological capabilities of the individual courts.

Electronic filing is not an end in itself but just one tool to be used in conjunction with document and case management systems. The availability of such systems within the court is a prerequisite to the establishment of electronic filing.

In reviewing the proposed recommendation, two points should be noted. First, the term "legal paper" is defined as excluding original process unless the court by local rule provides otherwise. The implications of a paper which does not timely commence an action because of varying problems are such as to warrant experience with electronic filing before attempting to toll the statute of limitations by that means. Second, proposed Rule 205.4 explicitly provides that a "filing party accepts the risk that a document filed by means of electronic filing may not be properly or timely filed with the prothonotary." The filing party is not at the prothonotary's office and thus not able to remedy deficiencies in a filing over the counter. The immediacy of the electronic transfer of legal

papers should not foster increased dependency upon the availability of additional time to prepare a document or its last minute preparation.

*By the Civil Procedural  
Rules Committee*

EDWIN L. KLETT,  
*Chairperson*

[Pa.B. Doc. No. 99-40. Filed for public inspection January 8, 1999, 9:00 a.m.]

**Title 255—LOCAL COURT  
RULES**

DAUPHIN COUNTY

Promulgation of Rules for the Court of Common  
Pleas; No. 1793 S 1989

**Order**

*And Now*, the 22nd day of December, 1998,  
D.C.L.R.C.P. 1308(a)(2) is amended as follows:

**Rule 1308. Appeal. Notice. Compensation.**

\* \* \* \* \*

(a)(2) When an appeal is filed to a decision of the Board of Arbitrators, any party appealing shall repay to the County the fees of the members of the Board of

Arbitration, which shall not thereafter be refundable to or recoverable by the said party under any circumstances, under the following schedule:

(a) If the amount in controversy is [ \$1,000.00 or ] less than \$5,000.00—[ \$100.00 ] \$200.00.

(b) If the amount in controversy is [ more than \$1,000.00 ] \$5,000.00 or more, but [ \$3,000.00 or ] less than \$10,000.00—[ \$175.00 ] \$300.00.

(c) If the amount in controversy is [ more than \$3,000.00 ] \$10,000.00 or more, but [ \$5,000.00 or ] less than \$20,000.00—[ \$250.00 ] \$400.00.

(d) If the amount in controversy is [ more than \$5,000.00 ] \$20,000.00 or more, but less than \$35,000.00 —[ \$350.00 ] \$500.00.

**For purposes of determining the appeal fee, “amount in controversy” shall be defined as the amount of the award rendered by the Board of Arbitration, or, in cases of no award, the amount demanded in the complaint.**

These amendments shall be effective February 1, 1999.

*By the Court*

CLARENCE C. MORRISON,  
*President Judge*

[Pa.B. Doc. No. 99-41. Filed for public inspection January 8, 1999, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 31—INSURANCE

### INSURANCE DEPARTMENT

[31 PA. CODE CH. 89]

#### Medicare Supplement Insurance Minimum Standards

The Insurance Department (Department) amends §§ 89.772, 89.774, 89.776—89.778, 89.780, 89.781, 89.783, 89.788 and 89.790, and Appendix I, to read as set forth in Annex A. Sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412) provide the Insurance Commissioner (Commissioner) with the authority and duty to promulgate regulations governing the enforcement of the laws relating to insurance. The amendments will bring the Department's regulations for the approval of Medicare supplement policies into compliance with the Federal statutory requirements of section 1882 of the Social Security Act (42 U.S.C.A. § 1395ss) and the Balanced Budget Act of 1997 (Pub. L. No. 105-33).

Notice of the proposed rulemaking is omitted in accordance with section 204(3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(3)) (CDL). Under section 204(3) of the CDL, notice of proposed rulemaking may be omitted when the agency for good cause finds that public notice of its intention to amend an administrative regulation is, under the circumstances, impracticable and unnecessary.

The changes indicated to Subchapter K (relating to Medicare supplement insurance minimum standards) are Federally mandated under recent Federal legislation, the Balanced Budget Act of 1997 (Pub. L. No. 105-33, 111 Stat. 251), with an effective date of July 1, 1998. The Federal law also establishes a timetable under which these changes are to be implemented by the states if they are to remain in compliance with the Federal requirements and maintain regulatory authority in this area. To comply with Federal statutory minimum requirements for Medicare supplement policies, as mandated by section 4031 of the Balanced Budget Act of 1997, the Commissioner finds that the proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) are impracticable and unnecessary in this situation, and that the proposed rulemaking may be properly omitted under section 204(3) of the CDL.

#### *Purpose*

Subchapter K was initially promulgated to establish minimum standards for Medicare supplement insurance policies. Standardization of policies was Federally required under the Omnibus Budget Reconciliation Act of 1990. The Department currently seeks to modify Subchapter K to meet the new Federal mandates for Medicare supplement policies as required under the Balanced Budget Act of 1997. The Federal law mandates that many of its requirements become effective not later than July 1, 1998, including the new open enrollment and guarantee issue requirements contained in §§ 89.778 and 89.790 (relating to open enrollment; and guaranteed issue for eligible persons).

These amendments are necessary to maintain the Commonwealth's compliance with Federal requirements, which will ensure that the Commonwealth retains en-

forcement authority over these new requirements. These standards will be implemented through Federal preemption if the Commonwealth does not implement these changes through State regulation. The Federal legislation establishes that states which adopt the language of the NAIC Medicare Supplement model regulation which has been revised to address the Federal changes will be considered to be in compliance with the Federal requirements.

These amendments will protect the rights of the consumers in this Commonwealth purchasing Medicare supplement policies. In addition to the mandated changes, the Department has clarified and revised language to improve the readability of the regulations. The clarifications and revisions are not substantive in nature.

#### *Explanation of Regulatory Requirements*

Section 89.772 (relating to definitions) has been modified to include additional definitions necessary to implement the new Federal requirements under the Balanced Budget Act of 1997. The added definitions are based on the revised NAIC Medicare Supplement model regulation which, as indicated above, has been endorsed and supported by the Federal government.

Section 89.774 (relating to policy provisions) was previously inappropriately captioned. The Department seeks to correctly caption this provision to reflect the topic covered as "Exclusions and Limitations." This section does not establish policy provisions; it explains acceptable policy exclusions and limitations.

Section 89.776 (relating to benefit standards) has been modified. Section 89.776 (3)(iv) and (v) has been revised to reflect that the Health Care Practitioners Medicare Fee Control Act (35 P. S. §§ 449.31—449.36), limits the amount that providers may bill Medicare patients.

Section 89.777(e)(7) and (12) (relating to standard Medicare supplement benefit plans) has been added to reflect the requirements for high deductible policies which can now be offered under Plans F and J. The new language is based on the revised NAIC Medicare Supplement model regulation.

Section 89.778(a) (relating to open enrollment) has been modified to clarify that insurance companies are not required to offer coverage in group plans to persons who are not members of the insured group.

Section 89.778(b) has been added to provide for the counting of "prior creditable coverage" which will be applied against any preexisting condition exclusion period otherwise applicable to individuals. The application of this concept, new to the Medicare supplement arena, reduces or eliminates the preexisting condition exclusion periods which individuals are otherwise subject to serving. This is similar in concept to the counting of creditable coverage and the reduction/elimination of preexisting condition exclusions in the commercial health insurance market under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191, 110 Stat. 1936) (HIPAA), which has been adopted and codified in this Commonwealth as the Pennsylvania Health Care Insurance Portability Act (40 P. S. §§ 1302.1—1302.7). This new language is also based on the revised NAIC Medicare Supplement model regulation.

Section 89.780(c)(1)(i) (relating to the loss ratio standards) was revised to clarify how the Department inter-

prets this section. The revision does not alter how the Department has been interpreting this section since the effective date of this regulation.

Section 89.781(c)(2) (relating to filing and approval) was amended to define what constitutes a "type" for purposes of offering more than one policy for the same standard Medicare benefit plan. This amendment does not alter how the Department has been interpreting this section since the effective date of this regulation.

Section 89.783 (relating to required disclosure provisions) was amended to add clarifying language to subsection (a)(4) and (6). Additionally, the Department seeks to clarify the disclosure requirement under subsections (b) and (c). This change is intended to eliminate unnecessary filings and to reduce any administrative burden imposed by these filings on issuers.

Section 89.783 has also been modified for all plan specific Medicare supplement coverage charts for Plans A—J to reflect the current Federal Medicare deductibles. These deductibles are variables, which are changed by the Federal government on a regular basis. The deductibles can be updated by the Federal government and implemented by issuers in accordance with § 89.783(c)(4) (relating to required disclosure provisions) without modifications to this regulation. The Outline of Medicare supplement coverage—Cover Page, and Plans F and J, have been modified to add the new high deductible policies now allowed in Plans F and J. This new language is based on the revised NAIC Medicare Supplement model regulation.

The preventive benefits reflected in the charts for Plans E and J have been modified to address the new preventive benefits now covered under Medicare. This new language is based on the revised NAIC Medicare Supplement model regulation.

Section 89.788(a) (relating to reporting of multiple policies) is being modified to clarify the intended purpose and issuer responsibility.

Section 89.790 (relating to guaranteed issue for eligible persons) has been added to meet new Federal requirements under the Balanced Budget Act of 1997. The Balanced Budget Act created Medicare Part C known as "Medicare+Choices." Medicare+Choices is designed to expand the coverage options for Medicare eligibles beyond traditional Medicare and the current coordinated care programs such as HMOs. The new coverage options in Medicare+Choices include HMOs, PPOs, Provider Sponsored Organizations, Medical Savings Accounts and private fee-for-service plans.

The Federal legislation allows individuals who have been enrolled in a Medicare+Choice product or a Medicare supplement policy to select or return to a Medicare supplement policy on a guaranteed issue basis under certain circumstances. These circumstances include the termination of the Medicare+Choice plan's certification to participate in the Medicare+Choice program, the subscriber moving out of the Medicare+Choice plan's service area and the bankruptcy or insolvency of a Medicare supplement issuer. This new language meets the Federal requirements and is based on the revised NAIC Medicare Supplement model regulation.

Appendix I (relating to disclosure statements) has been revised to incorporate changes made necessary by the Balanced Budget Act of 1997. The revised disclosure statements are based on the revised NAIC Medicare Supplement model regulation.

#### *Fiscal Impact*

The Department can review revised Medicare supplement filings in the course of normal business and anticipates that it will experience minimal or no increase in cost in its review.

The insurance industry will likely incur additional costs associated with complying with the new Federal requirements. Specifically, the open enrollment and guaranteed eligibility provisions may increase the utilization of services and therefore, the cost of policies. There is currently no way to assess these potential costs.

Issuers should see a potential cost reduction in the changed requirements for disclosure notices. However, this factor may be balanced against increased costs due to the new Federal open enrollment and guaranteed issue requirements.

#### *Effectiveness/Sunset Date*

This order is effective upon publication in the *Pennsylvania Bulletin*. No sunset date has been assigned.

#### *Paperwork*

Adoption of these amendments will require additional paperwork for insurance carriers' product development areas to implement the new Federal changes. The new notice requirements should, however, bring about decreased paperwork. Paperwork requirements for the Department will likely not change drastically.

#### *Persons Regulated*

These amendments apply to all insurance companies who issue Medicare supplement products in this Commonwealth.

#### *Contact Person*

The person to contact for information on the amendments is Peter J. Salvatore, Regulatory Coordinator, 132E Strawberry Square, Harrisburg, PA 17120, (717) 787-4429.

#### *Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on November 10, 1998, the Department submitted a copy of the amendments with the proposed rulemaking omitted to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Insurance and the Senate Committee on Banking and Insurance. On the same date, the amendments were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

In accordance with section 5.1(d) of the Regulatory Review Act, the amendments were deemed approved by the Senate Banking and Insurance Committee and by the House Insurance Committee on November 30, 1998. IRRC met on December 10, 1998, and approved the amendments.

#### *Findings*

The Insurance Commissioner finds that:

(a) There is good cause to amend Chapter 89, Subchapter K, effective upon publication with the proposed rulemaking omitted. Deferral of the effective date of these amendments would be impractical and not serve the public interest. Under section 204(3) of the CDL, there is no purpose to be served by deferring the effective date. An immediate effective date will best serve the public interest by ensuring the Commonwealth's compli-



ance with the new Federal requirements and retention of enforcement authority over all aspects of Medicare supplement policies.

(b) There is good cause to forego public notice of the intention to amend Chapter 89, Subchapter K, because prior notice of the amendments under the circumstances is unnecessary and impractical (45 P. S. § 1204(3)) for the following reasons:

(1) The changes mandated by Federal law will go into effect with or without Commonwealth regulatory action.

(2) If the amendments are not implemented within the time frame established by the Federal law, regulatory oversight of these requirements will be assumed by the Federal government. If this were to occur, it would split regulation of Medicare supplement policies between the Commonwealth and the Federal government. The dual regulation would negatively impact consumers of this Commonwealth due to a shortage in Federal enforcement staffing. Accordingly, it would be more difficult for consumers of this Commonwealth to have complaints concerning the new requirements addressed by the Federal government in a timely manner.

(3) Public comment cannot change the fact that these Federal requirements will be implemented (either by the Commonwealth or the Federal government). Nor can public comment have any impact upon the content of the new Federal mandates.

#### Order

The Insurance Commissioner, acting under the authority orders that:

(a) The regulations of the Department, 31 Pa. Code Chapter 89, are amended by amending §§ 89.772, 89.774, 89.776—89.778, 89.780, 89.781, 89.783 and 89.788 and by adding § 89.790 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Department shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as to form and legality 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 upon its publication in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
Insurance Commissioner

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 6359 (December 26, 1998).)

**Fiscal Note:** 11-177. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 31. INSURANCE

#### PART IV. LIFE INSURANCE

#### CHAPTER 89. APPROVAL OF LIFE, ACCIDENT AND HEALTH INSURANCE

#### Subchapter K. MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS

#### § 89.772. Definitions.

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

#### *Applicant*—

(i) In the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits.

(ii) In the case of a group Medicare supplement policy, the proposed certificateholder.

*Bankruptcy*—The condition under which a Medicare+Choice plan that is not an issuer has filed, or has had filed against it, a petition or other action seeking a declaration of bankruptcy under the provisions of the United States Bankruptcy Code (11 U.S.C.) and has ceased doing business in this Commonwealth.

*Certificate*—A certificate delivered or issued for delivery in this Commonwealth under a group Medicare supplement policy.

*Certificate form*—The form on which the certificate is delivered or issued for delivery by the issuer.

*Commissioner*—The Insurance Commissioner of the Commonwealth.

*Continuous period of creditable coverage*—The period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than 63 days.

*Creditable coverage*—The definition contained in the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104-191, 110 Stat. 1936), as adopted by the Commonwealth under the Pennsylvania Health Care Insurance Portability Act (40 P. S. §§ 1302.1—1302.7), is incorporated herein by reference.

*Employe welfare benefit plan*—A plan, fund or program of employe benefits as defined in section 3 of the Employee Retirement Income Security Act or ERISA (29 U.S.C.A. § 1002).

*HHS Secretary*—The Secretary of the United States Department of Health and Human Services.

*Insolvency*—The condition under which an issuer, licensed to transact business in this Commonwealth by the Commissioner, has had a final order of liquidation entered against it, or a finding of insolvency by a court of competent jurisdiction in the issuer's state of domicile.

*Issuer*—The term includes insurance companies, fraternal benefit societies and nonprofit corporations subject to 40 Pa.C.S. Chapters 61 and 63 (relating to hospital plan corporations; and professional health services plan corporations) and other entities delivering or issuing for delivery Medicare supplement policies or certificates in this Commonwealth.

*Medicare*—The program established by the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 (42 U.S.C.A. §§ 1395—1395b-4) as then constituted or later amended.

*Medicare+Choice plan*—A plan of coverage for health benefits under Medicare Part C as defined in section 1859 of the Social Security Act (42 U.S.C.A. § 1395w-28).

(i) Coordinated care plans which provide health care services, including health maintenance organization plans (with or without a point-of-service option), plans offered by provider-sponsored organizations and preferred provider organization plan.

(ii) Medicare medical savings account plans coupled with a contribution into a Medicare+Choice medical savings account.

(iii) Medicare+Choice private fee-for-service plans.

*Medicare supplement policy*—A group or individual policy of insurance or a subscriber contract other than a policy issued under a contract under section 1876 of the Social Security Act (42 U.S.C.A. §§ 1395—1399m or a policy issued under a demonstration project specified in section 1882 of the SSA (42 U.S.C.A. § 1395ss(g)(1)), which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare.

*Policy form*—The form on which the policy is delivered or issued for delivery by the issuer.

**§ 89.774. Exclusions and limitations.**

(a) Except for permitted preexisting condition clauses as described in §§ 89.775(1)(i) and 89.776(1)(i) (relating to minimum benefit standards for policies or certificates issued for delivery prior to July 30, 1992; and benefits standards for policies or certificates issued or delivered on or after July 30, 1992), a policy or certificate may not be advertised, solicited or issued for delivery in this Commonwealth as a Medicare supplement policy if the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

(b) A Medicare supplement policy or certificate may not use waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

(c) A Medicare supplement policy or certificate in force in this Commonwealth may not contain benefits which duplicate benefits provided by Medicare.

**§ 89.776. Benefits standards for policies or certificates issued or delivered on or after July 30, 1992.**

The following standards are applicable to Medicare supplement policies or certificates delivered or issued for delivery in this Commonwealth on or after July 30, 1992. A policy or certificate may not be advertised, solicited, delivered or issued for delivery in this Commonwealth as a Medicare supplement policy or certificate unless it complies with these benefit standards.

\* \* \* \* \*

(3) *Standards for additional benefits.* The following additional benefits shall be included in Medicare Supplement Benefit Plans B, C, D, E, F, G, H, I and J only as provided by § 89.777.

(i) *Medicare Part A deductible.* Coverage for the Medicare Part A inpatient hospital deductible amount per benefit period.

(ii) *Skilled nursing facility care.* Coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A.

(iii) *Medicare Part B deductible.* Coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

(iv) *Eighty percent of the Medicare Part B excess charges.* Coverage for 80% of the difference between the actual Medicare Part B charges as billed, not to exceed a charge limitation established by the Medicare Program, State Law, including, but not limited, to the Health Care Practitioner Medicare Fee Control Act (35 P. S. §§ 449.31—449.36), and the Medicare-approved Part B charge.

(v) *Medicare Part B excess charges.* One hundred percent of the Medicare Part B excess charges: coverage for

all of the difference between the actual Medicare Part B charge as billed, not to exceed a charge limitation established by the Medicare Program, State law, including, but not limited to, the Health Care Practitioner Medicare Fee Control Act and the Medicare-approved Part B charge.

\* \* \* \* \*

**§ 89.777. Standard Medicare supplement benefit plans.**

(a) An issuer shall make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic core benefits, as defined in § 89.776(2) (relating to benefits standards for policies or certificates issued for delivery on or after July 30, 1992). An issuer shall also offer a policy or certificate to prospective insureds meeting the Plan B benefit plan.

(b) Groups, packages or combinations of Medicare supplement benefits other than those listed in this section may be offered for sale in this Commonwealth except as may be permitted in § 89.776(3)(xi).

(c) Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans A, B, C, D, E, F, G, H, I and J listed in this section and conform to the definitions in § 89.773 (relating to policy definitions and terms). Each benefit shall be structured in accordance with the format in §§ 89.776(2) and (3) and list the benefits in the order shown in this section. For purposes of this section, “structure, language and format” means style, arrangement and overall content of a benefit.

(d) An issuer may use, in addition to the benefit plan designations required in subsection (c), other designations to the extent permitted by law.

(e) The make-up of benefit plans shall be as follows:

(1) Standardized Medicare supplement benefit Plan A shall be limited to the basic (core) benefits common to all benefit plans, as defined in § 89.776(2).

(2) Standardized Medicare supplement benefit Plan B shall include only the following: the core benefit as defined in § 89.776(2), plus the Medicare Part A Deductible as defined in § 89.776(3)(i).

(3) Standardized Medicare supplement benefit Plan C shall include only the following: the core benefit as defined in § 89.776(2), plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible and medically necessary emergency care in a foreign country as defined in § 89.776(3)(i)—(iii) and (viii).

(4) Standardized Medicare supplement benefit Plan D shall include only the following: the core benefit (as defined in § 89.776(2)), plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country and the at-home recovery benefit as defined in § 89.776(3)(i), (ii), (viii) and (x).

(5) Standardized Medicare supplement benefit Plan E shall include only the following: the core benefit as defined in § 89.776(2), plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country and preventive medical care as defined in § 89.776(3)(i), (ii), (viii) and (ix).

(6) Standardized Medicare supplement benefit Plan F shall consist of only the following: the core benefit as defined in § 89.776(2), plus the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, 100% of the Medicare Part B excess charges

and medically necessary emergency care in a foreign country as defined in § 89.776(3)(i)—(iii), (v) and (viii).

(7) Standardized Medicare supplement benefit high deductible plan "F" shall include only the following: 100% of covered expenses following the payment of the annual high deductible plan "F" deductible. The covered expenses include the core benefit as defined in § 89.776(2), plus the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, 100% of the Medicare Part B excess charges and medically necessary emergency care in a foreign country as defined in § 89.776(3)(i)—(iii), (v) and (viii) respectively. The annual high deductible plan "F" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "F" policy, and shall be in addition to any other specific benefit deductibles. The annual high deductible plan "F" deductible shall be \$1,500 for 1998 and 1999, and shall be based on the calendar year. It shall be adjusted annually thereafter by the HHS Secretary to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of \$10.

(8) Standardized Medicare supplemental benefit Plan G shall include only the following: the core benefit as defined in § 89.776(2), plus the Medicare Part A deductible, skilled nursing facility care, 80% of the Medicare Part B excess charges, medically necessary emergency care in a foreign country and the at-home recovery benefit as defined in § 89.776(3)(i), (ii), (iv), (viii) and (x).

(9) Standardized Medicare supplement benefit Plan H shall consist of only the following: the core benefit as defined in § 89.776(2), plus the Medicare Part A deductible, skilled nursing facility care, basic prescription drug benefit and medically necessary emergency care in a foreign country as defined in § 89.776(3)(i), (ii), (vi) and (viii).

(10) Standardized Medicare supplement benefit Plan I shall consist of only the following: the core benefit as defined in § 89.776(2), plus the Medicare Part A deductible, skilled nursing facility care, 100% of the Medicare Part B excess charges, basic prescription drug benefit, medically necessary emergency care in a foreign country and at-home recovery benefit as defined in § 89.776(3)(i), (ii), (v), (vi), (viii) and (x).

(11) Standardized Medicare supplement benefit Plan J shall consist of only the following: the core benefit as defined in § 89.776(2), plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, 100% of the Medicare Part B excess charges, extended prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care and at-home recovery benefit as defined in § 89.776(3)(i)—(iii), (v) and (vii)—(x).

(12) Standardized Medicare supplement benefit high deductible plan "J" shall consist of only the following: 100% of covered expenses following the payment of the annual high deductible plan "J" deductible. The covered expenses include the core benefit as defined in § 89.776(2) plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, 100% of the Medicare Part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care benefit and at-home recovery benefit as defined in § 89.776(3)(i)—(iii), (v) and (vii)—(x) respectively. The annual high deductible plan "J" deductible shall consist of

out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "J" policy, and shall be in addition to any other specific benefit deductibles. The annual deductible shall be \$1,500 for 1998 and 1999, and shall be based on a calendar year. It shall be adjusted annually thereafter by the HHS Secretary to reflect the change in the Consumer Price Index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of \$10.

#### § 89.778. Open enrollment.

(a) An issuer may not deny or condition the issuance or effectiveness of a Medicare supplement policy or certificate available for sale in this Commonwealth, nor discriminate in the pricing of a policy or certificate because of the health status, claims experience, receipt of health care or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the 6-month period beginning with the first day of the first month in which an individual enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an issuer shall be made available to applicants who qualify under this subsection without regard to age. In the case of group policies, an issuer may condition issuance on whether an applicant is a member or is eligible for membership in the insured group.

(b) If an applicant qualifies under subsection (a) and submits an application during the time period referenced in subsection (a) and, as of the date of application, has had a continuous period of creditable coverage of at least 6 months, the issuer may not exclude benefits based on a preexisting condition.

(c) If the applicant qualifies under subsection (a) and submits an application during the time period referenced in subsection (a) and, as of the date of application, has had a continuous period of creditable coverage that is less than 6 months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The HHS Secretary shall specify the manner of the reduction under this subsection.

(d) Except as provided in § 89.789, subsection (a) will not be construed as preventing the exclusion of benefits under a policy, during the first 6 months, based on a preexisting condition for which the policyholder or certificateholder received treatment or was otherwise diagnosed during the 6 months before it became effective.

#### § 89.780. Loss ratio standards and refund or credit of premium.

\* \* \* \* \*

(c) *Annual filing of premium rates.* An issuer of Medicare supplement policies and certificates issued before, on or after July 30, 1992, in this Commonwealth shall file annually its rates, rating schedule and supporting documentation, including ratios of incurred losses to earned premiums by policy duration for approval by the Commissioner in accordance with the filing requirements and procedures prescribed by the Commissioner. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. That demonstration shall exclude active life reserves. An expected 3rd-year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less

than 3 years. As soon as practicable, but prior to the effective date of enhancements in Medicare benefits, every issuer of Medicare policies or certificates in this Commonwealth shall file with the Commissioner, in accordance with the applicable filing procedures of the Commonwealth:

(1) Appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. Supporting documents as necessary to justify the adjustment shall accompany the filing.

(i) An issuer shall make premium adjustments as necessary to produce an expected loss ratio under the policy or certificate that will conform with minimum loss ratio standards for the Medicare supplement policies, and that will result in an expected loss ratio at least as great as that originally anticipated by the issuer for that policy or certificate. A premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described in this section may not be made with respect to a policy at any time other than upon its renewal date or anniversary date.

\* \* \* \* \*

**§ 89.781. Filing and approval of policies and certificates and premium rates.**

(a) *Approval of policy or certificate.* An issuer may not deliver or issue for delivery a policy or certificate to a resident of this Commonwealth, unless the policy form or certificate form has been filed with and approved by the Commissioner in accordance with filing requirements and procedures prescribed by the Commissioner.

(b) *Filing of rating schedule and supporting documentation.* An issuer may not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule and supporting documentation have been filed with and approved by the Commissioner in accordance with the filing requirements and procedures prescribed by the Commissioner.

(c) *Exceptions.*

(1) Except as provided in paragraph (2), an issuer may not file for approval more than one form of a policy or certificate of each type for each standard Medicare supplement benefit plan.

(2) An issuer may offer, with the approval of the Commissioner, up to three additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan. These additional forms may include one or more of the following three variations. Forms with only these variations will be regarded as new policy forms under each type:

- (i) The inclusion of new or innovative benefits.
- (ii) The addition of either direct response or agent marketing methods.
- (iii) The addition of either guaranteed issue or underwritten coverage.

(3) For the purpose of this section, a "type" means an individual policy, a group policy, an individual Medicare Select Policy or a group Medicare Select Policy.

(d) *Availability of policy form.*

(1) Except as provided in clause (A), an issuer shall continue to make available for purchase any policy form or certificate form issued after July 30, 1992, that has been approved by the Commissioner. A policy form or

certificate form may not be considered to be available for purchase, unless the issuer has actively offered it for sale in the previous 12 months.

(A) An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the Commissioner in writing its decision at least 30 days prior to discontinuing the availability of the form of the policy or certificate. After receipt of the notice by the Commissioner, the issuer may not offer for sale the policy form or certificate form in this Commonwealth.

(B) An issuer that discontinues the availability of a policy form or certificate form under clause (A) may not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for 5 years after the issuer provides notice to the Commissioner of the discontinuance. The period of discontinuance may be reduced if the Commissioner determines that a shorter period is appropriate.

(2) The sale or other transfer of Medicare supplement business to another issuer shall be considered a discontinuance for the purposes of this section.

(3) A change in the rating structure or methodology shall be considered a discontinuance under paragraph (1), unless the issuer complies with the following requirements:

(i) The issuer provides an actuarial memorandum, in a form and manner prescribed by the Commissioner, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates.

(ii) The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The Commissioner may approve a change to the differential which is in the public interest.

(e) *Combination of forms.*

(1) Except as provided in paragraph (2), the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in § 89.780 (relating to loss ratio standards and refund or credit of premium).

(2) Forms assumed under an assumption reinsurance agreement may not be combined with the experience of other forms for purposes of the refund or credit calculation.

**§ 89.783. Required disclosure provisions.**

(a) *General rules.*

\* \* \* \* \*

(4) If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, these limitations shall appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations."

\* \* \* \* \*

(6) Issuers of accident and sickness policies or certificates which provide hospital or medical expense coverage on an expense incurred or indemnity basis to a person eligible for Medicare, shall provide to these applicants a Guide to Health Insurance for People with Medicare (Guide) in the form developed jointly by the National Association of Insurance Commissioners and the Health

Care Financing Administration and in a type size no smaller than 12 point type. Delivery of the Guide shall be made whether or not these policies or certificates are advertised, solicited or issued as Medicare supplement policies or certificates as defined in this subchapter. Except in the case of direct response issuers, delivery of the Guide shall be made to the applicant at the time of application and acknowledgment of receipt of the Guide shall be obtained by the issuers. Direct response issuers shall deliver the Guide to the applicant upon request but not later than at the time the policy is delivered.

\* \* \* \* \*

(b) *Notice requirements.*

\* \* \* \* \*

(1) As soon as practicable, but no later than 30 days prior to the annual effective date of Medicare benefit changes, an issuer shall notify its policyholders and certificateholders of modifications it has made to Medicare supplement insurance policies or certificates in a format acceptable to the Commissioner. The notice shall:

(i) Include a description of revisions to the Medicare Program and a description of each modification made to the coverage provided under the Medicare supplement policy or certificate.

(ii) Inform each policyholder or certificateholder as to when a premium adjustment is to be made due to changes in Medicare.

\* \* \* \* \*

(4) Once the Department has approved the form, a "Notice of Change" can be used to modify the deductible and co-payment amounts to reflect Medicare changes without submitting the notice for additional approval. Once the Department has approved the form, only format changes are required to be submitted for review.

(c) *Outline of coverage requirements for Medicare supplement policies.*

\* \* \* \* \*

(4) Once the Department has approved the format, an "Outline of Coverage" can be modified to have the deductible and co-payment requirements reflect Medicare changes, and the rate changes reflected, without submitting the Outline of Coverage for review. Only those forms containing a format change are required to be submitted for review.

(5) The following items shall be included in the outline of coverage in the order prescribed in this paragraph:

\* \* \* \* \*

[COMPANY NAME]

Outline of Medicare Supplement Coverage-Cover Page:

Benefit Plans \_\_\_\_\_ (insert letters of plans being offered)

Medicare supplement insurance can be sold in only ten standard plans plus two high deductible plans. This chart shows the benefits included in each plan. Every company must make available Plan A & B.

**Basic Benefits:** Included in All Plans.

Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical Expenses: Part B coinsurance (20% of Medicare-approved expenses).

Blood: First three pints of blood each year.

A	B	C	D	E	F	F*	G	H	I	J	J*
Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits
		Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible
		Part B Deductible			Part B Deductible					Part B Deductible	Part B Deductible
					Part B Excess (100%)		Part B Excess (80%)		Part B Excess (100%)	Part B Excess (100%)	Part B Excess (100%)
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency
			At-Home Recovery				At-Home Recovery		At-Home Recovery	At-Home Recovery	At-Home Recovery
							Basic Drugs (\$1,250 Limit)		Basic Drugs (\$1,250 Limit)	Extended Drugs (\$3,000 Limit)	
				Preventive Care						Preventive Care	

\*Plans F and J also have an option called a high deductible plan F and a high deductible plan J. These high deductible plans pay the same or offer the same benefits as Plans F and J after one has paid a calendar year [\$1,500] deductible. Benefits from high deductible plans F and J will not begin until out-of-pocket expenses are [\$1,500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but does not include, in plan J, the plan's separate prescription drug deductible or, in Plans F and J, the plan's separate foreign travel emergency deductible.

## RULES AND REGULATIONS

## PLAN A

## MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: — While using 60 lifetime reserve days — Once lifetime reserve days are used: — Additional 365 days — Beyond the additional 365 days	All but \$760 All but \$190 a day  All but \$380 a day  \$0 \$0	\$0 \$190 a day  \$380 a day  100% of Medicare eligible expenses \$0	\$760 (Part A deductible) \$0  \$0  \$0 All costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$95 a day \$0	\$0 \$0 \$0	\$0 Up to \$95 a day All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

## PLAN A

## MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>MEDICAL EXPENSES—</b> <b>IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT,</b> such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare approved amounts* Remainder of Medicare approved amounts Part B excess charges (Above Medicare approved amounts)	\$0 80% (50% outpatient psychiatric services) \$0	\$0 20% (50% outpatient psychiatric services) \$0	\$100 (Part B deductible) \$0 All costs
<b>BLOOD</b> First 3 pints Next \$100 of Medicare approved amounts* Remainder of Medicare approved amounts	\$0 \$0 80%	All costs \$0 20%	\$0 \$100 (Part B deductible) \$0

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

PARTS A & B

<b>HOME HEALTH CARE</b> MEDICARE APPROVED SERVICES			
— Medically necessary skilled care services and medical supplies	100%	\$0	\$0
— Durable medical equipment			
First \$100 of Medicare approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare approved amounts	80%	20%	\$0

PLAN B

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days			
61st thru 90th day	All but \$760	\$760 (Part A deductible)	\$0
91st day and after:	All but \$190 a day	\$190 a day	\$0
— While using 60 lifetime reserve days			
— Once lifetime reserve days are used:	All but \$380 a day	\$380 a day	\$0
— Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
— Beyond the additional 365 days	\$0	\$0	All costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$95 a day	\$0	Up to \$95 a day
101st day and after	\$0	\$0	All costs
<b>BLOOD</b> First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance



## RULES AND REGULATIONS

## PLAN B

## MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>MEDICAL EXPENSES—</b> IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare approved amounts Part B excess charges (Above Medicare approved amounts)	80% (50% outpatient psychiatric services) \$0	20% (50% outpatient psychiatric services) \$0	\$0 All costs
<b>BLOOD</b> First 3 pints Next \$100 of Medicare approved amounts*	\$0 \$0	All costs \$0	\$0 \$100 (Part B deductible)
Remainder of Medicare approved amounts	80%	20%	\$0
<b>CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

## PARTS A &amp; B

<b>HOME HEALTH CARE</b> MEDICARE APPROVED SERVICES — Medically necessary skilled care services and medical supplies — Durable medical equipment First \$100 of Medicare approved amounts*	100%	\$0	\$0
Remainder of Medicare approved amounts	80%	20%	\$0

## PLAN C

## MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: — While using 60 lifetime reserve days — Once lifetime reserve days are used: — Additional 365 days — Beyond the additional 365 days	All but \$760 All but \$190 a day All but \$380 a day \$0 \$0	\$760 (Part A deductible) \$190 a day \$380 a day 100% of Medicare eligible expenses \$0	\$0 \$0 \$0 \$0 All costs

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$95 a day \$0	\$0 Up to \$95 a day \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN C

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>MEDICAL EXPENSES—</b> <b>IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT,</b> such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare approved amounts* Remainder of Medicare approved amounts Part B excess charges (Above Medicare approved amounts)	\$0 80% (50% outpatient psychiatric services) \$0	\$100 (Part B deductible) 20% (50% outpatient psychiatric services) \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Next \$100 of Medicare approved amounts* Remainder of Medicare approved amounts	\$0 \$0 80%	All costs \$100 (Part B deductible) 20%	\$0 \$0 \$0
<b>CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

PARTS A & B

<b>HOME HEALTH CARE</b> <b>MEDICARE APPROVED SERVICES</b> — Medically necessary skilled care services and medical supplies — Durable medical equipment First \$100 of Medicare approved amounts* Remainder of Medicare approved amounts	100% \$0 80%	\$0 \$100 (Part B deductible) 20%	\$0 \$0 \$0
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## OTHER BENEFITS—COVERED BY MEDICARE

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>FOREIGN TRAVEL— NOT COVERED BY MEDICARE</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 life-time maximum

## PLAN D

## MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: — While using 60 lifetime reserve days — Once lifetime reserve days are used: — Additional 365 days — Beyond the additional 365 days	All but \$760 All but \$190 a day  All but \$380 a day  \$0 \$0	\$760 (Part A deductible) \$190 a day  \$380 a day 100% of Medicare eligible expenses \$0	\$0 \$0  \$0  \$0 All costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$95 a day \$0	\$0 Up to \$95 a day \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

PLAN D

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>MEDICAL EXPENSES—</b> IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare approved amounts* Remainder of Medicare approved amounts Part B excess charges (Above Medicare approved amounts)	\$0 80% (50% outpatient psychiatric services) \$0	\$0 20% (50% outpatient psychiatric services) \$0	\$100 (Part B deductible) \$0 All costs
<b>BLOOD</b> First 3 pints Next \$100 of Medicare approved amounts* Remainder of Medicare approved amounts	\$0 \$0 80%	All costs \$0 20%	\$0 \$100 (Part B deductible) \$0
<b>CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	0	\$0

PARTS A & B

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>HOME HEALTH CARE</b> MEDICARE APPROVED SERVICES — Medically necessary skilled care services and medical supplies — Durable medical equipment First \$100 of Medicare approved amounts* Remainder of Medicare approved amounts	100% \$0 80%	\$0 \$0 20%	\$0 \$100 (Part B deductible) \$0
<b>AT-HOME RECOVERY SERVICES—NOT COVERED BY MEDICARE</b> Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan — Benefit for each visit — Number of visits covered (must be received within 8 weeks of last Medicare approved visit) — Calendar year maximum	\$0 \$0 \$0	Actual charges to \$40 a visit Up to the number of Medicare approved visits, not to exceed 7 each week \$1,600	Balance

OTHER BENEFITS—NOT COVERED BY MEDICARE

<b>FOREIGN TRAVEL—NOT COVERED BY MEDICARE</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 life-time maximum
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## PLAN E

## MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: — While using 60 lifetime reserve days — Once lifetime reserve days are used: — Additional 365 days — Beyond the additional 365 days	All but \$760 All but \$190 a day  All but \$380 a day  \$0 \$0	\$760 (Part A deductible) \$190 a day  \$380 a day 100% of Medicare eligible expenses \$0	\$0 \$0  \$0  \$0 All costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$95 a day \$0	\$0 Up to \$95 a day \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

## PLAN E

## MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>MEDICAL EXPENSES—</b> <b>IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare approved amounts* Remainder of Medicare approved amounts Part B excess charges (Above Medicare approved amounts)	\$0 80% (50% outpatient psychiatric services) \$0	\$0 20% (50% outpatient psychiatric services) \$0	\$100 (Part B deductible) \$0 All costs
<b>BLOOD</b> First 3 pints Next \$100 of Medicare approved amounts* Remainder of Medicare approved amounts	\$0 \$0 80%	All costs \$0 20%	\$0 \$100 (Part B deductible) \$0

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

PARTS A & B

<b>HOME HEALTH CARE</b> MEDICARE APPROVED SERVICES			
— Medically necessary skilled care services and medical supplies	100%	\$0	\$0
— Durable medical equipment			
First \$100 of Medicare approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare approved amounts	80%	20%	\$0

OTHER BENEFITS—NOT COVERED BY MEDICARE

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>FOREIGN TRAVEL—NOT COVERED BY MEDICARE</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 life-time maximum
<b>PREVENTIVE MEDICARE CARE BENEFIT—NOT COVERED BY MEDICARE</b> Some physical and preventive tests and services such as: digital rectal exam, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare First \$120 each calendar year Additional charges	\$0 \$0	\$120 \$0	\$0 All costs

PLAN F or HIGH DEDUCTIBLE PLAN F

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

\*\*This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year [\$1,500] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are [\$1,500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>AFTER YOU PAY \$1,500 DEDUCTIBLE,** PLAN PAYS</i>	<i>IN ADDITION TO \$1,500 DEDUCTIBLE,** YOU PAY</i>
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: — While using 60 lifetime reserve days — Once lifetime reserve days are used: — Additional 365 days — Beyond the additional 365 days	All but \$760 All but \$190 a day All but \$380 a day \$0 \$0	\$760 (Part A deductible) \$190 a day \$380 a day 100% of Medicare eligible expenses \$0	\$0 \$0 \$0 \$0 All costs

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>AFTER YOU PAY \$1,500 DEDUCTIBLE,** PLAN PAYS</i>	<i>IN ADDITION TO \$1,500 DEDUCTIBLE,** YOU PAY</i>
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$95 a day \$0	\$0 Up to \$95 a day \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

\*\*This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year [\$1,500] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are [\$1,500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>AFTER YOU PAY \$1,500 DEDUCTIBLE,** PLAN PAYS</i>	<i>IN ADDITION TO \$1,500 DEDUCTIBLE,** YOU PAY</i>
<b>MEDICAL EXPENSES—</b> <b>IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT,</b> such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare approved amounts* Remainder of Medicare approved amounts Part B excess charges (Above Medicare approved amounts)	\$0 80% (50% outpatient psychiatric service) \$0	\$100 (Part B deductible) 20% (50% outpatient psychiatric service) 100%	\$0 \$0 \$0
<b>BLOOD</b> First 3 pints Next \$100 of Medicare approved amounts* Remainder of Medicare approved amounts	\$0 \$0 80%	All costs \$100 (Part B deductible) 20%	\$0 \$0 \$0
<b>CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

PARTS A & B

<b>HOME HEALTH CARE</b> MEDICARE APPROVED SERVICES			
— Medically necessary skilled care services and medical supplies	100%	\$0	\$0
— Durable medical equipment			
First \$100 of Medicare approved amounts*	\$0	\$100 (Part B deductible)	\$0
Remainder of Medicare approved Amounts	80%	20%	\$0

OTHER BENEFITS—NOT COVERED BY MEDICARE

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>AFTER YOU PAY \$1,500 DEDUCTIBLE,** PLAN PAYS</i>	<i>IN ADDITION TO \$1,500 DEDUCTIBLE,** YOU PAY</i>
<b>FOREIGN TRAVEL—NOT COVERED BY MEDICARE</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 life-time maximum

PLAN G

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: — While using 60 lifetime reserve days — Once lifetime reserve days are used: — Additional 365 days — Beyond the additional 365 days	All but \$760 All but \$190 a day  All but \$380 a day \$0 \$0	\$760 (Part A deductible) \$190 a day  \$380 a day 100% of Medicare eligible expenses \$0	\$0 \$0  \$0 \$0 All costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$95 a day \$0	\$0 Up to \$95 a day \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance



## RULES AND REGULATIONS

## MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>MEDICAL EXPENSES— IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare approved amounts	80% (50% outpatient psychiatric services)	20% (50% outpatient psychiatric services)	\$0
Part B excess charges (Above Medicare approved amounts)	\$0	80%	20%
<b>BLOOD</b> First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare approved amounts	80%	20%	\$0
<b>CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

## PARTS A &amp; B

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>HOME HEALTH CARE</b> <b>MEDICARE APPROVED SERVICES</b> — Medically necessary skilled care services and medical supplies	100%	\$0	\$0
— Durable medical equipment First \$100 of Medicare approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare approved amounts	80%	20%	\$0
<b>AT-HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE</b> Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan			
— Benefit for each visit	\$0	Actual charges to \$40 a visit	Balance
— Number of visits covered (must be received within 8 weeks of last Medicare approved visit)	\$0	Up to the number of Medicare approved visits, not to exceed 7 each week	
— Calendar year maximum	\$0	\$1,600	

## OTHER BENEFITS—NOT COVERED BY MEDICARE

<b>FOREIGN TRAVEL—NOT COVERED BY MEDICARE</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 life-time maximum
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PLAN H

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: — While using 60 lifetime reserve days — Once lifetime reserve days are used: — Additional 365 days — Beyond the additional 365 days	All but \$760 All but \$190 a day  All but \$380 a day \$0 \$0	\$760 (Part A deductible) \$190 a day  \$380 a day 100% of Medicare eligible expenses \$0	\$0 \$0  \$0 \$0 All costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$95 a day \$0	\$0 Up to \$95 a day \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>MEDICAL EXPENSES—</b> IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare approved amounts* Remainder of Medicare approved amounts Part B excess charges (Above Medicare approved amounts)	\$0 80% (50% outpatient psychiatric services) \$0	\$0 20% (50% outpatient psychiatric services) \$0	\$100 (Part B deductible) \$0 All costs
<b>BLOOD</b> First 3 pints Next \$100 of Medicare approved amounts* Remainder of Medicare approved amounts	\$0 \$0 80%	All costs \$0 20%	\$0 \$100 (Part B deductible) \$0
<b>CLINICAL LABORATORY SERVICES—</b> BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A & B

<b>HOME HEALTH CARE</b> MEDICARE APPROVED SERVICES			
— Medically necessary skilled care services and medical supplies	100%	\$0	\$0
— Durable medical equipment			
First \$100 of Medicare approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare approved amounts	80%	20%	\$0

OTHER BENEFITS—NOT COVERED BY MEDICARE

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>FOREIGN TRAVEL—NOT COVERED BY MEDICARE</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 life-time maximum
<b>BASIC OUTPATIENT PRESCRIPTION DRUGS—NOT COVERED BY MEDICARE</b>			
First \$250 each calendar year	\$0	\$0	\$250
Next \$2,500 each calendar year	\$0	50%—\$1,250 calendar year maximum benefit	50%
Over \$2,500 each calendar year	\$0	\$0	All costs

PLAN I

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days			
61st thru 90th day	All but \$760	\$760 (Part A deductible)	\$0
91st day and after:	All but \$190 a day	\$190 a day	\$0
— While using 60 lifetime reserve days			
— Once lifetime reserve days are used:	All but \$380 a day	\$380 a day	\$0
— Additional 365 days	\$0	100% of Medicare eligible expenses	\$0
— Beyond the additional 365 days	\$0	\$0	All costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$95 a day	Up to \$95 a day	\$0
101st day and after	\$0	\$0	All costs
<b>BLOOD</b>			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>MEDICAL EXPENSES— IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare approved amounts	80% (50% outpatient psychiatric services)	20% (50% outpatient psychiatric services)	\$0
Part B excess charges (Above Medicare approved amounts)	\$0	100%	\$0
<b>BLOOD</b> First 3 pints	\$0	All costs	\$0
Next \$100 of Medicare approved amounts*	\$0	\$0	\$100 (Part B deductible)
Remainder of Medicare approved amounts	80%	20%	\$0
<b>CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

PARTS A & B

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>PLAN PAYS</i>	<i>YOU PAY</i>
<b>HOME HEALTH CARE</b> <b>MEDICARE APPROVED SERVICES</b> — Medically necessary skilled care services and medical supplies — Durable medical equipment First \$100 of Medicare approved amounts*	100%	\$0	\$0
Remainder of Medicare approved amounts	80%	20%	\$0
<b>AT-HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE</b> Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan — Benefit for each visit	\$0	Actual charges to \$40 a visit	Balance
— Number of visits covered (must be received within 8 weeks of last Medicare approved visit)	\$0	Up to the number of Medicare approved visits, not to exceed 7 each week	
— Calendar year maximum	\$0	\$1,600	

## OTHER BENEFITS—NOT COVERED BY MEDICARE

<b>FOREIGN TRAVEL—NOT COVERED BY MEDICARE</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of charges*	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 life-time maximum
<b>BASIC OUTPATIENT PRESCRIPTION DRUGS—NOT COVERED BY MEDICARE</b> First \$250 each calendar year Next \$2,500 each calendar year  Over \$2,500 each calendar year	\$0 \$0 \$0	\$0 50%—\$1,250 calendar year maximum benefit \$0	\$250 50%  All costs

## PLAN J or HIGH DEDUCTIBLE PLAN J

## MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

\*\*This high deductible plan pays the same or offers the same benefits as Plan J after one has paid a calendar year [\$1,500] deductible. Benefits from high deductible Plan J will not begin until out-of-pocket expenses are [\$1,500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate prescription drug deductible or the plan's separate foreign travel emergency deductible.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>AFTER YOU PAY \$1,500 DEDUCTIBLE,** PLAN PAYS</i>	<i>IN ADDITION TO \$1,500 DEDUCTIBLE,** YOU PAY</i>
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: — While using 60 lifetime reserve days — Once lifetime reserve days are used: — Additional 365 days — Beyond the additional 365 days	All but \$760 All but \$190 a day  All but \$380 a day  \$0 \$0	\$760 (Part A deductible) \$190 a day  \$380 a day  100% of Medicare eligible expenses \$0	\$0 \$0  \$0  \$0 All costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but \$95 a day \$0	\$0 Up to \$95 a day \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$0	Balance

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

\*\*This high deductible plan pays the same or offers the same benefits as Plan J after one has paid a calendar year \$[1,500] deductible. Benefits from high deductible Plan J will not begin until out-of-pocket expenses are \$[1,500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate prescription drug deductible or the plan's separate foreign travel emergency deductible.

<i>SERVICES</i>	<i>MEDICARE PAYS</i>	<i>AFTER YOU PAY \$1,500 DEDUCTIBLE,** PLAN PAYS</i>	<i>IN ADDITION TO \$1,500 DEDUCTIBLE,** YOU PAY</i>
<b>MEDICAL EXPENSES—IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,</b> First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	\$0 80% (50% outpatient psychiatric services) \$0	\$100 (Part B deductible) 20% (50% outpatient psychiatric services) 100%	\$0 \$0 \$0
<b>BLOOD</b> First 3 pints Next \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	\$0 \$0 80%	All Costs \$100 (Part B deductible) 20%	\$0 \$0 \$0
<b>CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

PARTS A & B

<b>HOME HEALTH CARE MEDICARE APPROVED SERVICES</b> — Medically necessary skilled care services and medical supplies — Durable medical equipment First \$100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	100% \$0 80%	\$0 \$100 (Part B deductible) 20%	\$0 \$0 \$0
<b>HOME HEALTH CARE (cont'd) AT-HOME RECOVERY SERVICES—NOT COVERED BY MEDICARE</b> Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan — Benefit for each visit — Number of visits covered (Must be received within 8 weeks of last Medicare Approved visit) —Calendar year maximum	\$0 \$0 \$0	Actual charges to \$40 a visit Up to the number of Medicare Approved visits, not to exceed 7 each week \$1,600	Balance

OTHER BENEFITS—NOT COVERED BY MEDICARE

<p><b>FOREIGN TRAVEL—NOT COVERED BY MEDICARE</b>                  Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA                  First \$250 each calendar year                  Remainder of charges</p>	<p>\$0 \$0</p>	<p>\$0 80% to a lifetime maximum benefit of \$50,000</p>	<p>\$250 20% and amounts over the \$50,000 lifetime maximum</p>
<p><b>EXTENDED OUTPATIENT PRESCRIPTION DRUGS—NOT COVERED BY MEDICARE</b>                  First \$250 each calendar year                  Next \$6,000 each calendar year                   Over \$6,000 each calendar year</p>	<p>\$0 \$0 \$0</p>	<p>\$0 50%—\$3,000 calendar year maximum benefit \$0</p>	<p>\$250 50%  All costs</p>
<p><b>***PREVENTIVE MEDICAL CARE BENEFIT—NOT COVERED BY MEDICARE</b>                  Some annual physical and preventive tests and services such as: digital rectal exam, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare                  First \$120 each calendar year                  Additional charges</p>	<p>\$0 \$0</p>	<p>\$120 \$0</p>	<p>\$0 All costs</p>

\*\*\*Medicare benefits are subject to change. Please consult the latest Guide to Health Insurance for People with Medicare.

\* \* \* \* \*

**§ 89.788. Reporting of multiple policies**

(a) On or before March 1 of each year, an issuer shall report the following information for every individual resident of this Commonwealth for which the issuer has in force more than one Medicare supplement policy or certificate. This information must only be submitted for those issuers having insureds with more than one policy:

- (1) The policy and certificate number.
- (2) The date of issuance.

(b) The items in subsection (a) shall be grouped by individual policyholder.

**§ 89.790. Guaranteed issue for eligible persons**

(a) *Guaranteed issue.*

(1) Eligible persons are those individuals described in subsection (b) who apply to enroll under the policy not later than 63 days after the date of the termination of enrollment described in subsection (b), and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy.

(2) With respect to eligible persons, an issuer may not:

(i) Deny or condition the issuance or effectiveness of a Medicare supplement policy described in subsection (c) that is offered and is available for issuance to new enrollees by the issuer.

(ii) Discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care or medical condition.

(iii) Impose an exclusion of benefits based on a pre-existing condition under such a Medicare supplement policy.

(b) *Eligible persons.* An eligible person is an individual described in paragraphs (1)—(6):

(1) The individual is enrolled under an employe welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide all supplemental Medicare health benefits to the individual; or the individual is enrolled under an employe welfare benefit plan that is primary to Medicare and the plan terminates, or the plan ceases to provide health benefits to the individual because the individual leaves the plan.

(2) The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, and any of the following circumstances apply:

(i) The organization's or plan's certification has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides.

(ii) The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the HHS Secretary, but not including termination of the individual's enrollment on the basis described in section 1851(g)(3)(B) of the Social Security Act (42 U.S.C.A. § 1395w-21(g)(3)(B)) (when the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under section 1856 of the Social Security Act (42 U.S.C.A. § 1395w-26), or the plan is terminated for all individuals within a residence area).

(iii) The individual demonstrates, in accordance with guidelines established by the HHS Secretary, that one of the following applies:

(A) The organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide the covered care in accordance with applicable quality standards.

(B) The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual.

(iv) The individual meets other exceptional conditions the HHS Secretary may provide.

(3) The individual's enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under paragraph (2) and the individual is enrolled with one of the following:

(i) An eligible organization under a contract under section 1876 of the Social Security Act (42 U.S.C.A. § 1395mm) (Medicare risk or cost).

(ii) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999.

(iii) An organization under an agreement under section 1833(a)(1)(A) of the Social Security Act (42 U.S.C.A. § 1395l(a)(1)(A)) (health care prepayment plan).

(iv) An organization under a Medicare Select policy.

(4) The individual is enrolled under a Medicare supplement policy and the enrollment ceases because one of the following applies:

(i) The insolvency of the issuer or bankruptcy of the nonissuer organization or of other involuntary termination of coverage or enrollment under the policy.

(ii) The issuer of the policy substantially violated a material provision of the policy.

(iii) The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual.

(5) The individual was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, any eligible organization under a contract under section 1876 of the Social Security Act (Medicare risk or cost), any similar organization operating under demonstration project authority, any organization under an agreement under section 1833(a)(1)(A) of the Social Security Act (health care prepayment plan) or any Medicare Select policy and the subsequent enrollment under this paragraph is terminated by the enrollee during the first 12 months of the subsequent enrollment (during which the enrollee is permitted to terminate the subsequent enrollment under section 1851(e) of the Social Security Act).

(6) The individual, upon first becoming eligible for benefits under Part A or enrolled in Part B of Medicare at age 65 or older, enrolls in a Medicare+Choice plan under Part C of Medicare, and disenrolls from the plan within 12 months after the effective date of enrollment.

(c) *Products to which eligible persons are entitled.* The Medicare supplement policy to which eligible persons are entitled under:

(1) Subsection (b)(1)—(4) is a Medicare supplement policy which has a benefit package classified as Plan A, B, C or F offered by an issuer.

(2) Subsection (b)(5) is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in paragraph (1).

(3) Subsection (b)(6) includes any Medicare supplement policy offered by an issuer.

(d) *Notification provisions.*

(1) At the time of an event described in subsection (b) because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy or plan, the organization that terminates the contract or agreement, the issuer terminating the policy or the administrator of the plan being terminated, respectively, shall notify individuals of their rights under this section, and of the obligations of issuers of Medicare supplement policies under subsection (a). The notice shall be communicated contemporaneously with the notification of termination.

(2) At the time of an event described in subsection (b) because of which an individual ceases enrollment under a contract or agreement, policy or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify individuals of their rights under this section, and of the obligations of issuers of Medicare supplement policies under subsection (a). The notice shall be communicated within 10 working days of the issuer receiving notification of disenrollment.

**APPENDIX I**

**DISCLOSURE STATEMENTS**

**INSTRUCTIONS FOR USE OF THE DISCLOSURE STATEMENTS FOR HEALTH INSURANCE POLICIES SOLD TO MEDICARE BENEFICIARIES THAT DUPLICATE MEDICARE**

1. Section 1882 (d) of the Federal Social Security Act (42 U.S.C.A. § 1395ss) prohibits the sale of health insurance policies (the term policy or policies includes certificates) that duplicate Medicare benefits unless it will pay benefits without regard to other health coverage and it includes the prescribed disclosure statement on or together with the application for the policy.

2. All types of health insurance policies that duplicate Medicare shall include one of the attached disclosure statements, according to the particular policy type involved, on the application or together with the application. The disclosure statement may not vary from the attached statements in terms of language or format (type size, type proportional spacing, bold character, line spacing, and usage of boxes around text).

3. State and Federal law prohibits insurers from selling a Medicare supplement policy to a person that already has a Medicare supplement policy except as a replacement.

4. Property/Casualty and Life insurance policies are not considered health insurance.

5. Disability income policies are not considered to provide benefits that duplicate Medicare.

6. Long-term care policies are insurance policies that coordinate with Medicare and other health insurance are not considered to provide benefits that duplicate Medicare.



7. The Federal law does not preempt state laws that are more stringent than the Federal requirements.

8. The Federal law does not preempt existing state form filing requirements.

9. Section 1882 of the Social Security Act was amended in subsection (d)(3)(A) to allow for alternative disclosure statements. The disclosure statements already in Appendix I remain. Carriers may use either disclosure statement with the requisite insurance product. However, carriers should use either the original disclosure statements or the alternative disclosure statements and not use both simultaneously.

(Original disclosure statement for policies that provide benefits for expenses incurred for an accidental injury only.)

**Important Notice to Persons on Medicare**

**THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

**This is not Medicare Supplement Insurance**

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**This insurance duplicates Medicare benefits when it pays:**

- hospital or medical expenses up to the maximum stated in the policy

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- other approved items and services

**Before You Buy This Insurance**

✓ Check the coverage in **all** health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Original disclosure statement for policies that provide benefits for specified limited services.)

**Important Notice to Persons on Medicare**

**THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

**This is not Medicare Supplement Insurance**

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare

deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**This insurance duplicates Medicare benefits when:**

- any of the services covered by the policy are also covered by Medicare

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- other approved items and services

**Before You Buy This Insurance**

✓ Check the coverage in **all** health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Original disclosure statement for policies that reimburse expenses incurred for specified diseases or other specified impairments. This includes expense-incurred cancer, specified disease and other types of health insurance policies that limit reimbursement to named medical conditions.)

**Important Notice to Persons on Medicare**

**THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

**This is not Medicare Supplement Insurance**

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**This insurance duplicates Medicare benefits when it pays:**

- hospital or medical expenses up to the maximum stated in the policy

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice
- other approved items and services

**Before You Buy This Insurance**

✓ Check the coverage in **all** health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Original disclosure statement for policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.)

**Important Notice to Persons on Medicare**

**THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

**This is not Medicare Supplement Insurance**

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**This insurance duplicates Medicare benefits because Medicare generally pays for most of the expenses for the diagnosis and treatment of the specific conditions or diagnoses named in the policy.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice
- other approved items and services

**Before You Buy This Insurance**

✓ Check the coverage in **all** health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Original disclosure statement for indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.)

**Important Notice to Persons on Medicare**

**THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

**This is not Medicare Supplement Insurance**

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy

conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**This insurance duplicates Medicare benefits when:**

- any expenses or services covered by the policy are also covered by Medicare

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice
- other approved items and services

**Before You Buy This Insurance**

✓ Check the coverage in **all** health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Original disclosure statement for policies that provide benefits upon both an expense-incurred and fixed indemnity basis.)

**Important Notice to Persons on Medicare**

**THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

**This is not Medicare Supplement Insurance**

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**This insurance duplicates Medicare benefits when:**

- any expenses or services covered by the policy are also covered by Medicare; or
- it pays the fixed dollar amount stated in the policy and Medicare covers the same event

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice care
- other approved items & services

### Before You Buy This Insurance

✓ Check the coverage in **all** health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Original disclosure statement for other health insurance policies not specifically identified in the preceding statements.)

#### Important Notice to Persons on Medicare

### THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

#### This is not Medicare Supplement Insurance

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**This insurance duplicates Medicare benefits when it pays:**

- the benefits stated in the policy and coverage for the same event is provided by Medicare

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice
- other approved items and services

### Before You Buy This Insurance

✓ Check the coverage in **all** health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Alternative disclosure statement for policies that provide benefits for expenses incurred for an accidental injury only.)

#### Important Notice to Persons on Medicare

### THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

**Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.**

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- other approved items and services

**This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.**

### Before You Buy This Insurance

✓ Check the coverage in **all** health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Alternative disclosure statement for policies that provide benefits for specified limited services.)

#### Important Notice to Persons on Medicare

### THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

**Some health care services paid for by Medicare may also trigger the payment of benefits under this policy.**

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- other approved items and services

**This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.**

### Before You Buy This Insurance

✓ Check the coverage in **all** health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Alternative disclosure statement for policies that reimburse expenses incurred for specified diseases or other specified impairments. This includes expense-incurred cancer, specified disease and other types of health insurance policies that limit reimbursement to named medical conditions.)

**Important Notice to Persons on Medicare**

**THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

**Some health care services paid for by Medicare may also trigger the payment of benefits from this policy. Medicare generally pays for most or all of these expenses.**

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice
- other approved items and services

**This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.**

**Before You Buy This Insurance**

✓ Check the coverage in **all** health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Alternative disclosure statement for policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.)

**Important Notice to Persons on Medicare**

**THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

**Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.**

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice
- other approved items and services

**This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.**

**Before You Buy This Insurance**

✓ Check the coverage in **all** health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

Alternative disclosure statement for indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.)

**Important Notice to Persons on Medicare**

**THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

**Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.**

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice

- other approved items and services

**This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.**

#### Before You Buy This Insurance

✓ Check the coverage in **all** health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Alternative disclosure statement for policies that provide benefits upon both an expense-incurred and fixed indemnity basis.)

#### Important Notice to Persons on Medicare

#### THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

**Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.**

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice care
- other approved items & services

**This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.**

#### Before You Buy This Insurance

✓ Check the coverage in **all** health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

(Alternative disclosure statement for other health insurance policies not specifically identified in the preceding statements.)

#### Important Notice to Persons on Medicare

#### THIS IS NOT MEDICARE SUPPLEMENT INSURANCE

**Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.**

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice
- other approved items and services

**This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.**

#### Before You Buy This Insurance

✓ Check the coverage in **all** health insurance policies you already have.

✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Pa.B. Doc. No. 99-42. Filed for public inspection January 8, 1999, 9:00 a.m.]

## Title 64—SECURITIES

### PART I. SECURITIES COMMISSION

[64 PA. CODE CHS. 202, 206, 302, 606, 609 AND 610]

#### Registration of Securities; Registration of Broker-Dealers, Agents and Investment Advisers; Administration

##### Statutory Authority

The Securities Commission (Commission), under the authority contained in sections 202(i), 206(b) and (d), 302(f), 606(d), 609(a) and (c) and 610 of the Pennsylvania Securities Act of 1972 (70 P. S. §§ 1-202(i), 1-206(b) and (d), 1-302(f), 1-606(d), 1-609(a) and (c) and 1-610) (act) amends regulations concerning the subject matter of the act to read as set forth at 28 Pa.B. 3950 (August 15, 1998).

*Public Comments*

One public comment was received with respect to amendments to § 302.063 (relating to financial institutions exempt from broker-dealer and agent registration) which was supportive of the amendments. No public comments were received with respect to any other amendments.

*Comments of the Independent Regulatory Review Commission (IRRC)*

By letter dated October 15, 1998, IRRC advised the Commission that it had no objections, comments or suggestions with respect to the amendments.

*Summary and Purpose of the Amendments*

§ 202.092. This amendment updates the accounting terminology used in this regulation.

§ 206.020. This amendment requires a certified public accountant to give a tax opinion in a public offering of interests in a direct participation program, such as oil and gas programs, equipment leasing programs and commodity pools, which are filed with the Commission under section 206 of the act.

§ 302.063. This amendment exempts financial institutions (banks, savings and loans and credit unions) and their representatives from registering as broker-dealers or agents under the act when securities transactions made by these entities and individuals on behalf of customers are performed through a contractual arrangement with a broker-dealer registered under the act even though the transactions may be effected on, or emanate from, the premises of a financial institution where retail deposits are taken.

§ 606.041. This amendment permits the Assistant Director of the Division of Licensing and Compliance to exercise certain Commission powers through delegated authority.

§ 609.032. This amendment updates the accounting terminology used in this regulation and makes it clear that the accounting definitions apply to all financial statements required to be filed under the act or regulations adopted thereunder.

§ 609.033. This amendment requires an accountant's report filed in the auditor's format to follow generally accepted auditing standards and reports filed in an accountant's review and compilation report format to follow the Statements on Standards for Accounting and Review Services of the American Institute of Certified Public Accountants. Public accountants may continue to prepare reports required to be filed for broker-dealers and investment advisers.

§ 609.034. This amendment permits issuers filing a registration statement under section 206 of the act, except issuers of interests in public direct participation programs, to submit 2 years of financial statements instead of 3. In the case of a small business issuer filing under section 206 for a public offering of corporate equity

securities aggregating \$1 million or less, the amendment allows use of reviewed financial statements in lieu of an audit. The amendment also requires that the financial statements appearing in a registration statement filed with the Commission under section 205 of the act comply with the relevant requirements of the United States Securities and Exchange Commission.

§ 609.036. The amendment updates accounting terminology used in the regulation.

§ 610.010. The amendment provides for the retention and destruction of records in conformity with schedules promulgated by the Commission which conform to Management Directives issued by the Office of Administration.

*Persons Affected by these Amendments*

With respect to amendments to § 202.092 (relating to guaranties of debt securities exempt), recipients of the proceeds of limited obligation revenue bonds issued by governmental instrumentalities who guaranty payments to the governmental instrumentality sufficient to pay the principal and interest on the bonds are affected by these amendments. The proposed changes, however, only update accounting terminology and do not affect the existing requirements of these amendments.

With respect to amendments to § 206.020 (relating to tax opinion in offerings of limited partnership interests), issuers of interests in public direct participation programs for which a registration statement is filed with the Commission under section 206 of the act are affected.

With respect to amendments to § 302.063, financial institutions, including banks, savings and loans and credit unions that effect transactions on behalf of customers under a contractual arrangement with a broker-dealer registered under the act are affected.

With respect to amendments to §§ 606.041 and 610.010 (relating to delegation and substitution; and destruction of documents and records), only the internal administrative affairs of the Commission are affected.

With respect to amendments to §§ 609.032, 609.033 and 609.036 (relating to definitions; accountants; and financial statements; annual reports), accountants preparing financial statements to be filed with the Commission are affected.

With respect to amendments to § 609.034 (relating to financial statements), issuers filing a registration statement with the Commission under section 205 or 206 of the act are affected.

*Fiscal Impact*

None of the amendments increase costs on the regulated community or the Commonwealth. The Commonwealth will not incur any revenue loss as a result of the amendments. The amendments will decrease regulatory costs to issuers filing a registration statement with the Commission under section 206 of the act.

*Paperwork*

None of the amendments impose new paperwork requirements. With respect to issuers filing a registration statement with the Commission under section 206 of the act, there will be a reduction in the amount of financial statements that must be filed.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 27, 1998, the Commission submitted a copy of the proposed rulemaking published at 28 Pa.B. 3950 to IRRC and the Chairpersons of the House Committee on Commerce and Economic Development and the Senate Committee on Banking and Insurance for comment and review. In compliance with section 5(b.1) of the Regulatory Review Act, the Commission also provided IRRC and the Committees with copies of all comments received as well as other documentation.

In preparing its final-form rulemaking, the Commission has considered all comments received from IRRC, the Committees and the public. This final-form rulemaking was deemed approved by the House Committee on Commerce and Economic Development and by the Senate Committee on Banking and Insurance on November 12, 1998. IRRC met on November 19, 1998, and approved the final-form rulemaking.

*Availability in Alternative Formats*

These amendments may be made available in alternative formats upon request. The Commission also will receive comments on this final-form rulemaking in alternative formats. TDD users should use the AT&T Relay Center (800) 854-5984. To make arrangements for alternative formats, contact Joseph Shepherd, ADA Coordinator, at (717) 787-6828.

*Contact Person*

The contact person is G. Philip Rutledge, Deputy Chief Counsel, Securities Commission, Eastgate Building, 1010 N. Seventh Street, 2nd Floor, Harrisburg, PA 17102-1410, (717) 783-5130.

*Order*

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

(a) The regulations of the Commission, 64 Pa. Code Chapters 202, 206, 302, 606, 609 and 610, are amended by amending §§ 202.092, 206.020, 302.063, 606.041, 609.032—609.036 and 610.010 to read as set forth at 28 Pa.B. 3950.

(b) The Secretary of the Commission shall submit this order and 28 Pa.B. 3950 to the Office of Attorney General for approval as to form and legality as required by law.

(c) The Secretary of the Commission shall certify this order and 28 Pa.B. 3950 and deposit them with the Legislative Reference Bureau as required by law.

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

M. JOANNA CUMMINGS,  
*Secretary*

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 5920 (December 5, 1998).)

**Fiscal Note:** Fiscal Note 50-112 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 99-43. Filed for public inspection January 8, 1999, 9:00 a.m.]

# PROPOSED RULEMAKING

## FISH AND BOAT COMMISSION

[58 PA. CODE CH. 63]

### Sale and Purchase of Fish

The Fish and Boat Commission (Commission) proposes to amend § 63.19 (relating to sale and purchase of fish). The Commission is publishing this amendment as a notice of proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendment relates to the sale and purchase of fish.

#### A. *Effective Date*

The proposed amendment, if approved on final rulemaking, will go into effect upon publication of an order adopting the amendment in the *Pennsylvania Bulletin*.

#### B. *Contact Person*

For further information on the proposed change, contact Laurie E. Shepler, Assistant Counsel, (717) 657-4546, P. O. Box 67000, Harrisburg, PA 17106-7000. This proposal is available electronically through the Commission's Web site (<http://www.fish.state.pa.us>).

#### C. *Statutory Authority*

The proposed amendment is published under the statutory authority of section 2102(c) of the code (relating to rules and regulations).

#### D. *Purpose and Background*

The proposed amendment is designed to update, modify and improve Commission regulations relating to the sale and purchase of fish. The specific purpose is described in more detail under the summary of proposal.

#### E. *Summary of Proposal*

The act of October 16, 1998 (Act 94) amended the Commonwealth's agriculture laws to designate aquaculture as a normal farming activity. This amendment transferred most administrative functions related to commercial artificial propagation from the Commission to the Department of Agriculture. Effective December 16, 1998, the Department of Agriculture will register commercial propagators of fish as well as dealers in live aquatic animals. The Commission will no longer issue artificial propagation licenses, live fish, fishbait and baitfish dealer licenses and resident and nonresident fish transportation licenses.

The Commission has been working with the Department of Agriculture to ensure smooth implementation of this amendment. In addition, the Commission has been reviewing the amendment to determine whether it has left any holes in the Commission's authority. Act 94 repeals Chapter 33 of the code (relating to propagation and sale of fish). In general, this repeal does not diminish the Commission's authority to protect this Commonwealth's waters and the fish in those waters. The Commission retains regulatory jurisdiction under section 2102(c) of the code over transportation or introduction of

fish into this Commonwealth's waters, exporting of fish, sale, offering for sale or purchase of fish and the disturbing of fish in their natural habitat. Violations are summary offenses of the second degree. The Commission will retain authority to license use of nets and regulated fishing lakes. The Commission's general statutory authority to make regulations for the protection, preservation and management of fish and fish habitat gives it regulatory authority over stocking of fish.

The Commission's enforcement officers have clear authority to enforce the prohibitions in the amendment since it is a Commonwealth law related to fish. While the Department of Agriculture will have primary authority to enforce the new provisions, it is certainly possible that the Commission's officers could become involved in enforcement if an unregistered propagator or dealer unlawfully sells fish. The wording of the new provisions on sale of fish defines prohibited and permitted acts with regard to sale of fish, 3 Pa.C.S. §§ 4221 and 4223. It is clear that only registered artificial propagators and dealers may sell fish and that they may not sell fish except those taken from the specified facility or facilities. Registered propagators are not authorized to take fish out of natural streams on their property or from any other waters of this Commonwealth for the purpose of sale.

The Commission believes that it is necessary to take prompt action to propose an amendment on sale of fish that is clearly applicable to all Commonwealth waters and all persons taking fish from those waters.

#### F. *Paperwork*

The proposed amendment will not increase paperwork and will create no new paperwork requirements.

#### G. *Fiscal Impact*

The proposed amendment will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed amendment will impose no new costs on the private sector or the general public.

#### H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed amendment to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically at "regulations@fish.state.pa.us." A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,  
*Executive Director*

**Fiscal Note:** 48A-89. No fiscal impact; (8) recommends adoption.



Annex A  
**TITLE 58. RECREATION**  
**PART II. FISH AND BOAT COMMISSION**  
**Subpart B. FISHING**

**CHAPTER 63. GENERAL FISHING REGULATIONS**

§ 63.19. Sale and purchase of [ mounted ] fish.

[ The prohibition against sale of certain fish in section 3311 of the code (relating to sale of certain fish prohibited) does not apply to the sale of mounted fish that are unclaimed or purchased from a licensed propagator. ]

(a) Except as otherwise provided in subsection (d), it is unlawful for a person to sell, purchase, offer for sale or exchange or export for consideration, trade or barter any fish, whether dead or live, in whole or in part, including eggs and any lifestage of the fish caught or taken from the waters of this Commonwealth.

(b) Except as otherwise provided in subsection (d), it is unlawful for a person to take, catch, kill or possess any fish, whether dead or live, in whole or in part, including eggs and any lifestage of the fish, for the purpose of selling the fish or offering it for sale.

(c) In prosecutions for violation of this section, there shall be a rebuttable presumption that a

species of fish that occurs within the waters of this Commonwealth was taken or caught from Commonwealth waters. A receipt or other document showing the lawful origin of the fish from waters in a state other than this Commonwealth or from an artificial propagator or dealer in live aquatic organisms registered in this Commonwealth, shall be sufficient to rebut the presumption created in this subsection.

(d) This section does not prohibit the sale, purchase, offer for sale, trade or barter of any fish propagated by or from a propagator or dealer of live aquatic animals registered under 3 Pa.C.S. Chapter 42 (relating to aquacultural development), if the fish are lawfully propagated or acquired by means other than fishing from the waters of this Commonwealth in accordance with the requirements of applicable laws and regulations. This section does not prohibit the sale, purchase, offer for sale, trade or barter of any fish by or from the holder of a commercial fishing license issued under Chapter 29 of the code (relating to special licenses and permits), if the fish are lawfully caught or taken in accordance with the requirements of applicable laws and regulations. This section does not prohibit the sale of mounted fish.

[Pa.B. Doc. No. 99-44. Filed for public inspection January 8, 1999, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [4 PA. CODE CH. 9]

#### Reorganization of the Department of Environmental Protection

The Executive Board approved a reorganization of the Department of Environmental Protection effective December 22, 1998.

The organization chart at 29 Pa.B. 208 (January 9, 1999) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

[Pa.B. Doc. No. 99-45. Filed for public inspection January 8, 1999, 9:00 a.m.]

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### PART II. EXECUTIVE BOARD

#### [4 PA. CODE CH. 9]

#### Reorganization of the Department of Labor and Industry

The Executive Board approved a reorganization of the Department of Labor and Industry effective December 18, 1998.

The organization chart at 29 Pa.B. 209 (January 9, 1999) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

[Pa.B. Doc. No. 99-46. Filed for public inspection January 8, 1999, 9:00 a.m.]

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### PART II. EXECUTIVE BOARD

#### [4 PA. CODE CH. 9]

#### Reorganization of the Department of State

The Executive Board approved a reorganization of the Department of State effective December 18, 1998.

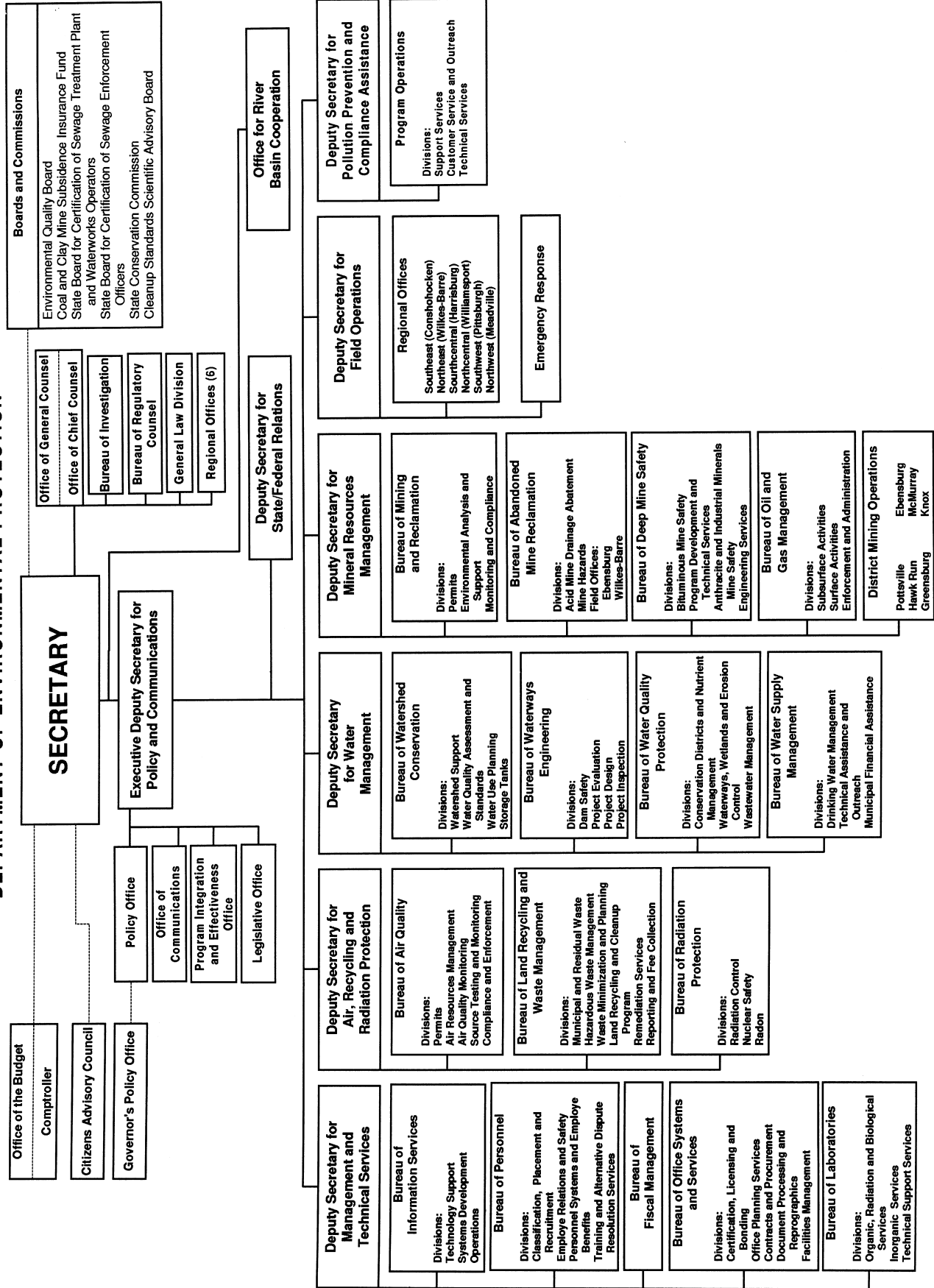
The organization chart at 29 Pa.B. 210 (January 9, 1999) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

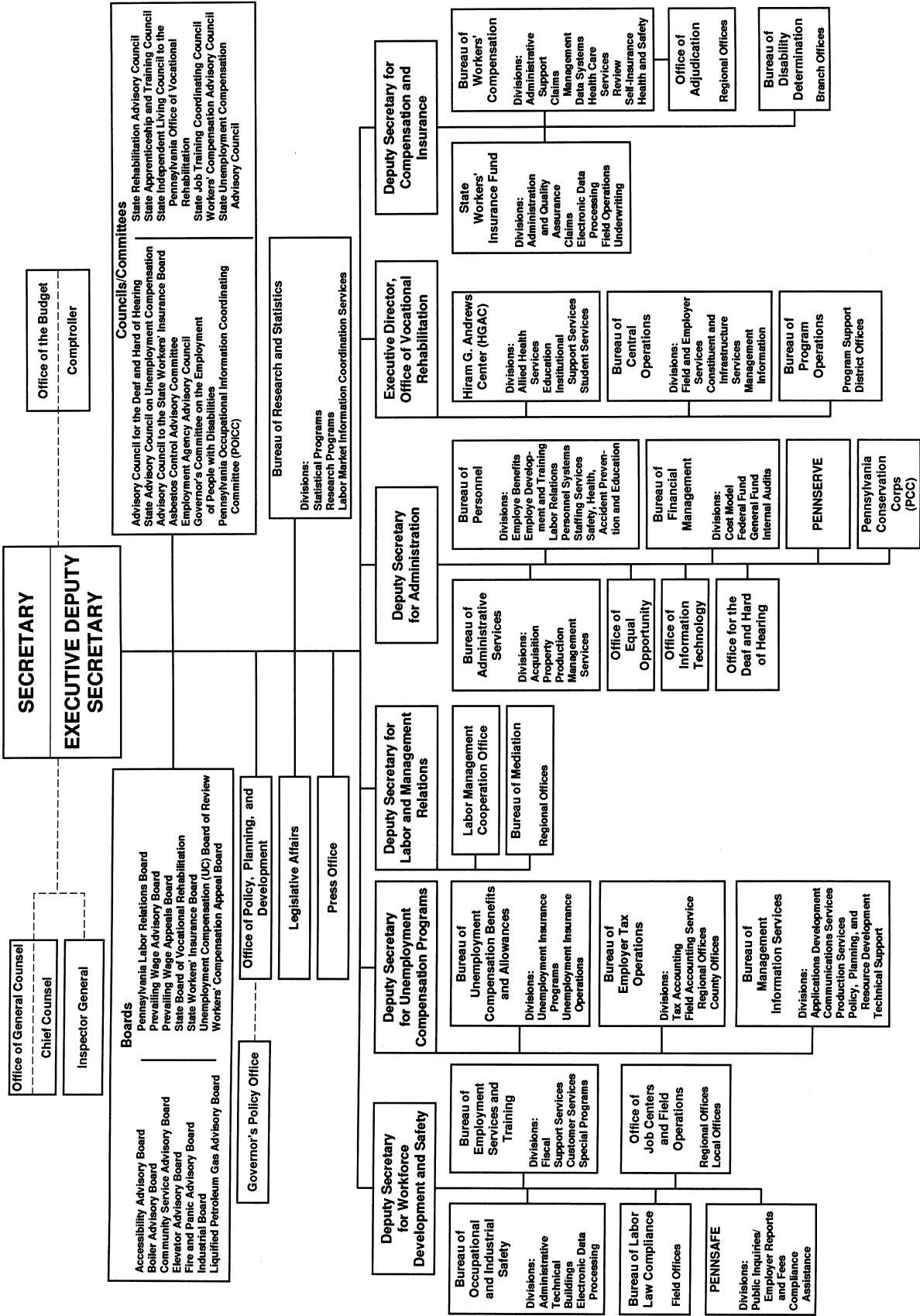
[Pa.B. Doc. No. 99-47. Filed for public inspection January 9, 1999, 9:00 a.m.]

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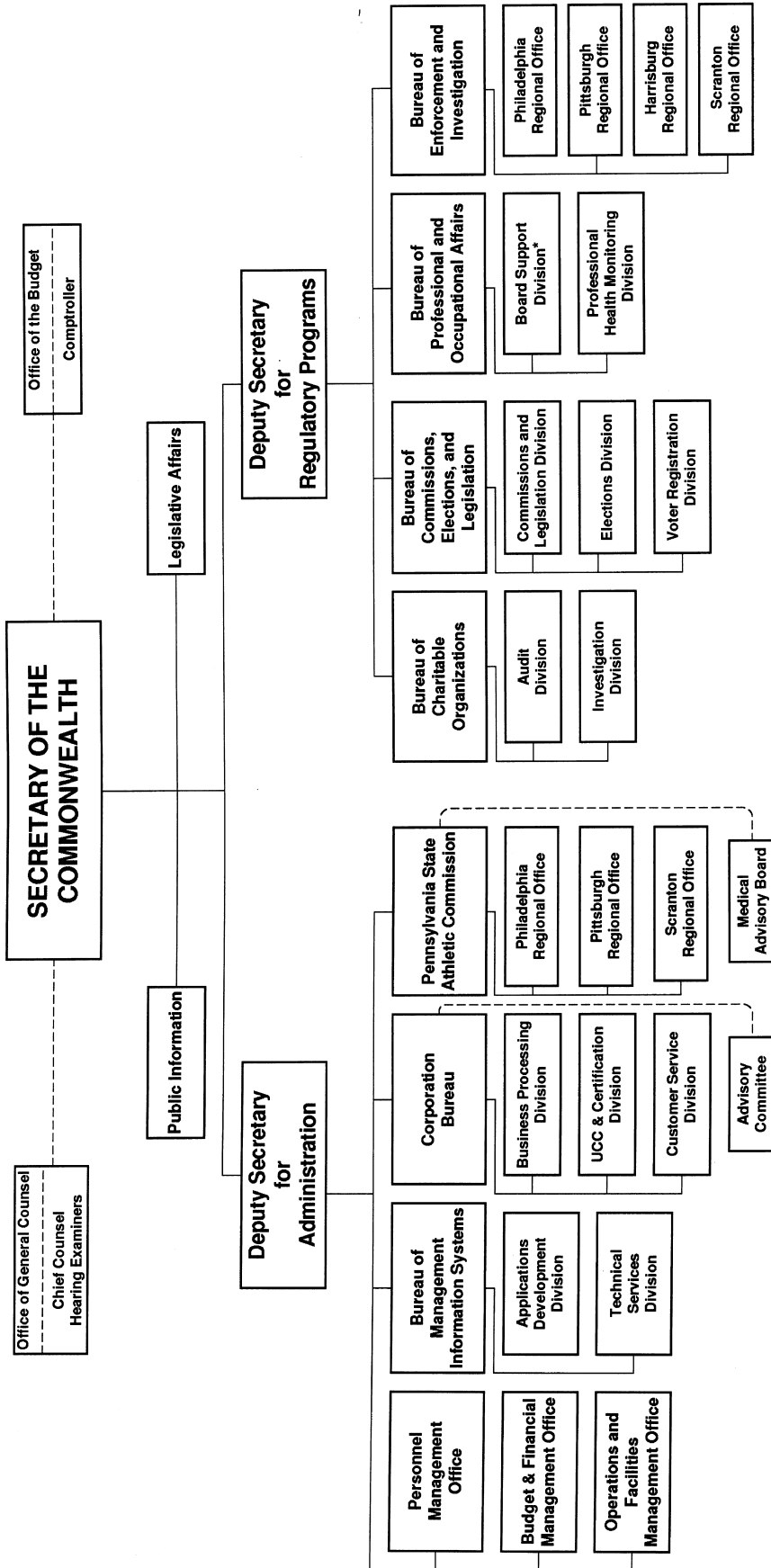
DEPARTMENT OF ENVIRONMENTAL PROTECTION



DEPARTMENT OF LABOR AND INDUSTRY



DEPARTMENT OF STATE



**\*Board Support Division provides direct administrative support to the following Professional Licensing Boards and Commissions (27)**

State Board of Accountancy	Navigation Commission for the Delaware River	State Registration Board for Professional Engineers
State Architects Licensure Board	State Board of Nursing	State Board of Psychology
State Board of Auctioneer Examiners	State Board of Examiners of Nursing Home Administrators	State Real Estate Commission
State Board of Barber Examiners	State Board of Occupational Therapy, Education and Licensure	State Board of Social Work Examiners
State Board of Chiropractic	State Board of Optometry	State Board of Examiners in Speech-Language and Hearing
State Board of Cosmetology	State Board of Osteopathic Medicine	State Board of Veterinary Medicine
State Board of Dentistry	State Board of Pharmacy	State Board of Certified Real Estate Appraisers
State Board of Funeral Directors	State Board of Physical Therapy	
State Board of Landscape Architects	State Board of Podiatry	
State Board of Medicine		
State Board of Vehicle Manufacturers, Dealers, and Salespersons		

# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending December 29, 1998.

### BANKING INSTITUTIONS

#### Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-24-98	Allegiance Bank of North America Bala Cynwyd Montgomery County	One Belmont Avenue Bala Cynwyd Montgomery County	Approved

#### Mergers, Consolidations and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-14-98	Northwest Savings Bank Warren Warren County	Warren	Effective
	Purchase of assets/assumption of liabilities of eight Branch Offices of National City Bank of Pennsylvania, Pittsburgh, located at:		
	301 Broad Street New Bethlehem Clarion County	342 Main Street Wampum Lawrence County	
	1200 Old Town Road Clearfield Clearfield County	102 East State Street Pleasantville Venango County	
	1945 Douglas Parkway Erie Erie County	Front Street Fredericktown Washington County	
	22 North Main Street Union City Erie County	101 East Lincoln Avenue McDonald Washington County	

#### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-21-98	Sentry Trust Company Chambersburg Franklin County	Penn's Village Shopping Center R. R. 2 McConnellsburg Fulton County	Approved
12-23-98	Summit Bank Bethlehem Northampton County	301 W. Lancaster Avenue Wayne Chester County	Approved

#### Branch Relocations/Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-23-98	The Bryn Mawr Trust Company Bryn Mawr	<i>Into:</i> 330 E. Lancaster Avenue Radnor Township Delaware County  <i>From:</i> 3 Radnor Corporate Center Radnor Township Delaware County	Approved

## NOTICES

## SAVINGS ASSOCIATIONS

No activity.

## CREDIT UNIONS

No activity.

RICHARD C. RISHEL,  
*Secretary*

[Pa.B. Doc. No. 99-48. Filed for public inspection January 8, 1999, 9:00 a.m.]

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Applications, Actions and Special Notices

**APPLICATIONS****APPLICATIONS RECEIVED UNDER THE PENNSYLVANIA CLEAN STREAMS  
LAW AND THE FEDERAL CLEAN WATER ACT****[National Pollution Discharge Elimination System Program (NPDES)]****DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER****(Part I Permits)**

The following parties have applied for an NPDES permit to discharge controlled wastewaters into the surface waters of this Commonwealth. Unless otherwise indicated on the basis of preliminary review and application of lawful standards and regulations the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain effluent limitations and special conditions. These proposed determinations are tentative.

Where indicated, the EPA, Region III, Regional Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.6E.

Persons wishing to comment on the proposed permit are invited to submit a statement to the office noted above the application within 30 days from the date of this public notice. Comments received within this 30-day comment period, will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

Following the 30-day comment period, the Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The application and related documents, proposed effluent limitations and special conditions, comments received and other information are on file and may be inspected and arrangements made for copying at the office indicated above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodations to participate in the proceeding, should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Applications for National Pollutant Discharge Elimination System (NPDES) permit to discharge to State waters.**

*Southeast Regional Office: Regional Manager, Water Management, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, (610) 832-6130.*

**PA 0055107.** Sewage, **East Marlborough Township**, 721 Unionville Road, Kennett Square, PA 19348.

This application is for renewal of an NPDES permit to discharge treated sewage from the Baltimore Pike WWTP in East Marlborough Township, **Chester County**. This is an existing discharge to an unnamed tributary to the East Branch of Red Clay Creek.

The receiving stream is classified for the following uses: trout stocking fishery, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 150,000 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	38	50
Suspended Solids	30	45	60
Ammonia (as N)			
(5-1 to 10-31)	2		4
(11-1 to 4-30)	4		8
Total Residual Chlorine			
(years 1 and 2)	1.5		2.0
(years 3, 4 and 5)	0.06		0.14
Fecal Coliform	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
pH	within limits of 6.0—9.0 standard units at all times		

*Other Requirements:*

1. TRC Compliance Schedule
2. Conduct Engineering Evaluation

The EPA waiver is in effect.

*Northeast Region: Environmental Protection Manager, Water Management, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2553.*

**PA 0060470.** Sewerage, **Geisinger Foundation (Marworth)**, Lily Lake Road, Waverly, PA 18471.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into an unnamed tributary to Ackerly Creek in Abington Township, **Lackawanna County**.

The receiving stream is classified for the following uses: cold water fishery, aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing proposed downstream potable water supply (PWS) considered during the evaluation is Danville Water Supply on the North Branch of the Susquehanna River.

The proposed effluent limits for Outfall 001, based on a design flow of .015 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	15	30
Total Suspended Solids	30	60
Phosphorous as P	1	2
Dissolved Oxygen	a minimum of 6 mg/l at all times	
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a geometric mean	
(10-1 to 4-30)	2,000/100 ml as a geometric mean	
pH	6.0 to 9.0 standard units at all times	
Total Residual Chlorine		
(1st month—24th month)	monitor and report	monitor and report
(25th month—expiration)	1.2	2.8

The EPA waiver is in effect.

**PA 0061581.** Industrial waste, SIC: 5149, **CBD Enterprises, Inc.**, 1823 Sutton Road, Shavertown, PA 18708.

This proposed action is for renewal of an NPDES permit to discharge treated process wastewater into an unnamed tributary to Huntsville Creek in Jackson Township, **Luzerne County**.

The receiving stream is classified for the following uses: cold water fishery, aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Pennsylvania Gas and Water Company, Hillside Filter Plant on Huntsville Creek.

The proposed effluent limits for Outfall 001, based on a design flow of .0009 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH	6 to 9 standard units at all times		

The EPA waiver is in effect.

**PA 0061786.** Sewerage, **Shawnee Development, Inc.**, P. O. Box 93, Fort Depuy, 2nd Floor, Shawnee-on-Delaware, PA 18356-0093.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into Brodhead Creek in Southfield Township, **Monroe County**.



The receiving stream is classified for the following uses: trout stocking fishery, aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the proposed downstream potable water supply (PWS) considered during the evaluation is Stroudsburg/East Stroudsburg water supply on the Delaware River.

The proposed effluent limits for Outfall 001, based on a design flow of 0.70 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25.0	50.0
Total Suspended Solids	30.0	60.0
Dissolved Oxygen	a minimum of 5.0 mg/l at all times	
Fecal Coliform	200/100 ml as a geometric mean	
(5-1 to 9-30)	2,000/100 ml as a geometric mean	
(10-1 to 4-30)	6.0 to 9.0 standard units at all times	
pH		
Total Residual Chlorine		
(1st month—24th month)	monitor and report	monitor and report
(25th month—expiration)	1	2

The EPA waiver is not in effect.

*Southwest Regional Office: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.*

**PA 0041289.** Sewage, **Uniontown Area School District**, 23 East Church Street, Uniontown, PA 15401.

This application is for renewal of an NPDES permit to discharge treated sewage from the Franklin Elementary School STP in Franklin Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Virgin Run Lake, which are classified as a high quality trout stocked fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the McKeesport Municipal Water Authority.

*Outfall 001: existing discharge, design flow of .0039 mgd.*

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>				
(5-1 to 10-31)	20			40
(11-1 to 4-30)	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	3.0			6.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine				
(1st month—36th month)	monitor and report			
(37th month—expiration)	.017			.04
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA 0041297.** Sewage, **Uniontown Area School District**, 23 East Church Street, Uniontown, PA 15401.

This application is for renewal of an NPDES permit to discharge treated sewage from the Menallen Elementary School STP in Menallen Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Jennings Run, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the California Water Company.

*Outfall 001: existing discharge, design flow of .0071 mgd.*

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	10			20
Suspended Solids	25			50
Ammonia Nitrogen (5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	4.0			8.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine (1st month—36th month)	monitor and report			
(37th month—expiration)	.10			.24
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA 0093726.** Sewage, **Armstrong School District**, 410 Main Street, Ford City, PA 16226-1698.

This application is for renewal of an NPDES permit to discharge treated sewage from the Kittanning Township Elementary School STP in Kittanning Township, **Armstrong County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Rupp Run, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the PA American Water Company, Kittanning Station.

*Outfall 001:* existing discharge, design flow of .007 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	15			30
Suspended Solids	25			50
Ammonia Nitrogen (5-1 to 10-31)	3.0			6.0
(11-1 to 4-30)	9.0			18.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine (1st month—36th month)	monitor and report			
(37th month—expiration)	1.4			3.3
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA 0093840.** Sewage, **County of Allegheny—Department of Public Works**, Parks Division, 501 County Office Building, 542 Forbes Avenue, Pittsburgh, PA 15219.

This application is for renewal of an NPDES permit to discharge treated sewage from the Round Hill Park Exhibit Farm STP in Elizabeth Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Douglass Run, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the McKeesport Municipal Association.

*Outfall 001:* existing discharge, design flow of .0035 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	6.5			13.0
(11-1 to 4-30)	19.5			39.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	7,000/100 ml as a geometric mean			

	Concentration (mg/l)		Instantaneous
	Average	Average Maximum	
Total Residual Chlorine (1st month—36th month) (37th month—expiration)	monitor and report 1.4		3.3
pH	not less than 6.0 nor greater than 9.0		

The EPA waiver is in effect.

### INDIVIDUAL PERMITS (PAS)

#### NPDES Individual

The following parties have applied for an NPDES permit to discharge stormwater from a proposed construction activity into the surface waters of this Commonwealth. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit and special conditions. The proposed determinations are tentative. Limitations are provided in the permit as erosion and sedimentation control measures and facilities which restrict the rate and quantity of sediment discharged.

Where indicated, the EPA, Region III, Regional Administrator has waived the right to review or object to this proposed permit action under the waiver provision of 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement to the office noted above the application within 30 days from the date of this public notice. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

Following the 30-day comment period, the Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The application and related documents, including the erosion and sedimentation control plan for the construction activity, are on file and may be inspected at the office noted above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

*Southeast Regional Office: Regional Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428-2233, (610) 832-6130.*

**NPDES Permit PAS10-T011-R.** Stormwater. **Heather Glen, Inc.**, P. O. Box 559, Kimberton, PA 19442, has applied to discharge stormwater from a construction activity located in Limerick Township, **Montgomery County**, to Brook Evans Creek/Landis Creek.

*Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.*

*Lehigh County Conservation District, District Manager, Lehigh Ag. Ctr., Ste. 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.*

**NPDES Permit PAS10Q167.** Stormwater. **Lehigh Portland Cement Company**, Jeffry Brozina, 7660 Imperial Way, Allentown, PA 18195, has applied to discharge stormwater from a construction activity located in Upper Macungie Township, **Lehigh County**, to Lehigh River.

*Southcentral Regional Office: Regional Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4707.*

*Lancaster County Conservation District, District Manager, 1383 Arcadia Rd, Room 6, Lancaster, PA 17601, (717) 299-5361.*

**NPDES Permit PAS-10-O-077.** Stormwater. **Clarence R. Wenger**, 1011 Woodland Drive, Quarryville, PA 17566, has applied to discharge stormwater from a construction activity located in Fulton Township, **Lancaster County**, to Puddle Duck Creek.

### SAFE DRINKING WATER

#### Applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

*Southeast Regional Office: Sanitarian Regional Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428-2233, (610) 832-6130.*

**A. 0998510.** Public water supply. **Quakertown Borough**, 15-35 N. Second Street, Quakertown, PA 18951. This proposal involves the conversion of gas chlorinate to sodium hypochlorite chlorination at eight wells of the Quakertown Borough's Water System in Quakertown Borough, **Bucks County**.

*Northwest Regional Office: Regional Manager, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6899.*

**A. 2598503.** Public water supply. **Countryside II Limited Partnership (Countryside MHP)**, 8158 Bargain Road, Erie, PA 16426. This proposal involves the relocation of water intakes, construction of three new slow sand filters and conversion of two existing slow sand filters into clear well storage in McKean Township, **Erie County**.

**A. 3798502.** Public water supply. **Pennsylvania American Water Company**, Ellwood District, Ellwood City, PA 16117. This proposal involves the construction of a new 300,000 gallon elevated water storage tank to replace the existing 150,000 gallon tank. This tank is known as the Wiley Hill Tank and will serve North Sewickley Township, **Beaver County** plus several townships in **Lawrence County**.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

### Preamble 1

**Acknowledgment of Notices of Intent to Remediate submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Sections 302 and 303 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate identifies a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background or Statewide health standard to remediate a site must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department must provide a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

For further information concerning the content of a Notice of Intent to Remediate, contact the Department's Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

*Southeast Regional Office: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, (610) 832-5950.*

**11th Fighter Wing, PA National Guard, Site Number 1, Motorpool Area, Horsham Township, Montgomery County.** Captain Richard Frattarelli, Environmental Coordinator, 111 FW/EM, 1120 Fairchild Street, Willow Grove ARS, PA 19090-5236 has submitted a Notice of Intent to Remediate site groundwater contaminated with BTEX and petroleum hydrocarbons. The applicant proposes to remediate the site to meet the Statewide health standard.

*Northwest Regional Office: Craig Lobins, Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6648.*

**Frenz Petroleum Corporation,** State Route 422 and Copper Rd., New Castle, PA 16103, **Lawrence County,** Slippery Rock Township, has submitted a Notice of Intent to Remediate groundwater and soil. The site has been found to be contaminated with BTEX. The applicant proposes to remediate the site to meet the Statewide

health standard. The Notice of Intent to Remediate was reported to be published in the *New Castle News* on December 16, 1998.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

### Preamble 2

**Acknowledgment of Notices of Intent to Remediate submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Sections 304 and 305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use a site-specific standard or who intend to remediate a site in a Special Industrial Area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific cleanup standard, in whole or in part, and for sites determined to be located in Special Industrial Areas. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area by the person conducting remediation. For the sites identified, a municipality may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period a municipality may request that the person identified, as the remediator of a site, develop and implement a public involvement plan. Requests to be involved, and comments, should be directed to the remediator of a site. For further information concerning the content of a Notice of Intent to Remediate, contact the Department's Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

*Southwest Field Office: John J. Matviya, Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-5217.*

**CKE Rectifier Division,** White Township, **Indiana County.** CKE, Inc., 2866 Route 422 West, Indiana, PA

15701 and Alan D. Halperin, P.G., D'Appolonia Engineering, 275 Center Road, Monroeville, PA 15146 has submitted a Notice of Intent to Remediate soil contaminated with lead and heavy metals. The applicant proposes to remediate the site to meet a site-specific standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Indiana Gazette* on November 14, 1998.

**SOLID AND HAZARDOUS WASTE  
OPERATE WASTE PROCESSING OR DISPOSAL  
AREA OR SITE**

**Applications submitted under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate or close solid waste processing or disposal area or site.**

*Regional Office: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**A. 101509. New Morgan Landfill Co., Inc., Conestoga Landfill** (Mineview Drive Extension, P. O. Box 128, Morgantown, PA 19543). Under the provisions of the Governor's Executive Order, and Money Back Guarantee Program, the applicant, DEP and the host municipalities have negotiated an application review timeline. The end date for a decision on the application to increase average daily volume from 5,210 tons/day to 7,210 tons/day is on or before August 9, 1999. The application was received by the South Central Regional Office on August 17, 1998.

**AIR QUALITY  
PLAN APPROVALS**

**Preliminary Determination to Issue Air Quality Plan Approval No. 38-05019; Public Hearing**

AES Ironwood, Inc. (AES) has submitted an application to the Department of Environmental Protection (Department), Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110 for the construction of an electric generating facility. The proposed facility is to be located in South Lebanon Township approximately 1 mile east of Lebanon along the Conrail tracks between Avon Heights and the Pennsy Supply Prescott Quarry. The proposed facility will produce up to 700 MW of electricity for distribution. The primary fuel will be natural gas; low-sulfur distillate fuel oil may be used as a back-up fuel for up to 45 days annually. The major elements of the facility are:

- (a) Two natural gas/low-sulfur distillate fuel oil combustion turbines rated at 235 MW each
- (b) Two selective catalytic reduction (SCR) systems for nitrogen oxides (NOx) control
- (c) Two combustion turbine electric generators
- (d) Two unfired heat recovery steam generators (HRSG)
- (e) A 240 MW steam turbine electric generator
- (f) A low-sulfur distillate fuel oil storage tank (4.5 million gallon capacity)
- (g) Mechanical draft cooling tower
- (h) A 175-foot dual-flue stack

The following table summarizes the maximum potential emissions for the facility. All emission estimates are based upon maximum estimated emission rates and 100% availability.

<i>Pollutant</i>	<i>Tons/year</i>
Particulate matter (TSP/PM-10)	315
Sulfur dioxide (SO <sub>2</sub> )	287
Nitrogen oxides (NOx)	470
Carbon monoxide (CO)	1,183
Volatile organic compounds (VOC)	222
Ammonia	325
Sulfuric acid (H <sub>2</sub> SO <sub>4</sub> ) mist	66
Arsenic (As)	0.015
Beryllium (Be)	0.001
Mercury	0.0027

Additionally, a number of trace elements may be present at less than detectable levels in the turbine exhaust. These insignificant emissions are due to very minor concentrations of naturally occurring elements in the fuel oil and are largely insignificant. The required modeling analysis used 1 year of onsite data and determined that the emissions of CO, NOx, SO<sub>2</sub>, PM-10, H<sub>2</sub>SO<sub>4</sub> mist, Be and As were below the respective significance levels. Additional analyses determined that the proposed facility would not adversely effect local soils, vegetation, visibility or industrial growth in the area.

The plan approval will contain the following conditions to ensure compliance with the noted regulations:

**General Requirements**

2. This approval to construct shall become invalid if:

- (a) Construction (as defined in 40 CFR 52.21(b)(8)) has not commenced within 18 months of the issue date of this plan approval; or
- (b) Construction is discontinued for a period of 18 months or more; or
- (c) Construction is not completed within a reasonable time.

3. This plan approval authorizes temporary operation of the sources covered by this plan approval provided the following conditions are met:

(a) The Department must receive written notice from AES of completion of construction and AES's intent to commence operation at least 5 working days prior to completion of construction. The notice must state when construction will be completed and when AES expects to commence operation.

(b) Operation is authorized only to facilitate the start-up and shake-down of sources and air cleaning devices, to permit operations pending the issuance of an operating permit or to permit evaluation of the sources for compliance with all applicable regulations and requirements.

(c) This condition authorizes temporary operation of the sources for a period of 180 days from the date of commencement of operation, provided the Department received notice from AES under subpart (a), above.

(d) AES may request an extension if compliance with all applicable regulations and plan approval requirements has not been established. The extension request shall be submitted in writing at least 15 days prior to the end of this period of temporary operation and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance and the reasons compliance has not been established.

(e) The notice submitted by AES under subpart (a) above, prior to the expiration of this plan approval, shall

modify the plan approval expiration date. The new plan approval expiration date shall be 180 days from the date of the written notice.

4. The combustion turbines are subject to 40 CFR Part 60, Subpart GG of the Standards of Performance for New Stationary Sources and shall comply with all applicable provisions of the Subpart. The No. 2 fuel oil storage tank is subject to 40 CFR Part 60, Subpart Kb of the Standards of Performance for New Stationary Sources and shall comply with all applicable provisions of that Subpart. In accordance with 40 CFR 60.4, copies of all requests, reports, applications, submittals and other communications related to 40 CFR Part 60 compliance shall be forwarded to both the Department and the EPA. The EPA copies shall be forwarded to: Director, Air Protection Division (3AP00), U. S. EPA, Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

5. The combustion turbines are subject to the Title IV Acid Rain Program of the Clean Air Act Amendments of 1990 and shall comply with all applicable provisions of that Title, to include the following:

- 40 CFR Part 72 Permits Regulation
- 40 CFR Part 73 Sulfur Dioxide Allowance System
- 40 CFR Part 75 Continuous Emissions Monitoring
- 40 CFR Part 77 Excess Emissions

6. The combustion turbines are subject to the NO<sub>x</sub> Budget Program established in 25 Pa. Code §§ 123.102—123.120 and shall comply with all applicable requirements.

7. The manufacturer's identification and technical specifications for all air pollution control equipment shall be submitted to the Regional Air Quality Manager within 30 days after the execution of the final sales agreements.

**Fuel Oil Limitations**

8. Total consumption of the low-sulfur distillate fuel oil by the turbines shall not exceed 42,892,000 gallons per consecutive 12-month period. This figure represents 45 days of full-power operation.

9. The sulfur content of the low-sulfur distillate fuel oil combusted in the turbines shall not exceed 0.05% by weight.

**Emission Offset Requirements**

10. Under the provisions of 25 Pa. Code § 127, Subchapter E, New Source Review, the permittee shall secure Department-approved nitrogen oxides (NO<sub>x</sub>) Emission Reduction Credits (ERC) in the amount of 541 tons per year and volatile organic compound (VOC) ERC in the amount of 256 tons per year prior to commencement of operation of the turbines. These figures correspond to the annual emission limits contained in Condition No. 11 when multiplied by the applicable 1.15:1 ratio.

11. Annual NO<sub>x</sub> emissions shall not exceed 470 tons per consecutive 12-month period. Annual VOC emissions shall not exceed 222 tons per consecutive 12-month period. These limits include emissions generated during start-up and shutdown periods as well as during normal operation.

**Emission Limitations**

12. Under the Lowest Achievable Emission Rate (LAER) provisions of 25 Pa. Code § 127.205, the following individual emission limits are hereby established for normal operation of each of the facility's combustion turbines:

<i>Pollutant</i>	<i>Maximum allowable emissions @ 85%—100% load</i>	
	<i>Concentration*</i>	<i>lb/mmBtu, HHV</i>
Gas-firing		
NO <sub>x</sub>	4.5 ppm	0.018
VOC	6.0 ppm	0.0062
Oil-firing		
NO <sub>x</sub>	10.0 ppm	0.043
VOC	15.0 ppm	0.015

<i>Pollutant</i>	<i>Maximum allowable emissions @ 70%—85% load</i>	
	<i>Concentration*</i>	<i>lb/mmBtu, HHV</i>
Gas-firing		
NO <sub>x</sub>	8.0 ppm	0.032
VOC	23.0 ppm	0.023
Oil-firing		
NO <sub>x</sub>	13.0 ppm	0.056
VOC	66.0 ppm	0.067

\*concentrations are measured 1-hour average dry volumes corrected to 15% oxygen

13. Under the Best Available Control Technology (BACT) provisions of 25 Pa. Code § 127.83, the following individual emission limits are hereby established for each of the facility's combustion turbines:

<i>Pollutant</i>	<i>Maximum allowable emissions @ 85%—100% load</i>	
	<i>Concentration*</i>	<i>lb/mmBtu, HHV</i>
Gas-firing		
Carbon monoxide	25.0 ppm	0.044
Sulfur dioxide	NA	0.0071
TSP/PM <sub>10</sub>	NA	0.0094
H <sub>2</sub> SO <sub>4</sub> mist	NA	0.0017

<i>Pollutant</i>	<i>Maximum allowable emissions @ 85%—100% load</i>	
	<i>Concentration*</i>	<i>lb/mmBtu, HHV</i>
Oil-firing		
Carbon monoxide	50.0 ppm	0.088
Sulfur dioxide	NA	0.051
TSP/PM <sub>10</sub>	NA	0.031
H <sub>2</sub> SO <sub>4</sub> mist	NA	0.012
Arsenic	NA	4.9E-6
Beryllium	NA	3.3E-7

\*concentrations are measured 1-hour average dry volumes corrected to 15% oxygen

<i>Pollutant</i>	<i>Maximum allowable emissions @ 70%—85% load</i>	
	<i>Concentration*</i>	<i>lb/mmBtu</i>
Gas-firing		
Carbon monoxide	100.0 ppm	0.178
Sulfur dioxide	NA	0.0071
TSP/PM <sub>10</sub>	NA	0.0094
H <sub>2</sub> SO <sub>4</sub> mist	NA	0.0016

Oil-firing		
Carbon monoxide	200.0 ppm	0.355
Sulfur dioxide	NA	0.051
TSP/PM <sub>10</sub>	NA	0.031
H <sub>2</sub> SO <sub>4</sub> mist	NA	0.012
Arsenic	NA	4.9E-6
Beryllium	NA	3.5E-7

\* concentrations are measured 1-hour average dry volumes corrected to 15% oxygen

14. Under the Best Available Technology (BAT) provision of 25 Pa. Code § 127.1, ammonia slip from each

selective catalytic reduction (SCR) system exhaust shall not exceed 10 ppm, measured dry volume, at 15% oxygen, under normal operation.

#### Testing Requirements

15. Within 60 days after achieving the maximum firing rate, but not later than 180 days after start-up, the permittee shall demonstrate compliance with each of the emission limits established in Conditions Nos. 12, 13 and 14, above as per 25 Pa. Code, Chapter 139. The compliance demonstration shall be conducted for both fuels and at both load ranges.

16. At least 120 days prior to the required testing, the permittee shall submit a test protocol to the Regional Air Quality Manager.

17. At least 30 days prior to the required testing, the permittee shall notify the Regional Air Quality Manager of the date and time of the testing.

18. Within 60 days after completion of the required testing, the permittee shall submit two copies of the complete test report, including all operating data, to the Regional Air Quality Manager.

#### Monitoring Requirements

19. The permittee shall install, certify, maintain and operate a Department-approved continuous emission monitoring system (CEMS) in accordance with 25 Pa. Code, Chapter 139, the Department's *Continuous Source Monitoring Manual*, 40 CFR Part 60 and 40 CFR Part 75. At a minimum, the system shall measure and record the following for each turbine:

Exhaust gas flow	Carbon monoxide emissions (CO)
Nitrogen oxides emissions (as NO <sub>2</sub> )	% Oxygen
Sulfur oxides (as SO <sub>2</sub> )	

20. The permittee shall install, maintain and operate a continuous monitoring system to monitor and record fuel oil consumption and the water-to-fuel ratio being fired in each turbine as per 40 CFR 60.334(a).

21. The permittee shall monitor the sulfur content and the nitrogen content of the fuel being fired in the turbines as per 40 CFR 60.334(b).

22. The permittee shall install and operate a continuous monitoring system to monitor and record the amount of natural gas consumed and total operating hours for each combustion turbine.

23. The permittee shall install and operate a continuous monitoring system to monitor and record the following parameters for each SCR system:

- catalyst bed inlet gas temperature
- ammonia solution injection rate
- ammonia solution concentration
- ammonia slip

#### Additional Requirements

24. The Department reserves the right to use the CEMS data, stack test results and the operating parameters determined during the optimization of the turbines and their associated air cleaning devices to verify emission rates, to establish emission factors and to develop compliance assurance measures in the operating permit.

25. The emission limits contained in this Plan Approval apply at all times except during periods of fuel switching, start-up and shutdown defined as follows:

*Cold start-up*—refers to restarts made more than 48 hours after shutdown; cold start-up periods shall not exceed 4.5 hours per occurrence.

*Warm start-up*—refers to restarts made more than 8 hours, but less than or equal to 48 hours after shutdown; warm start-up periods shall not exceed 2.5 hours per occurrence.

*Hot start-up*—refers to restarts made 8 hours or less after shutdown; hot start-up periods shall not exceed 2 hours per occurrence.

*Shutdown*—commences with the termination of fuel injection into the combustion chambers.

*Part-load utilization*—refers to turbine operation at loads less than 85% of full capacity.

NOx and VOC emissions from all start-up, shutdown and fuel switching periods are included in the annual emission caps for those pollutants.

26. The permittee shall maintain detailed records to document each interval defined in Condition 25, above, for the most recent 5-year period. This information shall be made available to Department representatives upon request.

An appointment to review the pertinent documents at the Southcentral Regional Office may be scheduled by contacting Mary DiSanto at (717) 705-4732 between 8 a.m. and 3:30 p.m., Monday through Friday, except for holidays.

A public hearing will be held for the purpose of receiving comments on the proposed action. The hearing will be held on February 18, 1999, at the South Lebanon Township Municipal Building located at 1800 South 5th Avenue in Lebanon from 7 p.m. until 9 p.m.

Those wishing to comment are requested to contact Sandra Roderick at (717) 705-4931 at least 1 week in advance of the hearing to schedule their testimony. Commentators are requested to provide two written copies of their remarks at the time of the hearing. Oral testimony will be limited to a maximum of 10 minutes per individual. Organizations are requested to designate an individual to present testimony on behalf of the organization. Written comments may be submitted to Gary Lenz, Air Pollution Control Engineer, 909 Elmerton Avenue, Harrisburg, PA 17110 on or before February 26, 1999.

Persons with a disability who wish to attend the hearing scheduled for February 18, 1999, at the South Lebanon Township Municipal Building and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact Sandra Roderick directly at (717) 705-4931 or through the AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

### APPLICATIONS RECEIVED UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

#### ENCROACHMENTS

The following Dam Safety and Encroachment permit applications, requests for Environmental Assessment approval and requests for water quality certification have been received by the Department of Environmental Protection (Department). Section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)) requires the State to certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1311—1313,

1316 and 1317, as well as relevant State requirements. Initial requests for 401 certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or Encroachment Permit or the approval of Environmental Assessments must submit comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401 of the Federal Water Pollution Control Act.**

*Northeast Regional Office: Regional Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-5485.*

**E35-298.** Encroachment. **P.E.I. Power Corporation**, One P.E.I. Center, Wilkes-Barre, PA 18711-0601. To construct and maintain an 85 foot long, 12-foot by 10-foot reinforced, concrete arch extension to the existing 588 foot long stream enclosure in Laurel Creek (CWF). The project is to provide access to the proposed P.E.I. Power Park and is located downstream of the intersection of S. R. 6006 and Laurel Run Creek (Olyphant, PA Quadrangle N: 20.9 inches; W: 4.3 inches), Archbald Borough, **Lackawanna County** (Baltimore District, U.S. Army Corps of Engineers).

**E35-305.** Encroachment. **Sandvik Steel Company**, P. O. Box 1220, Scranton, PA 18501-1220. To place fill in a de minimis area of PEM wetlands for the construction of 180 linear feet of 8-foot high, chain link fence. The project is associated with the construction of a security fence and is located at the Sandvik Steel Company immediately east of T446, approximately 0.1 mile south of S. R. 0632 and T446 (Dalton, PA Quadrangle N: 5.0 inches; W: 4.8 inches), Scott Township, **Lackawanna County** (Baltimore District, U. S. Army Corps of Engineers).

**E35-306.** Encroachment. **Pennsylvania Department of Transportation**, District 4-0, P. O. Box 111, Scranton, PA 18501. To remove the existing structure and to construct and maintain a 158-foot long, 9-foot × 6-foot concrete box stream enclosure, having an improved inlet and associated energy dissipater in Leach Creek (CWF). The project is associated with the Keyser Avenue widening and rail bridge replacement project (SR 0307, Section 270) and is located east of the intersection of S. R. 3011 and S. R. 0307 (Scranton, PA Quadrangle N: 12.5 inches; W: 6.6 inches), City of Scranton, **Lackawanna County** (Baltimore District, U. S. Army Corps of Engineers).

**E45-365.** Encroachment. **Presbytery of Lackawanna**, 550 Madison Avenue, Scranton, PA 18510. To place fill in 0.08 acre of PEM wetlands for the purpose of constructing a parking lot associated with the proposed Presbytery of Lackawanna Church to be located on the north side of approximately 0.4 mile southeast of its intersection of Township Road T625 (Hemlock Drive) (Tobyhanna, PA Quadrangle N: 6.5 inches; W: 1.6 inches), Coolbaugh Township, **Monroe County** (Philadelphia District, U. S. Army Corps of Engineers).

**E45-366.** Encroachment. **A. C. Henning Enterprises, Inc.**, P. O. Box K, Stroudsburg, PA 18360. To regrade a portion of the 100-year floodway along the western bank of McMichael Creek (HQ-CWF) for the purpose of improving the recreational use and aesthetic value of the area adjacent to the proposed Hampton Inn and Suites. The project is located at the end of South 8th Street, Northwest of S. R. 0080—Interchange 50 (Stroudsburg, PA Quadrangle N: 19.4 inches; W: 9.7 inches), Stroudsburg Borough, **Monroe County** (Philadelphia District, U. S. Army Corps of Engineers).

**E54-262.** Encroachment. **North End Fire Company**, P. O. Box 118, 118 North Tulpehocken Street, Pine Grove, PA 17963-0118. To construct and maintain a fire station in the floodway of Swatara Creek (CWF). The new building will be located adjacent to the existing fire company structure, and will have overall dimensions of approximately 73 feet by 54 feet. The project is located at 118 North Tulpehocken Street (Pine Grove, PA Quadrangle N: 10.5 inches; W: 2.5 inches), Pine Grove Borough, **Schuylkill County** (Baltimore District, U. S. Army Corps of Engineers).

*Southcentral Regional Office: Section Chief, Water Management Program, Soils and Waterways Section, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110, (717) 705-4707.*

**E28-263.** Encroachment. **Galen Powers**, 2341 Falling Spring Road, Chambersburg, PA 17201. To install and maintain a 5-horse power submersible pump and to construct a 1¼ inch intake pipe at the channel of Falling Spring Branch for the purpose of irrigating a pond located immediately downstream of the spring (Scotland, PA Quadrangle N: 5.15 inches; W: 14.1 inches) in Guildford Township, **Franklin County**.

*Northcentral Region: Water Management, Soils and Waterways Section, F. Alan Sever, Chief, 208 West Third St., Suite 101, Williamsport, PA 17701.*

**E14-334.** Encroachment. **Pennsylvania Department of Transportation**, Engineering District 2-0, P. O. Box 234, Clearfield, PA 16830. To modify, operate and maintain an existing bridge across Slab Cabin Run (Cold Water Fishery); to construct, operate and maintain a bridge across Big Hollow Run (Cold Water Fishery); and to construct, operate and maintain a bridge across Spring Creek (High Quality—Cold Water Fishery) for the construction of a limited access public highway. The modification work shall consist of widening an existing dual three span bridge that carries S. R. 0322, Segment—Offset 0530/0000 across Slab Cabin Run. The construction work shall consist of constructing a northbound and southbound two span bridge for a total span of 312-feet at a skew of 70-degrees that will carry S. R. 0026, Section C02 across Big Hollow Run. Construction work shall also consist of constructing a northbound and southbound four span bridge for a total span of 775-feet at a skew of 90-degrees that will carry S. R. 0026, Section C02 across Spring Creek. The project will not impact wetlands while cumulatively impacting 127-feet of waterway. The project is located along the western right-of-way of S. R. 0026 approximately 1.5 miles west of the intersection of S. R. 0322 and S. R. 0026 (State College, PA Quadrangle N: 13.5 inches; W: 11.0 inches) in College Township and Benner Township, **Centre County**.

**E19-183.** Encroachment. **Clair C. Hock, Jr.**, 220 Montour Boulevard, Bloomsburg, PA 17815. To place and maintain fill in 0.086-acre of Montour Run floodway and 0.099-acre of wetlands associated to Montour Run for the



expansion of an existing commercial facility. The Montour Run basin is designated as a cold water fishery. The fill placement shall not exceed a maximum elevation of 490-feet and have a minimum side slope of 1-foot vertical to 3-feet horizontal. The project will not impact the waterway while impacting 0.099 acre of wetlands that is associated along the eastern right-of-way of SR 0011 approximately 200-feet west of the intersection of T-407 and SR 0011 (Catawissa, PA Quadrangle N: 19.5 inches; W: 15.0 inches) in Montour Township, **Columbia County**. The project also includes the installation of a stormwater outfall and removal of fill from 0.017-acre of wetland within Montour Run floodway. The project impacts 0.099-acre of wetland for which the applicant will make a contribution to the National Fish and Wildlife Foundation, Pennsylvania Wetland Replacement Fund, in lieu of onsite replacement wetlands.

**E53-322.** Encroachment. **Craig D. Clark**, P. O. Box 422, Coudersport, PA 16915-0422. To construct and maintain a culvert, 40 inches in diameter in North Hollow Creek located off North Hollow Road approximately 2.5 miles north of Route 6 (Sweden Valley, PA Quadrangle N: 7 inches; W: 10 inches) in Sweden Township, **Potter County**. Estimated stream disturbance is 30 feet; stream classification CWF.

*Northwest Regional Office: Soils and Waterways Section, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6942.*

**E42-246A.** Encroachment. **Flood Control Authority**, City of Bradford, City Hall, 24 Kennedy Street, Bradford, PA 16701. To amend Permit No. E42-246 which authorizes Bradford District Flood Control Authority to maintain the existing flood control measures along Tunungwant Creek, East and West Branch Tunungwant Creek, Bolivar Run, Kendall Creek and Foster Brooks as shown in the "As-Built" drawings supplied by the U.S. Army Corps of Engineers for the Bradford Flood Protection Project as turned over to the Bradford Flood Control District Authority in 1961 in the City of Bradford, Bradford Township and Foster Township, **McKean County**.

The proposed amendment is to construct and maintain the following outfall structures discharging into the Bradford Flood Control Project as part of a stormwater collection and discharge project located in the City of Bradford, **McKean County**:

1. A 48-inch-diameter pipe stormwater outfall along the right bank of Tunungwant Creek immediately upstream of the Mill Street Bridge.
2. A 60-inch-diameter pipe stormwater outfall along the left bank of Tunungwant Creek immediately upstream of the Mill Street Bridge.
3. Twin 48-inch-diameter pipe stormwater outfall along the left bank of Kendall Creek approximately 200 feet downstream of S. R. 346.

*Southwest Regional Office: Soils and Waterways Section, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E02-1258.** Encroachment. **Pennsylvania Turnpike Commission**, P. O. Box 67676, Harrisburg, PA 17106-7676. To remove existing structures, to construct and maintain a prestressed concrete adjacent box beam bridge having a span of 84.8 feet and an underclearance of 11.9 feet, a seven span steel girder bridge 1,164 feet long with an underclearance of 95 feet and an eight span steel girder bridge, 1,360 feet long with an underclearance of 95 feet across Peters Creek (TSF), to place and maintain

fill in the flood plain for the purpose of constructing a Park-N-Ride lot along the left bank of Peters Creek and to place and maintain fill in 0.46 acre of wetlands (PEM). This work is being done in conjunction with the Mon/Fayette Expressway (S. R. 0043) construction section 52L, consisting of a four lane limited access divided toll highway. This project also includes the relocation of Payne Hill Road and the relocation of Peters Creek Road. The project starts at (Glassport, PA Quadrangle N: 7.25 inches; W: 5.5 inches and ends at Glassport, PA Quadrangle N: 9.25 inches; W: 5.25 inches) in Jefferson Borough, **Allegheny County**. The wetland replacements were approved under Department of Environmental Protection Permit No. E02-1132 for this project.

**E02-1259.** Encroachment. **Mona Thomas**, P. O. Box 471, North Versailles, PA 15137. To construct and maintain a replacement bridge having a span of 22 feet and an underclearance of 6 feet across Crooked Run (WWF) to provide access to a private residence. The project is located on the south side of SR 148 (Crooked Run Road) approximately 3,000 feet north of its intersection with Lincoln Way (McKeesport, PA Quadrangle N: 20.5 inches; W: 10.4 inches) in North Versailles Township, **Allegheny County**.

**E65-717.** Encroachment. **City of Lower Burrell**, 2800 Bethel Street, Lower Burrell, PA 15068-1401. To relocate, stabilize and maintain approximately 175.0 feet of an unnamed tributary to Little Pucketa Creek locally known as Bethel Run (TSF) for the purpose of preventing further erosion of steep slope to a residential area. The project is located off of Hastings Avenue (New Kensington, PA Quadrangle N: 15.0 inches; W: 14.7 inches) in the City of Lower Burrell, **Westmoreland County**.

## ACTIONS

### FINAL ACTIONS TAKEN UNDER THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

#### [National Pollution Discharge Elimination System Program (NPDES)]

#### DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

#### (Part I Permits)

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications and requests for plan approval and has issued the following significant orders.

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514), and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Market Street State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does

not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

**Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).**

*Southeast Regional Office: Regional Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, (610) 832-6130.*

**WQM Permit No. 4698438.** Sewerage. **Upper Frederick Township**, P. O. Box 597, Frederick, PA 19435 and **JRP Development Corporation, LTD**, 210 Bassett Court, Limerick, PA 19468. This project is for the construction and operation of a sewage treatment plant to serve the Ivy Ridge Subdivision located in Upper Frederick Township, **Montgomery County**.

**WQM Permit No. 0998422.** Sewerage. **Bucks County Water & Sewer Authority**, 1275 Almshouse Road, Warrington, PA 18976. This project is for the construction and operation of a 0.31 million gallon flow equalization tank at the Harvey Avenue WWTP located in Doylestown Borough, **Bucks County**.

**WQM Permit No. 5198401.** Sewerage. **Philadelphia Water Department**, 1101 Market Street, Philadelphia, PA 19107-2994. This project is for the construction and operation of sewer collection systems, pump station and forcemain to serve a residential subdivision known as Spring Lane Meadows located in the **City of Philadelphia**.

**WQM Permit No. 0998419.** Sewerage. **Haycock Camping Ministries**, 3100 School Road, Kintnersville, PA 18930. This project is for the construction and operation of a sewage treatment facility with spray field to serve Haycock Camping Ministries located in Springfield Township, **Bucks County**.

**NPDES Permit No. PA0026701, Amendment.** Sewerage. **The Municipal Authority of the Borough of Morrisville**, 35 Union Street, Morrisville, PA 19067. This amendment is to reflect the revised wasteload allocation for the 20-day carbonaceous biochemical oxygen demand established by the DRBC located in Morrisville Borough, **Bucks County**.

**WQM Permit No. 0998423.** Sewerage. **Warrington Township**, 852 Easton Road, Warrington, PA 18976. This project is for the construction and operation of a sewage pump station and force main to serve Maple Knoll Development located in Warrington Township, **Bucks County**.

**WQM Permit No. 4698437.** Sewerage. **New Life Youth and Family Services**, P. O. Box 203, 508 Freeman School Road, Harleysville, PA 19438. This project is for the construction and operation to replace the existing chlorine disinfection system with ultraflection disinfection system for the sewage treatment plant located in Lower Salford Township, **Montgomery County**.

**WQM Permit No. 1598416.** Sewerage. **City of Coatesville Authority**, 114 East Lincoln Highway, Coatesville, PA 19320. This project is for the construction and operation of West Sadsbury pumping station and forcemain to serve Quebecor Printing Company located in West Sadsbury Township, **Chester County**.

**WQM Permit No. 2398408.** Sewerage. **Concord Township Sewer Authority**, P. O. Box 171, Concordville, PA 19342. This project is for the construction and operation of a sewage pump station to serve Twin Creeks at the Mendenhall subdivision located in Concord Township, **Delaware County**.

**NPDES Permit No. PA0051080.** Industrial waste. **Microsemi RF Products of PA, Inc.**, 140 Commerce Drive, Montgomeryville, PA 18936 is authorized to discharge from a facility located at Silicon-based Semiconductors Production located in Montgomery Township, **Montgomery County** to an unnamed tributary to Park Creek.

**NPDES Permit No. PA0054526.** Industrial waste. **Interstate Nuclear Services Corporation**, 295 Parker Street, P. O. Box 201, Springfield, MA 01151-0201 is authorized to discharge from a facility located at North Third Street located in Royersford Borough, **Montgomery County** to receiving waters named Schuylkill River.

*Northeast Regional Office: 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Permit No. 4098403.** Sewerage. **Eagle Rock Resort Company**, 1031 Valley of Lakes, Hazleton, PA 18201-9717. Permit to construct a low pressure sewer system to serve Eagle Rock Resort, located in Hazle Township, **Luzerne County**.

*Southcentral Regional Office: Regional Water Management Program Manager; 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

**NPDES Permit No. PA0087858.** Sewerage. **Donsco Incorporated**, P. O. Box 2001, North Front Street, Wrightsville, PA 17368-0040 is authorized to discharge from a facility located in Wrightsville Borough, **York County** to the receiving waters named the Susquehanna River.

**NPDES Permit No. PA0041491.** Sewerage. **Berks Properties, Inc.**, 2620 Egypt Road, Norristown, PA 19403 is authorized to discharge from a facility located in Longswamp Township, **Berks County** to the receiving waters of an unnamed tributary of Perkiomen Creek.

**NPDES Permit No. PA0082571.** Sewerage. **West Penn District Grace Brethren Men, Inc.**, Camp Mantowagan, Box 95, Saxton, PA 16678 is authorized to discharge from a facility located in Todd Township, **Huntingdon County** to the receiving waters of an unnamed tributary of Tatman Run.

**NPDES Permit No. PAG043602.** Sewerage. **Single Family Residence. Betty N. Freidbaum**, 154 Pinetown Road, Leola, PA 17540 is authorized to discharge from a facility located in Manheim Township, **Lancaster County** to the receiving waters named Conestoga River.

**NPDES Permit No. PAG043597.** Sewerage. **Single Family Residence. Jesse and Linda Rothenhoefer**, 6850 Carlisle Pike, York Springs, PA 17372-9104 is authorized to discharge from a facility located in Reading Township, **Adams County** to the receiving waters of an unnamed tributary to Mud Run.

**NPDES Permit No. PAG043604.** Sewerage. **Single Family Residence. Daniel McGuire**, 52 Hunter Forge Road, Barto, PA 19504 is authorized to discharge from a facility located in Hereford Township, **Berks County** to the receiving waters of the Northwestern Branch Perkiomen Creek.

**NPDES Permit No. PA0023264.** Sewerage. **Twin Boroughs Sanitary Authority**, P. O. Box 118, Mifflin, PA 17058 is authorized to discharge from a facility located in Milford Township, **Juniata County** to the receiving waters named the Juniata River.

**NPDES Permit No. PA0082791.** Industrial waste. **Chester County Solid Waste Authority**, 7224 Division Highway, Narvon, PA 17555 is authorized to discharge

from a facility located in Caernarvon Township, **Lancaster County** to the receiving waters named Conestoga River.

**NPDES Permit No. PA0040860, Amendment No. 3.** Industrial waste. **Delaware County Solid Waste Authority**, 583 Longview Road, Boyertown, PA 19512 is authorized to discharge from a facility located in Earl and Oley Townships, **Berks County** to the receiving waters named Manatawny Creek.

**NPDES Permit No. PA0087939.** Industrial waste. **Berks Fuel Storage, Inc.**, 1248 Wayne Avenue, Reading, PA 19601 is authorized to discharge from a facility located in Mehlenberg Township, **Berks County**, to the receiving waters of the tank dyke area.

**Permit No. 3497402.** Sewerage. **Twin Boroughs Sanitary Authority**, P. O. Box 118, Mifflin, PA 17058. Construction of sewage treatment facilities and pump station in Mifflin Borough, **Juniata County**.

**Permit No. 3698411.** Sewerage. **Earl Township Sewer Authority**, 517 North Railroad Avenue, New Holland, PA 17557. Construction of pump stations in Earl Township, **Lancaster County**.

**Permit No. 4487402 (98-1).** Sewerage. **Burnham Borough Authority**, 200 First Avenue, Burnham, PA 17009. Rerating of sewage treatment facilities in Burnham Borough, **Mifflin County**.

**INDIVIDUAL PERMITS**

**(PAS)**

The following NPDES Individual Permits for discharges of stormwater from construction activities have been issued.

*Southeast Regional Office: Regional Water Management Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428-2233, (610) 832-6130.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County Municipality</i>	<i>Receiving Stream</i>
PAS10-G323	Krapf Homes, Inc. 451 Marshall Road Glenmoore, PA 19343	Wallace Township Chester County	North Branch Run

**INDIVIDUAL PERMITS**

**(PAR)**

The following parties have submitted Notices of Intent (NOIs) for Coverage under (1) General NPDES Permit(s) to discharge wastewater into the surface waters of this Commonwealth. The approval for coverage under these general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in the general permit; (2) General Permit(s) for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania. The approval of coverage for land application of sewage sludge or residential septage under these general permits is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective general permit. The Department of Environmental Protection approves the following coverages under the specified General Permit.

The EPA Region III Regional Administrator has waived the right to review or object to this permit action under the waiver provision: 40 CFR 123.24.

The application and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted.

*List of NPDES and/or other General Permit Type*

PAG-1	General Permit For Discharges From Stripper Oil Well Facilities
PAG-2	General Permit For Discharges of Stormwater From Construction Activities
PAG-3	General Permit For Discharges of Stormwater From Industrial Activities
PAG-4	General Permit For Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit For Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit For Wet Weather Overflow Discharges From Combined Sewer Systems
PAG-7	General Permit for Beneficial use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit For Beneficial Use of Non-Exceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-9	General Permit For Beneficial Use of Residential Septage By Land Application to Agricultural Land, Forest or a Land Reclamation Site

*General Permit Type—PAG-2*

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Lackawanna Co. Jessup Bor.	PAR10N074	Lisa Christmas Transport International Pool, Inc. 426 W. Lancaster Ave. P. O. Box 1050 Devon, PA 19333-0950	Sterry Cr.	(570) 281-9495 Lackawanna CD
Northampton Co. City of Bethlehem	PAR10U105	B.O.C. Gases 575 Mountain Ave. Murray Hill, NJ 07924	Lehigh River	Northampton CD 610-746-1971
Northampton Co. Northampton Bor.	PAR10U103	Northampton Area School Dist. 1617 Laubach St. Northampton, PA 18078	Lehigh River	Northampton CD 610-746-1971
Springfield Township Delaware County	PAR10-J136	Springfield Township 50 Powell Road Springfield, PA 19064	Crum Creek	555 North Lane, Suite 6010, Lee Park Conshohocken, PA 19428 610-832-6131
Jefferson County Washington Township	PAR103329	PA DEP/BAMR 122 South Center St. Ebensburg, PA 15931	Unnamed Tributary to Sandy Lake Creek	Jefferson Cons. District 180 Main Street Brookville, PA 15825 814-849-7463
East Providence Township Bedford County	PAR-10-0436	Breezewood Enterprises, Inc. James F. Bittner P. O. Box 287 Breezewood, PA 15533	Unt. Mill Run	Bedford County CD 702 W. Pitt Street Suite 4 Bedford, PA 15009 814-623-6706
Greenfield Township Blair County	PAR-10-0678	J. H. Russell, Inc. R. D. 2, Box 252 Martinsburg, PA 16662	UNT Frankstown Branch Juniata River	Blair County CD 1407 Blair Street Hollidaysburg, PA 16648 814-696-0877
Allegheny Township Blair County	PAR-10-0679	RKD Partners 719 Logan Blvd. Altoona, PA 16602	Beeverdam Branch Juniata River	Blair County CD 1407 Blair Street Hollidaysburg, PA 16648 814-696-0877
Lower Allen Township Cumberland County	PAR-10-H187	West Shore School District Highland Elementary School P. O. Box 187 New Cumberland, PA 17070-0803	Yellow Breeches Creek	Cumberland County CD 43 Brookwood Avenue Suite 4 Carlisle, PA 17013 717-240-7812
East Pennsboro Township Cumberland County	PAR-10-H-189	East Pennsboro School District West Creek Hills Elem. School 890 Valley Street Enola, PA 17025	Conodoguinet Creek	Cumberland County CD 43 Brookwood Avenue Suite 4 Carlisle, PA 17013 717-240-7812
East Donegal Township Lancaster, PA 17601	PAR-10-O-350	George C. Desmond 1085 Manheim Pike Lancaster, PA 17601	UNT Susquehanna River	Lancaster County CD 1383 Arcadia Rd. Room 6 Lancaster, PA 17601 717-299-5361
East Hempfield Township Lancaster County	PAR-10-O-353	Sylvan Crossing Associates, Inc. P. O. Box 551 East Petersburg, PA 17520	Swarr Run	Lancaster County CD 1383 Arcadia Rd. Room 6 Lancaster, PA 17601 717-299-5361

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
West Manheim Township York County	PAR-10-Y365	Leeann Acres Phase III Kennethe L. Harget 50 Kenlee Circle Hanover, PA 17331	UNT to Furnace Creek	York County CD 118 Pleasant Acres Rd. York, PA 17402 717-840-7430
Penn Township York County	PAR-10-Y327	Hannon Homes John Burkentine P. O. Box 78 Lineboro, MD 21088	Furnace Creek	York County CD 118 Pleasant Acres Rd. York, PA 17402 717-840-7430
Hanover Borough York County	PAR-10-Y361	North Ridge Associates 16 Plex Theater 181 Carlisle Street Gettysburg, PA 17325	Slagle Run	York County CD 118 Pleasant Acres Rd. York, PA 17402 717-840-7430
West Manchester Township York County	PAR-10-Y366	A-1 Tire Mini Warehousing George Ream 116 Clarkson Drive York, PA 17403	UNT to Codorus Creek	York County CD 118 Pleasant Acres Rd. York, PA 17402 717-840-7430
West Manchester Township York County	PAR-10-Y328	Golden Tract West Robert A. Kinsley 2700 Water Street York, PA 17403	Little Conewago Creek	York County CD 118 Pleasant Acres Rd. York, PA 17402 717-840-7430
Hellam Township York County	PAR-10-Y358	Watershed Estates John E. Adams, Jr. 4078 Ore Bank Road York, PA 17406	Kreutz Creek	York County CD 118 Pleasant Acres Rd. York, PA 17402 717-840-7430

### SEWAGE FACILITIES ACT PLAN APPROVAL

#### Plan Approval granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20)

*Northeast Regional Office: Water Management Program  
Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790,  
(717) 826-2553.*

*Location:* 3952 Lower Saucon Road, Tax Parcel P 8-6-4A-1. Lower Saucon Township, Northampton County.

This project proposes the replacement of a malfunctioning onlot sewage disposal system serving a single-family dwelling on a 5.8 acre lot. A small flow treatment facility with a stream discharge is proposed for the 400 gpd project.

Soil probes evaluated on the lot by the township sewage enforcement officer and the Department indicated unsuitable soils for the installation of an onlot sewage disposal system. The small flow treatment facilities proposed for this repair include two septic tanks, two free access intermittent sand filters and chlorination prior to discharge to an unnamed tributary to the east branch of the Saucon Creek. The Saucon Creek has a cold water fishes designation in 25 Pa. Code, Chapter 93 Water Quality Standards.

The property owner and Lower Saucon Township have entered into an operation and maintenance agreement as required in 25 Pa. Code § 71.72(a).

An individual well will supply water to the lot.

In the event that municipal public sewage facilities become available to this property in the future, the small flow treatment facility proposed must be abandoned and connection made to the municipal system.

### SAFE DRINKING WATER

#### Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

*Southeast Regional Office: Sanitarian Regional Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428-2233, (610) 832-6130.*

**Permit No. 4698502.** Public water supply. **JRP Development, Ltd.**, 210 Bassett Court, Limerick, PA 19468. A permit has been issued to JRP Development granting permission to construct a water supply system to serve the Ivy Ridge Subdivision. The project includes installation of two well pumps and construction of a well house for the disinfection system and hydropneumatic storage tank in Upper Frederick Township, **Montgomery County**.

*Type of Facility:* Public Water Supply System

*Consulting Engineer:* Acer Engineers and Consultant, Inc., 649 North Lewis Road, Suite 100, Limerick, PA 19468

*Permit to Construct Issued:* December 18, 1998

*Southcentral Regional Office: Sanitarian Regional Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4708.*

**Permit No. 0798501.** Public water supply. **Altoona City Authority**, Logan Township, **Blair County**. *Responsible Official:* Lou Bonasso, Executive Director, Altoona City Authority, 20 Greenwood Road, Altoona, PA 16602. *Type of Facility:* Renovation of the existing Horse-shoe Curve potable water filter plant. Renovations will include addition of ozonation and modification of rapid mix, flocculation, sedimentation, filtration, disinfection and sludge handling facilities.

## **HAZARDOUS SITES CLEANUP**

**Under the Act of October 18, 1988**

**Prompt Interim Response  
Under the Hazardous Sites Cleanup Act  
Allentown Paint Site**

**City of Allentown, Lehigh County**

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1304) (HSCA), has initiated a prompt interim response at the Allentown Paint Site (Site). This response has been undertaken under section 505(b) of HSCA (35 P. S. § 6020.505(b)). The Allentown Paint Site is located on the corner of Graham and East Allen Streets in the City of Allentown, Lehigh County, PA.

The Allentown Paint Site consists of a large two story warehouse, several storage buildings and a boiler house located on 3.8 acres of land. The facility has been used from the 1930's until 1993 as a paint manufacturing plant. Approximately 1,000 drums of paint related waste materials are stored in the warehouse and associated buildings. Also, numerous smaller containers of paint products, along with containerized laboratory chemicals, are located throughout the Site.

The Department has identified the following hazardous substances at the Site: Ignitable paint-related liquids, solids and sludges; spent non-halogenated solvents such as xylene, toluene, and methyl ethyl ketone; and heavy metals such as lead and chromium found in pigments.

Given the specific circumstances at the Site, the Department determined that a prompt interim response which consists of the removal of hazardous wastes and hazardous substances to approved off-site treatment/storage/disposal facilities is the only viable response to implement at the Site. The Department did not consider any other response alternatives other than the one selected. The objective of the Department's prompt interim response is to eliminate the immediate threat to human health and safety and the environment posed by the hazardous waste and hazardous substances present on the Site.

On November 3, 1998, the Department mobilized an Interim Response Service Contractor to the Site to conduct preliminary activities necessary to identify and characterize Site wastes. Activities related to the prompt interim response are expected to commence prior to the publication of this notice.

This notice is being provided under sections 505(b) and 506(b) of HSCA (35 P. S. §§ 6020.505(b) and 6020.506(b)). The administrative record which contains the information that forms the basis and documents the selection of this response action is available for public review and comment. The administrative record is located at the Department's Bethlehem District Office located at 4530 Bath Pike (Route 512) in Hanover Township, Northampton County and is available for review Monday through Friday from 8 a.m. to 4 p.m.

The administrative record will be open for comment from January 9, 1999 until April 9, 1999. Persons may submit written comments into the record, during this time only, by sending them to Joseph Iannuzzo, Project Officer, at the Department's Bethlehem District Office at 4530 Bath Pike, Bethlehem, PA 18017-9074 or by delivering them to that office in person.

Persons may also present oral comments, for inclusion in the administrative record, at a public hearing. The Department has scheduled the public hearing for February 24, 1999, at 1 p.m. at the Department's Bethlehem District Office. Persons wishing to present comments must register with Joseph Iannuzzo before February 17, 1999, by telephone at (610) 861-2070 or in writing to the Bethlehem District Office.

If no person registers to present oral comments, by February 17, 1999, the hearing will not be held. Persons interested in finding out if anyone has registered, and if the hearing will be held, should contact Joseph Iannuzzo.

Persons with a disability who wish to attend the hearing and require auxiliary aid, service or other accommodations to participate in the proceedings, should contact Joseph Iannuzzo or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

## **LAND RECYCLING AND ENVIRONMENTAL REMEDIATION**

**Under Act 2, 1995**

**Preamble 3**

**The following final reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of any final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program in the Department's Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact Steve Curcio at (814) 332-6816. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final report.

*Northwest Regional Office: Craig Lobins, Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6648.*

**Frenz Petroleum Corporation**, State Route 422 and Copper Rd., New Castle, PA 16103, **Lawrence County**, Slippery Rock Township, has submitted a Final Report to remediate soil and groundwater. The site has been found

to be contaminated with BTEX. The report is intended to document remediation of the site to meet the Statewide health standard. A summary of the Final Report was reported to have been published in the *New Castle News* newspaper on December 16, 1998.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 4

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908) and Chapter 250 Administration of Land Recycling Program**

Provisions of 25 Pa. Code § 250.8 Administration of Land Recycling Program requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the Act 2 (Land Recycling and Environmental Remediations Standards Act) remediation standards. Plans and reports required by provisions of Act 2 for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of reuse of the property, and in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. A cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed, and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program in the Department's Regional Office under which the notice of the plan or report appears. If information concerning a

final report is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has acted upon the following plans and reports:

*Southeast Regional Office: Environmental Cleanup Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, (610) 832-5950.*

**Childers Products Company**, Bristol Township, **Bucks County**. Randy L. Shuler, Environmental Resources Management, 250 Phillips Blvd., Suite 280, Ewing, NJ, has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with solvents and BTEX. The Final Report demonstrated attainment of site-specific standards and was approved by the Department on December 10, 1998.

**PECO Energy—Tilghman Street MGP**, City of Chester, **Delaware County**. Michael F. Heisler, PECO Energy Company, P. O. Box 8699, Philadelphia, PA 19101-8699, has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with heavy metals, BTEX, petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The Final Report demonstrated attainment of site-specific standards and was approved by the Department on December 17, 1998.

## SOLID AND HAZARDOUS WASTE RESIDUAL WASTE PROCESSING FACILITIES

**General Permit was issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and the residual waste regulations for a general permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.**

*Central Office: Division of Municipal and Residual Waste, 14th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101-2301.*

**General Permit No. WMGR029. Safety-Kleen Systems, Inc.**, 21 County Club Road, Grove City, PA 16127. General Permit No. WMGR029 for the operation of transfer facilities for the processing of waste oil (including waste oil mixed with hazardous waste regulated under 25 Pa. Code § 261.5), spent antifreeze and waste oil/water mixtures prior to beneficial use was issued by Central Office on December 23, 1998.

The following Safety-Kleen facilities are covered under General Permit Number WMGR029:

<i>Address</i>	<i>Municipality</i>	<i>County</i>	<i>Permit No.</i>
5540 Memorial Road, Allentown, PA 18104	City of Allentown	Lehigh	WMGR029A
P. O. Box 229, Industrial Road, Athens, PA 18810	Athens Township	Bradford	WMGR029B
1606 Pittsburgh Avenue, Erie, PA 16505	Millcreek Township	Erie	WMGR029C
77 Canal Road, Fairless Hills, PA 19030	Falls Township	Bucks	WMGR029D
10 Elanor Drive, New Kingstown, PA 17072	Silver Spring Township	Cumberland	WMGR029E
1140-42 Greenhill Road, West Chester, PA 19380	West Goshen Township	Chester	WMGR029F
650 Noble Drive, West Mifflin, PA 15122	West Mifflin Borough	Allegheny	WMGR029G
600 Stewart Road, Wilkes-Barre, PA 18706	Hanover Township	Luzerne	WMGR029H

**OPERATE WASTE PROCESSING OR DISPOSAL  
AREA OR SITE**

**Solid waste permits issued under the Solid Waste Management Act and regulations to operate solid waste processing or disposal area or site.**

*Southcentral Regional Office: Regional Solid Waste Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706.*

**Permit No. 101100. Mountain View Reclamation, Community Refuse, Ltd., Inc.** (7160 Letzburg Road, Greencastle, PA 17225). Application for modification to change the postclosure monitoring program for pads 9 and 10 in Antrim and Montgomery Township, **Franklin County**. Permit issued in the Regional Office December 16, 1998.

*Southwest Regional Office: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.*

**Permit ID No. 301287. ALLVAC, An Allegheny Teledyne Company, Latrobe Facility, c/o Allegheny Ludlum Corporation**, 100 River Road, Brackenridge, PA 15014. Operation of a residual waste disposal facility in Derry Township, **Westmoreland County**. Permit modification issued in the Regional Office on December 22, 1998 in accordance with 25 Pa. Code § 287.115.

**ACTIONS TAKEN UNDER SECTION  
401: FEDERAL WATER POLLUTION  
CONTROL ACT**

**ENCROACHMENTS**

The Department of Environmental Protection (Department) has taken the following actions on previously received Dam Safety and Encroachment permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) to the Environmental Hearing Board, 400 Market Street, Floor 2, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of the written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

**Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and sections 5 and 402 of The Clean Streams Law (35 P. S. §§ 691.5 and 691.402) and notice of final action for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).** (Note: Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.)

*Northeast Regional Office: Regional Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-5485.*

**E35-302. Encroachment. Dr. LeRoy and Ann Pelicci**, R. R. 3, Box 394U, Lake Ariel, PA 18436. To place fill in approximately 0.07 acre of wetlands and to construct and maintain 96.0 linear feet of twin 8-foot diameter C.M.P. culverts in a tributary to South Branch Tunkhannock Creek and adjacent wetlands for the purpose of constructing a private access road to a single family residence. The project is located north of the terminus of Lynnwood Drive, approximately 0.4 mile west of the intersection of S. R. 0632 and S. R. 0407 (Dalton, PA Quadrangle N: 5.4 inches; W: 11.9 inches) in Abington Township, **Lackawanna County**. The permittee is required to provide 0.07 acre of replacement wetlands.

**E40-496. Encroachment. Pennsylvania Department of Transportation**, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501. To remove the existing structure and to construct and maintain a single-span prestressed concrete box beam bridge, having a clear span of 30.0 feet and an underclearance of approximately 9.0 feet, across Sutton Creek. The project includes the placement of fill in a de minimis area of wetlands equal to 0.01 acre, associated with the widening of the southern roadway approach. The bridge is located on S. R. 0092, Section 370, Segment 0130, Offset 2655, approximately 2.3 miles south of the Wyoming County/Luzerne County boundary (Ransom PA Quadrangle N: 3.0 inches; W: 11.25 inches), in Exeter Township, **Luzerne County**.

*Northwest Regional Office: Soils and Waterways Section, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6942.*

**E20-462. Encroachment. Bryan M. Gromacki**, 3229 Harvard Road, Erie, PA 16508. To remove an existing dock and to construct and maintain a sand beach measuring 40 feet wide extending a maximum of 40 feet from normal pool elevation and occupying approximately 1,400 square feet of the bed of Canadohta Lake with a sand depth of approximately 6 inches at 23914 Westside Drive on the west side of Canadohta Lake (Lake Canadohta, PA Quadrangle N: 11.2 inches; W: 12.4 inches) located in Bloomfield Township, **Crawford County**.

**E25-573. Encroachment. PA Department of Transportation**, District 1-0, 1140 Liberty Street, Franklin, PA 16323. To remove the existing bridge and to construct and maintain a precast reinforced concrete channel beam bridge having a clear, normal span of 33.5 feet and an underclearance of 5.8 feet across West Branch Cussewago Creek on S. R. 3012, Segment 0040, Offset 0000 approximately 1,100 feet southeast of S. R. 3010 near the village of Pageville (Conneautville, PA Quadrangle N: 19.5 inches; W: 2.4 inches) located in Elk Creek Township, **Erie County**.

*Southwest Regional Office: Soils and Waterways Section, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E63-462. Encroachment. Washington Woods Development Company**, 13 West Mall Plaza, Carnegie, PA 15106. To place and maintain fill in 0.39 acre of wetlands (PEM) for the purpose of developing 42 residential lots as part of the Washington Lake Plan No. 1. The project is located on the southeast side of Quarry Road between SR 136 and Floral Hill Road (Washington East PA Quadrangle N: 10.2 inches; W: 10.3 inches) in South Strabane Township, **Washington County**. The permit applicant has met the wetland replacement requirement by pay-



ment to the Wetland Replacement Fund. This permit includes the environmental review for a nonjurisdictional dam.

**E02-1232.** Encroachment. **Pleasant Hills Construction Company**, 60 Terence Drive, Pittsburgh, PA 15236. To construct and maintain an 8 foot diameter culvert in an unnamed tributary to Lick Run, to widen and maintain the channel of said stream and to maintain fill in the floodway of a different unnamed tributary to Lick Run and in 0.16 acre of wetlands. This project is to develop a parcel for an office building. The project is located just northwest from the intersection of Brushglen Drive, and Woodrift Lane (Glassport, PA Quadrangle N: 13.8 inches; W: 13.6 inches) in Pleasant Hills Borough, **Allegheny County**. This permit applicant has met the wetland replacement requirement by participating in the Pennsylvania Wetland Replacement Project.

**E04-259.** Encroachment. **Brenda L. Tarbell**, 350 Route 30, Lot 2A, Clinton, PA 15026. To construct and maintain a bridge having a span of 42.0 feet with an underclearance of 5.0 feet across the channel of Service Creek (WWF) to provide access to applicant's property. The bridge is located approximately 3,000 feet west from the intersection of Service Creek Road and Parrish Road (Aliquippa, PA Quadrangle N: 14.8 inches; W: 10.5 inches) in Independence Township, **Beaver County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E32-394.** Encroachment. **Fairman Drilling Company**, P. O. Box 288, DuBois, PA 15801-0288. To construct and maintain a single span bridge having a normal span of 34.0 feet and an underclearance of 5.9 feet across Bear Run for the purpose of providing access to gas wells. The project is located in State Game Lands No. 174 (McGee Mills, PA Quadrangle N: 2.9 inches; W: 11.1 inches) in Banks Township, **Indiana County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification

## WATER ALLOCATIONS

**Actions taken on applications filed under the act of June 24, 1939 (P. L. 842, No. 365) (32 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth.**

*Southcentral Regional Office: Water Supply Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4708.*

**Permit No. WA 36-574C.** Water allocation. Succession to Water Rights. The Department has acknowledged that **East Petersburg Borough, Lancaster County**, has given notice that it will succeed to all rights and obligations under the Water Allocation Permit, issued to the former East Petersburg Borough Authority, Lancaster County on May 24, 1998.

**Permit No. WA 36-574E.** Water allocation. Succession to Water Rights. The Department has acknowledged that **East Petersburg Borough, Lancaster County**, has given notice that it will succeed to all rights and obli-

gations under the Water Allocation Permit, issued to the former East Petersburg Borough Authority, Lancaster County on August 12, 1998.

[Pa.B. Doc. No. 99-49. Filed for public inspection January 8, 1999, 9:00 a.m.]

## Availability of Technical Guidance

Technical Guidance Documents are on DEP's World Wide Web site (<http://www.dep.state.pa.us>) at the Public Participation Center. The "July 1998 Inventory" heading is the Governor's List of Non-regulatory Documents. The "Search the Inventory of Technical Guidance Documents" heading is a database of the Inventory. The "Final Documents" heading is the link to a menu of the various DEP bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to DEP's draft technical guidance documents.

DEP will continue to revise its documents, as necessary, throughout 1998.

### *Ordering Paper Copies of DEP Technical Guidance*

Persons can order a bound paper copy of the latest Inventory or an unbound paper copy of any of the final documents listed on the Inventory by calling DEP at (717) 783-8727.

In addition, bound copies of some of DEP's documents are available as DEP publications. Please check with the appropriate bureau for more information about the availability of a particular document as a publication.

### *Changes to Technical Guidance Documents*

Here is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number is listed with each document. Persons who have questions or comments in general should call Joe Sieber at (717) 783-8727.

### *Final Guidance*

DEP ID: 563-0300-101 Title: Engineering Manual for Mining Operators Description: This manual provides updated technical information on the engineering aspects of surface mining. Major subject areas include erosion and sedimentation controls, impoundments, water treatment and general permitting procedures. Effective Date: January 1, 1999 Contact: Evan Shuster at (717) 787-5103.

### *Final guidance—Minor Revision*

DEP ID: 383-0810-107 Title: Summary of Key Requirements for Lead and Copper Rule Description: The purpose of this document is to establish a rational and reasonable basis for staff decisions which will promote quality, timely and consistent service to the public and regulated community. Minor revisions to document include change of address and phone number of DEP regional office. Effective Date: Original effective date was March 27, 1997 Contact: Trudy Troutman at (717) 783-3795.

JAMES. M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 99-50. Filed for public inspection January 8, 1999, 9:00 a.m.]

## Nitrogen Oxides (NOx) Allowance Program

### Issuance of Title V / State Only Operating Permits to include Conditions relating to NOx Allowance Requirements in 25 Pa. Code §§ 123.101—123.120

The Department of Environmental Protection (Department) has issued new or revised existing Title V/State Only Operating Permits to include provisions of 25 Pa. Code §§ 123.101—123.120 (relating to NOx allowance requirements). These regulations establish a NOx budget and a NOx allowance trading program for NOx affected sources for the purpose of achieving the health-based ozone ambient air quality standard. A NOx affected source is defined as a fossil fuel fired indirect heat exchange combustion unit with a maximum rated heat input capacity of 250 MMBtu/hour or more and all fossil fuel fired electric generating facilities rated at 15 megawatts or greater or any other source that voluntarily opts to become a NOx affected source.

The new or revised TitleV/State only operating permits require the owner or operator of each NOx affected source to hold a quantity of NOx allowances meeting the requirements of 25 Pa. Code §§ 123.110(a) by December 31, of each calendar year. One NOx Allowance is the limited authorization to emit one ton of NOx during the NOx Allowance Control Period, which begins May 1 of each year and ends September 30 of the same year. The NOx allowances held in the source's current year NOx Allowance Tracking System (NATS) account must be equal to or greater than the total NOx emitted from the source during the year's NOx allowance control period. The initial NOx allowance control period begins on May 1, 1999.

The new or revised TitleV/State only operating permits also include emission monitoring, reporting and recordkeeping requirements for each NOx affected source. NOx emissions from each NOx affected source shall be monitored in accordance with 25 Pa. Code §§ 123.108 and the procedures contained in the document titled "Guidance for Implementation of Emission Monitoring Requirements for the NOx Budget Program."

Any person aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Market Street State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of this notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

The Department is proposing to modify the Rule to make an accounting adjustment for the year 2000 Ozone Season allocations. If this proposal is adopted as final, the new or revised TitleV/State only operating permits will be proposed for modification to reflect this change.

Copies of the issued permits and other relevant information are available for review at the address given below.

*Bureau of Air Quality, Division of Permits, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325.*

01-2004: Metropolitan Edison Hamilton (P. O. Box 16001, Reading, PA 19640) located in Hamilton Township, Adams County

NOx affected Source(s):

Combustion Turbine	Point ID. : 031	Allowance: 4
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01-2005: Metropolitan Edison Hunterstown (P. O. Box 16001, Reading, PA 19640) located in Straban Township, Adams County

NOx affected Source(s):

G.E. N Frame Turbine #1	Point ID. : 031	Allowance: 17
G.E. N Frame Turbine #2	Point ID. : 032	Allowance: 6
G.E. N Frame Turbine #3	Point ID. : 033	Allowance: 14

01-2006: Metropolitan Edison Orrtanna (P. O. Box 16001, Reading, PA 19640) located in Highland Township, Adams County

NOx affected Source(s):

Combustion Turbine	Point ID. : 031	Allowance: 3
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02-0054: Duquesne Light Company Cheswick (411 Seventh Avenue Box 1930, Pittsburgh, PA 15230) located in Springdale Borough, Allegheny County

NOx affected Source(s):

Boiler	Point ID. : 001	Allowance: 2114
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03-0023: West Penn Power Armstrong (800 Cabin Hill Dr., Greensburg, PA 15601) located in Washington Township, Armstrong County

## NOx affected Source(s):

Foster Wheeler	Point ID. : 031	Allowance: 1140
Foster Wheeler	Point ID. : 032	Allowance: 1066

03-0027: Keystone Owners Group Keystone (P. O. Box 68 682 Philadelphia Street, Indiana, PA 15701) located in Plumcreek Township, Armstrong County

## NOx affected Source(s):

Boiler No. 1	Point ID. : 031	Allowance: 4342
Boiler No. 2	Point ID. : 032	Allowance: 3446

04-0235: Penn Power Co. Bruce Mansfield (P. O. Box 128, Shippensburg, PA 15077) located in Shippensburg Borough, Beaver County

## NOx affected Source(s):

Boiler Unit 1	Point ID. : 031	Allowance: 2993
Foster Wheeler Unit 2	Point ID. : 032	Allowance: 3866
Foster Wheeler Unit 3	Point ID. : 033	Allowance: 3504

04-0044: Zinc Corporation Of America GF Wheaton (300 Frankfort Road, Monaca, PA 15061) located in Monaca Borough, Beaver County

## NOx affected Source(s):

Coal Boiler 1	Point ID. : 034	Allowance: 241
Coal Boiler 2	Point ID. : 035	Allowance: 204

04-0446: AES Beaver Valley Partners Inc. Potter Twp. (394 Frankfort Road, Monaca, PA 15061) located in Monaca Borough, Beaver County

## NOx affected Source(s):

Babcock and Wilcox	Point ID. : 032	Allowance: 302
Babcock and Wilcox	Point ID. : 033	Allowance: 247
Babcock and Wilcox	Point ID. : 034	Allowance: 286
Combustion Engineering	Point ID. : 035	Allowance: 154

06-1024: Metropolitan Edison Titus (P. O. Box 16001, Reading, PA 19640) located in Cumru Township, Berks County

## NOx affected Source(s):

Unit 1	Point ID. : 031	Allowance: 202
Unit 2	Point ID. : 032	Allowance: 186
Unit 3	Point ID. : 033	Allowance: 201
No. 4 Combustion Turbine	Point ID. : 034	Allowance: 2
No. 5 Combustion Turbine	Point ID. : 035	Allowance: 2

07-2006: Pennsylvania Electric Company Williamsburg (P. O. Box 16001, Reading, PA 19640-0001) located in Woodbury Township, Blair County

## NOx affected Source(s):

No. 11 Boiler - Rily	Point ID. : 031	Allowance: 38
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TVOP-09-0016: PECO Energy Croyden (2600 Monroe Blvd., Norristown, PA 19403) located in Bristol Township, Bucks County

## NOx affected Source(s):

Croyden - Turbine #11	Point ID. : 031	Allowance: 11
Croyden - Turbine #12	Point ID. : 032	Allowance: 7
Croyden - Turbine #21	Point ID. : 033	Allowance: 44
Croyden - Turbine #22	Point ID. : 034	Allowance: 20
Croyden - Turbine #31	Point ID. : 035	Allowance: 11
Croyden - Turbine #32	Point ID. : 036	Allowance: 14
Croyden - Turbine #41	Point ID. : 037	Allowance: 8
Croyden - Turbine #42	Point ID. : 038	Allowance: 38

OP-09-0066: PECO Energy Fairless Works (2600 Monroe Blvd., Norristown, PA 19403) located in Falls Township, Bucks County

## NOx affected Source(s):

Power House Boiler No. 3	Point ID. : 043	Allowance: 63
Power House Boiler No. 4	Point ID. : 044	Allowance: 14
Power House Boiler No. 5	Point ID. : 045	Allowance: 73
Power House Boiler No. 6	Point ID. : 046	Allowance: 84

TVOP-09-0017: PECO Energy Falls (2600 Monroe Blvd., Norristown, PA 19403) located in Falls Township, Bucks County

## NOx affected Source(s):

Unit 1	Point ID. : 1	Allowance: 7
Unit 2	Point ID. : 2	Allowance: 7
Unit 3	Point ID. : 3	Allowance: 6

11-0378: Inter-Power/Ahlcon Partners LP(Colver Power Project) (2591 Wexford-Bayne Road, Ste 204, Sewickley, PA 15143) located in Cambria Township, Cambria County

## NOx affected Source(s):

Small Power Producer	Point ID. : AAB01	Allowance: 411
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11-0318: Ebensburg Power Company Cambria Twp. (20 S. Van Buren Ave, Barberton, OH 44203-0351) located in Cambria Township, Cambria County

## NOx affected Source(s):

CFB Boiler	Point ID. :	Allowance: 206
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11-0332: Cambria CoGen Company Ebensburg (7201 Hamilton Blvd., Allentown, PA 18195) located in Cambria Township, Cambria County

## NOx affected Source(s):

A Boiler	Point ID. : 031	Allowance: 200
B Boiler	Point ID. : 032	Allowance: 212

13-0003: Panther Creek Partners Nesquehoning (1001 Industrial Road, Nesquehoning, PA 18240) located in Nesquehoning Borough, Carbon County

## NOx affected Source(s):

Boiler 1	Point ID. :	Allowance: 119
Boiler 2	Point ID. :	Allowance: 117

OP-15-0019: PECO Energy Cromby (2600 Monroe Blvd., Norristown, PA 19403) located in East Pikeland Township, Chester County

## NOx affected Source(s):

Boiler No 1	Point ID. : 031	Allowance: 247
Boiler No 2	Point ID. : 032	Allowance: 187

16-0127: Piney Creek Project Piney Twp. (R. R. 2, Box 56, Clarion, PA 16214) located in Piney Township, Clarion County

## NOx affected Source(s):

CFB Boiler	Point ID. :	Allowance: 122
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OP-17-0001: Pennsylvania Electric Company Shawville (P. O. Box 16001, Reading, PA 19640-0001) located in Bradford Township, Clearfield County

## NOx affected Source(s):

Babcock Wilcox Boiler	Point ID. : 031	Allowance: 981
Babcock Wilcox Boiler	Point ID. : 032	Allowance: 947
Combustion Engineering	Point ID. : 033	Allowance: 852
Combustion Engineering	Point ID. : 034	Allowance: 693

OP-18-0005: International Paper Co. Lock Haven (South Highland Street, Lock Haven, PA 17745) located in Castanea Township, Clinton County

## NOx affected Source(s):

1 Riley Stoker Vo-Sp	Point ID. : 033	Allowance: 145
2 Riley Stoker Vo-Sp	Point ID. : 034	Allowance: 145

TVOP-18-00003: PP&L, Inc. Lock Haven (2 North Ninth Street, Allentown, PA 18101) located in Bald Eagle Township, Clinton County

## NOx affected Source(s):

CT 1	Point ID. :	Allowance: 3
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64-0008: Pennsylvania Electric Company Wayne (P. O. Box 16001, Reading, PA 19640-0001) located in Wayne Township, Crawford County

## NOx affected Source(s):

Combustion Turbine	Point ID. : 31	Allowance: 11
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21-2010: Metropolitan Edison Mountain (P. O. Box 16001, Reading, PA 19640) located in South Middleton Township, Cumberland County

## NOx affected Source(s):

G.E. N Frame Turbine	Point ID. : 031	Allowance: 9
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G.E. N Frame Turbine #1	Point ID. : 032	Allowance: 11
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21-05009: PP&L, Inc. West Shore (2 North Ninth Street, Allentown, PA 18101) located in Lower Allen Township, Cumberland County

## NOx affected Source(s):

CT 1	Point ID. :	Allowance: 3
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CT 2	Point ID. :	Allowance: 3
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22-05011: PP&L, Inc. Harrisburg (2 North Ninth Street, Allentown, PA 18101) located in Harrisburg City, Dauphin County

## NOx affected Source(s):

CT 1	Point ID. :	Allowance: 4
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CT 2	Point ID. :	Allowance: 4
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CT 3	Point ID. :	Allowance: 4
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CT 4	Point ID. :	Allowance: 4
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OP-23-0014A: Kimberly-Clark Chester (Front and Ave of the States, Chester, PA 19013) located in Chester City, Delaware County

## NOx affected Source(s):

Boiler No. 9	Point ID. : 034	Allowance: 12
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10 Culm Cogen. Fbc Plant	Point ID. : 035	Allowance: 85
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OP-23-0017: PECO Energy Eddystone (2600 Monroe Blvd., Norristown, PA 19403) located in Eddystone Borough, Delaware County

## NOx affected Source(s):

No. 1 Boiler	Point ID. : 031	Allowance: 663
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No. 2 Boiler	Point ID. : 032	Allowance: 432
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No. 3 Boiler	Point ID. : 033	Allowance: 257
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No. 30 Gas Turbine	Point ID. : 039	Allowance: 2
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No. 40 Gas Turbine	Point ID. : 040	Allowance: 1
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No. 4 Boiler	Point ID. : 041	Allowance: 249
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OP-23-0001: Sun Refining & Marketing Marcus Hook (P. O. Box 426, Marcus Hook, PA 19061-0426) located in Marcus Hook Borough, Delaware County

## NOx affected Source(s):

Boiler 7	Point ID. : 089	Allowance: 86
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Cogeneration	Point ID. : 090	Allowance: 145
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OP-23-0003: Tosco Refining Company Marcus Hook (4101 Post Road, Trainer, PA 19061) located in Trainer Borough, Delaware County

## NOx affected Source(s):

7 Boiler	Point ID. : 032	Allowance: 35
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8 Boiler	Point ID. : 033	Allowance: 56
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Platform Heater	Point ID. : 038	Allowance: 187
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543 Crude Heater	Point ID. : 044	Allowance: 101
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544 Crude Heater	Point ID. : 045	Allowance: 115
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24-0009: Willamette Industries Inc. Johnsonburg (100 Center Street, Johnsonburg, PA 15845) located in Johnsonburg Borough, Elk County

NOx affected Source(s):

B & W #81 Boiler	Point ID. : 040	Allowance: 103
B & W #82 Boiler	Point ID. : 041	Allowance: 109

25-0923: Norcon Power Partners (Box 512 10915 Ackerman Rd., North East, PA 16428) located in North East Township, Erie County

NOx affected Source(s):

Turbine 1	Point ID. : 01	Allowance: 50
Turbine 2	Point ID. : 02	Allowance: 50

25-0025: General Electric Co. Erie (2901 East Lake Road, Erie, PA 16531) located in Erie City, Erie County

NOx affected Source(s):

B & W Boiler No. 2	Point ID. : 032	Allowance: 26
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25-0028: International Paper Company Erie (1540 East Lake Rd., Erie, PA 16533) located in Erie City, Erie County

NOx affected Source(s):

Coal Fired Boiler No. 21	Point ID. : 037	Allowance: 68
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25-0041: Pennsylvania Electric Company Front Street (P. O. Box 16001, Reading, PA 19640-0001) located in Erie City, Erie County

NOx affected Source(s):

Erie City Iron Works No. 7	Point ID. : 031	Allowance: 5
Erie City Iron Works No. 8	Point ID. : 032	Allowance: 5
Comb. Eng. Boiler No. 9	Point ID. : 033	Allowance: 134
Comb. Eng. Boiler No. 10	Point ID. : 034	Allowance: 134

30-0099: West Penn Power Hatfield's Ferry (800 Cabin Hill Dr., Greensburg, PA 15601) located in Monongahela Township, Greene County

NOx affected Source(s):

Babcock & Wilcox	Point ID. : 031	Allowance: 3978
Babcock & Wilcox	Point ID. : 032	Allowance: 3703
Babcock & Wilcox	Point ID. : 033	Allowance: 2160

32-0059: Conemaugh Owners Group Conemaugh (P. O. Box 68 682 Philadelphia Street, Indiana, PA 15701) located in West Wheatfield Township, Indiana County

NOx affected Source(s):

Boiler No. 1	Point ID. : 031	Allowance: 3295
Boiler No. 2	Point ID. : 032	Allowance: 4197

32-0055: Pennsylvania Electric Company/NGE Generation, Inc. Homer City (Power Plant Rd., Homer City, PA 15748) located in Center Township, Indiana County

NOx affected Source(s):

Boiler No. 1-Foster Wheeler	Point ID. : 031	Allowance: 3167
Boiler No. 2-Foster Wheeler	Point ID. : 032	Allowance: 3987
Boiler No. 3-B.& W.	Point ID. : 033	Allowance: 2931

32-0040: Pennsylvania Electric Company Seward (P. O. Box 16001, Reading, PA 19640-0001) located in West Wheatfield Township, Indiana County

NOx affected Source(s):

Boiler No. 12 (B&W)	Point ID. : 032	Allowance: 145
Boiler No. 14 (B&W)	Point ID. : 033	Allowance: 146
Boiler No. 15 (Comb.Eng.)	Point ID. : 931	Allowance: 673

35-0002: PEI Corporation Archbald (P. O. Box 157, Archbald, PA 18403) located in Archbald Borough, Lackawanna County

NOx affected Source(s):

Cogen	Point ID. :	Allowance: 82
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36-05016: PP&L, Inc. Holtwood (2 North Ninth Street, Allentown, PA 18101) located in Martic Township, Lancaster County

NOx affected Source(s):

Unit 17 Foster Wheeler	Point ID. : 934	Allowance: 807
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37-0023: Pennsylvania Power Co. New Castle (76 South Main Street, Akron, OH 44308) located in Taylor Township, Lawrence County

NOx affected Source(s):

Foster Wheeler	Point ID. : 031	Allowance: 108
B.W. Boiler	Point ID. : 032	Allowance: 97
Babcock And Wilcox	Point ID. : 033	Allowance: 185
Babcock And Wilcox	Point ID. : 034	Allowance: 339
Babcock And Wilcox	Point ID. : 035	Allowance: 622

39-00009: PP&L, Inc. Allentown (2 North Ninth Street, Allentown, PA 18101) located in Allentown City, Lehigh County

NOx affected Source(s):

CT 3	Point ID. :	Allowance: 3
CT 2	Point ID. :	Allowance: 3
CT 4	Point ID. :	Allowance: 3
CT 1	Point ID. :	Allowance: 2

40-00022: PP&L, Inc. Harwood (2 North Ninth Street, Allentown, PA 18101) located in Hazle Township, Luzerne County

NOx affected Source(s):

CT 1	Point ID. :	Allowance: 3
CT 2	Point ID. :	Allowance: 3

40-0031: Williams Generation Company Hazleton (1001 Broad Street, Johnstown, PA 15907) located in Hazle Township, Luzerne County

NOx affected Source(s):

Turbine	Point ID. :	Allowance: 269
HRSB	Point ID. :	Allowance: 129

40-0005: UGI Corp Hunlock Power (400 Steward Road, Wilkes-Barre, PA 18773) located in Hunlock Township, Luzerne County

NOx affected Source(s):

Foster Wheeler	Point ID. : 031	Allowance: 375
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40-00017: PP&L, Inc. Jenkins (2 North Ninth Street, Allentown, PA 18101) located in Laffin Borough, Luzerne County

NOx affected Source(s):

CT 1	Point ID. :	Allowance: 3
CT 2	Point ID. :	Allowance: 2

TVOP-41-00003: PP&L, Inc. Williamsport (2 North Ninth Street, Allentown, PA 18101) located in Williamsport City, Lycoming County

NOx affected Source(s):

CT 2	Point ID. :	Allowance: 3
CT 1	Point ID. :	Allowance: 3

45-0003: Metropolitan Edison Shawnee (P. O. Box 16001, Reading, PA 19640-0001) located in Middle Smithfield Township, Monroe County

NOx affected Source(s):

Combustion Turbine	Point ID. : 31	Allowance: 3
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TVOP-46-0039: PECO Energy Moser (2600 Monroe Blvd., Norristown, PA 19403) located in Lower Pottsgrove Township, Montgomery County

NOx affected Source(s):

Unit 1	Point ID. : 1	Allowance: 7
Unit 2	Point ID. : 2	Allowance: 7
Unit 3	Point ID. : 3	Allowance: 6

OP-46-0005: Merck & Co. West Point (Sumneytown Pike, West Point, PA 19486-0004) located in Upper Gwynedd Township, Montgomery County

NOx affected Source(s):

Cogen II Gas Turbine	Point ID. : 39	Allowance: 79
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OP-47-0001A: PP&L, Inc. Montour (2 North Ninth Street, Allentown, PA 18101) located in Derry Township, Montour County

NOx affected Source(s):

Montour No. 1	Point ID. : 31	Allowance: 3576
Montour No. 2	Point ID. : 32	Allowance: 4706
Aux.Start-Up Boiler No. 1	Point ID. : 33	Allowance: 9
Aux.Start-Up Boiler No. 2	Point ID. : 34	Allowance: 7

48-0013: Bethlehem Steel Corp. Bethlehem (1170 8th Avenue, Bethlehem, PA 18016) located in Bethlehem City, Northampton County

NOx affected Source(s):

Boiler 1 Boiler House 2	Point ID. : 41	Allowance: 90
Boiler 2 Boiler House 2	Point ID. : 42	Allowance: 90
Boiler 3 Boiler House 2	Point ID. : 67	Allowance: 91

48-0011: PP&L, Inc. Martins Creek (P. O. Box 257, Martins Creek, PA 18066) located in Lower Mount Bethel Township, Northampton County

NOx affected Source(s):

Foster-Wheeler Unit No. 1	Point ID. : 31	Allowance: 493
Foster-Wheeler Unit No. 2	Point ID. : 32	Allowance: 461
C-E Unit No. 3	Point ID. : 33	Allowance: 837
C-E Unit No. 4	Point ID. : 34	Allowance: 741
No. 4b Auxiliary Boiler	Point ID. : 36	Allowance: 0
Combustion Turbine No. 1	Point ID. : 37	Allowance: 3
Combustion Turbine No. 2	Point ID. : 38	Allowance: 3
Combustion Turbine No. 3	Point ID. : 39	Allowance: 3
Combustion Turbine No. 4	Point ID. : 40	Allowance: 3

48-0021: Northampton Generating Company Northampton (1 Horwith Drive, Northampton, PA 18067) located in Northampton Borough, Northampton County

NOx affected Source(s):

Boiler	Point ID. : 1	Allowance: 210
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48-0006: Metropolitan Edison Portland (P. O. Box 16001, Reading, PA 19640-0001) located in Upper Mt Bethel Township, Northampton County

NOx affected Source(s):

Unit No. 1	Point ID. : 1	Allowance: 463
Unit No. 2	Point ID. : 2	Allowance: 658
Combustion Turbine No. 3	Point ID. : 33	Allowance: 1
Combustion Turbine No. 4	Point ID. : 34	Allowance: 6
Combustion Turbine No. 5	Point ID. : 5	Allowance: 0

OP-49-0002: Foster Wheeler Mt. Carmel, Inc. Mt. Carmel (Marion Heights Road, Marion Heights, PA 17832) located in Mount Carmel Township, Northumberland County

NOx affected Source(s):

Cogen	Point ID. : 31	Allowance: 196
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95-029: U S Naval Base (NSWCCD-SSES, Philadelphia, PA 19112-5083) located in Philadelphia City, Philadelphia County

NOx affected Source(s):

Combustion Source	Point ID. : 98	Allowance: 1
Combustion Source	Point ID. : 99	Allowance: 1



95-004: PECO Energy Delaware (2600 Monroe Blvd., Norristown, PA 19403) located in Philadelphia City, Philadelphia County

NOx affected Source(s):

Combustion Turbine	Point ID. : 13	Allowance: 111
Combustion Turbine	Point ID. : 14	Allowance: 129
Combustion Turbine	Point ID. : 18	Allowance: 2

95-047: Sunoco Inc. Frankford Plant (Margaret & Burmuda Sts, Philadelphia, PA 19137-1193) located in Philadelphia City, Philadelphia County

NOx affected Source(s):

Boiler #3	Point ID. : 052	Allowance: 54
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95-038: Sun Oil Girard Point/Point Breeze (3144 Passyunk Ave, Philadelphia, PA ) located in Philadelphia City, Philadelphia County

NOx affected Source(s):

GP F-1	Point ID. : 002-2,3,4	Allowance: 91
GP Boiler 37	Point ID. : 02-2,3	Allowance: 87
GP Boiler 38	Point ID. : 02-4,5	Allowance: 87
GP Boiler 39	Point ID. : 02-6,7	Allowance: 87
GP Boiler 40	Point ID. : 02-8,9	Allowance: 116
PB 3H-1	Point ID. : 19/20	Allowance: 43

97-019: Grays Ferry Cogeneration Partnership Grays Ferry (2600 Christian Street, Philadelphia, PA 19146) located in Philadelphia City, Philadelphia County

NOx affected Source(s):

Combustion Turbine/HEAT	Point ID. : 2	Allowance: 147
BOILER 25	Point ID. : 25	Allowance: 80

95-005: PECO Energy Richmond (2600 Monroe Blvd., Norristown, PA 19403) located in Philadelphia City, Philadelphia County

NOx affected Source(s):

Combustion Turbine	Point ID. : 37	Allowance: 28
Combustion Turbine	Point ID. : 38	Allowance: 37

95-001: Trigen - Philadelphia Energy Corp. Sansom (2600 Christian Street, Philadelphia, PA 19146) located in Philadelphia City, Philadelphia County

NOx affected Source(s):

Boiler 1	Point ID. : 1	Allowance: 31
Boiler 2	Point ID. : 2	Allowance: 27
Boiler 3	Point ID. : 3	Allowance: 12
Boiler 4	Point ID. : 4	Allowance: 15

95-002: Trigen - Philadelphia Energy Corp. Schuylkill (2600 Christian Street, Philadelphia, PA 19146) located in Philadelphia City, Philadelphia County

NOx affected Source(s):

Boiler 23	Point ID. : 23	Allowance: 0
Boiler 24	Point ID. : 24	Allowance: 0
Boiler 26	Point ID. : 26	Allowance: 0

95-006: PECO Energy Schuylkill (2600 Monroe Blvd., Norristown, PA 19403) located in Philadelphia City, Philadelphia County

NOx affected Source(s):

Combustion Turbine	Point ID. : 3	Allowance: 174
Combustion Turbine	Point ID. : 8	Allowance: 0

54-0011: PP&L, Inc. Fishback (2 North Ninth Street, Allentown, PA 18101) located in Pottsville City, Schuylkill County

NOx affected Source(s):

CT2	Point ID. :	Allowance: 2
CT 1	Point ID. :	Allowance: 2

54-00004: Gilberton Power Company Frackville (50 Eleanor Avenue, Frackville, PA 17931) located in West Mahanoy Township, Schuylkill County

NOx affected Source(s):

Boiler	Point ID. : 031	Allowance: 167
Boiler	Point ID. : 032	Allowance: 168

54-00005: Wheelabrator Frackville Energy Co Frackville (P. O. Box 392, Frackville, PA 17931) located in Mahanoy Township, Schuylkill County

NOx affected Source(s):

Boiler	Point ID. :	Allowance: 205
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54-00006: Westwood Energy Properties Joliette (US Route 209, Tremont, PA 17981) located in Porter Township, Schuylkill County

NOx affected Source(s):

Boiler	Point ID. :	Allowance: 135
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54-00008: Northeastern Power Company Kline Twp. (P. O. Box 7, McAdoo, PA 18237) located in Kline Township, Schuylkill County

NOx affected Source(s):

CFB Boiler	Point ID. :	Allowance: 202
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54-00003: Schuylkill Energy Resources North Mahanoy (P. O. Box 112, Shenendoah, PA 17976) located in Mahanoy Township, Schuylkill County

NOx affected Source(s):

Boiler	Point ID. : 31	Allowance: 350
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OP-55-0001B: PP&L, Inc. Sunbury (2 North Ninth Street, Allentown, PA 18101) located in Monroe Township, Snyder County

NOx affected Source(s):

Sunbury SES Unit 1a	Point ID. : 31	Allowance: 295
Sunbury SES Unit 1b	Point ID. : 32	Allowance: 295
Sunbury SES Unit 2a	Point ID. : 33	Allowance: 295
Sunbury SES Boiler 2b	Point ID. : 34	Allowance: 295
Sunbury SES Unit No. 3	Point ID. : 35	Allowance: 681
Sunbury SES Unit No. 4	Point ID. : 36	Allowance: 824
Combustion Turbine 1	Point ID. : 39	Allowance: 3
Combustion Turbine 2	Point ID. : 40	Allowance: 3

OP-57-0001: Pennsylvania Electric Company Benton (P. O. Box 16001, Reading, PA 19640-0001) located in Colley Township, Sullivan County

NOx affected Source(s):

Point ID. : 02	Allowance: 1
Point ID. : 03	Allowance: 1

OP-59-0003: Pennsylvania Electric Company Blossburg (P. O. Box 16001, Reading, PA 19640-0001) located in Covington Township, Tioga County

NOx affected Source(s):

Combustion Turbine	Point ID. : 31	Allowance: 3
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61-00181: Scrubgrass Generating Company LP Kennerdell (P. O. Box 39, Kennerdell, PA 16374) located in Scrubgrass Township, Venango County

NOx affected Source(s):

Unit 1	Point ID. : 31	Allowance: 182
Unit 2	Point ID. : 32	Allowance: 179

62-0012: Pennsylvania Electric Company Warren (P. O. Box 16001, Reading, PA 19640-0001) located in Conewango Township, Warren County

NOx affected Source(s):

Combustion Turbine	Point ID. : 005	Allowance: 10
Boiler No. 1	Point ID. : 31	Allowance: 76
Boiler No. 2	Point ID. : 32	Allowance: 73

Boiler No. 3	Point ID. : 33	Allowance: 77
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Boiler No. 4	Point ID. : 34	Allowance: 80
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63-883A: PA Transformer Technology Inc. (P. O. Box 440, Canonsburg, PA 15317) located in Canonsburg Borough, Washington County

NOx affected Source(s):

Foster-Wheeler	Point ID. : 32	Allowance: 0
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63-0014: Duquesne Light Company Elrama (411 Seventh Ave. Mail Drop 14-705, Pittsburgh, PA 15230) located in Union Township, Washington County

NOx affected Source(s):

No. 1 Boiler	Point ID. : 31	Allowance: 334
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No. 2 Boiler	Point ID. : 32	Allowance: 333
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No. 3 Boiler	Point ID. : 33	Allowance: 446
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No. 4 Boiler	Point ID. : 34	Allowance: 1016
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63-0016: West Penn Power Mitchell (800 Cabin Hill Dr., Greensburg, PA 15601) located in Union Township, Washington County

NOx affected Source(s):

B & W Oil Unit	Point ID. : 31	Allowance: 0
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B & W Oil Unit	Point ID. : 32	Allowance: 0
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B & W Oil Unit	Point ID. : 33	Allowance: 0
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Combustion Eng Coal Unit	Point ID. : 34	Allowance: 931
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63-0001: Procter & Gamble Paper Products Co. Mehoopany (P. O. Box 32, Mehoopany, PA 18629) located in Washington Township, Wyoming County

NOx affected Source(s):

Westinghouse 251B10	Point ID. : 35	Allowance: 246
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67-2005: PP&L, Inc. Brunner Island (2 North Ninth Street, Allentown, PA 18101) located in East Manchester Township, York County

NOx affected Source(s):

Brunner Island 2	Point ID. : 32	Allowance: 1474
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Brunner Island Unit 1	Point ID. : 931	Allowance: 1294
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Brunner Island Unit 3	Point ID. : 933	Allowance: 2913
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67-5004: Glatfelter P H Co. Spring Grove (228 South Main Street, Spring Grove, PA 17362) located in Spring Grove Borough, York County

NOx affected Source(s):

Number 4 Power Boiler	Point ID. : 34	Allowance: 127
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Number 1 Power Boiler	Point ID. : 35	Allowance: 85
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Number 5 Power Boiler	Point ID. : 36	Allowance: 232
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67-2028: Metropolitan Edison Tolna (P. O. Box 16001, Reading, PA 19640) located in Hopewell Township, York County

NOx affected Source(s):

Combustion Turbine	Point ID. : 31	Allowance: 4
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Combustion Turbine	Point ID. : 32	Allowance: 4
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JAMES M. SEIF,  
Secretary

[Pa.B. Doc. No. 99-51. Filed for public inspection January 8, 1999, 9:00 a.m.]

### 1999 Sunset Review Schedule

This schedule includes the Department of Environmental Protection's (Department) regulations, by chapter, which will undergo a sunset review in 1999. The sunset schedule is published annually and includes the *Pennsyl-*

vania Code chapters which will be reviewed by the Department. Each regulation will be reviewed to determine whether it effectively fulfills the goals for which it was intended and remains consistent with the following principles contained in Executive Order 1996-1 (regarding Regulatory Review and Promulgation):

1. Regulations shall address a compelling public interest.

2. Costs of regulations shall not outweigh their benefits.

3. Regulations shall be written in clear, concise and, when possible, nontechnical language.

4. Regulations shall address definable public health, safety or environmental risks.

5. Where Federal regulations exist, Pennsylvania's regulations shall not exceed Federal standards unless justified by a compelling and articulable Pennsylvania interest or required by State law.

6. Compliance shall be the goal of all regulations.

7. Where viable nonregulatory alternatives exist, they shall be preferred over regulations.

8. Regulations shall be drafted and promulgated with early and meaningful input from the regulated community.

9. Regulations shall not hamper Pennsylvania's ability to compete effectively with other states.

10. All agency heads shall be held directly accountable for regulations promulgated by their respective agencies.

The chapters listed will be reviewed by the Department in 1999. If regulatory amendments are proposed, those amendments will be reviewed by the appropriate advisory committees, as outlined in the Department's Regulatory Agenda which is published semiannually in February and July.

Both the Sunset Review Schedule and the Regulatory Agenda are available on the Department's World Wide Web site at <http://www.dep.state.pa.us> (choose Public Participation Center).

#### TITLE 25. PENNSYLVANIA CODE

#### ENVIRONMENTAL PROTECTION

#### PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

##### Subpart A. Preliminary Provisions

##### Article II. Statements of Policy

- Chapter 16. Water Quality Toxics Management Strategy—Statement of Policy
- Chapter 23. Environmental Quality Board Policy for Processing Petitions—Statement of Policy

##### Subpart C. Protection of Natural Resources

##### Article I. Land Resources

- Chapter 72. Administration of Sewage Facilities Planning Program
  - Chapter 77. Noncoal Mining
  - Chapter 78. Oil and Gas Wells
  - Chapter 79. Oil and Gas Conservation
  - Chapter 83. State Conservation Commission
  - Chapter 86. Surface and Underground Coal Mining: General
  - Chapter 87. Surface Mining of Coal
  - Chapter 88. Anthracite Coal
  - Chapter 89. Underground Mining of Coal and Coal Preparation Facilities
  - Chapter 90. Coal Refuse Disposal
- ##### Article II. Water Resources
- Chapter 91. General Provisions
  - Chapter 92. National Pollutant Discharge Elimination System

Chapter 93. Water Quality Standards

Chapter 95. Wastewater Treatment Requirements

Chapter 97. Industrial Wastes

Chapter 101. Special Water Pollution Regulations

Chapter 102. Erosion Control

Chapter 105. Dam Safety and Waterway Management

Chapter 106. Flood Plain Management

Chapter 109. Safe Drinking Water

##### Article III. Air Resources

Chapter 121. General Provisions—Air Resources

Chapter 122. National Standards of Performance for New Stationary Sources

Chapter 123. Standards for Contaminants

Chapter 124. National Emission Standards for Hazardous Air Pollutants

Chapter 126. Standards for Motor Fuels

Chapter 127. Construction, Modification, Reactivation and Operation of Sources

Chapter 128. Alternative Emission Reduction Limitations

Chapter 129. Standards for Sources

Chapter 131. Ambient Air Quality Standards

Chapter 133. Local Air Pollution Agencies

Chapter 135. Reporting of Sources

Chapter 137. Air Pollution Episodes

Chapter 139. Sampling and Testing

Chapter 141. Variances and Alternate Standards

Chapter 143. Disbursements from the Clean Air Fund

##### Subpart D. Environmental Health and Safety

##### Article II. Institutions and Housing

Chapter 171. Schools

##### Article IV. Occupational Health and Safety

Chapter 207. Noncoal Mines

Chapter 209. Coal Mines

Chapter 210. Use of Explosives

Chapter 211. Storage, Handling and Use of Explosives

##### Article V. Radiological Health

Chapter 215. General Provisions

Chapter 217. Licensing of Radioactive Material

Chapter 219. Standards for Protection Against Radiation

Chapter 220. Notices, Instructions and Reports to Workers; Inspections

Chapter 224. Medical Use of Radioactive Materials

Chapter 225. Radiation Safety Requirements for Industrial Radiographic Operations

Chapter 226. Radiation Safety Requirements for Wireline Service Operations and Subservice Tracer Studies

Chapter 230. Packaging and Transportation of Radioactive Material

Chapter 236. Low-Level Radioactive Waste Management and Disposal

Chapter 237. Rebuttable Presumption of Liability of the Operator of the Regional Low-Level Waste Facility

Chapter 240. Radon Certification

- Article VI. General Health and Safety  
 Chapter 250. Administration of the Land Recycling Program
- Article VII. Hazardous Waste Management  
 Chapter 260. Definitions and Requests for Determination  
 Chapter 261. Criteria, Identification and Listing of Hazardous Waste  
 Chapter 262. Generators of Hazardous Waste  
 Chapter 263. Transporters of Hazardous Waste  
 Chapter 264. New and Existing Hazardous Waste Management Facilities Applying for a Permit  
 Chapter 265. Interim Status Standards for Hazardous Waste Management Facilities and Permit Program for New and Existing Hazardous Waste Management Facilities  
 Chapter 266. Special Standards for the Management of Certain Hazardous Waste Activities  
 Chapter 267. Financial Responsibility Requirements for Hazardous Waste Storage, Treatment and Disposal Facilities  
 Chapter 269. Siting  
 Chapter 270. Permit Program
- Article VIII. Municipal Waste  
 Chapter 271. Municipal Waste Management—General Provisions  
 Chapter 272. Municipal Waste Planning, Recycling and Waste Reduction  
 Chapter 273. Municipal Waste Landfills  
 Chapter 275. Land Application of Sewage Sludge  
 Chapter 277. Construction/Demolition Waste Landfills  
 Chapter 279. Transfer Facilities  
 Chapter 281. Composting Facilities  
 Chapter 283. Resource Recovery and Other Processing Facilities  
 Chapter 285. Storage, Collection and Transportation of Municipal Waste
- Article IX. Residual Waste  
 Chapter 287. Residual Waste Management—General Provisions  
 Chapter 288. Residual Waste Landfills  
 Chapter 289. Residual Waste Disposal Impoundments  
 Chapter 291. Land Application of Residual Waste  
 Chapter 293. Transfer Facilities for Residual Waste  
 Chapter 295. Composting Facilities for Residual Waste  
 Chapter 297. Incinerators and Other Processing Facilities  
 Chapter 299. Storage and Transportation of Residual Waste
- PART II. STATE BOARD FOR CERTIFICATION OF SEWAGE TREATMENT PLANT AND WATERWORKS OPERATORS  
 Chapter 301. General Provisions  
 Chapter 303. Certification of Operators  
 Chapter 305. Plant Requirements

For additional information, contact Sharon Freeman, DEP Regulatory Coordinator, P. O. Box 2063, Harrisburg, PA 17105-2063; telephone (717) 783-1303; or e-mail Freeman.Sharon@dep.state.pa.us.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 99-52. Filed for public inspection January 8, 1999, 9:00 a.m.]

## DEPARTMENT OF GENERAL SERVICES

### Request for Bids; Removal of Automotive Crankcase Oils and Used Antifreeze

The Department of General Services, State Surplus Property Division is seeking contractors to remove automotive crankcase oils and used antifreeze from various agencies of the Commonwealth. District contracts can be subdivided and bid in part. The following counties will be involved in this contract:

#### *Automotive Crankcase Oil*

Oil contracts will begin on March 1, 1999. Bradford, Carbon, Columbia, Lackawanna, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne and Wyoming Counties.

The above contract will be for 1 year with an optional extension for a 2nd, 3rd and 4th year. For more information or to obtain a bid proposal for this contract, write to the Department of General Services, State Surplus Property Division, 2221 Forster Street, P. O. Box 1365, Harrisburg, PA 17105, or call (717) 787-4085 prior to the bid opening on January 25, 1999.

GARY E. CROWELL,  
*Secretary*

[Pa.B. Doc. No. 99-53. Filed for public inspection January 8, 1999, 9:00 a.m.]

### State Surplus Property Program

The Department of General Services, State Surplus Property Division is seeking vendors to bid on large lots of furniture and/or office equipment as they become available. Interested vendors will be contacted with regard to the quantity of property available for each sale, as well as the sale date and conditions of the sale. For more information, or to place one's name on the bidders list, contact the Department of General Services, State Surplus Property Division, P. O. Box 1365, 2221 Forster Street, Harrisburg, PA 17105 or call (717) 787-4085.

GARY E. CROWELL,  
*Secretary*

[Pa.B. Doc. No. 99-54. Filed for public inspection January 8, 1999, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee; Public Meetings

The Statewide HIV Community Prevention Planning Committee, established by the Department of Health under sections 301 and 317 of the Public Health Service Act, 42 U.S.C.A. §§ 241(a) and 247(b), will hold a public meeting on Wednesday, January 20, 1999.

The meeting will be held at the Sheraton Inn Harrisburg East, 800 East Park Avenue, Harrisburg, PA, from 10 a.m. to 4 p.m.

For additional information please contact Thomas M. DeMelfi, Pennsylvania Department of Health, Bureau of HIV/AIDS, P. O. Box 90, Room 912, Health and Welfare Building, Harrisburg, PA 17108, (717) 783-0574.

Persons with a disability who desire to attend the meeting, and require an auxiliary aid service or other accommodation to do so, should contact Thomas DeMelfi at (717) 783-0574, V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Services at (800) 654-5984 [TT].

DANIEL F. HOFFMANN,  
*Secretary*

[Pa.B. Doc. No. 99-55. Filed for public inspection January 8, 1999, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Contemplated Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation, under 71 P.S. § 513(e)(7), intends to sell certain land owned by the Department.

Lancaster City/Lancaster Township, Lancaster County. The parcel contains 18,949,831 square feet of unimproved land situated along Route 6023 abutting mailing address 971 Ranck Mill Road. Estimated fair market value is \$42,600.00.

Interested public entities are invited to express their interest in purchasing the site within 30 calendar days from the date of publication of this notice to Barry Hoffman, P. E., District Engineer, Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 99-56. Filed for public inspection January 8, 1999, 9:00 a.m.]

### Retention of Engineering Firms

#### Fayette, Greene, Washington and Westmoreland Counties Project Reference No. 08430AG2278

The Department of Transportation will retain one (1) engineering firm for an Open-End Contract for various

environmental studies and engineering services on various projects located in Engineering District 12-0; that is Fayette, Greene, Washington, and Westmoreland Counties. The Contract will be for a sixty (60) month period with projects assigned on an as-needed basis. The maximum amount for the Open-End Contract will be \$500,000.00.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

a. Specialized experience and technical competence of firm. The specific experience of individuals who constitute the firms will be considered.

b. Understanding of the Department's requirements, Design Manuals, policies and specifications.

c. Past Record of performance with respect to cost control, work quality, ability you meet schedules, and previous experience with Open-end Contracts.

d. Location of consultants with respect to the District. This will include ability/provisions for quick responses to District request.

e. Methods of controlling quality of projects and submittals. Consideration will be given to coordination between disciplines, subcontractors, etc.

f. Ability to package and present the Letter of Interest in accordance with the "General Requirements and Information" section.

The areas of environmental study required under the Contract may include, but are not limited to; air quality; noise; energy; vibration; hazardous waste; surface water and ground water quality; surface water and ground water hydrology; terrestrial ecology including threatened and endangered species; wetlands; soils; geology; farmlands; visual quality; socio-economic resources; cultural resources; Section 4(f) Evaluations; early coordination and; visualization materials, handouts and displays; technical basis reports (TBRs) and/or technical files; NEPA environmental documents; Section 106 documents; mitigation plans and reports; wetlands and floodplain findings; and preliminary engineering plans; and remote sensing/mapping innovations. The format and content of all documents will be consistent with applicable State and Federal regulations, policies and guidelines.

Although this contract will primarily be for environmental services, some engineering services may be required. The engineering work and services which may be required under this contract include, but are not limited to: perform field surveys; plot topography and cross sections; prepare submission for utility verification and relocations engineering; prepare all pertinent submission and materials necessary for the Department to prepare the application to PUC and for the PUC field conference; attend and supply any required information for all PUC meetings and hearings during the design of the project; develop erosion control details and narrative; prepare right of way plans; complete structure designs including type, size and location reports, core boring layouts and foundation designs and report; develop traffic control plans with narratives; conduct soils investigations and prepare soils reports; investigate utility involvement on projects; provide material for and participate in value engineering reviews; coordinate contracts with railroad officials and procure railroad related costs, permits, and insurance; collect signal timing, accident data and other traffic flow data; document engineering study findings

and activities; alternative analysis to assess impacts and mitigation; and prepare construction plans, specifications, and estimates.

The environmental and engineering studies identified above are the general work activities that can be expected under this Open-End contract. A more specific and project related Scope of Work will be outlined for each individual Work Order developed under this Open-end Contract. The District's copy of the Letter of Interest and required forms) see general requirements and information section) shall be sent to: Michael H. Dufalla, P.E., District Engineer, District 12-0, at P. O. Box 459, North Gallatin Avenue Extension, Uniontown, PA 15401.

Any technical questions concerning the requirements for this project should be directed to: Mr. Jeff Thompson, P.E., District 12-0, at (724) 439-7134.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

### General Requirements and Information

Firms interest in providing the above work and services are invited to submit two copies of a Letter of Interest are required information for each Project reference Number for which the applicant wishes to be considered.

The first copy of the Letter of Interest and required information must be submitted to:

Mr. Charles W. Allwein, P.E., Chief  
Consultant Selection Committee  
7th Floor, Forum Place  
555 Walnut Street  
P. O. Box 3060  
Harrisburg, Pennsylvania 17105-3060

Note: The Zip Code for express Mailing is 17101-1900

The Letter of Interest and required information must be received within twenty (20) calendar days of this Notice. The Deadline for receipt of a Letter of Interest at the above address is 4:30 p.m. prevailing time of the twentieth day.

The second copy of the letter of interest and required information must be submitted to the appropriate District Engineer/Administrator or the Bureau Director as indicated in the individual advertisement. This copy must be postmarked or delivered on or before the deadline indicated above.

If an individual, firm, or corporation not authorized to engage in the practice of engineering desires to submit a Letter of Interest, said individual, firm, or corporation may do so as part of a Joint Venture with an individual, firm, or corporate which is permitted under the state law to engage in the practice of engineering.

If a Joint Venture responds to a project advertisement, the Department of Transportation will not accept separate Letters of Interest from the Joint Venture constituents. A firm will not be permitted to submit on more than one (1) Joint Venture for the same Project Reference Number. Also a firm that responds to a project as a prime may not be included as a designated subcontractor to another firm that responds as a prime to the project. Multiple responses under any of the foregoing situations will cause the rejection of all responses of the firm or firms involved. The above does not preclude a firm from being set forth as a designated subcontractor to more than one (1) prime responding to the project advertisement.

If a goal for Disadvantaged Business Enterprise (DBE) participation is established for an advertised project, firms expressing interest in the project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Intermodal Surface Transportation Efficiency Act of 1991 and currently certified by the Department of Transportation shall have the maximum opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The Act requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of Disadvantaged Business Enterprise (DBE). The goal for DBE participation shall be as stated in the individual project advertisement. Responding firms shall make good faith efforts to meet the DBE goal using DBE's (as they are defined prior to the act, WBE's or combinations thereof).

Proposing DBE firms must be certified at the time of submission of the Letter of Interest. If the selected firm fails to meet the established DBE participation goal, it shall be required to demonstrate its good faith efforts to attain the goal.

Responses are encouraged by small firms, Disadvantaged Business Enterprise (DBE) firms, and other firms who have not previously performed work for the Department of Transportation.

The Department requests that each Letter of Interest include the following information and that the information be packaged and presented in the order indicated below to facilitate the Department's review and evaluation.

The firm's ability and willingness to package and present the requested information in the above order to facilitate the Department's review and evaluation will be the first factor considered in the evaluation process.

1. Transmittal Letter (Maximum of two (2) 8 1/2 x 11" typed pages, one side)

2. A fact sheet that includes the project reference number for which the applicant wishes to be considered, the firm's legal name, fictitious name (if applicable), and the firm's federal identification number. If the project advertisement indicated the Department will retain an engineering firm for the project, the applicant should indicate on this fact sheet the names and Professional Engineer License Number of Individuals who are directing heads or employees of the firm who have responsible charge of the firm's engineering activities, and whose names and seals shall be stamped on all plans, specifications, plats, and reports issued by the firm. If the project advertisement indicated the Department will retain a Land Surveying firm for the project, the applicant should indicate on this fact sheet the names and Professional Land Surveyor Registration Number of individuals who are directing heads or employees of the firm who have responsible charge of the firm's land surveying activities, and whose names and seals shall be stamped on all plans, plats, and reports issued by the firm.

3. Project Organizational Chart (one page, one side, maximum size 11" x 17")

This Chart should show key staff from the prime and each subconsultant and their area of responsibility.

4. Standard Form 255, "Architect-Engineer and Related Services Questionnaire for Specific Project" (one Form 255 for the project team)

The Standard Form 255 should be signed, dated, and filled out in its entirety, including Item No. 6 listing the

proposed subconsultants and the type of work and service they will perform on the project.

Under Item 4 of this form, Column A must specify only the number of subconsultant personnel and Column B should specify only the number of prime consultant personnel to be assigned to work on this project reference number. Do not include the total personnel for either the subconsultant or prime consultant under Item 4 unless the total personnel are necessary to provide the required work and services.

The prime and each subconsultant should not include more than one page each for Items 10 and 11.

If a Disadvantaged Business Enterprise (DBE) goal is specified for the project, the DBE must be currently certified by the Department of Transportation, and the name of the DBE and the work to be performed must be indicated in Item No. 6. If a Woman Business Enterprise (WBE) firm is substituted for the DBE, the WBE firm must also be presently certified by the Department of Transportation and indicated in Item 6.

5. Standard Form 254, "Architect-Engineer for Related Services Questionnaire"

A Standard Form 254, not more than one (1) year old as of the date of this advertisement, should accompany each Letter of Interest for the firm, each party to a Joint Venture, and for each subconsultant the firm or Joint Venture is proposing to use for the performance of professional services regardless of whether the subconsultant is an individual, a college professor, or a Company, unless an acceptable Standard Form 254 for the prime and each subconsultant/subcontractor is on file in both the Bureau of Design and the Engineering District Office or Central Office Bureau identified in the individual project advertisement.

These Forms should be assembled with the prime's form firms, followed by the form for each subconsultant in the same order as the subconsultants appear in Item 6 of Standard Form 255.

#### 6. Authorization Letters (if required)

If the advertisement requires a letter signed by individuals giving their approval to use their name in the Letter of Interest, the letters from proposed prime employees should be first, followed by subconsultant employees, in the same order as shown in Item 6 of Standard Form 255.

#### 7. Registration To Do Business

Firms with out-of-state headquarters or corporations not incorporated in Pennsylvania must include, with each Letter of Interest, a copy of their registration to do business in the Commonwealth as provided by the Department of State. Firms who are not registered to do business in Pennsylvania at the time of this advertisement must document that they have applied for registration to the Department of State, Corporation Bureau. The telephone number for the Corporation Bureau is (717) 787-1057 or (717) 787-2004.

#### 8. Overhead Rates (one page)

A single page summary should indicate the latest audited overhead rate developed in accordance with Federal Acquisition Regulations (FAR) for the prime consultant and each subconsultant.

If a FAR rate is not available, the latest rate available from a Certified Public Accountant must be indicated.

New firms should indicate how long the firm has been in existence and when an audited overhead rate would be available.

The single page summary of the latest audited overhead rate for the prime consultant and each subconsultant is optional for construction inspection services.

#### 9. Additional Information

Additional information, not to exceed ten (10) one sided 8 1/2 x 11" pages or five (5) double sided 8 1/2 x 11" pages may be included at the discretion of the submitting firm.

Letters of Interest will be rejected for the following reasons:

1. Received after the cut-off time and date specified above.
2. Failure to identify a Disadvantaged Business Enterprise (DBE) if a DBE participation goal is identified in the advertised project.
3. Failure to include a copy of the registration to do business in the Commonwealth.

The assignment of the agreement/contract for the above advertisement(s) will be made to one of the firms who submitted an acceptable Letter of Interest in response to the project advertisement. The assignment will be made based on the Department's evaluation of the firm's qualification and capabilities. The Department reserves the right to reject all letters submitted, to cancel the solicitations requested under this Notice, and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 99-57. Filed for public inspection January 8, 1999, 9:00 a.m.]

## Retention of Engineering Firms for Local Projects

### **Cameron, Centre, Clearfiled, Clinton, Elk, Juniata, McKean, Mifflin and Potter Counties Project Reference No. 02099AG0001**

Notice is hereby given that approximately twenty-five (25) Municipalities in cooperation with the Department of Transportation, Engineering District 2-0, will retain engineering firms to perform one or more of the following tasks concerning municipality owned bridges:

1. Prepare studies and plans for the replacement of municipality owned bridges.
2. Perform construction inspection and construction support services for municipality owned bridge replacement/rehabilitation projects. To perform an NBIS initial inspection upon completion.

Separate Letters of interest will be required for Tasks 1 and Task 2.

The Firm(s) selected under Task 1 will be required to conduct final design to include preliminary alignment and accompanying data for Step 9: final alignment; type, size, and location drawings; drainage design; hydrologic and hydraulic report; the Department of Environmental Resources waterway permits; Army Corps of Engineers 404 Permits; bridge foundation reports and soils boring; right-of-way plans; erosion control plans with narrative; maintenance and protection of traffic plans; structure drawings; pavement design; and construction plans,



specifications and estimates. A conventional field survey will be required. Upon completion of final design phase, the firm may be required to perform shop drawing review, alternate design review, general engineering services during construction and NBIS initial inspection.

The Firm(s) selected under Task 2 will be required to perform construction inspection services for municipality owned bridge replacement projects. The firms may also be required to perform construction consultation services and shop drawing review and approval. The firm(s) may be required to hold a preconstruction conference, keep records and document the construction work, prepare current and final estimates for payment to the construction contractor, obtain compliance with labor standards, safety and accident prevention, and equal opportunity provisions of the contract item; and perform other duties as may be required. Firms applying must have qualified personnel capable of climbing structures during construction or rehabilitation. Perform NBIS initial inspection upon completion.

The Letter of Interest for Task 2 should include the resumes of a maximum of 5 TCI's and 5 TCIS's. The qualifications and experience required of the firm's inspectors will be established jointly by the Department, and the municipality. Any technical questions concerning the requirements of this project or any questions concerning the submittal of the letter of interest should be directed to Mr. David Lynn, P.E., District 2-0, at (814) 765-0581.

Questions concerning the submittal of the Letter of Interest can be directed to the Consultant Agreement Division at (717) 783-9309.

#### General Requirements and Information

Firms interest in performing any of the above services are invited to submit two (2) copies of a Letter of Interest (L.O.I.) for each work task they are interest in to:

Pennsylvania Department of Transportation  
Engineering District 2-0  
George M. Khoury, P.E., District Engineer  
1924-30 Daisey Street, P. O. Box 342  
Clearfield, PA 16830

The cover letter should not be more than two (2) pages. Firms will be selected for an individual project or a group of projects. Interested firms should indicate the counties, type of projects, and size of projects in which they are interested. All L.O.I. will be kept on record for use by municipalities selecting consultants for a period of one year from the date of this advertisement. There is no Disadvantaged Business Enterprise (DBE) requirements for this advertisement, but DBE participation may be required on the individual project.

Preference will be given to small firms for this project. A small firm will be considered as a firm of less than 100 people. The total number to include all offices within and outside Pennsylvania. Any small firm that utilizes a sub-consultant that is not considered a small firm will not be given preferential consideration. Responses are encouraged by small engineering firms, disadvantaged business enterprise engineering firms, and other engineering firms who have not previously performed work for the Department of Transportation.

Each L.O.I. must include in the heading, the firm's legal and fictitious (if applicable) name, the firm's Federal Identification Number and the Project Reference Number indicated in this advertisement.

A Standard Form 254, "Architect-Engineer and Related Services Questionnaire", not more than two (2) months old as of the date of this advertisement must be submitted for the firm, each party to a joint venture and for each subconsultant the firm is proposing to use and for the performance of professional services regardless of whether the sub-consultant is an individual, or a company. Standard Form 255, "Architect-Engineer and Related Services Questionnaire for Specific Project", and a two (2) year work load projection graph for the firm and each sub-consultant.

The Standard Form 255 must be filled out in its entirety including Item No. 6 listing the proposed sub-consultants and the type of work or services they will perform on the project.

Firms with out-of-state headquarters or corporations not incorporated in Pennsylvania must include with each letter of interest a copy of their registration to do business in the Commonwealth as provided by the Department of State.

The Department currently limits its participation in the direct remuneration of principals or consultant employees performing work on projects to \$35 per hour or their actual audited remuneration, whichever is less.

The following factors, listed in their order of importance, will be considered by the municipalities during their evaluation of the firms submitting a L.O.I.:

- a. Specialized experience and technical competence of firm.
- b. Past record of performance with respect to cost control, work quality, and ability to meet schedules. The specific experience of individuals who constitute the firms shall be considered.
- c. Current workload and capacity of firm to perform the work within the time limitations.
- d. Location of consultant.
- e. Special requirements of the project.
- f. Other factors, if any, specific to the project.

The LOI and required forms should be submitted as soon as possible. Updated information may be submitted if the Engineer desires to present additional information concerning the firm's capabilities.

Various sections of the L.O.I. should be prominently tabbed or identified to ease the analysis of the submission.

The assignment of the above services will be made to one of the firms responding to this notice, but the municipalities and the Department of Transportation reserves the right to reject all L.O.I. submitted, to cancel the solicitations requested under this notice, and/or to re-advertise solicitation for these services.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 99-58. Filed for public inspection January 8, 1999, 9:00 a.m.]

# HUMAN RELATIONS COMMISSION

## Public Hearing Opinions

The Human Relations Commission, under section 7(o) of the Pennsylvania Human Relations Act (P. L. 744, No. 222) announces the publication of the stipulations of fact, findings of fact, conclusions of law, final decision and order, made after a public hearing under section 9(e)—(g) of the act, in the following case:

*Yolanda Bacharach v. Antonio Costa*; Doc. No. H6170; (Pennsylvania Human Relations Commission, December 21, 1998); Familial status-based refusal to rent; Ruling for Complainant, 9-0 decision; 19 pages.

The final order in the above-listed case is subject to

appeal to Commonwealth Court, and if appealed is subject to being affirmed, reversed or modified, in whole or part.

A copy of the opinion listed in this notice may be obtained by mailing a request indicating the opinion desired, accompanied by a check or money order in the amount of 10 cents per page (the number of pages in the opinion is set forth at the end of the case listing), to Laura J. Treaster, Information Director, Human Relations Commission, 101 South Second Street, Suite 300, Harrisburg, PA 17101. The check or money order should be made payable to the "Commonwealth of Pennsylvania."

HOMER C. FLOYD,  
*Executive Director*

[Pa.B. Doc. No. 99-59. Filed for public inspection January 8, 1999, 9:00 a.m.]

# INSURANCE DEPARTMENT

## Eligible Surplus Lines Insurer List

In accordance with section 1605(b) of The Insurance Company Law of 1921 (40 P. S. § 991.1605(b)), the Insurance Department hereby publishes the most recent Eligible Surplus Lines Insurer List. This list replaces in its entirety the Eligible Surplus Lines Insurer List as of July 1, 1998, published at 28 Pa.B. 3475 (July 18, 1998).

Persons who have questions concerning this notice, should contact Cressinda Bybee, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, (717) 787-2735.

As of: January 1, 1999

<i>Key Number</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
4001	Acceptance Insurance Company	222 South 15th Street Suite 600 North Omaha, NE 68102-1616
4002	Admiral Insurance Company	1209 Orange Street Wilmington, DE 19801
4005	Adriatic Insurance Company	314 East Thayer Avenue Bismarck, ND 58501
4010	Agricultural Excess and Surplus Insurance Company	The Corporation Trust Company 1209 Orange Street Wilmington, DE 19801
4014	Alliance General Insurance Company	6 West Hubbard Chicago, IL 60610
4017	Allianz Underwriters Insurance Company	3400 Riverside Drive Suite 300 Burbank, CA 91505-4669
4047	American Dynasty Surplus Lines Insurance Company	The Corporation Trust Company 1209 Orange Street Wilmington, DE 19801
4050	American Empire Surplus Lines Insurance Company	1209 Orange Street Wilmington, DE 19801
4052	American Equity Insurance Company	7676 East Pinnacle Peak Road Scottsdale, AZ 85255
4055	American International Specialty Lines Insurance Company	550 West 7th Street Anchorage, AK 99501
4062	American Western Home Insurance Company	600 Fidelity Plaza Oklahoma City, OK 73102

<i>Key Number</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
4070	Americas Insurance Company	400 Poydras Street Suite 2200 New Orleans, LA 70130
4081	Appalachian Insurance Company	Allendale Park P. O. Box 7500 Johnston, RI 02919-0500
4085	Assicurazioni Generali Di Trieste	Piazza Duca Degli Abruzzi, 2 Trieste, 34132 Italy
4090	Associated Electric & Gas Insurance Services Limited	Argus Insurance Building P. O. Box HM1064 Hamilton, HMEX Bermuda
4095	Associated International Insurance Company	21820 Burbank Boulevard, #330 Woodland Hills, CA 91367
4100	Audubon Indemnity Company	2829 Lakeland Drive Suite 1400 Jackson, MS 39208
4000	AXA Reinsurance UK plc	London Underwriting Centre 3 Minster Court, Mincing Lane London, EC3R 7DD England
4135	British Aviation Insurance Company Limited	Fitzwilliam House 10 St. Mary's Axe London, EC3A 8EQ England
4145	Caliber One Indemnity Company	1209 Orange Street Wilmington, DE 19801
4150	Canal Indemnity Company	400 East Stone Avenue Greenville, SC 29601
4158	Centennial Casualty Company	2200 Woodcrest Place Suite 200 Birmingham, AL 35209
4159	Century American Insurance Company	3401 West End Avenue Suite 600 Nashville, TN 37209
4160	Century Surety Company	2400 Corporate Exchange Drive Columbus, OH 43231
4170	Chubb Custom Insurance Company	32 Loockeman Square Dover, DE 19901
4175	Clarendon America Insurance Company	224 West State Street Trenton, NJ 08608
4140	CNA Reinsurance Company Limited	Fountain House 125—135 Fenchurch Street London, EC3M 5DJ England
4180	Colony Insurance Company	9201 Forest Hill Avenue Suite 200 Richmond, VA 23235-6865
4193	Columbia Casualty Company	CNA Plaza Chicago, IL 60685
4196	Commercial Underwriters Insurance Company	200 Corporate Pointe Suite 300 Culver City, CA 90230
4200	Commercial Union Assurance Company plc	St. Helen's 1 Undershaft London, EC3P 3DQ England
4210	Commonwealth Insurance Company	595 Burrard Street, Suite 1500 Bentall Centre III Vancouver, B. C., V7X 1G4 Canada
4213	Connecticut Specialty Insurance Company	9 Farm Springs Road Farmington, CT 06032

<i>Key Number</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
4216	Copenhagen Reinsurance Company (UK) Limited	25/26 Lime Street London, EC3M 7HR England
4215	Copenhagen Reinsurance Company Limited	4, Lyngby Hovedgade P. O. Box 325 Lyngby, DK-2800 Denmark
4220	Coregis Indemnity Company	181 West Madison Avenue Suite 2600 Chicago, IL 60602
4225	Crusader Insurance Company	23251 Mulholland Drive Woodland Hills, CA 91364
4232	Diamond State Insurance Company	1600 Capital Ctr. S. 201 N. Illinois Street Indianapolis, IN 46204
4245	Eden Park Insurance Company	One Indiana Square Suite 1800 Indianapolis, IN 46204
4255	Empire Indemnity Insurance Company	809 Northwest 36th Street Oklahoma City, OK 73118
4268	Essex Insurance Company	1209 Orange Street Wilmington, DE 19801
4270	Evanston Insurance Company	Shand Morahan Plaza Evanston, IL 60201
4275	Everest Indemnity Insurance Company	Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
4280	Executive Risk Specialty Insurance Company	82 Hopmeadow Street Simsbury, CT 06070-7683
4315	Fidelity Excess and Surplus Insurance Company	515 Main Street Cincinnati, OH 45202
4317	Fireman's Fund Insurance Company of Ohio	312 Walnut Street Suite 1100 Cincinnati, OH 45202
4319	First Financial Insurance Company	528 South Fifth Street Suite 210 Springfield, IL 62701-1822
4320	First Mercury Insurance Company	525 West Monroe Street, Suite 1600 Chicago, IL 60661
4321	First Specialty Insurance Corporation	237 East High Street Jefferson City, MO 65102
4329	Frontier Pacific Insurance Company	4250 Executive Square Suite 200 La Jolla, CA 92037
4331	Fulcrum Insurance Company	199 Water Street New York, NY 10038-3526
4332	Gan Insurance Company Limited	Gan House 12 Arthur Street London, EC4R 9BJ England
4333	Gemini Insurance Company	Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
4335	General Agents Insurance Company of America, Inc.	4308 North Classen Boulevard Oklahoma City, OK 73118
4338	General Star Indemnity Company	695 East Main Street P. O. Box 10354 Stamford, CT 06904-2354
4345	Generali-France Assurances	5, rue de Londres Paris, 75009 France

<i>Key Number</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
4350	Genesis Indemnity Insurance Company	316 North Fifth Street Bismarck, ND 58501
4360	Gotham Insurance Company	330 Madison Avenue New York, NY 10017
4370	Great Lakes Reinsurance (UK) PLC	Upper Ground Floor, 1 Minster Court Mincing Lane London, EC3R 7AA England
4390	Gulf Underwriters Insurance Company	One City Place Drive St. Louis, MO 63141
4395	Hallmark Insurance Company, Inc.	Three Bala Plaza, East Suite 300 Bala Cynwyd, PA 19004
4420	Houston Casualty Company	13403 Northwest Freeway Houston, TX 77040-6094
4427	Illinois Emcasco Insurance Company	815 Commerce Drive Oak Brook, IL 60521-1978
4432	Illinois Union Insurance Company	8755 West Higgins Road Chicago, IL 60631
4438	Indemnity Marine Assurance Company Limited	St. Helen's 1 Undershaft London, EC3P 3DQ England
4441	Indian Harbor Insurance Company	One Greenwich Plaza P. O. Box 2568 Greenwich, CT 06836-2568
4445	Industrial Insurance Company Limited	Helsinki, FIN-00035
4430	INEX Insurance Exchange	1 South Wacker Drive Suite 2720 Chicago, IL 60606-4617
4451	Interstate Fire & Casualty Company	55 East Monroe Street Chicago, IL 60603
4453	Investors Insurance Company of America	200 Schulz Drive Red Bank, NJ 07701-6741
4425	ITT Pacific Insurance Company, Limited	Hartford Plaza Hartford, CT 06115
4460	Kemper Indemnity Insurance Company	445 South Figueroa Los Angeles, CA 90071
4471	Landmark American Insurance Company	9800 South Meridian Boulevard Englewood, CO 80112
4472	Landmark Insurance Company	777 South Figueroa Street Los Angeles, CA 90017
4475	Legion Indemnity Company	190 S. LaSalle Street Chicago, IL 60603
4478	Lexington Insurance Company	1209 Orange Street Wilmington, DE 19801
4482	Liberty Mutual Insurance Company (UK) Limited	4th Floor, One Minster Court Mincing Lane London, EC3R 7AA England
4480	Liberty Surplus Insurance Corporation	175 Berkeley Street Boston, MA 02117
4492	Lloyd's (Underwriters at)	One Lime Street London, EC3M 7HA England
4510	London and Edinburgh Insurance Company Limited	Excess House 13 Fenchurch Avenue London, EC3M 5BT England
4530	Marine Insurance Company Limited	34/36 Lime Street London, EC3M 7JE England

<i>Key Number</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
4540	Maritime Insurance Company Limited	P. O. Box 6 Surrey Street Norfolk, NR1 3NS England
4565	Monticello Insurance Company	1209 Orange Street Wilmington, DE 19801
4575	Mt. Hawley Insurance Company	7400 College Boulevard Suite 330 Overland Park, KS 66210
4590	NAMIC Insurance Company, Inc.	3601 Vincennes Road Indianapolis, IN 46268
4598	National Fire & Marine Insurance Company	3024 Harney Street Omaha, NE 68131-3580
4605	Nautilus Insurance Company	7273 East Butherus Drive Scottsdale, AZ 85260
4595	NIC Insurance Company	123 William Street New York, NY 10038-3871
4630	NORCAL Mutual Insurance Company	560 Davis Street, Second Floor San Francisco, CA 94111-1902
4637	North American Capacity Insurance Company	650 Elm Street Manchester, NH 03101-2524
4645	Northern Assurance Company Limited	St. Helen's 1 Undershaft London, EC3P 3DQ England
4652	Northfield Insurance Company	12935 North Forty Drive St. Louis, MO 63141
4665	Nutmeg Insurance Company	Hartford Plaza Hartford, CT 06115
4667	Ocean Marine Insurance Company Limited	St. Helen's 1 Undershaft London, EC3P 3DQ England
4840	Odyssey Re (London) Limited	52—54 Leadenhall Street London, EC3A 2BJ England
4668	Old Republic Union Insurance Company	307 North Michigan Avenue Chicago, IL 60601
4700	Pacific Insurance Company	c/o CT Corp 818 West 7th Street Los Angeles, CA 90017
4710	Paradigm Insurance Company	2450 One Indiana Square Indianapolis, IN 46204
4720	Phoenix Assurance plc	1 Bartholomew Lane London, EC2N 2AB England
4730	Preferred National Insurance Company	210 University Drive Suite 900 Coral Springs, FL 33071
4735	Princeton Excess and Surplus Lines Insurance Company	1013 Centre Road Wilmington, DE 19805
4740	Professional Underwriters Liability Insurance Company	50 West Broadway Salt Lake City, UT 84101
4755	QBE International Insurance Limited	14 Fenchurch Avenue London, EC3M 5BS England
4756	Queensway International Indemnity Company	One South Orange Avenue, Suite 500 Orlando, FL 32801
4757	Realm National Insurance Company	125 Maiden Lane New York, NY 10038

<i>Key Number</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
4760	Reliance Insurance Company of Illinois	233 South Wacker Drive Suite 9220 Chicago, IL 60606
4787	Rock River Insurance Company	3400 80th Street Moline, IL 61265-5886
4793	Royal Surplus Lines Insurance Company	500 Winding Brook Drive Glastonbury, CT 06033
4802	SAFECO Surplus Lines Insurance Company	SAFECO Plaza Seattle, WA 98185
4810	Savers Property & Casualty Insurance Company	700 West 47th Street Kansas City, MO 64112-1802
4816	Scottsdale Insurance Company	One Nationwide Plaza Columbus, OH 43215
4819	Sheffield Insurance Corporation	3760 River Run Drive Birmingham, AL 35243
4804	SR International Business Insurance Company Limited	71—77 Leadenhall Street London, EC3A 2PQ England
4806	St. Paul Reinsurance Company Limited	52 Lime Street London, EC3M 7BS England
4807	St. Paul Surplus Lines Insurance Company	32 Loockerman Square Dover, DE 19901
4845	Steadfast Insurance Company	Suite 202 32 Loockerman Square Dover, DE 19901
4849	Stonewall Insurance Company	31 Inverness Center Parkway Suite 200 Birmingham, AL 35242
4860	Storebrand Skadeforsikring AS	P. O. Box 1380 Vika Oslo, 0114 Norway
4875	Terra Nova Insurance Company Limited	41/43 Mincing Lane London, EC3R 7SP England
4880	Through Transport Mutual Insurance Association Limited	Windsor Place, Queen Street P. O. Box HM655 Hamilton, HMCX Bermuda
4870	TIG Specialty Insurance Company	444 Market Street San Francisco, CA 94111
4881	Trafalgar Insurance Company	600 Bank of Oklahoma Plaza 201 Robert S. Kerr Avenue Oklahoma City, OK 73102
4882	Travelers Excess and Surplus Lines Company	One Tower Square Hartford, CT 06183
4884	Tudor Insurance Company	91 Court Street Keene, NH 03431
4893	U. S. Underwriters Insurance Company	316 North Fifth Street Sixth Floor Bismarck, ND 58501
4887	ULICO Indemnity Company	320 West Capital Street Suite 1000 Little Rock, AR 72201-3525
4889	Underwriters Indemnity Company	8 Greenway Plaza Suite 400 Houston, TX 77046
4890	Unionamerica Insurance Company Limited	The London Underwriting Centre 3 Minster Court, Mincing Lane London, EC3R 7DD England
4897	United Capitol Insurance Company	400 Perimeter Center Terrace Atlanta, GA 30346

<i>Key Number</i>	<i>Company Name</i>	<i>Statutory Home Address</i>
4900	United Coastal Insurance Company	40 North Central Avenue Phoenix, AZ 85004
4930	Vesta Insurance Company Limited	Folke Bernadottes vei 50 Bergen, 5020 Norway
4935	Voyager Indemnity Insurance Company	5950 Live Oak Parkway Suite 300 Norcross, GA 30093
4950	WASA International (UK) Insurance Company Limited	WASA House 26/27 Regency Square Brighton, E. Sussex, BN1 2FX England
4955	Wausau General Insurance Company	1431 Opus Place Downers Grove, IL 60515-1169
4957	Westchester Surplus Lines Insurance Company	Six Concourse Parkway Suite 2500 Atlanta, GA 30328-5346
4962	Western Heritage Insurance Company	6263 N. Scottsdale Road Suite 240 Scottsdale, AZ 85250
4963	Western Indemnity Insurance Company	820 Gessner Suite 1200 Houston, TX 77024
4966	Western World Insurance Company	91 Court Street Keene, NH 03431
4925	Winterthur International America Underwriters Insurance Company	5810 East Skelly Drive Suite 700 Tulsa, OK 74135
4980	Yorkshire Insurance Company Limited	Pitheavlis Perth, PH2 0NH Scotland
4985	ZC Specialty Insurance Company	400 West 15th Street Suite 7 Austin, TX 78701
4990	Zurich International (Bermuda) Ltd.	Crawford House 50 Cedar Avenue Hamilton, HM 11 Bermuda
4995	Zurich Reinsurance (London) Limited	The Zurich Building 90 Fenchurch Street London, EC3M 4JX England

Since publication of the July 1, 1998 eligible surplus lines insurer list, the following significant changes have occurred:

	(Key Number)	(Company Name)	(Date)
Additions:	4881	Trafalgar Insurance Company	07/20/98
	4333	Gemini Insurance Company	08/04/98
	4480	Liberty Surplus Insurance Company	08/04/98
	4175	Clarendon America Insurance Company	08/07/98
	4630	Norcal Mutual Insurance Company	09/28/98
	4460	Kemper Indemnity Insurance Company	12/22/98
	4445	Industrial Insurance Company Limited	12/23/98
Deletions:	4444	Insurance Company of North America (U.K.) Limited	12/07/98
	4823	Skandia International Insurance Corporation	12/15/98
Name Changes:			
	From: 4925	Vanguard Underwriters Insurance Company	11/16/98
To: 4925	Winterthur International America Underwriters Insurance Company		

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 99-60. Filed for public inspection January 8, 1999, 9:00 a.m.]



**Liberty Mutual Fire Insurance Company; Pennsylvania Rate and Rule Revision; Private Passenger Automobile Rating Manual**

On December 22, 1998, the Insurance Department received from Liberty Mutual Fire Insurance Company a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 3.4% decrease amounting to -\$3,932,000 annually, to be effective March 22, 1999.

Unless formal administrative action is taken prior to February 20, 1999, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Insurance Department's offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Michael W. Burkett, Pennsylvania Insurance Department, Bureau of Regulation of Rates and Policies, Room 1311, Strawberry Square, Harrisburg, PA 17120 (e-mail at mburkett@ins.state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 99-61. Filed for public inspection January 8, 1999, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The following Liquor Control Board lease will expire:

Lehigh County, Wine & Spirits Shoppe #3918, Fairmont Village Unit #173, 7001 Route 309, Coopersburg, PA 18036-1121.

*Lease Expiration Date:* November 30, 1999

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space on PA Route 309 within 1 mile of the intersection of Fairmont Street, Upper Saucon Township.

*Proposals due:* January 22, 1999 at 12 noon

**Department:** Pennsylvania Liquor Control Board  
**Location:** Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661  
**Contact:** Willard J. Rhodes, (717) 657-4228

JOHN E. JONES, III,  
*Chairperson*

[Pa.B. Doc. No. 99-62. Filed for public inspection January 8, 1999, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Acquisition of Property Without Hearing

**A-122250F0009. Peoples Natural Gas Company.** Application of the Peoples Natural Gas Company for the approval of the acquisition of property to be used and useful in the public service from GNC Transmission Corporation.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before January 25, 1999, under 52 Pa. Code (relating to public utilities).

*Applicant:* The Peoples Natural Gas Company

*Through and By Counsel:* Margaret H. Peters, Esquire, The Peoples Natural Gas Company, 625 Liberty Avenue, Pittsburgh, PA 15222-3197.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 99-63. Filed for public inspection January 8, 1999, 9:00 a.m.]

### Electric Service Without Hearing

**A-110300F0089. Metropolitan Edison Company.** Application of Metropolitan Edison Company for approval of the transfer by sale to Wildon Industries, Inc., of certain electric facilities located in the Township of Upper Mount Bethel, County of Northampton, Commonwealth of Pennsylvania.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before January 25, 1999, under 52 Pa. Code (relating to public utilities).

*Applicant:* Metropolitan Edison Company

*Through and By Counsel:* William C. Matthews, II, Esquire, Metropolitan Edison Company, 2800 Pottsville Pike, Post Office Box 16001, Reading, PA 19640-0001.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 99-64. Filed for public inspection January 8, 1999, 9:00 a.m.]

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without

hearing in the absence of protests to the application. Protests to the applications published herein are due on or before February 1, 1999, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

**Applications of the following for approval of the beginning of the exercise of the right and privilege of operating as common carriers for transportation of persons as described under each application.**

**A-00115505. Thomas William Gerke, t/d/b/a T W Gerke Limousine** (131 East Fayette Street, Uniontown, Fayette County, PA 15401)—persons in limousine service, between points in the county of Fayette, and from points in said county, to points in Pennsylvania, and return.

**Applications of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under each application.**

**A-00115142, F. 2. Simonik Moving & Storage, Inc.** (P. O. Box 6949, Bridgewater, New Jersey 08807), a corporation of the State of New Jersey—additional right—household goods in use, between points in the counties of Philadelphia, Delaware, Chester, Montgomery and Bucks, included within a line which connects the municipal boundaries of Chester, West Chester, Paoli, Norristown, Doylestown and Morrisville, but not including said places, and from points in said area, to other points in Pennsylvania, and vice versa. *Attorney:* Richard A. Franklin, 1700 Sansom Street, Philadelphia, PA 19103.

**Applications of the following for approval of the right to begin to operate as a broker for the transportation of persons as described under each application.**

**A-00115512. Barbara J. Ray, t/d/b/a Holiday Travel Agency** (140 Gazebo Park, Johnstown, Cambria County, PA 15901)—brokerage license—to arrange for the transportation of persons and their baggage between points in Pennsylvania.

**Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.**

**A-00115504. Stegura Limousines, Ltd.** (614 South Hanover Street, Nanticoke, Luzerne County, PA 18634), a corporation of the Commonwealth of Pennsylvania—persons in airport transfer service, from points in the city of Wilkes-Barre, Luzerne County, and within an airline distance of 10 statute miles of the limit of said city, to the Allentown-Bethlehem-Easton Airport (ABE) at Allentown, Lehigh County, and the Philadelphia International Airport, in the city and county of Philadelphia and the township of Tinicum, Delaware County; subject to the following conditions: that no transportation will originate at the Allentown-Bethlehem-Easton Airport, except upon prior arrangement made by a passenger who had been previously transported to the airport by this carrier as a part of the same airline trip; which is to be a transfer of all of the rights authorized under the certificate issued at

A-00113123 to Sandra L. Jacobs, t/d/b/a Jacobs Livery, subject to the same limitations and conditions. *Attorney:* Edward J. Geist, 61 Carey Avenue, Wilkes-Barre, PA 18702.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 99-65. Filed for public inspection January 8, 1999, 9:00 a.m.]

## Telecommunications

**A-330645. Bell Atlantic-Pennsylvania, Inc. and Paging Network of Philadelphia, Inc.** Joint Petition of Bell Atlantic-Pennsylvania, Inc. and Paging Network of Philadelphia, Inc. for approval of an Interconnection Agreement under section 252(e) of the Telecommunications Act of 1996.

Bell Atlantic-Pennsylvania, Inc. and Paging Network of Philadelphia, Inc., by its counsel, filed on December 9, 1998, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of an Interconnection Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Bell Atlantic-Pennsylvania, Inc. and Paging Network of Philadelphia, Inc. Joint Petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 99-66. Filed for public inspection January 8, 1999, 9:00 a.m.]

## PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

### Hearings Scheduled

Hearings have been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's denial of Claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

February 3, 1999 Joseph A. Caputo 1 p.m.  
Roy Davis  
Vincent J. Gross  
John E. McAuliffe  
(Change of Retirement Date)

February 17, 1999 Esther Schneier 1 p.m.  
(Overpayment)

Catherine H. Hawes 2:30 p.m.  
Purchase of Service

Persons with a disability who wish to attend the above-listed hearings and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact Arthur J. Granito, Assistant Executive Director, at (717) 783-5613 to discuss how the Public School Employees' Retirement System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JAMES A. PERRY,  
*Secretary*

[Pa.B. Doc. No. 99-67. Filed for public inspection January 8, 1999, 9:00 a.m.]

## TURNPIKE COMMISSION

### Request for Bids

The Turnpike Commission is requesting sealed bids for:

1) Equipment Rental, Athey Mobile Sweepers #AHL-2/MD9

*Bid Opening:* January 25, 1999, at 11 a.m.

Bids will be received by the Purchasing Manager not later than the time indicated above. Bid proposal forms and conditions may be obtained, free of charge, by communicating with the Bid Clerk, Purchasing Department, (717) 939-9551, Ext. 2830.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 99-68. Filed for public inspection January 8, 1999, 9:00 a.m.]

### Request for Proposals

Sealed proposals will be received by Jeffrey L. Hess, Purchasing Manager, at the Administration Building, Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated for the following contract:

**Contract No. 85-012-RF74**—Demolition of Bridge No. B-439 at M.P. 112.80 and Bridge No. B-440 at M.P. 113.48 on the PA Turnpike System in Somerset County, PA

*Bid Opening Date*—February 11, 1999, 11 a.m.

*Bid Surety*—5%

Plans, Specifications and Contract Documents will be available and open for public inspection at the Administration Building. Copies may be purchased upon payment of \$30 per set by check or P. O. Money Order (No Cash) payable to the Pennsylvania Turnpike Commission, Attention: Secretary-Treasurer's Office, P. O. Box 67676, Harrisburg, PA 17106-7676. No refund for any reason will be made for plans, specifications and contract documents.

A Prequalification Certification and Maximum Capacity Rating assigned by the Prequalification Committee of the Pennsylvania Department of Transportation is a necessary prerequisite for bidding on this project.

Contact the Purchasing Manager for a listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 99-69. Filed for public inspection January 8, 1999, 9:00 a.m.]

### Request for Proposals

Sealed proposals will be received by Jeffrey L. Hess, Purchasing Manager, at the Administration Building, Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated for the following contract:

**Contract No. 94-001-FU89-C**—Section 50T. Construction of the Newcomer Communication Site and the Mainline Toll Plaza South Communication Site in Georges Township, Fayette County, PA

*Bid Opening Date*—February 10, 1999, 11 a.m.

*Bid Surety*—5%

Plans, Specifications and Contract Documents will be available and open for public inspection at the Administration Building. Copies may be purchased upon payment of \$30 by check or P. O. Money Order (No Cash) payable to the Pennsylvania Turnpike Commission, Attention: Secretary-Treasurer's Office, P. O. Box 67676, Harrisburg, PA 17106-7676. No refund for any reason will be made for plans, specifications and contract documents.

A Prequalification Certification and Maximum Capacity Rating assigned by the Prequalification Committee of the Pennsylvania Department of Transportation is not a necessary prerequisite for bidding on this project.

Contact the Purchasing Manager for a listing of other locations where plans and specs can be inspected.

Direct any questions for this project to Mark Raup, (717) 939-9551, Ext. 3632.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 99-70. Filed for public inspection January 8, 1999, 9:00 a.m.]

## Retention of an Engineering Firm

### Open-End Construction Inspection Milepost 0.00 to Milepost 200.0

**Allegheny, Beaver, Bedford, Butler, Franklin,  
Fulton, Huntingdon, Lawrence, Somerset and  
Westmoreland Counties, PA**

#### Reference No. 1-112

The Turnpike Commission (Commission) will retain an engineering or construction management firm to provide open-end construction inspection services for various projects in the Pennsylvania Turnpike's Western Region (Milepost 0.00 to Milepost 200.0). The types of projects to be inspected under this agreement may include, but are not limited to, bituminous overlays, bridge rehabilitation and replacements, service plaza parking lot expansions and building modifications.

The agreement will have a completion date of December 31, 2000, with projects assigned on an as-needed basis. The agreement will be for a maximum cost of \$500,000.

The main service to be provided under this agreement will be to supply construction inspectors on an as-needed basis as a supplement to our existing inspection staff. On limited occasions, the selected firm may be required to provide a full-time on-site construction inspection staff, with sufficient office personnel, managers, engineers, technicians and clerical staff to support the field functions. The selected firm may be required to attend the prebid meeting and preconstruction conference, write project correspondence and review and approve contractor's submissions. In addition, the selected firm may be required to keep records utilizing the Turnpike's Construction Documentation System (CDS) to document the construction progress, prepare current and final estimates for payment to contractors, prepare change orders, conduct monthly job conferences, monitor monthly progress, provide liaison with affected utilities and communities, conduct semifinal and final inspections, determine the final quantities for each contract item and perform other duties as required.

Eighty percent of the inspection staff assigned to this Commission construction project must meet at least one of the following requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) as a Transportation Engineering Technician—Construction Level 2 or higher.
2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with 1 year of highway inspection experience acceptable to the Commission.
3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with 2 years of highway inspection experience acceptable to the Commission.
4. Hold a Bachelor of Science Degree in Civil Engineering or Civil Engineering Technology with 2 years of highway inspection experience acceptable to the Commission.
5. Hold a Associate Degree in Civil Engineering Technology with 3 years of highway inspection experience acceptable to the Commission.

The remaining 20% assigned to this project shall meet the following education and experience requirements:

*Education*—Graduation from high school or equivalent certification or formal training. Completion of a training program in construction inspection approved by the Commission may be substituted for high school graduation.

*Experience*—One year of experience in construction inspection or workmanship which required reading and interpreting construction plans and specifications, or 1 year of experience in a variety of assignments involving the testing of materials used in highway or similar construction projects. A 2 to 4 year engineering college degree may be substituted for 1 year of experience.

Questions and inquires concerning this Project should be directed to Matthew J. Wagner, P.E., at (717) 939-9551, Ext. 5210, or by e-mail at mwagner@paturndpike.com.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 99-71. Filed for public inspection January 8, 1999, 9:00 a.m.]

## Retention of an Engineering Firm

### Open-End Coating Consultant Systemwide

#### Reference No. 3-110

The Turnpike Commission (Commission) may retain an engineering firm specializing in protective coatings to provide open-end construction coating inspection services and consultation for various projects Statewide on the Pennsylvania Turnpike System. The types of projects to be inspected under this agreement may include, but are not limited to, existing steel bridges, water tanks, radio towers, sign structures and field applications of coatings to shop primed steel. Other tasks that may be assigned include review of new coating and paint removal products, recommendation of coating selection, specification preparation, existing steel corrosion surveys, cost effective paint maintenance strategy development, identification of candidate structures for maintenance painting, coating failure analysis and training of Commission personnel in coating related issues.

The agreement will have a completion date of December 31, 2000, with projects assigned on an as-needed basis. The agreement will be for a maximum cost of \$500,000.

The firm will be required to provide technical expertise in all aspects of coating management. On limited occasions, the selected firm may be required to provide a full-time on-site construction inspection staff, with sufficient office personnel, managers, engineers, technicians and clerical staff to support the field functions. The selected firm may be required to attend the prebid meeting and preconstruction conference, write project correspondence and review and approve contractor's submissions. In addition, the selected firm may be required to document the construction progress, prepare current and final estimates for payment to contractors, prepare change orders, conduct monthly job conferences, monitor monthly progress, provide liaison with affected utilities and communities, conduct semifinal and final inspections, determine the final quantities for each contract item and perform other duties as required. All other assigned tasks not directly involved with inspection work will require appropriate written reports.

Questions and inquiries concerning this project should be directed to Matthew J. Wagner, P.E., at (717) 939-9551, Ext. 5210, or by e-mail at mwagner@paturnpike.com.

#### General Requirements and Information

Firms interested in performing the above services are invited to submit Expanded Letters of Interest to Michael W. Flack, P.E., Assistant Chief Engineer—Construction, at the PA Turnpike Commission Administration Building located on Eisenhower Boulevard at the Harrisburg-East Interchange (No. 19). (FedEx address: Route 283 and Eisenhower Boulevard, Highspire, PA 17034) (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676).

The expanded letters of interest must include in the heading the project reference number indicated in the advertisement. A Standard Form 254, "Architect-Engineer and Related Services Questionnaire," not more than 1 year old as of the date of this advertisement, and Standard Form 255, "Architect-Engineer and Related Services Questionnaire for Specific Project," must accompany each expanded letter of interest. Explanation that the firm has successfully completed similar type projects, of the same magnitude, is required. If the firm has multiple offices, the location of the office performing the work must be identified.

Firms with out-of-State headquarters or corporation not incorporated in Pennsylvania must include with each expanded letter of interest a copy of their registration to do business in this Commonwealth as provided by the Department of State.

The Commission currently limits its participation in the remuneration of principals or consultant employees performing work on projects to \$72,800 per annum or \$35 per hour or their actual audited remuneration, whichever is less. The Commission currently limits its participation in the consultant's indirect payroll cost (overhead) on construction inspection / project management projects to 130% for office support and 100% for the field staff, or the consultant's actual audited overhead rate, whichever is less.

The Consultant in their submission should identify the following factors:

(A) Specialized experience and technical competence of firm. The firm must clearly demonstrate their capabilities of completing this project by identifying similar projects that have been completed, the magnitude of the project and the client.

(B) Past record of performance with respect to cost control, work quality and ability to meet schedules. The specific experience of individuals who constitute the firms shall be considered.

(C) Expanded letters of interest must include an indication of the prime consultant's and subconsultant's current workload for all Pennsylvania Department of Transportation and Pennsylvania Turnpike Commission projects.

(D) Location of consultant's office where the work will be performed.

(E) Listing of subconsultants intended. Any deviation from the subconsultants listed in the expanded letter of interest will require written approval from the Commission.

(F) An organization chart for the Project, identifying key personnel. Only resumes of key personnel should be included.

(G) Other factors, if any, specific to the project.

There is not a minimum participation level for DBE/MBE/WBEs in these Projects.

The expanded letter of interest and required forms must be received by 12 noon, Friday, January 22, 1999. Any letters of interest received after this date and time will be time-stamped and returned.

Based on an evaluation of acceptable expanded letters of interest received in response to this solicitation, one firm will be selected for each of these projects. The order of preference will be established for the purpose of negotiating an agreement with the highest ranked firm established by the Technical Review Committee and approved by the Selection Committee. Technical Proposals or Requests for Proposals will not be requested prior to selection.

The Commission reserves the right to reject all expanded letters of interest, to cancel solicitation requested under this notice, and/or to re-advertise solicitation for these services.

JAMES F. MALONE, III,  
*Chairperson*

[Pa.B. Doc. No. 99-72. Filed for public inspection January 8, 1999, 9:00 a.m.]

# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

**EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.**

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". A qualified small business concern is an independently owned, operated for profit, business employing 100 or fewer employes and is not a subsidiary or affiliate of a corporation otherwise not qualified.

Such penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter. The small business concern must include on every invoice submitted to the Commonwealth: "(name of vendor) is a qualified small business concern as defined at 4 Pa. Code § 2.32".

For information on the required payment date and annual interest rate, please call the Pennsylvania Department of Commerce, Small Business Action Center, 483 Forum Building, 783-5700.

### Reader's Guide

#### Legal Services & Consultation—26

- ① Service Code Identification Number
- ② Commodity/Supply or Contract Identification No.
- ③ Contract Information
- ④ Department
- ⑤ Location
- ⑥ Duration
- ⑦ (For Commodities: Contact: Vendor Services Section 717-787-2199 or 717-787-4705)

#### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.  
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

## GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania State Treasury  
 Room G13 Finance Building  
 Harrisburg, PA 17120  
 717-787-2990  
 1-800-252-4700

BARBARA HAFER,  
*State Treasurer*

**Online Subscriptions At <http://www.statecontracts.com> 1-800-334-1429 x340**

### Commodities

**1415118** Telephone Equipment—Furnish and install expansion shelf and 3 analog cards and 1 digital card for harris 20/20 pbx telephone systems; 3 each

**Department:** Corrections  
**Location:** Albion, Erie, PA 16475  
**Duration:** FY 98—99  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1439118** Security Equipment—Cameras and lenses w/appropriate accessories; various amounts

**Department:** Corrections  
**Location:** Somerset, Somerset, PA 15510-0001  
**Duration:** FY 98—99  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

**1214158** Security Equipment—Furnish and install closed circuit camera system w/appropriate accessories; 1 lot

**Department:** Public Welfare  
**Location:** Southwestern Veterans Center  
**Duration:** FY 98—99  
**Contact:** Vendor Services, fax request to (717) 787-0725 or call (717) 787-2199

## SERVICES

### Agricultural Services—2

**090-000228** Herbicide Spraying: Provide professional herbicide application for the period July 1, 1999 to March 31, 2001 (21 months, with two optional 2-year renewals). Estimated total hours: 1,700 (yearly estimate: Blair County 350, Cambria County 500). Must provide applicator and licensing record form, herbicide application business license and vehicle registration of spray truck with bid. Department will supply herbicides, vendor must supply "shadow truck."

**Department:** Transportation  
**Location:** Throughout Blair and Cambria Counties  
**Duration:** July 1, 1999—March 31, 2001  
**Contact:** Sean C. Alexander, 9-0 Roadside Services, (814) 696-7116

**090-000229** Herbicide Spraying: Provide professional herbicide application for the period July 1, 1999 to March 31, 2001 (21 months, with two optional 2-year renewals). Estimated total hours: 1,550 (yearly estimate: Bedford County 375, Somerset County 400). Must provide applicator and licensing record form, herbicide application business license and vehicle registration of spray truck with bid. Department will supply herbicides, vendor must also supply "shadow truck."

**Department:** Transportation  
**Location:** Throughout Bedford and Somerset Counties  
**Duration:** July 1, 1999—March 31, 2001  
**Contact:** Sean C. Alexander, 9-0 Roadside Specialist, (814) 696-7116

**092071-TC** The Pennsylvania Department of Transportation in District 9-0 Hollidaysburg will be selling timber to be harvested from a future construction site at the intersection of SR 22 and SR 866 in Blair County as a timber sale contract. The highest bidder will purchase standing timber as marked and according to contract specifications.

**Department:** Transportation  
**Location:** Intersection of SR 22 and SR 866 Construction site—Blair Co.  
**Duration:** February 1, 1999—April 30, 1999  
**Contact:** Dain Davis, (814) 696-7223

**Audio/Video—4**

**98-001** Burial Cable and Wire: Supply direct burial cable and wires used for 240V campground service. Documents containing all pertinent information can be obtained from the Park Office.

**Department:** DCNR  
**Location:** French Creek State Park, 843 Park Road, Elverson, Berks County, PA 19520-9523  
**Duration:** By February 26, 1999  
**Contact:** Lewis H. Williams, Asst. Park Manager, (610) 582-9680

**911 Wireless** To provide an in-depth radio frequency study into the manner in which the Commonwealth of Pennsylvania and the 911 centers operating in this Commonwealth implement wireless technology location identification by way of a latitude and longitude tracking. The scope of work will consist of, but not be limited to, an analytical review of current and future technology location, review and recommend methods of standardization and coordination of 911 systems, provide a representation on a polygram coverage based on the service area, provide a cost analyst on the existing system with recommendations of cost recovery, and develop a realistic Commonwealth compliance time line.

**Department:** PA Emergency Management Agency  
**Location:** Statewide  
**Duration:** June 30, 1999  
**Contact:** Christopher Nolan, (717) 651-2191

**Inquiry No. 8087900500** Services: Electric shortwave message system and all related equipment.

**Department:** Public Welfare  
**Location:** Selinsgrove Center, Selinsgrove, Snyder County, PA 17870  
**Duration:** July 1, 1999—June 30, 2004  
**Contact:** Arletta K. Ney, Purchasing Agent, (570) 372-5070

**Inquiry No. 8087900600** Services: Repairs to audio-visual equipment including AV projectors, televisions, VCRs, cameras, and the like. Service agent must be located within 50-mile radius of the Center or provide pickup and delivery of equipment in need of repair free of charge. Service agent required to make routine repairs within a 30-day period, have the technical expertise and facilities needed to repair 3/4" video recorders and color video cameras and on request give technical advice. Annual estimate of 30 hours labor and \$1,000 parts.

**Department:** Public Welfare  
**Location:** Selinsgrove Center, Box 500, Route 522, Selinsgrove, Snyder County, PA 17870  
**Duration:** July 1, 1999—June 30, 2004  
**Contact:** Arletta K. Ney, Purchasing Agent, (570) 372-5070

**Computer Related Services—8**

**1032** Contractor required to furnish and install PC time and attendance system w/biometric input device (hand reader) including software to the State Correctional Institution—Frackville, 1111 Altamont Blvd., Frackville, PA 17931.

**Department:** Corrections  
**Location:** SCI—Frackville, 1111 Altamont Boulevard, Frackville, PA 17931  
**Duration:** March 1, 1999—June 30, 1999  
**Contact:** Mary Lou Neverosky, Purchasing Agent, (570) 874-4516, Ext. 112

**Construction—9**

**DGS 1574-3** Project title: Dining Room Expansion. Brief description: Renovations to the existing building and construction of a one story addition/building, to provide new dining rooms requiring general, HVAC, plumbing and electrical construction. Estimated range: \$2,000,000 to \$5,000,000. General, HVAC, plumbing and electrical construction. Plans deposit: \$100 per set. Payable to: Noelker & Hull Associates, Inc. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Noelker & Hull Associates, Inc., 30 West King Street, Chambersburg, PA 17201-2301, (717) 263-8464. Bid Date: Wednesday, February 10, 1999 at 11 a.m. A controlled walk thru has been scheduled for Wednesday, January 20, 1999 at 1 p.m. Meet at Main Gate of the State Correctional Institution, Cresson, PA. Contact person: Gary Ahles, (814) 886-8181.

**Department:** General Services  
**Location:** State Correctional Institution, Cresson, Cambria County, PA  
**Duration:** 250 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**DGS A 992-12** Project title: Restoration of houses 46/48 and 126/128. Brief description: Complete restorations—interior and exterior of house 46/48, exterior of house 126/128, complete new summer kitchens built behind both houses and new heating systems in both houses. Estimated range: \$100,000 to \$500,000. General and electrical construction. Plans deposit: \$25 per set. Payable to: Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Mail a separate check for \$5 per set or provide your express mail account number to the office listed. Contact the office listed to arrange for delivery of documents. Mail request to: Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, February 10, 1999 at 1 p.m. A prebid conference has been scheduled for Tuesday, January 26, 1999 at 10:30 a.m. at the Visitor's Center, Eckley Miner's Village, Eckley, PA. Contact person: Kent Steinbrunner, (717) 783-9931. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

**Department:** General Services  
**Location:** Eckley Miner's Village, Eckley, Luzerne County, PA  
**Duration:** 180 calendar days from date of initial job conference  
**Contact:** Contract Bidding Unit, (717) 787-6556

**RFI 97-23** PennDOT is releasing a Request For Information (RFI) to solicit contractors ideas for replacing the Washington County Maintenance Facility presently located at Route 19 south, 89 Murtland Ave., Washington, PA with one that will function equal or better than the current facility. Fax requests to Joseph DeSantis at (717) 783-7971.

**Department:** Transportation  
**Location:** Route 19 South, 89 Murtland Ave., Washington, PA  
**Duration:** Indeterminate 1998-99  
**Contact:** Joseph DeSantis, (717) 787-9213

**6210** To supply the following goods needed to build a snowmobile bridge in Moraine State Park. (3) W12 x 35 55'-0" Lg. A-588, 50 KSI steel "I" beams, (12) W8 x 13, 3'-11 1/4" Lg., A-588, 50 KSI steel, (48) L 4" x 3 1/2" X 1/4" x 0'-5 1/2" Lg. A-588 50 KSI steel, (100) deck clips #10 ga. sheet st'l galv., (6) PL 3/4" x 12" x 1'0" Lg. A-588 50 KSI steel, holes to be drilled in steel as per drawings. Material must be delivered to Moraine State Park, Butler Co., PA

**Department:** Conservation and Natural Resources  
**Location:** Moraine State Park, 225 Pleasant Valley Road, Portersville, PA 16051  
**Duration:** January 1, 1999—March 30, 1999  
**Contact:** Moraine State Park, (724) 368-8811

**08430AG2277** To provide construction inspection services on S.R. 0081, Section 022, I-81 from PA 114 to the George Wade Bridge, in Cumberland County.

**Department:** Transportation  
**Location:** Engineering District 8-0  
**Duration:** Eighteen calendar months  
**Contact:** Consultant Agreement Division, (717) 783-9309



**DGS A971-16** Project Title: Asbestos Abatement Construction. Brief description: Work consists of asbestos abatement and installation of substitution materials in five historic buildings including pipe insulation, duct insulation, floor tile and ceiling plaster. Estimated range: under \$100,000. Asbestos Abatement Construction. Plans Deposit: \$25 per set. Payable to: Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5 per set or provide your express mail account number to the address listed. Mail request to: Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid Date: Wednesday, January 13, 1999 at 1 p.m. Any and all Bulletins issued prior to December 30, 1998 are hereby canceled.

**Department:** General Services  
**Location:** Pennsbury Manor, Morrisville, Bucks County, PA  
**Duration:** Proposed date of contract completion March 31, 1999  
**Contact:** Contract Bidding Unit (717) 787-6556

### Engineering Services—14

**RFI 98-05** The Department of Transportation is releasing a Request for Information (RFI) to solicit contractor's ideas for qualifying energy performance contractors and initiating energy performance contracts for the Pennsylvania Department of Transportation's facilities within this Commonwealth. The RFI can be obtained by calling (717) 787-4463 or by fax to (717) 772-8282. Attn: James Doheny.

**Department:** Transportation  
**Location:** Bureau of Office Services, 555 Walnut St., 8th Floor, Harrisburg, PA 17101-1900  
**Duration:** Indeterminate 1998—99  
**Contact:** James Doheny, (717) 787-4463

**02099AG0001** Solicitation of annual Letters of Interest to provide engineering services on various local municipal bridge projects to be administered by the local municipality. The municipalities are located in Engineering District 2-0, that is, Cameron, Centre, Clearfield, Clinton, Elk, Juniata, McKean, Mifflin and Potter Counties.

**Department:** Transportation  
**Location:** Engineering District 2-0  
**Duration:** Twenty-four (24) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2278** Open-end contract to perform various environmental studies and engineering services in Engineering District 12-0, that is, Fayette, Greene, Washington and Westmoreland Counties.

**Department:** Transportation  
**Location:** Engineering District 12-0  
**Duration:** Sixty (60) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2276** Two Statewide open-end contracts to provide for various engineering services; engineering management services; project management services; development and implementation of familiarization sessions for various divisions of Bureau of Design; development and/or usage of PC software and expert system engineering software applications; and other related work for Bureau of Design on an "as needed" basis.

**Department:** Transportation  
**Location:** Bureau of Design  
**Duration:** Sixty (60) months  
**Contact:** Consultant Agreement Division, (717) 783-9309

### Environmental Maintenance Services—15

**RFI 98-06** The Department of Transportation is releasing a Request for Information (RFI) to solicit contractor's ideas to consolidate its property maintenance contracts into one property management contract for all PennDOT facilities located in the south-central Pennsylvania area (District 8). All requests for the RFI can be faxed to (717) 772-8282 or persons can request an RFI by calling (717) 787-4463. All requests to the Attn: James Doheny

**Department:** Transportation  
**Location:** Bureau of Office Services, 555 Walnut St., 8th Floor, Harrisburg, PA 17101-1900  
**Duration:** Indeterminate 1998-99  
**Contact:** James Doheny (717) 787-4463

### Food—19

**229850002 Stackhouse** Provide meals and complete meal services to individuals using the PA Fish and Boat Commission's education/conference facilities at Fisherman's Paradise, Spring Creek, Benner Township, Centre County, during the period February 15, 1999 through June 30, 2000.

**Department:** Fish and Boat Commission  
**Location:** Stackhouse School, Benner Township, Centre County, PA  
**Duration:** February 15, 1999—June 30, 2000  
**Contact:** Kathi Tibbott, Purchasing Agent, (814) 359-5130

**8970-1000-000** Pork primal cuts, approximately 500,000 lbs. over the next 12 months. Beef primal cuts, approximately 2,000,000 lbs. over the next 12 months.

**Department:** Corrections  
**Location:** Bureau of Correctional Industries, Meat Processing Plant  
**Duration:** 12 months semiannual  
**Contact:** Linda Malinak, (717) 975-4931

### Fuel Related Services—20

**2-1-0003** This contract will supply the Department's 1,800 fuel trucks with diesel fuel. The operator will go to a bulk pickup company to pick up on an as needed basis for the months of February 1999 to June 1999. Estimated total gallons for pickup will be approximately 54,000 gallons. The purpose of source pickup and going off contract is due to fuel islands being shut down due to DEP regulations.

**Department:** Transportation  
**Location:** District 0210, Centre County  
**Duration:** February 1999—June 1999  
**Contact:** Tina Smith, (814) 355-4731

**Hazardous Material Services—21**

**PDA 412** The Pennsylvania Department of Agriculture is requesting a contractor to supply all permits, materials, expertise and equipment for the packing, transportation and disposal of chemical wastes on an "as needed basis."

**Department:** Agriculture  
**Location:** Harrisburg and West Chester, PA  
**Duration:** July 1, 1999—June 30, 2001  
**Contact:** Michael Mesaris, (717) 787-5674

**RFP No. 99-06** Kutztown University is seeking qualified firms for an open-ended requirements contract to perform environmental hazard abatement as needed in support of ongoing construction projects at Kutztown University. Proposals are available for a nonrefundable fee of \$15 from: Barbara Barish, Contract Specialist, Kutztown University, Office of Planning and Construction, P. O. Box 730, Kutztown, PA 19530, (610) 683-4602, fax: (610) 683-1553. Proposals are available January 11, 1999 and questions are due by noon, January 22, 1999 to Barbara Barish, Contract Specialist. Proposals are to be received February 4, 1999 by 2 p.m. Nondiscrimination and equal opportunity are the policies of the Commonwealth and the State System of Higher Education.

**Department:** State System of Higher Education  
**Location:** Kutztown University, Kutztown, PA 19530  
**Duration:** One (1) year after NTP (3 additional year renewal option)  
**Contact:** Barbara Barish, (610) 683-4602

**HVAC—22**

**Contract No. FDC-311-463** Construction, renovation and installation for the general, plumbing and electrical work for ADA alterations to a modern cabin. All work is within Prince Gallitzin State Park.

**Department:** Conservation and Natural Resources  
**Location:** White Township, Cambria County  
**Duration:** 120 days  
**Contact:** Construction Management Section, (717) 787-5055

**Contract No. FDC-422-467** Construction, renovation and installation for the general, plumbing and electrical work for ADA alterations to a modern cabin. Work is within Nockamixon State Park.

**Department:** Conservation and Natural Resources  
**Location:** Bedminster Township, Bucks County, PA  
**Duration:** 120 days  
**Contact:** Construction Management Section, (717) 787-5055

**Contract No. FDC-315-472** Provide and install a domestic water distribution system (exterior piping and valving, distribution piping, hydrant and miscellaneous associated work). Work is located within Whipple Dam State Park.

**Department:** Conservation and Natural Resources  
**Location:** Jackson Township, Huntingdon County, PA  
**Duration:** Complete all work by May 21, 1999  
**Contact:** Construction Management Section, (717) 787-5055

**Project No. 643** Provide emergency and routine repair work for heating system. The contractor must respond to the call within 2 hours of receiving a call either directly or by a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid Proposal forms used to submit bids are available from the State Armory Board.

**Department:** Military and Veterans Affairs  
**Location:** OMS, 125 Goodridge Lane, Washington, Washington County, PA  
**Duration:** October 1, 1999—September 30, 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Project No. 644** Provide emergency and routine repair work for plumbing system. The contractor must respond to the call within 2 hours of receiving a call either directly or by a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty on parts where applicable, and further agree to guarantee workmanship and replacement parts, provided by his firm for a 90 day period. Bid Proposal forms used to submit bids are available from the State Armory Board.

**Department:** Military and Veterans Affairs  
**Location:** PAARNG Armory, 100 Valley Hi Drive, West View, Allegheny County, PA  
**Duration:** October 1, 1999—September 30, 2000  
**Contact:** Emma Schroff, (717) 861-8518

**Lodging/Meeting—27**

**4236** Provide meeting facilities for the Department of Environmental Protection, Bureau of Air Quality, Pennsylvania Ozone Stakeholder Group.

**Department:** Environmental Protection  
**Location:** Within a 10-mile radius of the city limits of Reading, PA  
**Duration:** Through December 31, 1999, with option to renew  
**Contact:** Ally Hubler, (717) 787-2471

**3678** Provide meeting facilities for the Department of Environmental Protection, Bureau of Air Quality, Pennsylvania Ozone Stakeholder Group.

**Department:** Environmental Protection  
**Location:** Within a 15-mile radius of the city limits of Allentown, PA  
**Duration:** Through December 31, 1999, with option to renew  
**Contact:** Ally Hubler, (717) 787-2471

**Medical Services—29**

**SP134399004** Psychiatric evaluations—A comprehensive evaluation will be provided and a treatment plan developed for veterans who are referred by the facility's physicians or other designated staff. Services to be provided at the facility except for emergency services or special evaluations. Hours—13 per week—additional hours for these services and training scheduled on an as needed basis, upon mutual agreement. Please fax a request to: (814) 696-5395

**Department:** Military Affairs  
**Location:** Hollidaysburg Veterans Home, Rte. 220 at Meadows Inter., P. O. Box 319, Hollidaysburg, PA 16648  
**Duration:** July 1, 1999—June 30, 2000  
**Contact:** Becky Clapper, Purchasing Agent, (814) 696-5210

**SP134398003** Dental laboratory services for residents of the Hollidaysburg Veterans Home as follows: models, dentures, partials, repairs/relining of dentures as required to be supplied by vendor. Services provided on emergency/nonemergency basis—must be located within 10 mile radius of facility and have the capability of pickup and delivery service. Please fax a request to: (814) 696-5395

**Department:** Military Affairs  
**Location:** Hollidaysburg Veterans Home, P. O. Box 319, Rte. 220 at Meadows Int., Hollidaysburg, PA 16648  
**Duration:** July 1, 1999—June 30, 2000  
**Contact:** Becky Clapper, Purchasing Agent, (814) 696-5210

**RFP No. 35-98** The purpose of this Request for Proposal (RFP) is to solicit bids from contractors to evaluate a mandatory managed care program which is operating in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties (Southeast region). Since the inception of the Medical Assistance (MA) Program, the Department has relied primarily on the traditional Fee-for-Service (FFS) system for the delivery of health care. The FFS system provides payment for health care services provided to recipients on a per service basis. MA provides submitted claims to the Department for individual services provided to recipients.

**Department:** Public Welfare  
**Location:** Statewide  
**Duration:** Indeterminate 1998—99  
**Contact:** Rose Wadlinger, (717) 783-3767

**98-08** The Department of Corrections is soliciting proposals to provide contract facility, group home treatment services for parolees under the supervision of the PA Board of Probation and Parole who have graduated from the Department's Boot Camp.

**Department:** Corrections  
**Location:** Various  
**Duration:** For a period up to 5 years to expire on June 30, 2003  
**Contact:** Suzanne Malhenzie, Administrative Officer, (717) 975-4973

**98-09** The Department of Corrections is soliciting proposals to provide contract facility, group home treatment services for persons under the supervision of the Department of Corrections, Bureau of Community Corrections and the PA Board of Probation and Parole. Services are needed Statewide.

**Department:** Corrections  
**Location:** Various  
**Duration:** For a period up to 5 years to expire June 30, 2003  
**Contact:** Suzanne Malhenzie, Administrative Officer, (717) 975-4973

**Inquiry No. 8087900300** Services: Filling medical and commercial gas cylinders. Includes assorted size cylinders belonging to Selingsgrove Center.

**Department:** Public Welfare  
**Location:** Selingsgrove Center, Box 500, Route 522, Selingsgrove, Snyder County, PA 17870  
**Duration:** July 1, 1999—June 30, 2004  
**Contact:** Arletta K. Ney, Purchasing Agent, (570) 372-5070

**98-10** The Department of Corrections is soliciting proposals to provide inpatient non-hospital drug and alcohol treatment rehabilitation services for persons under the supervision of the Department of Corrections and the PA Board of Probation and Parole. Services are needed Statewide.

**Department:** Corrections  
**Location:** Various  
**Duration:** For a period up to 5 years to expire on June 30, 2003  
**Contact:** Suzanne Malhenzie, Administrative Officer, (717) 975-4973

### Personnel, Temporary—31

**HS-02** Shippensburg University is seeking proposals for a vendor to provide temporary personnel services for the Head Start Program for the period May 1, 1999 through April 30, 2000. The contractor will employ and pay the staff for the University's Head Start program. Duties include payment of salaries, mailing checks, withholding of all lawful deductions, provide worker's compensation, liability insurances, handle unemployment claims, prepare earnings records, tax reports, and the like. Request for RFP should be made in writing to Deborah K. Martin, Contract Administrator, 1871 Old Main Drive, Shippensburg, PA 17257, fax: (717) 530-4004, phone (717) 532-1121. Proposals are due at 2 p.m. on January 27, 1999. The University encourages responses from small, minority and women owned firms.

**Department:** State System of Higher Education  
**Location:** Shippensburg University, Shippensburg Township, Shippensburg, Cumberland County, PA  
**Duration:** May 1, 1999—April 30, 2000  
**Contact:** Deborah K. Martin, Contract Administrator, (717) 532-1121

### Property Maintenance—33

**Project No. KU 99-17** Kutztown University is seeking qualified contractors to renovate dining rooms 1 and 2 and the relocation of "Pizza" and "Bag-It" in the South Dining Hall at Kutztown University. Work to include but is not limited to: demolition of existing construction and relocation of equipment and counters; piping, ductwork and roof top exhaust fan for equipment utilities; relocate electrical utilities for relocated and new equipment. Bid packages are available for a nonrefundable fee of \$55 from: Janet Spahr, STV Architects, 205 West Welsh Drive, Douglassville, PA 19518, (610) 385-8219. Bid packages are available January 11, 1999 through prebid. A prebid meeting has been scheduled for Thursday, January 21, 1999 at 10 a.m. Bids must be received on February 2, 1999 by 2 p.m. in the Office of Planning and Construction, I Wing, Room 236, Kutztown University, Kutztown, PA 19530. Bids will be opened on February 3, 1999 at 2 p.m. in the Office of Planning and Construction. Nondiscrimination and equal opportunity are the policies of the Commonwealth and the State System of Higher Education.

**Department:** State System of Higher Education  
**Location:** Kutztown University, Kutztown, PA 19530  
**Duration:** 60 days after Notice to Proceed  
**Contact:** Barbara Barish, Contract Specialist, (610) 683-4602

**ESU 405-024** East Stroudsburg University is accepting bids on ESU 405-024, replacement of indoor track and tennis court, Koehler Fieldhouse. Bid documents available for a nonrefundable fee of \$35 from The Hillier Group, Suite 300, Glenmaura National Boulevard, P. O. Box 5888, Scranton, PA 18505-0888; or call (570) 342-9800. General Prime Est. \$100,000 to \$300,000. Bid documents available January 11, 1999; prebid conference on January 21, 1999; bid opening February 10, 1999. For special accommodations and exact locations call Ann Zaffuto at (570) 422-3595. All responsible bidders are invited to participate including MBE/WBE firms.

**Department:** State System of Higher Education  
**Location:** East Stroudsburg University, East Stroudsburg, PA 18301-2999  
**Duration:** Construction must be complete by August 20, 1999  
**Contact:** The Hillier Group, (570) 342-9800

**CL-498** Clarion University is soliciting bids for replacement of selected windows in McEntire maintenance. Bid packages available by calling contact person. Prebid meeting: January 28, 1999, 10 a.m. in McEntire Maintenance Bldg. Bid opening: 1:30 p.m., February 10, 1999.

**Department:** State System of Higher Education  
**Location:** Clarion University, Clarion County, Clarion, PA  
**Duration:** 60 days from Notice to Proceed  
**Contact:** Judy McAninch, Contract Manager, (814) 226-2240

**CL-495** Clarion University is soliciting bids for replacement of mechanically fastened EPDM rubber roof on Campbell Hall, a dormitory building on the main campus. Prebid meeting: 10 a.m., February 2, 1999 in McEntire Maintenance Building. Bids open: February 16, 1999, 1:30 p.m. Bid packages available from contact person—\$15 nonrefundable deposit by check only payable to Clarion University.

**Department:** State System of Higher Education  
**Location:** Clarion University, Clarion, Clarion County, PA  
**Duration:** 90 days from Notice to Proceed  
**Contact:** Judy McAninch, (814) 226-2240

**401-BL-583** Nelson Field House ceiling and lighting replacement—Provide all labor, equipment and material necessary to remove the existing pool ceiling and lighting fixtures. The new work includes the installation of a new suspended acoustical ceiling system along with new suspended light fixtures and the relamping of existing wall fixtures. There will be a general contractor and electrical contractor on the project. To obtain bid documents, a \$40 nonrefundable deposit should be sent to Comprehensive Design, Architects/Engineers, 3054 Enterprise Drive, State College, PA 16801-2755, (814) 238-7706. All prebid information and bid dates will be included in the bid documents, it is anticipated that the bids will be released approximately January 10, 1999.

**Department:** State System of Higher Education  
**Location:** Bloomsburg University, Bloomsburg, PA  
**Duration:** 6 months  
**Contact:** Joseph C. Quinn, (717) 389-4311

**Railroad/Airline Related Services—34**

**814181** Provide initial and recurrent training support for the PA Department of Transportation, Bureau of Aviation. The training provided will be for Beechcraft King Air 200 aircraft.

**Department:** Transportation/Aviation  
**Location:** Location of contractor's training site  
**Duration:** March 1, 1999—February 28, 2003  
**Contact:** Scott Cross, (717) 705-1203

**Real Estate Services—35**

**94** Lease office space to the Commonwealth of Pennsylvania. Proposals are invited to provide the PA Board of Probation and Parole with 5,555 useable square feet of new or existing office space in Scranton, Lackawanna County, PA within the following boundaries: North: Von Storch Avenue to Glenn Street to Sanderson Avenue to New York Street to the Scranton City Limits, South: Scranton City Limits, East: Scranton City Limits and West: Lackawanna River. The office must be situated within 3 blocks of a public transportation system. Proposals due: March 15, 1999. Solicitation No.: 92749.

**Department:** General Services  
**Location:** Real Estate, 505 North Office Bldg., Harrisburg, PA 17125  
**Duration:** Indeterminate 1998—99  
**Contact:** John A. Hocker, (717) 787-4394

**93** Lease office space to the Commonwealth of Pennsylvania. Proposals are invited to provide the PA Board of Probation and Parole with 3,839 useable square feet of new or existing office space in Pittsburgh, PA within the following boundaries: North: Butler Street, South: Penn Lincoln Parkway, East: Braddock Avenue, West: 32nd Street to Herron Avenue to Robinson Street terminating at Penn Lincoln Parkway. The office must be situated within 3 blocks of a public transportation system. Proposals due: March 1, 1999. Solicitation No.: 92752.

**Department:** General Services  
**Location:** Real Estate, 505 North Office Bldg., Harrisburg, PA 17105  
**Duration:** Indeterminate 1998—99  
**Contact:** John A. Hocker, (717) 787-4394

**Sanitation—36**

**0620-199** Placement of six 4 cu. yd. dumpsters to be placed at designated stockpile locations throughout Chester County for the purpose of trash collection and removal. Locations are as follows: #02 Nike Base (Willistown Twp. Delchester Rd. 1/4 mile north of TR3), #17 Swedesford (Swedesford 1/4 mile south of TR29), #16 Pennhurst (Pennhurst State Hospital grounds, west of Bridge St. on Church St. in Spring City), #06 Downingtown (Off-ramp U. S. 30 Bypass—Westbound to T. R. 322 Caln Twp.) #11 Vets (U. S. 30 Bypass, Brandywine Hospital Exit), and #18 Embreeville (on T. R. 162 1 mile south of Rt. 162's intersection with Strasbury Rd. in West Bradford Twp.

**Department:** Transportation  
**Location:** Locations are indicated above  
**Duration:** 1 year with two 2 year renewals  
**Contact:** Charles Stone, (610) 964-6520

**Security Services—37**

**DGS 1104-57 Phase 2** Project title: Emergency Fire and Safety Renovations. Brief description: Work consists of the upgrade of fire and safety systems, particularly the installation of sprinklers and smoke detectors in the Medical Research Building. Estimated range: \$2,000,000 to \$5,000,000. Plans deposit: \$100 per set. Payable to: Paul H. Yeomans, Inc. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Paul H. Yeomans, Inc., Cast Iron Building Suite 200S, 718 Arch Street, Philadelphia, PA 19106. Bid date: Wednesday, February 10, 1999 at 1 p.m. A prebid conference has been scheduled for Wednesday, January 27, 1999 at 10 a.m. at Temple University, University Service Building, Room 403, corner of N. Broad Street and Oxford, Philadelphia, PA. Contact person: Don Lodge, (215) 592-1900. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

**Department:** General Services  
**Location:** Temple University, Philadelphia, Philadelphia County, PA  
**Duration:** 231 calendar days from preconstruction conference date  
**Contact:** Contract Bidding Unit, (717) 787-6556

**Inquiry No. 8087900400** Services: Fire extinguishers. Vendor shall supply all labor and material necessary to test, recharge and repair fire extinguishers as requested by the requisitioning agency.

**Department:** Public Welfare  
**Location:** Selinsgrove Center, Selinsgrove, Snyder County, PA 17870  
**Duration:** July 1, 1999—June 30, 2004  
**Contact:** Arletta K. Ney, Purchasing Agent, (570) 372-5070

**Vehicle, Heavy Equipment—38**

**518001** PennDOT seeks bidders to calibrate, provide preventative maintenance, repair, replace or install weigh-in-motion/continuous automatic vehicle classification traffic recording systems throughout this Commonwealth. There are nine sites at eight locations. Requests for information and a bid package can be obtained from David Ori by calling (717) 772-2736 or fax requests to David Ori at (717) 783-9152. Include your name, company name, address, phone number and fax number.

**Department:** Transportation  
**Location:** Bureau of Planning and Research, Various locations throughout this Commonwealth  
**Duration:** Up to 5 years  
**Contact:** David Ori, (717) 772-2736

**0870jd1** John Deere 544 E Articulated Loader, 1990, mfg serial number DW544EB528668. Remove and replace transmission with John Deere factory rebuilt transmission.

**Department:** Transportation  
**Location:** Lancaster County Maintenance, Department will deliver to awarded vendor's location in PA only  
**Duration:** 10 day ARO  
**Contact:** Jeralyn L. Rettew, (717) 299-7621, Ext. 322

**Miscellaneous—39**

**124-001** Modular guidance systems, base, blades and hardware. Specifications for the systems will be mailed with bid package.

**Department:** Transportation  
**Location:** 89 Murtland Ave., P. O. Box 507, Maintenance District 12-4, Washington, PA 15301  
**Duration:** June of 1999  
**Contact:** Terri M. Schubenski, (724) 233-4489

**X4211** Provide 50,000 (each) bottles, polypropylene, autoclavable, 4 oz/125 ml with blue closure.

**Department:** Environmental Protection  
**Location:** Harrisburg, PA  
**Duration:** Must be delivered by January 29, 1999  
**Contact:** Ally Hubler, (717) 787-2471

**6790-1500-000** Alcohol breath testing equipment to be used for the Community Corrections Facilities Statewide. Alco-Sensor IV breath alcohol testing machines.

**Department:** Corrections  
**Location:** 55 Utley Drive, Camp Hill, PA 17011  
**Duration:** January 11, 1999  
**Contact:** Linda Malinak, (717) 975-4931

**98-11** The Department of Corrections is soliciting proposals to provide training and vocational services to inmates at the State Correctional Institutions at Huntingdon, Greensburg, Cresson and Somerset and at the State Regional Correctional Facility at Mercer. Services shall include but not be limited to masonry and carpentry programs.

**Department:** Corrections  
**Location:** Various locations  
**Duration:** Period of 1 to 3 years  
**Contact:** Suzanne Malhenzie, Administrative Officer, (717) 975-4973

**0217** Contractor to provide required materials, labor and superintendence for the removal of two USTs in accordance with Act 32. A mandatory prebid conference is slated for Wednesday, January 27, 1999 at 10 a.m., in the Hilton-Jones Maintenance Center.

**Department:** State System of Higher Education  
**Location:** Cheyney University, Cheyney and Creek Roads, Cheyney, PA 19319-0200  
**Duration:** 120 days  
**Contact:** Antonia Williams, (610) 399-2360

**SP 16985230001** The State Board of Private Licensed Schools invites contractors to submit bids to the Division of Private Licensed Schools, Pennsylvania Department of Education. The successful bidder will be contracted to prepare approximately 1,300 boxes of student records from 20 defunct schools for long-term storage and access and will agree to become the official depository for the records. To prepare the records, the contractor will remove the boxes from their current location, examine each student's file, dispose of superfluous documents therein, reproduce the remaining documents on microfilm/microfiche, and deliver the microfilm/microfiche to the Division of Private Licensed Schools. As the official depository, the contractor will (1) retain a copy of each defunct school's records for 50 years after the year in which the school closed and (2) provide paper copies of academic transcripts to students and other interested parties (colleges, universities, employers, and the like). The contractor may charge the student a fee for the transcript.

**Department:** Education  
**Location:** 333 Market Street (Division of Private Licensed Schools), Harrisburg, PA 17126-0333  
**Duration:** Three months (April 1, 1999—June 30, 1999)  
**Contact:** Sharon Lane, (717) 783-8228

[Pa.B. Doc. No. 99-73. Filed for public inspection January 8, 1999, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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GARY E. CROWELL,  
*Secretary*

## Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract #	Awarded On	To	In the Amount Of
5850-01 Sup #4	01/06/99	Arsys Innotech Corp.	100,000.00
5850-01 Sup #4	01/06/99	Canon USA Inc.	100,000.00
5850-01 Sup #4	01/06/99	Computer Junction Inc.	100,000.00
5850-01 Sup #4	01/06/99	Cycomm Mobiles Solutions	100,000.00
5850-01 Sup #4	01/06/99	Data General Corp. (MTX Inc.)	100,000.00
5850-01 Sup #4	01/06/99	Freegate Corp.	100,000.00
5850-01 Sup #4	01/06/99	Intel Corp.	100,000.00
5850-01 Sup #4	01/06/99	Leecom Solutions	100,000.00
5850-01 Sup #4	01/06/99	Management Graphic Inc.	100,000.00
5850-01 Sup #4	01/06/99	Numonics Corporation	100,000.00
5850-01 Sup #4	01/06/99	Polycom Inc.	100,000.00
5850-01 Sup #4	01/06/99	Response Computer Systems	100,000.00
5850-01 Sup #4	01/06/99	Ricoh Corp.	100,000.00
5850-01 Sup #4	01/06/99	G. E. Richards Inc.	100,000.00
5850-01 Sup #4	01/06/99	Sharp Electronics Corp.	100,000.00
5850-01 Sup #4	01/06/99	Siemens Business Communications Systems	100,000.00
5850-01 Sup #4	01/06/99	USA Futuretech, Inc.	100,000.00

Requisition or Contract #	Awarded On	To	In the Amount Of
5850-01 Sup #4	01/06/99	Konica Business Technologies	100,000.00
5850-01 Sup #4	01/06/99	Teloquent Communications Corp.	100,000.00
1056388-01	12/28/98	Owens Marine Inc.	517,764.00
1170228-01	12/28/98	Pena-Plas Company	8,030.00
1199388-01	12/28/98	Dauphin Associates Inc.	209.51
1199388-02	12/28/98	Scott Electric	13,620.98
1199388-03	12/28/98	I & S Supply Co.	142.08
1199388-04	12/28/98	All Phase Electric Supply Co.	152.25
1199388-05	12/28/98	Keystone Electric Supply Co.	50,553.00
1199388-06	12/28/98	Rumsey Electric Company	1,870.00
1216148-01	12/28/98	Pro-Tech Security Sales	12,750.75
1269228-01	12/28/98	Westgate Chevrolet Inc.	23,277.00
1289118-01	12/28/98	McGregor Architectural Iron Co. Inc.	38,500.00
1417078-01	12/28/98	Moore USA Inc.	7,625.00
8249660-01	12/28/98	Artco Equipment Sales Inc.	433,691.00

GARY E. CROWELL,  
Secretary

[Pa.B. Doc. No. 99-74. Filed for public inspection January 8, 1999, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CHS. 165, 168, 183 AND 3040]

#### Subsidized Child Day Care Eligibility

##### *Statutory Authority*

The Department of Public Welfare (Department), by this order adopts amendments to Chapters 165, 168, 183 and 3040, under the authority of Articles II, IV and VII of the Public Welfare Code (62 P. S. §§ 201—211, 401—493 and 701—703), the act of December 16, 1997 (P. L. 549, No. 58 (Act 58) and Title VI of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), Pub. L. No. 104-193, known as the Child Care and Development Block Grant (CCDBG) (42 U.S.C.A. §§ 9858—9858q).

Notice of proposed rulemaking was published at 27 Pa.B. 4615 (September 6, 1997).

##### *Purpose of Amendments*

The purpose of these amendments is to establish the eligibility requirements for individuals who are applying for or receiving assistance with the cost of child care through funding authorized by Title VI of PRWORA, known as CCDBG and section 408(b) of the Public Welfare Code (62 P. S. § 408(b)), added by section 8 of the act of May 16, 1996 (P. L. 175, No. 35) (Act 35). The PRWORA was signed into law by President Bill Clinton on August 22, 1996. Act 35 was signed into law by Governor Tom Ridge on May 16, 1996.

The amendments set forth the rules for the Department to determine a family's eligibility for child care assistance for: families receiving Temporary Assistance for Needy Families (TANF) benefits who are involved with job search, training or work activities under the Road to Economic Self-Sufficiency through the Employment and Training Program (RESET); families leaving TANF who are making the transition from welfare to work; families at risk of going on welfare; and low-income working families. The Department has revised the child care regulations because the child care entitlement for cash assistance families and for those transitioning off cash assistance has been repealed. The Federal CCDBG funds are capped, and it is necessary to create a child care program that meets the needs of all of these populations.

In addition, these amendments clarify and strengthen the existing eligibility requirements for the subsidized child care program. The clarification will assist the general population in understanding the eligibility requirements and the benefits associated with eligibility. The regulations have been strengthened to ensure that the most needy children receive the benefits of the subsidized child care program.

The new CCDBG program provides states with a unique opportunity to develop a coordinated child care system that will, with the least amount of disruption, serve families receiving cash assistance, families who leave the cash assistance program, and low-income working families who need help with child care costs.

The CCDBG program allows states to maximize flexibility in developing child care subsidy policies and programs that best meet the needs of parents and children

and in providing child care subsidy to parents who are attempting to achieve independence from welfare. Although the CCDBG does not set a time limit for individuals receiving child care benefits, the Department was presented with the challenge of creating a subsidized child care system that meets the needs of broadly-defined populations within the fiscal constraints of a block grant.

The Department, upon adoption of these final-form regulations, will implement a consolidated child care subsidy system called Child Care Works. Child Care Works will serve families who receive cash assistance, those transitioning off welfare and low-income working families with similar rules and procedures for all families. The final-form regulations are designed to coordinate regulations governing those families receiving cash assistance and those who are not receiving cash assistance. Changes identified in these final-form regulations will provide a continuum of child care benefits to families receiving cash assistance, those transitioning off cash assistance, and assist low-income families in maintaining self-sufficiency and not returning to welfare. In these amendments, there are similar requirements for cash assistance and low-income families, wherever appropriate.

##### *Introduction*

The Department has developed Child Care Works to provide an integrated system of child care services to low-income families of this Commonwealth. The regulations which implement Child Care Works reflect new State and Federal welfare laws while helping both welfare and low-income working families find, select and pay for child care services. The new program supports parent choice, increases consumer education, and aligns policies and procedures for consistency. Child Care Works makes child care subsidies available to TANF and non-TANF families, and makes child care subsidies available to a number of families who, under the current system, did not receive the help they needed to support the transition from welfare to work or to otherwise maintain economic independence. The final-form regulations significantly increase child care support to recipients of TANF in three major areas. For the first time, employed TANF recipients will qualify for a child care allowance that begins with the date they start working and incurring child care costs. Under the current program, TANF recipients receive no help with child care costs until after they receive the first pay, by which time the family could be in debt to their child care provider. For the first time, employed TANF recipients will qualify for a child care allowance to help with the cost of care while they work their way off welfare. Under the current program, the help an employed TANF family receives with child care costs is through a TANF cash assistance grant calculation that provides for a disregard of a portion of the family's earnings needed to pay for child care. Federal regulations formerly limited the disregard amount to \$175 per month, per child. This amount fell short of covering the full cost of child care for some families. Some families either found themselves in debt to their child care provider or used the least expensive care they could find. These families had limited parent-choice options.

The new co-payment schedule offers TANF families co-payment levels significantly lower than the current co-payment amount under the disregard system and increased purchasing power, resulting in a much wider range of child care choices for their children. For the first time, employed TANF recipients who earn enough to go



off of cash assistance will qualify for continued help with child care costs, with no time limits or interruptions. Under the current system, these TANF families receive 12 months of Transitional Child Care (TCC) help through the County Assistance Office (CAO), after which many families go on a waiting list to get a subsidy through the Child Care Information Services (CCIS) agency. The CCIS agency is designated to serve part of a county, a county, or several counties.

The CCIS has previously been known as the Local Management Agency (LMA). During State Fiscal Year 1998-99, the Department is in the process of changing the name from LMA to CCIS. For the purposes of these regulations, the LMA and CCIS are the same. In the text of this preamble whenever the commentator used the term LMA, that term is listed in the comment section only. Whenever the Department provides its response, it uses the term CCIS.

In addition to supporting the goals of welfare reform by helping TANF families, the regulations significantly increase the availability of child care subsidy to nonwelfare low-income working families. More children will be served under the new program as a result of the revised family co-payment schedule. Families who currently receive child care subsidy may be required to contribute more toward the cost of care. For example, a typical family receiving subsidized child care is a single parent with two children earning \$17,500 per year and paying a fee of \$20 per week. Under the revised parent co-payment schedule, the family's fee will increase to \$35 per week.

With each family contributing more toward the costs, an additional 4,105 children will be able to receive subsidized child care. For the first time, families who have lingered on the subsidy waiting list have an increased opportunity to move into the subsidized system and get the help they need with child care costs and the opportunity to select care that they could never have afforded when they had to shoulder the full cost of care themselves. The revised parent co-payment schedule in these final regulations reflects a substantial change made by the Department in response to concerns that the proposed parent co-payment schedule, which included consideration of cost of care selected, would eliminate parent choice.

The new program includes requirements for nonwelfare low-income working families to seek child support and other benefits, which reduces the amount of the subsidy for child care and makes the family more self-sufficient. One outcome of the changes in Child Care Works is an assurance that the most needy families receive a child care subsidy.

Child Care Works encompasses more than just the eligibility regulations which govern receipt of child care subsidy dollars. Two major components of Child Care Works are in the area of initiatives for increasing quality in day care settings and making families better consumers of child care services. These initiatives include: the expansion of consumer education; implementation of child care resource and referral services; availability of seed money to increase available child care and an increase in the reimbursement ceilings for payments to child care providers. At the same time, the Department continues to use the current licensing regulations that assure that children are in healthy and safe child care settings. The Department will increase its commitment to upgrade the quality of child care services by increasing its commitment to offer training to child care staff. Child Care

Works introduces changes to the child care system and maintains quality initiatives which benefit the children of this Commonwealth.

#### *Background*

The PRWORA replaced the 61-year-old Aid to Families with Dependent Children (AFDC) program with the time-limited cash assistance block grant program known as TANF. The TANF program began in this Commonwealth on March 3, 1997. The PRWORA also repealed the child care portion of the Family Support Act and combined four separate Federal funding sources for child care into one block grant called the CCDBG. The PRWORA also ended any child care entitlements to families on cash assistance who work, who are in training, or who were transitioning off welfare. There were three child care funding streams under the Family Support Act. These included funds for AFDC families who were enrolled in the Job Opportunity and Basic Skills (JOBS) program; for families receiving TCC benefits; and for families at risk of going on welfare. These three funding streams were combined with funds from the former CCDBG. The law under which all of the funds are governed is called the CCDBG.

The Governor's Budget for Fiscal Year 1998-99 includes an unprecedented \$348 million for child care. Together with Child Care Works, this represents a commitment to expanded child care benefits within the realities of a limited block grant. These final-form regulations address not only the need for similar standards for both populations, but the need to contain costs and serve the greatest number of children possible within available resources.

After the adoption of these final-form regulations, the Department will implement the components of Child Care Works. It will also submit an amendment to the State Child Care Plan, which was approved by the Federal Administration for Children and Families (ACF), Health and Human Services Department on September 30, 1997, reflecting the new regulations.

When the Department drafted the proposed amendments, ACF had published proposed regulations regarding requirements for CCDBG. On July 24, 1998, ACF published final regulations at 63 FR 39935—39998 which amends 45 CFR Chapters 98 and 99. Changes made to Chapters 165, 168 and 3040 (relating to employment and training program; transitional child care; and subsidized child day care) are consistent with the Federal regulations.

Under the Federal CCDBG, states must develop an integrated child care system. Although child care subsidy is no longer an entitlement program, states must provide services to the same populations as were served under previous laws. In Fiscal Year 1998-99, once the final-form regulations are implemented, the Department will have an integrated child care system. Regardless of whether a family is receiving cash assistance or not receiving cash assistance, the determination of the family's subsidy level and co-payment responsibilities will be based on the individual family's circumstances.

Under the revised eligibility requirements in Chapter 3040, families who no longer receive cash assistance, those who would have received 12 months of TCC benefits under the current system and families who are working and have low-income, will receive their child care benefits through the CCIS agency in each county. Persons receiving cash assistance will receive child care benefits through the CAO.

### *Need for Final-Form Regulations*

The Department has amended the final-form regulations to comply with the PRWORA, which establishes standards for the receipt of cash assistance under TANF and the receipt of child care assistance in a parent-choice system under the CCDBG. These regulations comply with the Federal law to: assure Federal financial participation; fulfill the Department's goal to achieve a seamless and coordinated child care system for families moving toward self-sufficiency; and continue the network of subsidized child care benefits which are easily understood and accessed by eligible families who need subsidized child care.

In addition, the Department has amended the final-form regulations to address the changes made by the PRWORA and the CCDBG, which eliminate the entitlement to child care subsidy for families who are on cash assistance and families who would have received TCC benefits under the current system. The CCDBG child care funding is capped and regulations must reflect the capped funding.

### *Affected Groups and Organizations*

Groups and individuals affected by these amendments include families who are receiving TANF benefits and parents applying for and receiving subsidized child care. Other groups affected by these final-form regulations include child care providers and eligibility agents.

### *Accomplishments/Benefits*

The anticipated benefits from the improved final-form regulations include the following:

1. An integrated child care system for families receiving cash assistance and low-income families not receiving cash assistance. The integrated child care system reaffirms the Department's objective to offer child care assistance to those parents who are working toward self-sufficiency.
2. Elimination of the 12-month TCC program, and allowing individuals leaving TANF to have uninterrupted services through subsidy.
3. An increase in the maximum amount of funding per child receiving TANF by replacement of the income disregard for working TANF parents with a child care allowance.
4. Implementation of a child care allowance to cover costs incurred up to first pay for employed TANF parents.
5. A revised method of determining the co-payment based on family size and income. The revised co-payment affords families the opportunity to select care from the full range of child care providers.
6. A requirement for increased number of hours of employment for adult family members to meet eligibility requirements to receive subsidy consistent with Federal rules governing other public assistance.
7. Child care benefits to help low-income families attain self-sufficiency through employment. Benefits take into consideration parents' needs to work nontraditional hours and also receive child care assistance.
8. Increased accountability for low-income working families to accurately and completely report circumstances and changes in circumstances.

### *Public Comments*

Written comments, suggestions and objections were solicited within a 30-day period after the publication date

of the proposed amendments on September 6, 1997. A public hearing was held on September 23, 1997, at the State Museum Auditorium, Harrisburg, PA 17120. Seventy-six individuals attended the hearing and 26 individuals presented testimony. This hearing followed an extensive public forum process the Department conducted prior to the initial submission of the proposed amendments, which offered a forecast of the proposed amendments.

### *Discussion of Comments and Summary of Changes*

The Department received more than 850 letters from the general public, providers, advocates and Legislators during the 30-day comment period. The Department heard the testimony of 26 individuals during the public hearing. The Department, in order to hear from as many individuals as possible, distributed more than 7,000 copies of the proposed amendments. The Department also received comments from the Independent Regulatory Review Commission (IRRC) and separate letters from individual Legislators. A majority of comments that the Department received were form letters from parents and organizations representing providers who serve children currently eligible for subsidized child care.

For the purpose of this document, the Department has organized the discussion of comments into two broad groups. The first group describes the most frequently expressed comments and consequent changes to provisions in the regulations. The second group addresses comments on the regulations in the order in which the regulations appeared in the proposed regulations. Where the location of a final-form regulation has been changed from where it appeared in the proposal, reference has been added to identify where the provision appears in these final-form regulations. Changes made in the final-form regulations that were not the result of comments are addressed as issues under the section in which they appear in these final-form regulations.

### *Major Comments*

The greatest number of written comments received was related to the topics listed as follows. These comments are consistent with comments the Department received during the Child Care Works public forums conducted prior to the release of the proposed regulations. The discussion of these comments and the Department's responses are listed beginning with the topics for which the Department received the greatest number of comments.

### *Issue: Cost Structure*

*Comment: Weekly family co-payment*—Commentators raised objections regarding the amount of the increase of the weekly family co-payment computed in accordance with proposed § 3040.63 (relating to calculating a co-payment). Commentators believed that the proposed increases for families were too high and that families' co-payments should not exceed 10% of a family's gross income.

*Response:* The Department has determined that the increases in the parent co-payment are reasonable. Parents whose income is below 100% of the Federal Poverty Income Guidelines (FPIG) will not pay more than 10% of their income towards their co-payment. Families whose income exceeds 100% of FPIG up to 185% of FPIG will make a co-payment in an amount varying from 10% to 14.5% of their income. The Department has concluded that a co-payment schedule which reflects up to 14.5% of a parent's income is comparable to other states which have limits up to 18% of a parent's income when total income is below 185% of FPIG.

Here is an example. A parent with one child age 4 has a monthly income of \$1,175 per month, or 130% of the FPIG, and selects child care which costs \$365 per month. His fee will increase from \$15 per week, or 5.5% of his annual income, to \$25 per week, or 9.2% of his annual income.

Under the current system, there are families on the waiting list who are paying the total cost of their child care. For these families, the opportunity to obtain subsidy under the revised co-payment schedule will reflect a significant decrease in costs. Additionally, working families on welfare have historically paid for the full cost of care. After the welfare family provided verification that the family had paid the child care costs, the family would receive an income disregard of the actual costs, but the disregard amount was capped at \$175 per month, per child. While this income disregard reduced the amount of income considered in determining the amount of the cash assistance grant, in many instances, the amount of the cash grant was considerably less than the actual child care costs paid by the client. For working welfare families who are currently receiving the disregard, the revised co-payment schedule reflects a significant decrease in their child care co-payment responsibility. While the revised co-payment schedule reflects an increase in costs for many nonwelfare families who are currently receiving subsidy, it represents a significant decrease in costs for many other families now on the waiting list who will be served for the first time under these final-form regulations.

*Comment: Consideration of the cost of care in weekly co-payment schedule*—Commentators raised objections to consideration of the cost of care in the determination of the amount of the family co-payment under § 3040.63(c). The commentators did not agree with the proposed co-payment schedule because they asserted it would force families to pick care which was less costly. Commentators raised objections to the proposed co-payment schedule because it did not acknowledge variance in cost for younger children and variance in cost from county to county, in particular, where the cost of child care exceeds the average cost of care.

*Response:* The Department has reconsidered its position, and has deleted consideration of the cost of care in assessing co-payment obligation. The child care co-payment will be determined based on family size and income.

*Issue: Eligibility determination process.*

*Comment: Six-month redetermination*—Commentators raised objections regarding the requirement in § 3040.52(b)(2) (relating to eligibility agent responsibilities) that redeterminations of eligibility occur at least every 6 months, suggesting a requirement would be burdensome for parents and eligibility agents.

*Response:* The Department has retained the requirement for a 6-month eligibility redetermination for all subsidized child care recipients. A redetermination period of 6 months is not burdensome and is reasonable, given the potential for changes in the family income and demand for service. The final-form regulations have been revised to clarify that at a redetermination the eligibility agent needs to document only factors that are subject to change and which may affect eligibility, such as income information and the need for child care. Also, mail-in applications can be used for redeterminations. The Department will keep the 6-month requirement to assure that funds are directed to eligible families. The demand

for subsidized day care continues to grow, as evidenced by the growing number of children on the waiting list. The waiting list varies between 9,000 and 11,000 children per month depending upon the time of year. Since the demand is greater than the resources available, the Department must assure that only eligible families receive subsidy. The 6-month redetermination will assist in reducing the amount of overpayments incurred by a family if the parent fails to report a change such as an increase in income.

*Comment: Limiting the use of a mail-in application*—Commentators raised objections regarding § 3040.52(a)(2) which permits eligibility agents to require an initial face-to-face interview. They erroneously believed that the use of mail-in applications would be replaced with a requirement for face-to-face interviews for low-income families who are required to have redeterminations for eligibility.

*Response:* Under § 3040.52(a)(4), the Department has retained provisions that allow mail-in applications and has not eliminated the use of mail-in applications for a redetermination of eligibility. Also, the Department has not required every redetermination of eligibility to be a face-to-face meeting between the parent and the eligibility agent. The Department supports the use of mail-in applications for parents who have a difficult time traveling to the eligibility agent for their redetermination of eligibility. The Department has retained in these final-form regulations the requirement for a face-to-face interview for the family before the first child in the family is enrolled in service.

*Comment: Face-to-face interviews*—Commentators raised objections to § 3040.52(a)(2) which permits the eligibility agent to require a face-to-face meeting between the eligibility agent and the parent prior to the receipt of subsidized child care. Commentators believed that face-to-face interviews would disadvantage TANF families.

*Response:* Under § 3040.52(a)(10), the Department has retained the requirement for one face-to-face interview prior to the enrollment of the first child in the family into subsidized child care. This face-to-face meeting requirement allows the eligibility agent to accomplish a variety of tasks including: 1) providing child care resource and referral information and consumer education; 2) offering a review and explanation of the parent's rights and responsibilities in receiving subsidized day care; and 3) verifying the parent's identity, including witnessing the parent's signature on the application form.

The Department also has clarified that this requirement is modified for former TANF families. Section 3040.53(g) has been revised to allow a 90-day period for the eligibility agent to conduct the face-to-face interview with former TANF families. The required face-to-face meeting for families moving from TANF must occur within the first 90 days of receipt of subsidized child care, but will not cause a delay in the receipt of the families' benefits. A face-to-face meeting requirement is needed for former TANF families because these families, as recipients of subsidized child care, must learn of their benefits under the subsidized program. Language has been added to the final-form regulations to clarify that a parent/caretaker who transfers from TANF shall meet at least once face-to-face with the eligibility agent.

*Issue: Benefits for child care.*

*Comment: Eligibility of school-age children*—Commentators raised objections to § 3040.3 (relating to definitions) because they believed that the proposed amend-

ments, which described a unit of care, indicated that school-age children were eligible for either before-school care or after-school care during the school year, but not both before- and after-school care. Also, commentators, including IRRC, pointed out that the definition of a "unit of care" would limit service for school-age children to a single provider.

*Response:* Under § 3040.3, the Department has eliminated the term "unit of care," which was defined as an enrolled day of care with a single provider in a 24-hour period. The Department has eliminated this term because it is moving from a description of the amount of child care allowed in a 24-hour period to a revised description of the amount of child care a family can receive in a week, which more accurately reflects parents' varying child care needs with varying shift work. Language in the proposed amendments was not intended to limit a school-age child's receipt of before- and after-school care during the school year. The Department has always allowed school-age children to receive both before- and after-school care if the need exists and will continue to allow the parent to choose more than one provider in a 24-hour period.

*Comment: Administrative processes*—There were requests by some commentators, including IRRC, that the Department provide more detail on the process for former TANF families who are to receive continuing child care benefits through the LMAs.

*Response:* The Department's practice is to include this type of information in written procedures for workers of the CAOs and the eligibility agents. These procedures for Child Care Works will describe operational requirements and will be subject to revisions depending upon forms and implementation of changes to management information systems. Including these procedures in the final-form regulations is not appropriate.

*Issue: Background checks.*

*Comment:* IRRC and other commentators stated that the Department should require background checks for all relative/neighbor caregivers.

*Response:* The Department has decided not to address background checks in the final-form regulations. At the current time, there is no requirement in 23 Pa.C.S. §§ 6301—6384 (relating to Child Protective Services Law) for background checks for relative/neighbor caregivers and the Department will not require background checks for relative/neighbor caregivers.

The Department has developed an integrated child care system, for cash assistance and low-income families, where parents have a variety of child care choices supported by consumer education which helps parents to choose child care. Parents often choose relative/neighbor care because they are familiar with the caregiver. A parent may request the relative/neighbor caregiver to pursue criminal history and child abuse background checks at any time. It is the parents' vigilance on a daily basis that best assures their children's safety in homes of relative/neighbor caregivers they select. The Department is expanding its training effort for an increased number of relative/neighbor caregivers.

The Department has allowed cash assistance recipients access to, and has been paying for child care provided by, relative/neighbor caregivers for over 25 years without requiring background checks. While there is no requirement for child abuse or criminal background checks, CAOs have been instructed to advise families in writing of the availability of child abuse and criminal background checks, and of their right to request these checks before

making a decision to place their children with relative/neighbor caregivers. At present, nearly 44% of families receiving child care payments through the CAO use relative/neighbor care. The Department will continue to take steps to ensure that these families are aware of the types of choices of child care which are available to them as well as their parental right to ask that a relative/neighbor seek a background check.

Requiring background checks for relative/neighbor care would create an undue burden for cash assistance and low-income families. Many cash assistance families might need child care immediately or on an intermittent basis when they first receive TANF benefits and could not wait for background checks to be processed. Also, requiring background checks would be inconsistent with other practices for families who use relative/neighbor care and do not receive subsidized child care. It is inappropriate to require background checks for families seeking a subsidy, as it would place a burden on low-income families which is not placed on middle-income families.

*Chapters 168 and 3040*

These two chapters govern eligibility for subsidized child care for cash assistance and low-income families. Public comments are discussed at each section of the chapters, as they appear sequentially.

In general, IRRC suggested that Chapters 168 and 3040 should be consistent whenever possible. In response to these concerns, certain terms used throughout Chapters 168 and 3040 have been changed to be consistent. These terms include: "parent," "child care," "co-payment" and "maximum child care allowance." All of these terms will be further explained at the appropriate section of the chapters.

*Chapter 165—Discussion of Comments*

Although the intent, as described in proposed rule-making, is to change rules pertaining to child care for TANF recipients, the deletion of child care provisions in Chapter 165 would also have had the effect of deleting child care provisions for General Assistance recipients. To prevent this, the Department has retained in Chapter 165 the child care provisions for General Assistance recipients. Chapter 168 sets forth all the child care provisions for TANF recipients.

*§ 165.42. Advance payment of special allowances for supportive services.*

*Comment: Subsection (a).* IRRC and others raised a concern that the provisions for advance payment of supportive services other than child care had been deleted. Child care advanced payment provisions are in § 168.1(b)(3).

*Response:* Provisions for advanced payment of supportive services other than child care are in § 165.45(f). In the proposed amendments, § 165.42(a) was deleted to avoid duplication and repetition. However, the Department has decided to reinstate subsection (a) to avoid any misunderstanding. The Department has also added a cross reference to § 165.42 in § 168.1(b)(3).

*§ 165.81. Fair hearing.*

*Issue: Paragraph (2).* The Department has amended the provision to provide for continued payment of supportive services when a recipient files a timely appeal.

*Chapter 168—Discussion of Comments**§ 168.1. Policy on child care.*

*Comment: Subsection (a).* The statement that payment for child care “may be made to enable the parent/caretaker to participate in work-related activities” raised questions from IRRC and others about whether the decision on eligibility was left to local CAO discretion.

*Response:* The language “may be made” was an effort to acknowledge the realities of a block grant from which funds might not be available. The Department has clarified that, to the extent that funds are available, the Department did not and does not intend the CAOs to have discretion in authorizing payment to eligible families. The Department has revised language in § 168.1(a) by changing the word “may” to “will.”

*Comment: Subsection (a).* IRRC suggested that the term “caretaker/relative” be replaced with the term “parent” as used in Chapter 3040 for consistency between the programs.

*Response:* The Department agrees that, whenever possible, terminology should be identical to avoid confusion. Language throughout Chapters 168 and 3040 has been revised to replace the terms “caretaker relative” and “parent” with the term “parent/caretaker.”

*Issue: Subsection (a).* The Department has added language to clarify that eligibility for a child care payment is continued during a month of zero cash payment. Zero cash payment results from receipt of a nonrecurring extra pay in a budget month, such as a vacation pay or a fifth pay in a calendar month.

*Issue: Subsections (a) and (b)(3).* The Department has added language to clarify that child care payments are considered a reimbursement of past or future child care expenses. As such, child care payments are not considered as income for determining eligibility for food stamps.

*Comment: Subsection (b).* IRRC and others questioned the wording that “upon request,” families would be informed of the types and location of child care providers and referred to the CCIS for help in locating care. The concern was that families would not know to ask for help for a referral to the CCIS, until they were first made aware that this help exists.

*Response:* The Department agrees with the concerns raised and has revised subsection (b)(1) and (2) to provide that participants in work-related activities who need child care are routinely informed of the types and locations of child care providers, and the services available from the CCIS for help in finding and selecting a provider, including resource and referral assistance. A referral will be made to the CCIS whenever the client indicates a need for further help. Clients will be provided with the address and the telephone number of the CCIS so that they can contact the CCIS of their own volition at any time.

*Comment: Subsection (b).* IRRC suggested that the term “local management agency” be defined and that the definition be consistent with any definition used in Chapter 3040.

*Response:* A definition of “local management agency” has been added in § 168.2 to mirror the definition used in Chapter 3040.

*Issue: Subsection (b)(3) (final-form regulations).* The Department has added an exception to the provisions which limit advance payment to instances in which the provider requires it, and which restrict advance payment for providers enrolled in the child care vendor payment

system for TANF budget groups determined prospectively ineligible as a result of starting new employment. For these families, advance payment for child care costs will be issued when verification has been obtained through a collateral contact with the child care provider. This change will enable these families to have a smooth transition from receiving subsidy from the CAO to receiving subsidy from the CCIS.

*Comment: Subsection (c).* IRRC and others suggested that the reference to the Employment Development Plan (EDP) should be replaced with reference to the Agreement of Mutual Responsibility (AMR) and that a definition of the AMR be added to § 168.2.

*Response:* The Department has replaced all references to an EDP with references to an AMR. The Department will promulgate the definition of “AMR” in the TANF program regulations which are being developed at this time. The term was defined in the TANF Notice of Rule Change published at 27 Pa.B. 1092 (March 1, 1997).

*Comment: Subsections (d) and (e).* Commentators suggested that the language in subsection (d) be modified to specifically identify a determination of eligibility as an action requiring notice of approval or denial, and that language in subsections (d) and (e) be added to the general text to specifically reference the “time frames” in §§ 165.43 and 165.45.

*Response:* Since approval or denial of benefits follows a determination of eligibility, the Department does not think the language change is necessary, but has made the suggested change in subsection (d) to avoid any misunderstanding. Reference to the time frames for action in subsections (d) and (e) which refer to §§ 165.43 and 165.45 is already referenced in these final-form regulations.

*Comment: Subsection (f).* IRRC questioned the provision that the child care co-payment sliding fee scale and maximum child care allowance charts “are available upon request.” Specifically, IRRC criticized the fact that unless families were made aware of availability, they would not know to request copies.

*Response:* The Department has revised subsection (f) to require the CAO to discuss the co-payment sliding fee scale and maximum child care allowances with clients and to advise clients that copies are available from the CAO.

*Issue: Subsection (g) (final-form regulations).* The Department has added subsection (g) to clarify that the CAO will refer the client to the CCIS whenever help is needed in finding and selecting a child care provider.

*§ 168.2. Definitions.*

*Issue:* The Department has deleted the definition of “average child care costs,” as unnecessary. This term applied to the determination of a co-payment obligation based on the cost of care selected. Cost of care is not a factor in determining the co-payment in the final-form regulations.

*Comment:* IRRC raised concern about the lack of consistency between the definition of a family unit for families who receive TANF in Chapter 168 and for those who do not in Chapter 3040.

*Response:* Child care benefits under Chapter 168 are a supportive service available to TANF-eligible families only. The definition of what constitutes a TANF-eligible family is dictated by TANF eligibility criteria, which uses the concept of a “budget group.” The concept of the

“budget group” is based upon a determination of those in the household who have a responsibility for the child. The concept of a family in Chapter 3040 is not inextricably linked to TANF eligibility criteria; and uses a concept of family based upon those in the household who live as an economic unit. In this instance, consistency between the programs is not feasible. However, to facilitate transition between programs, provisions have been incorporated into Chapter 3040 to give TANF families a 6-month period before they are subject to Chapter 3040 eligibility criteria.

*Issue:* The Department has added a definition of “Child Care Information Services (CCIS) Agency.”

*Issue:* The Department has eliminated the definition of a “child with a disability” as duplicative of provisions in § 168.17(3) for determining eligibility of a child with a physical or mental disability.

*Issue:* The Department has added a definition of “co-payment” as the monthly amount the family pays for child care that is subsidized. A co-payment is required only of employed TANF recipients as in § 168.71. The co-payment is established monthly for these TANF recipients because eligibility for TANF is determined on a monthly basis.

*Issue:* The Department has revised the definition of “co-payment sliding fee scale” to eliminate reference to the average child care costs, and has added a reference to Chapter 3040, Appendix B.

*Comment:* IRRC suggested that the Department adopt a consistent term for identifying the payment ceiling level for child care payments. Throughout Chapter 168 the term “maximum child care allowance” is used, whereas the term “county ceiling rate” is used throughout Chapter 3040.

*Response:* The Department has decided to adopt the term “maximum child care allowance” throughout both Chapters 168 and 3040. Language in Chapter 3040 has been amended.

*Comment:* IRRC suggested that the term “relative/neighbor care” be replaced with “unregulated care” or “exempt care.” Concern was raised that not all care which is exempt from certification is provided by relatives or neighbors.

*Response:* The Department has decided to retain use of the term “relative/neighbor care.” The Department believes the term is easily understood by families and the child care community to describe care arrangements by persons who are exempt from child care licensure and/or certification. The definition of “relative/neighbor” care has been changed to “care given by a person who is exempt from certification or registration under Chapters 3270, 3280 and 3290 (relating to child day care centers; group child day care homes; and family child day care homes) and cares for three or fewer children unrelated to the caregiver.”

*Issue:* The Department has revised the definition of “TANF” to clarify that it is a program which provides cash assistance to families that include dependent children.

*Issue:* The Department has added a definition of “sleep-time” in § 168.2 and made a corresponding addition to § 168.72 to provide for payment of child care for parents/caretakers in third-shift employment when an eligible child is in the home and care is needed to enable the parent/caretaker to sleep following the work shift. Clients with young children at home have raised concerns about taking a third-shift job unless they can get help in paying

for child care during both the hours of employment and the hours they need to sleep. Because work is a condition for the receipt of cash benefits, the Department has provided for payment for care during work hours and hours of sleep for persons who need to accept third-shift employment to make progress toward financial self-sufficiency.

§ 168.11. *General requirements.*

*Issue: Subsection (a).* The Department has added in-home care as a type of care for which child care allowances are available as required under the CCDBG.

*Comment: Subsection (d)(2).* IRRC noted that the reference to eligibility for a child with a developmental disability who has reached his 13th birthday was inconsistent with the corresponding reference in § 3040.2. It was suggested that the Department adopt consistent criteria. It was also noted that the criteria for determining a child’s eligibility were duplicated in § 168.17.

*Response:* As a result of comments suggesting that provisions in § 168.11(d)(2) regarding eligibility for a child age 13 or older with a developmental disability were duplicative of provisions in § 168.17 and resulted in confusion, § 168.11(d) was deleted. Acknowledging the need for eligibility policies to be consistent whenever possible for families who receive TANF and those who do not, the Department has revised language in § 168.17(3) to clarify that a child over the age of 13 years will remain eligible if the child is under age 19 and has a developmental age of less than 13 years. This is consistent with provisions in § 3040.2 of the proposed amendments (relocated to § 3040.11(e) due to format changes).

*Comment: Subsection (e).* One commentator suggested that the Department include payment of registration fees as an allowable child care cost.

*Response:* Under the now repealed Family Support Act of 1989, payment of registration fees was a state option. However, the Department never adopted this option. During the past 8 years, there has been no indication that this issue presents a barrier to accessing child care, and it is not something that clients have raised as a concern. Given the wide range of choice of child care for those receiving subsidy, and in the absence of evidence to substantiate a need, the Department has retained the past practice of not allowing payment of registration fees as an allowable child care cost. In addition, reference to allowable child care costs originally proposed in § 168.11(e) has been deleted as duplicative of provisions in § 168.72.

*Issue: Subsection (e).* The Department has deleted this subsection because it was duplicative of provisions set forth in §§ 168.71(1) and 168.72(2) and (3).

*Issue: Subsection (h).* The Department has relocated provisions on payment of child care reasonably related to the hours of employment or RESET participation, including travel time, to § 168.72(1) to group similar information together.

*Comment: Subsection (i).* One commentator misinterpreted the language change regarding providers in the Child Care Vendor Payment System and concluded that relative/neighbor caregivers would be eligible to participate in the vendor system. A commentator noted that this subsection duplicated provisions in § 168.81.

*Response:* The misunderstanding was caused by eliminating the adjective describing providers as “regulated” which led to the conclusion that relative/neighbor caregivers would be eligible to participate in the vendor payment

system. Since the vendor payment system is open only to those child care providers who have a registration certificate or certificate of compliance, the Department had thought it was redundant to define these providers as "regulated." The Department has reinstated the adjective to avoid further misunderstanding. Section 168.11(i) as proposed has been eliminated. Provisions for vendor payment continue to be found only in § 168.81.

*Comment: Subsection (i)(1).* IRRC raised questions about identifying and tracking payments to providers who are not enrolled in the Department's Child Care Vendor Payment System and about the Department's plans for safeguarding children and assuring proper use of public funds when direct payment of the child care subsidy is made to persons not in the vendor payment system.

*Response:* The Department will maintain a list of all providers serving families in the subsidized child care system, including the names and addresses of relative/neighbor caregivers. An automated information system redesign for capturing this information has been developed and is now being used Statewide.

Currently, families using relative/neighbor caregivers who are not in the Child Care Vendor Payment System receive a copy of the minimal health and safety standards for relative/neighbor caregivers and are advised in writing of their right to request child abuse and/or criminal background checks before placing their children in care. Providers are required to certify to compliance with minimal health and safety requirements and submit the certifications to the CAO on a monthly basis. The Department will be expanding child care consumer education efforts and training opportunities for relative/neighbor caregivers.

The provision for payment of child care benefits directly to a client when the caregiver is not in the vendor payment system is not a new provision. The practice of direct checks to clients for child care expenses, previously in § 165.46(a)(11), has been in place for over 25 years. Assurances of proper use of public funds for child care benefits are identical to those in place for use of TANF funds, as in § 168.91.

*Comment: Subsections (d), (f) and (j).* Comments by IRRC and others noted that provisions in § 168.11 duplicate provisions in subsequent sections: § 168.17 (relating to eligible children); § 168.18 (relating to need for child care); and § 168.19 (relating to child care arrangements).

*Response:* The Department acknowledges that some of the provisions were duplicative. To avoid confusion, the Department has eliminated those references in § 168.11 which are addressed in §§ 168.17—168.19.

#### § 168.17. Eligible children.

*Comment:* One commentator suggested that the Department include nurse practitioners and physician assistants as sources of verification to document physical or mental incapacities or disabilities.

*Response:* The Department had considered this issue previously with regard to eligibility under the General Assistance Program and concluded that permitting medical verification by sources other than physicians and licensed psychologists is not authorized under the law. Section 9 of Act 35, amending 62 P. S. § 432(3)(i)(C) narrowed language to permit an assessment of physical or mental disability done only by "a physician or psychologist." While this section of Act 35 applies to general assistance, the Department has adopted a consistent approach for determining eligibility for TANF and TANF-related child care benefits.

*Issue: Paragraph (3).* The Department has increased the age limit on eligibility for child care, from age 18 to age 19, for a child who is not physically capable of caring for himself or who has a developmental age of less than 13 years. The change was made for consistency with the eligibility provisions for cash assistance, which provide that a person under the age of 19 may be included as a child in the budget group.

*Issue: Paragraph (4).* The Department has added a requirement that all children who receive child care subsidy have age-appropriate immunizations. This requirement has been added under the requirement in the final Federal CCDBG regulations at 63 FR 39987, to be codified in 45 CFR § 98.41(a)(1)(i).

#### § 168.18. Need for child care.

*Comment: Subsection (b)(2).* One commentator suggested we replace the words "employment-related activities" with the word "RESET."

*Response:* The Department has replaced the phrase "employment-related activities" with "work-related activities" rather than "RESET." This terminology is consistent with language used throughout Chapter 168, eliminates the need to list examples of allowable activities, and is more general rather than limited to a specific program.

*Comment: Subsection (b)(3).* IRRC and others suggested that the Department retain the provision which allows for child care to be considered as needed when an unemployed biological or adopted parent, specified relative, or legal guardian is in the home, if the child is at risk because of suspected child abuse.

*Response:* The Department has reconsidered its position and has reinserted the provision in § 168.18(b)(3) as suggested. The verification process for suspected child abuse and the requirement for reporting suspected child abuse have likewise been reinserted in § 168.45.

*Issue: Subsection (c).* The Department has deleted this subsection in the final-form regulations. Due to an oversight, proposed amendments failed to reflect this deletion. The provision, which stated that the employed person need not be the specified relative for the family to establish a need for child care, was applicable only in the context of the TCC program. Since the TCC program is being eliminated, the provision is unnecessary. The provision retained in subsection (a) clarifies that child care must be needed to enable a member of the budget group to participate in a work-related activity.

*Comment: Subsection (d).* Commentators suggested that this subsection duplicates provisions in § 168.11(g) which broadened the opportunity for continued benefits during breaks not only in employment, but in other work-related activities.

*Response:* Section 168.11(g) has been deleted to eliminate the duplication. The provision for child care benefits during breaks, § 168.18(c) of the final-form regulations (proposed in § 168.18(d) but redesignated due to format changes), has been expanded to include breaks during any "work-related activity."

*Comment: Subsection (e).* Commentators raised concern about the provision that child care is not considered needed when the parent/caretaker owns or operates a day care service, as it fails to take into consideration the fact that space may not be available, or that the parent/caretaker may still be required to make payment for the care.

*Response:* The Department acknowledges that, as written, the provision inappropriately assumed that space was available. The phrase "where care is available for the child" has been added in § 168.18(d) of the final-form regulations (proposed in subsection (e) but redesignated due to format changes). The Department has not, however, made a change to accommodate parents/caretakers who, as owners/operators of child care facilities, charge themselves for care of their own children. While employees of day care facilities may be required to pay for care when they place their children in their places of employment, the Department does not accept the notion that owners/operators would be required to impose charges upon themselves.

§ 168.19. *Child care arrangements.*

*Comment: Paragraph (1)(i).* One commentator suggested that the provision that care be provided in accordance with State and local law be expanded to include "Federal" law.

*Response:* The Department has made the suggested change.

*Comment: Paragraph (1)(ii).* One commentator suggested that the provision which requires parental access be expanded to include "without the need for prior notification."

*Response:* The suggested change has been made in this subparagraph for consistency.

*Issue: Paragraph (1)(iii).* The Department has added a provision which requires that a child care provider be at least 18 years of age. This provision was inadvertently missed in proposed amendments and is necessary to comply with the Federal requirement under Title VI of the Personal Responsibility and Work Opportunity Act.

§ 168.21. *Reasons for ineligibility.*

*Comment: Paragraph (2).* Concern was raised about the provision that made a family ineligible for child care when the total cost of care exceeded the family's gross monthly income.

*Response:* The Department has eliminated the proposed amendment in § 168.21(2) in its entirety.

§ 168.41. *Verification requirements.*

*Comment: Paragraph (2).* IRRC suggested that the Department eliminate reference to Chapter 133 (relating to redetermining eligibility) and adopt verification, documentation and appeal provisions used in Chapter 3040 to provide consistency between programs.

*Response:* As set forth in Chapter 168, child care benefits are not a "program" but rather a supportive service delivered to families who are eligible for the TANF program. As such, the basic provisions for verification, documentation, and appeal and fair hearings are in the TANF program. Placing additional or different criteria on a TANF family to receive a child care benefit would be unnecessarily burdensome on TANF families and create confusion and unnecessary paperwork for eligibility staff. For those reasons, the Department has retained the reference to Chapter 133.

*Comment: Paragraph (2).* One commentator felt that the Department should amend this section which precludes a continuation of child care benefits pending the outcome of an appeal and fair hearing, and allow families to appeal reductions or terminations of child care benefits with continued benefits while the appeal is pending.

*Response:* Section 168.101 has been amended to provide for continued payment of child care pending a hearing decision.

*Issue: Paragraph (2) (final-form regulations).* The Department has revised language in § 168.41(2) of the proposed amendments which had specified that a confirming notice would be issued and replaced it with reference to either a confirming notice or an advance notice, as appropriate.

*Comment: Paragraphs (3) and (4).* One commentator suggested that it would be more clear if the Department reinstated use of the term "collateral contact" in lieu of "contact" when describing verification sources and processes.

*Response:* The Department has made the suggested change in both paragraphs.

*Issue: Paragraph (3).* The Department has reordered the methods of verifying child care costs to clarify the client and the Department's responsibility for verifying eligibility information.

*Comment: Paragraph (4).* One commentator raised concern that the provision in § 165.44(a)(4) for use of collateral contacts when necessary to accommodate advanced payment was not repeated in this section.

*Response:* Language has been added to § 168.41(4) to clarify that advanced payments will be verified by collateral contact whenever necessary.

§ 168.43. *Verification of a child with a disability.*

*Issue:* The Department has renamed this section "Verification of the disability of a child" in the final-form regulations.

§ 168.44. *Verification of an adult with a disability.*

*Issue:* The Department has renamed this section "Verification of the disability of a parent/caretaker" in the final-form regulations.

§ 168.49. *Verification of payment of co-payment for the employed budget group.*

*Comment:* One commentator questioned the need to verify that co-payments have been made or that satisfactory arrangements have been made to pay overdue fees. The commentator argued that monthly verification created unnecessary red tape, and that this provision should be deleted. The commentator suggested that providers would notify the Department if they were having problems collecting fees.

*Response:* Personal responsibility is an essential component of welfare reform. Payment of required child care co-payment fees is a condition of eligibility for receipt of child care payments, and is part of the Agreement of Mutual Responsibility for TANF families. Verification of payment is required to ensure compliance. An assumption of compliance in the absence of a provider complaint is not acceptable, and would, in fact, shift the burden of establishing eligibility from the client to the provider. The Department has retained the provision requiring monthly verification that co-payment responsibilities have been met. Given that this verification is done in conjunction with the verification of monthly child care costs, it does not create any additional burden on the parents/caretakers or the CAO, or any additional paperwork requirements.

§ 168.51. *Verification of age-appropriate immunization.*

*Issue:* The Department has added this provision to specify that a parent/caretaker whose child is receiving



child care subsidy shall sign a self-certification statement that the child has received age-appropriate immunizations.

*§ 168.61. Reporting requirements.*

*Comment:* One commentator suggested that the Department eliminate monthly reporting requirements on employed clients for child care and require only that parents report when a change has occurred in either the child care arrangements or costs.

*Response:* Monthly reporting is a requirement for receipt of TANF benefits by employed clients. Including child care as a component of TANF benefits is useful for the client, the provider, and the Department. Many clients participate in work-related activities with hours of participation which vary on a weekly/monthly basis. This means that the hours of child care vary also. Since the Department determines payment based on actual costs within a month, monthly reporting ensures that the Department knows what costs have been incurred.

Monthly reporting requirements have been in place for a number of years and have proven to be useful in verifying continued eligibility for payment and avoiding unnecessary overpayments. This experience has shown that clients often fail to report a change in circumstance which affects eligibility for child care benefits, such as dropping out of a training program, terminating employment or changing providers. When a client fails to report a change in circumstances, the provider often has no way of knowing that a change has occurred and continues to hold the day care slot and charge accordingly. In these situations, when the provider is enrolled in the vendor payment system, the Department may be obligated to issue payment. This has resulted in unnecessary expenditures for services a client was not entitled to, and unnecessary overpayments. Monthly reporting serves to keep this risk to a minimum.

Lastly, monthly reporting requires that the provider certify that it is operating legally and in compliance with minimal health and safety standards. While certifications are obtained initially, compliance could change over time. Monthly reporting enables the Department to verify compliance on a regular basis. For these reasons, the Department has retained the provision for monthly reporting of child care costs and arrangements.

*§ 168.71. Monthly payment determination.*

*Comment: Paragraph (2).* Commentators suggested that the provision that payment “may be made for TANF eligible budget groups in need of child care to participate in RESET” be replaced with “is made . . .,” and that the qualifying statement “to the extent that funds are available” be added.

*Response:* Language has been changed from “may be made” to “is made” throughout § 168.71 and the statement addressing availability of funds has been added in § 168.1(a). Provisions of paragraph (2) of the proposed amendments have been relocated to paragraph (1) as a result of reformatting of the final-form regulations. The term “reset” has been replaced with “work-related activity” throughout Chapter 168.

*Comment: Paragraph (2).* One commentator suggested that the term “work activities” be replaced with “work-related activities,” consistent with language in Act 35, and that work be identified separately from work-related activities.

*Response:* The Department agrees that the term “work-related activities” is appropriate and has made the sug-

gested change. Since work is a component of the broader term “work-related activity” used throughout various chapters, the Department has not used it separately in this chapter.

*Comment: Paragraph (2).* One commentator requested that the Department expand the provision which waives co-payment responsibility from the date employment begins until income is adjusted against the grant, to ensure that no co-payment is required until the first pay has been received.

*Response:* The Department has revised language which appeared in paragraph (2) of the proposed amendments and the language has been redesignated to paragraph (1) in final-form regulations. The regulations provide that the child care co-payment is waived from the date employment begins until the date the case is determined prospectively ineligible, provided the client has reported in a timely manner. For cases which remain eligible for TANF, the co-payment is waived for the calendar month in which the first pay is received. Language regarding this provision also has been added in § 168.74 for consistency.

*§ 168.72. Determining monthly child care costs.*

*Issue: Paragraph (1) (final form-regulations).* The Department has added the provision previously located in § 168.11(h) of the proposed amendments, regarding payment of child care reasonably related to the hours of the work-related activity, to group similar information together. The Department also has added language to clarify that care during hours of sleep time is an allowable charge for which payment may be made.

*§ 168.74. Determining monthly child care co-payment.*

*Issue:* The Department has deleted reference to the cost of care as a factor in calculating co-payment and has added a reference to the co-payment sliding fee scale in Chapter 3040.

*Issue: Paragraph (1).* The Department has added language to clarify that the co-payment is waived for the calendar month in which the first pay is received. The co-payment is determined prospectively for the next month, excluding the TANF grant as countable income. Thereafter, the co-payment is determined based on actual income as reported on the monthly reporting form.

*§ 168.81. Payment methods.*

*Comment:* Commentators suggested that the provision that a child care payment may be issued as a direct check to the client, vendor payment, or restricted endorsement, be replaced with a child care payment is made. It was also pointed out that this section duplicates provisions contained in § 168.11(i).

*Response:* Language has been revised to provide that the Department “will make” payment as a direct check to the client, vendor payment or restricted endorsement.

*Issue: Paragraph (2):* Eligibility staff have asked for clarification on the appropriate payment method to be used when the client has already paid a provider who is in the vendor payment system. This situation is most likely to occur as a result of a retroactive determination of eligibility. The Department has added a provision in § 168.81(2) explaining that payment will be made to the client, and a vendor payment to the provider is not used when the client provides verification that the client has already paid the provider for the services.

*§ 168.91. Restitution.*

*Comment:* The proposed amendments proposed to not exclude child care overpayments from recoupment. A

commentator raised a concern that this would result in TANF payments being reduced because of overpayments in child care.

*Response:* The Department has reconsidered its position on the issue of recoupment of child care benefits because the proposed amendments would have been inconsistent with § 165.91 which exempts all other supportive services from recoupment. The Department has reinserted the provision to exempt child care benefits from the cash assistance recoupment process.

*§ 168.101. Appeal and fair hearing.*

*Issue:* The Department has added a provision which provides for continued payment of child care benefits pending a hearing decision on a timely appeal unless the action under appeal is the result of a change in State or Federal law or policy, in accordance with 62 P. S. § 423(a).

*Chapter 183—Discussion of Comments*

*§ 183.94. AFDC earned income deduction.*

*Comment:* IRRC noted that the AFDC program is no longer in existence and that references to AFDC should be deleted.

*Response:* References to AFDC have been replaced with references to TANF.

*Issue: Paragraphs (3)(i) and (ii).* The Department has reinstated these subparagraphs to retain the provision which allows for a TANF earned income deduction when care is needed for an incapacitated adult.

*Chapter 3040—Discussion of Comments*

Chapter 3040 sets forth eligibility requirements for low-income families who are not receiving cash assistance benefits. The following discussion includes comments and the Department's responses. Where changes were not made as suggested, the Department has explained why in the discussion of the specific sections which follow. In addition, the Department has revised and reorganized provisions of the regulations, not in response to comments, but to add clarity, to offer consistency and to eliminate duplication of similar provisions. In the discussion that follows, the Department has identified each of these revisions as "issues."

*§ 3040.2. Definition of subsidy.*

The Department has reserved this section. Provisions previously set forth in this section and proposed changes have been relocated to § 3040.11 in final-form regulations.

*Comment: Subsection (c).* IRRC commented that the special conditions pertaining to subsidy for a child with a developmental disability who has reached his 13th birthday should be consistent with the provision in Chapter 165.

*Response:* Provisions for subsidy for a child who has a developmental disability have been relocated to § 3040.11(e). To provide consistency, the Department has modified the language to add a provision that a child continues to be eligible for subsidy until his developmental age reaches 13 years or until his chronological age reaches 19 years, whichever occurs first. The developmental disability must be documented by a licensed psychologist or a physician. In addition, the Department has eliminated the use of verification from other specialists in order to be consistent with cash assistance regulations. Section 9 of Act 35, enacted May 16, 1996, amending 62 P. S. § 432(3)(i)(c) included language requiring that an

assessment of physical or mental disability be completed only by "a physician or psychologist."

The Department has added a provision in § 3040.11(e)(2) to allow a child who has a physical disability to receive subsidy after he reaches his 13th birthday until he is no longer disabled or until his 19th birthday, whichever comes first.

*§ 3040.3. Definitions.*

Based on comments and need for clarification, the Department has amended § 3040.3 to reflect the following:

*"Adjusted monthly gross income"*

*Issue:* The Department has changed the term to "adjusted monthly income" and has modified the definition to simplify and add clarity.

*"Advance weekly family fee"*

*Issue:* The Department has deleted the term because it is not used in the final-form regulations.

*"Adverse action"*

*Issue:* The Department has deleted the term because the definition was not complete and was not needed.

*"Application"*

*Issue:* The Department has changed the reference in the definition from a "form approved by the Department" to a "Departmentally prescribed form" to assure consistency for eligibility determination.

*"Caretaker"*

*Issue:* The Department has restored the term and modified it to include a specified relative as defined in § 151.42, or an adult with legal custody, who lives in the family's common dwelling and who has the responsibility for the child for whom subsidy is requested.

*"Child Care Information Services (CCIS) agency"*

*Issue:* The Department has added a definition of "child care information services agency."

*"Confirming notice"*

*Issue:* The Department has deleted the term because it is not used in the final-form regulations.

*"Co-payment"*

*Comment:* IRRC commented that there is a need for consistency between Chapters 168 and 3040.

*Response:* Consistent with provisions in Chapter 168, the Department has added the term "co-payment," which is the weekly amount the family pays for child care that is subsidized.

*"Cost of care"*

*Issue:* The Department has deleted the term. The term caused confusion because the term was used in several different ways. Where the term was previously used, the term has been replaced with either "provider's published daily rate" or "maximum child care allowance," as appropriate to the context of the provision of the regulations.

*"County ceiling rate"*

*Comment:* IRRC raised a concern about the lack of consistency between Chapter 3040 and Chapter 168 regarding the term "county ceiling rate" and "maximum child care allowance."

*Response:* The Department has deleted the term "county ceiling rate" and has used the term "maximum child care allowance," which is consistent with Chapter 168.

*"Disqualification"*

*Issue:* The Department has added this term which is used in the revised sections on overpayment, repayment and disqualification.

*"Eligibility agent"*

*Comment:* IRRC commented that the Department did not clarify that the eligibility agent is the employer or representative of the LMA.

*Response:* The Department has modified the term to include that the eligibility agent, which is known as the LMA or CCIS, is the entity with whom the Department has a contract or subcontract and to whom the Department delegates authority to determine a family's eligibility for subsidized child care under this chapter.

*"Eligibility redetermination"*

*Comment:* IRRC commented that the Department did not clarify what factors the eligibility agent reviews for a redetermination.

*Response:* The Department has modified the term to clarify that only factors subject to change need to be reviewed at a redetermination.

*"Employment"*

*Issue:* The Department has clarified the definition by removing the portions of the definition that discussed the treatment of tips as part of earnings and the treatment of individuals who earn subminimum wage. These provisions were moved to § 3040.34(a)(2) regarding determining nonfinancial eligibility.

*"FPIG"*

*Issue:* The Department has added a definition for the term.

*"FPL"*

*Issue:* The Department has deleted the term because it is not used in the final-form regulations.

*"Family"*

*Issue:* The Department has deleted the term from this section because the individuals who must be included in the family for purposes of eligibility determination are listed in § 3040.28 (relating to composition of a family). The Department's rationale for using different definitions of a family in Chapters 3040 and 168 is discussed under the comments related to Chapter 168.

*"Fraud"*

*Issue:* The Department has modified this term to more accurately reflect the use of the term in the overpayment, repayment and disqualification section.

*"Full-day enrollment"*

*Issue:* The Department has deleted the term because it is not used in the final-form regulations.

*"Income"*

*Issue:* The Department has revised the term to more clearly identify what types of payments count as income.

*"Intentional program violation"*

*Issue:* The Department has added this term which is used in the revised sections on overpayment, repayment and disqualification.

*"Legal guardian"*

*Issue:* The Department has deleted the term because an individual does not need to be a legal guardian to be a caretaker, the term used in the final-form regulations.

*"Live-in companion"*

*Comment:* IRRC and other commentators had two primary concerns. First, the proposed definition, which required that individuals be free to marry, did not reflect current lifestyles. Second, the proposed amendments did not indicate that a relationship must exist between the parent and the live-in companion.

*Response:* The Department has modified the term to reflect the Department's intent to identify an economic unit which includes individuals who live together as a family.

*"Local management agency"*

*Comment:* IRRC suggested the Department include a definition of "local management agency."

*Response:* The Department has added a definition of "local management agency."

*"Maximum child care allowance"*

*Comment:* IRRC commented that there is a need for consistency between Chapters 168 and 3040 when referring to a child care benefit.

*Response:* The Department has adopted the term "maximum child care allowance" throughout Chapter 3040 and has defined it to be consistent with Chapter 168.

*"Minor"*

*Issue:* The Department has deleted the term from its list of definitions. The Department has used the term "minor" when describing the composition of the family and explaining that the income of a minor does not count for determining eligibility. The description of an individual who is a minor has been added to § 3040.28(1)(i) (relating to composition of a family).

*"Overpayment"*

*Issue:* The Department has added this term which is used in the sections on overpayment, repayment and disqualification.

*"Parent"*

*Comment:* IRRC commented that the term was not consistent in Chapters 168 and 3040.

*Response:* The Department has determined that the term "parent/caretaker" can be used in both chapters and has defined parent separately from caretaker. As defined in the final-form regulations, a parent can be a caretaker, but a caretaker may be someone other than the parent of the child who is eligible for service.

*"Part-day enrollment"*

*Issue:* The Department has deleted the term because it is not used in the final-form regulations.

*"Profit from self-employment"*

*Issue:* The Department has deleted the definition as it is unnecessary.

*"Recoupment"*

*Issue:* The Department has added this term which is used in several sections dealing with overpayment, repayment and disqualification.

*“Reimbursable daily rate”*

*Issue:* The Department has deleted the term because it is no longer used.

*“Reimbursement rate”*

*Issue:* The Department has added the term and defined it to be the provider’s verified published daily rate not to exceed the maximum child care allowance established by the Department.

*“School-age child”*

*Issue:* The Department has deleted the term because it is not used in the final-form regulations. School-age children are covered for subsidized child care benefits and are included under the general eligibility requirements for the family.

*“Service type”*

*Issue:* The Department has deleted the term because it is not used in the final-form regulations.

*“Specified relative”*

*Issue:* The Department has deleted this definition. The term is referenced in the definition of “caretaker” which refers to § 151.42.

*“Training program”*

*Comment:* Commentators suggested that the Department should reconsider providing subsidized child care while adult family members participate in training programs.

*Response:* The Department has reinstated the term, but modified the definition because the regulations permit subsidy while an adult family member who is employed participates in a training program. The Department has not reinstated the policy that allowed a family in which the parent is not employed to be eligible for subsidy while the parent is enrolled in a training program.

*“Unit of care”*

*Comment:* IRRC and other commentators raised a concern that the unit of care definition limited to one the number of providers who could care for an eligible child per day.

*Response:* The Department has deleted the term because it is not used in the final-form regulations. Final-form regulations do not prohibit parents from selecting more than one provider per day for a child.

*“Weekly family fee”*

*Issue:* The Department has deleted the term because it is not used in the final-form regulations.

*“Wrap-around day care program”*

*Issue:* The Department has deleted the term because it is not used in the final-form regulations.

*§ 3040.11. Provision of subsidy.*

*Issue: Subsection (c).* The Department has deleted this subsection regarding subsidized child care not being an entitlement program because it was duplicative of § 3040.1. Subsections (d) and (e) in proposed amendments have been redesignated subsections (c) and (d) in final-form regulations.

*Issue: Subsection (d) (final-form regulations).* The Department has clarified that a child may receive subsidy if there is no other adult family member available to care for the child during the hours of need.

*Issue: Subsection (e) (final-form regulations).* The Department has restructured and relocated provisions on age limitations for eligible children proposed in § 3040.2(a) and (c) to § 3040.11(e) to group similar information together.

*Issue: Subsection (f).* The Department has deleted this subsection as proposed because it was unclear.

*Issue: Subsection (f) (final-form regulations).* The Department has added a requirement that all children who receive subsidy must have age-appropriate immunizations. This requirement has been added under the requirement in the final Federal CCDBG regulations at 63 FR 39987, to be codified in 45 CFR 98.41(a)(1)(i).

*Issue: Subsection (g) (final-form regulations).* The Department has added a new subsection which provides that a family must meet both financial and nonfinancial criteria to be eligible for subsidized child care. This provision was in § 3040.2(b) and has been relocated to group similar information and general requirements together.

*Issue: Subsection (h) (final-form regulations).* The Department has restructured information found under § 3040.2(b) of the proposed amendments and has relocated it to this subsection. This subsection provides that a family in which a parent is receiving TANF is not eligible for subsidized child care under Chapter 3040.

*Issue: Subsection (i) (final-form regulations).* The Department has restructured information previously found in § 3040.2(b) and has relocated it to this subsection. This subsection provides that subsidized child care may not be used as a substitute for a publicly funded educational program or a specialized treatment program.

*Issue: Subsection (j) (final-form regulations).* The Department has restructured information previously found in § 3040.2(b) and has relocated it to this subsection to group similar information together. This subsection includes information on the types of child care that are available.

*Issue: Subsection (k) (final-form regulations).* The Department has restructured information previously found in § 3040.2(a) and has relocated it to this subsection to group similar information together.

*§ 3040.13. Notification on designated forms.*

*Issue:* The Department has deleted and reserved this section because the information is included in other sections.

*§ 3040.16. Confidentiality.*

*Issue: Subsection (a).* The Department has added a provision that eligibility agents and their employees are required to keep confidential the information in the family file and use that information only for purposes directly connected to the administration of their duties.

*Issue: Subsection (c) (final-form regulations).* The Department has added this subsection to specify that information contained in the family file related to obtaining child support may be disclosed to the appropriate Domestic Relations Section to ensure that applicants and recipients secure all available child support. This disclosure may be necessary because the eligibility agent and the Domestic Relations Section may need to engage in dialogue to assist the parent in the process of establishing paternity and obtaining a child support order.

*Issue: Subsection (d) (final-form regulations).* The Department has added this subsection to require that the

eligibility agent assure the confidentiality of an individual who makes a complaint about a family's eligibility for subsidy for a child.

*§ 3040.17. Additional conditions or additional charges.*

*Issue:* The Department has renamed this section "Additional conditions and additional charges" in the final-form regulations.

*Issue: Subsection (b).* The Department has clarified that prior to the provider's implementation of additional charges, the parent must be notified of the additional charges to be collected. Additional charges are not the same as the parent co-payment, but extra charges required by the provider for items such as snacks or field trips. Subsidy is not provided to the parent to help in paying these additional expenses.

*Comment: Subsection (b).* Several commentators questioned the Department's deletion of the provision prohibiting providers from charging extra for food services because many providers participate in the Child and Adult Care Food Program which does not allow the providers to charge extra for food.

*Response:* The Department has not revised this section. The provision in proposed amendments and final-form regulations which permits providers to charge for additional services does not limit the provider's responsibility to follow the rules of other programs. The Department of Education manages the Child and Adult Care Food Program and advises that the providers who participate in the Child and Adult Care Food Program are not permitted to charge the parent for food unless there is a special meal planned in which the child may choose to participate. As a result, providers who participate in the Child and Adult Care Food Program are not permitted to routinely charge subsidy-eligible parents for meals reimbursed to the provider by the Child and Adult Care Food Program.

*§ 3040.18. Citizenship.*

*Comment:* IRRC commented that the Department included citizenship requirements in more than one section in the regulations and suggested that the requirement be placed in only one section.

*Response:* The Department has deleted and reserved this section. Citizenship applies to all family members and therefore the Department has included and clarified the citizenship requirement in final-form regulations in § 3040.34(b)(1) (relating to nonfinancial eligibility).

*Comment:* IRRC and several other commentators questioned the use of the term "permanently residing under color of law" because it is not defined in Black's Law Dictionary.

*Response:* The term "permanently residing under color of law" in § 3040.34(b)(1) is a term of art which was developed in case law and regulations describing noncitizens who are eligible for a variety of benefits. This term encompasses individuals who are refugees, parents granted asylum and other individuals who have implicit, not explicit, permission of the Immigration and Naturalization Service (INS) to remain in the United States for an indefinite period, but have not formally been granted permanent residence as defined in 8 U.S.C.A. § 1101(20). The term does not include persons here for a temporary purpose such as students and tourists. The use of the term "permanently residing under color of law" in subsidized child care regulations makes this provision consistent with those applicable to cash assistance recipients, found in § 149.23.

*§ 3040.19. Subsidy disruption.*

*Issue: Subsection (b).* The Department has modified the language regarding what happens if a child's subsidy is disrupted and has clarified that if funding is not available, the subsidy is suspended until another provider has been selected and subsidy is available.

*Comment: Subsection (d).* IRRC and several other commentators stated that the Department should consider using the same methodology for reinstating subsidized child care benefits when funding is again available regardless of the reason for the disruption in the family's subsidy.

*Response:* The Department has modified the language regarding a family's placement on the waiting list. A child is placed on the waiting list according to the date of the family's initial eligibility determination if a child loses subsidized child care benefits because of a shortfall in State or Federal funding or management of funding by the eligibility agent.

*§ 3040.20. Limitations and benefits.*

*Issue:* The Department has renamed this section "Benefits and limitations" in final-form regulations.

*Comment: Subsection (a).* IRRC and other commentators questioned the Department's intent to limit access to child care based on the proposed requirement that the parent's cost of child care may not exceed a certain percentage of the gross income of the family.

*Response:* The Department has deleted this requirement. Because of this deletion, subsequent subsections were redesignated.

*Comment: Subsection (b)(1).* IRRC and other commentators questioned the provision of allowing a child only one unit of care with one provider in a 24-hour period. They indicated that the provision may prevent a school-age child from receiving before- and after-school subsidy for care from more than one provider.

*Response:* The Department has redesignated subsection (b) to (a) in the final-form regulations and deleted the provision allowing a child only one unit of care in a 24-hour period. The Department has modified the language to indicate that the benefit for an eligible child is up to 50 hours of child care in a 7-day period. The provision of the 50-hour benefit of child care recognizes the varying types of work shifts of parents. Many employers are lengthening the work day and shortening the work week. The 50 hours of child care in a 7-day period allows for flexibility for the parent's work week and still allows a reasonable limit to the benefit for subsidy.

*Issue: Subsection (a)(2) (final-form regulations).* The Department has deleted the limitation in subsection (b)(2) of proposed regulations that a subsidy-eligible child may receive a maximum of 262 units of care in a fiscal year.

*Issue: Subsection (a)(2) (final-form regulations).* The Department has added a new paragraph to include provisions for a child to receive care during the hours when the adult family member needs to sleep.

*Comment: Subsection (a)(4) (final-form regulations).* IRRC and other commentators advised that the Department should consider allowing the parent's participation in a training program as a basis for determining eligibility. Commentators pointed out that one intent of Act 35 is to encourage individuals to pursue training to enhance job skills.

*Response:* The Department recognizes that child care may be needed to allow a parent to participate in a

training program that may enhance the parent's job skills. Therefore, the Department has added a provision in subsection (a)(4) of final-form regulations for 12 hours of additional child care to allow working parents time to attend training. The 12 hours of child care is in addition to the 50-hour benefit of child care in a 7-day period.

*Issue: Subsection (b) (final-form regulations).* The Department has modified the language in subsection (c) of proposed amendments to indicate that if space is not available to enroll the child at the child care facility operated by the child's parent, the child can receive subsidy at another child care facility. In registered family day care homes and homes exempt from regulation, space is always available because the operator's own children are not included in the maximum number of children permitted to be cared for by the operator under licensing requirements.

*Issue: Subsection (c) (final-form regulations).* The Department has added a provision to address the retroactive payment of child care benefits to a family who formerly received TANF and does not apply for child care benefits at the eligibility agent immediately after the TANF benefits end. The Department has allowed a retroactive payment of child care costs incurred to the first day of the month preceding the month that the parent who formerly received TANF benefits applied for service with the eligibility agent.

§ 3040.20a. Grandfathering provisions.

*Issue:* The Department has renumbered proposed §§ 3040.20a—3040.27 to conform to the *Pennsylvania Code* and *Bulletin* style requirements.

*Comment: Paragraph (1).* IRRC and commentators suggested that the Department allow a family eligible under this section to remain eligible for one year following the implementation date of the final-form regulations.

*Response:* The Department has revised the section to include the 1-year period.

*Comment: Paragraph (1).* Several commentators suggested that the Department maintain the current income limit of 235% of the FPIGs for any family who is receiving subsidy at the time the final-form regulations are implemented. The commentators also suggested that the family remain eligible for subsidy until the family income exceeds 235% of FPIG, suggesting that a family may be grandfathered for a longer time than the proposed 1-year limit of the grandfathering provision.

*Response:* The Department has not incorporated these suggestions because subsidized child care must be limited to those families who are most needy. The grandfathering provision is meant to offer a transition to those families whose income exceeds 185% of FPIG but is no greater than 235% of FPIG.

*Comment: Paragraph (1).* Commentators suggested extending the grandfathering provision to families on the waiting list whose income is between 185% and 235% of FPIG. This would allow those families currently on the waiting list to receive subsidized child care benefits for 1 year from the point the child begins receiving subsidy.

*Response:* The Department has not incorporated this suggestion because subsidized child care must be limited to those families who are the most needy. The grandfathering provision is meant to be a transition for families who are in the subsidized system and not for families on the waiting list.

§ 3040.28. Composition of a family.

*Issue:* The Department has redesignated subsections (a)—(d) to paragraphs (1)—(4) in the final-form regulations.

*Issue: Paragraph (1)(i) (final-form regulations).* The Department has added a provision to include in the family siblings who are 18 to 21 years of age, attending college and dependent on the income of the parent or the spouse or live-in companion of the parent.

*Issue: Paragraph (1)(ii) (final-form regulations).* The Department has added a provision to specify that siblings of the child in need of child care and the child's other parent, if living in the household, are included in the family composition.

*Comment: Paragraph (1)(ii) (final-form regulations).* Commentators recommended in subsection (a) of proposed amendments that teen parents who are residing in the home of their parents should be considered a separate family and not included in the family unit with the teen parent's parent.

*Response:* The Department has not incorporated the suggestions because it is the Department's position that parents have financial responsibility for their children. Recognizing the financial stress on these families, the Department had proposed adding a monthly income deduction of \$300 for each family member for whom the grandparent is responsible under Chapter 3040, Appendix A, Part II(D) (relating to income deductions). The Department has retained this provision in final-form regulations.

*Comment: Paragraph (3) (final-form regulations).* Several commentators raised the concern that the Department's intent was not clear in subsection (c) of proposed amendments regarding which individuals the Department intends to exempt from including in the family in cases where the parent formerly received TANF.

*Response:* The Department has clarified that families who formerly received TANF will be exempt for 6 months after TANF ends from the provision that the live-in companion be counted as a part of the family.

*Comment: Paragraph (4) (final-form regulations).* Commentators questioned the requirement in subsection (d) of the proposed amendments that an individual may be included in only one family. In some circumstances, a judge may grant joint custody to the parents of the child and each parent is in need of subsidized child care.

*Response:* The Department has modified the section to allow a child whose parents are granted joint custody to be included in two families which are both seeking subsidized child care for the purposes of eligibility determination.

§ 3040.31. General requirements regarding family eligibility.

*Issue:* The Department has renumbered the proposed § 3040.31(5)—(7) and has relocated the substance of those paragraphs to § 3040.34(b)(2), (6) and (7). Section 3040.31(8) has been deleted. The substance of paragraph (4) has been relocated to §§ 3040.51(e) and 3040.53(g).

*Comment: Paragraph (7).* IRRC and several commentators requested that the Department include provisions for a parent to claim an exemption for good cause from the eligibility requirement of establishing paternity and establishing a child support order.

*Response:* The substance of paragraph (7) has been relocated to § 3040.34(b)(7) in final-form regulations. The

Department has added a provision for a parent to be exempt from the requirements of establishing paternity and establishing a child support order if the parent can show good cause for failing to do so. The good cause exemptions are in § 187.23(a)(3) (relating to waiver of cooperation for good cause). For the purposes of subsidized child care, the CAO responsibilities listed in § 187.23(a)(3) will be completed by the eligibility agent and the requirements pertaining to cash assistance will be applied to subsidized child care.

§ 3040.32. *Financial eligibility.*

*Comment: Subsection (a).* IRRC and several other commentators questioned the replacement of the term "paystub" with the more general term "income documentation." The commentators suggested that the Department restore the term "paystub" because it is a specific type of documentation for income from employment.

*Response:* The Department has restored the use of the term "paystub" when discussing income documentation because it specifically indicates income from employment.

*Issue: Subsection (b).* The Department has restructured and added an introductory statement to address situations in which the family member does not have paystubs to document earned income.

*Comment: Subsection (d).* IRRC commented that it appeared that the Department eliminated the exemption of earned income of unemancipated minors as a result of proposing to delete subsection (d) as it appears in current regulations.

*Response:* The Department has not eliminated the exemption of earned income of a minor. Earnings of a minor child are excluded under Income Exclusions listed in Appendix A, Part III.

*Comment: Subsection (f).* IRRC and other commentators recommended that the Department reconsider returning to the current income limit for eligibility for the subsidized child care program of 235% of FPIG rather than the proposed 185% of FPIG.

*Response:* The Department has retained the income limit of 185% of FPIG in final-form regulations. The subsidized child care program operates under a capped block grant and the Department must direct resources to the most needy families. Under the current system, approximately 90% of the children enrolled in care are from families whose income is less than 185% of FPIG. In addition, 185% of FPIG is in the higher range of income limits set by other states.

§ 3040.33. *Documentation of self-employment income.*

*Issue:* The Department has renamed this section "Self-employment" in final-form regulations.

*Issue: Subsection (a).* The Department has deleted the reference to the percentage of Social Security paid by the self-employed family member.

*Comment: Subsection (b)(1).* Commentators suggested that the Department expand the requirements and not limit the eligibility agent's review of the Federal Income Tax return document to Schedule C for an individual who has income from self-employment, but rather include all schedules related to self-employment.

*Response:* The Department has modified the provision to require that acceptable documentation of income from self-employment includes a copy of the family's Federal Income Tax Return including all schedules related to self-employment.

*Comment: Subsection (b)(3).* Several commentators raised the issue that the requirement for quarterly eligibility reviews for a family in which an adult member is self-employed is unreasonable as the income information typically does not change and the self-employed individual may not need to file quarterly tax statements if they are not paying estimated taxes.

*Response:* The Department has removed the requirement regarding quarterly tax statements. An annual Federal Income Tax Return is acceptable income documentation when the family member has been self-employed in the same business for more than 1 year.

§ 3040.34. *Nonfinancial eligibility.*

*Issue: Subsection (a).* The Department has deleted this subsection as proposed as duplicative of provisions in § 3040.31. Based on the deletion, subsequent subsections were redesignated.

*Issue: Subsections (a) and (b) (final-form regulations).* The Department has reorganized these subsections in the final-form regulations. Subsection (a) contains nonfinancial eligibility conditions which must be met at each determination and redetermination of eligibility. Subsection (b) contains those eligibility conditions which must be met or verified only at the initial eligibility determination. In addition, some requirements listed in proposed regulations in § 3040.31 were moved to § 3040.34.

*Issue: Subsection (a)(1) (final-form regulations).* The Department has clarified that the child's need for care must coincide with the hours of the adult family members' hours of employment or the minor parents' educational program.

*Issue: Subsection (a)(2) (final-form regulations).* The Department has added a provision that employed family members must be earning minimum wage, with exceptions for those individuals who are employed as laborers on a farm or are granted a subminimum wage exception by the Department of Labor and Industry.

*Issue: Subsection (a)(3) (final-form regulations).* The Department has specified the number of hours that an adult family member must work. In addition, the Department has replaced the specific dates in subsection (b)(4) of proposed amendments and indicated certain hours of employment required during the first 180 days (until July 31, 1999), and after 181 days from the effective date of the final-form regulations (August 1, 1999).

*Issue: Subsection (a)(3)(iv) (final-form regulations).* The Department has clarified that the parent of a family transferring to the subsidized child care program from the TANF program must be employed, and has 6 months from the date TANF ends to meet the number of hours of employment required under § 3040.34(a)(3)(i)—(ii) in the final-form regulations.

*Issue: Subsection (a)(4).* The Department has clarified that a minor parent who has not graduated from high school or has not completed the GED must be enrolled in an educational program and attend on a full-time basis. In addition, the Department has clarified that the verification of attendance at an educational program must be on a form prescribed by the Department.

*Issue: Subsection (a)(5) (final-form regulations).* The Department has made editorial corrections to the language in subsection (b)(8) of proposed amendments describing eligibility for subsidized care for a child during the parent's sleep time.

*Issue: Subsection (a)(6) (final-form regulations).* The Department has added a paragraph to address the employment and earning requirements of a minor parent who has graduated from high school or has a GED.

*Issue: Subsection (a)(7) (final-form regulations).* The Department has added provisions to specify that a parent whose child is receiving child care subsidy shall sign a self-certification statement that the child has received age-appropriate immunizations.

*Issue:* The Department has relocated the following subsections: (b)(4) has been relocated to (a)(3); (b)(5) has been relocated to (b)(1); (b)(6) has been relocated to subsection (c); (b)(7) has been relocated to (b)(2); (b)(8) has been relocated to (a)(5); and (b)(9) has been relocated to (b)(3).

*Comment: Subsection (b)(4).* Commentators suggested that the Department eliminate the requirement for a parent to be employed a minimum of 3 days per week and retain the requirement that a parent needs to be employed a minimum of 20 hours per week.

*Response:* The Department has eliminated the requirement that the parent must be employed for a minimum of 3 days per week. Under proposed amendments, a parent would have been required to work a minimum of 30 hours per week effective 1 year following the implementation of the final-form regulations. In response to the commentators concerns, the Department has revised the number of hours per week requirement. Under the new requirement, a parent must be employed a minimum of 20 hours per week for a period of 180 days following the effective date of the regulations (until July 31, 1999), and a minimum of 25 hours per week effective 181 days following the effective date of the regulations (August 1, 1999). This change provides a transition for parents as they move toward self-sufficiency.

*Comment: Subsection (b)(5).* IRRC commented that the citizenship requirements should be listed in only one section rather than in the previously proposed §§ 3040.18 and 3040.34(b)(5).

*Response:* The Department has included the requirement that all family members must be citizens or aliens lawfully admitted for permanent residence or otherwise permanently residing under color of law, and has placed it in subsection (b)(1) of final-form regulations. Section 3040.18 has been deleted and reserved in the final-form regulations.

*Issue: Subsection (b)(6) (final-form regulations).* The Department has expanded the group of individuals who are permitted to use the release of information form in § 3040.31(5) of the proposed amendments to include staff from the Office of Inspector General (OIG).

*Comment: Subsection (b)(6).* Commentators suggested that the Department require photoidentification at a face-to-face interview.

*Response:* The Department has revised the requirement to include photo-identification and has modified the list of acceptable forms of identification in subsection (c) of the final-form regulations to include: a driver's license, a passport, a military identification card; an employment identification card; or other verifiable photo-identification.

*Issue: Subsection (d).* The Department has deleted this subsection as duplicative of provisions in subsection (b)(5) of final-form regulations.

§ 3040.35. *Factors affecting eligibility status.*

*Issue:* The Department has renamed this section "Reporting changes" in the final-form regulations.

*Issue: Paragraphs (2) and (11).* The Department also has modified this section to include in the factors that must be reported a change in training status and a change in custody or foster care arrangements.

§ 3040.36. *Inability to be employed or continue participation in an education program.*

*Issue: Subsection (a)(1).* The Department has modified this paragraph for consistency with regulations which require a medical assessment which verifies the inability of the adult family member to be employed or enrolled in an educational program and inability to care for the child. The Department has revised this paragraph to provide that a medical assessment form for a parent who is unable to participate in employment or educational activities and unable to care for the child must be completed by a licensed psychologist or physician.

§ 3040.37. *Attendance requirements.*

*Comment: Subsection (b).* Commentators expressed concern that the proposed requirement to discontinue subsidy for a child whose absence exceeds the proposed 10 consecutive enrollment days would not allow sufficient time for the child's parent to be notified prior to the subsidy discontinuance.

*Response:* The Department has not modified the language because it is not necessary. The eligibility agent must provide the parent with a written notice in accordance with § 3040.72 (relating to content of a written notice of adverse action). Section 3040.71(d) requires that this notice be sent at least 10 days before the date the action is proposed to be taken. If the parent appeals within 10 days, subsidy continues until a hearing decision is made.

*Comment: Subsection (b).* IRRC raised a concern that when the Department reduced the number of consecutive enrollment days during which a child may be absent from 20 days to 10 days without exceptions that the child may be determined ineligible for reasons beyond the parent's control, thereby disadvantaging the family. IRRC recommended that the subsection be amended to include absences for reasons such as hospitalization or illness.

*Response:* The Department has retained the 10-day limit on absences under this subsection. The Department recognizes that there are several valid reasons for absence which would exceed 10 days. These absences are not counted under this subsection. These reasons are listed in § 3040.52(d) (relating to eligibility agent responsibilities).

*Issue: Subsection (c).* The Department has revised this subsection to clarify that days of suspension, including those days when a child is absent for more than 10 days because of illness or hospitalization, are not counted toward the 30 allowable days of absence in a fiscal year. In addition, a parent may request a waiver of the 30-days-of-absence limitation for children who have a chronic disease.

§ 3040.38. *Prospective employment or a prospective education program for new parent applicants.*

*Issue:* The Department has renamed this section "Prospective employment or a prospective education program for new applicants" in the final-form regulations.

*Issue: Subsection (a)(1).* The Department has modified the language to state that employment or education must begin within 30 days from the date of application rather than the date of determination of eligibility.



*Issue: Subsection (a)(2).* The Department has modified the language to clarify that written verification of prospective employment or prospective education must be on a form prescribed by the Department.

*Comment: Subsection (e).* Commentators suggested that it is unclear as to how many 30-day periods of subsidized child care a parent who has exhausted all available TANF benefits could receive while looking for employment.

*Response:* For a parent who has exhausted his TANF benefits, there is only one 30-day period of subsidized child care to seek employment. The Department has revised this subsection to specify that the parent must apply for the 30 days of subsidized child care within 90 days of the date TANF benefits end.

§ 3040.40. *Child care subsidy available to attend training.*

*Issue:* The Department has added this section in the final-form regulations.

*Comment:* IRRC and other commentators suggested that the Department recognize that parents, especially those leaving TANF, should have the opportunity to attend training classes to enhance their job skills.

*Response:* The Department has provided for parents who meet the hourly work requirements to receive up to an additional 12 hours of child care per week. The training program must be accredited by a state or National board of examiners or recognized by the Department and must be designed to lead to a specific job.

§ 3040.51. *General requirements in the eligibility determination process.*

*Issue: Subsection (d) (final-form regulations).* The Department has added a provision for a family that transfers from TANF to subsidy within 90 days of the date TANF ends to begin receiving subsidy for the child on the date that the parent notifies the eligibility agent.

*Issue: Subsection (e) (final-form regulations).* The Department has added language to clarify that the initial determination of eligibility shall be completed within 90 days of the family's transfer from TANF and that the redetermination is set for 6 months from the date that TANF ends.

§ 3040.52. *Eligibility agent responsibilities.*

*Issue: Subsection (a)(2).* The Department has modified this paragraph to state that when a face-to-face interview is conducted, the eligibility agent shall document the identity of the parent who signs the application by noting in the family file the type of photo-identification used to verify the parent's identification.

*Issue: Subsection (a)(6).* The Department has modified this paragraph to include the eligibility agent's responsibility for advising the parent who formerly received TANF of the conditions to qualify for a retroactive child care benefit if the transfer from TANF did not take place the day after the date TANF benefits ended.

*Comment: Subsection (a)(7).* IRRC commented that the requirement for an eligibility agent to determine a family's eligibility for subsidized child care within 30 days should match § 165.43, in which eligibility for TANF individuals is determined within 15 days.

*Response:* The Department has not revised subsection (a)(7) because it wants to allow parents, who may never have applied for a public benefit such as TANF, adequate time to obtain all appropriate documentation to establish eligibility. The family is determined eligible on the day all

verification is received by the eligibility agent regardless of when the eligibility agent processes the application, therefore, the family is not disadvantaged by the eligibility agent's workload.

*Comment: Subsection (a)(7).* Commentators requested that the Department clarify the section regarding the date of determination of eligibility.

*Response:* The Department has clarified that the date of initial eligibility for all families is the date that the eligibility agent has complete information to determine the family's eligibility.

*Comment: Subsection (a)(10).* Commentators requested clarification about how many face-to-face interviews were necessary.

*Response:* The Department has clarified that a face-to-face interview is required prior to the enrollment of the first child into the subsidized child care program. The eligibility agent may require other face-to-face interviews as needed.

*Issue: Subsection (a)(10).* The Department has modified the paragraph to state that the parent who completes the application shall acknowledge, in writing, his receipt and understanding of the rights and responsibility information.

*Comment: Subsection (b)(1).* IRRC and other commentators suggested that the provision for a complete redetermination of eligibility every 6 months is burdensome.

*Response:* The Department's position is that a redetermination every 6 months is reasonable given the potential for changes in the family income and the number of children on the waiting list. Under changes in § 3040.34(a) of the final-form regulations, the Department has clarified that not all information must be reviewed at each redetermination of eligibility. In light of this change, and the opportunity to use a mail-in redetermination, the Department has retained the provision as proposed.

*Issue: Subsection (b)(2)(iii).* The Department has deleted the provision that families with self-employed members be redetermined on a quarterly basis.

*Issue: Subsection (b)(3).* The Department has clarified that the eligibility agent shall notify the parent in writing, at each redetermination, of the documents needed to complete the redetermination of eligibility.

*Issue: Subsection (b)(6).* The Department has added a provision that the eligibility agent shall provide an application form prescribed by the Department to each parent to complete a redetermination. The parent may mail in or hand deliver the signed, dated form to the eligibility agent.

*Issue: Subsection (c)(1).* The Department has added language to clarify that the method of reporting changes agreed to by the parent and the eligibility agent must be noted in the family file.

*Issue: Subsection (c)(3).* The Department has clarified that when a parent reports changes in circumstances which do not affect the parent's co-payment, a full redetermination is not needed, a partial redetermination shall be completed, and the original period of eligibility is not changed as a result of a partial redetermination.

*Issue: Subsection (e) (final-form regulations).* The Department has added a provision to the eligibility agent's responsibilities that the eligibility agent must review a parent's circumstances for eligibility for subsidized child

care up to the time of a request for closure when a parent voluntarily requests discontinuance of subsidized child care.

*Issue: Subsection (f) (final-form regulations).* The Department has added a provision which allows the Department to direct the eligibility agents on standards for designating the funding for different populations based on the eligibility criteria under this chapter.

§ 3040.53. *Parents rights and responsibilities.*

*Issue:* The Department has renamed this section "Parent/caretaker rights and responsibilities" in the final-form regulations.

*Issue: Subsection (b).* The Department has added a provision that both parents must sign the application in a two-parent household.

*Issue: Subsection (d).* The Department has clarified that the parent has the right to receive written notification regarding a change in the family's eligibility following a determination or redetermination of eligibility.

*Comment: Subsection (g).* IRRC and other commentators suggested that the requirement for a face-to-face interview is too burdensome for parents.

*Response:* The Department had not proposed to require a face-to-face interview at every redetermination of eligibility. The parent shall meet at least once face-to-face with the eligibility agent prior to enrollment of the first child in the family for subsidized child care. It is the Department's position that this is reasonable and not too burdensome for parents.

*Comment: Subsection (g).* Commentators questioned if there may be occasions when the parent would need to engage in more than one face-to-face meeting with the eligibility agent.

*Response:* The Department has not modified the language, as there are times when the eligibility agent may find it necessary to request additional face-to-face meetings if there are questions on the parent's ongoing eligibility for subsidized child care, or if there is new information on eligibility which can be conveniently reviewed in a face-to-face interview.

*Issue: Subsection (g).* The Department has added a provision to clarify that a family transferring from TANF shall meet at least once face-to-face with the eligibility agent within 90 days after transferring to the subsidized child care program.

§ 3040.54. *Waiting list.*

*Issue:* The Department has made revisions to this section. Provisions in § 3040.55(b) and (c) of the proposed amendments regarding subsidized care for additional children in the family and time limits for enrolling into subsidized care once funding becomes available have been relocated to subsections (b) and (c). These additions to § 3040.54 consolidate all information regarding waiting lists.

§ 3040.55. *Maintaining a waiting list.*

*Issue:* The Department has deleted and reserved this section. Subsections (b) and (c) have been relocated to § 3040.54(b) and (c) in the final-form regulations.

*Comment: Subsection (a).* IRRC and other commentators questioned the requirement that the eligibility agent redetermine the eligibility status for families on the waiting list every 6 months.

*Response:* The Department has eliminated the need for families on the waiting list to be redetermined every 6 months.

*Comment: Subsection (c).* IRRC and other commentators suggested that the Department consider allowing siblings of children already enrolled in service to be enrolled according to the date of the family's initial eligibility.

*Response:* The Department has maintained this subsection as proposed and relocated it to § 3040.54(b) in the final-form regulations. A child added to the family after the date the family was initially determined eligible is placed on the waiting list as of the date the parent requests care for the child. The Department has decided to maintain this position because these parents already have children in service and are receiving a benefit, while other parents with children on the waiting list are not receiving any subsidy benefits. Because the subsidized child care program is capped, it may not be possible to provide all the benefits needed for every child in every family. The eligibility agent will discuss this with each parent at the time of initial determination.

§ 3040.61. *General requirements regarding fee payment.*

*Issue:* The Department has renamed this section "General requirements regarding co-payment" in the final-form regulations.

*Issue:* The Department has replaced the term "weekly family fee" with "co-payment" to be consistent with Chapter 168 and to clarify that it is the parent's responsibility to contribute to the cost of subsidized child care.

*Issue: Subsection (b).* The Department has added an exception to the rule requiring payment of an advance co-payment prior to enrollment of a child. A family who transfers from TANF has until the first redetermination to pay an advance co-payment.

*Comment: Subsection (h)(4).* Commentators questioned the Department's proposal to remove the penalty for parents who are habitually delinquent in payment of the assessed co-payment.

*Response:* The Department has added a penalty clause that states that a family whose eligibility for subsidized child care is discontinued because of habitual delinquency of payment of the co-payment will not be permitted to reapply for subsidized child care for 90 days following the date the delinquent co-payments have been paid.

§ 3040.62. *Availability and use of the FPIG.*

*Issue: Subsection (b).* The Department has deleted the proposed subsection regarding the use of FPIG and the calculation of the family fee because it is not necessary in this section. Subsection (c) in the proposed amendments has been redesignated subsection (b) in the final-form regulations.

*Issue: Subsection (d) (final-form regulations).* Subsection (d) in the proposed amendments has been redesignated subsection (c) in the final-form regulations.

§ 3040.63. *Determining a weekly family fee.*

*Issue:* The Department has renamed this section "Calculating a co-payment" in the final-form regulations.

*Issue: Subsection (a).* The Department has added a new provision to identify factors the Department considers in determining co-payments. As a result of this addition, subsequent subsections have been redesignated. In sub-

section (a)(3), the Department has added a provision that a family's annual co-payment cannot exceed 14.5% of the family's annual income.

*Issue: Subsection (a).* The Department has revised the methodology in subsection (a) of the proposed amendments, which has been redesignated subsection (b) in the final-form regulations, describing the determination of a family's annual income.

*Issue: Subsection (c).* The Department has revised the formula in subsection (c) of the proposed amendments which has been redesignated as subsection (d)(1) and (2) in the final-form regulations. The Department has created this formula to establish the process used to derive a family co-payment. To determine the co-payment, the eligibility agent or the parents do not need to use this formula because the results of the calculations are set forth on a chart in Appendix B, Co-Payment Schedule. The formula is used by the Department as the basis to develop Appendix B. The eligibility agent or the parent can easily locate, in Appendix B of these final-form regulations, the appropriate co-payment if they know the amount of the family's annual income and family size. In § 3040.63(d)(1) of the final-form regulations, the Department added a description of how the eligibility agent uses Appendix B to calculate the parent co-payment.

*Comment: Subsection (c).* IRRC and other commentators expressed concern that the amounts of the proposed increases in the co-payment were too high and that the cost of care should not be included as a factor in determining co-payment levels. Commentators generally felt that the cost of care should not be a consideration in determining the co-payment calculation because the cost of care as indicated in the proposed regulations did not take into account variances in costs in different geographic areas across the State nor did it take into account varying cost of care for children of different ages. Families in areas with higher child care costs and those with young children may be able to find only care more expensive than the average cost range for the State.

*Response:* The proposed § 3040.63(c) has been redesignated § 3040.63(d) in the final-form regulations. The Department has revised the methodology for determining the family co-payment in these final-form regulations by removing the factor for cost of care. After consideration of comments, the Department has determined that it will use family size and income to determine the co-payment.

In § 3040.63 of the final-form regulations, the Department has set forth the methodology used for determining the co-payment by either using the charts in Appendix B as described in § 3040.63(d)(1) or by using a formula as described in § 3040.63(d)(2). The charts in Appendix B include the family income as a percentage of FPIG and family size. In future years, the charts in Appendix B will be adjusted annually based on annual changes to the FPIG.

The Department has adopted the new co-payment amounts in Appendix B, which is the first revision in co-payments since 1992. The Department's methodology in creating the co-payment charts is reasonable and in line with what other states are using. In fact, some states are setting maximum annual parent co-payments as high as 16% to 18% of the parent's annual income, while the Department has capped the co-payment at 14.5% of the parent's annual income for those receiving subsidy whose income does not exceed 185% of FPIG. Families whose annual income is at or below 100% of FPIG will not pay more than 10% of their annual income for a co-payment.

The parent's co-payment for subsidized child care will always be lower than that of the family on the waiting list who is paying the full cost of care and that of the TANF family who was receiving the child care disregard of a maximum of \$175 per month per child for a child age two or older and \$200 per child for a child under 2 years of age. In some counties, parents came forward in public forums to indicate that they would not mind paying more each week if it were to help serve additional families on the waiting list.

Even with the changes in these final-form regulations, the demand for child care by families with incomes below 185% of FPIG will grow. The Department believes that the current waiting lists reflect only a portion of the eligible families. The current waiting lists reflect only those families who are willing to wait for a child care subsidy. Because of the long waiting lists, many individuals have not continued the eligibility process necessary to keep their position on the waiting list. The Department expects that as more potentially eligible families learn that families are being enrolled into service from the waiting list, more families will come onto the waiting list.

The family weekly co-payment calculation has been designed to support the most needy families. Overall, the family co-payment calculation provides increases in family weekly co-payment as family income increases to help ease the transition from subsidized day care to nonsubsidized care. The increase also will result in more funds being made available to serve additional children who are on the waiting list.

*Comment:* IRRC and other commentators commented that the Department's proposed amendments on parent co-payments did not correspond with some of the areas of the CCDBG statute, proposed Federal CCDBG regulations and preamble. Final regulations have now been published. IRRC and other commentators suggested that the preamble and proposed Federal regulations indicated that a parent co-payment should not exceed 10% of the parent's income and states should avoid using the cost of care as a factor when designing the parent co-payment level as these factors may conflict with equal access or parental choice. Also IRRC questioned if the Department is violating Executive Order 1996-1 because the proposed co-payment exceeded a Federal standard.

*Response:* The Department has reviewed the CCDBG statute and final Federal regulations and has concluded that the Department's final-form regulations do not conflict with the Federal regulations or the CCDBG statute. The Department notes that the preamble to the final Federal regulations at 63 FR 39960 merely recommends that a family co-payment be capped at no more than 10% of the parent's income and cost of care should not be considered as a single factor in determining a co-payment. The Federal regulations are silent on these issues.

The final Federal regulations do not specify a cap of 10% or any other amount for the parent co-payment and do not prohibit states from using cost of care in determining the parent co-payment. However, the Department has decided not to use the cost of care in these final-form regulations. The Department has not violated Executive Order 1996-1, as the Department's regulations do not exceed a Federal standard. The Department continues to maintain that its final co-payment calculation, which includes parent co-payments up to 14.5% of a parent's annual income, is reasonable. The Department's co-payment does not exceed 10% of the parent's annual income when the annual income is less than or equal to

100% of FPIG. It is reasonable that, as families move toward self-sufficiency, they should pay an increasing amount towards child care costs.

The Department has a State plan that has been approved by ACF. The approval confirms that ACF has found the Commonwealth's plan to be in compliance with Federal law. In the State plan, the Department informed ACF officials that it was proposing a regulation that included an increase in the co-payment calculation and that it would send ACF the final co-payment calculation upon the adoption of the final-form regulations. When ACF receives the Commonwealth's amended child care plan, based on the final-form regulations, ACF will review the amended plan to determine the Commonwealth's compliance with the CCDBG.

It has not been demonstrated that up to 14.5% of the parent's income is too high an amount for parents to pay. For example, a single mother who has two children and earns \$25,500 per year is not eligible for subsidy, as her income is slightly above 185% of FPIG. She needs child care which costs \$325 per month for one child. Her annual child care costs are \$3,900 per year or 15% of her income. Parents who exceed the income limit for subsidized child care frequently select care which exceeds 14.5% of their annual income. TANF families who now pay the disregard already pay a higher percentage of their income than what is required under Child Care Works and many families on the waiting list for subsidized child care pay more than 14.5% of their annual income for child care now.

*§ 3040.71. General requirements regarding notification.*

*Issue: Subsection (a).* The Department has added a statement that the eligibility agent will determine the family ineligible if the parent does not provide all verification required within 30-calendar days.

*Issue: Subsection (g) (final-form regulations).* The Department has added the subsection to describe the eligibility agent's responsibilities to issue written notices of overpayments.

*§ 3040.72. Content of a written notice of adverse action.*

*Issue: Subsection (a)(4)(iii).* The Department has clarified that subsidy may not be continued at the prior level if the request for a hearing was postmarked or hand delivered after 10-calendar days from the date the written notice was postmarked or hand delivered to the parent/caretaker.

*Issue: Subsection (a)(4)(iv).* The Department has deleted this subparagraph as proposed because the information was not clear and not correct. As a result of this deletion, subparagraph (v) has been redesignated (iv) and (vi) has been renumbered paragraph (5).

*Issue: Subsection (a)(6) (final-form regulations).* The Department has added clarification that if subsidy continues at the level prior to the appeal and Bureau of Hearings and Appeals finds in favor of the eligibility agent or the Department, the parent/caretaker must repay subsidy for which he was not eligible.

*Comment: Subsection (b)(3) (final-form regulations).* Commentators requested that providers receive a copy of all written notices which affect a child's receipt of subsidized child care.

*Response:* The Department has added a provision that requires that the eligibility agent send a copy of all written notices to the child care provider within 1 working day of preparation.

*§ 3040.73. Grounds for appeal.*

*Issue:* The Department has renamed this section "Actions that can be appealed" in the final-form regulations.

*§ 3040.74. Appeal: continuation of subsidy denied.*

*Issue:* The Department has renamed this section "Appeal: when subsidy is not continued during the appeal process" in the final-form regulations.

*Comment: Subsection (a).* Commentators questioned the Department's intent regarding the parent's ability to appeal adverse eligibility decisions and continue to receive subsidy when the parent is questioning the regulation.

*Response:* The Department has added language indicating that a parent may appeal a decision which discontinues or reduces a child care subsidy; however, if the parent is disputing Federal or State law, regulations or policy, subsidy will not be continued at the prior level pending a decision on the appeal.

*Issue: Subsection (c).* The Department has deleted this subsection because the issue is addressed in subsection (a).

*§ 3040.76. Filing an appeal: eligibility agent responsibilities.*

The Department has added a provision that if the eligibility agent assists the parent in preparing a written appeal, the parent shall sign the appeal request.

*§ 3040.77. Departmental actions.*

*Issue:* The Department has renamed this section "Appeal and hearing procedures" in the final-form regulations.

*Issue: Subsection (a).* The Department has added a provision that if the parent fails to appear for a hearing, the appeal is considered abandoned and the decision of the eligibility agent or the Department will be sustained by the Bureau of Hearings and Appeals.

*Issue:* The Department has reversed the sequence of subsections (b) and (c) to present the subsections in a more logical way. In addition, editorial corrections were made to subsection (b).

*Comment: Subsection (b).* IRRC and other commentators suggested that a parent who incurs an overpayment because he appealed an eligibility decision should be given the opportunity to reapply for subsidy and establish a repayment plan if the hearing decision is in favor of the eligibility agent.

*Response:* The Department has included a provision in subsection (c) of the final-form regulations, consistent with provisions in § 3040.93(b), which allows the parent different repayment options. A parent who appeals an eligibility decision may reapply for subsidy if the parent makes a repayment or establishes a payment plan.

*Issue: Subsection (e) (final-form regulations).* The Department has added this subsection to clarify that appellants who are found eligible at the time of the hearing, but were ineligible at the time the notice was issued, will have eligibility for subsidy resumed on the date eligibility is established.

*§ 3040.78. Continuing subsidy and fee payment during an appeal.*

*Issue:* The Department has renamed this section "Continuing subsidy and co-payment during an appeal" in the final-form regulations.

*Issue: Subsection (a).* The Department has added a provision that if a parent files an appeal within 10 days of the notice of adverse action, subsidy continues at the prior level subject to § 3040.74 until a final decision is made by the Bureau of Hearings and Appeals.

*Issue: Subsection (c).* The subsection has been deleted because it is not consistent with a parent's rights to appeal an adverse action.

*Overpayment, repayment and disqualification.*

*Comment:* IRRC and other commentators requested clarification on the eligibility agent's responsibilities for identifying overpayments, overseeing repayment and disqualifying an individual from receiving subsidized child care.

*Response:* The Department has reformatted and revised §§ 3040.91—3040.94 to clarify the Department's, the eligibility agent's and the family's responsibilities when a family was erroneously determined eligible for a child care subsidy.

*§ 3040.91. Overpayment.*

*Issue: Subsection (b).* The Department has revised this subsection to describe the events or actions that can lead to an overpayment. This provision is in accordance with 62 P. S. § 481(a) and is consistent with the definition of "overpayment" in § 255.2.

*§ 3040.92. Repayment requirements.*

*Issue:* The Department has renamed this section "Eligibility agent responsibilities" and added paragraphs (1)—(10) to list all of the eligibility agent responsibilities.

*§ 3040.93. Procedures for the parent to repay an overpayment.*

*Issue:* The Department has renamed this section "Repayment" in the final-form regulations.

*Comment: Subsection (a)(2).* IRRC asked that the Department provide direction to the eligibility agents as to what constitutes a complaint.

*Response:* The Department has deleted this paragraph and has relocated the requirement for eligibility agents to investigate complaints to § 3040.92(3). The Department will clarify in the procedures manual used by the eligibility agents what constitutes a complaint and how to handle it.

*§ 3040.94. Disqualification.*

*Comment: Subsection (c).* IRRC questioned that the proposed amendments included disqualification periods which differed from those found in § 255.1(c). IRRC also questioned the date that the disqualification period would begin, and who in the family would be disqualified from the subsidized child care program.

*Response:* The Department has deleted subsection (b) and has redesignated subsection (c) to subsection (b) in the final-form regulations. The Department has clarified that the disqualification applies only to the parent and children of the parent whose actions led to the disqualification. The Department has listed the periods of time that a family may be disqualified. This provision is in accordance with 62 P. S. § 481(a) and (f) and is consistent with the restitution and disqualification provision for cash assistance, § 255.1.

*Appendix A, Part I—Income inclusions*

*Comment:* Commentators questioned the Department's intent to include income from capital gains and profit from S-Corporations.

*Response:* The Department has added capital gains and profit from S-Corporations to Appendix A, Part I, N.

*Issue:* The Department has modified the language pertaining to veteran's payments to more accurately reflect the Department's intent to include payment made to veterans or survivors of veterans in Appendix A, Part I, M.

*Appendix A, Part III—Income Exclusions*

*Issue:* The Department has included a new exclusion for adoption assistance payments in Appendix A, Part III, S. This exclusion now parallels how other offices within the Department treat adoption assistance.

*Appendix B—Co-payments*

The Department's charts, including county groupings for the co-payment schedule, are current for Fiscal Year 1998-99.

Some commentators included comments on the subsidized day care program which are not addressed in the final-form regulations. A summary of the comments reflected and the Department's rationale for not integrating suggested changes into the final-form regulations follows:

*Minimum health and safety standards—IRRC* commented that relative/neighbor providers should be required to comply with minimal health and safety requirements. The Department has a process in place for assuring that relative/neighbor caregivers who provide care in the subsidized system meet minimal health and safety standards. The CAOs and CCIS agencies must give parents information detailing health and safety standards which the parent must share with the chosen caregiver. The information must include a certification document which must be signed by the caregiver attesting to compliance, and informs the caregivers that they are subject to State inspection if complaints are received. The standards which are based on the Federal CCDBG statute include:

1. Prevention of infectious diseases (handwashing requirements for the provider and child).
2. Building and physical premises safety requirement (including smoke detectors, properly storing toxics, and locked storage of any weapons and ammunition).
3. Minimum health and safety training (including training materials provided by the Department on health and safety topics).

*Reimbursement rates—IRRC* and other commentators suggested that the Department review current maximum reimbursement rate ceilings used for payment to child care providers. The Department has reviewed the current maximum ceilings and determined that it needs to adjust the ceilings. The Governor's Budget for Fiscal Year 1998-99 includes a 3% increase to raise the maximum reimbursement ceiling rates effective January 1, 1999. The 3% increase to the maximum ceilings reimbursement rates will be an interim step until the Department assesses the process of establishing reimbursement ceilings and identifies factors to be used to determine ceiling rate increases in the future. The Department will conduct a market rate survey in accordance with final Federal regulations.

*Procedures on transfer of former cash assistance families to the LMA—IRRC* and others expressed concern about the fact that regulations do not address the process by which the transition from TANF support services to the low-income subsidized child care program will occur. Commentators requested information on the expectations

for coordination between the CAO and the CCIS. Commentators raised particular concern that any inconsistencies between the programs might present barriers to families making a smooth transition.

Transition from the supportive services associated with cash assistance to the low-income child care subsidy system is not new. Since 1990, employed AFDC recipients and TCC recipients whose 12 months of TCC eligibility had expired have been transitioning from the CAO to the CCIS-administered program on a daily basis. Regulations have established AFDC/TCC priority access to the CCIS system, but regulations have not dictated the processes used to transfer individuals from the CAO to the CCIS. Processes and procedural instructions, which are subject to change, have historically been contained in the Cash Assistance Handbook used by CAOs and the Procedures Manual used by the CCIS agencies.

In response to concern that families could face barriers in transitioning from TANF-related child care benefits under Chapter 168 to low-income child care subsidy under Chapter 3040, the Department has taken steps to eliminate or minimize potential barriers by eliminating the disregard, eliminating time-limited TCC benefits and implementing pay up to first pay for TANF families. Where possible, inconsistencies in regulations or differences in definitions have been eliminated in the final regulations. When differences do exist between programs, provisions have been included in Chapter 3040 to give ex-TANF families 6 months after the date that TANF benefits end before the appropriate regulations in Chapter 3040 apply. The Department has already implemented changes to minimize barriers. This includes staff from CCIS agencies going to the CAOs to offer TANF families information on selection of good child care, and exchange of pertinent information on TANF families and former TANF families to assure that payments to their child care providers are not disrupted.

The Department is now working on developing the processes and procedures which will be utilized to accomplish the transition of families from the CAO to the CCIS under Child Care Works. A number of work groups are dealing with the development and testing aspects of things such as: system identification of TANF case closings with child care needs; automated notices of eligibility regarding services to ex-TANF families and their providers; nightly downloading of cases identified for transfer; electronic transmission of case information to negate the need for duplicate verification; system matches of case and provider data between the two programs; automated calculations of benefit levels; and headquarters transmission of information to CCIS agencies, which do not currently have an electronically connected Statewide communication system. Each of these components is, by itself, a major system redesign. Not all the desired system components will be in place on the first day of implementation, so that staff initially will be required to perform functions manually that later will be automated. Processes and procedures will be subject to numerous revisions at least in the first year of operation.

*Other areas*—The Department received comments on other child care areas not related to these eligibility regulations.

*Comment:* Commentators suggested that the Department should conduct more unannounced inspections of child care facilities.

*Response:* The Department does complete unannounced inspections for facilities when there are complaints of

regulatory violations and to follow up with facilities that have a history of noncompliance. At this time the Department is required by regulation to make announced annual inspections to day care facilities.

*Comment:* Commentators suggested that the Department not pay the parent for child care costs but pay the providers.

*Response:* Regulated providers who are selected by TANF families have the option of whether they want to participate in the Department's vendor payment system. This option is available to assure that the greatest number of providers is available to provide services. At this time, relative/neighbor caregivers of TANF children do not have the option to participate in the Department's vendor payment system.

*Comment:* Commentators indicated that employers should be given incentives to offer child care.

*Response:* The Department is coordinating efforts with other Commonwealth agencies to develop incentive packages to offer to employers.

*Comment:* Commentators urged the Department to offer training to child care providers.

*Response:* At the present time, the Department offers training to staff in child care facilities through Statewide contractors. In 1998-99, the Department will offer training to nearly 50,000 child care staff persons Statewide. The Governor's Budget for 1998-99 included additional funds to improve quality through training.

*Comment:* Commentators asked about the Department's plans to expand child care capacity.

*Response:* The Department is implementing a system to distribute capacity-building funds. The Department has awarded four contracts to assess the child care needs in each county. Based on the assessment, the four contractors will develop plans to expand the capacity of available child care in individual counties. The Department will review the recommended plans and authorize the contractors to distribute seed money to expand child care capacity in the counties.

*Fiscal Impact*

*Public Sector*

*Commonwealth*—The Department will serve, at a minimum, 4,105 additional children on an annual basis because the increase in co-payments will result in more funds being available in the subsidized child care program to serve more individuals. The additional revenue from the increased co-payments will make \$12.8 million available in State and Federal funds to serve additional children because the increase in the parent co-payment will extend the use of State and Federal funds to serve these additional children. The Department will incur additional costs to pay actual child care allowances for TANF families when the disregard is eliminated; and to pay child care costs until the TANF parent receives his first pay.

*Political Subdivisions*—Local governments will not have increased costs due to these final-form regulations.

*Private Sector*

These final-form regulations may increase administrative costs for child care providers who choose to participate in the subsidized program.

*General Public*

Family fees for those already in the subsidized child care program will generally increase. Because the family contribution toward the cost of care will increase, child care subsidy funds that would have been used for one family will be available to support additional families who would otherwise go on the waiting list. Thousands of families will receive increased amounts of subsidy because of the elimination of the disregard.

*Paperwork Requirements*

When the regulations become final, there will be changes in the paperwork requirements for the Department, the eligibility agent and the parent. The Department's paperwork requirements will increase as it must revise current eligibility forms, design new forms for child support and fraud requirements, and design forms to meet Federal reporting requirements under PRWORA to include the number of hours of service a child receives.

The eligibility agents' and parents' paperwork will increase as they must complete redeterminations at 6-month intervals rather than 12-month intervals. Additionally, the eligibility agent will need to complete paperwork and follow-up activities related to child support actions and identification and verification of suspected fraud. These amendments are necessary because the revised eligibility regulations intended to assure that families receive the appropriate level of child care subsidy and that only eligible families receive service. The eligibility agent will experience a decrease in the paperwork as it will no longer have to maintain a waiting list for those individuals whose income is between 186% and 235% of FPIG and will no longer need to complete redeterminations for families on the waiting list.

*Effective Date*

These final-form regulations will take effect on February 1, 1999.

*Sunset Date*

No sunset date applies to these final-form regulations.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the notice of proposed rulemaking to IRRC and to the Chairpersons of the House Aging and Youth Committee and the Senate Committee on Public Health and Welfare for review and comment.

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

Under section 5.1(d) of the Regulatory Review Act, these final-form regulations were deemed approved by the House Aging and Youth Committee and the Senate Public Health and Welfare Committees on November 18, 1998. Under section 5.1(e) of the Regulatory Review Act, these final-form regulations were approved by IRRC on November 19, 1998.

*Contact Person*

The contact person for these final-form regulations is Kathryn J. Holod, Director, Bureau of Child Day Services, Bertolino Building, 4th Floor, Harrisburg, PA 17012, (717) 787-8691.

*Findings*

The Department finds that:

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

(2) The adoption of these amendments in the manner provided in this order is necessary and appropriate for the administration and enforcement of the Public Welfare Code.

*Order*

The Department, acting under the Public Welfare Code, orders that:

(a) The regulations of the Department, 55 Pa. Code Chapters 165, 168, 183 and 3040, are amended by amending §§ 165.2, 165.42, 165.44, 165.46, 165.81, 168.1, 168.2, 168.11, 168.17—168.21, 168.41, 168.43—168.45, 168.49, 168.61, 168.71, 168.72, 168.74, 168.81, 168.91, 168.101, 183.94, 3040.1, 3040.3, 3040.4, 3040.11, 3040.12, 3040.14—3040.17, 3040.19, 3040.31—3040.38, 3040.51—3040.54, 3040.61—3040.64 and 3040.71—3040.78; by deleting §§ 168.12—168.16, 168.42, 168.46, 168.47, 168.50, 168.73, 168.75, 168.76, 3040.2, 3040.13, 3040.18, 3040.39 and 3040.55; and by adding §§ 168.51, 3040.20, 3040.27, 3040.28, 3040.40 and 3040.91—3040.94 to read as set forth in Annex A.

(*Editor's Note:* The following statements of policy have been deleted in this rulemaking §§ 3040.31a, 3040.34a and 3040.54a.)

(b) The Secretary of the Department shall submit this order and Annex A to the Office of Attorney General and the Office of 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 the Legislative Reference Bureau as required by law.

(d) This order shall take effect on February 1, 1999.

FEATHER O. HOUSTON,  
*Secretary*

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 28 Pa.B. 5920 (December 5, 1998).)

**Fiscal Note:** 14-438. No fiscal impact; (8) recommends adoption. While these regulations will not increase General Fund costs, Federal funds from the Child Care and Development Fund Block Grant will be used to pay for increased program costs. Fiscal Year 1998-99—\$10 million; Fiscal Year 1999-00—\$17 million.

**Annex A****TITLE 55. PUBLIC WELFARE****PART II. PUBLIC ASSISTANCE MANUAL****Subpart C. ELIGIBILITY REQUIREMENTS****CHAPTER 165. EMPLOYMENT AND TRAINING PROGRAM****GENERAL PROVISIONS****§ 165.2. Definitions.**

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

*EDP—Employment Development Plan*—A noncontractual agreement completed by the client and the employment and training worker which establishes an employment goal with specific time frames and activities to achieve the goal and describes services to be provided by the Department and the activities to be undertaken by the recipient.

*ETP—Employment and Training Program*—A program operated by the Department consisting of one or more work, training, education, work experience or job search activities.

*Enrollment*—The process used to designate that an individual is eligible to become a participant in the ETP.

*Exempt*—Individuals who are not required to be enrolled in the ETP.

*Full-time child care*—Child care of at least 5 hours per day.

*Noncompliance*—The willful failure or refusal without good cause to comply with this chapter.

*Nonexempt volunteer*—A recipient who is not exempt from ETP enrollment and volunteers to participate in an ETP activity before being required to do so.

*Participant*—An individual who is actively engaged in a mutually agreed upon and approved education, employment or training related activity.

*Part-time child care*—Child care of less than 5 hours per day.

*Preexpenditure approval*—Approval by a person specified by the Department prior to the recipient's incurring an expense for an item or service.

*Special allowances for supportive services*—Payments for items and services as determined by the Department to be necessary to enable a participant to prepare for, seek, accept or maintain education, employment or training.

**SPECIAL ALLOWANCES FOR SUPPORTIVE SERVICES**

**§ 165.42. Advance payment of special allowances for supportive services.**

(a) Special allowances for supportive services, including child care, shall be paid in advance of the date that payment is required by the provider, consistent with the requirements and time frames in §§ 165.45 and 168.1(b)(3) (relating to time frames for authorization of payment of special allowances for supportive services; and policy on payment of child care).

(b) The advance payment requirement applies to initial and recurring payments of special allowances for supportive services in accordance with § 165.45.

(c) This section does not apply to vendor payments for child care under § 165.46(a)(11)(ii) (relating to types of special allowances for supportive services).

**§ 165.44. Verification for special allowances for supportive services.**

(a) *Verification needed to authorize payment.*

(1) Before authorizing the initial payment, the CAO shall determine the following:

(i) Whether the supportive service requested is necessary to enable the participant to engage in an approved education or training activity or to apply for employment.

(ii) The expected charge for the service or item requested.

(iii) The date the service or item is needed by the participant.

(iv) The date that payment for the service or item is required under the provider's usual payment policy or practice.

(2) Verification of the need for special allowances for supportive services is required only when it is not readily apparent.

(3) Acceptable verification of the information needed for initial authorization consists of collateral contracts, written statements or completed Departmental forms, obtained from sources such as employers, prospective employers, school officials, training providers or providers of supportive services.

(4) The CAO shall use collateral contacts whenever necessary to ensure that payment is made in advance of the date that payment is required by the provider.

(b) *Verification needed to review continued eligibility.*

(1) The participant's continued eligibility for a special allowance for a supportive service is reviewed monthly, or more often if costs are likely to change, at each reapplication, whenever a change in employment or training is reported by the participant or the training provider, and whenever the EDP is revised.

(2) To review the participant's continued eligibility, the CAO shall require verification of the actual costs incurred by the participant for the supportive service and verification of the participant's attendance at an education or training activity or at employment.

(3) When verification provided to the CAO indicates a change in eligibility, payment of the special allowance to the participant shall be reduced, terminated or increased, as appropriate, upon issuance of a confirming notice to the participant, in accordance with § 133.4(c) (relating to procedures).

(c) *Special requirements related to child care for GA recipients.*

(1) Child care costs shall be verified through a collateral contact by the CAO with the child care provider, by a written statement signed by the provider or on a form specified by the Department.

(2) When a special allowance for child care is authorized based on a collateral contact or a written statement from the provider, verification of the charge for child care on a form specified by the Department shall be submitted to the CAO within 30 days of the first day child care costs were incurred. The CAO shall assist the client, as needed, to obtain a completed verification form from the provider.

(3) Verification of factors other than cost relating to the need for child care shall consist of collateral contacts with, or written statement from, employers, prospective employers, physicians, licensed psychologists, school officials, or training providers or copies of court orders or pay stubs. The client's statement regarding suspected child abuse is acceptable evidence. Information previously verified need not be repeated unless it is subject to change.

**§ 165.46. Types of special allowances for supportive services.**

(a) *Child care for GA recipients.*

(1) Payment for child care is made to enable the caretaker/relative or custodial parent to participate in an approved education or training activity or to apply for employment.



(2) The CAO shall promptly inform an ETP participant who is in need of child care about the following:

(i) The types and locations of child care providers reasonably accessible to the participant.

(ii) The assistance available to help the participant select an appropriate child care provider.

(iii) The assistance available on request to help the participant obtain a child care provider.

(iv) That child care payments shall be paid in advance of the date that payment is required by the provider, consistent with the requirements and time frames in § 165.45 (relating to time frames for authorization of payment of special allowances for supportive services), to ensure that the participant will have access to the child care provider of the participant's choice.

(3) Special allowances for child care are available for the following types of providers, including the following:

(i) Center-based care.

(ii) Group family day care.

(iii) Family day care.

(iv) Department of Education administered day care.

(v) Unregulated care.

(4) Child care payments may be made only to a person or business entity who allows parental access to the child while a child is in care without the need for prior notification and who provides care in accordance with applicable Federal, State and local law.

(5) The caretaker/relative shall have the right to choose from any type of child care that is available under this chapter and the right to choose any child care provider who meets the requirements of this chapter.

(6) Payments are made for care of a child who is one of the following:

(i) Twelve years of age or younger, living in the home of the parent or caretaker/relative and receiving cash assistance, or who would be eligible to receive cash assistance except for the receipt of SSI or foster care under Title IV-E of the Social Security Act (42 U.S.C.A. §§ 670—677).

(ii) Thirteen years of age or older if it has been verified by a physician or licensed psychologist that the child is not physically or mentally capable of caring for himself or it is verified that the child is under a court order requiring adult supervision, the child is living in the home of the parent or caretaker/relative and is receiving cash assistance, or who would be eligible to receive cash assistance except for the receipt of SSI or foster care under Title IV-E of the Social Security Act.

(7) Payment is made for the eligible cost of child care up to the maximum allowance established by the Department in § 168.1 (relating to policy on payment of child care) or the rate charged the general public, whichever is less, per child. Recipients receiving special allowances for child care before implementation of the maximum allowances continue to receive payment for actual reasonable costs incurred for child care. Eligible costs include charges for days on which the child does not attend due to illness, vacation, or the like. Charges for transporting the child to or from care are included if not levied as a separate charge by the provider.

(8) Payment for providing care of children will not be made to the following persons or business entities owned by:

(i) A biological or adoptive parent of the child.

(ii) A legal guardian of the child.

(iii) A stepparent of the child living in the home.

(iv) Persons receiving TANF as essential persons.

(v) Other members of the budget group of which the child is a member.

(9) Payment for child care shall be made for persons awaiting entry into, or during breaks in, approved education training or employment for one of the following:

(i) Up to 2 weeks.

(ii) Up to 30 days when it is verified that the arrangements would otherwise be lost in the interim period.

(10) Payment of child care shall be reasonably related to the hours of employment or ETP participation, including travel time.

(11) Payment for child care may be made by one of the following:

(i) Direct payment to the recipient when the provider is unregulated or is regulated but is not enrolled in the Department's child care vendor payment system.

(ii) Vendor payment to a regulated provider who has signed the Department's vendor payment agreement and who is enrolled in the Department's child care vendor payment system.

(iii) Restricted endorsement check to the recipient and provider.

(iv) The earned income deductions in §§ 183.94(3) and 183.95(2) (relating to TANF earned income deductions; and GA earned income deductions) for employed clients, except that clients earning wages in a work experience training activity may receive payment for the difference between the child care deduction and the maximum child care allowance established by the Department in § 168.1 when the cost of child care exceeds the deductions in §§ 183.94(3) and 183.95(2).

(12) Child care services are not considered as needed when an unemployed biological or adoptive parent, specified relative or legal guardian is in the home unless that person is physically or mentally incapable of providing care or is involved in education, training, job search or employment related activities, or the child is at risk due to suspected child abuse or the custodial parent is participating in a Single Point of Contact or Department or Department of Education Pregnant and Parenting Youth Program.

(13) Preexpenditure approval is required unless the child care is for a job interview and the client is unable to contact the worker prior to the scheduled interview.

(b) *Care of incapacitated adults.* Payments are made for the eligible costs of nonmedical care up to the maximum rates established for infant care of an incapacitated adult living in the same home if care is required to enable a recipient to participate in an approved education or training activity or to apply for employment and no other sound plan can be made for care of the incapacitated adult. Costs for care of incapacitated adults for maintaining employment are met by the earned income deductions in §§ 183.94(3) and 183.95(2) except that clients earning wages in a training activity, such as work experience, may receive payment for the difference between the deduction for care of an incapacitated adult found in §§ 183.94(3) and 183.95(2) and the actual nonmedical costs incurred.

(1) There shall be verification of the person's incapacity and the need for the care.

(2) Payment will be made for the actual cost of care.

(3) Payment for providing care will not be made to the following:

(i) The spouse of an incapacitated person.

(ii) An essential person.

(iii) Other members of the budget group of which the recipient or incapacitated adult is a member.

(4) Preexpenditure approval is required.

(c) *Transportation and related expenses.* Payments are made for eligible transportation costs incurred due to participation in ETP activities or for accepting employment. Transportation costs under paragraph (1) or (2) for maintaining employment are met by the earned income deductions in §§ 183.94(1) and 183.95(2). Payment is made for the least costly type of transportation which is available and practical considering the location and hours of scheduled employment or training, the client's physical condition and the need to transport children to a child care provider. Payment for transportation-related costs is not made if the activity is secondary education or an equivalent level of vocational or technical training unless the person is a pregnant female or a custodial parent.

(1) *Public transportation.* Payment is made for costs incurred for transportation provided by bus, subway, commuter or long distance rail, taxi, air, paratransit or other recognized modes of transportation.

(i) Payment for public transportation is the actual cost to the client up to the maximum monthly amount established by the Department in Appendix A (relating to employment and training special allowances).

(ii) Except for air or long distance rail travel, pre-expenditure approval is not required. Verification of the need and the cost of transportation is required within 30 days of the date the transportation expense was incurred.

(2) *Private transportation.* Payment is made for costs incurred for transportation provided by privately owned vehicles, ride sharing and car or van pools.

(i) Payment for transportation by a vehicle owned by the client is the mileage rate established by the Department in Appendix A and the actual cost of parking and highway or bridge tolls up to the maximum monthly amount established by the Department in Appendix A.

(ii) For an allowance provided for the client to ride with a volunteer car and driver, the volunteer driver is paid at the mileage rate established by the Department in Appendix A, and the actual cost of the parking and highway or bridge tolls up to the maximum monthly amount established by the Department in Appendix A.

(iii) For an allowance provided for transportation by a car or van pool, the client receives a proportionate share of the cost up to the maximum monthly amount established by the Department in Appendix A. If the client's share is a flat fee, the actual fee is used up to the maximum monthly amount established by the Department in Appendix A.

(3) *Motor vehicle purchase or repair.* When there is no other type of practical transportation available or other available transportation is more expensive, a special allowance may be authorized toward the purchase, down payment to purchase or repair of a motor vehicle for an individual to accept a firm job offer, to prevent the loss of current employment, to attend an approved education or

training activity or to transport children to day care while the client is employed or participates in an approved education or training activity.

(i) The maximum total allowance toward a motor vehicle purchase, down payment and repair is limited to a rate established by the Department in Appendix A.

(ii) Preexpenditure approval is required.

(4) *Motor vehicle related expenses.* The cost of a driver's license, State inspection fee, emission control inspection fee, license plates and vehicle registration fee may be authorized if they are needed for an individual to accept a firm job offer, to attend an approved education or training activity, or to transport children to day care while the client participates in an approved education or training activity.

(i) Payment is made for actual cost up to the maximum allowance established by the Department in Appendix A.

(ii) Preexpenditure approval is required.

(5) *Moving/relocation costs.* A special allowance may be granted if an individual is relocating to accept a verified offer of gainful, permanent employment and if the individual has not received a moving allowance for any reason within the previous 12 months.

(i) Payment is not made for moves by unlicensed moving companies except as provided for in § 175.23(b)(3) (i)(C) (relating to requirements).

(ii) The maximum allowance toward moving/relocation costs is limited to the rate established by the Department in Appendix A, in a 12-month period. The 12-month period begins with the first authorization of this allowance.

(iii) Preexpenditure approval is required.

(6) *Lodging and food.* A special allowance toward lodging and food may be granted if an individual has to be away from home one or more nights to apply for employment or an approved education or training activity or to attend training.

(i) Payment for lodging will be made for actual costs up to the rates established for Commonwealth employees by the Office of Administration. These rates will be available upon request at the CAO. When lodging cannot be located with a reasonable effort within these rates, the rates may be exceeded. The rate may also be exceeded if the client is required to stay in a specific hotel or motel. A complete explanation of lodging costs in excess of the rate shall be documented in the CAO record.

(ii) Payment for food will be made for each 24-hour period the individual has to be away from home in accordance with the rates established for Commonwealth employees by the Office of Administration and the Office of the Budget. These rates will be available upon request at the CAO. Overnight travel of less than 24 hours will be divided into 6-hour periods and reimbursed at the fractional day allowance rates. An allowance will not be provided for less than 3 hours. Payment will not be made for meals provided by a prospective employer or included as part of registration fees.

(iii) Preexpenditure approval is required.

(d) *Other expenses related to employment and training.* Special allowances may be authorized for other items related to applying for or accepting employment or for participating in approved education or training activities.

Preexpenditure approval is required. The maximum allowances for these items are the rates established by the Department in Appendix A.

(1) *Clothing.* A special allowance may be authorized for street or business clothing and grooming items needed to make a client presentable to accept a job or to enter an approved education or training activity or specialized clothing, such as uniforms or safety shoes verified by the employer or training provider as needed for the client to work at a job or to participate in an approved education or training activity.

(2) *Tools and other equipment.* A special allowance may be authorized for tools and other equipment, such as goggles, helmets and wrenches which an employer or training provider specifies are necessary for employment or participation but which are not provided by the employer or training provider and are not available under Federal, State or other educational grants.

(3) *Books and supplies.* A special allowance may be authorized for books and supplies, such as pens, pencils, wristwatches or thermometers for a client to attend an approved education or training activity if these items are not available under Federal, State or other educational grants.

(4) *Fees.* A special allowance may be authorized for a fee for taking a test such as a high school equivalency test, a test that is a prerequisite for employment, or for registration or enrollment fees required for a client to enter an approved education or training course. Tuition is not construed to be a fee.

(5) *Union dues and professional fees.* If payment of union dues or professional fees is a condition of employment, a special allowance may be granted for the initial fee and for the period up to the date of the client's first pay.

### FAIR HEARING

#### § 165.81. Fair hearing.

Every person has a right to appeal a Departmental action or failure to act regarding these employment requirements and to have a hearing in accordance with Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings), if the individual is dissatisfied with a decision refusing or discontinuing assistance in whole or in part with the following exceptions:

(1) The requirement for notice does not apply to a change in the method of payment of a special allowance for supportive services unless the change results in a discontinuance, suspension, reduction or termination of the allowance or would force a change in child care or adult care arrangements.

(2) Section 275.4(a)(3)(v)(C)(I) (relating to procedures regarding continued benefits pending a hearing decision does apply to a reduction or discontinuance of a special allowance for supportive services.

### CHAPTER 168. CHILD CARE

#### GENERAL PROVISIONS

#### § 168.1. Policy on payment of child care.

(a) To the extent funds are available, payment for child care will be made to enable the parent/caretaker to participate in work-related activities. To qualify for a child care payment the individual must be eligible to receive cash assistance, including persons who do not receive a cash payment due to the minimum monthly

check requirement or due to a month of zero cash payment. Child care payments are considered a reimbursement for past or future child care expenses for food stamp eligibility purposes.

(b) The CAO will promptly inform a recipient who is in need of child care about the following:

(1) The types and locations of child care providers.

(2) The services available from the Local Management Agency (LMA), also known as the Child-Care Information Services (CCIS) Agency, for help in finding and selecting a child care provider.

(3) Child care payments will be paid in advance of the date that payment is required by the provider, consistent with the requirements and time frames in § 165.42 (relating to advance payment of special allowances for supportive services), to ensure that the participant will have access to the child care provider of the participant's choice. The advance payment requirement does not apply to vendor payments for child care. Advance payments are considered a reimbursement of future child care expenses for food stamp eligibility purposes.

(i) The Department will make an exception to the provisions which limit advance payment to instances in which the provider requires it, and which restrict advance payment for providers enrolled in the child care vendor payment system for a TANF budget group determined prospectively ineligible as a result of starting new employment under § 168.71(1)(ii) (relating to monthly payment determination).

(ii) The CAO will make an advance payment from the first day of employment until the date of TANF discontinuance if the information is verified through a collateral contact consistent with § 168.41(4) (relating to verification requirements).

(c) At application, reapplication and whenever the agreement of mutual responsibility is developed or revised, the CAO will inform applicants and recipients in writing and orally of the availability of child care allowances.

(d) Determination of eligibility and notification of approval or denial of child care payments will be done in accordance with § 165.43 (relating to special allowances for supportive services and time frames for eligibility determinations).

(e) Authorization of payment for child care will be done based on time frames consistent with § 165.45 (relating to time frames for authorization of special allowances for supportive services).

(f) The CAO will discuss the maximum child care allowances and the co-payment sliding fee scale in Chapter 3040, Appendix B (relating to family co-payment scale), whenever the Agreement of Mutual Responsibility (AMR) is developed or revised and reflects a need for child care. The CAO will advise clients that copies of the maximum child care allowances and the co-payment sliding fee scale are available upon request at the CAO.

(g) The CAO will refer the client to the LMA/CCIS whenever help is needed in finding and selecting a child care provider.

#### § 168.2. Definitions.

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

*Budget group*—A group of persons receiving TANF. A child receiving SSI benefits and for whom child care payments are requested is included in the budget group.

*CCIS—Child Care Information Services Agency*—A public or private agency with which the Department has a contract to manage the subsidized child care program in part of a county, a county or several counties. The subsidized child care program is for families not receiving TANF. This agency is also known as an LMA.

*Child care vendor file*—A listing of regulated child care providers who have signed the required agreement to receive a vendor payment from the Department.

*Co-Payment*—The monthly amount the family pays for child care that is subsidized.

*Co-payment sliding fee scale*—A scale based on family sizes and income from which a determination of the child care co-payment is made as set forth in Chapter 3040, Appendix B.

*Full-time care*—Child care of at least 5 hours per day.

*Full-time employment*—Employment which averages at least 30 hours per week in a calendar month.

*LMA—Local Management Agency*—A public or private agency with which the Department has a contract to manage the subsidized child care program for families who are not receiving TANF. This agency may be known as a CCIS agency of part of a county, a county or several counties.

*Maximum child care allowance*—The ceiling set by the Department for payment of child care services to budget groups eligible for child care payment.

*Nontraditional hours*—Hours of child care which include evening, night, early morning, holiday or weekend hours.

*Parental access*—Access by the parent to the child at any time while the child is in care without the need for prior notification.

*Part-time care*—Child care of less than 5 hours per day.

*Pre-expenditure approval*—Approval by a person specified by the Department prior to the recipient's incurring an expense for child care.

*Regulated care*—Child care given by a person or entity which is licensed by or registered with the Department or approved by the Department of Education.

*Relative/neighbor care*—Care given by a person who is exempt from certification or registration under Chapters 3270, 3280 and 3290 (relating to child day care centers; group child day care homes; and family child day care homes) and cares for three or fewer children unrelated to the caregiver.

*Restricted endorsement*—A check made payable to two parties which requires the signature endorsement of both parties to cash the check.

*Satisfactory arrangement*—The plan made by the budget group to pay overdue fees which are acceptable to the child care provider.

*Specified relative*—The term as defined in Chapter 151 (relating to specified relatives).

*Sleep-time*—Hours of care following third shift employment when the parent/caretaker has an eligible child in the home and needs care for the child in order to sleep.

*TANF—Temporary Assistance for Needy Families Program*—A Federal nonentitlement program under sections

401—419 of the Social Security Act (42 U.S.C.A. §§ 601—619) which provides cash assistance to families that include dependent children and an adult who is working toward self-sufficiency. Eligibility for TANF is determined by the local CAO.

*Vendor payment*—A child care payment made by the Department directly to a regulated child care provider who has signed the Child Care Vendor Program Enrollment Request Agreement and is enrolled in the child care vendor payment system.

**ELIGIBILITY REQUIREMENTS**

**§ 168.11. General requirements.**

(a) Special allowances for child care are available for the following types of child care:

- (1) Center-based day care.
- (2) Group home day care.
- (3) Family day care.
- (4) Relative/neighbor care.
- (5) In-home care.

(b) The parent/caretaker shall have the right to choose from any type of child care that is available under this chapter and the right to choose any child care provider who meets the requirements of this chapter.

(c) Preexpenditure approval is required unless the child care is for a job interview and the client documents that he was unable to contact the worker prior to the scheduled interview.

**§ 168.12. (Reserved).**

**§ 168.13. (Reserved).**

**§ 168.14. (Reserved).**

**§ 168.15. (Reserved).**

**§ 168.16. (Reserved).**

**§ 168.17. Eligible children.**

To be eligible for a child care payment, the budget group shall include a child who meets the following criteria. The child meets the following conditions:

(1) Is a TANF dependent child under Chapter 153 (relating to deprivation of support or care) and § 145.43(a)(1) (relating to requirements) would qualify as a TANF dependent child under Chapter 153 and § 145.43(a)(1) except for receipt of SSI or foster care benefits.

(2) Meets one of the following conditions:

(i) Is under 13 years of age.

(ii) Is 13 years of age or older and meets one of the following conditions:

(A) Is under 19 years of age and not physically capable of caring for himself as verified by a physician

(B) Is under 19 years of age with a developmental age of less than 13 years of age as verified by a physician or licensed psychologist.

(3) Is age appropriately immunized. If the child does not have age-appropriate immunizations, the parent/caretaker has 90 days to obtain and document immunizations for the child unless one of the following applies:

(i) The parent/caretaker objects to immunizations on religious grounds.

(ii) The child's medical condition contraindicates immunizations as verified by a physician.

**§ 168.18. Need for child care.**

(a) Child care must be needed to enable a member of the budget group to participate in a work-related activity.

(b) Child care services will not be considered as needed when an unemployed parent/caretaker of the child is in the home, unless one of the following applies:

(1) The parent/caretaker is physically or mentally incapable of providing child care, as verified by a physician or licensed psychologist.

(2) The parent/caretaker is involved in work-related activities, or the custodial parent is participating in a Department of Education Pregnant and Parenting Youth Program.

(3) The child is at risk because of suspected child abuse.

(c) Child care will be considered as needed for entry into or during breaks in approved work-related activities for one of the following:

(1) Up to 2 weeks.

(2) Up to 30 days when it is verified that the child care arrangements would otherwise be lost in the interim.

(d) Child care will not be considered as needed when the biological or adoptive parent, specified relative or legal guardian of the child is the owner/operator of a child care business where care is available for the child.

**§ 168.19. Child care arrangements.**

Payment for child care will be made when the child care arrangements are as follows:

(1) The person or entity providing child care meets the following conditions:

(i) Provides care in accordance with applicable standards of Federal, State and local law.

(ii) Allows parental access to the child while the child is in care without the need for prior notification.

(iii) Is a person who is at least 18 years of age.

(2) The person or entity providing child care may not be one of the following:

(i) The biological or adoptive parent or legal guardian of the child.

(ii) A member of the TANF budget group.

(iii) The stepparent of the child living in the home.

**§ 168.20. Child care co-payment.**

The employed budget group shall pay the required co-payment toward the cost of child care.

**§ 168.21. Ineligibility for failure to pay co-payment.**

Ineligibility for child care payment results when the budget group is employed and fails to pay the required co-payment toward the cost of child care. The budget group is ineligible until overdue co-payments are paid or satisfactory arrangements to pay overdue co-payments are made with the provider.

**VERIFICATION**

**§ 168.41. Verification requirements.**

The applicant or recipient is required, as a condition of eligibility, to cooperate in providing necessary information and verification to establish eligibility.

(1) Before authorizing the initial child care payment, the CAO will determine the following:

(i) Whether the child care is necessary to participate in a work-related activity.

(ii) The expected charge.

(iii) The date the service is needed by the participant.

(iv) The date that payment for the service is required under the provider's usual payment policy or practice.

(2) When the parent/caretaker provides verification to the CAO that indicates a change in eligibility, payment will be reduced, terminated or increased, as appropriate, upon issuance of appropriate notice to the parent/caretaker, in accordance with §§ 133.4 and 168.101 (relating to procedures; and appeal and fair hearing).

(3) Child care costs shall be verified monthly by the parent/caretaker on a form specified by the Department or by a written statement signed by the provider or by a collateral contact by the CAO with the child care provider.

(4) A collateral contact will be used whenever necessary to ensure that payment is made in advance of the date that payment is required by the child care provider consistent with § 168.1(b)(3) (relating to policy on payment of child care). When a child care allowance is authorized based on a collateral contact with or by a written statement from the provider, verification of the charge for child care on a form specified by the Department shall be submitted to the CAO within 30 days of the first day child care costs were incurred. The CAO will assist the client, as needed, to obtain a completed verification form from the provider. Failure to provide verification within the specified time period could result in nonauthorization of the child care payment.

(5) Verification of factors other than cost relating to the need for child care shall consist of collateral contacts with, or written statements from, employers, prospective employers, physicians, licensed psychologists, school officials, training providers; or pay stubs. Information previously verified need not be reverified unless it is subject to change.

**§ 168.42. (Reserved).**

**§ 168.43. Verification of the disability of a child.**

A written statement from a physician or licensed psychologist which confirms that the child has a physical or mental handicap which prevents the child from caring for himself is required.

**§ 168.44. Verification of the disability of a parent/caretaker.**

A written statement from a physician or licensed psychologist which confirms that the biological or adoptive parent, specified relative or legal guardian has a physical or mental handicap which prevents the person from providing child care is required.

**§ 168.45. Verification of suspected child abuse.**

The statement of the parent/caretaker, caseworker or other professional is acceptable evidence to verify suspected child abuse. Suspected child abuse will be reported in accordance with 23 Pa.C.S. Chapter 63 (relating to the Child Protective Services Law) as defined in Chapter 3490 (relating to child protective services—child abuse).

**§ 168.46. (Reserved).**

**§ 168.47. (Reserved).**

**§ 168.49. Verification of payment of co-payment for the employed budget group.**

A signed, written statement from the child care provider on a Department form which confirms that the child care co-payment has been paid for a specified month is required. If co-payments are owed, a signed, written statement by the child care provider that the overdue co-payments have been paid or that satisfactory arrangements for payment have been made is acceptable.

**§ 168.50. (Reserved).**

**§ 168.51. Verification of age-appropriate immunizations.**

The parent/caretaker shall provide a signed, written statement on a form specified by the Department to verify that the child has received age-appropriate immunizations, or that the parent/caretaker objects to immunizations on the basis of religious grounds, or documentation from a physician to verify that the child's medical condition contraindicates immunizations.

**REPORTING REQUIREMENTS**

**§ 168.61. Reporting requirements.**

The budget group shall report child care arrangements and child care costs monthly consistent with Chapter 142 (relating to monthly reporting) and § 125.24(d) (relating to responsibility for reporting changes). Documentation will be retained in the case record to support the determination of the payment, including child care costs. These documents are retained in accordance with cash assistance case record retention policies.

**PAYMENT DETERMINATION**

**§ 168.71. Monthly payment determination.**

The amount of the child care payment is determined for each month.

(1) The allowable child care payment is the lowest of the actual child care costs, the rate charged the general public or the maximum allowance established by the Department.

(i) For participants in unpaid work-related activities, payment is made for the actual costs of child care up to the maximum allowance established by the Department or the rate charged the general public, whichever is less.

(ii) For participants in paid work-related activities, payment is made for the actual costs of child care up to the maximum allowance established by the Department or the rate charged the general public, whichever is less, minus the family co-payment as determined in § 168.74 (relating to determining monthly child-care co-payments).

(A) A TANF budget group determined prospectively ineligible as a result of starting employment will have the co-payment waived from the first day of employment until the date of discontinuance in accordance with § 183.105 (relating to increases in income), if the budget group has reported timely in accordance with § 125.24(d) (relating to responsibility for reporting changes).

(B) A TANF budget group determined prospectively eligible as a result of starting employment will have the co-payment waived from the first day of employment until the last day of the calendar month in which the first pay is received, provided the budget group has reported timely in accordance with § 125.24(d).

(2) When the month of eligibility is not a full calendar month, the child care payment is prorated for the number of calendar days for which the budget group is eligible.

(3) Corrective or delayed payments are issued consistent with the requirements in Chapters 175 and 227 (relating to allowances and benefits; and central office disbursement).

**§ 168.72. Determining monthly child care costs.**

The actual child care costs reported and verified as paid or incurred in the month are considered. Actual child care costs include the following:

(1) A charge for child care reasonably related to the hours of the work-related activity, including travel time and sleep-time for third shift employment.

(2) A charge levied for days on which the child was not in attendance due to illness, vacation, and the like.

(3) A charge for transporting the child to or from care if the charge is included as part of the normal child care charge and not levied as a separate charge.

**§ 168.73. (Reserved).**

**§ 168.74. Determining monthly child care co-payment.**

The co-payment is determined for a month, based upon gross monthly income and budget group size, using the co-payment sliding fee scale in Chapter 3040, Appendix B. Gross monthly income is determined based on anticipated or actual amounts as determined in accordance with Chapter 183 (relating to income).

(1) The co-payment is waived for the calendar month in which the first pay is received or until the date of discontinuance due to a prospective determination of ineligibility, in accordance with § 168.71 (relating to monthly payment determination). The co-payment is prospectively determined using anticipated income for the next months excluding the TANF grant as countable income. Thereafter, the co-payment is determined using actual income as reported on the monthly reporting form in accordance with Chapter 142 (relating to monthly reporting). The actual income reported on the monthly reporting form for the prior month is used to establish the co-payment for the following month.

(2) If retroactive benefits are requested, the co-payment for each retroactive month will be determined using the actual income received in each month.

**§ 168.75. (Reserved).**

**§ 168.76. (Reserved).**

**CHILD CARE PAYMENT METHODS**

**§ 168.81. Payment methods.**

The Department will make a child care payment for child care expenses paid or incurred in a month as one of the following:

(1) A direct check to the client when the child care provider is not enrolled in the Department's child care vendor payment system.

(2) A vendor payment to the child care provider when the provider is regulated and enrolled in the Department's child care vendor payment system except when it is verified that the client has paid the enrolled provider directly. Payment will then be issued directly to the client.

(3) A restricted endorsement check made payable to the client and the child care provider when it has been demonstrated that the client failed to use a prior child care payment for its intended purpose.

**RESTITUTION****§ 168.91. Restitution.**

The cash assistance provisions of Chapter 255 (relating to restitution) apply to a recipient of a child care payment except that the provision for recoupment of an overpayment does not apply.

**APPEAL AND FAIR HEARING****§ 168.101. Appeal and fair hearing.**

The cash assistance provisions of Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings) apply to an applicant or recipient of a child care payment with one exception; the requirement for an advance notice of adverse action will not apply to a change in the method of payment, unless the change would result in a discontinuance, suspension, reduction or termination of benefits or would force a change in child care arrangements. If the parent/caretaker files an appeal within 10 days of the notice of adverse action, subsidy continues at the prior level until a final decision is made by the Bureau of Hearings and Appeals except when the adverse action is based solely on Federal or State law, regulations or policy or changes in Federal or State law, regulations or policy, or the Department lacks funding to continue subsidy.

**Subpart D. DETERMINATION OF NEED AND AMOUNT OF ASSISTANCE****CHAPTER 183. INCOME****INCOME DEDUCTIONS****§ 183.94. TANF earned income deductions.**

For expenses related to employment of each individual in the TANF budget group, subject to the limitations in § 183.97 (relating to ineligibility for disregards from earned income for TANF and GA), disregard in the following order:

(1) *Work expenses.* The first \$90 per month from the earned income of each client who is employed.

(2) *Earned income incentive deduction.* As an incentive to eligible AFDC clients to obtain and retain employment, earned income incentive deductions, subject to the limitations in § 183.96 (relating to interruptions in the 4 consecutive months of the earned income incentive deduction for AFDC and GA) and § 183.97, are made as follows:

(i) After the deduction allowed in paragraph (1) has been made, each employed client is eligible for a deduction of \$30 plus 1/3 of the remaining net earned income during 4 consecutive calendar months of employment.

(ii) After the deduction allowed in paragraph (1) has been made, each employed client is eligible for a deduction of \$30 during the next 8 consecutive months of employment. An applicant or recipient is entitled to the \$30 income incentive deduction during any calendar month of this 8-month period for which the income of the applicant or recipient is sufficient to qualify. The 8 months of eligibility are counted consecutively, beginning with the calendar month following the end of the 4 consecutive calendar months in which the \$30 and 1/3 income incentive deduction was allowed, whether or not assistance is interrupted or income is sufficient to qualify for it.

(iii) An applicant who has been a recipient of AFDC in 1 of the 4 calendar months prior to this application is eligible to receive the full \$30 and 1/3 income incentive

deduction for 4 consecutive calendar months subject to the limitations in subparagraph (v).

(iv) An applicant who has not been an AFDC recipient in 1 of the 4 calendar months prior to this application is eligible to receive the full \$30 and 1/3 income incentive deduction for 4 consecutive calendar months only if the applicant's income, after deductions in paragraphs (1) and (3) and § 183.98 (relating to unearned income and lump sum income deductions) is less than the standard of need for the budget group, and subject to the limitations in subparagraph (v).

(v) An applicant or recipient who has received the \$30 and 1/3 income incentive deduction for 4 consecutive calendar months is not eligible to receive the deduction again until 12 consecutive calendar months have elapsed in which he has not been a recipient of an AFDC cash grant. When assistance is terminated during the 8 consecutive calendar month period of the \$30 income incentive deduction, the 12 consecutive months begin in the first month following the month of termination.

(3) *Personal expenses.* The actual cost of care of incapacitated adults living in the same home and receiving TANF, if no other sound plan can be made for their care, up to a maximum of:

(i) One hundred seventy-five dollars per incapacitated adult when the client is employed full-time.

(ii) One hundred fifty dollars per month per incapacitated adult when the client is employed part-time.

**PART V. CHILDREN, YOUTH AND FAMILIES MANUAL****Subpart B. ELIGIBILITY FOR SERVICES****CHAPTER 3040. SUBSIDIZED CHILD DAY CARE ELIGIBILITY****INTRODUCTION****§ 3040.1. Purpose.**

This chapter establishes the requirements for an eligible family to receive subsidy to meet the cost of child care. The subsidy is a nonentitlement benefit made available through limited Federal and State funds.

**§ 3040.2. (Reserved).****§ 3040.3. Definitions.**

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

*Adjusted monthly income*—Weekly family income multiplied by 4.3 to reflect months that are longer than 4 weeks, minus allowable deductions in Appendix A, Part II (relating to income deductions).

*Annual income*—The family's adjusted monthly income multiplied by 12 months.

*Appeal*—A written request by a parent/caretaker or a person acting on behalf of the parent/caretaker indicating disagreement with a Departmental decision affecting the family's eligibility for subsidized child care and requesting a hearing under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings) and this chapter.

*Application*—A parent's/caretaker's signed, dated request for subsidized child care completed on a Departmentally prescribed form.

*CAO—County Assistance Office*—The local office of the Department responsible for the determination of eligibil-

ity and service delivery in the Cash, Food Stamp and Medical Assistance Programs.

*Caretaker*—An adult who has legal custody and who lives in the family's common dwelling and who has responsibility for the child for whom subsidy is requested or a specified relative as defined in § 151.42 (relating to definitions).

*CCIS—Child Care Information Services Agency*—A public or private agency with which the Department has a contract to manage the subsidized child care program in part of a county, a county or several counties. The subsidized child care program is for families not receiving TANF. This agency is also known as an LMA.

*Co-payment*—The weekly amount the family pays for child care that is subsidized.

*Disqualification*—The prohibition against receipt of subsidized child care which results from fraud, an intentional program violation or consent to be disqualified.

*Department*—The Department of Public Welfare of the Commonwealth.

*Education*—An elementary school, middle school or high school program including a general equivalency diploma (GED) program.

*Eligibility agent*—The entity, prime contractor or subcontractor designated in the prime contract, with authority delegated by the Department to purchase subsidized child care and determine a family's eligibility and co-payment. The eligibility agent may be known as the LMA or the CCIS.

*Eligibility determination*—A decision regarding whether a family meets the requirements of the subsidized child care program.

*Eligibility redetermination*—A review by the eligibility agent of all eligibility factors which are subject to change, to determine if a family remains eligible for the subsidized child care program.

*Employment*—The condition of working for another person or an entity for income equal to or greater than the Federal or State minimum hourly wage standards, whichever applicable wage is higher.

*FPIG—Federal Poverty Income Guidelines*—The income levels published annually in the *Federal Register* by the Department of Health and Human Services.

*Fiscal year*—A period of time beginning July 1 of any calendar year and ending June 30 of the following calendar year.

*Fraud*—A willful false statement, misrepresentation or failure to disclose information by a parent/caretaker which results in obtaining or continuing receipt of child care subsidy for which the family is not eligible.

*Income*—Includes:

- (i) Gross wages from employment.
- (ii) Cash or in-kind payments received by an individual in exchange for services, including income from self-employment.
- (iii) Cash or contributions received by an individual for which he does not provide a service.
- (iv) Unearned benefits received periodically by an individual, for example, unemployment compensation, worker's compensation or retirement benefits.

*Intentional program violation*—An action by a parent/caretaker applying for or receiving subsidized child care

for the purpose of establishing or maintaining his family's or his children's eligibility for the subsidized child care program or for the purpose of increasing or preventing a reduction in the amount of the child care subsidy, which involves one of the following:

- (i) An intentionally made false or misleading statement or misrepresentation or concealment or withholding of a fact.
- (ii) An act intended to mislead, misrepresent, conceal or withhold a fact.

*LMA—Local Management Agency*—A public or private agency with which the Department has a contract to manage the subsidized child care program for families who are not receiving TANF. This agency may be known as a CCIS of a county, part of a county or several counties.

*Live-in companion*—An individual who resides with the parent/caretaker and a child for whom subsidy is requested, and who is the life companion or unmarried partner of the parent/caretaker.

*Maximum child care allowance*—The payment ceilings set by the Department for child care services provided to families eligible for child care subsidy.

*Overpayment*—The receipt of subsidy for a child for which the family is not eligible.

*Parent*—A biological, adoptive, step or foster mother or father, who lives in the family's common dwelling and is responsible for the child for whom the subsidy is requested.

*Partial redetermination*—A face-to-face or telephone review of eligibility that does not include a review of all eligibility factors.

*Prospective employment or prospective education*—Employment or education verified by the employer or school official to begin within 30-calendar days of the day that the parent/caretaker signs and dates the application for subsidized child care. The term does not include job-seeking except as specified by this chapter.

*Provider*—An organization or individual who directly delivers the child care.

*Recoupment*—Recovery of an overpayment by increasing the co-payment or other payment arrangement.

*Reimbursement rate*—The provider's verified published daily rate or the maximum child care allowance, whichever is less.

*Self-employment*—Operating one's own business, trade or profession for profit equal to or greater than the hourly Federal or State minimum wage, whichever is higher.

*Subsidized child care*—Child care service paid for in part with State or Federal funds.

*Suspended subsidy*—A temporary lapse of subsidized funding for a child which does not affect the family's eligibility status.

*TANF—Temporary Assistance for Needy Families Program*—A Federal nonentitlement program under sections 401—419 of the Social Security Act (42 U.S.C.A. §§ 601—619) which provides cash assistance to families that include dependent children and an adult who is working toward self-sufficiency. Eligibility for TANF is determined by the local CAO.

*Training program*—An instructional program which enables the employed adult family member to attain skills which qualify him for a specific job.



*Waiting list*—A list maintained by the eligibility agent of the names of families and their children determined eligible to receive subsidized child care, but for whom subsidy is not currently available.

**§ 3040.4. Subsidy goal.**

The goal of subsidized child care is to enable a parent/caretaker of a family eligible for subsidy under this chapter to maintain employment or to attend an education program.

**GENERAL REQUIREMENTS**

**§ 3040.11. Provision of subsidy.**

(a) A parent/caretaker has the right to apply for subsidized child care.

(b) Subsidized child care is provided only for a child whose family is determined eligible by the eligibility agent and only up to the limits of available subsidized child care funds.

(c) The Department has the responsibility to assure that subsidized child care is authorized to fund only a child of an eligible family.

(d) Subsidized child care is available only to provide care for a child if no adult family member is available to care for the child during the hours of the day for which the parent/caretaker requests subsidized child care.

(e) Subsidized child care is available to an otherwise eligible child from birth to the date the child is 13 years of age, with the following limited exceptions for a child with a disability:

(1) A child who is developmentally disabled and is 13 years of age or older is eligible for subsidy until his developmental age is 13 years or until his chronological age is 19 years, whichever occurs first, if the developmental disability is documented by a licensed psychologist or a physician.

(2) A child who is physically disabled and is 13 years of age is eligible for subsidy until he is no longer physically disabled or until he is 19 years of age, whichever occurs first.

(f) Subsidized child care is available only to a child who has received age-appropriate immunizations in accordance with § 3040.34(a)(7) (relating to nonfinancial eligibility) with one of the following exceptions:

(1) A child whose parent/caretaker objects to immunizations on religious grounds.

(2) A child whose medical condition contraindicates immunization as documented by a licensed physician.

(g) A family shall meet both financial and nonfinancial criteria to be eligible for subsidized child care.

(h) A family in which a parent/caretaker is receiving TANF is not eligible for subsidized child care under this chapter.

(i) Subsidized child care may not be used as a substitute for a publicly funded educational program, such as kindergarten, or a specialized treatment program.

(j) Subsidized child care may be provided in certified child day care centers and group child day care homes, registered family child day care homes and those exempt from certification or registration under Chapters 3270, 3280 and 3290 (relating to child day care centers; group child day care homes; and family child day care homes).

(k) Child care is care provided in lieu of parent/caretaker care for part of the 24-hour day.

**§ 3040.12. Notice of nondiscrimination; civil rights compliance.**

(a) An eligibility agent may not discriminate against applicants for or recipients of Federal or State subsidized funds on the basis of age, race, sex, color, religious creed, National or ethnic origin, ancestry, sexual preference or handicap.

(b) An eligibility agent shall offer child care subsidy within the provisions of applicable civil rights laws and regulations, and amendments or revisions made thereto, including the following:

(1) The Pennsylvania Human Relations Act (43 P. S. §§ 951—963).

(2) The Age Discrimination Act of 1975 (42 U.S.C.A. §§ 6101—6107).

(3) Title VI of the Civil Rights Act of 1964 (42 U.S.C.A. §§ 2000d—2000d-4a).

(4) Title VII of the Civil Rights Act of 1964 (42 U.S.C.A. §§ 2000e—2000e-15).

(5) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. § 794).

(6) The Americans With Disabilities Act of 1990 (42 U.S.C.A. §§ 12101—12213).

**§ 3040.13. (Reserved).**

**§ 3040.14. Family file.**

An eligibility agent shall establish and maintain a separate file for the family of each parent/caretaker who applies for subsidized child care.

(1) The family file shall contain documents pertaining to eligibility determination, redetermination, subsidy authorization, co-payment agreements and written notices required by this chapter.

(2) A parent/caretaker has a right to examine his own family file.

**§ 3040.15. Record retention and disposition.**

An eligibility agent shall retain family files, completed application forms and written notices, and books, records and other fiscal and administrative documents pertaining to subsidized child care. Records shall be retained as follows:

(1) For 4 years from the end of the fiscal year in which child care subsidy has been provided.

(2) Until the completion of an audit which is in progress and which remains incomplete at the end of the 4-year period specified in paragraph (1).

**§ 3040.16. Confidentiality.**

(a) The Department safeguards the use and disclosure of information on applicants for and recipients of subsidized child care. Eligibility agents and their employees shall keep confidential the information in the family file and use that information only for purposes directly connected to the administration of their duties. Agents of the United States, the Commonwealth and the Department who are responsible for eligibility review, evaluation or audit functions will have access to, and the right to the use and disclosure of, information on applicants or recipients of subsidized child care. This use and disclosure is confined to the agent's responsibility to carry out review, evaluation or audit functions. Disclosure of information beyond the scope of review, evaluation or audit functions performed by the agents requires the parent's/caretaker's informed and written consent.

(b) Information in the family file may be disclosed to the local CAO to ensure that funds are authorized appropriately.

(c) Information in the family file related to establishing paternity and obtaining a child support order may be disclosed to the Department or the domestic relations section to ensure child support enforcement services are secured unless the family has good cause for not seeking support or establishing paternity in accordance with § 3040.34(b)(7) (relating to nonfinancial eligibility).

(d) The eligibility agent shall assure the confidentiality of an individual who files a complaint about a family's receipt of subsidy for a child.

**§ 3040.17. Additional conditions and additional charges.**

(a) Additional eligibility conditions are prohibited unless specifically authorized in this section. The eligibility agent may not:

(1) Impose eligibility conditions other than conditions listed in this chapter.

(2) Require the parent/caretaker to select a particular provider or combination of providers as a condition of eligibility.

(b) A family is not eligible to receive subsidy for any additional charge assessed by a provider. The provider may assess additional charges to a subsidy eligible family for services provided in excess of the provider's reimbursement rate, if the same additional charges are assessed to nonsubsidy-eligible families, and the subsidy-eligible family is informed of the additional charges prior to implementation of the additional charges.

(c) If an eligible parent/caretaker chooses a provider whose verified published daily rate exceeds the Department's maximum child care allowance, the provider may assess a fee for an amount that represents the difference between the Department's maximum child care allowance and the provider's verified published daily rate for the type of care being requested.

(d) If a child's absences exceed 30 total enrollment days in any fiscal year, the parent/caretaker is responsible to pay the provider's verified published daily rate for each day of absence starting with the 31st absent day. Suspended days of service as described in § 3040.52(d) (relating to eligibility agent responsibilities) are not considered days of absence.

**§ 3040.18. (Reserved).**

**§ 3040.19. Subsidy disruption.**

(a) If a child's care at a provider is disrupted due to the provider's loss of the Department's certification or any other reason which prevents the child's continued care, the child is eligible for subsidy at another provider.

(b) If a child loses care as a result of circumstances referenced in subsection (a), and if funding for subsidized child care is not immediately available for another provider, the child's subsidy is suspended until another provider has been selected and subsidy is available.

(c) If the eligibility agent cannot continue to subsidize the number of children enrolled in subsidized child care due to a shortfall in State or Federal funding or management of funding by the eligibility agent, subsidy to a child is disrupted. Children whose families have the highest income are suspended first.

(d) A child whose subsidy is disrupted under this section will be placed on the waiting list according to the date of the initial eligibility for subsidized child care program.

**§ 3040.20. Benefits and limitations.**

(a) A subsidy-eligible child may receive the following benefits:

(1) Up to 50 hours of child care in a 7-day period.

(2) Care during the hours that the adult family members are employed or need uninterrupted sleep time when the work shift ends between the hours of 2 a.m. and 9 a.m.

(3) Care from provider who is eligible to participate in the subsidized child care program, and who agrees to comply with the Department's standards for provider participation as listed in the contract between the Department and the eligibility agent.

(4) Up to an additional 12 hours of subsidized child care per week, beyond the parent's/caretaker's hours of employment, for the hours that the parent/caretaker participates in a training program in accordance with § 3040.40 (relating to child care subsidy available to attend training).

(5) Payment to the provider for up to a maximum of 15 days of care in a fiscal year for provider closures.

(6) Payment to the provider for up to a maximum of 30 days of care in a fiscal year for absence from the provider.

(b) A child is not eligible to receive subsidy if the child's parent/caretaker is the operator of a registered family day care home, a certified group day care home or day care center (See Chapter 3270, 3280 or 3290 (relating to child day care centers; group child day care homes; and family child day care homes)) or is the operator of a home which is exempt from certification or registration under Chapters 3270, 3280 and 3290 and space is available to enroll the child at the facility operated by the parent/caretaker.

(c) A parent/caretaker who formerly received TANF may be reimbursed for child care cost incurred prior to the date of the initial application up to the first day of the month preceding the initial application.

**§ 3040.27. Grandfathering provisions.**

A child who is enrolled in the subsidized child care program prior to February 1, 1999, continues to receive subsidized child care until February 1, 2000, without regard to the eligibility conditions in this chapter if all other eligibility conditions are met:

(1) The family income exceeds 185% and is not greater than 235% of the FPIG. If the family income during this period exceeds 235% of FPIG, the child is ineligible for subsidy. The parent/caretaker of a child grandfathered under this section is required to pay the co-payment established for a family of its size at 185% of FPIG.

(2) The family eligibility is established based on the parent's/caretaker's participation in an approved training program and annual family income does not exceed 235% of the FPIG. If the training program is completed prior to February 1, 2000, and, if at that time the parent/caretaker does not meet the employment requirements, the family is ineligible for subsidy.

**§ 3040.28. Composition of a family.**

For the purpose of determining eligibility for child care subsidy, the following apply:

(1) A family includes the following individuals who live together:

(i) The child for whom subsidized child care is requested; the child's parent/caretaker; the parent's/caretaker's spouse or live-in companion; biological, step or adoptive minor siblings of the child who are under 18 years of age, are not emancipated by marriage or by the court, or 18 years of age or older but under 22 years of age who is enrolled in a postsecondary program leading to a degree or diploma and who are wholly or partially dependent upon the income of the parent/caretaker and spouse or live-in companion of the parent/caretaker; and biological, step or adoptive minor children of the parent/caretaker or live-in companion, or both.

(ii) The child for whom subsidized child care is requested, the child's parent who is a minor; the siblings or other parent of the child; the child's grandparent; the grandparent's spouse or live-in companion and other minor children of the grandparent or live-in companion.

(2) A foster child may be counted as either a separate family or as part of the foster family.

(3) A family whose parent/caretaker transfers from TANF is exempt from including the parent's/caretaker's live-in companion in the family for 6 months starting the day after the date TANF benefits end.

(4) An individual may not be included in more than one family unless the individual is a child who is in a shared custody arrangement and both families are seeking subsidized child care.

#### ELIGIBILITY REQUIREMENTS

##### § 3040.31. General requirements regarding family eligibility.

For a child to receive subsidized child care, the family shall:

(1) Reside in this Commonwealth. The parent/caretaker shall apply in his county of residence. In counties where there is more than one eligibility agent for the county, the parent/caretaker shall apply to the eligibility agent that is responsible for the geographic area which includes the zip code of the family's residence.

(2) Be financially eligible as required by § 3040.32 or § 3040.33 (relating to financial eligibility; and self-employment).

(3) Be nonfinancially eligible as required by § 3040.34 (relating to nonfinancial eligibility).

##### § 3040.31a. (Reserved).

##### § 3040.32. Financial eligibility.

(a) The parent/caretaker shall provide paystubs indicating gross earned income for any 4 consecutive weeks within the most recent 6-week period for employed family members.

(b) Family members unable to provide paystubs because of exceptional employment circumstances shall provide documentation of earned income as follows:

(1) If paystubs are not available at the time of application because the employed family member has not been employed for 4 weeks, written documentation of anticipated gross earned income from the employer is sufficient evidence of earnings. The documentation is satisfactory until, but not after, the family member is employed for 8 consecutive weeks, at which time the family member shall present the paystubs.

(2) If income is received in cash, written employer documentation of gross earned income for 4 consecutive weeks within the most recent 6-week period is sufficient documentation.

(c) The eligibility agent shall require, and the parent/caretaker shall provide, documentation of all unearned family income unless specifically excluded in Appendix A, Part III (relating to income exclusions). See Appendix A, Part I (relating to income inclusions) which lists the unearned income included when computing the adjusted monthly income.

(d) The parent/caretaker shall seek all available income listed in Appendix A, Part I, except cash assistance.

(e) The parent/caretaker shall document all income deductions listed in Appendix A, Part II (relating to income deductions).

(f) The family is ineligible for child care subsidy if the annual family income exceeds the Department's maximum gross income limit of 185% of FPIG with the exception of those families listed in § 3040.27 (relating to grandfathering provisions).

##### § 3040.33. Self-employment.

(a) To be considered self-employed, the family member alone shall assume the responsibility for deductions related to withholding taxes, income taxes and Social Security payments. If another person or entity has that responsibility, the family member is not considered self-employed.

(b) Acceptable documentation of income from self-employment is as follows:

(1) Acceptable documentation of income from self-employment is a copy of the family member's Federal Income Tax return (including all schedules related to self-employment) filed for the preceding Federal tax year and which documents profit for that year. The family member's profit from Schedule C, or any other forms or schedules related to self-employment income, is used as income for purposes of determining eligibility for subsidized child care.

(2) If the family member cannot provide a Federal Income Tax return which documents profit from self-employment, a notarized statement of gross earnings, minus allowable cost of doing business which shows a profit equal to or more than minimum wage, for the preceding Federal tax quarter is acceptable and is valid until the next Federal tax return is filed. At that filing of the Federal tax return, a redetermination of eligibility shall be completed.

(3) An annual Federal Income Tax return shall be used as income documentation when the family member has been self-employed for more than 1 year in the same business, and is valid only until the next Federal Income Tax return is filed.

##### § 3040.34. Nonfinancial eligibility.

(a) A family shall meet the following nonfinancial eligibility conditions at each determination and redetermination of eligibility:

(1) The child shall need child care which coincides with the hours of the adult family members' employment or minor parents' education program.

(2) Each adult family member shall work for wages equal to or more than minimum wage. When calculating

minimum wage, tips are included with hourly wages. The following groups of employes are exempt from the minimum wage requirement:

- (i) Laborers on a farm.
- (ii) Individuals granted a subminimum wage exception by the Department of Labor and Industry.
- (3) Each adult family member shall have had at least 4 weeks of employment within the most recent 6-week period and shall work the number of hours required as follows. The eligibility agent may average the hours of employment in the 4-week period.
  - (i) Until July 31, 1999, the adult family members shall work at least 20 hours per week.
  - (ii) Beginning August 1, 1999, the adult family members shall work at least 25 hours per week.
  - (iii) A parent/caretaker who transfers to the subsidized child care program from the TANF program shall be employed. The parent/caretaker has 6 months from the date his TANF benefits end to meet the requirements in subparagraphs (i) and (ii), whichever is applicable.
- (4) A minor parent who has not graduated from high school or does not have a GED shall be enrolled in an education program and attend on a full-time basis. Documentation shall be on a form prescribed by the Department.
- (5) The child shall need subsidized child care to permit uninterrupted sleep time necessary for the parent/caretaker to continue employment. The parent/caretaker shall document that the work shift ends between the hours of 2 a.m. and 9 a.m.
- (6) A minor parent who has graduated from high school or who has a GED shall meet the same employment and earning requirements as an adult family member.
- (7) A parent/caretaker shall certify that each child receiving subsidized child care has received age-appropriate immunizations or that each child is exempt from the immunization requirement based on the exceptions in § 3040.11(f) (relating to provision of subsidy). If the child does not have age-appropriate immunizations and is not exempt from immunization, the parent/caretaker has 90 days to obtain immunizations for the child and certify that the child has age-appropriate immunizations.
  - (b) A parent/caretaker shall provide the following documentation of nonfinancial eligibility for family members at the initial determination of eligibility:
    - (1) Proof that all family members are citizens of the United States, or aliens lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law. Proof may include a birth certificate, voter's registration card or a document provided by the immigration and naturalization service.
    - (2) A Social Security number, or evidence of application for a Social Security number, for each family member.
    - (3) Written approval by the county children and youth agency who has responsibility for the foster child that the foster child may receive subsidized child care.
    - (4) Proof of employment for all employed family members, which shall be submitted on a form prescribed by the Department.
    - (5) Proof of self-employment may include a notarized statement of self-employment, or a statement signed by the self-employed family member in the presence of the

eligibility agent, for all self-employed family members. The statement shall list the hours and days of self-employment and how often income is received.

- (6) Consent for release of information, signed by each family member 18 years of age or older, which permits the eligibility agent and the Department or the Office of the Inspector General to obtain verification of eligibility information provided by the parent/caretaker.
- (7) Proof that action has been taken to establish paternity and a child support order against any absent parent on behalf of a child for whom subsidized child care is sought, unless there is good cause for failing to do so as set forth in § 187.23 (relating to requirements). Proof of cooperation may include a court order or documentation from the domestic relations office. For the purpose of determining eligibility for subsidized child care under this chapter, the eligibility agent shall complete the responsibilities of the CAO as described in § 187.23. The requirements for applicants and recipients of cash, under § 187.23, apply to applicants and recipients of subsidized child care.
  - (c) A parent/caretaker shall provide identification which contains a photograph of himself to the eligibility agent at any face-to-face interview. Acceptable documents include:
    - (1) An employer identification card.
    - (2) A driver's license.
    - (3) A military photoidentification card.
    - (4) A passport.
    - (5) Other verifiable photoidentification.

**§ 3040.34a. (Reserved).**

**§ 3040.35. Reporting changes.**

The parent/caretaker shall report financial or nonfinancial changes in the family to the eligibility agent within 10-calendar days following the date of the change. The parent/caretaker shall report all changes including the following:

- (1) Employment or self-employment status, including changes in the amount of pay or days and hours worked.
- (2) Training status.
- (3) Family income.
- (4) Continuation or completion of an education program.
- (5) Marital status.
- (6) Family composition.
- (7) Maternity leave.
- (8) Temporary disability status.
- (9) Layoffs or strikes.
- (10) Change of address.
- (11) Custody arrangement or foster care placement under a court order.

**§ 3040.36. Inability to be employed or continue participation in an education program.**

(a) During a period of subsidized child care, a parent/caretaker, or spouse or live-in companion of the parent/caretaker, may become unable to continue employment, self-employment or education and be unable to care for the child, for whom subsidy is requested. The disability which causes the individual's inability to be employed,

self-employed or in an education program and the inability to care for the child shall be documented with the eligibility agent as follows:

(1) A medical assessment form shall be completed by a licensed psychologist or a physician.

(2) The assessment shall describe the condition causing the inability to be employed, self-employed or in an education program.

(3) The assessment shall describe how the condition causing the inability to be employed, self-employed or in an education program prohibits the individual from providing care for the child.

(4) The assessment shall include the date the individual is expected to return to work or become able to care for the child.

(b) Subsidized child care may continue up to 6 months if the conditions stated in subsection (a) are met.

(c) A two-parent/caretaker family may be eligible for subsidized child care if one parent/caretaker is permanently disabled and the disability results in the parent's/caretaker's inability to be employed or self-employed and unable to provide child care while the parent/caretaker without a disability is working. The inability to be employed or self-employed, and provide child care shall be documented as stated in subsection (a).

(1) The parent/caretaker with a disability is receiving income from one of these sources:

(i) Social Security disability.

(ii) Supplemental Security Income (SSI).

(iii) Worker's Compensation.

(iv) One hundred percent of Veterans Disability.

(v) One hundred percent of any other type of work-related disability.

(2) If the parent/caretaker with a disability is not receiving income related to the disability, the parent/caretaker with a disability shall apply for disability benefits for which they may be eligible. The family shall be determined eligible for subsidized child care until a final decision is made regarding the eligibility of the parent/caretaker with a disability for disability benefits, or for no more than 2 years from the date of the onset of the disability, or application for subsidized child care, whichever occurs first.

#### § 3040.37. Attendance requirements.

(a) The child is expected to attend day care at the provider on all days for which the parent/caretaker established a need for child care as described in § 3040.34 (relating to nonfinancial eligibility). The days are specified in writing at the time the child is enrolled in subsidized child care.

(b) A child whose absence exceeds 10 consecutive enrollment days shall be determined ineligible for child care subsidy. *Exception:* A child whose absence exceeds 10 consecutive enrollment days for the reasons in § 3040.52(d) (relating to eligibility agent responsibilities).

(c) The Department will not subsidize absences of more than 30 days of care in a fiscal year for an eligible child. The 30 days of care do not include absences incurred during time of subsidy suspensions listed in § 3040.52(d). The Department will consider waivers of the 30-day attendance requirements for a child with intermittent absences due to a chronic disease.

#### § 3040.38. Prospective employment or a prospective education program for new applicants.

(a) A family in which an adult member has prospective employment or whose minor parent has prospective enrollment in an education program as defined in § 3040.3 (relating to definitions) may be eligible for subsidized child care if the following requirements are met:

(1) The employment or education program begins within 30-calendar days following the date of application.

(2) Written verification of prospective employment or a prospective education program is provided on a form as prescribed by the Department.

(b) Subsidy may not begin until the parent/caretaker or his spouse or live-in companion begins employment or an education program.

(c) Eight weeks following enrollment of a child whose family was determined eligible based on the parent's/caretaker's or his spouse's or live-in companion's prospective employment or enrollment in an education program, the parent/caretaker shall provide verification of employment or participation in the education program for that 8-week period. Verification shall be on a form prescribed by the Department.

(d) If the parent/caretaker will not receive a payment from employment for more than 30 days from the starting date of employment, eligibility is established based on the anticipated income as estimated by the employer. Until payment for employment is received, the family is assessed the minimum co-payment for a family of its size. When payment for employment is received, the parent/caretaker shall notify the eligibility agent. Upon receipt of the payment notice from the parent/caretaker, the eligibility agent shall:

(1) Complete a partial redetermination of eligibility within 10 days.

(2) Adjust the family co-payment, if applicable, within 20 days.

(e) A parent/caretaker who has exhausted all available TANF benefits and who has not yet obtained employment may have 30 consecutive calendar days of subsidized child care to seek employment. The parent/caretaker shall request subsidized child care within 90 days following the date that TANF benefits ended.

#### § 3040.39. (Reserved).

#### § 3040.40 Child care subsidy available to attend training.

(a) A family may qualify for subsidized child care for the hours the adult family member, or the minor parent who has graduated from high school or has a GED, is participating in a training program, if the following conditions are met:

(1) The adult family member or the minor parent meets the employment or education requirements in §§ 3040.32—3040.34 (relating to financial eligibility; self-employment; and nonfinancial eligibility).

(2) The training program is accredited by a State or National board of examiners or recognized by the Department.

(3) The training program provides skills that improve the employability of the individual for a particular job.

(b) A child may receive up to 12 additional hours of subsidized child care to coincide with the instructional hours that the adult family member, or minor parent who

has graduated from high school or who has a GED, participates in a recognized training program.

**ELIGIBILITY DETERMINATION PROCESS**

**§ 3040.51. General requirements in the eligibility determination process.**

(a) An initial determination of eligibility must be completed before subsidy is authorized.

(b) A full redetermination of eligibility must be completed at least once every 6 months and prior to the expiration of the current period of eligibility.

(c) A redetermination is required when the family's circumstances change and eligibility or the amount of co-payment is affected. See § 3040.35 (relating to reporting changes). The eligibility agent shall conduct a partial redetermination for each reported change within 20-calendar days of notification of the change. The eligibility agent may conduct a full redetermination if the information obtained during the partial redetermination gives indication of a change in the family's eligibility.

(d) Subsidy is authorized beginning on the date that the need for child care is established for a child whose parent/caretaker received TANF benefits in the past 90 days and meets the following conditions:

(1) The parent/caretaker was employed on the day that TANF benefits ended.

(2) TANF benefits were discontinued for a reason other than a sanction for noncompliance with eligibility conditions.

(3) The parent/caretaker is currently employed and is financially eligible.

(e) Subsidy is authorized on the date following the date that TANF ends for a family who is transferred from TANF to subsidized child care through an automated transfer initiated by the CAO. The eligibility agent shall set a redetermination date 6 months from the date following the date TANF ends.

**§ 3040.52. Eligibility agent responsibilities.**

(a) *Initial determination of eligibility.*

(1) The eligibility agent shall provide the parent/caretaker with written instructions regarding documents which the parent/caretaker shall provide to establish eligibility for subsidized child care.

(2) The eligibility agent may require a face-to-face interview with the parent/caretaker or shall arrange to have necessary documents and information mailed by the parent/caretaker to the eligibility agent. When a face-to-face interview is conducted, the eligibility agent shall verify the identity of the parent/caretaker who has signed the application and shall note in the family file the type of photoidentification used to verify the parent's/caretaker's identity.

(3) If the eligibility interview is face-to-face, the eligibility agent shall require the parent/caretaker to sign and date an application provided by the Department, at the time of the interview.

(4) If the parent/caretaker mails or delivers the application without a face-to-face interview, the eligibility agent shall stamp the date of receipt on the signed, dated application.

(5) The eligibility agent shall make a determination of eligibility when the required financial and nonfinancial documentation is provided.

(6) The eligibility agent shall obtain verification of the family's TANF eligibility status from the local CAO. The eligibility agent shall explore the family's eligibility for retroactive child care payments if the transfer to subsidized child care does not take place the day following the date TANF benefits ended and the parent/caretaker documents incurred child care costs.

(7) The eligibility agent shall determine eligibility within 30-calendar days of the date the application, signed and dated by the parent/caretaker, is received by the eligibility agent. When information is needed to complete the eligibility determination, the date that the information is received by the eligibility agent is the first day of the family's eligibility for subsidized child care.

(8) The eligibility agent shall sign and date the completed application when the eligibility agent has determined eligibility.

(9) The eligibility agent shall notify the parent/caretaker of the family's eligibility status according to the Department's notification requirements in §§ 3040.71 and 3040.72 (relating to general requirements regarding notification; and content of a written notice of adverse action).

(10) The eligibility agent shall conduct a face-to-face interview prior to authorization of subsidized care for the first child in the family to receive subsidy. At the time of the interview, the eligibility agent shall inform the parent/caretaker of his rights and responsibilities, as detailed in §§ 3040.35 and 3040.53 (relating to reporting changes; and parent/caretaker rights and responsibilities). The parent/caretaker shall acknowledge, in writing, his understanding and receipt of the rights and responsibilities information.

(11) The eligibility agent shall provide this chapter to the parent/caretaker upon request.

(b) *Subsequent redeterminations of eligibility.*

(1) The eligibility agent shall set a redetermination due date which does not exceed 6 months following the most recent date that the family was determined eligible. During redetermination, the eligibility agent assesses the financial eligibility factors in § 3040.32 (relating to financial eligibility) and the nonfinancial eligibility factors in § 3040.34 (relating to nonfinancial eligibility).

(2) The eligibility agent shall schedule a redetermination, or partial redetermination, to occur in less than 6 months if one or more of the following conditions exist or come to the attention of the eligibility agent:

(i) The family's financial status fluctuates in a manner which affects eligibility or the co-payment.

(ii) The family's financial or nonfinancial status is expected to change in a manner which affects eligibility or co-payment.

(iii) A family member is disabled and the disability is anticipated to end prior to 6 months.

(iv) A family member's employment is seasonal or temporary.

(v) A parent's/caretaker's education program ends prior to 6 months.

(3) At each redetermination, the eligibility agent shall notify the parent/caretaker in writing of the documents and information required to complete a redetermination of the family's eligibility for subsidized child care. A copy of that notification will remain in the family file.

(4) The eligibility agent shall notify the parent/caretaker of the family's eligibility status according to the Department's notification requirements in § 3040.71.

(5) The eligibility agent shall verify the Social Security number for any family member who did not have a Social Security number at the time of application.

(6) The eligibility agent shall provide an application form, prescribed by the Department, to the parent/caretaker for completion at each redetermination. The parent/caretaker may mail or hand deliver the signed dated form to the eligibility agent.

(c) *Continuing eligibility.*

(1) The eligibility agent shall supply the parent/caretaker with a written statement regarding the parent's/caretaker's responsibility to report financial or nonfinancial changes to the eligibility agent as detailed in § 3040.35. The eligibility agent shall discuss with the parent/caretaker the specific changes which shall be reported and are listed in § 3040.35 and the method by which the parent/caretaker will report changes. The eligibility agent shall note in the family's file the method agreed on for reporting changes.

(2) The eligibility agent shall evaluate a financial or nonfinancial change reported by the parent/caretaker and make a redetermination as necessary within 20-calendar days from the date the parent/caretaker reports and documents a change.

(3) If, during a period of eligibility, a parent/caretaker reports a change in the factors affecting financial or nonfinancial eligibility which does not cause a change in the co-payment or in the eligibility determination, the eligibility agent is required to complete a partial redetermination. The eligibility agent retains, in the family file, the information used in the evaluation, but the eligibility agent and parent/caretaker are not required to complete an eligibility determination form. The date a complete redetermination is due will not be changed as a result of a partial redetermination.

(4) If a reported change results in the family, or a child in the family, becoming ineligible for subsidy, the eligibility agent shall take the necessary steps to discontinue the subsidy under §§ 3040.71 and 3040.72.

(5) Eligibility continues for 30-calendar days from the date of involuntary termination from employment, the date a strike begins or the date of graduation from high school or completion of the GED program.

(6) Eligibility continues for 56-calendar days (8 weeks) from the first day of maternity leave.

(7) Eligibility for subsidy continues during regularly scheduled breaks in an education program, if the regularly scheduled break is less than 31 days.

(d) *Suspended subsidy.* Child care subsidy may be suspended if a child is unable to attend the provider's child care program for more than 10 consecutive enrollment days and will be absent for no more than 90 consecutive calendar days. On the 91st day of consecutive absence, the child is no longer eligible for subsidy. Subsidy may be suspended for any of the following situations:

(1) The child is visiting the noncustodial parent/caretaker.

(2) The child is ill or hospitalized for 5 or more service days.

(3) The child accompanies the parent/caretaker on a trip because of family illness or emergency, and the illness or emergency is documented.

(4) The child remains at home with his parent/caretaker during family leave.

(5) The child care provider is closed because of licensing requirements.

(6) The child's needs cannot be met by the child care provider.

(7) The child's needs cannot be met by the child care provider, and subsidized child care funds are not available for the child to receive service at an alternative provider.

(8) The child's parent is a minor parent on break from attendance at elementary school, middle school or high school.

(e) *Voluntary request to discontinue subsidized child care benefits.* If a parent/caretaker requests that the eligibility agent discontinue his child's subsidy, the eligibility agent shall:

(1) Determine the reason for the request to discontinue benefits.

(2) Determine if the family continued to be eligible up to the time of the request to discontinue benefits.

(3) Explore the possibility of an overpayment under § 3040.92(2) (relating to eligibility agent responsibilities).

(f) *Funding of different populations.* The Department will direct the eligibility agent on the standards for funding different populations. The Department, through the Department's contracts with the eligibility agent, may direct funding for various populations, including individuals who formerly received TANF.

**§ 3040.53. Parent/caretaker rights and responsibilities.**

(a) A parent/caretaker shall provide all documentation required by the eligibility agent prior to an eligibility determination for subsidized child care.

(b) A parent/caretaker shall sign and date the application for subsidized child care at the time of application and at subsequent redeterminations. The parent/caretaker may mail in or hand deliver the application to the eligibility agent. In a family that has two parents/caretakers, both parents/caretakers shall sign and date the application.

(c) A parent/caretaker has the right to have the eligibility determination completed within 30-calendar days after the eligibility agent receives the signed and dated subsidized child care application.

(d) A parent/caretaker has the right to receive written notification regarding any change in the family's eligibility following a determination or redetermination of eligibility.

(e) A parent/caretaker has the right to appeal the eligibility agent's determination of eligibility as provided in § 3040.73 (relating to actions that can be appealed).

(f) A parent/caretaker shall report financial or nonfinancial changes in the family's circumstances which affect eligibility for subsidy, as required in § 3040.35 (relating to reporting changes) and provide documentation as required by the eligibility agent to verify changes.

(g) A parent/caretaker shall meet at least once face-to-face with the eligibility agent prior to enrollment of the

first child in the family for subsidized child care. A parent/caretaker who transfers from TANF shall meet at least once face-to-face with the eligibility agent within the first 90 days of transferring to the subsidy program.

(h) A parent/caretaker shall supply accurate and complete financial and nonfinancial information to determine eligibility for subsidized child care.

**§ 3040.54. Waiting list.**

(a) After completion of an application and determination of the family's eligibility for subsidy, if the funds are not available, an eligible child is placed on a waiting list on a first come, first served basis. Placement on the waiting list is determined by the date and time eligibility for the child was determined.

(b) If a parent/caretaker requests subsidized child care for an additional child following the date the family was initially determined eligible for subsidized child care, the additional child is placed on the waiting list according to the date and time that the parent/caretaker requests care for the additional child.

(c) If a parent/caretaker does not select a provider for child care within 30 days from the date subsidy is available, the child is ineligible for subsidy and will be removed from the waiting list.

**§ 3040.54a. (Reserved).**

**§ 3040.55. (Reserved).**

**CO-PAYMENTS**

**§ 3040.61. General requirements regarding co-payment.**

(a) The eligibility agent shall determine the co-payment during the eligibility process. The parent/caretaker is responsible for paying the co-payment to the provider when a child is receiving subsidy. A co-payment is established at an initial determination of eligibility for subsidized child care and reestablished at each successive redetermination of eligibility. The co-payment covers all children in the family who are receiving subsidized child care. The co-payment includes all days of the week for which the family establishes a need for child care as described in § 3040.34 (relating to nonfinancial eligibility).

(b) A parent/caretaker whose child is authorized for subsidy is required to pay a co-payment and an equivalent advance co-payment prior to enrollment in the subsidized child care program. Only the co-payment is due thereafter. *Exception:* A parent/caretaker who transfers from TANF has until the first redetermination to pay the advance co-payment.

(c) If the co-payment is increased, the parent/caretaker shall begin paying the increased co-payment 10-calendar days after the advance notice advising the parent/caretaker of the co-payment increase. The parent/caretaker shall pay an increased advance co-payment. The increased advance co-payment is the amount of the difference between the current co-payment and the increased co-payment.

(d) If the co-payment is decreased as the result of a redetermination, the reduced co-payment is effective on the first day of the service week following the date of the redetermination. The difference between the current advance co-payment and the decreased co-payment is refunded to the parent/caretaker on the first day of the service week following the redetermination.

(e) The advance co-payment is refunded at the discontinuance of subsidy if the parent/caretaker has met applicable requirements in this chapter.

(f) The co-payment is due on the first day of the service week.

(g) A co-payment is delinquent if it is not paid by the last day of the service week. On the day that the co-payment becomes delinquent, the eligibility agent shall notify the parent/caretaker in writing that action will be taken to discontinue subsidy for the child. When a co-payment is delinquent, the first co-payment paid during any week is applied to the current week's co-payment. Subsequent co-payments paid during that week are applied to the delinquent co-payment. To remain current, a parent/caretaker shall pay the current week's co-payment and the delinquent co-payment.

(h) The following are the responsibilities of the eligibility agent:

(1) The eligibility agent shall assure that required notices of adverse action based on delinquent co-payments are generated in a timely manner. The eligibility agent shall retain a copy of the termination notice.

(2) The eligibility agent shall send the provider a copy of each notice of eligibility or adverse action issued to a parent/caretaker whose child is enrolled with the provider.

(3) If a co-payment is delinquent, the eligibility agent shall mail to the parent/caretaker, on a form prescribed by the Department, a written notice of discontinuance of subsidy at the end of the last service day of the service week in which the co-payment delinquency occurred. The written notice shall state that service will discontinue in 10-calendar days unless the delinquent co-payment is paid.

(4) If, during 1 year of eligibility, the parent/caretaker has been sent two written notices of discontinuance of subsidy due to overdue co-payments and has paid the overdue co-payments to avoid the discontinuance of subsidy at the time of the third delinquent co-payment, the eligibility agent shall initiate action to discontinue child care subsidy on the basis of habitual delinquency in paying co-payments. See § 3040.74 (relating to appeal: when subsidy is not continued during the appeal process). The parent/caretaker is ineligible for subsidy for 90 days after the discontinuance of subsidy for habitual delinquency.

(i) If subsidy to a child is discontinued and co-payments are owed to the provider, the parent/caretaker is ineligible for subsidized child care for 90-calendar days after the delinquent co-payments are paid.

**§ 3040.62. Availability and use of the FPIG.**

(a) The FPIG are published annually in the *Federal Register* and may be obtained from the Department's Office of Children, Youth and Families.

(b) Following annual publication of the FPIG, the Department will revise the co-payment chart in Appendix B and notify the eligibility agent of changes. The Department's Office of Children, Youth and Families will publish an updated co-payment chart as a notice in the *Pennsylvania Bulletin* to be recommended for codification in Appendix B.

(c) Applications and redeterminations processed after notification referenced in subsection (b) shall be completed in accordance with updated co-payment charts.



**§ 3040.63. Calculating a co-payment.**

(a) The determination of a family co-payment considers the following:

- (1) The family size and income.
- (2) The co-payment may not be less than \$5.
- (3) The family's annual co-payment may not exceed 14.5% of the family's annual income.

(b) The eligibility agent shall determine a family's adjusted monthly income as follows:

(1) Determine the gross monthly income by using documentation of 4 consecutive weeks of income from employment within the most recent 6-week period. Include other sources of income in Appendix A, Part I (relating to sources of earned or unearned income to be included). Following is the conversion method to determine gross monthly income:

<i>Frequency of income</i>	<i>Conversion method</i>
Daily	Multiply the daily income by the number of workdays in a week, then multiply by 4.3
Weekly	Multiply by 4.3
Biweekly (every 2 weeks)	Divide by 2, then multiply by 4.3
Semimonthly (twice a month)	Multiply by 2 for monthly gross income.
Monthly	Use the figure given.
Quarterly	Divide by 3.
Annually	Divide by 12.
Lump sum income	Divide by 12.

(2) Determine the amount of the monthly income deductions listed in Appendix A, Part II.

(3) Determine the adjusted monthly income by subtracting the total monthly deductions from the total gross monthly income.

(4) Convert the adjusted monthly income to annual income by multiplying the adjusted monthly income by 12.

(c) If the annual income for the family exceeds 185% of the FPIG, the family is not eligible for subsidized child care.

(d) If the annual income for the family does not exceed 185% of the FPIG, the eligibility agent shall determine the family co-payment by using the co-payment chart in Appendix B.

(1) In Appendix B, the co-payment is determined by family size and the annual income calculated in accordance with subsection (b)(4). If the family's annual income falls between two FPIG percentages, use the higher FPIG percentage.

(2) The co-payment as set forth in Appendix B is calculated as follows:

- (i) Determine the family size.
- (ii) Determine the family's annual income.
- (iii) Identify the annual income amount which is 100% FPIG for the family size.
- (iv) Divide subparagraph (ii) by subparagraph (iii).

(v) Multiply subparagraph (iv) by 100 and round to the nearest thousandth, which is the percentage of FPIG for that family.

(vi) Reduce the result of subparagraph (v) to the next lower whole number divisible by 10.

(vii) Multiply subparagraph (iii) by subparagraph (vi) and add \$1.

(viii) Locate the result of subparagraph (v) in the following chart under the column labeled "% FPIG." If the result of (v) is not a multiple of 10, round up to the next multiple of 10 and locate in the chart under the column labeled "% FPIG." Locate the corresponding "N" factor in the following chart:

<i>% FPIG</i>	<i>N</i>
10%	5.5%
20%	6%
30%	6.5%
40%	7%
50%	7.5%
60%	8%
70%	8.5%
80%	9%
90%	9.5%
100%	10%
110%	10.5%
120%	11%
130%	11.5%
140%	12%
150%	12.5%
160%	13%
170%	13.5%
180%	14%
185%	14.5%

(ix) Multiply the result of subparagraph (vii) by the "N" factor established in subparagraph (viii) to establish the annual co-payment amount and round to nearest hundredth.

(x) Divide the result of subparagraph (ix) by 52 to determine the weekly co-payment amount. Round down to the nearest whole dollar divisible by \$5. The result is the weekly co-payment.

(e) If the co-payment is equal to or exceeds the weekly reimbursement rate for care, the family is not eligible for child care subsidy with the provider selected by the family.

**§ 3040.64. Department's payment.**

If the co-payment does not exceed the reimbursement rate for care, the difference between the reimbursement rate and the weekly co-payment represents the Department's payment for subsidized child care.

**NOTIFICATION REQUIREMENTS****§ 3040.71. General requirements regarding notification.**

(a) The eligibility agent shall notify the parent/caretaker in writing of the results of the eligibility determination. Notification shall occur within 30-calendar days following the date the eligibility agent receives a signed and dated application from the parent/caretaker. The eligibility agent shall determine the family ineligible if the parent/caretaker does not provide all verification required to determine eligibility within 30-calendar days.

(b) The eligibility agent shall notify the parent/caretaker in writing of an eligibility determination which renders the family eligible for subsidy. The notification shall include the following:

(1) The amount of the assessed co-payment.

(2) The parent/caretaker responsibility to report changes in eligibility requirements cited in §§ 3040.32—3040.34 (relating to financial eligibility; documentation of self-employed income self-employment; and nonfinancial eligibility).

(3) The parent's/caretaker's right to appeal the decision and information about how to appeal.

(c) On a written notice form prescribed by the Department, the eligibility agent shall notify each parent/caretaker of a determination or redetermination resulting in ineligibility for subsidized child care.

(d) At least 10-calendar days before the action that adversely affects eligibility or the amount of the co-payment is effective, the eligibility agent shall hand deliver or mail the adverse action notice to the parent/caretaker. The 10-day period begins on the day following the day the written notice is postmarked or hand delivered to the parent/caretaker. The adverse action requirements relating to an overpayment are found in subsection (g).

(e) If the 10-day period ends on a holiday or a day when the eligibility agent is not open for business, the next business day is considered the 10th day.

(f) The eligibility agent shall, by written notice to the parent/caretaker, confirm the parent's/caretaker's voluntary withdrawal of a child from subsidized child care.

(g) The eligibility agent shall notify the parent/caretaker in writing of an overpayment. The notification may also include a notice of adverse action if the overpayment affects the amount of the co-payment or results in suspension or termination. The notice shall include the following:

- (1) The reason for the overpayment.
- (2) The period of the overpayment.
- (3) The amount of the overpayment.
- (4) The repayment methods as listed in § 3040.93 (relating to repayment).
- (5) The right to request a Departmental fair hearing on the overpayment amount.

**§ 3040.72. Content of a written notice of adverse action.**

(a) A written notice to a parent/caretaker regarding the family's eligibility for subsidy is prepared on a form prescribed by the Department and includes the following:

- (1) A statement of the decision or proposed action and the effective date the action will occur.
- (2) A statement of the reason for the decision or proposed action.
- (3) A citation and brief explanation, stated in simple, nontechnical language, of the applicable section of this chapter or another applicable chapter used as the basis for the decision or proposed action.
- (4) A statement explaining the right of the parent/caretaker to appeal the adverse action and to receive a Departmental hearing. The following information is included in the statement:

(i) An appeal shall be submitted to the eligibility agent. The appeal shall be in writing and postmarked or hand delivered within 30-calendar days of the date the written notice was postmarked or hand delivered to the parent/caretaker.

(ii) Subsidy is continued pending a Departmental hearing decision when a written request for a Departmental hearing is postmarked or hand delivered within 10-calendar days following the date the written notice is postmarked or hand delivered to the parent/caretaker by the eligibility agent. Exceptions to the continuation of subsidy pending appeal are contained in § 3040.74 (relating to appeal: when subsidy is not continued during the appeal process).

(iii) The specific postmark date or hand delivery date of the notice by the eligibility agent and the specific date by which the appeal and request for a hearing shall be postmarked or hand delivered to the eligibility agent in order to be timely. Subsidy at the prior level is not continued pending the hearing decision if the request for a hearing was postmarked or hand delivered after the 10th calendar day from the date the written notice is postmarked or hand delivered to the parent/caretaker.

(iv) A request for a Departmental appeal hearing postmarked or hand delivered after 30 days from the date the written notice is postmarked or hand delivered to the parent/caretaker will be dismissed by the Bureau of Hearings and Appeals as untimely, under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings), without a hearing.

(5) The provisions specified in § 3040.78 (relating to continuing subsidy and co-payment during an appeal) which become effective if a parent/caretaker appeals an adverse action within 10 days of the notice.

(6) A statement that if the parent/caretaker appeals within 10 days, and has subsidy continued at the prior level but does not win the appeal, the parent/caretaker is obligated to repay the subsidy for which he was ineligible or the difference between what he received and for which he was eligible for.

(b) Following the preparation of a written notice of adverse action, the eligibility agent shall:

- (1) Mail or hand deliver, within 1 working day of preparation, the original and one copy of the notice to the parent/caretaker.
- (2) Retain a copy of the notice in the family file.
- (3) Mail a copy of the notice to the child care provider within 1 working day of preparation.

**§ 3040.73. Actions that can be appealed.**

A parent/caretaker has the right to request a Departmental hearing to appeal the following:

- (1) The denial of subsidy.
- (2) The discontinuance of subsidy.
- (3) The computation of the co-payment.
- (4) The eligibility agent's failure to act upon a request for subsidy within the time limits specified in § 3040.52(a)(7) (relating to eligibility agent responsibilities).
- (5) Subsidy disruption, as detailed in § 3040.19 (relating to subsidy disruption).
- (6) Subsidy suspension, as detailed in § 3040.52(d).

**§ 3040.74. Appeal when subsidy is not continued during the appeal process.**

(a) The parent/caretaker has the right to appeal a decision which is based solely on changes in Federal or State law, regulations or policy but subsidy does not continue at the prior level pending a hearing decision.

(b) The parent/caretaker has the right to appeal the disruption of subsidy when the eligibility agent lacks funding to continue subsidy to a child as indicated in § 3040.19(c) (relating to subsidy disruption). Subsidy is not continued pending a hearing decision.

**§ 3040.75. Filing an appeal: parent/caretaker responsibilities.**

(a) A parent/caretaker appealing an adverse action shall submit a written request and the original notice of adverse action to the eligibility agent in accordance with Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings). The parent/caretaker shall specify the reason for the appeal, the current address, and a telephone number where the parent/caretaker can be reached during the day.

(b) A parent/caretaker may have anyone represent him at the hearing, whether or not the representative is an attorney.

(c) If the parent/caretaker desires that subsidy continue pending a hearing decision, subject to § 3040.74 (relating to appeal when subsidy is not continued during the appeal process), the parent/caretaker shall submit a written appeal within the 10 days specified in § 3040.72(a)(4)(ii) (relating to content of a written notice of adverse action). The parent/caretaker is responsible for timely payment of the co-payment which was in effect prior to issuance of the adverse action, subject to § 3040.74 until a decision is made in the appeal hearing.

**§ 3040.76. Filing an appeal: eligibility agent responsibilities.**

(a) If the parent/caretaker is unable to prepare a written appeal, the eligibility agent shall assist the parent/caretaker in preparing a written appeal. The parent/caretaker shall sign the appeal request.

(b) The eligibility agent shall retain a copy of the original envelope and the original appeal. If the appeal is hand-delivered, the eligibility agent shall stamp the appeal and the envelope with the date of receipt.

(c) The eligibility agent shall forward the original request for appeal and the postmarked envelope to the Department's Bureau of Hearings and Appeals within 3 working days from the date the appeal is received.

(d) The eligibility agent may not take the proposed adverse action until 10-calendar days have elapsed from the date of the delivery or mailing of the adverse action and then only if the parent/caretaker has not filed a timely appeal. Subsidy may be continued at the prior level only if the parent/caretaker meets the requirements in § 3040.78 (relating to continuing subsidy and co-payment during an appeal).

(e) The eligibility agent may take the proposed adverse action before 10-calendar days have elapsed when a provider closes for financial difficulties or loss of certification, or funding is not available to continue subsidized care to the child.

**§ 3040.77. Appeal and hearing procedures.**

(a) If a parent/caretaker does not officially withdraw an appeal, the eligibility agent or the Department, if appropriate, will take part in the scheduled hearing to justify the action to which the parent/caretaker objects. If the eligibility agent or the Department fails to appear at the hearing, the parent's/caretaker's appeal will be sustained by the Department's Bureau of Hearings and Appeals. See Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings). If the parent/

caretaker fails to appear for the hearing, regardless of whether the eligibility agent or the Department appears, the appeal is considered abandoned and the decision of the eligibility agent or the Department will be sustained by the Bureau of Hearings and Appeals.

(b) The Department's Bureau of Hearings and Appeals may conduct a hearing by way of a telephone conference call with the parties to the appeal, including the parent/caretaker, the parent's/caretaker's authorized representative, the eligibility agent, the Department and the hearing officer. The parent/caretaker has the right to request a face-to-face hearing instead of a telephone hearing. Face-to-face hearings will be held in locations specified by the Department's Bureau of Hearings and Appeals.

(c) The Department's Bureau of Hearings and Appeals will notify the eligibility agent and the parent/caretaker, in writing, when disposition of the appeal is made. The eligibility agent will implement the final administrative action within the time limit ordered by the Department's Bureau of Hearings and Appeals, or on the first day child care is needed in the week following receipt of the final administrative action order. If the Bureau of Hearings and Appeals finds in favor of the eligibility agent/Department, and subsidy was continued at the level received prior to the notice of adverse action pending the hearing, the family is not eligible for subsidized care in this Commonwealth until repayment is received or a payment plan is established under § 3040.93 (relating to repayment) for the amount of the subsidy received for which the family was not eligible during the appeal period.

(d) Except as otherwise provided by this chapter, Chapter 275 applies to hearing requests made under this chapter.

(e) When it is established at a hearing that the family is eligible for subsidy at the time of the hearing but the action of the eligibility agent or the Department which is the subject of the appeal was correct when taken, the action will be sustained, and the date that eligibility for subsidy will resume is determined in accordance with § 3040.54 (relating to waiting list).

**§ 3040.78. Continuing subsidy and co-payment during an appeal.**

(a) If the parent/caretaker files an appeal within 10 days of the notice of adverse action, subsidy continues at the prior level, subject to § 3040.74 (relating to appeal when subsidy is not continued during the appeal process), until the appeal is heard and a final decision is made by the Bureau of Hearings and Appeals. The parent/caretaker shall continue to make timely payment of the co-payment in effect prior to the adverse action, as referenced in §§ 3040.61 and 3040.75 (relating to general requirements regarding co-payment; and filing an appeal: parent/caretaker responsibilities).

(b) If subsidy continues during the appeal process and the Bureau of Hearings and Appeals finds in favor of the eligibility agent or the Department, the parent/caretaker shall reimburse the Department for the subsidy, or the increase in subsidy, paid for the child in care from the initial proposed effective date of the adverse action until the date subsidy is discontinued or decreased based on the final administrative action order of the Bureau of Hearings and Appeals.

**OVERPAYMENT, REPAYMENT AND DISQUALIFICATION**

**§ 3040.91. Overpayment.**

- (a) An overpayment exists when a child receives subsidized child care for which the family is not eligible.
- (b) The overpayment may result from:
  - (1) Fraud by the parent/caretaker.
  - (2) Inadvertent error by an eligibility agent or parent/caretaker.
  - (3) Subsidy continued pending an appeal and the family did not win the appeal.

**§ 3040.92. Eligibility agent responsibilities.**

The eligibility agent shall:

- (1) Inform the parents/caretakers who request that subsidy continues until an appeal decision is made that if the hearing decision is in favor of the eligibility agent or the Department, the parent/caretakers are responsible for restitution of the overpayment.
- (2) Explore possible overpayments in active and closed cases, including those that were voluntarily closed.
  - (i) Ensure that the methods of exploring overpayments are appropriate to the particular situation and to the different eligibility factors.
  - (ii) Ensure that the methods of exploring overpayments do not infringe on the civil liberties of individuals nor interfere with the due process of law.
- (3) Investigate any credible complaint that a parent/caretaker is erroneously receiving subsidized child care.
- (4) Identify and document the causes of the overpayment.
- (5) Compute the amount of the overpayment.
- (6) Determine if the overpayment is the result of suspected fraud or nonfraud.
- (7) Proceed with recoupment procedures for nonfraud cases, as directed in § 3040.93(b)(1) (relating to repayment).
- (8) Send the family an overpayment notice as described in § 3040.71(g) (relating to general requirements regarding notification).
- (9) Refer suspected fraud cases to the Office of Inspector General in accordance with § 255.1 (relating to restitution and disqualification policy).
- (10) Notify the Department when recoupment stops before the overpayment is fully recouped.

**§ 3040.93. Repayment.**

- (a) The parent/caretaker shall repay the eligibility agent/Department the full amount of the overpayment when subsidized child care is provided for which the family was not eligible.
  - (b) Upon identification of an overpayment, the eligibility agent shall take the following action:
    - (1) To collect from a family whose child continues to receive subsidized care:
      - (i) The eligibility agent shall notify the parent/caretaker by a letter that a repayment is required, the amount of the repayment and the options for repayment as follows:
        - (A) A one-time payment in full of the amount owed.

(B) A one-time partial payment and an increase in the co-payment to be paid until the repayment is complete.

(C) An increase in the co-payment until the repayment is complete.

(ii) If the parent/caretaker does not select an option identified in paragraph (1) within 10-calendar days, the eligibility agent shall automatically implement an increase to the co-payment until the repayment is complete. The parent/caretaker will be notified by a second letter of failure to choose a repayment option, the amount of the increased co-payment and the number of weeks the increased co-payment will continue. Co-payment increases assessed under this subsection will be subject to the following conditions:

(A) Co-payment increases implemented to collect overpayments may not exceed an amount greater than 5% of the family's gross monthly income.

(B) A parent/caretaker may choose to increase the co-payment to repay an overpayment in a shorter period of time.

(C) The eligibility agent shall issue an advance notice according to § 3040.71 (relating to general requirements regarding notification) before implementation of an increase in the co-payment.

(2) To collect from a family whose child is no longer receiving subsidized child care:

(i) The eligibility agent shall notify the Department of the discontinuance date, the amount of the overpayment recouped and the amount outstanding.

(ii) The Department will notify the parent/caretaker by letter of the overpayment, the amount of the outstanding overpayment and that full repayment is required. This notice requires a response within 10-calendar days.

(iii) If the parent/caretaker fails to respond, the eligibility agent shall send a second letter which reiterates the information contained in the letter required in subparagraph (i) and requests a response within 10-calendar days.

(iv) If the parent/caretaker fails to respond to the second letter, the Department may institute civil legal proceedings.

**§ 3040.94. Disqualification.**

(a) The parent/caretaker is disqualified from participating in the subsidized child care program if one of the following applies:

(1) A Federal or State court finds the parent/caretaker guilty of fraud in applying for or receiving subsidized child care.

(2) A Departmental hearing officer determines that the parent/caretaker committed an intentional program violation.

(3) The parent/caretaker signs a disqualification consent agreement as part of a court's deferred adjudication process.

(4) The parent/caretaker agrees to be disqualified by signing an administrative disqualification hearing waiver.

(b) Upon disqualification under subsection (a), a parent/caretaker and all eligible children in the parent's/caretaker's family will be prohibited from participation in the subsidized child care program:

(1) For 6 months from the date of the first conviction, hearing decision or determination.

(2) For 12 months from the second conviction, hearing decision or determination.

(3) Permanently from the date of the third conviction, hearing decision or determination.

(c) A parent/caretaker may not be granted a Departmental hearing on a court conviction or administrative disqualification hearing decision that led to the disqualification.

#### APPENDIX A

### EARNED OR UNEARNED INCOME TO BE INCLUDED, DEDUCTED AND EXCLUDED IN DETERMINING GROSS MONTHLY INCOME

#### PART I. INCOME INCLUSIONS.

Income from the following sources is included when determining total gross monthly income:

A. Money, wages or salary earned by an individual before zero deductions for taxes, Social Security, bonds, pensions, union dues, health insurance and similar purposes, for work performed as an employee. This includes commissions, tips, piece-rate payments and cash bonuses. Income earned by an unemancipated minor is not included.

B. Armed forces pay which includes base pay plus cash, but does not include housing subsistence, allowances or the value of rent-free quarters.

C. Voluntary and court-ordered support received for any person in the family.

D. Net income from nonresident and real property, defined as gross receipts minus the expenses for continuing the income, such as depreciation charges, business taxes (not personal income taxes), interest on mortgages, repairs and similar expenses.

E. Social Security benefits, Supplemental Security Income, survivors' benefits and permanent disability insurance payments made by the Social Security Administration before deductions of health insurance premiums.

F. Railroad retirement, disability or survivors' benefit payments made by the United States Government under the Railroad Retirement Act, before deductions of health insurance premiums.

G. State blind pension payments made by the Department of Public Welfare.

H. Public assistance or welfare benefits or retirement benefits.

I. Private pensions and annuities, including retirement benefits paid to a retired person or his survivors by a former employer or a union, either directly or through an insurance company.

J. Government employe pensions paid by Federal, State, county, or other governmental agencies to former employes, including members of the armed forces, or their survivors.

K. Unemployment compensation received from government unemployment insurance agencies or private companies during periods of unemployment, and strike benefits received from union funds.

L. Workers' compensation received from private or public insurance companies.

M. Veterans' payments, defined as money paid periodically by the Veterans Administration (VA) to disabled members of the armed forces or to the survivors or dependents of deceased or disabled veterans, subsistence

allowances paid to the survivors of deceased veterans, and subsistence allowances paid to veterans for education and on-the-job training, as well as so-called "refunds" paid to ex-service persons as GI insurance premiums. For the disabled veteran in the Vocational Rehabilitation Program, the subsistence allowance and the veteran's disability allowance are counted as income.

N. Capital gains, profit from S-corporations and dividends, including dividends from stocks, bonds, mutual funds, or from membership in an association.

O. Interest on savings and bonds.

P. Income from estates and trust funds.

Q. Net income from royalties.

R. Lump sum cash of more than \$100: inheritances, life insurance benefits; personal injury and other damage awards and settlements; retroactive benefits such as Retirement, Survivor's or Disability Insurance; and delayed Unemployment, divorce settlements, gifts or Worker's Compensation.

S. Lump sum cash lottery winnings or cash prizes of more than \$100.

T. Profit from self-employment; total gross receipts minus allowable costs of doing business. The allowable costs of doing business are as follows:

(1) Costs of maintaining a place of business such as rent, utilities, insurance on the business and its property, and property taxes.

*Note:* If a business is operated in a home, the costs of maintaining a place of business are only those costs identified for the part of the home used exclusively for the business.

(2) Interest on the purchase of income-producing equipment and property.

(3) Employe labor costs, such as wage, salaries, taxes, unemployment compensation or worker's compensation.

(4) Cost of goods sold, supplies and materials.

(5) Advertising costs.

(6) Accounting and legal fees.

(7) Professional licensing fees and union dues, if necessary to practice a profession or trade.

(8) Transportation costs necessary to produce income.

U. Net income from room rent or room and board, defined as gross income received minus \$10 per month for each room rented and one-half the remainder.

#### PART II. INCOME DEDUCTIONS.

The following are deducted when determining adjusted monthly income:

A. Voluntary or court-ordered support paid by the parent/caretaker or a family member to a present or former spouse not residing in the same household.

B. Voluntary or court-ordered child support paid by the parent/caretaker or family member to a person not residing in the same household.

C. A medical expense not reimbursed through medical insurance which exceeds 10% of the family gross monthly income. The medical expense must have been incurred within the 90-day period prior to the date the parent/caretaker notifies the eligibility agent of that expense and there must be an expectation that the expense will continue to be incurred for the 6 months following the outset of the expense. Medical expenses are based on the

monthly expenses or monthly payment plan, or both. Medical expenses include bills for doctors, hospital costs, dental services, health care premiums, institutional care, medications, prosthetic devices, durable medical equipment or mental health services.

D. In those households where a parent who is a minor is requesting a subsidy, an amount of \$300 per month for each person for whom the grandparent is responsible. This deduction does not apply to the minor parent and the child in need of subsidized child care.

*PART III. INCOME EXCLUSIONS.*

Income from the following sources is excluded in determining gross monthly income:

A. Employment earnings of an individual who is an unemancipated minor.

B. Tax refunds, including earned income tax credits.

C. Withdrawals of bank, credit union or brokerage deposits.

D. Money borrowed.

E. Nonrecurring money in small amounts given as a gift, from any source, on an occasional and irregular basis.

F. The value of benefits under the Food Stamp Act of 1977 (7 U.S.C.A. §§ 2011—2036).

G. The value of foods donated from the United States Department of Agriculture.

H. The value of supplemental foods assistance under the Child Nutrition Act of 1966 (42 U.S.C.A §§ 1771—1791) and the special food service programs for children under that act.

I. Loans and grants, such as scholarships, obtained and used for conditions that preclude their use for living costs.

J. Any grant or loan to an undergraduate student for educational purposes, made or insured under any program administered under the Higher Education Act of 1965 (20 U.S.C.A. §§ 1001—1145-q).

K. Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C.A. §§ 4601—4655).

L. Any home produce used for household consumption.

M. Any payment made on behalf of an individual for household expenses, such as rent, food and utilities.

N. Payments to Volunteers in Service to America under the Domestic Volunteer Service Act of 1973 (42 U.S.C.A. §§ 4951—5085).

O. Earnings received by any youth under the Job Training Partnership Act (29 U.S.C.A. §§ 1501—1792b).

P. Any foster care payments by a foster care placement agency.

Q. Stipends derived from the Foster Grandparent Programs under sections 211 and 212 of the Domestic Violence Service Act of 1973 (42 U.S.C.A. §§ 5011 and 5012).

R. Low Income Home Energy Assistance Program (LIHEAP) benefits and cash in-kind energy assistance provided by private agencies and utility companies.

S. Any adoption assistance payments by a county children and youth agency.

**CO-PAYMENT CHART**

**FAMILY CO-PAYMENT SCALE**

(BASED ON THE 1998 FEDERAL POVERTY INCOME GUIDELINES)

PERCENT FPIG	FAMILY SIZE = 1		FAMILY SIZE = 2		FAMILY SIZE = 3	
	INCOME	FEE	INCOME	FEE	INCOME	FEE
30%	\$2,415	\$5.00	\$3,255	\$5.00	\$4,095	\$5.00
40%	\$3,220	\$5.00	\$4,340	\$5.00	\$5,460	\$5.00
50%	\$4,025	\$5.00	\$5,425	\$5.00	\$6,825	\$5.00
60%	\$4,830	\$5.00	\$6,510	\$5.00	\$8,190	\$10.00
70%	\$5,635	\$5.00	\$7,595	\$10.00	\$9,555	\$10.00
80%	\$6,440	\$5.00	\$8,680	\$10.00	\$10,920	\$15.00
90%	\$7,245	\$10.00	\$9,765	\$15.00	\$12,285	\$15.00
100%	\$8,050	\$10.00	\$10,850	\$15.00	\$13,650	\$20.00
110%	\$8,855	\$15.00	\$11,935	\$20.00	\$15,015	\$25.00
120%	\$9,660	\$15.00	\$13,020	\$25.00	\$16,380	\$30.00
130%	\$10,465	\$20.00	\$14,105	\$25.00	\$17,745	\$35.00
140%	\$11,270	\$20.00	\$15,190	\$30.00	\$19,110	\$40.00
150%	\$12,075	\$25.00	\$16,275	\$35.00	\$20,475	\$45.00
160%	\$12,880	\$30.00	\$17,360	\$40.00	\$21,840	\$50.00
170%	\$13,685	\$30.00	\$18,445	\$45.00	\$23,205	\$55.00

## RULES AND REGULATIONS

PERCENT FPIG	FAMILY SIZE = 1		FAMILY SIZE = 2		FAMILY SIZE = 3	
	INCOME	FEE	INCOME	FEE	INCOME	FEE
180%	\$14,490	\$35.00	\$19,530	\$45.00	\$24,570	\$60.00
185%	\$14,893	\$40.00	\$20,073	\$50.00	\$25,253	\$65.00

PERCENT FPIG	FAMILY SIZE = 4		FAMILY SIZE = 5		FAMILY SIZE = 6	
	INCOME	FEE	INCOME	FEE	INCOME	FEE
30%	\$4,935	\$5.00	\$5,775	\$5.00	\$6,615	\$5.00
40%	\$6,580	\$5.00	\$7,700	\$5.00	\$8,820	\$5.00
50%	\$8,225	\$5.00	\$9,625	\$10.00	\$11,025	\$10.00
60%	\$9,870	\$10.00	\$11,550	\$10.00	\$13,230	\$15.00
70%	\$11,515	\$15.00	\$13,475	\$15.00	\$15,435	\$20.00
80%	\$13,160	\$15.00	\$15,400	\$20.00	\$17,640	\$25.00
90%	\$14,805	\$20.00	\$17,325	\$25.00	\$19,845	\$30.00
100%	\$16,450	\$25.00	\$19,250	\$30.00	\$22,050	\$35.00
110%	\$18,095	\$30.00	\$21,175	\$35.00	\$24,255	\$40.00
120%	\$19,740	\$35.00	\$23,100	\$40.00	\$26,460	\$50.00
130%	\$21,385	\$40.00	\$25,025	\$50.00	\$28,665	\$55.00
140%	\$23,030	\$45.00	\$26,950	\$55.00	\$30,870	\$65.00
150%	\$24,675	\$55.00	\$28,875	\$60.00	\$33,075	\$70.00
160%	\$26,320	\$60.00	\$30,800	\$70.00	\$35,280	\$80.00
170%	\$27,965	\$65.00	\$32,725	\$75.00	\$37,485	\$90.00
180%	\$29,610	\$75.00	\$34,650	\$85.00	\$39,690	\$100.00
185%	\$30,433	\$80.00	\$35,613	\$95.00	\$40,793	\$110.00

PERCENT FPIG	FAMILY SIZE = 7		FAMILY SIZE = 8		FAMILY SIZE = 9	
	INCOME	FEE	INCOME	FEE	INCOME	FEE
30%	\$7,455	\$5.00	\$8,295	\$5.00	\$9,135	\$5.00
40%	\$9,940	\$10.00	\$11,060	\$10.00	\$12,180	\$10.00
50%	\$12,425	\$10.00	\$13,825	\$15.00	\$15,225	\$15.00
60%	\$14,910	\$15.00	\$16,590	\$20.00	\$18,270	\$20.00
70%	\$17,395	\$20.00	\$19,355	\$25.00	\$21,315	\$25.00
80%	\$19,880	\$30.00	\$22,120	\$30.00	\$24,360	\$35.00
90%	\$22,365	\$35.00	\$24,885	\$40.00	\$27,405	\$40.00
100%	\$24,850	\$40.00	\$27,650	\$45.00	\$30,450	\$50.00
110%	\$27,335	\$50.00	\$30,415	\$55.00	\$33,495	\$60.00
120%	\$29,820	\$55.00	\$33,180	\$60.00	\$36,540	\$70.00
130%	\$32,305	\$65.00	\$35,945	\$70.00	\$39,585	\$80.00
140%	\$34,790	\$70.00	\$38,710	\$80.00	\$42,630	\$90.00
150%	\$37,275	\$80.00	\$41,475	\$90.00	\$45,675	\$100.00
160%	\$39,760	\$90.00	\$44,240	\$100.00	\$48,720	\$110.00

PERCENT FPIG	FAMILY SIZE = 7		FAMILY SIZE = 8		FAMILY SIZE = 9	
	INCOME	FEE	INCOME	FEE	INCOME	FEE
170%	\$42,245	\$100.00	\$47,005	\$110.00	\$51,765	\$125.00
180%	\$44,730	\$110.00	\$49,770	\$125.00	\$54,810	\$135.00
185%	\$45,973	\$120.00	\$51,153	\$135.00	\$56,333	\$150.00

PERCENT FPIG	FAMILY SIZE = 10		FAMILY SIZE = 11		FAMILY SIZE = 12	
	INCOME	FEE	INCOME	FEE	INCOME	FEE
30%	\$9,975	\$5.00	\$10,815	\$5.00	\$11,655	\$5.00
40%	\$13,300	\$10.00	\$14,420	\$10.00	\$15,540	\$15.00
50%	\$16,625	\$15.00	\$18,025	\$20.00	\$19,425	\$20.00
60%	\$19,950	\$25.00	\$21,630	\$25.00	\$23,310	\$25.00
70%	\$23,275	\$30.00	\$25,235	\$35.00	\$27,195	\$35.00
80%	\$26,600	\$40.00	\$28,840	\$40.00	\$31,080	\$45.00
90%	\$29,925	\$45.00	\$32,445	\$50.00	\$34,965	\$55.00
100%	\$33,250	\$55.00	\$36,050	\$60.00	\$38,850	\$65.00
110%	\$36,575	\$65.00	\$39,655	\$70.00	\$42,735	\$75.00
120%	\$39,900	\$75.00	\$43,260	\$80.00	\$46,620	\$90.00
130%	\$43,225	\$85.00	\$46,865	\$95.00	\$50,505	\$100.00
140%	\$46,550	\$95.00	\$50,470	\$105.00	\$54,390	\$115.00
150%	\$49,875	\$110.00	\$54,075	\$120.00	\$58,275	\$130.00
160%	\$53,200	\$120.00	\$57,680	\$135.00	\$62,160	\$145.00
170%	\$56,525	\$135.00	\$61,285	\$145.00	\$66,045	\$160.00
180%	\$59,850	\$150.00	\$64,890	\$165.00	\$69,930	\$175.00
185%	\$61,513	\$165.00	\$66,693	\$180.00	\$71,873	\$190.00

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