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PENNSYLVANIA BULLETIN

Volume 29

Number 26

Saturday, June 26, 1999 • Harrisburg, Pa.

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Residential and Day Treatment Facilities

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

No. 295, June 1999

PENNSYLVANIA



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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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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

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Part II

This part contains the
Department of Public Welfare's Child Residential
and Day Treatment Facilities

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THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 5]

Order Rescinding Rule 508; No. 207 Judicial Administration Doc. No. 1

Order

Per Curiam:

And Now, this 7th day of June, 1999, Pa.R.J.A. 508 is hereby rescinded.

[Pa.B. Doc. No. 99-997. Filed for public inspection June 25, 1999, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 200 AND 400]

Temporary Rule Governing Electronic Filing of Legal Papers; No. 315 Civil Procedural Rules Doc. No. 5

Order

Per Curiam:

And Now, this 14th day of June, 1999, the Pennsylvania Rules of Civil Procedure are amended as follows:

- (1) New Rule 205.4 is promulgated to read as follows.
- (2) The Note to Rule 440(a)(1)(i) is amended to read as follows.

Rule 205.4 promulgated by this Order shall be rescinded on December 31, 2001.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective July 1, 1999.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 205.4. Temporary Provisions for Electronic Filing and Service of Legal Papers.

(a) As used in this rule, the following words shall have the following meanings:

“electronic filing,” the electronic transmission of legal papers by means other than facsimile transmission,

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

“legal paper,” a pleading or other paper filed in an action, but not including

(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 or Microsoft Word for Windows. 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 be subject to the sanction provision of Rule 1023(c).

(2)(i) The filing party shall maintain the original hard copy of the document filed.

(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) The prothonotary when authorized to accept filings by electronic transmission shall provide electronic access at all times. The time and date of filing and receipt shall be that registered by the prothonotary's computer system.

(2) The prothonotary may designate a website for the electronic filing of legal papers. Access to the website shall be available by the attorney identification number issued by the Court Administrator of Pennsylvania or an identification number issued by the website administrator.

(d) A filing party shall pay the cost of the electronic filing of a legal paper by depositing with the prothonotary, in advance, 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) a filing status message to the filing party,

(2) the maintenance by the prothonotary of an electronic file only, or of such 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 cases 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.

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

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

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

(g) Copies of all legal papers other than original process filed in an action or served upon any party to an action may be served

(1) as provided by Rule 440 or

(2) 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 in the action. Service is complete when the legal paper is sent. A paper served electronically is subject to the certifications set forth in subdivision (b)(1).

Official Note: An electronic mail address set forth on letterhead is not a sufficient basis under this rule to permit electronic service of legal papers.

(h) This rule shall be rescinded on December 31, 2001.

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 handling 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.

For electronic service by means other than facsimile transmission, see Rule 205.4(g).

* * * * *

Explanatory Comment

Rule 205.4 governing electronic filing and service of legal papers is a temporary rule and is intended as a further step in the process of introducing the concept of electronic documents into a system accustomed solely to paper documents. It is anticipated that changes in the procedural rules will be needed as technology progresses and the actual experiences of those counties which utilize this rule demonstrate the need for modifications. For that reason, a termination date of December 31, 2001 has been set for this rule.

The purpose of the rule is not to provide a comprehensive manual but, rather, a framework upon which a local court can proceed with the electronic filing and service of legal documents while allowing the flexibility to adapt the process on the basis of actual experience.

The rule addresses several aspects of electronic filing. It provides definitions of key terms, contains a description of the form, content and handling of documents, and an enumeration of the responsibilities of the prothonotary and the parties. The rule concludes with the procedure for electronic service of legal papers.

Subdivision (a)(2) is the definitional provision. The subject of the rule, "electronic filing," is defined as the electronic transmission of legal papers but the term excludes facsimile transmission which is governed by Rule 205.3.

Most importantly, the term "legal paper" is defined as excluding original process unless the court by local rule provides otherwise. For the purposes of this temporary rule, the local court is in a better position to make the determination of whether to include original process based upon a knowledge of the court's technological capabilities.

Subdivision (b) is concerned with the form and content of the legal papers themselves. Three computer formats are explicitly designated for legal papers which are filed electronically. Adobe PDF was chosen because it is becoming a nationally recognized standard format and has a great deal of flexibility in terms of its ability to include other media beside the printed word. WordPerfect for Windows and Microsoft Word for Windows are included as they are the two most commonly used word-processor software packages.

Regarding legal papers themselves, Rule 205.4(b)(1) provides that the electronic filing of a legal paper constitutes the same certification as a signature on a traditionally filed legal paper under Rule 1023.

Paragraph (2) completes subdivision (b) by requiring that the filing party maintain the original hard copy of the legal paper and also by providing a procedure by which any other party to the action may require the filing of the original hard copy. This is a means of ensuring the integrity of the filing system and the genuineness of the legal papers filed by the parties.

The burden of establishing the physical elements of the system is placed upon the prothonotary. Subdivision (c) requires the prothonotary to provide electronic access at all times and a means for recording the time and date of the filing. The subdivision also permits the prothonotary to designate a website for the electronic filing of legal papers. Under Rule 205.4(f), the prothonotary is required to make available to the filing party a filing status message which would confirm that the legal paper was filed successfully. The same subdivision also permits the prothonotary to maintain either an electronic file only or both electronic and hard copy files.

In order to take advantage of the convenience which the rule will provide, a filing party will also bear important responsibilities. Subdivision (d) requires that the filing party pay the costs of electronic filing by the advance deposit of sufficient funds with the prothonotary or by the use of a credit or debit card.

Most importantly, subdivision (e) expressly 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." This latter provision is based upon the concern that the immediacy of the electronic transfer of legal papers may foster increased dependency upon last-minute preparation and filing, leaving insufficient time in which to remedy either a deficiency in the legal paper being filed or the inability to effectuate the filing.

Subdivision (g) of the rule provides for electronic service of legal papers. Paragraph (2) provides that service of such papers shall be deemed complete when sent. This provision is designed to be the electronic equivalent of the rule for service by mail as set forth in Rule 440(b) which provides that service is complete upon mailing.

Service of legal papers electronically requires the consent of the person to be served either by written agreement or an electronic mail address on a prior legal paper filed with the court. A note to the proposed rule is explicit in stating that such an electronic mail address on an attorney's letterhead is an insufficient basis for electronic service.

Additionally, Rule 440 governing service of legal papers other than original process has been amended by adding a paragraph to the note following subdivision (a)(1)(i) cross-referring to the service provisions contained in new Rule 205.4(g).

*By the Civil Procedural
Rules Committee*

EDWIN L. KLETT,
Chairperson

[Pa.B. Doc. No. 99-998. Filed for public inspection June 25, 1999, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CHS. 400, 1000, 1300, 1910, 2300,
2950, 2970 AND 3000]

**Amendment of Rules Governing Service of Original Process and Other Legal Papers; No. 316
Civil Procedural Rules Doc. No. 5**

Order

Per Curiam:

And Now, this 14th day of June, 1999, the Pennsylvania Rules of Civil Procedure are amended to read as follows:

I. Rules 400, 400.1, 420, 421, 422, 423, 424, and 425, are rescinded.

II. New Rules 400, 400.1, 402.1, 402.2, 402.3, 450 and 451 are promulgated.

III. Rules 402, 403, 410, 1075.1, 1075.4, 1352, 1910.22, 2308, 2958.1, 2973.2, 3111, 3129.2, 3140 and 3283 are amended.

IV. Rules 405, 411, and 412 are amended by the addition of notes.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective September 1, 1999.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 400. SERVICE OF ORIGINAL PROCESS

SERVICE GENERALLY

Rule 400. Person to Make Service.

Rule 400 is rescinded and new Rule 400 is promulgated to read as follows:

Rule 400. Service. Acceptance of Service.

(a) Service of original process shall be made within the Commonwealth by the persons authorized by Rule 400.2 by handing a copy in the manner provided by Rules 402 through 402.2.

Official Note: Rules 402 through 402.2 govern service upon particular parties.

Rule 400(a) insofar as it provides for service of original process by the sheriff or a competent adult who is not a party applies to all courts of the First Judicial District. See the Order of the Supreme Court promulgating the rule.

(b) Service of original process shall be made outside the Commonwealth in the manner provided by Rule 404.

(c) If service cannot be made under the applicable rule, service of original process shall be made in the manner provided by order of court pursuant to Rule 430.

(d) The return of service shall be made in the manner provided by Rule 405.

(e) In lieu of service under these rules, the defendant or the defendant's authorized agent may accept service of original process by filing a separate document which shall be substantially in the form prescribed by Rule 450.

Rule 400.1. Provisions for All Courts of the First Judicial District.

Rule 400.1 is rescinded and new Rule 400.1 is promulgated to read as follows:

Rule 400.1. Person to Make Service. Within the Commonwealth Generally. Within the First Judicial District.

(a)(1) Except as provided in subdivision (b)(1), original process shall be served within the Commonwealth by the sheriff or a competent adult.

Official Note: See Rule 76 for the definition of "competent adult." The definition does not prohibit service by an attorney for a party or an employee of the attorney.

Service of original process in domestic relations matters is governed by Rule 1930.4.

If original process is to be served by the sheriff in a county other than where the action was commenced, the plaintiff may either deliver the process directly to the sheriff of the county where service is to be made or deliver the process to the sheriff of the county where the action was commenced who shall deputize the sheriff of the county where service may be made.

(2) Subdivision (a)(1) shall apply to all courts of the First Judicial District.

(b)(1) A court by local rule may provide that original process shall be served within the Commonwealth

(i) by the sheriff or a competent adult in the actions in equity, partition, prevent waste, and declaratory judgment when declaratory relief is the only relief sought, and

(ii) by the sheriff in all other actions.

(2) Subdivision (b)(1) shall not apply to the courts of the First Judicial District.

(c) If original process is to be served in a county other than the county in which the action is pending, it shall be served only by a person authorized to make service in the other county.

Rule 402. [Manner of Service. Acceptance of Service] Service upon Individuals. Adults. Minors. Incapacitated Persons.

(a) Original process may be served upon a defendant who is an adult

- (1) by handing a copy to the defendant; or
- (2) by handing a copy

(i) at the residence of the defendant to an adult member of the family with whom [he] the defendant resides; but if no adult member of the family is found, then to an adult person in charge of such residence; or

(ii) at the [residence of the defendant] hotel, inn, apartment house, boarding house or other place of lodging at which the defendant resides to the [clerk or] manager or other person authorized to accept deliveries of United States mail [of the hotel, inn, apartment house, boarding house or other place of lodging at which he resides]; or

(iii) at any office or usual place of business of the defendant to [his] the defendant's agent or to the person for the time being in charge [thereof].

[(b) In lieu of service under this rule, the defendant or his authorized agent may accept service of original process by filing a separate document which shall be substantially in the following form:

(Caption)

Acceptance of Service

I accept service of the _____ (on behalf of _____ and certify that I am authorized to do so).

(Date) (Defendant, or Authorized Agent)

(Mailing Address)

Official Note: The plaintiff should insert in the first blank the name of the document being accepted, i.e. writ of summons or complaint.

When accepting service in person, the defendant would delete the part of the sentence in parentheses.]

(b) If the defendant is a minor or an incapacitated person, original process shall be served

(1) upon the minor or the incapacitated person in the manner prescribed for service of original process upon an adult defendant, or

(2) by handing a copy to the guardian of the minor or incapacitated person.

Official Note: Rule 76 defines "minor" and Rule 2026 defines "guardian."

The plaintiff cannot obtain a valid judgment against a minor until a guardian has been appointed. A judgment obtained without the appointment of a guardian may be vacated and a guardian appointed forthwith, in accordance with Rule 2034. In all instances, the court in appointing a guardian for a minor may require that the guardian be served with copies of the pleadings already served upon the minor or others and may also grant such continuance as is necessary to prepare and present the case of

the minor. The court may also make orders extending the time for filing pleadings on behalf of the minor.

Rule 2051 defines "incapacitated person". **Rule 2053** provides for the representation of an incapacitated person who is a defendant by a guardian or a guardian ad litem.

(Editor's Note: Rules 402.1—402.3 are new and are printed in regular type to enhance readability.)

Rule 402.1. Service upon the Commonwealth and Political Subdivisions.

(a) Service of original process upon the Commonwealth or an officer of the Commonwealth shall be made at the office of the named defendant and the office of the Attorney General by handing a copy to the person in charge.

(b) Service of original process upon a department, board, commission or instrumentality of the Commonwealth, or a member thereof, shall be made at the office of the named defendant and the office of the Attorney General by handing a copy to the person in charge.

(c) Service of original process upon a political subdivision shall be made

(1) by handing a copy to

(i) the person in charge at the political subdivision's office of the solicitor or legal department, or

(ii) the person in charge at the office of the political subdivision, or

(iii) an agent duly authorized by the political subdivision to receive service of process, or

Official Note: See Rule 76 for the definition of "political subdivision."

(2) by serving the mayor, or the president, chairman, secretary or clerk of the governing body in the manner prescribed by Rule 402(a).

(d) This rule shall not apply to an appeal from an administrative determination, order or decree of such officer, department, board, commission or instrumentality.

Rule 402.2. Service upon Partnerships, Unincorporated Associations, and Corporations and Similar Entities.

(a) As used in this rule,

"association" means a partnership and all partners named in the action, an unincorporated association or a corporation or similar entity;

"officer" when referring to an officer of a corporation or similar entity means an executive officer as defined by Rule 2176.

Official Note: Rule 2176 defines executive officer as "a chairman, president, vice-president, treasurer, secretary, general manager, or any like officer of a corporation or similar entity."

(b) Provided that the person served is not a plaintiff in the action, service of original process upon an association shall be made

(1) by serving any partner, officer, trustee or registered agent of the association in the manner prescribed by Rule 402(a), or

(2) by handing a copy to the manager, clerk or other person for the time being in charge of any regular place of business or activity of the association, or

(3) by handing a copy to an agent authorized by the association in writing to receive service of process for it.

Rule 402.3. Service upon Additional Defendants.

(a) Original process shall be served upon an additional defendant who is not already a party to the action in the same manner as if the additional defendant were an original defendant. Copies of all pleadings filed in the action shall be served with the complaint against the additional defendant.

Official Note: Prior pleadings must be served with the complaint whether the complaint is original process served upon the additional defendant or a pleading served under Rule 440. See Rule 213(b) for the right of an additional defendant to move for a severance and Rule 1006(d) for the right to move for a change of venue.

(b) The defendant or additional defendant who has filed a complaint shall serve a copy upon every prior party but need not attach copies of any pleadings previously filed in the action.

Rule 403. Service by Mail.

If a rule of civil procedure authorizes original process to be served by mail, a copy of the process shall be mailed to the defendant by any form of **United States** mail requiring a receipt signed by the defendant or [his] the **defendant's** authorized agent. Service is complete upon [**delivery of the mail.**] the **defendant or the defendant's authorized agent signing the required receipt.**

(1) If the mail is returned with notation by the postal authorities that the defendant refused to accept the mail, the plaintiff shall have the right of service by mailing a copy to the defendant at the same address by ordinary mail with the return address of the sender appearing thereon. Service by ordinary mail is complete if the mail is not returned **by the postal authorities** to the sender within fifteen days after mailing.

(2) If the mail is returned with notation by the postal authorities that it was unclaimed, the plaintiff shall make service by another means pursuant to these rules.

Official Note: The United States Postal Service provides for restricted delivery mail, which can only be delivered to the addressee or [his] the **addressee's** authorized agent. Rule 403 has been drafted to accommodate the Postal Service procedures with respect to restricted delivery.

Rule 405. Return of Service.

* * * * *

(b) A return of service shall set forth the date, time, place and manner of service, the identity of the person served and any other facts necessary for the court to determine whether proper service has been made.

Official Note: See Rule the form of the return when service is made by a person other than the sheriff.

* * * * *

SERVICE IN PARTICULAR ACTIONS

Rule 410. Real Property Actions.

* * * * *

(b)(l) If in an action involving an interest in real property the relief sought is possession or mortgage foreclosure, original process also shall be served upon any person not named as a party who is found in possession

of the property. The sheriff or other person making service shall note the service in the return.

* * * * *

Rule 411. Actions for Support.

Rescinded.

Official Note: For service of original process in domestic relations matters, see Rule 1930.4.

Rule 412. Actions for Custody, Partial Custody and Visitation.

Actions for Divorce or Annulment of Marriage.
Rescinded.

Official Note: For service of original process in domestic relations matters, see Rule 1930.4.

SERVICE UPON PARTICULAR PARTIES

Rule 420. Minors.

Rescinded.

Official Note: For service upon minors, see Rule 402(b).

Rule 421. Incapacitated Persons.

Rescinded.

Official Note: For service upon incapacitated persons, see Rule 402(b).

Rule 422. The Commonwealth and Political Subdivisions.

Rescinded.

Official Note: For service upon the Commonwealth and political subdivisions, see Rule 402.1.

Rule 423. Partnerships and Unincorporated Associations.

Rescinded.

Official Note: For service upon partnerships and unincorporated associations, see Rule 402.2.

Rule 424. Corporations and Similar Entities.

Rescinded.

Official Note: For service upon corporations and similar entities, see Rule 402.2.

Rule 425. Additional Defendants.

Rescinded.

Official Note: For service upon additional defendants, see Rule 402.3.

FORMS

(Editor's Note: Rules 450 and 451 are new and are printed in regular type to enhance readability.)

Rule 450. Acceptance of Service. Form.

The acceptance of service provided by Rule 400(e) shall be substantially in the following form:

(Caption)

Acceptance of Service

I accept service of the _____ (on behalf of _____ and certify that I am authorized to do so).

(Date)

(Defendant, or Authorized Agent)

(Mailing Address)

Official Note: The plaintiff should insert in the first blank the name of the document being accepted, i.e. writ of summons or complaint.

When accepting service in person, the defendant would delete the part of the sentence in parentheses.

Rule 451. Return of Service by Person Other than the Sheriff. Forms.

(a) The return of service shall be substantially in one of the following forms when service is made by a person other than the sheriff upon an individual defendant (subdivision (b)), upon an association (subdivision (c)) or by mail (subdivision (d)). Appropriate adjustments may be made to the forms to accommodate methods of service or parties not covered.

Official Note: Appropriate adjustments will be required, for example, when service is made upon a minor, an incapacitated person, the Commonwealth or a political subdivision or where service is made by posting property or pursuant to a special order of court.

(b) The return of service upon an individual defendant served pursuant to Rule 402 and Rule 404(1) shall be substantially in the following form:

Caption

RETURN OF SERVICE

(Adult Individual)

The undersigned makes the following return of service:

_____ document
was served upon
_____ on _____
Defendant Date
at _____ . m. o'clock at _____ ,
Time Address
_____, _____, Pennsylvania,
Municipality County
by handing a copy
_____ to the defendant.
_____ at defendant's residence or place of lodging
to an adult member of the family:

(name and relationship of family member)
to an adult person in charge of the residence:

(name of person in charge)
to the manager or other person authorized to accept
deliveries of United States mail:

(name of manager or person and title or position)
_____ at defendant's office or usual place of business to
the defendant's agent or to the person for the time being
in charge:

(name of agent or person in charge)

Signature and Affidavit

I, _____, certify that I am eighteen years of age or older and that I am not a party to the action or an employee or relative of a party.

I verify that the statements made in this affidavit and return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
_____ Person Making the Return

(c) The return of service upon a partnership, unincorporated association, corporation or similar entity served pursuant to Rule 402.2(b) and 404(1) shall be substantially in the following form:

Caption

RETURN OF SERVICE

(Partnership, Unincorporated Association, Corporation or Similar Entity)

The undersigned makes the following return of service:
_____ was served upon

_____ Document
_____ on _____
_____ Defendant Date
at _____ . m. o'clock at _____ ,
Time Address
_____, _____, Pennsylvania,
Municipality County
by handing a copy
as follows, to a person not a plaintiff in the action:
_____ to any partner, officer, trustee or registered agent:

(Name of partner, officer, trustee or registered agent)
_____ at the partner's, officer's, trustee's or registered agent's residence or place of lodging
to an adult member of the family:

(name and relationship of family member)
to an adult person in charge of the residence:

(name of person in charge)
to the manager or other person authorized to accept deliveries of United States mail:

(name of manager or person and title or position)
_____ at the partner's, officer's, trustee's or registered agent's office or usual place of business to the agent or to the person for the time being in charge:

(name of agent or person in charge)
_____ at a regular place of business or activity of the association
to any partner, officer, trustee or registered agent of the association:

(Name of partner, officer, trustee or registered agent)
to the manager, clerk or other person for the time being in charge:

(Name of manager, clerk or other person in charge)

___ to an agent authorized by the association in writing to receive service of process for it:

(Name of authorized agent)

Signature and Affidavit

I, _____, certify that I am eighteen years of age or older and that I am not a party to the action or an employee or relative of a party.

I verify that the statements made in this affidavit and return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
Person Making the Return

(d) The return of service by mail shall be substantially in the following form:

Caption

**RETURN OF SERVICE
(United States Mail)**

The undersigned makes the following return of service: _____ was mailed to Document _____ on _____

_____ Defendant _____ Date _____
at _____ m. o'clock at _____

_____ Time _____ Address _____, Pennsylvania:
_____ Municipality _____ County

- ___ The signed receipt is attached.
- ___ The mail, refused and returned, is attached. A copy mailed to the defendant at the same address by ordinary mail with the return address of the sender appearing thereon has not been returned within fifteen days after mailing.

Signature and Affidavit

I, _____, certify that I am a competent adult not a party to the action.

I verify that the statements made in this affidavit and return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
Person Making the Return

CHAPTER 1000. ACTIONS AT LAW

Subchapter E. ACTION IN REPLEVIN

CONFORMING AMENDMENTS

Rule 1075.1. Writ of Seizure Upon Notice and Hearing.

* * * * *

(d) The motion and notice of the hearing may be served by [**any competent**] an adult by leaving a copy at the address endorsed on an appearance or prior pleading, but if there is no such endorsement, then in the manner provided by [**Rule**] **Rules 402[(a)] through 402.2** for the service of original process or, if that is not possible,

then by any other means reasonably calculated to give notice. The return of service shall be governed by Rule 405.

* * * * *

Rule 1075.4. Service of the Writ of Seizure.

(a) The sheriff shall serve the writ of seizure, together with a copy of the complaint and motion for ex parte issuance of the writ if the writ has been issued ex parte, upon the defendant and any person not a party who is found in possession of the property, in the manner provided by [**Rule**] **Rules 402[(a)] through 402.2** for service of original process and shall take possession of the property.

* * * * *

CHAPTER 1300. COMPULSORY ARBITRATION

Subchapter B. FORMS

Rule 1352. Form of Writ of Summons in Action of Ejectment.

The writ of summons in an action of ejectment [**shall be directed to the sheriff and**] shall be in substantially the following form:

Commonwealth of Pennsylvania

County of _____

(Caption)

To [**the Sheriff of the County of**] _____:
(Name(s) of Defendant(s))

[**You are directed to notify** _____,
(Name(s) of Defendant(s))
the defendant(s),] **You are hereby notified** that _____ [,

(Name(s) of Plaintiff(s))
the plaintiff(s),] has (have) commenced an action of ejectment **against you** which [**said defendant(s) is (are)**] **you are** required to defend.

This action concerns the land here described:

(Describe land)

If this land is in **your** possession [**of anyone**] **but you are not named above as a [party] defendant,** you are [**directed to notify him that he has**] **hereby notified that you have** been added as a defendant and [**is**] **are** required to defend this action.

(Name of Prothonotary (Clerk))

Date: _____
Seal of the Court By _____
(Deputy)

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.22. Attachment of Income.

* * * * *

(d)(1) The order of attachment shall be substantially in the form prescribed by Rule 1910.31 and shall be served upon the obligor's employer by [**a**] an [**competent**] adult in the manner prescribed by [**Rule**] **Rules**

402[(a)] through 402.2 governing service of original process or by registered mail, return receipt requested. Service by mail is complete upon the return of the registered mail receipt personally signed by the employer or other evidence of service satisfactory to the court.

* * * * *

CHAPTER 2300. INTERPLEADER BY DEFENDANTS

Rule 2308. Service of process on interpleaded claimants.

* * * * *

[(d) [Rescinded].]

Official Note: Original process may be served in any county of the Commonwealth under Rule 402. Subdivision (d) of this rule is therefore rescinded as obsolete.

CHAPTER 2950. CONFESSION OF JUDGMENT FOR MONEY

Rule 2958.1. Notice Served Prior to Execution.

* * * * *

(b) The notice shall be served

(1) upon a defendant in the judgment who has not entered an appearance

(i) by the sheriff or by a competent adult [**who is not a party to the action**] in the manner prescribed by [**Rule**] **Rules 402[(a)] through 402.2** for the service of original process upon a defendant, or

Official Note: See Rule 76 for the definition of "competent adult".

* * * * *

CHAPTER 2970. CONFESSION OF JUDGMENT FOR POSSESSION OF REAL PROPERTY

Rule 2973.2. Notice Served Prior to Execution.

* * * * *

(b) The notice shall be served

(1) upon a defendant in the judgment who has not entered an appearance

(i) by the sheriff or by a competent adult [**who is not a party to the action**] in the manner prescribed by [**Rule**] **Rules 402[(a)] through 402.2** for the service of original process upon a defendant, or

Official Note: See Rule 76 for the definition of "competent adult".

* * * * *

CHAPTER 3000. JUDGMENTS

Subchapter D. ENFORCEMENT OF MONEY JUDGMENTS FOR THE PAYMENT OF MONEY

Rule 3111. Service of the writ on garnishee; effect.

(a) The writ shall be served by the sheriff upon the garnishee in the manner prescribed by [**Rule**] **Rules 402[(a)] through 402.2** except as otherwise provided by Rules 3112 and 3113. The sheriff shall furnish the garnishee with an additional copy of the writ for each defendant. [**If the**] A garnishee **who is served [was] but not named in the writ [he]** shall be added as a garnishee and return made accordingly.

* * * * *

Rule 3129.2. Notice of sale; handbills. written notice; publication.

* * * * *

(c) The written notice shall be prepared by the plaintiff, shall contain the same information as the handbills or may consist of the handbill and shall be served at least thirty days before the sale on all persons whose names and addresses are set forth in the affidavit required by Rule 3129.1.

(1) Service of the notice shall be made

(i) upon a defendant in the judgment who has not entered an appearance and upon the owner of the property.

(A) by the sheriff or by a competent adult [**who is not a party to the action**] in the manner prescribed by [**Rule**] **Rules 402[(a)] through 402.2** for the service of original process upon a defendant, or

Official Note: See Rule 76 for the definition of "competent adult".

* * * * *

Rule 3140. Notice by garnishee.

* * * * *

(b) Upon filing [**his**] answers to interrogatories, the garnishee shall promptly forward a copy to the defendant.

(c) A copy is forwarded within the requirement of this rule when it is delivered to the defendant by [**a**] **an [competent]** adult at any place within or without the Commonwealth in the manner prescribed by [**Rule**] **Rules 402[(a)] through 402.2** for service of original process or when it is mailed to the defendant by registered mail directed to [**his**] **the defendant's** last known address.

Subchapter E. ENFORCEMENT OF JUDGMENTS IN SPECIAL ACTIONS PROCEEDINGS UNDER SECTION 8103(A) TO FIX FAIR MARKET VALUE OF REAL PROPERTY SOLD

Rule 3283. Service.

(a) The petition shall be served

* * * * *

(2) upon any other respondent

(i) by the sheriff or a competent adult [**who is not a party to the action**] in the manner prescribed by [**Rule**] **Rules 402[(a)] through 402.2** for service of original process, or

Official Note: See Rule 76 for the definition of "competent adult".

* * * * *

Explanatory Comment

The rules of civil procedure governing service of original process have been amended to provide that service may be made in all actions by a competent adult who is not a party unless a court by local rule requires that service be made by the sheriff only. Most of the amendments are directed to effecting this revision. In a few instances, rules are made gender neutral.

Rule 400. Service. Acceptance of Service.

Rule 400 which formerly governed the person who may make service has been rescinded. New Rule 400 govern-

ing service and acceptance of service provides an overview of service and is substituted in place of the former rule.

Subdivision (a) of new Rule 400 governs service within the Commonwealth and cross-refers to new Rule 400.1 governing the person who may make service and Rules 402 through 402.2 governing the manner of service. Subdivisions (b), (c) and (d) of new Rule 400 cross-refer, respectively, to service outside the Commonwealth under Rule 404, service pursuant to special order of court under Rule 430, and the return of service under Rule 405.

Alternatively, a defendant may accept service of original process and subdivision (e) so provides. The form of the acceptance of service is found in new Rule 450 at the end of the service chapter.

Rule 400.1. Person to Make Service. Within the Commonwealth Generally. Within the First Judicial District.

Rule 400.1, which formerly governed the person who may make service within the first Judicial District, has been rescinded. New Rule 400.1 is substituted in place of the former rule and provides for the person who may make service not only in the First Judicial District but in the remainder of the Commonwealth as well.

Subdivision (a)(1) of the new rule provides for service by the sheriff or a competent adult. The manner in which these persons make service is provided by Rules 402 through 402.2. Previously, the alternative of service by a competent adult was limited to Philadelphia County under former Rule 400.1.

Subdivision (a)(1), however, is qualified by subdivision (b)(1) which allows a local court of common pleas to "opt out" of service by a competent adult under subdivision (a)(1) and to restrict service of process to service by the sheriff only. The rule provides no guidelines but leaves the decision to the discretion of each judicial district. Assuming that some courts will exercise this option, it will be necessary for attorneys who commence actions requiring out-of-county service to learn if the particular county requires service by the sheriff only and to have service effected accordingly. Under subdivision (c), an attorney must look to the county where service is to be made to determine whether service must be made by the sheriff alone or may be made by either the sheriff or a competent adult.

Subdivisions (a)(2) and (b)(2) are applicable only to the First Judicial District, Philadelphia County. The Supreme Court of Pennsylvania on July 2, 1998 extended service by competent adult under former Rule 400.1 to all courts of the First Judicial District (Philadelphia County) and subdivision (a)(1) continues this policy. Subdivision (b)(2) prohibits the courts of the First Judicial District from promulgating a local rule "opting out" of service by competent adult and restricting service to the sheriff under subdivision (b)(1).

Rule 402. Service upon Individuals. Adults. Minors. Incapacitated Persons

Rule 402(a) continues to state the basic procedures for personal service upon adult individuals by the traditional method of handing a copy to specified persons.

Prior to amendment, subdivision (a)(2)(ii) provided for service upon "the clerk or manager of the . . . place of lodging at which the defendant resides". In place of the "clerk or manager", service is made under the revised rule upon the "manager or other person authorized to accept deliveries of United States mail."

As previously noted, former subdivision (b) of Rule 402 governing acceptance of service is moved to Rule 400 as

subdivision (e) and the form of the acceptance to new Rule 450. New Rule 402(b) is derived from Rules 420 and 421, combining service upon minors and incapacitated persons in one subdivision. These revisions merely change the location of the provisions.

Rule 402, therefore, governs service upon all individual defendants: adults, minors and incapacitated persons.

Rule 402.1. Service upon the Commonwealth and Political Subdivisions

New Rule 402.1 governs service upon the Commonwealth and political subdivisions and is derived from former Rule 422.

Subdivision (a) of the new rule is based upon subdivision (a) of former Rule 422. It is limited, however, to the Commonwealth or an officer of the Commonwealth as a defendant. Service of original process upon a particular "department, board, commission or instrumentality of the Commonwealth, or a member thereof" is governed by subdivision (b) which requires service at the office of the particular Commonwealth entity being sued and at the office of the Attorney General.

Subdivision (c) governing service upon a political subdivision is divided into paragraphs (1) and (2). Paragraph (1) provides three alternatives for service by handing a copy of the process to three categories of persons. The first alternative for service under subdivision (c)(1)(i) is new: handing a copy to "the person in charge at the political subdivision's office of the solicitor or legal department." The office mentioned is an office maintained by the political subdivision as the office of its solicitor or legal department and not the private office of an attorney retained to perform legal duties. The remaining two categories of persons upon whom service may be made are "the person in charge at the office of the political subdivision" under new subdivision (c)(1)(ii) and "an agent duly authorized by the political subdivision to receive service of process" under new subdivision (c)(1)(iii). These provisions are derived from former Rule 422(b)(2) and (1) respectively. Subdivision (c)(2) is derived from former Rule 422(b)(3) and provides for service by handing a copy of process "to the mayor, or the president, chairman, secretary or clerk of the governing body in the manner prescribed by Rule 402(a)." Subdivision (c)(2) contains two revisions to the prior practice. First, the phrase "of the governing body" replaces the language of former Rule 422(b)(3): "of the tax levying body thereof, and in counties where there is no tax levying body, the chairman or clerk of the board of county commissioners." Second, the new rule contains the phrase "in the manner prescribed by Rule 402(a)." Whereas service under subdivision (c)(1) is limited to handing a copy of process to the persons specified, the manner of service under subdivision (c)(2) is not so limited but encompasses both handing a copy to the specified persons under Rule 402(a)(1) and substituted service under Rule 402(a)(2).

Rule 402.2. Service Upon Partnerships, Unincorporated Associations, and Corporations and Similar Entities

New Rule 402.2 combines present Rules 423 governing service on partnerships and unincorporated associations and Rule 424 governing service on corporations and similar entities. One service rule governs all three of these types of "associations." The new rule uses the term "association" and defines it to include all of the entities mentioned. With one exception, the manner of service remains unchanged.

The one change in practice is in the area of corporations and similar entities. Formerly, service upon a

corporation might be made under Rule 424(a)(1) by handing a copy of the process to "an executive officer, partner or trustee of the corporation or similar entity." However, these persons could not be served by means of substituted service under Rule 402(a)(2) by handing a copy of the process, for instance, to a member of the household or the manager of the place of lodging. Under new Rule 402.2(b), service may be made pursuant to any of the provisions of Rule 402(a), i.e., by personal or substituted service, irrespective of whether the party to be served is a partnership, an unincorporated association or a corporation or similar entity. Rule 402.2 describes the manner of service upon an association by handing a copy to specified persons. It is incorporated by reference into Rule 400(a) governing service within the Commonwealth and Rule 404(1) governing service outside the Commonwealth. However, Rule 402.2 is not a limitation upon service outside the Commonwealth. Rules 400(b) and 404 provide for service outside the Commonwealth without restriction upon the type of defendant as an individual or an association and Rule 404 specifies five alternative methods of service, including service by mail.

Rule 402.3. Service Upon Additional Defendants

New Rule 402.3 is derived from former Rule 425. The language of the new rule has been made gender neutral.

Rule 403. Service by Mail

Present Rule 403 governing service by mail is revised in two respects. First, subdivision (a) explicitly states what was previously implied, that the mail to be used is United States mail. Second, subdivision (a) formerly provided that service was complete upon delivery of the mail. The revised subdivision provides that service is complete "upon the defendant or the defendant's authorized agent signing the required receipt."

Rule 405. Return of Service

Rule 405 is revised by the addition of a note to subdivision (b) calling attention to new Rule 451 providing forms of return of service when service is made by a person other than the sheriff. Not all instances of service are provided as there are three forms relating to service upon adult individuals, service upon associations and service by mail. New Rule 451(a) advises that appropriate adjustments should be made when service is made upon a defendant or by a method not covered by the forms.

Rule 410. Real Property Actions

Subdivision (b)(1) is revised to accommodate service by competent adult by referring to the sheriff "or other person making service."

Conforming Amendments

Several rules cross-refer to service in the manner prescribed by prior Rule 402(a), thus incorporating its provisions for service. The cross-reference is broadened where applicable to include Rule 402 in its entirety and new Rules 402.1 and 402.2.

*By the Civil Procedural
Rules Committee*

EDWIN L. KLETT,
Chairperson

[Pa.B. Doc. No. 99-999. Filed for public inspection June 25, 1999, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CHS. 100 AND 300]

Order Amending Pa.R.C.P.D.J. No. 317 and Adopting Pa.R.C.P.D.J. No. 113; No. 208 Judicial Administration Doc. No. 1

Order

Per Curiam:

Now, this 3rd day of May, 1999, the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before District Justices are amended as follows:

1. Rule 317 governing the Subpoena of Witnesses is amended to read as follows.
2. Rule 113 Governing Facsimile Signatures is adopted and reads as follows.

This Order shall be effective immediately, and shall be processed in accordance with the Rule of Judicial Administration 103(b).

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

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

Rule 113. Use of Facsimile Signature.

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

Explanatory Comment—1999

This rule has been adopted in recognition that facsimile signatures have been used successfully for routine clerical functions in both federal and state court offices including, but not limited to, the offices of the prothonotary, clerk of courts, and register of wills. Facsimile signatures will serve much the same purpose as signature stamps or signatures of clerks currently being used for matters similar to those encompassed by this rule. See 42 Pa.C.S. § 1303 (provides for the use of a signature stamp for traffic court judges). See also *Commonwealth v. Charles D. Emmanuel, Jr.*, 462 A.2d 653 (Pa. 1983) (use of a rubber stamp facsimile of the district attorney's signature on bills of information held to satisfy the signature requirement of Pa.Crim.P. 225(b)).

Adopted May 3, 1999, effective immediately.

CHAPTER 300. CIVIL ACTION

Rule 317. Subpoena of Witnesses.

A district justice may issue subpoenas throughout the Commonwealth to require the attendance of witnesses in any case of action triable before [him] the district justice. The subpoena may also require the person

to produce at the time of hearing documents or things that are under the possession, custody or control of that person.

Explanatory Comment—1999

The district justice retains the discretion to limit the production of documents or things to that which is relevant to the cause of action before the district justice.

Amended June 30, 1982, effective 30 days after July 17, 1982. Amended May 3, 1999, effective immediately.

(See Explanatory Comment—1969 following Rule 301)

[Pa.B. Doc. No. 99-1000. Filed for public inspection June 25, 1999, 9:00 a.m.]

Title 25—LOCAL COURT RULES

DAUPHIN COUNTY

Promulgation of Local Rules; No. 1689 S 1989

Order

And Now, this 3rd day of June, 1999, it is hereby ordered that D.C.L.R.C.P. 1910.4 shall be adopted as follows:

Rule 1910.4. Fees.

Fees for service rendered by the Dauphin County Domestic Relations Section shall be set in accordance with a Fee Schedule established by the Section and approved by the Court. Copies of the Fee Schedule shall be available at the Section Office.

This amendment shall be effective September 1, 1999.

By the Court

CLARENCE C. MORRISON,
President Judge

[Pa.B. Doc. No. 99-1001. Filed for public inspection June 25, 1999, 9:00 a.m.]

DAUPHIN COUNTY

Promulgation of Local Rules; No. 1793 S 1989

Order

And Now, this 7th day of June, 1999, the Dauphin County Local Rules of Civil Procedure on arbitration are amended as follows:

Rule 1303. Listing of a Case. Notice. Location. Continuances.

(a)(1) A party or attorney to an arbitration case [, or his attorney,] shall file a Praecipe for Arbitration in the Prothonotary's Office at least six weeks prior to the date scheduled for the beginning of an arbitration week and shall concurrently serve a copy of the Praecipe on all other parties or attorneys. The praecipe shall contain the following statement:

This matter will be heard by a board of arbitrators at the time, date, and place specified by the Chair of the panel but, if one or more of the parties is not present at the hearing, the matter

may be heard at the same time and date before a Judge of the Court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a Judge.

A hearing under the provision of this notice shall be heard by the Arbitration Judge if his/her schedule so permits.

(2) [Prior] At least 30 days prior to filing [the] a praecipe to list for arbitration, [that] a party or [his] attorney must notify all other parties or [their] attorneys of the intention to list.

(3) All hearings shall be in the Dauphin County Court-house unless otherwise agreed to in writing by the parties or [their] attorneys and the Court Administrator.

These amendments shall be effective as to arbitrations held after August 1, 1999.

By the Court

CLARENCE C. MORRISON,
President Judge

[Pa.B. Doc. No. 99-1002. Filed for public inspection June 25, 1999, 9:00 a.m.]

DAUPHIN COUNTY

Promulgation of Local Rules; No. 1793 S 1989

Order

And Now, this 14th day of June, 1999, the Dauphin County Local Rules of Civil Procedure are amended as follows:

Rule 1915.15. Form of Complaint.

In addition to the information required by Pa.R.C.P. 1915(a) each complaint or Motion for Hearing relating to child custody or visitation shall contain a second cover sheet substantially in the following format:

PLAINTIFF : IN THE COURT OF COMMON PLEAS
: DAUPHIN COUNTY, PENNSYLVANIA
: CIVIL ACTION
: CUSTODY/VISITATION
: NO.
DEFENDANT : NO.

ORDER OF COURT

AND NOW, upon consideration of the attached Complaint, it is hereby directed that the parties and their respective counsel appear before the Custody Conference Officer on the ___ day of _____, __, at _____ m., at _____, [at] for a Pre-Hearing Custody Conference. At such Conference, an effort will be made to resolve the issues to be heard by the Court[,] and to enter into a Temporary Order. [All children age five or older shall also be present at the Conference.] Children need not be present at the Conference unless their presence is requested by the Custody Conference Officer. Failure to appear at the Conference may provide grounds for entry of a temporary or permanent Order.

FOR THE COURT:

Dauphin County Lawyer Referral Service
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

Date _____ By _____

Custody Conference Officer

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

These amendments shall be effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

CLARENCE C. MORRISON,
President Judge

[Pa.B. Doc. No. 99-1003. Filed for public inspection June 25, 1999, 9:00 a.m.]

RULES AND REGULATIONS

Title 4—ADMINISTRATION

PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY

[4 PA. CODE CH. 116]

Radiation Emergency Response Fund

A. *Statutory Authority*

The Pennsylvania Emergency Management Agency (PEMA), under the authority contained in 35 Pa.C.S. § 7313 (relating to powers and duties) amends Chapter 116 (relating to Radiation Emergency Response Fund) to read as set forth in Annex A. These amendments were previously published as proposed rulemaking at 28 Pa.B. 2817 (June 20, 1998).

B. *Effective Date*

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

C. *Background and Purpose*

The amendments are intended to streamline and improve the ability of PEMA to administer and operate the Radiation Emergency Response Fund (RERF) and to carry out the many goals and objectives of the Radiation Emergency Response Program which was established to protect the health and welfare of all Commonwealth residents living within the vicinity of Pennsylvania's five nuclear power plants. These amendments are needed to change the current funding process by which State agencies, counties, municipalities, school districts and volunteer organizations receive annual funding amounts from the RERF as set forth in Chapter 116. Under the present funding process, these entities receive two equal payments during the funding year to purchase radiological protection equipment, conduct emergency responder training and public information activities, and participate in radiation emergency response exercises and drills. The second payment is contingent upon PEMA's receipt of an interim performance report which the counties submit to PEMA by January 15 of a funding year.

PEMA has determined that the submission of the interim performance report is an unnecessary and burdensome requirement on the counties which should be eliminated. PEMA has also determined that it is more cost effective and practical to make one grant payment to each county on an annual basis rather than the current two payment process. This will allow the counties and their subgrantees to spend their grant moneys in a more timely and effective manner. These amendments will also remove the Pennsylvania Emergency Management Council (Council) from its supervisory role in the grant program and replace it with PEMA which has been the actual program administrator and implementing agency for this grant program since its inception in 1985.

These amendments will also delete the section of the regulations dealing with the reimbursement of certain retroactive expenses of the counties and other eligible parties because PEMA has completed the payment of those retroactive expenses to all eligible counties and other eligible applicants. Therefore, this section of the regulations no longer serves any purpose and will be deleted because it is no longer needed.

D. *Comments*

Written comments, suggestions and objections were solicited within a 30-day period after the proposed amendments were published. No public comments were received.

The Independent Regulatory Review Commission (IRRC) recommended that because the term "eligible" was not defined in the regulations that § 116.4 (relating to allocation of funds) include a reference to § 116.5 (relating to program requirements and eligible expenditures) to provide any reader with information concerning eligibility for the grant program. IRRC also recommended that § 116.6 (relating to application and review procedures for funding) include a sentence that PEMA will provide the requisite grant application forms to all eligible grant applicants. PEMA agrees with these two comments and has made the necessary changes to the regulations to incorporate the comments. IRRC had no other comments on these amendments.

E. *Fiscal Impact/Affected Persons*

These amendments will have a favorable impact on all State agencies, counties, municipalities, school districts and volunteer organizations that apply for grants from the RERF because it will allow them to receive their grant moneys in one payment instead of two, will eliminate an unnecessary interim performance report, and will allow the grant recipients to receive their grant moneys in a more timely manner.

F. *Paperwork Requirements*

The amendments will reduce the amount of paperwork that State agencies, counties, municipalities, school districts and volunteer organizations shall submit during the funding year as part of PEMA's administration of the RERF.

G. *Sunset Requirement*

PEMA has not set a sunset date for these amendments because the RERF operates on a continuing basis. PEMA continues to monitor the operation of the RERF and will propose improvements such as these amendments when required.

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 8, 1998, a copy of the notice of proposed rulemaking, published at 28 Pa.B. 2817 was submitted to IRRC and the Chairpersons of the Senate State Government Committee and the House Veterans Affairs and Emergency Preparedness Committee for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the agency also provided IRRC and the Committees with copies of all comments received, as well as other documentation.

In preparing these final-form regulations, PEMA has considered all comments received from IRRC, the Committees and the public.

These final-form regulations were deemed approved by the House and Senate Committees on February 16, 1999. IRRC met on February 18, 1999, and approved the amendments in accordance with section 5(c) of the Regulatory Review Act.

I. Contact Person

Questions regarding these amendments may be directed to Mark Goodwin, Chief Counsel, Pennsylvania Emergency Management Agency, P. O. Box 3321, Harrisburg, PA 17108.

J. Findings

PEMA finds that:

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

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

(3) These amendments are necessary and appropriate for the administration and enforcement of the Radiation Protection Act (35 P. S. §§ 7110.101—7110.703) and 35 Pa.C.S. §§ 7101—7707 (relating to Emergency Management Services Code).

K. Order

PEMA, acting under the Radiation Protection Act and the Emergency Management Services Code, orders that:

(a) The regulations of PEMA, 4 Pa. Code Chapter 116, are amended by amending §§ 116.1, 116.4—116.7, 116.9, 116.10 and by deleting § 116.8 to read as set forth in Annex A.

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

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

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

(*Editor's Note:* The proposed amendments to § 116.2, included at 28 Pa.B. 2817 (June 20, 1998) has been withdrawn by PEMA.)

ROBERT E. CHURCHMAN,
Acting Director

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 29 Pa.B. 1278 (March 6, 1999).)

Fiscal Note: Fiscal Note 30-49 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 4. ADMINISTRATION

PART V. EMERGENCY MANAGEMENT AGENCY

CHAPTER 116. RADIATION EMERGENCY RESPONSE FUND

§ 116.1. Definitions.

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

Act—The Radiation Protection Act (35 P. S. §§ 7110.101—7110.703).

Agency—The Pennsylvania Emergency Management Agency.

County—An all inclusive term in that it also refers to all risk and support counties located in this Common-

wealth together with all risk municipalities, school districts and volunteer organizations located within those risk and support counties. All of the functions, duties, responsibilities and requirements of this chapter—except for the reporting requirements of § 116.7 (relating to reporting requirements and disbursement funds)—that apply to a risk or support county also apply in like manner to that county's risk municipalities, school districts and volunteer organizations.

EPZ—Emergency Planning Zone—A designated area surrounding a nuclear facility to facilitate offsite emergency planning and develop a significant response base.

FEMA—Federal Emergency Management Agency.

NRC—Nuclear Regulatory Commission.

Person—An individual, corporation, firm, association, public utility, trust, estate, public or private institution, group, agency, political subdivision of this Commonwealth, another state or political subdivision or agency thereof and a legal successor, representative, agent or agency of the foregoing, other than the NRC or a successor thereto.

RERF—Radiation Emergency Response Fund—A restricted account created in the General Fund of the Commonwealth for the deposit of fees received from the nuclear industry under sections 402(c)(1)—(3) of the act (35 P. S. § 7110.402(c)(1)—(3)).

Radiation Emergency Response Program—The development of a detailed fixed nuclear emergency response plan for areas surrounding each nuclear electrical generation facility, nuclear fabrication and away-from-reactor storage facility located in this Commonwealth, the training and equipping of State and local emergency response personnel, the periodic exercise of the accident scenarios designated in the NRC emergency response plan applicable to each fixed nuclear facility, the procurement of specialized supplies and equipment, and the provisions for providing financial assistance to counties, risk municipalities, school districts, volunteer organizations and State agencies to carry out the purposes of this program.

Risk county—A county partially or wholly within the plume exposure pathway EPZ of a fixed nuclear facility.

Risk municipality—A municipality partially or wholly within the plume exposure pathway EPZ of a fixed nuclear facility.

School district—A school district located within either a risk county or a support county.

State agency—A department or agency of the Commonwealth government other than the Agency that has a health, safety or emergency response function assigned to it by statute or by the Commonwealth's Radiation Emergency Response Program.

Support county—The county outside the plume exposure pathway EPZ of a fixed nuclear facility that, through prior agreement, will provide support to a risk county in the event of an incident. Depending on size and location, the same county may be both a risk and support county.

Volunteer organization—An emergency services organization that has an emergency response mission assigned to it by either its articles of incorporation or by the county Radiation Emergency Response Plan in the county where the volunteer organization is located.

Work plan—A written narrative explaining how the recipient will use funds received under the Radiation Emergency Response Program. It shall comply with the

guidelines in the Agency's program requirements and will become part of a grant agreement.

§ 116.4. Allocation of funds.

Allocation of funds from annual fees.

(1) On or before August 1 of each funding year, the Agency will obtain a fiscal year-end balance report concerning the total amount of the RERF. The total amount of the RERF as stated in that report shall represent the disbursement ceiling for the amount of funds that may be available for distribution to all eligible applicants, excluding the Agency, during the current funding year of July 1 to June 30. The eligibility of an applicant, whether a county or State agency, is determined by the requirements in § 116.5 (relating to program requirements and eligible expenditures).

(2) Each year, the total amount of RERF as established in paragraph (1) will be disbursed and expended in accordance with the following schedule:

(i) Ten percent to the Agency for the purposes of administering the RERF and for training and other needs related to carrying out the goals and objectives of the Radiation Emergency Response Program.

(ii) Five percent to eligible State agencies that directly participate in the development or implementation of the Agency's Radiation Emergency Response Program.

(iii) The total remaining amount of the RERF will be disbursed to the eligible risk and support counties.

(3) An eligible risk and support county will receive its approved funding allocation in one advance payment during the funding year.

(4) An eligible State agency will receive its approved funding allocation in one advance payment during a funding year.

(5) Funds not disbursed or obligated by an eligible applicant in the fiscal year in which they were allocated shall revert to the RERF. These revertible funds will then be applied to those allocations approved for eligible applicants for the subsequent funding year.

§ 116.5. Program requirements and eligible expenditures.

(a) *Program requirements.*

(1) To maintain eligibility for funding, each county, risk municipality, school district, volunteer organization and State agency shall meet the requirements of the Agency's Radiation Emergency Response Program.

(2) The requirements of the Radiation Emergency Response Program include the following:

(i) The participation of each county and State agency in required radiation emergency response exercises and drills, including remedial exercises and drills.

(ii) The development and maintenance of a county or State agency radiological emergency response plan for each appropriate emergency planning zone.

(iii) The development of a primary and secondary communications system between each county and its municipalities, school districts and volunteer organizations.

(iv) The development of a communications system between each county's emergency operations center and its reception and mass care centers.

(v) The development and maintenance of a current list of handicapped persons requiring special assistance. This

special assistance is to include life-saving or life support equipment and special transportation.

(vi) The development of a program to recruit and train volunteers such as bus drivers, emergency operations center staffs and decontamination teams needed to maintain the response capability of each county's radiation emergency response plan.

(3) Detailed requirements for compliance with paragraph (2) may be provided through directives or instructions on the application forms used to administer the Radiation Emergency Response Program.

(b) *Eligible expenditures.*

(1) County and State agency expenditures shall contribute to the development of a radiation emergency response capability in conformity with the standards and criteria established by the NRC, FEMA and Annex E to the Commonwealth of Pennsylvania's Emergency Operations Plan (EOP).

(2) The following list of activities are appropriate uses of grant funds by risk counties. If a grant applicant wishes to use grant funds for a purpose other than those listed in subparagraphs (i)—(ix), the applicant shall secure the Agency's prior written approval for the use or activity.

(i) Develop, revise, upgrade and test the radiological emergency response plans of the county, its municipalities, hospitals, nursing homes, prisons and schools located within the EPZ.

(ii) Participate in drills and exercises, including remedial drills and exercises, scheduled by the Agency or by the Federal government.

(iii) Conduct a countywide public information and education program concerning the health aspects, hazards and effect of radioactive releases that may be associated with a fixed nuclear facility incident, proper response action for an individual's protection and preparations that have been made for the protection of the public.

(iv) Procure essential equipment, such as communications equipment for two-way communications between each county and its municipalities for traffic control, miscellaneous supplies such as bullhorns, batons, traffic barriers, generators, citizens band radios for route alerting, and other appropriate supplies needed for the direction and control of operations.

(v) Conduct a countywide program to identify and maintain a list of nonambulatory, deaf or otherwise handicapped persons who may need some form of special assistance, including lifesaving or life support equipment or special transportation in the event of a radiation emergency.

(vi) Conduct a program that recruits and trains volunteers for emergency functions such as the replacement of bus drivers. Normally bus drivers will be provided with the buses, however, volunteer drivers should also be included in contingency plans—county and municipal emergency operations center staff and decontamination monitoring teams.

(vii) Pay the personnel costs directly involved in the development or implementation of the Radiation Emergency Response Program. Detailed justification of personnel costs shall be included in the application work plan.

(viii) Procure construction or remodeling supplies for an emergency operations center or purchase equipment for an emergency operations center.

(ix) Provide maintenance services for equipment purchased for radiation emergency response functions.

(3) The following list of activities are appropriate uses of grant funds by support counties. If a grant applicant wishes to use grant funds for a purpose other than those listed in this paragraph, the applicant shall secure the Agency's prior written approval for the use or activity.

(i) Develop, revise, upgrade and test the radiological emergency response plans of the county.

(ii) Participate in drills and exercises, including remedial drills and exercises, scheduled by the Agency or by the Federal government.

(iii) Conduct a countywide public information and education program concerning the county's support role in a radiological emergency and the public safety measures to be implemented as part of its support mission.

(iv) Procure essential equipment such as two-way radios for communications between the county, its reception centers and its mass care centers, equipment needed for traffic control such as bullhorns, batons, traffic barriers, generators, citizens band radios and other equipment or supplies needed for the direction and control of support operations.

(v) Conduct a program that recruits and trains volunteers for the county emergency operations center staff and for decontamination monitoring teams.

(vi) Pay the personnel costs directly involved in the development or implementation of the Radiation Emergency Response Program. Detailed justification of personnel costs shall be included in the application work plan.

(vii) Procure construction or remodeling supplies for an emergency operations center or purchase equipment for an emergency operations center.

(viii) Provide maintenance services for all equipment purchased for radiation emergency response functions.

(4) The following list of activities are appropriate uses of grant funds by State agencies. If a grant applicant wishes to use grant funds for a purpose other than those listed in this paragraph, the applicant shall secure the Agency's prior written approval for the use or activity.

(i) Develop, revise, upgrade and test the radiological emergency response plan of the State agency.

(ii) Participate in drills and exercises, including remedial drills and exercises, scheduled by the Agency or by the Federal government.

(iii) Conduct training programs related to the State agency's assigned functions and missions under the Radiation Emergency Response Program.

(iv) Procure essential protective supplies and equipment and communications equipment. The State agency will dedicate this equipment to the use of the Radiation Emergency Response Program.

(v) Pay the personnel costs directly involved in the development or implementation of the Radiation Emergency Response Program. Detailed justification of personnel costs shall be included in the application work plan.

(vi) Provide maintenance services for equipment purchased for radiation emergency response functions.

§ 116.6. Application and review procedures for funding.

(a) The application procedures in this section apply to risk and support counties, risk municipalities, school

districts, volunteer organizations and State agencies that seek funding from the RERF. The Agency will provide each applicant with the requisite application form.

(b) Applicants, except State agencies, shall submit their funding requests to the appropriate county emergency management agency. The county emergency management agency shall review the request in terms of its compliance with and advancement of the county's emergency preparedness plan. Upon approval by the county emergency management agency, the individual funding requests of a risk municipality, school district or volunteer organization shall be incorporated into the county's application for funding from the RERF. State agencies shall submit their funding requests directly to the Agency. The request shall be submitted under the signature of the State agency's secretary/director or designee.

(c) To be eligible for funding, a county or State agency shall submit its funding application to the Agency by June 1 preceding each applicable funding year—July 1 to June 30.

(d) A county funding application shall also include the individual funding requests of a risk municipality, school district or volunteer organization submitted to the county for review, whether or not those requests were incorporated into the county's funding budget.

(e) Upon receipt of a funding application, the Agency will review the application for accuracy and completeness. The Agency will apply the following standards to its application review process:

(1) The work plan will be evaluated on its feasibility and adequacy to support both the county's comprehensive radiation emergency response plan and the Agency's Radiation Emergency Response Program.

(2) The work plan will be evaluated on its ability to advance radiation emergency coordination efforts within the county and with other counties, volunteer organizations and State agencies.

(3) The work plan will be reviewed to determine its compliance with the eligible expenditures and priorities established in § 116.5 (relating to program requirements and eligible expenditures).

(4) The budget will be reviewed to determine the cost-effectiveness of the planned expenditures, taking into account the applicants' specific needs.

(f) During the review of the work plan and budget, the Agency may involve the county, its risk municipalities, school districts, volunteer organizations or a State agency in negotiations and revisions of part of the work plan or budget, or both, so that the goals and objectives established for the applicant's participation in the Radiation Emergency Response Program can be met. It shall be the obligation of the county to participate in negotiations and revisions concerning its work plan and budget. The county shall attempt to resolve disputes that arise between the county and its risk municipalities, school districts or volunteer organizations concerning the inclusion of their individual funding requests in the county's application. Disputes that cannot be resolved at the county level through negotiations will be resolved by the Agency during its review of the county's funding application.

(g) Upon completion of the Agency's application review process, the Agency will approve those work plans and budgets that are determined to be eligible for funding. The Agency will then approve a recommended funding allocation for an eligible applicant.

(h) After the Agency's approval of a funding allocation, the Agency will forward the payment of the allocation to an eligible applicant. This payment will be dependent upon the availability of funds being present in the RERF at the time of their intended disbursement.

§ 116.7. Reporting requirements and disbursement of funds.

(a) *Required report.* During a funding year, a final performance report shall be submitted by a county and a State agency. The requirements for this final performance report are listed as follows:

(1) A county and State agency that has received a funding allocation shall submit a final performance report to the Agency by July 30 following the funding year. The report shall cover the period from July 1 through June 30.

(2) The final performance report shall contain the following information:

(i) A complete description of the work plan goals and objectives accomplished during the reporting period.

(ii) A description of those goals and objectives not accomplished during the reporting period, together with a statement of the reasons that led to this result.

(iii) A list of recommendations or suggestions for improving or expanding the effectiveness of the county or State agency Radiation Emergency Response Program, as based upon the lessons learned during the reporting period.

(iv) A list of expenditures made during the reporting period, together with a brief explanation of those expenditures.

(v) A copy of receipts or other financial documentation that verifies the payment of expenditures made during the reporting period.

(3) The Agency will review the final performance report for accuracy and completeness. The Agency will then make a determination, based upon the report, that the county or State agency has or has not satisfactorily performed the goals and objectives of its work plan. A county or State agency will be notified of this determination in writing. The notification will state reasons for disapproving the report and will provide suggested corrective actions to be taken by counties or State agencies determined to be in unsatisfactory performance of their goals and objectives.

(4) A county or State agency that has not satisfactorily performed its work plan will be required to return the funds provided under its grant agreement.

(b) *Eligibility for future funding allocations.*

(1) The Agency will review the final performance report of each county and State agency to verify satisfactory participation in the further development, improvement and implementation of the Agency's Radiation Emergency Response Program.

(2) A county or State agency that satisfactorily met this performance standard will be eligible to submit a funding application for the subsequent funding year.

(3) A county or State agency that has not satisfactorily met this performance standard may have its eligibility to submit a funding application for the subsequent funding year withheld by the Agency.

§ 116.8. (Reserved)

§ 116.9. Retention of records for audit.

(a) Records and supporting documents—that is, receipts, invoices, vouchers, and the like—related to grant funds shall be retained for 3 years. The retention period starts at the end of the funding year—June 30—in which the funding allocation was made.

(b) A county and State agency shall make the records described in subsection (a) available for audit by Commonwealth and Agency officials within 10 days after receiving a written request that those records be made available for audit. The audit request may be made at any time during the 3 year record retention period.

§ 116.10. Agency report.

On September 1 of each year, the Agency will submit a report on its operation of the RERF for the preceding funding year to the Governor, the General Assembly and the Pennsylvania Emergency Management Council. The report will include a summary of the activities of the Radiation Emergency Response Program as provided for in Chapter 5 of the act (35 P. S. §§ 7110.501—7110.503). The report will also include a proposed operating budget, a financial statement, a list of applications received and the disbursements or reimbursements made to the eligible counties, risk municipalities, school districts, volunteer organizations and State agencies. An analysis of the adequacy of the fees established under section 402(c) of the act (35 P. S. § 7110.402(c)) will also be included in the report. The proposed funding formula for each subsequent funding year will be included in either an annual or a special report to the Governor, the General Assembly and the Pennsylvania Emergency Management Council.

[Pa.B. Doc. No. 99-1004. Filed for public inspection June 25, 1999, 9:00 a.m.]

**PENNSYLVANIA EMERGENCY
MANAGEMENT AGENCY**

[4 PA. CODE CH. 117]

Radiation Transportation Emergency Response Fund

A. Statutory Authority

The Pennsylvania Emergency Management Agency (PEMA), under the authority contained in 35 Pa.C.S. § 7313 (relating to powers and duties) amends Chapter 117 (relating to Radiation Transportation Emergency Response Fund) to read as set forth in Annex A. These amendments were previously published as proposed rulemaking at 28 Pa.B. 2822 (June 20, 1998).

B. Effective Date

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

C. Background and Purpose

The amendments are intended to streamline and improve the ability of PEMA to administer and operate the Radiation Transportation Emergency Response Fund (RTERF) and to carry out the many goals and objectives of the Radiation Transportation Emergency Response Program which was established to protect the health and welfare of all Commonwealth residents living within the vicinity of a Pennsylvania highway used for the shipment of spent nuclear fuel. PEMA has found that the role of the

Pennsylvania Emergency Management Council (Council) in approving the RTERF grant applications has become an increasingly proforma or perfunctory administrative exercise over the past several years. During that time, the Council has always, without debate, accepted and approved PEMA's recommendations concerning the amounts of the RTERF grants and the intended purposes for those grants. Due to scheduling problems, however, it has been difficult for the Council to meet in a timely manner to approve PEMA's grant recommendations. As a result, delays have occurred in the distribution of grant payments to the counties. This has hindered the counties' ability to perform certain functions under their Radiation Transportation Emergency Response Programs. For these reasons, the amendments remove the Council from its supervisory role in the grant program and replaces it with PEMA which has been the actual program administrator and implementing agency for this grant program since its inception in 1985.

D. Comments

Written comments, suggestions and objections were solicited within a 30-day period after the proposed amendments were published. No public comments were received.

The Independent Regulatory Review Commission (IRRC) recommended that because the term "eligible" was not defined in the regulations that § 117.4 (relating to allocation of funds) include a reference to § 117.5 (relating to eligible expenditures) to provide any reader with information concerning eligibility for the grant program. IRRC also recommended that § 117.6 (relating to application and review procedures for funding) include a sentence that PEMA will provide the requisite grant application forms to all eligible grant applicants. PEMA agrees with these two comments and has made the necessary changes to the regulations to incorporate these comments. IRRC had no other comments on these amendments.

E. Affected Persons

These amendments will have a favorable impact on all State agencies, counties, municipalities and volunteer organizations that apply for grants from the RTERF because it will allow them to receive their grant moneys in a more timely manner.

F. Paperwork Requirements

The amendments will not change the amount of paperwork that State agencies, counties, municipalities and volunteer organizations submit to PEMA to receive a grant from the RTERF.

G. Sunset Requirement

PEMA has not set a sunset date for these amendments because the RTERF operates on a continuing basis. PEMA continues to monitor the operation of the RTERF and will propose improvements such as these amendments when required.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 8, 1998, a copy of the notice of proposed rulemaking, published at 28 Pa.B. 2822 (June 20, 1998) was submitted to IRRC and the Chairpersons of the Senate State Government Committee and the House Veterans Affairs and Emergency Preparedness Committee for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the agency also provided IRRC and the Committees with copies of all comments received, as well as other documentation.

In preparing these final-form regulations, the agency has considered all comments received from IRRC, the Committees and the public.

These final-form regulations were deemed approved by the House and Senate Committees on February 16, 1999. IRRC met on February 18, 1999, and approved the amendments in accordance with section 5(c) of the Regulatory Review Act.

I. Contact Person

Questions regarding these amendments may be directed to Mark Goodwin, Chief Counsel, Pennsylvania Emergency Management Agency, P. O. Box 3321, Harrisburg, PA 17108.

J. Findings

PEMA finds that:

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

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

(3) These amendments are necessary and appropriate for the administration and enforcement of the Radiation Protection Act (35 P. S. §§ 7110.101—7110.703) and 35 Pa.C.S. §§ 7101—7707 (relating to Emergency Management Services Code).

K. Order

PEMA, acting under the Radiation Protection Act and the Emergency Management Services Code, orders that:

(a) The regulations of PEMA, 4 Pa. Code Chapter 117, are amended by amending §§ 117.1, 117.2, 117.4, 117.6, 117.8 and 117.9 and by deleting § 117.7 to read as set forth in Annex A.

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

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

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

ROBERT E. CHURCHMAN,
Acting Director

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 29 Pa.B. 1278 (March 6, 1999).)

Fiscal Note: Fiscal Note 30-50 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 4. ADMINISTRATION

PART V. EMERGENCY MANAGEMENT AGENCY

CHAPTER 117. RADIATION TRANSPORTATION EMERGENCY RESPONSE FUND

§ 117.1. Definitions.

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

Act—The Radiation Protection Act (35 P. S. §§ 7110.101—7110.703).

Agency—The Pennsylvania Emergency Management Agency.

Applicant—An all inclusive term that refers to all counties, municipalities, volunteer organizations and State agencies that are eligible to apply for funds from the RTERF.

County—A county that has within 5 miles of its jurisdictional borders an approved Nuclear Regulatory Commission/Commonwealth of Pennsylvania route for the shipment of spent nuclear fuel.

EOP—The Emergency Operation Plan of the Commonwealth.

Municipality—A city, town or borough that has within 5 miles of its jurisdictional borders an approved Nuclear Regulatory Commission/Commonwealth of Pennsylvania route for the shipment of spent nuclear fuel.

RTERF—Radiation Transportation Emergency Response Fund—A restricted account created in the General Fund of the Commonwealth for the deposit of fees received from the shipment of spent nuclear fuel to, within, through or across the boundaries of this Commonwealth.

State agency—A department or agency of the Commonwealth that has a health, safety or emergency response function or mission assigned to it by statute or by the EOP, Hazardous Materials Annex F.

Volunteer organization—An emergency services organization that has an emergency response mission assigned to it by either its articles of incorporation or by the EOP, Hazardous Materials Annex F.

§ 117.2. Purpose.

The purpose of this chapter is to accomplish the following:

- (1) Establish within the Agency a program for administering the RTERF under section 604(b) of the act (35 P. S. § 7110.604(b)).
- (2) Establish within the Agency a financial assistance program that will provide for the payment of costs incurred by an eligible applicant for the procurement of equipment and the training and employment of personnel as a result of direct participation in the development and implementation, or both, of the EOP, Hazardous Materials Annex F. Information about the EOP may be obtained from the Agency or the county emergency management office.

§ 117.4. Allocation of funds.

- (a) Because the number of spent nuclear fuel shipments and the resulting revenue fees generated from those shipments will vary from year to year, no predetermined annual fund amount can be established for the RTERF.
- (b) An application from an eligible county or State agency will be processed by the Agency on an individual basis in the order that the application is received during a funding year—July 1 to June 30. The eligibility of an applicant, whether a county or State agency, is determined by the requirements in § 117.5 (relating to eligible expenditures).
- (c) The allocation of funds to an eligible applicant will be determined as the result of the application review process described in § 117.6 (relating to application and

review procedures for funding) and by the availability of funds being present in the RTERF at the time of the intended disbursement.

- (d) The RTERF will not contain funds for discretionary use by an eligible applicant. Funding allocations will only be for the approved eligible expenditures.
- (e) Funds that remain in the RTERF at the termination of the funding year—June 30—will be automatically placed in the RTERF of the succeeding funding year. That sum will be applied to only those funding requests submitted during that succeeding funding year.

§ 117.6. Application and review procedures for funding.

- (a) The application procedures in this section apply to eligible applicants that seek funding from the RTERF. The Agency will provide each applicant with the requisite application form.
- (b) Applicants, except for State agencies, shall submit a funding application to the appropriate county emergency management agency. The county emergency management agency shall review the application in terms of its compliance with and advancement of the county's Radiation Emergency Response Plan. Upon approval by the county emergency management agency, the individual funding application of the eligible municipality or volunteer organization shall be incorporated into the county's application for funding from the RTERF. State agencies shall submit funding applications directly to the Agency. That application shall be submitted under the signature of the State agency's secretary/director or a designee.

(c) It is the obligation of the county to participate in negotiations and revisions concerning its funding application. In particular, the county shall attempt to resolve disputes that arise between the county and its municipalities and volunteer organization, or both, concerning the inclusion of individual funding requests into the county's application. Disputes that cannot be resolved at the county level through negotiations will be resolved by the Agency during its review of the county's funding application.

(d) Upon receipt of a funding application, the Agency will review the application for accuracy and completeness. The Agency will apply the following standards to its application review process:

- (1) The expenditure will be incurred during the applicable funding year—July 1 to June 30.
- (2) The expenditure was not previously recouped or reimbursed from other sources.
- (3) The expenditure will be required as a direct result of the applicant's participation in a radiation transportation emergency response program.
- (4) The expenditure will be required for the payment of education, management and training or for the purchase of protective supplies and equipment needed to respond to a potential accident involving the shipment of spent nuclear fuel.
- (5) The expenditure shall be verifiable.

- (e) Upon the completion of the application review process, the agency will approve a funding allocation for the eligible applicant.
- (f) After the Agency's approval of a funding allocation, the Agency will forward the payment to an eligible applicant.

§ 117.7. (Reserved)**§ 117.8. Retention of records for audit.**

(a) Records and supporting documents—that is, receipts, invoices, vouchers, and the like—related to grant funds shall be retained for 3 years. The retention period starts at the end of the funding year—June 30—in which the funding allocation was made.

(b) A county and State agency shall make the records described in subsection (a) available for audit by Commonwealth and Agency officials within 10 days after receiving a written request that those records be made available for audit. The audit request may be made at any time during the 3 year record retention period.

§ 117.9. Agency report.

On September 1 of a year, the Agency will submit a report on its operation of the RTERF for the preceding fiscal year to the Governor, the General Assembly and the Pennsylvania Emergency Management Council. The report will include a summary of the activities of the Radiation Transportation Emergency Response Program. The report will include a list of the applications received and the amounts allocated to eligible applicants. An analysis of the adequacy of the fee established for the shipment of spent nuclear fuel will also be included in the report.

[Pa.B. Doc. No. 99-1005. Filed for public inspection June 25, 1999, 9:00 a.m.]

Title 31—INSURANCE

INSURANCE DEPARTMENT

[31 PA. CODE CH. 84]

Tables Approved for Use in Determining Minimum Nonforfeiture Standards and Minimum Standards for Valuation

The Insurance Department (Department) hereby amends Chapter 84 (relating to tables approved for use in determining minimum nonforfeiture standards and minimum standards for valuation) to read as set forth at 28 Pa.B. 4794 (September 26, 1998).

The amendments to Chapter 84 adopt new mortality tables for use in determining the minimum reserves for annuities. These new minimum standards apply to annuities issued on or after June 26, 1999. The mortality tables are based on historical experience and have been developed by the Society of Actuaries. In December 1996, the National Association of Insurance Commissioners adopted the proposed mortality tables as part of its Model Rule (Regulation) For Recognizing A New Annuity Mortality Table For Use In Determining Reserve Liabilities For Annuities. The Department's adoption of the mortality tables will help to assure the solvency of insurance companies by requiring adequate reserves based on the most recent mortality tables.

Statutory Authority

The amendments are adopted under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412); section 301(c)(1) of The Insurance Department Act of 1921 (30 P. S. § 71(c)(1)); and section 410F(e)(8)(F) of The Insurance Company Law (40 P. S. § 510.1(e)(8)(F)).

Comments

Notice of proposed rulemaking was published at 28 Pa.B. 4794 with a 30-day public comment period.

No comments were received from the standing committees. The Insurance Federation of Pennsylvania, representing a substantial portion of the life insurance industry operating in this Commonwealth, has endorsed the revisions set forth in the proposed rulemaking. The Independent Regulatory Review Commission (IRRC) reviewed the amendments and had no objections, comments or suggestions to offer on these amendments. The amendments were deemed approved.

Persons Regulated

This final rulemaking applies to life insurance companies marketing annuity contracts in this Commonwealth.

*Fiscal Impact**State Government*

There will be no increase in cost to the Department due to the adoption of new annuity tables since the final rulemaking does not impose additional requirements on the insurance industry which the Department will monitor for compliance.

General Public

It is unlikely that there will be any adverse fiscal impact on the consumers who purchase annuity contracts. The general public will be purchasing annuity contracts from more financially stable insurers.

Political Subdivisions

The final rulemaking will strengthen the solvency requirements of insurance companies issuing annuity contracts. Increasing insurance company solvency requirements has the potential to minimize insurance company insolvencies which could result in less erosion of the tax base since insurers pay premium taxes on premium income and pay salaries which are taxed.

Private Sector

The final rulemaking may have some fiscal impact on insurance companies marketing annuity contracts. Insurers will be required to expend the time necessary to determine if their current annuity reserve standards meet the new requirements. To the extent that the standards do not comply with the new requirements, an insurance company must increase the reserves for contracts issued on or after June 26, 1999.

Paperwork

The adoption of this final rulemaking will not impose additional paperwork on the Department and the insurance industry. The rulemaking provides for the use of additional mortality tables and does not impose additional requirements resulting in additional paperwork.

Contact Person

Questions regarding these amendments, should be directed to Peter J. Salvatore, Regulatory Coordinator, Office of Special Projects, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429, or e-mail psalvato@ins.state.pa.us.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 14, 1998, the Department submitted a copy of the notice of proposed rulemaking, published at 28 Pa.B. 4794 to IRRC and to the Chairpersons of the House Insurance Committee and the Senate

Banking and Insurance Committee. In addition to the submitted amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

In preparing these final-form regulations, the Department considered all comments received from IRRC, the Committees and the public. These final-form regulations were deemed approved by the House and Senate Committees on May 18, 1999. In accordance with section 5a(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), IRRC met on May 20, 1999, and the final-form regulations were deemed approved in accordance with section 5a(e) of the Regulatory Review Act.

Findings

The Commissioner finds that:

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

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

Order

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

(a) The regulations of the Department, 31 Pa. Code Chapter 84, are amended by amending §§ 84.2 and 84.3 and by deleting § 84.4 to read as set forth at 28 Pa.B. 4794.

(b) The Commissioner shall submit this order and 28 Pa.B. 4794 to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.

(c) The Commissioner shall certify this order and 28 Pa.B. 4794 and deposit them with the Legislative Reference Bureau as required by law.

(d) The amendments adopted by this order shall take effect upon final 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 29 Pa.B. 2933 (June 5, 1999).)

Fiscal Note: Fiscal Note 11-181 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 99-1006. Filed for public inspection June 25, 1999, 9:00 a.m.]

INSURANCE DEPARTMENT
[31 PA. CODE CH. 125]
Title Insurance Rebates

The Insurance Department (Department) amends Chapter 125 (relating to title insurance rebates) to read

as set forth at 28 Pa.B. 4796 (September 26, 1998) and in Annex A.

The rulemaking amends Chapter 125 to make it consistent with the act of December 21, 1995 (P. L. 714, No. 79) (Act 79). This chapter, originally adopted in 1968, identified and defined prohibited rebating and inducement activities associated with title insurance transactions.

Statutory Authority

This chapter is amended under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412); sections 701(4) and 731 of the act of May 17, 1921 (P. L. 682, No. 284) (40 P. S. §§ 910-1(4) and 910-31); and sections 635 and 636 of the act of May 17, 1921 (P. L. 789, No. 285) (40 P. S. §§ 275 and 276).

Comments

Notice of the proposed rulemaking was published at 28 Pa.B. 4796 with a 30-day public comment period.

No comments were received from the standing committees or the Independent Regulatory Review Commission (IRRC). Comments regarding the proposed amendments were received during the 30-day comment period from the Insurance Federation of Pennsylvania, Inc. (IFP). IFP endorsed the amendment as recommended.

The Department in preparing this final-form rulemaking noted that the reference in § 125.4 (relating to participation fees) to cash commissions should have been removed due to the previous deletion of § 125.1(b) (relating to prohibited rebates and inducements). An editorial change has been made to correct the oversight.

Fiscal Impact

There is no fiscal impact as a result of this final-form rulemaking.

Paperwork

This final-form rulemaking will affect all licensed title insurers, agents and approved attorneys in this Commonwealth.

Persons Regulated

This final-form rulemaking applies to all title insurance companies licensed by the Commissioner to transact business in this Commonwealth.

Contact Person

Any questions regarding this final-form rulemaking, should be directed to Peter J. Salvatore, Regulatory Coordinator, Office of Special Projects, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429, or e-mail psalvato@ins.state.pa.us.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 14, 1998, the Department submitted a copy of this final-form rulemaking to IRRC and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee. In addition to the submitted final-form rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

In preparing this final-form rulemaking, the Department considered all comments received from IRRC, the Committees and the public. This final-form rulemaking was deemed approved by the House and Senate Committees on May 18, 1999. In accordance with section 5a(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), IRRC met on May 20, 1999, and deemed approved the regulation in accordance with section 5a(e) of the Regulatory Review Act.

Findings

The Commissioner finds that:

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

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

Order

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

(a) The regulations of the Department, 31 Pa. Code Chapter 125, are amended by amending §§ 125.1 and 125.3 and by deleting §§ 125.5—125.9 to read as set forth at 28 Pa.B. 4796 and by amending § 125.4 to read as set forth in Annex A.

(b) The Commissioner shall submit this order, 28 Pa.B. 4796 and Annex A to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.

(c) The Commissioner shall certify this order, 28 Pa.B. 4796 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

M. DIANE KOKEN,
Insurance Commissioner

(Editor's Note: The amendment of § 125.4, amended in this document, was not included in the proposal at 29 Pa.B. 4796. For the text of the order of the Independent Regulatory Review Commission relating to this document, see 29 Pa.B. 2933 (June 6, 1999).)

Fiscal Note: Fiscal Note 11-175 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 31. INSURANCE

PART VIII. MISCELLANEOUS PROVISIONS

CHAPTER 125. TITLE INSURANCE REBATES

§ 125.4. Participation in fees.

Participation by a person in any of the fees charged by a title insurance company or agent thereof for title insurance, including, but not limited to, charges for special insurance, is an illegal rebate and inducement.

[Pa.B. Doc. No. 99-1007. Filed for public inspection June 25, 1999, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 51, 65 AND 111]

Order to Show Cause; Trout Run Reservoir, Berks County—Fishing; Duck Harbor Pond, Wayne County—Boating

The Fish and Boat Commission (Commission) by this order amends Chapters 51, 65 and 111 (relating to administrative provisions; special fishing regulations; and special regulations counties). The Commission is publishing these amendments under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The amendments deal with administration, fishing and boating.

A. Effective Date

The amendments will go into effect upon publication of an order adopting the amendments in the *Pennsylvania Bulletin*.

B. Contact Person

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

C. Statutory Authority

The amendments are published under the statutory authority of sections 928(c), 2102 and 5124 of the code (relating to revocation, suspension or denial of license; permit or registration; rules and regulations; and particular areas of water).

D. Purpose and Background

The amendments are designed to update, modify and improve the Commission's administrative, fishing and special boating regulations. The specific purpose of the amendments is described in more detail under the summary of changes. Prior to final consideration by the Commission of the amendment to § 111.64 (relating to Wayne County), the Commission's Boating Advisory Board reviewed the proposal and recommended adoption by the Commission.

E. Summary of Changes

(1) *Section 51.23 (relating to order to show cause).* The Commission's regulations provide that when the Executive Director, after seeking staff input, determines that revocation or suspension proceedings should go forward, he will cause the violator to be served with an order to show cause (why the violator's boating or fishing privileges should not be revoked or suspended). Current regulations provide that service of the order to show cause shall be by certified or registered mail. Many times, however, the violator fails or refuses to claim the certified mail that contains the order to show cause. After three unsuccessful attempts to deliver the certified letter, the post office returns it to the Commission. Staff then, under current practice, resend the letter by means of regular mail. The Commission has amended § 51.23 so that the regulations are consistent with the current practice.

(2) *Section 65.24 (relating to miscellaneous special regulations).* At 21 Pa.B. 3693 (August 31, 1991), the Commission designated Trout Run Reservoir in Berks County as a water to be regulated and managed under § 65.9 (relating to big bass special regulations). At that time, Trout Run Reservoir was closed to public fishing

under § 65.24. When the water was added to the Big Bass Special Regulations program, it was intended that it be removed from miscellaneous special regulation. However, due to an oversight, this was never done. The Commission recently discovered this omission and has amended the regulation to correct the error.

(3) *Section 111.64 (relating to Wayne County)*. The Commission received a petition requesting that the Commission modify special boating regulations on Duck Harbor Pond. The regulations, in place since 1983, prohibit waterskiing except between 10 a.m. and 6 p.m. on weekdays and between 10 a.m. and 4 p.m. on weekends. The petition requested that the Commission permit waterskiing and other high speed boat operation between the hours of 10 a.m. and 6 p.m. and create a 10 mph speed limit from 6 p.m. until 10 a.m.

Duck Harbor Pond is located in Wayne County. Due to the shoreline structure and shallow stump areas, the lake has about 150 acres of usable open water. Since the early 1980s a number of cottages have been built on the land surrounding the lake. It is a popular boating lake, and while the fisheries have declined in recent years, it still provides angling opportunities. Most access is gained through private docks and moorings. The Commission maintains a small access area at the west end of the lake. Joe Harcum is the owner of the land under and around most of the lake. He supports the modifications to the special regulations.

Although the petition sought a speed limit of 10 mph, the Commission's Bureau of Law Enforcement had concerns regarding the enforcement of the limit. Therefore, the Commission has amended the special regulations to limit the speed of boats to slow, minimum height swell speed between the hours of 6 p.m. and 10 a.m.

F. *Paperwork*

The amendments will not increase paperwork and will create no new paperwork requirements.

G. *Fiscal Impact*

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

H. *Public Involvement*

A notice of proposed rulemaking was published at 29 Pa.B. 1224 (March 6, 1999). The Commission did not receive any public comments regarding the proposal.

Findings

The Commission finds that:

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

(2) A public comment period was provided and no comments were received.

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

Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapters 51, 65 and 111, are amended by amending §§ 51.23, 65.24 and 111.64 to read as set forth at 29 Pa.B. 1224.

(b) The Executive Director will submit this order and 29 Pa.B. 1224 to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and 29 Pa.B. 1224 and deposit them with the Legislative Reference Bureau as required by law.

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

PETER A. COLANGELO,
Executive Director

Fiscal Note: Fiscal Note 48A-96 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 99-1008. Filed for public inspection June 25, 1999, 9:00 a.m.]

FISH AND BOAT COMMISSION
[58 PA. CODE CH. 63]
Sale and Purchase of Fish

The Fish and Boat Commission (Commission) by this order amends § 63.19 (relating to sale and purchase of fish). The Commission is publishing this amendment under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The amendment relates to the sale and purchase of fish.

A. *Effective Date*

The amendment will go into effect upon publication of an order adopting the amendment in the *Pennsylvania Bulletin*.

B. *Contact Person*

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

C. *Statutory Authority*

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

D. *Purpose and Background*

The 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 changes.

E. *Summary of Changes*

The act of October 16, 1998 (P. L. 768, No. 94) (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 (Department). Effective December 16, 1998, the Department 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 to ensure smooth implementation of the 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 repealed 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 retains 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 the agency regulatory authority over stocking of fish.

The Commission's enforcement officers have clear authority to enforce the prohibitions in the new law since it is a Commonwealth law related to fish. While the Department will have primary authority to enforce this law, it is certainly possible that the Commission's officers could become involved in enforcement where 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 (relating to activities under registration for artificial propagation; and prohibited propagation and penalties). 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 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 has adopted a regulation on sale of fish that is clearly applicable to all Commonwealth waters and all persons taking fish from those waters.

F. Paperwork

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

G. Fiscal Impact

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

H. Public Involvement

A notice of proposed rulemaking containing the proposed amendment was published at 29 Pa.B. 205 (January 9, 1999). The Commission did not receive any public comments regarding this proposal.

Findings

The Commission finds that:

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

(2) A public comment period was provided and no comments were received.

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

Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapter 63, are amended by amending § 63.19 to read as set forth at 29 Pa.B. 205.

(b) The Executive Director will submit this order and 29 Pa.B. 205 to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and 29 Pa.B. 205 and deposit them with the Legislative Reference Bureau as required by law.

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

PETER A. COLANGELO,
Executive Director

Fiscal Note: Fiscal Note 48A-89 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 99-1009. Filed for public inspection June 25, 1999, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 63 AND 65]

Sale, Purchase or Barter of Fish Parts and Fish Eggs; Miscellaneous Special Regulation

The Fish and Boat Commission (Commission) by this order amends Chapters 63 and 65 (relating to general fishing regulations; and special fishing regulations). The Commission is publishing these amendments under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The amendments relate to fishing.

A. Effective Date

The amendments will go into effect upon publication of an order adopting the amendments in the *Pennsylvania Bulletin*.

B. Contact Person

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

C. Statutory Authority

The amendments are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

The amendments are designed to update, modify and improve Commission regulations relating to fishing. The specific purpose of each amendment is described in more detail under the summary of changes.

E. *Summary of Changes*

(1) *Section 63.42 (relating to sale, purchase or barter of fish parts and fish eggs).* The Commission recently received inquiries as to whether it is legal to sell fish parts and fish eggs. The principal focus of these inquiries has been on the sale of steelhead eggs taken from Lake Erie and its tributaries. Various groups and individuals have expressed the belief that the taking and killing of these sportfish for purpose of selling their eggs is inappropriate.

It has been the Commission staff's position that the sale, offer for sale or purchase of fish, fish parts and fish eggs by anglers is prohibited by section 3311 of the code (relating to sale of certain fish prohibited). There are limited exceptions to this general rule for species authorized to be taken by holders of Lake Erie commercial fishing licenses. In addition, holders of live bait fish, live fish bait and live fish dealers licenses may sell or purchase certain species (not including steelhead) of live fish.

To clarify the interpretation of existing law and enhance its enforceability, the Commission has adopted an amendment to its general fishing regulations.

(2) *Section 65.24 (relating to miscellaneous special regulations).* For some years now, portions of Paden (Finley) Creek and Linesville Creek, Crawford County, have had miscellaneous special regulations in effect during the walleye run each spring. During a recent review of these regulations, Commission staff noted that clarification is necessary to protect walleye in these rather small streams during the spawning season. Linesville Creek flows into Pymatuning Sanctuary while Paden (Finley) Creek enters the main lake north of Clark Island. Both streams are conducive to poaching activity (including spearing) when walleye are running.

The Commission believes that it is appropriate to declare portions of both streams as nursery waters under § 67.1 (relating to nursery waters and exhibition areas) and to close them to all fishing during the period March 1 through April 15. This will provide adequate protection to walleye stocks. The designation will apply to the reach of Paden (Finley) Creek from the mouth upstream to "Finley Bridge" on State Route 6 and to Linesville Creek from the mouth (Pymatuning Sanctuary) upstream to the Conrail Railroad bridge north of State Route 6 in Linesville. Furthermore, the nursery water designation will prohibit spearing or gigging, or both, on these streams during the March 1 through April 15 period as a further measure to protect walleye during the spawning run. This designation makes unnecessary the current special regulation prohibiting spear fishing during the walleye run each spring when Finley and Linesville Creeks are so posted. Therefore, the Commission has amended § 65.24 to remove both streams from miscellaneous special regulation.

F. *Paperwork*

The amendments will not increase paperwork and will create no new paperwork requirements.

G. *Fiscal Impact*

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

H. *Public Involvement*

A notice of proposed rulemaking was published at 29 Pa.B. 823 (February 13, 1999). The Commission did not receive any public comments concerning this proposal.

Findings

The Commission finds that:

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

(2) A public comment period was provided and no comments were received.

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

Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapters 63 and 65, are amended by amending §§ 63.42 and 65.24 to read as set forth at 29 Pa.B. 823.

(b) The Executive Director will submit this order and 29 Pa.B. 823 to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and 29 Pa.B. 823 and deposit them with the Legislative Reference Bureau as required by law.

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

PETER A. COLANGELO,
Executive Director

Fiscal Note: Fiscal Note 48A-91 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 99-1010. Filed for public inspection June 25, 1999, 9:00 a.m.]

FISH AND BOAT COMMISSION
[58 PA. CODE CH. 91]

Lake Winola, Wyoming County; Special Boating Regulations

The Fish and Boat Commission (Commission) by this order amends § 91.4 (relating to age of operator). The Commission is publishing this amendment under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The amendment concerns boating.

A. *Effective Date*

This amendment will go into effect on January 1, 2000.

B. *Contact Person*

For further information on the amendment, contact John F. Simmons, Director, Bureau of Boating and Education, (717) 657-4538, or Laurie E. Shepler, Assistant Counsel, (717) 657-4546, P. O. Box 67000, Harrisburg, PA 17106-7000. This final rulemaking is available electronically through the Commission's Web site (<http://www.fish.state.pa.us>).

C. *Statutory Authority*

This amendment is published under the statutory authority of section 5123 of the code (relating to general boating regulations).

D. Purpose and Background

The amendment is designed to update, modify and improve Commission regulations pertaining to boating. The specific purpose of the amendment is described in more detail under the summary of changes. Prior to consideration by the Commission on proposed rulemaking, the Commission's Boating Advisory Board reviewed the proposal and recommended that the Commission approve the publication of a notice of proposed rulemaking containing the amendment.

E. Summary of Proposal

The Commission has amended § 91.4 so that a person 11 years of age or younger may not operate a motorboat propelled by a motor greater than 10 horsepower, regardless of whether a person 16 years of age or older is present onboard. Subsection (b) currently provides that a person 11 years of age or younger may not operate a personal watercraft (PWC). The amendment makes the regulations consistent. The amendment also reflects a belief held by some that persons under 12 should not operate any motorboat greater than 10 horsepower (not just PWCs).

F. Paperwork

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

G. Fiscal Impact

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

H. Public Involvement

A notice of proposed rulemaking was published at 28 Pa.B. 6184 (December 19, 1998). The Commission did not receive any public comments regarding the proposal during the public comment period.

Findings

The Commission finds that:

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

(2) A public comment period was provided and no comments were received.

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

Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapter 91, are amended by amending § 91.4 to read as set forth at 28 Pa.B. 6184.

(b) The Executive Director will submit this order and 28 Pa.B. 6184 to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and 28 Pa.B. 6184 and deposit them with the Legislative Reference Bureau as required by law.

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

PETER A. COLANGELO,
Executive Director

Fiscal Note: Fiscal Note 48A-87 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 99-1011. Filed for public inspection June 25, 1999, 9:00 a.m.]

PROPOSED RULEMAKING

MILK MARKETING BOARD

[7 PA. CODE CH. 151]

Notice of Hearing, All Milk Marketing Areas; Proposed Amendment

Notice is hereby given under section 14 of the Milk Producers' Security Act (31 P. S. § 626.14), that the Milk Marketing Board (Board) will hold a public hearing for all milk marketing areas on August 3, 1999, at 9 a.m. in Room 202 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony concerning a proposed amendment to 7 Pa. Code § 151.9. That section reads as follows:

§ 151.9. Number of days for bond in lieu of payment to Security Fund.

For the purpose of section 9(d) of the Milk Producers' and Cooperative Security Funds Act (31 P. S. § 625.9(d)) (Repealed), the highest aggregate amount owed for milk by a dealer or handler to producers means the highest amount owed for milk in any 1 month during the preceding licensing year plus the amount owed for milk in the next succeeding month divided by the number of days in those 2 months and multiplied by 40.

The Board is considering an amendment in substantially the following form:

§ 151.9. Calculation of bonding obligation.

(a) Under sections 7(c) and 8 of the Milk Producers' Security Act (act) (31 P. S. §§ 626.7(c) and 626.8), the bond a milk dealer must file before the beginning of each license year is based on "the highest aggregate amount owed by the dealer to producers for a 40-day period during the preceding 12 months." The Board will ascertain the highest aggregate amount owed for the applicable period by:

(1) Reviewing the amount owed by the milk dealer to all its producers for each month in the preceding calendar year.

(2) Identifying the 2 consecutive months in which the sum of the amounts owed was the highest.

(3) Dividing the sum of the amounts owed from paragraph (2) by the total number of days in the 2 consecutive months.

(4) Multiplying the quotient from paragraph (3) by 40.

(b) As used in sections 7(c) and 8 of the act and in subsection (a), "amount owed" has the following meanings:

(1) For a purchase subject to minimum pricing fixed by the Board, "amount owed" means the amount the milk dealer was required to pay the producer under the applicable Board order, even though the actual amount paid exceeded the Board-established minimum price.

(2) For a purchase not subject to minimum pricing fixed by the Board, "amount owed" means the actual amount the milk dealer paid the producer.

Persons who wish to be heard concerning the proposed amendment, including members of the Board's staff, should notify the Board in writing by 4 p.m. on July 22, 1999. The Board's mailing address is Milk Marketing Board, 2301 North Cameron Street, Room 110, Harrisburg, PA 17110.

If you require this information in an alternate format, please call (717) 787-4194 or (800) 654-5984 (PA Relay Service for TDD Users).

LYNDA J. BOWMAN,
Secretary

[Pa.B. Doc. No. 99-1012. Filed for public inspection June 25, 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 Labor and Industry

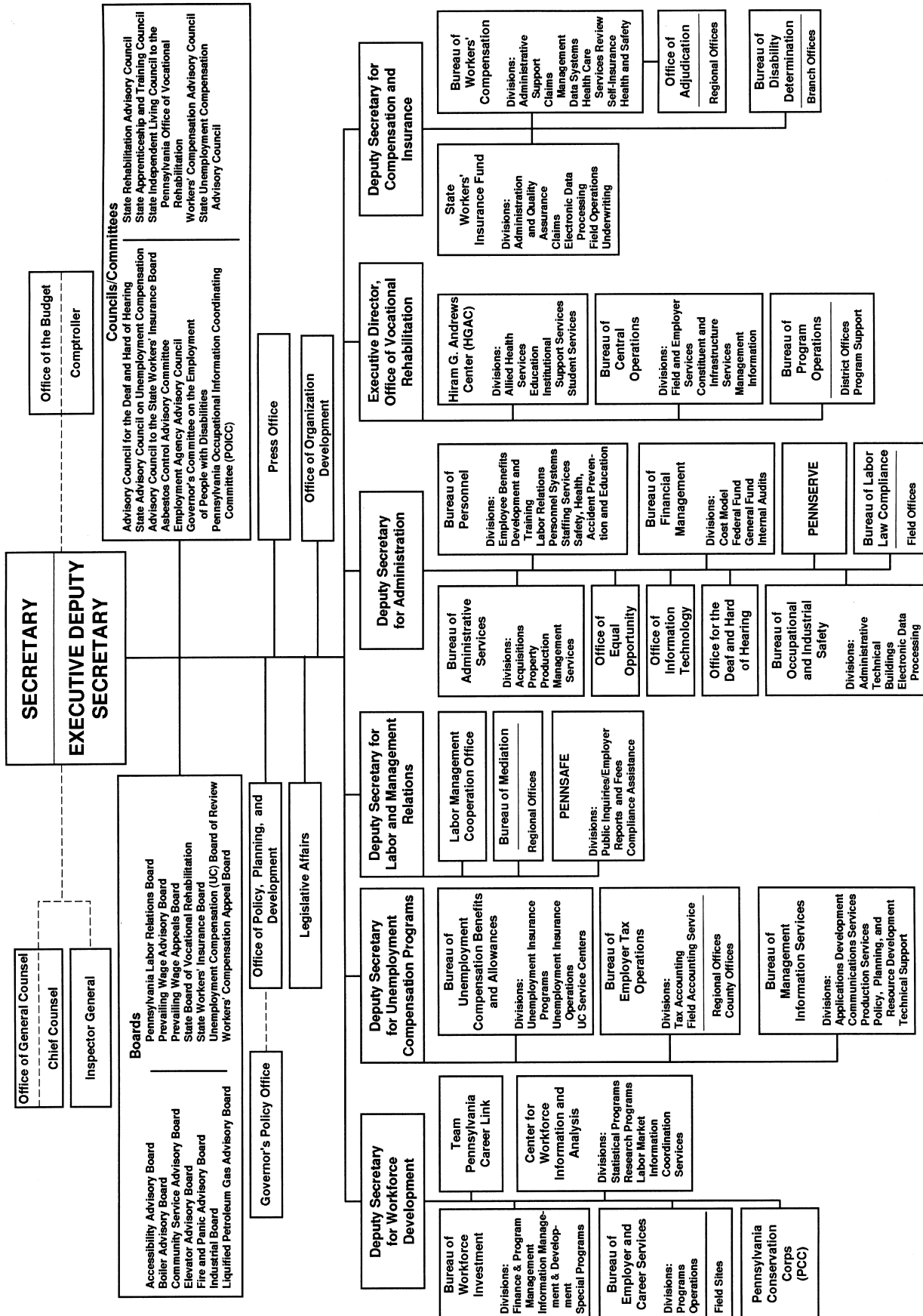
The Executive Board approved a reorganization of the Department of Labor and Industry effective June 9, 1999.

The following organization chart at 29 Pa.B. 3217 (June 26, 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. 99-1013. Filed for public inspection June 25, 1999, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY



Title 55—PUBLIC WELFARE

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 1187]

Capital Component Payments for Postmoratorium Beds

Introduction

This statement of policy announces the criteria the Department of Public Welfare (Department) will use to evaluate waiver applications and to grant waivers of § 1187.113(a) (relating to capital component payment limitation) to authorize capital component payments for postmoratorium beds, and reaffirms that the nursing facilities that were granted bed moratorium waivers under Chapter 1181 (relating to nursing facility care) continue to receive capital component payments under Chapter 1187 (relating to nursing facility services). This statement of policy is expressly conditioned upon and will take effect only upon the approval of an amendment to the Commonwealth's Medicaid State Plan by the Health Care Financing Administration incorporating this statement of policy into the Commonwealth's approved State Plan.

Background

The Commonwealth participates in the cooperative Federal-State Medicaid Program established under Title XIX of the Social Security Act, 42 U.S.C.A. §§ 1396—1396r. The Medicaid Program is known in this Commonwealth as the Medical Assistance or MA Program. The Department is the single State agency designated to administer the Commonwealth's MA Program. To fulfill the public purposes of the MA Program, the Department makes payment to certain nursing facilities that enroll in the program and agree to comply with Federal and State statutory, regulatory and administrative directions. While the relationship between providers and the Department is voluntary, it is not based on contract principles. Unlike a contractual relationship, the obligations and program requirements of both the Department and the nursing facility providers arise from statutes, regulations and administrative interpretations.

As the Commonwealth's Medicaid single State agency, the Department is required by Federal law to, among other things, adopt methods and standards that may be necessary to safeguard against the unnecessary utilization of services under the MA Program and to assure that MA payments are consistent with efficiency, economy and quality of service. See 42 U.S.C.A. § 1396a(a)(30)(A). Prior to December 18, 1996, the Department relied, in part, upon the Certificate of Need (CON) process to comply with these Federally prescribed standards.

On December 18, 1996, the State law authorizing the Commonwealth's CON process sunseted. When the law sunseted, the Department issued a series of policy statements announcing the policies and guidelines that it would employ in deciding whether to maintain the existing supply or to permit future expansion, or both, of publicly funded institutional-based long term care services. See 26 Pa.B. 5996 (December 14, 1996), 27 Pa.B. 4005 (August 9, 1997) and 28 Pa.B. 138 (January 10, 1998). These policy statements were premised upon the Department's determination that the existing supply of nursing facility beds generally meets, if not exceeds, the needs of the MA Program. The policy statements reflected the Commonwealth's ongoing commitment to assure the

delivery of quality health care services in a cost effective manner and, consistent with available resources, to have nursing care services available to individuals in their own homes and communities.

In accordance with these policy statements, the Department has permitted limited and controlled growth of MA nursing facility beds and approved capital component payments for replacement beds, when necessary, to assure MA recipient access to nursing facility services. At the same time the Department has nearly doubled the existing supply of home and community-based waiver services for MA recipients who would otherwise need care in an institutional setting and is proceeding with plans to further expand waiver services to an additional 2,000 eligible individuals. The Department has also successfully implemented a long-term care managed care demonstration project in Philadelphia and Allegheny Counties which provides a continuum of care and services to dual eligible persons (persons eligible for both Medicare and Medicaid benefits), age 60 and over, who would otherwise be eligible to receive MA nursing facility services, to support and maintain them for as long as possible in their own homes.

Although the Department has made progress in achieving its policy objectives, the Department has determined that additional changes in its payment methods and standards can be made to further promote the funding and use of home and community-based services. These changes relate to the conditions under which the Department makes capital component payments to MA nursing facility providers.

Since 1982, the Department has imposed, by regulation, a moratorium on the reimbursement of capital costs for new and additional MA nursing facility beds. Under its moratorium regulations, the Department has made capital component payments to a nursing facility for new and additional beds only if: (1) the beds were constructed under a CON or letter of nonreviewability issued on or before August 31, 1982; (2) the beds were constructed under a CON or letter of nonreviewability and the facility was the only nursing facility in the county; or (3) the beds were constructed under a CON or letter of nonreviewability and were replacement beds. See 55 Pa. Code §§ 1181.65(c), 1181.259(r) and 1181.260(a).

When the Department adopted regulations in 1996 to replace its retrospective cost-based payment system with a new case-mix prospective payment system for MA nursing facility services, the Department decided to retain its capital moratorium provisions. See 55 Pa. Code § 1187.113(a). The Independent Regulatory Review Commission (IRRC) and other persons who commented on the regulations during the regulatory review process voiced concerns and objections regarding this decision. In response, the Department noted that, prior to 1991, the Secretary of Public Welfare had granted several requests for waiver of the moratorium regulations to authorize capital component payments for new and additional beds when the Department determined, among other things, that the payments were necessary to ensure that MA recipients in specific geographic areas had access to nursing facility services. Nonetheless, to address IRRC's and the other commentators' concerns and objections, the Department included express authorization in its case-mix regulations for the additional moratorium waivers "as the Department in its sole discretion determines necessary and appropriate." The Department also specified that it would publish a statement of policy specifying the criteria by which it would evaluate and approve applications for the waivers. See 55 Pa. Code § 1187.113(b).

Since the adoption of the case-mix payment methodology, the Department has continued to make capital component payments to those providers granted moratorium waivers under Chapter 1181. To date, however, the Department has not granted any capital moratorium waivers under § 1187.113(b) or issued a statement of policy announcing its waiver criteria. Indeed, in light of its experience in applying the previously published policy statements, the Department has concluded that moratorium waivers are not presently necessary or appropriate to support the construction of additional nursing facility beds or the expansion of the supply of MA certified beds. The Department has also determined, however, that moratorium waivers might be appropriate to the extent that the waivers serve to enhance its efforts to decrease reliance on institutional services thereby enabling additional funding of home and community-based services, and has decided to make changes in its policies to permit the additional waivers.

On April 17, 1999, the Department published an advanced notice announcing the Department's intent to make changes in its payment methods and standards for nursing facility services establishing criteria by which the Department will grant waivers under § 1187.113(b) and reaffirming its Chapter 1181 moratorium waivers under its case-mix payment system. At the same time, the Department made available for public review and comment, a draft policy statement setting forth these changes. The Department also distributed the draft policy statement and discussed and solicited input on the proposed provisions at the Long Term Care Subcommittee of the Medical Assistance Advisory Committee (MAAC) on April 14, 1999; the Consumer Subcommittee of the MAAC on April 21, 1999; and the MAAC meeting on April 22, 1999. The Department received four letters expressing comments on the draft policy statement. All comments received were reviewed and considered by the Department in developing this final statement of policy.

Policy Regarding the Waiver of Capital Payment Moratorium Under Chapter 1187.

Under § 1187.113(b), the Department is issuing the policy statement to read as set forth in Annex A. This policy statement announces the criteria which the Department will use to evaluate waiver applications and to grant waivers of § 1187.113(a) to authorize capital component payments to postmoratorium nursing facility beds. This policy statement also reaffirms the Department's intent to continue capital component payments to facilities granted waivers of Chapter 1181 moratorium provisions subject to the terms and conditions under which those waivers were initially granted.

The Department will grant a capital payment moratorium waiver under § 1187.113(b), if the Department determines that the waiver will serve to promote the Department's policy to encourage the growth of home and community-based services available to MA recipients while providing access to necessary and appropriate medical care and services. The Department has determined that a waiver will serve its policy objective only when an applicant demonstrates to the Department's satisfaction that it meets all the criteria set forth in this statement of policy. These criteria are intended to result in cost savings to the Medical Assistance Program by decreasing the number of surplus nursing facility beds, and reducing or eliminating unnecessary operating and administrative expenses, including costs relating to the litigation of payment and participation disputes. The cost savings will give the Department greater flexibility in

diverting its resources from institutional-based care to home and community-based services.

A waiver granted under this policy statement will permit the transfer of capital component payments from an existing premoratorium facility to an existing postmoratorium facility. Except for the reaffirmed Chapter 1181 moratorium waivers, and any additional waivers of § 1187.113(a) authorized and granted under this policy statement, the Department will not grant any waiver of § 1187.113(a), or its predecessor regulations in §§ 1181.65(c), 1181.259(r) and 1181.260(a). This statement of policy does not affect the nursing facility replacement bed statement of policy codified in § 1187.113a(f).

Comments

Although this statement of policy became effective on April 17, 1999, the Department will accept and consider comments on this final policy statement. To be considered, comments must be received within 45 days of the date of publication.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). Persons who require another alternative should contact Tom Vracarich in the Office of Legal Counsel at (717) 783-2209.

Contact Person

Comments and questions regarding this statement of policy should be directed to Tom Jayson, Policy Section, Division of Provider Services, P. O. Box 8025, Harrisburg, PA 17105, (717) 772-2570.

Effective Date

This statement of policy took effect on April 17, 1999 or the effective date of an amendment to the Commonwealth's Medicaid State Plan incorporating this statement of policy into the Commonwealth's approved State Plan, whichever date is later.

FEATHER O. HOUSTON,
Secretary

(Editor's Note: The regulations of the Department, 55 Pa. Code Chapter 1187, are amended by adding a statement of policy in § 1187.113b.)

Fiscal Note: 14-BUL-058. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 55. PUBLIC WELFARE

PART III. MEDICAL ASSISTANCE MANUAL

CHAPTER 1187. NURSING FACILITY SERVICES

**Subchapter H. PAYMENT CONDITIONS,
LIMITATIONS AND ADJUSTMENTS**

**§ 1187.113b. Capital cost reimbursement waivers—
statement of policy.**

(a) *Scope.* This section applies to any participating provider of nursing facility services that intends to seek capital component payments under this chapter for existing postmoratorium beds in a nursing facility. This section also applies to participating providers who were granted moratorium waivers under Chapter 1181 (relating to nursing facility care).

(b) *Purpose.* The purpose of this section is to announce the criteria that the Department will apply to evaluate and approve applications for capital cost reimbursement waivers of § 1187.113(a) (relating to capital component payment limitation) and to reaffirm that nursing facilities

that were granted waivers under Chapter 1181 continue to receive capital component payments under this chapter. Waivers of § 1187.113(a) will not otherwise be granted except as provided in this section.

(c) *Submission and content of applications.*

(1) An applicant seeking a waiver of § 1187.113(a) shall submit a written application and two copies to the Department at the following address:

Department of Public Welfare
Bureau of Long Term Care Programs
P. O. Box 2675
Harrisburg, PA 17105-2675
ATTN: MORATORIUM WAIVER REVIEW

(2) The written application shall address the criteria in subsections (d) and (e). If necessary, the application should include supporting documentation.

(d) *Policy regarding additional capital reimbursement waivers.* Section 1187.113(b) authorizes the Department to grant waivers of § 1187.113(a) to permit capital reimbursement as the Department in its sole discretion determines necessary and appropriate. The Department has determined that a waiver of § 1187.113(a) will only be necessary and appropriate when the Secretary or a designee finds that the waiver is in the Department's best interests and will serve to promote the Commonwealth's policy to encourage the growth of home and community-based services available to MA recipients.

(1) The Department will find that a waiver serves to promote the Commonwealth's policy to encourage the growth of MA home and community-based services only if the Department concludes that the following criteria are met:

(i) The application for a waiver is made by or on behalf of a person who has been the legal entity of two MA participating nursing facilities that meet the following conditions:

(A) Have both been owned by the legal entity for at least 3 consecutive years prior to the date of application.

(B) Serve residents from the same primary service area.

(C) Have each maintained an average MA occupancy rate that exceeds the Statewide MA occupancy rate for 3 consecutive years prior to the date of the application.

(D) Are identified in the application.

(ii) The applicant agrees to permanently decertify all beds in and close one of the two nursing facilities identified in its application in consideration of obtaining a waiver to permit capital component payments to the remaining nursing facility identified in the application.

(iii) Closing the nursing facility will not create an access to care problem for day-one MA eligible recipients in the nursing facility's primary service area.

(iv) One or more of the beds decertified as a result of the closing of the nursing facility is a pre-moratorium bed.

(v) The legal entity is willing and able to transfer all residents that are displaced by the closing of the nursing facility to the legal entity's remaining nursing facility, unless the residents choose and are able to be transferred elsewhere.

(vi) The remaining nursing facility has one or more existing postmoratorium beds.

(vii) The applicant agrees that, as a condition of both obtaining and receiving continuing payment pursuant to

the waiver, the remaining nursing facility will achieve and maintain an MA occupancy rate equal to or greater than the county average MA occupancy rate or the combined average MA occupancy rate (over the past 3 years) of the closed nursing facility and the remaining nursing facility, whichever is higher.

(viii) The applicant agrees that, if the waiver is granted, it will notify the Department in writing at least 90 days prior to the sale, transfer or assignment of a 5% or more ownership interest, as defined in section 1124(a)(3) of the Social Security Act (42 U.S.C.A. § 1320a-3(a)(3)), in the remaining nursing facility.

(ix) The legal entity is not disqualified from receiving a waiver under subsection (e).

(x) The applicant agrees that the waiver is subject to revocation under the conditions specified in subsection (f).

(xi) The applicant agrees that the Bureau of Hearings and Appeals affords an adequate, and appropriate forum in which to resolve disputes and claims with respect to the remaining nursing facility's participation in, and payment under, the MA Program, including claims or disputes arising under the applicant's provider agreement or addendum thereto, and that, in accordance with applicable provisions of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to administrative agency law) and §§ 1101.84 and 1187.141 (relating to provider right of appeal; and missing facility's right to appeal and to a hearing), the applicant will litigate claims pertaining to its remaining facility exclusively in the Bureau of Hearings and Appeals, subject to its right to seek appellate judicial review.

(xii) The applicant agrees that it will not challenge the Department's denial of capital component payments to postmoratorium beds in the remaining nursing facility.

(xiii) The MA Program will experience overall cost savings if the waiver is granted.

(xiv) The proposal is otherwise in the best interests of the Department. In determining whether the proposal is in its best interests, the Department may consider the following:

(A) Whether the legal entity has demonstrated a commitment to serve MA recipients. In making this determination, the Department will consider the MA occupancy rate of all nursing facilities related by ownership or control to the legal entity.

(B) Whether the legal entity has demonstrated a commitment to provide and develop alternatives to nursing facility services, such as home and community-based services.

(C) Whether the legal entity is willing to refer all persons (including private pay applicants) who seek admission to the remaining nursing facility to the Department or an independent assessor for pre-admission screening, and to agree to admit only those persons who are determined by that screening to be clinically eligible for nursing facility care.

(D) Other information that the Department deems relevant.

(2) If the Department concludes that the criteria specified in paragraph (1) have been met, the Department will grant a waiver to permit capital component payments to the remaining nursing facility. Capital component payments made pursuant to the waiver shall be limited to the number of postmoratorium beds in the remaining nursing facility as of the date the waiver is granted, or

the number of pre-moratorium beds decertified as a result of the closure of the other nursing facility, whichever number is less.

(e) *Disqualification for past history of serious program deficiencies.* The Department will not grant a waiver of § 1187.113(a) if:

(1) The legal entity, any owner of the legal entity or the nursing facility is currently precluded from participating in the Medicare Program or any state Medicaid Program.

(2) The legal entity or any owner of the legal entity, owned, operated or managed a nursing facility at any time during the 3-year period prior to the date of the application and one of the following applies:

(i) The nursing facility was precluded from participating in the Medicare Program or any state Medicaid Program.

(ii) The nursing facility had its license to operate revoked or suspended.

(iii) The nursing facility was subject to the imposition of sanctions or remedies for residents' rights violations.

(iv) The nursing facility was subject to the imposition of remedies based on the failure to meet applicable Medicare and Medicaid Program participation requirements, and the nursing facility's deficiencies immediately jeopardized the health and safety of the nursing facility's residents; or the nursing facility was designated a poor performing nursing facility.

(f) *Waiver revocation.* The Department will revoke a waiver, recover any funds paid under the waiver, or take other actions as it deems appropriate if it determines that:

(1) The applicant failed to disclose information on its waiver application that would have rendered the legal entity or nursing facility ineligible to receive a waiver under subsections (d) and (e).

(2) The legal entity or nursing facility violate any one or more of the agreements in subsection (d)(1)(ii), (v) and (vii)—(xii).

(g) *Policy regarding capital component payments to participating nursing facilities granted waivers under Chapter 1181.* Waivers of the moratorium regulations granted to nursing facilities under Chapter 1181 remain valid, subject to the same terms and conditions under which they were granted, under the successor regulation in § 1187.113(a).

(h) *Effectiveness of waivers granted under this section.* Waivers authorized under this section will remain valid only during the time period in which this section is in effect.

(i) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the contents clearly indicates otherwise:

Applicant—A person with authority to bind the legal entity who submits a request to the Department to waive § 1187.113(a) to permit capital component payments to a nursing facility provider for post-moratorium beds.

Day-one MA eligible—An individual who meets one of the following conditions:

(i) Is or becomes eligible for MA within 60 days of the first day of the month of admission.

(ii) Will become eligible for MA upon conversion from payment under Medicare or a Medicare supplement policy, if applicable.

(iii) Is determined by the Department, or an independent assessor, based upon information available at the time of assessment, as likely to become eligible within 60 days of the first day of the month of admission or upon conversion to MA from payment under Medicare, or a Medicare supplement policy, if applicable.

Owner—A person having an ownership interest in a nursing facility enrolled in the MA Program, as defined in section 1124(a) of the Social Security Act.

Legal entity—A person authorized as the licensee by the Department of Health to operate a nursing facility that participates in the MA Program.

Person—An individual, corporation, partnership, organization, association or a local governmental unit, authority or agency thereof.

Post-moratorium beds—Nursing facility beds that were built with an approved CON or letter of nonreviewability dated after August 31, 1982, or nursing facility beds built without an approved CON or letter of nonreviewability after December 18, 1996.

Pre-moratorium beds—Nursing facility beds that were built under an approved CON or letter of nonreviewability dated on or before August 31, 1982, and for which the Department is making capital component payments.

Primary service area—The county in which the nursing facility is physically located. If the provider demonstrates to the Department's satisfaction that at least 75% of its residents originate from another geographic area, the Department will consider that geographic area to be the provider's primary service area.

[Pa.B. Doc. No. 99-1014. Filed for public inspection June 25, 1999, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345) known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending June 15, 1999.

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
6-10-99	Penn Laurel Financial Corp., Curwensville, to acquire 100% of the voting shares of Clearfield Bank & Trust Company, Clearfield	Curwensville	Approved
6-14-99	BT Financial Corporation, Johnstown, to acquire 100% of the voting shares of First Philson Financial Corporation, Berlin	Johnstown	Approved

New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-9-99	Asian Bank Philadelphia Philadelphia County Asian Bank, is a wholly-owned subsidiary of Asian Financial Corp., Philadelphia, a new bank holding company.	1008 Arch Street Philadelphia Philadelphia County	Commenced Operations
6-10-99	The Legacy Bank of Harrisburg Harrisburg Dauphin County	2600 Commerce Drive Harrisburg Dauphin County	Approved

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-14-99	Laurel Bank, Johnstown and First Philson Bank, N.A., Berlin Surviving Institution— Laurel Bank, Johnstown	Johnstown	Approved

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-2-99	Main Street Bank Reading Berks County	50 West Market Street West Chester Chester County	Opened
6-5-99	Main Street Bank Reading Berks County	102 Pennsylvania Ave. Avondale Chester County	Opened
6-7-99	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	Five Points Plaza Shopping Center 640 Cowpath Road Montgomeryville Montgomery County	Opened
6-10-99	Sun Bank Selinsgrove Snyder County	Route 15 & Route 45 Lewisburg Union County	Approved
6-10-99	Harris Savings Bank Harrisburg Dauphin County	Wertzville Road and Center Street Enola East Pennsboro Twp. Cumberland County	Approved

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-10-99	Merchants Bank of Pennsylvania Shenandoah Schuylkill County	810 McNair Street Hazleton Luzerne County	Filed
6-10-99	Bank of Hanover and Trust Company Hanover York County	2215 E. Market St. York York County	Approved
6-10-99	Northwest Savings Bank Warren Warren County	1903 Hubbard Road North Madison Lake County, Ohio	Opened
6-11-99	Harris Savings Bank Harrisburg Dauphin County	1515 DeKalb Pike Blue Bell Whitpain Township Montgomery County	Opened
6-14-99	East Penn Bank Emmaus Lehigh County	861 North Route 100 Upper Macungie Twp. Lehigh County	Approved
6-14-99	First Liberty Bank & Trust Jermyn Lackawanna County	910 Commerce Avenue Dickson City Lackawanna County	Approved
6-14-99	Jefferson Bank Haverford Montgomery County	11725 Bustleton Avenue Philadelphia Philadelphia County	Filed

Branch Relocations/Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-10-99	Southwest Bank Greensburg Westmoreland County	<i>Into:</i> 5 Fourth Street Youngwood Westmoreland County <i>From:</i> Route 119 South Greensburg Westmoreland County	Approved
6-10-99	Southwest Bank Greensburg Westmoreland County	<i>Into:</i> 331 East Sixth Avenue Tarentum Allegheny County <i>From:</i> 1121 Brackenbridge Avenue Brackenbridge Allegheny County	Approved
6-10-99	First Liberty Bank & Trust Jermyn Lackawanna County	<i>To:</i> Route 435 Moscow Lackawanna County <i>From:</i> Route 502 Moscow Lackawanna County	Approved

Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
6-14-99	American Bank of the Lehigh Valley Allentown Lehigh County	To amend Article First which provides for a change in corporate title to "American Bank."	Approved and Effective
6-14-99	Brentwood Savings Bank Pittsburgh Allegheny County	To amend Article First which provides for a change in corporate title to "Brentwood Bank;" and Article Second which provides for a change in the principal place of business to 411 McMurray Road, Bethel Park, Allegheny County, PA 15102.	Approved and Effective

SAVINGS ASSOCIATIONS

Branch Applications

<i>Date</i>	<i>Name of Association</i>	<i>Location</i>	<i>Action</i>
5-17-99	North Penn Savings & Loan Scranton Lackawanna County	651 Northern Boulevard Clarks Summit South Abington Twp. Lackawanna County	Opened

CREDIT UNIONS

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
6-14-99	Philadelphia Telco Credit Union, Trevose, and Air-Shields Employees Credit Union, Hatboro Surviving Institution— Philadelphia Telco Credit Union, Trevose	Trevose	Effective

DAVID E. ZUERN,
Secretary

[Pa.B. Doc. No. 99-1015. Filed for public inspection June 25, 1999, 9:00 a.m.]

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Weatherization Assistance Program; Public Hearing

The Department of Community and Economic Development hereby publishes notice of a public hearing to be held at 10 a.m. on Tuesday, July 13, 1999, in Room 423 of the Forum Building, Commonwealth Avenue and Walnut Street, Harrisburg, PA 17120. The purpose of this hearing is to receive comments on the Weatherization Assistance Program's proposed State Plan to be submitted to the United States Department of Energy for the program year 1999-2000. Included in this plan is the Department's Notice of Intent to transfer administration of the weatherization program in Beaver County from the Redevelopment Authority County of Beaver to the Housing Authority of the County of Beaver.

A copy of this plan may be obtained by contacting the Department of Community and Economic Development, Community Empowerment Office, Room 352, Forum Building, Harrisburg, PA 17120, (717) 787-1984. A copy may also be obtained at the following DCED Regional Offices:

Central Regional Office
Room 578, Forum Building
Harrisburg, PA 17120
(717) 720-7302

Southwest Regional Office
1405 State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

Northwest Regional Office
212 Lovell Place
Erie, PA 16503
(814) 871-4241

Southeast Regional Office
908 State Office Bldg.
Broad & Spring Garden Streets
Philadelphia, PA 19130
(215) 560-2256

Northeast Regional Office
201 Samters Bldg.
101 Penn Avenue
Scranton, PA 18503

Written comments may be submitted to Dennis Darling, Director, Community Empowerment Office, Room 352 Forum Building, Harrisburg, PA 17120, until 5 p.m. on July 13, 1999.

Persons with a disability who wish to attend this hearing and require an auxiliary aid, services or other accommodations to participate in the proceedings should contact Dennis Darling at (717) 787-1984 to discuss how the Department of Community and Economic Development may accommodate their needs. Alternative formats of the document (for example, large print or cassette tape) can be made available to the public upon request.

SAMUEL A. MCCULLOUGH,
Secretary

[Pa.B. Doc. No. 99-1016. Filed for public inspection June 25, 1999, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Registered Youth Apprenticeship Guidelines

An application information packet which explains Registered Youth Apprenticeships will be available on June 23, 1999. Registered Youth Apprenticeship is not a competitive grant. (See Selection Criteria in application packet) Should a registered youth apprenticeship be

developed and implemented in cooperation with the sponsor of the apprenticeship, individuals may submit a proposal requesting funds to offset costs specific to the training and employment of the youth apprentices.

Registered Youth Apprenticeships are relationships which require little or no funding. (See Grant Amounts in application packet) While they are voluntary programs on the part of the employer, there may be start-up money authorized under this grant. After initial funding, the registered apprenticeship is expected to be self-sustaining.

Please contact Christine Vega at (717) 772-4177 or by fax at (717) 772-4178 to request application packets. The guidelines will be posted online at www.pde.psu.edu after June 23.

EUGENE W. HICKOK,
Secretary

[Pa.B. Doc. No. 99-1017. Filed for public inspection June 25, 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 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 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, 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 0050911. Sewage, **Upper Perkiomen School District**, 201 West Fifth Street, East Greenville, PA 18041.

This application is for renewal of an NPDES permit to discharge treated sewage from Marlborough Elementary School District STP in Marlborough Township, **Montgomery County**. This is an existing discharge to Green Lane Reservoir.

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 4,000 gpd are as follows:

Parameter	Average Monthly (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅	25	50
Suspended Solids	30	60

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Ammonia (as N)	20.0	40.0
Phosphorus (as P)	0.5	1.0
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 2.0 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	
Total Residual Chlorine		
(issuance through year 2)	0.7	1.5
(year 3 through expiration)	0.5	1.2

Other Conditions:

The EPA waiver is in effect.
 Conditions for future permit modification.
 Effective disinfection.

PA 004043. Sewage, **Chadds Ford Investment Company**, 514 McCue Road, Avondale, PA 19311.

This application is for renewal of an NPDES permit to discharge treated sewage from the Bowling Green of Brandywine STP in New Garden Township, **Chester County**. This is an existing discharge to UNT East Branch White Clay Creek.

The receiving stream is classified for the following uses: exceptional value waters, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 9,000 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅		
(5-1 to 10-31)	20	40
(11-1 to 4-30)	25	50
Total Suspended Solids	20	40
Ammonia (as N)		
(5-1 to 10-31)	3.0	6.0
(11-1 to 4-30)	9.0	18.0
Total Residual Chlorine		
(0—1 years)	monitor/report	monitor/report
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	
Total Residual Chlorine	not detectable	
(2—5 years)	instantaneous minimum	

Other Conditions:

The EPA waiver is in effect.

PA 0053376. Sewage, treated sewage, **Strawberry Family Restaurant**, 3773 Layfield Road, Pennsburg, PA 18073.

This application is for renewal of an NPDES permit to discharge treated sewage from the Strawberry Family Restaurant in Upper Hanover Township, **Montgomery County**. This is an existing discharge to unnamed Tributary West Branch to Perkiomen Creek.

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

The proposed effluent limits for Outfall 001, based on an average flow of 1,500 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	10	20
Suspended Solids	10	20
Ammonia (as N)	3.0	6.0
Phosphorus (as P)	monitor/report	monitor/report
Total Residual Chlorine	0.5	1.2
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	
Oil and Grease	15	30

The EPA waiver is in effect.

Northeast Region: Environmental Protection Manager, Water Management, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2553.

PA 0063967. Industrial waste, SIC: 5171, **Eldorado Properties Corporation**, 801 Suscon Road, Pittston, PA 18640.

This proposed action is for issuance of an NPDES permit to discharge treated stormwater into Collins Creek in Pittston Township, **Luzerne County**.

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

Outfall 001

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Recoverable Petroleum Hydrocarbons		monitor only	

The EPA waiver is in effect.

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

PA 0021075. Sewage, SIC: 4952, **Borough of Myerstown**, 101 East Washington Avenue, Myerstown, PA 17067-1142.

This application is for renewal of an NPDES permit for an existing discharge of treated sewage to Tulpehocken Creek, in Jackson Township, **Lebanon County**.

The receiving stream is classified for trout stocking fishery, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was Western Berks Water Company located in Bern Township, Berks County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 1.40 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40		50
Total Suspended Solids	30	45		60
NH ₃ -N				
(5-1 to 10-31)	7			14
(11-1 to 4-30)	20			40
Total Phosphorus	1			2
Total Residual Chlorine				
(Interim)	monitor and report			monitor and report
(Final)	0.5			1.6
Dissolved Oxygen			minimum of 5.0 at all times	
pH			from 6.0—9.0 inclusive	
Fecal Coliforms				
(5-1 to 9-30)			200/100 ml as a geometric average	
(10-1 to 4-30)			4,000/100 ml as a geometric average	

Persons may make an appointment to review the DEP files on this case by calling Mary DiSanto, File Review Coordinator, at (717) 705-4732.

The EPA waiver is not in effect.

PA 0024287. Sewage, SIC: 4952, **Borough of Palmyra**, 325 South Railroad Street, Suite 3, Palmyra, PA 17078-2400.

This application is for renewal of an NPDES permit for an existing discharge of treated sewage to Killingler Creek, in North Londonderry Township, **Lebanon County**.

The receiving stream is classified for trout stocking fishery, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was PA American Water Company located in South Hanover Township, Dauphin County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 1.42 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅				
(5-1 to 10-31)	15	22.5		30
(11-1 to 4-30)	25	40		50
Total Suspended Solids	30	45		60
NH ₃ -N				
(5-1 to 10-31)	3			6
(11-1 to 4-30)	9			18

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Phosphorus	2			4
Total Residual Chlorine (Interim)	monitor and report			monitor and report
(Final)	0.26			0.88
Dissolved Oxygen pH			minimum of 5.0 at all times from 6.0—9.0 inclusive	
Fecal Coliforms (5-1 to 9-30)			200/100 ml as a geometric average	
(10-1 to 4-30)			2,400/100 ml as a geometric average	

Persons may make an appointment to review the DEP files on this case by calling Mary DiSanto, File Review Coordinator, at (717) 705-4732.

The EPA waiver is not in effect.

PA 0088170. Industrial waste, SIC: 5171, **Columbia Petroleum Corporation**, Richland Office, 225 East Main Street, Richland, PA 17087.

This application is for issuance of an NPDES permit for an existing discharge of treated industrial waste to an unnamed tributary of Mill Creek, in Richland Borough, **Lebanon County**.

The receiving stream is classified for trout stocking fishery, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was Western Berks Water located in Bern Township, Berks County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Recoverable Petroleum Hydrocarbons	XXX	monitor and report	XXX

Persons may make an appointment to review the DEP files on this case by calling Mary DiSanto, File Review Coordinator, at (717) 705-4732.

The EPA waiver is in effect.

PA 0087807. Industrial waste, SIC: 3089, **Dutch Valley Plastics**, 113 East Main Street, Fredericksburg, PA 17026.

This application is for issuance of an NPDES permit for an existing discharge of treated industrial waste to Beach Run (via storm sewer), in Bethel Township, **Lebanon County**.

The receiving stream is classified for warm water fishery, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was Pennsylvania American Water Company located in South Hanover Township, Dauphin County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.004 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids	9.5	19	24
50Day BOD	13	26	32
Oil and Grease	15	29	30
Temperature	XXX	110°F	XXX

Persons may make an appointment to review the DEP files on this case by calling Mary DiSanto, File Review Coordinator, at (717) 705-4732.

The EPA waiver is in effect.

PA 0007625. Industrial waste, SIC: 3949 and 3944, **Hedstrom Corporation**, Sunnyside Road, P. O. Box 432, Bedford, PA 15522-0432.

This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to Raystown Branch, Juniata River, and Dunning Creek, in Bedford Township, **Bedford County**.

The receiving stream is classified for trout stocking and warm water fishery, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was Saxton Municipal Water located in Saxton Borough, Bedford County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.05 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids	30	60	75
CBOD	XXX	monitor and report	XXX
COD	XXX	monitor and report	XXX
Oil and Grease	15	XXX	30
Total Cadmium	0.002	0.004	0.005
Total Chromium	1.71	2.77	3.46
Total Copper	0.8	1.6	2.0
Total Lead	0.2	0.4	0.5
Total Nickel	1.4	2.8	3.5
Total Silver	XXX	0.002	0.0025
Total Zinc	0.7	1.4	1.7
Total Cyanide	0.65	1.2	1.6
Total Toxic Organics	XXX	2.13	XXX

The proposed effluent limits for Outfall 002 for a design flow of 0.072 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Temperature	XXX	monitor and report	XXX

You may make an appointment to review the DEP files on this case by calling Mary DiSanto, File Review Coordinator, at (717) 705-4732.

Outfalls 003 and 004 are stormwater outfalls with monitoring required for Outfall 003.

The EPA waiver is in effect.

Northcentral Region: Environmental Program Manager, Water Management, 208 West Third Street, Suite 101, Williamsport, PA 17701-6510, (717) 327-3666.

PA 0044245. SIC: 4852, **PA DCNR Bureau of State Parks**, P. O. Box 1467, Harrisburg, PA 17120.

This proposed action is for renewal of an NPDES permit to discharge treated sewage wastewater to Laurel Run in Huston Township, **Clearfield County**. This is an existing discharge.

The receiving stream is classified for the following uses: high quality cold water fishery, aquatic life, water supply and recreation. For the purposes of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the proposed downstream potable water supply (PWS) considered during the evaluation is the City of Lock Haven located at the City of Lock Haven, 68 miles downstream.

Outfall 001: The proposed effluent limits, based on a design flow of 0.09 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			
(5-1 to 10-31)	10.0		20.0
(11-1 to 4-30)	20.0		40.0
TSS	10.0		20.0
NH ₃			
(5-1 to 10-31)	3.0		6.0
(11-1 to 4-30)	9.0		18.0
Dissolved Oxygen	6.0		
Fecal Coliforms			
(5-1 to 9-30)	200 col/100 ml geometric mean		
(10-1 to 4-30)	2000/100 ml geometric mean		
pH	6.0—9.0 at all times		
Total Cl ₂ Residual	monitor daily		

The EPA waiver is in effect.

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

PA 0024686. Sewage. **Mid Mon Valley Water Pollution Control Authority**, Box 197, Allenport, PA 15412.

This application is for renewal of an NPDES permit to discharge treated sewage from the Mid Mon Valley Water Pollution Control Plant in Allenport Borough, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Monongahela River, 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 Belle Vernon Borough Municipal Water Company.

Outfall 001: Existing discharge, design flow of 0.7 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	38		50
Suspended Solids	30	45		60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	14,000/100 ml as a geometric mean			
Total Residual Chlorine	1.0			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA 0025798. Sewage, **Centerville Borough Sanitary Authority**, P. O. Box 332, Richeyville, PA 15358.

This application is for renewal of an NPDES permit to discharge treated sewage from Richeyville Sewage Treatment Plant in Centerville Borough, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Pike Run which are classified as a 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 Newell Joint Municipal Authority on the Monongahela River.

Outfall 001: Existing discharge, design flow of 0.17 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅				
(5-1 to 10-31)	20	30		40
(11-1 to 4-30)	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	5.0	7.5		10.0
(11-1 to 4-30)	15.0	22.5		30.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	5,000/100 ml as a geometric mean			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA 0026751. Sewage, **Borough of Indiana**, 80 North Eighth Street, Indiana, PA 15701.

This application is for amendment of an NPDES permit to discharge treated sewage from the Indiana Borough Water Pollution Control Plant in Indiana Borough, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Two Lick Creek, which are classified as a 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 PA American Water Company.

Outfall 001: Existing relocated discharge, new design flow of 8.2 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	4.0	6.0		8.0
(11-1 to 4-30)	11.0	16.5		22.0
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	.18			.59
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

PA 0090433. Sewage, **Big Oak Village Mobile Home Park**, Big Oak Village, Lot 52, Graceton, PA 15748.

This application is for renewal of an NPDES permit to discharge treated sewage from the Big Oak Village Mobile Home Park Sewage Treatment Plant in Center Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Two Lick Creek, which are classified as a trout stock 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 Saltsburg Municipal Waterworks located on the Conemaugh River.

Outfall 001: Existing discharge, design flow of 0.005 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	monitor and report			
pH	not less than 6.0 nor greater than 9.0			

Other Conditions: This authorization to discharge will be limited to a 1 year duration.

The EPA waiver is in effect.

PA 0216577. Sewage, **Ted Semak**, 5 Merriman Road, Ambridge, PA 15003.

This application is for issuance of an NPDES permit to discharge treated sewage from the Semak Mobile Home Park Sewage Treatment Plant in Economy Borough, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Big Sewickley Creek, which are classified as a trout stock 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 Midland Borough Water Authority located on the Ohio River.

Outfall 001: Existing discharge, design flow of 0.01 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	100,000 ml as a geometric mean			
Total Residual Chlorine	1.4			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA 0216631. Sewage. **Regis Kraisinger**, 139 Quarry Street, Mount Pleasant, PA 15664.

This application is for renewal of an NPDES permit to discharge treated sewage from Kraisinger Reception Hall Sewage Treatment Plant in East Huntingdon Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Tributary of Sherrick 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 Water Authority.

Outfall 001: Existing discharge, design flow of .0036 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	7			
(11-1 to 4-30)	21			
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

Northwest Regional Office: Regional Manager, Water Management, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6942.

PA 0033031. Industrial waste, SIC: 4941. **DCNR—Bureau of State Parks, Pymatuning State Park**, Tuttle Campground Water Treatment Plant, 2660 Williamsfield Road, Jamestown, PA 16134.

This application is for renewal of an NPDES Permit, to discharge treated industrial waste to a dry/intermittent tributary to Pymatuning Reservoir in North Shenango Township, **Crawford County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is Tuttle Point Water Treatment Plant intake on the Pymatuning Reservoir located approximately 0.5 miles below the point of discharge.

The proposed discharge limits for Outfall No. 001, based on a design flow of 0.0031 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids	30	60	60
Aluminum	4	8	8
Iron	2	4	4
Manganese	1	2	2
Total Residual Chlorine	0.5		1.2
pH		6.0—9.0 at all times	

The EPA waiver is in effect.

PA 0037133. Industrial waste, SIC: 0279, **Pennsylvania Fish and Boat Commission** (Fairview Fish Culture Station), Fairview Township, Fairview, PA 16415.

This application is for renewal of an NPDES permit to discharge treated industrial waste to an unnamed tributary to Trout Run from a nonpublicly owned treatment plant in Fairview Township, **Erie County**. This is an existing discharge.

The receiving water is classified for cold water and migratory fishery, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (PWS) considered during the evaluation is Lake Erie.

The effluent limits have been established based on the Total Maximum Daily Load/Waste Load Allocation Evaluation for Trout Run Watershed, prepared by Systems and Program Implementation Section, Division of Water Quality, Bureau of Water Quality Management, dated December 1987.

The proposed effluent limits for Outfall 001, based on average design flow of 1.728 mgd, are:

<i>Parameter</i>	<i>Effluent Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
CBOD ₅	10	20
Total Suspended Solids	20	40
NH ₃ -N	monitor only	
Formaldehyde	not detectable	
Phosphorus as "P"	1.0	
Dissolved Oxygen	minimum of 6.0 mg/l at all times	
pH	6.0—9.0 standard units at all times	

The EPA waiver is in effect.

PA 0221279. Sewage, **Dean Warnken**, Station Road Property Owners' Association, 6992 Station Road, Erie, PA 16510-4745.

This application is for renewal of an NPDES permit to discharge treated sanitary sewage to an unnamed tributary of Six Mile Creek in Harborcreek Township, **Erie County**. This is an existing discharge.

The receiving water is classified for cold water and migratory fishery, aquatic life, water supply and recreation. There are no potable water supplies affected by this discharge.

The proposed effluent limits for Outfall 001, based on average design flow of 0.001600 mgd, are:

<i>Parameter</i>	<i>Effluent Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
CBOD ₅	10	20
Total Suspended Solids	20	40
NH ₃ -N	6	12
Phosphorus as "P"	1.0	
Dissolved Oxygen	minimum of 3.0 mg/l at all times	

<i>Parameter</i>	<i>Effluent Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
Total Residual Chlorine	1.4	3.3
Fecal Coliform	200/100 ml as a geometric average	
pH	6.0—9.0 standard units at all times	

The EPA waiver is in effect.

APPLICATIONS—NPDES MINOR RENEWALS

Southcentral Regional Office, Water Management Program, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110, (717) 705-4707.

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA 0083887	Kenneth P. Secrest P. O. Box 454 New Kingston, PA 17072-0454	Bedford East Providence Township	UNT to Brush Creek	TRC
PA 0038130	Mont Alto Sewer Authority Box 430 Mont Alto, PA 17237-0430	Franklin Mont Alto Borough	UNT to West Branch Antietam Creek	TRC

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

Applications under the Pennsylvania Clean Streams Law

(Part II Permits)

The following permit applications and requests for plan approval have been received by the Department of Environmental Protection (Department).

Persons objecting on the grounds of public or private interest to the approval of an application or submitted plan may file a written protest with the Department at the address indicated above each permit application or plan. Each written protest should contain the following: name, address and telephone number; identification of the plan or application to which the protest is addressed; and a concise statement in sufficient detail to inform the Department of the exact basis of the protest and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given protest or protests. Each commentator will be notified in writing of the time and place if a hearing or conference concerning the plan or action or application to which the protest relates is held. To insure consideration by the Department prior to final action on permit applications and proposed plans, initial protests and additions or amendments to protests already filed should be filed within 15 calendar days from the date of this issue of the *Pennsylvania Bulletin*. A copy of each permit application and proposed plan is on file in the office indicated and is open to public inspection.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation 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.

Industrial waste and sewerage applications 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. 0999418. Sewerage. **PA DCNR, Delaware Canal State Parks**, 11 Lodi Hill Road, Upper Black Eddy, PA 18972-9540. This project is for the construction and operation to handle 800 gpd to serve Virginia Forrest Picnic Area located in Solebury Township, **Bucks County**.

Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

A. 4099403. Sweet Valley Mobile Home Village, R. R. 3, Hunlock Creek, PA 18621. Application to construct and operate a sewage treatment plant, located in Ross Township, **Luzerne County**. Application received in the Regional Office—June 10, 1999.

Southcentral Regional Office: Water Management Program Manager, 909 Elmerton Avenue, 2nd Floor, Harrisburg, PA 17110-8200, (717) 705-4707. Persons who wish to review any of these applications should contact Mary DiSanto at (717) 705-4732.

A. 2899404. Sewage, submitted by **Robert L. Boyd**, P. O. Box 43, Lurgan, PA 17323, Lurgan Township, **Franklin County** to construct a small flow treatment facility was received in the Southcentral Region on June 3, 1999.

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

A. 0381204-A4. Industrial waste, **GPU Generation, Inc.**, 1001 Broad Street, Johnstown, PA 15907. Application for the modification and operation of an industrial wastewater treatment facility to serve the Keystone Generating Station located in Plumcreek Township, **Armstrong County**.

A. 3287402-A2. Sewerage, **Transtechology Corporation**, 100 Aero-Seal Drive, Saltsburg, PA 15681. Application for the modification and operation of a sewage

treatment plant to serve Breeze Industrial Products Wastewater Treatment Plant located in Conemaugh Township, **Indiana County**.

Northwest Regional Office, Regional Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6942.

WQM Permit No. 4399412. Sewage, **Wade Plymire, SRSTP**, 2113 Mercer—West Middlesex Road, Mercer, PA 16137. This project is for the construction of a Single Residence Sewage Treatment Plant in Lackawannock Township, **Mercer County**.

WQM Permit No. 4399413. Sewage, **George L. Johnson, SRSTP**, 5345 Tamarack Drive, Sharpsville, PA 16150. This project is for the construction of a Single Residence Sewage Treatment Plant in South Pymatuning Township, **Mercer County**.

INDIVIDUAL PERMITS (PAS)

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 effluent 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 permit 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 No. PAS10-PAS10-T091-A1. Stormwater. **Oxford Land Development Limited**, 521 Stump Road, Suite A, P. O. Box 841, Montgomeryville, PA 18936, has applied to discharge stormwater from a construction activity located in Horsham Township, **Montgomery County**, to Tributary to Park Creek.

Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Northampton County Conservation District, District Manager, Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.

NPDES Permit PAS10U115. Stormwater. **Wegmans Food Markets, Inc.** 1500 Brooks Avenue, Rochester, NY 14624, has applied to discharge stormwater from a construction activity located in Hanover Township, **Northampton County**, to Monocacy Creek.

Southcentral Regional Office: Regional Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 657-4707.

Franklin County Conservation District, District Manager, Franklin County CD, 550 Cleveland Avenue, Chambersburg, PA 17201, (717) 264-8074.

NPDES Permit PAS-10-M076-R. Stormwater. **Upland Acres Corporation**, 3720 Clubhouse Drive, Fayetteville, PA 17222 has applied to discharge stormwater from a construction activity located in Chambersburg Borough, **Franklin County**, to Conococheague Creek.

NPDES Permit PAS-10-M077-R. Stormwater. **T. K. Upland Acres Corporation**, 3720 Clubhouse Drive, Fayetteville, PA 17222 has applied to discharge stormwater from a construction activity located in Greene Township, **Franklin County**, to UNT to Conococheague Creek.

NPDES Permit PAS-10-M078-R. Stormwater. **Robert J. Hodges**, 11375 Lafayette Road, Mercersburg, PA 17236 has applied to discharge stormwater from a construction activity located in Montgomery Township, **Franklin County**, to UNT to Licking Creek.

SAFE DRINKING WATER

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

Southcentral Regional Office: Sanitarian Regional Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4708.

Permit No. 3699503. Public water supply, **East Petersburg Borough**, Lancaster County. *Responsible Official:* Herbert E. Mattern, Jr., Water Department Manager, 6040 Main Street, East Petersburg, PA 17520-0026. *Type of Facility:* Application to replace the existing Vaughn Road Well with a new well located approximately 100 feet northeast of the existing well. *Consulting Engineer:* Scott R. Mundell, Acer Engineers & Consultants, Inc., 270 Granite Run Drive, Lancaster, PA 17601-6822. *Application received:* April 19, 1999.

Permit No. 3699504. Public water supply, **Crestwood Estates MHP**, Salisbury Township, **Lancaster County**. *Responsible Official:* Ramesh Bhatia, P. O. Box 74, East Petersburg, PA 17520-0074. *Type of Facility:* Application is for the addition of Well No. 2 at a proposed rate of 50 gpm. The well will be used to augment Well No. 1. A manganese greensand filtration system for iron and man-

ganese removal is proposed. *Consulting Engineer:* Rettew Assoc., Inc., George H. Wagner, Jr., Project Manager, 3020 Columbia Avenue, Lancaster, PA 17603. *Application received:* April 29, 1999.

Permit No. 3699505. Public water supply, **McKesson Water Products Company**, West Earl Township, **Lancaster County**. *Responsible Official:* Michael Riley, 1140 South State Street, Ephrata, PA 17522-0788. *Type of Facility:* Application is for the relocation of the former Ephrata Diamond Spring Water Company to a new facility. The existing equipment will be installed at the new building along with new equipment. This will be a water bottling operation to sell bottled water from 5 gallon sizes and smaller. *Consulting Engineer:* John N. Ward, III, Sr. Project Manager, Alliance Environmental Services, Inc., 117 South West End Avenue, Suite 15, Lancaster, PA 17603. *Application received:* May 3, 1999.

Permit No. 3699506. Public water supply, **East Cocalico Township Authority**, East Cocalico Township, **Lancaster County**. *Responsible Official:* Ray Redcay, Superintendent, 100 Hill Road, P. O. Box 402, Reamstown, PA 17567. *Type of Facility:* Application is for the construction of a new 10-inch well adjacent to existing Well 2. This well is to replace existing Well No. 2. The capacity of the new well is 400 gpm while the old well was 100 gpm. *Consulting Engineer:* Randall L. Henne, Authority Engineer, Camp Dresser & McKee, 227 Granite Run Drive, STE 206, Lancaster, PA 17601. *Application received:* May 25, 1999.

Permit No. 0699505. Public water supply, **Citizens Utilities Water Co. of PA**, Exeter Township, **Berks County**. *Responsible Official:* Brian J. Hassinger, 4 Wellington Boulevard, Wyomissing Hills, PA 19610. *Type of Facility:* Interconnection with the Reading Area Water Authority. Construction of booster pump station, transmission main and 250,000-gallon storage tank. *Consulting Engineer:* Dale R. Kratzer, PE, Spotts Stevens & McCoy, Inc., 345 North Wyomissing Boulevard, P. O. Box 6307, Reading, PA 19610-0307. *Application received:* June 1, 1999.

Regional Office: Northcentral Field Operations, Environmental Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701.

A. MA. The Department has received a permit application from the **PA Department of Corrections, Quehanna Motivational Boot Camp**, P. O. Box 598, Camp Hill, PA 17001, Karthaus Township, **Clearfield County**, to replace current two 60 gallons per minute distribution pumps with two 230 gallons per minute pumps.

A. 1499503. The Department has received a construction permit application from **Snow Shoe Borough Authority**, R. D. 1, Box 81, Snow Shoe, PA 16874, Snow Shoe Borough, **Centre County**, to modify existing well No. 1 so both wells can pump at the same time. Provide a new well pump and VFD controller. Move reservoir, disconnect to well No. 2. Provide new Well No. 2 with pump and controls. Modify the chlorinator building and provide additional chlorine contact time.

A. MA. The Department has received a construction permit application from **Beech Creek Borough Authority**, P. O. Box 216, Beech Creek, PA 16822, Beech Creek Borough, **Clinton County**, for replacement of existing well No. 2 pump and installation of new booster pumping

system and construction of a building addition to the existing treatment plant for salt storage.

A. MA. The Department has received a permit application from the **Union Township Municipal Authority**, Box 4, Rockton, PA 15856, Union Township, **Clearfield County** to construct an additional holding tank for filter backwash water after settling tanks to allow the reuse of the water back through the filter plant.

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

0399502. South Buffalo Township Municipal Authority, P. O. Box 266, Freeport, PA 16229-0266. Construction of a 1 mg concrete water reservoir serving South Buffalo Township, **Armstrong County**.

0299504. Edgeworth Borough Municipal Authority, 313 Beaver Road, Edgeworth, PA 15143. Construction of a 570,000 gallon water storage tank, establishment of a second interconnection with the Ambridge Water Authority, construction of two water pump stations with provisions to fluoridate and disinfect the purchased water serving the Borough of Edgeworth, **Allegheny County**.

6399506. Tri-County Joint Municipal Authority, P. O. Box 758, Monongahela Avenue, Fredericktown, PA 15333. Construction of a 0.5 mg elevated water storage tank and booster pump station serving North Bethlehem, **Washington County**.

AIR QUALITY

Notice of Plan Approval and Operating Permit Applications

Nonmajor Sources and Modifications

The Department of Environmental Protection (Department) has developed an integrated plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities. Although the sources covered by these applications may be located at a major facility, the sources being installed or modified do not trigger major new source review or prevention of significant deterioration requirements.

Copies of these applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the Regional Offices identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to file protests or comments on the proposed plan approval and/or operating permits must submit the protest or comment within 30 days from the date of this notice. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department's Regional Offices must include a concise statement of the objections to the issuance of the plan approval or operating permit and relevant facts which serve as the basis for the objections. If the

Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior to the date of the hearing.

Final plan approvals and operating permit will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act and regulations adopted under the act.

OPERATING PERMITS

Notice of Intent to Issue Title V Operating Permits

Under 25 Pa. Code § 127.521, notice is given that the Department of Environmental Protection (Department) intends to issue a Title V Operating Permit to the following facilities. These facilities are major facilities subject to the operating permit requirements under Title V of the Federal Clean Air Act and 25 Pa. Code Chapter 127, Subchapters F and G (relating to operating permit requirements; and Title V operating permits).

Appointments to review copies of the Title V application, proposed permit and other relevant information must be made by contacting Records Management at the regional office telephone number noted. For additional information, contact the regional office noted.

Interested persons may submit written comments, suggestions or objections concerning the proposed Title V permit to the regional office within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day public comment period shall include the name, address and telephone number of the person submitting the comments, along with the reference number of the proposed permit. The commentator should also include a concise statement of objections to the permit issuance and the relevant facts upon which the objections are based.

The Department reserves the right to hold a public hearing on the proposed action based upon the information received during the public comment period and will provide notice of any scheduled public hearing at least 30 days in advance of the hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation where the facility is located.

Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, Attn: Michael Safko, (570) 826-2531.

TVOP-48-00021. Northampton Generating Co. (1 Horwith Drive, Northampton, PA 18067) for CFB Boiler, Diesel Generators, Fire Pumps and culm and ash handling systems in Northampton Borough, **Northampton County**.

Applications received and intent to issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Southcentral Regional Office, Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.

36-310-075. D. M. Stoltzfus & Sons, Inc. (Snake Hill and Quarry Roads, Talmage, PA 17580) for operation of a portable crushing plant at the Talmage Quarry in Upper Leacock Township, **Lancaster County**.

67-318-100C. Crown Cork and Seal (1650 Broadway, Hanover, PA 17331) for operation of two side seam coating lines and inside spray operations in Penn Township, **York County**.

PLAN APPROVALS

Applications received and intent to issue Plan Approvals under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.

06-3104. Bean Funeral Home, Inc. (East Lancaster Avenue, Shillington, PA 19607) for a crematory controlled by a secondary chamber in Sinking Spring, **Berks County**.

36-03031A. Paradise Custom Kitchens, Inc. (3333 Lincoln Highway East, Paradise, PA 17562) for construction/installation of a spray booth in Paradise Township, **Lancaster County**.

36-05005A. Heritage Custom Kitchens, Inc. (215 Diller Avenue, New Holland, PA 17557) for installation of four new spray booths and one drying oven in New Holland Borough, **Lancaster County**. The proposed installation is subject to 40 CFR 63, Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations.

67-5043A. Crown Cork and Seal Co., Inc. (1650 Broadway, Hanover, PA 17331) for construction of three lacquer spray machines and a natural gas fired internal bake oven in Penn Township, **York County**.

67-304-034C. R. H. Sheppard Co., Inc. (101 Philadelphia Street, Hanover, PA 17331) for installation of a cold box core machine in Hanover Borough, **York County**.

Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.

49-302-049A. Wheeland Lumber Co., Inc. (3558 Williamson Trail, Liberty, PA 16930-9540) for construction of a 6.2 million btu per hour wood-fired boiler and associated air cleaning device (a multiclone) in Jackson Township, **Lycoming County**.

08-399-023E. Osram Sylvania Products, Inc. (Hawes Street, Towanda, PA 18848-0504) for modification of grade mix powder operations by processing chromium powders in North Towanda Township, **Bradford County**.

41-313-007H. Lonza, Inc. (3500 Trenton Avenue, Williamsport, PA 17701) for construction of a halohydrantoin granulation and briquette screening process and associated air cleaning devices (fabric collectors) in the City of Williamsport, **Lycoming County**.

OP-47-0001B. PP&L, Inc. (2 North Ninth Street, Allentown, PA 18101-1179) for installation of an air cleaning device (an electrostatic precipitator) on a 750 megawatt rated capacity bituminous coal-fired utility boiler (Unit No. 2) at the Montour Steam Electric Station in Derry Township, **Montour County**.

Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.

PA-04-065A. WHEMCO (12th Street, Midland, PA 15059) for installation of sand storage silo at Midland Foundry Division in Midland Borough, **Beaver County**.

Northwest Regional Office: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6940.

PA-25-095F. Lord Corp. (1635 West 12th Street, Erie, PA 16514) for construction of a metal treatment tank and installation of a scrubber located in the City of Erie, **Erie County**.

PA-10-037A. Witco Corp. (100 Witco Lane, Petrolia, PA 16050) for post modification of the hydrotreater unit by repiping the V-5 flash drum to accommodate the Lo-Cat Hydrogen Recovery Unit in Fairview Township, **Butler County**.

PA-10-037B. Witco Corp. (100 Witco Lane, Petrolia, PA 16050) for post modification of the B-201 Fractionator to include the D-204 Utility Fractionator overhead vent system in Fairview Township, **Butler County**.

PA-10-037C. Witco Corp. (100 Witco Lane, Petrolia, PA 16050) for post modification of the Lo-Cat Hydrogen Recovery Unit by adding the V-63 spray chamber in Fairview Township, **Butler County**.

PA-10-037D. Witco Corp. (100 Witco Lane, Petrolia, PA 16050) for post modifications of the Lo-Cat Hydrogen Recovery Unit by adding the V-64 vent in Fairview Township, **Butler County**.

PA-10-037E. Witco Corp. (100 Witco Lane, Petrolia, PA 16050) for post construction of the H-1 Feed Heater in Fairview Township, **Butler County**.

10-312-013A. Witco Corp. (100 Witco Lane, Petrolia, PA 16050) for post modification of the H-2 Stripper Heater in Fairview Township, **Butler County**.

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.

Southeast Regional Office: Program Manager, Water Management Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

E46-843. Encroachment. **Klein Company**, 1700 Market Street, Suite 2600, Philadelphia, PA 19103. To replace and maintain 730 linear feet (noncontinuous) of existing gabion mats with cable concrete mats and to perform

associated grading work in and along Indian Creek located approximately 2,000 feet northeast of the intersection of Egypt Road and Trooper Road (PA Route 363) at the Willowbrook Apartment site (Collegeville, PA Quadrangle N: 1.4 inches; W: 2.85) in West Norriton Township, **Montgomery County**.

E23-238B. Encroachment. **Corinthian Yacht Club of Philadelphia**, P. O. Box 366, Essington, PA 19029. To relocate and modify an existing docking facility utilizing a 10-foot wide by 80-foot long "T" dock and five, 3-foot wide by 15-foot long, floating finger piers, at a point 220 feet east of its original permitted locations and to place fill in 0.27 acre of the Delaware River (WWF-MF) and intertidal mudflats. The applicant will also install 0.34 acre of rip-rap along various sections of deteriorated timber crib bulkhead, and to place a new sheet pile bulkhead near the dock relocation. This site is located in and along the Delaware River at the Corinthian Yacht Club of Philadelphia facility located at 2nd and Taylor Avenue (Bridgeport, PA-NJ Quadrangle N: 20.1 inches; W: 7.7 inches) in Tinticum Township, **Delaware County**. E23-238A was issued in 1994 for the docking facility at this site.

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

E14-346. Encroachment. **State College Associates**, 20 Erford Road, Suite 212, Lemoyne, PA 17043. Unnamed Tributary to Big Hollow CWF. The project is located along the north side of North Atherton Street (Business SR 0322) approximately 0.83 mile east of the SR 0322 interchange in Patton Township, **Centre County** (Julian PA Quadrangle N: 11.5; W: 4.0). The purpose of the project is to construct a Commercial Development that consists of a 558,000 sq. ft. retail center with associated parking and roads. The project area is 72 acres and includes permanent fill in 0.043 acre of wetlands.

E19-193. Encroachment. **Antonio Rado and Lucy M. Rado**, R. R. 1, Box 3B, Stillwater, PA 17878. To construct, operate and maintain a minor road crossing a contributory channel of Fishing Creek for private, single resident access. The minor road crossing shall be constructed with two corrugated metal culvert pipes. Each culvert pipe shall have a minimum span of 4.1-feet, minimum rise of 2.75-feet and minimum length of 20-feet that will not impact wetlands while impacting 20-feet of waterway that is located along the western right-of-way of SR 0487 approximately 200-feet north of the intersection of SR 1035 and SR 0487 (Benton, PA Quadrangle N: 5.8 inches; W: 0.1 inch) in Stillwater Borough, **Columbia County**. This permit does not authorize any permanent or temporary impact to jurisdictional wetlands associated to Fishing Creek.

E41-451. Encroachment. **City of Williamsport**, 245 West Fourth Street, Williamsport, PA 17701. To (1) relocate an unnamed tributary to Daugherty Run, and (2) construct, operate and maintain an enclosure of an unnamed tributary to Daugherty Run for the expansion of an existing industrial development. The relocation of the unnamed tributary shall not exceed 2,700 linear feet. The enclosure shall be constructed with two reinforced concrete box culverts. Each culvert shall have a maximum length of 2,700-feet, minimum rise of 5-feet and span of 7-feet that will not impact wetlands while impacting 2,700-feet of waterway. The project is located along the eastern right-of-way of S. R. 0220 approximately 4,000-feet south of S. R. 3014 and S. R. 0220 intersection (Williamsport, PA Quadrangle N: 19.0 inches; W: 11.6 inches) in the City of Williamsport, **Lycoming County**.

E49-227. Encroachment. **Terry and Alpha Strohecker**, R. R. 1, Herndon, PA 17830. To maintain an existing dike approximately 300 feet long by 8 feet high by 15 feet wide to help protect an agricultural field from stream water erosion. The project is located adjacent to the top of bank of Mahantango Creek (Klingerstown, PA Quadrangle N: 5.3 inches; W: 16.8 inches) in Jordan Township, **Northumberland County**. The project will not impact on wetlands or waterways. Mahantango Creek is a warm water fisheries stream.

E53-332. Encroachment. **Galen Zeger**, 2156 Buchanan Trail East, Greencastle, PA 17225. Galen Zeger is proposing to maintain a gated public stream crossing consisting of: 1) three corrugated metal pipes 10 feet in diameter and 30 feet long with associated approach fill in the West Branch of Pine Creek located approximately two miles south of Galeton on S. R. 2002 (Galeton, PA Quadrangle, N: 14.5 inches; W: 12.0 inches) in West Branch Township, **Potter County** to access rented summer camps and hunting grounds. The crossing has been constructed already under GP-085397507 and has impacted approximately 40 feet of the West Branch of Pine Creek which is designated HQ-CWF.

E57-084. Encroachment. **Pennsylvania Department of Transportation**, P. O. Box 218, 715 Jordan Avenue, Montoursville, PA 17754-0218. To remove the existing structure and to construct and maintain a concrete box culvert with a clear span of 21 feet and effective underclearance of 9 feet in Sciota Brook located on SR 0087, Section 021 about 0.3 mile west of the Wyoming County line (Jenningsville, PA Quadrangle N: 4.37 inches; W: 14.25 inches) in Colley Township, **Sullivan County**. Estimated stream disturbance is 250 feet; stream classification is CWF; temporary wetland impact is 0.05 acre.

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

E63-468. Encroachment. **Brian Homes, Incorporated**, 3027 South Park Road, Bethel Park, PA 15102. To place and maintain fill in approximately 0.26 acre of wetlands (PEM) adjacent to an unnamed tributary to Brush Run (WWF) for the purpose of constructing Phase 4 of the McMurray Highlands Development. The project is located on the east side of East McMurray Road, approximately 500 feet northeast from the intersection of East McMurray Road and Bebout Road (Bridgeville, PA Quadrangle N: 7.3 inches; W: 10.3 inches) in Peters Township, **Washington County**.

E65-727. Encroachment. **Penn Township Commissioners**, P. O. Box 452, Harrison City, PA 15636-0452. To construct and maintain handicap access ramps and steps off of an existing pedestrian bridge across an unnamed tributary to Bushy Run (TSF) located behind Penn Township Municipal Building off of Municipal Drive (Irwin, PA Quadrangle N: 19.5 inches; W: 3.8 inches) in Penn Township, **Westmoreland County**.

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

E10-302. Encroachment. **Butler County Board of Commissioners**, P. O. Box 1208, Butler, PA 16003-1208. To remove the existing McDeavitt bridge and to construct and maintain a pre-stressed concrete spread box beam bridge having a single clear span of 20.2 meters and a minimum underclearance of 2.9 meters on T-691 (Fenelton Road) across Buffalo Creek (HQ-CWF, Trout stocked). The project is located on T-691 (Fenelton Road)

across Buffalo Creek approximately 8,600 feet east of the intersection of T-691 (Fenelton Road) and SR 1019 in the village of Fenelton (Worthington, PA Quadrangle N: 21.3 inches; W: 10.6 inches) located in Clearfield Township, **Butler County**.

E24-210. Encroachment. **City of St. Marys**, P. O. Box 1994, St. Marys, PA 15857. To remove the existing Fourth Street Bridge and to construct and maintain a pre-cast reinforced concrete box culvert having a span of 24 feet and a rise of 5.5 feet on Fourth Street across Elk Creek (CWF). The box culvert will be placed with the bottom of the structure 0.5 feet below the existing streambed. This project is located on Fourth Street approximately 1,400 feet northeast of the intersection of Brussels Street (SR 0120 east) and South St. Michaels Street in the City of St. Marys. (St. Marys, PA Quadrangle N: 7 inches; W: 10.0 inches) located in the City of St. Marys, **Elk County**.

E33-197. Encroachment. **Winslow Township**, R. R. 1, Reynoldsville, PA 15851. To make the following improvements to T-475 across Schoolhouse Run (HQ-CWF) approximately 0.25 mile east of T-537 in State Game Lands 244 (Reynoldsville, PA Quadrangle N: 17.2 inches; W: 6.5 inches) located in Winslow Township, **Jefferson County**.

1. Remove the remains of the existing bridge.
2. Install and maintain a 30-foot-long steel structural plate pipe arch culvert having a span of 10 feet 11 inches and a rise of 7 feet 1 inch in Schoolhouse Run.
3. Remove debris from the channel of Schoolhouse Run approximately 100 feet upstream of T-475.
4. Re-grade and stabilize approximately 100 feet of an existing overflow swale beginning at the right bank of Schoolhouse Run approximately 100 feet upstream of T-475 and extending east.
5. Install and maintain four 24-inch diameter culverts and rock riprap in the overflow swale approximately 500 feet west of the T-475 culvert.

E61-225. Encroachment. **PA Department of Transportation, District 1-0**, 1140 Liberty Street, Franklin, PA 16335. To remove the existing bridge and to construct and maintain a precast reinforced concrete box culvert having a 14-foot-wide by 4.25-foot-high waterway opening in Lick Run on SR 4006, Segment 0010, Offset 2270 approximately 2,500 feet east of SR 0322 (Utica, PA Quadrangle N: 10.6 inches; W: 01 inch) located in Sugar Creek Borough, **Venango County**.

E62-348. Encroachment. To place by horizontal directional boring and to maintain a 4-inch diameter steel natural gas pipeline within a 6-5/8 outside diameter HDPE conduit under and across Allegheny River (WWF, Nominated 1-A Scenic) approximately 600 feet downstream of the Glade Bridge (SR 0006) across Allegheny River. This utilize crossing will provide locally produced natural gas to United Refinery (Clarendon, PA Quadrangle N: 13.5 inches; W: 1.5 inches) located in Mead Township, **City of Warren**.

ENVIRONMENTAL ASSESSMENT

Southeast Regional Office: Program Manager, Water Management Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428

EA46-004SE. Environmental assessment. **Willowmere Homeowners Assoc.**, c/o CAMCO, Summerset House, Inc., 120 Bethlehem Pike, Fort Washington, PA 19034. A request for an Environmental Assessment in conjunction with permit waiver provision § 105.12(a)(16), Dam Safety and Waterway Management Regulations, regarding the restoration management plan for Willowmere pond and a

segment of the Rose Valley Creek (TSF) at the Wil-lomere property. This project is situated approximately 1,200 feet southeast of the intersection of Susquehanna Road and Willow Avenue (Ambler PA, Quadrangle N: 7.5 inches; W: 12.5 inches) in Upper Dublin Township, **Montgomery County**.

WATER ALLOCATIONS

Applications received 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.

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

WA4-1004. Water allocation, **Conway Borough Municipal Authority**, PA 15716. The applicant is requesting the right to purchase 367,200 gallons per day from the Ambridge Water Authority, **Beaver County**.

WA2-131B. Water allocation, **Pittsburgh Water & Sewer Authority**, 441 Smithfield Street, Pittsburgh, PA 15222. The applicant is requesting a subsidiary permit to buy from the Pennsylvania American Water Company on an emergency basis.

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, Rachel Carson 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.

NPDES Permit No. PA0057011. Amendment No. 1. Sewage, **Thornbury Township**, 8 Township Drive, Cheyney, PA 19319-1019. Amendment to increase the flow for the Bridlewood STP located in Thornbury Township, **Chester County** to Radley Run.

WQM Permit No. 1599407. Sewerage, **Westtown Township**, 1081 Wilmington Pike, West Chester, PA 19382. Approval for the replacement of existing disinfection system with an ultraviolet (UV) radiation disinfection system located in Westtown Township, **Bucks County**.

WQM Permit No. 4699406. Sewage, **Upper Salford Township**, P. O. Box 100, Salfordville, PA 18958-0100. Approval for the construction of a small flow STP to replace an existing malfunctioning on-lot septic system located at Upper Salford Township, **Montgomery County**.

WQM Permit No. 4699409. Sewerage, **Lower Moreland Township Authority**, 640 Red Lion Road, Huntingdon Valley, PA 19006-6234. Approval for the construction and operation of a sanitary sewer line, pump station and force main to serve Arcadia at Inverness residential development located in Lower Moreland Township, **Montgomery County**.

WQM Permit No. 0999412. Sewage, **Lower Bucks County Joint Municipal Authority**, 7811 New Falls Road, Levittown, PA 19055. Approval for the modification of the existing flow equalization system to provide a provision so that existing flow equalization basins can also be operated under off-line operations located in Bristol Township, **Bucks County**.

Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Permit No. 4099402. Sewerage, **Can Do, Inc.**, One South Church Street, Hazleton, PA 18201. Permit to modify and add to the existing treatment plant, located in Hazle Township, **Luzerne County**.

Permit No. 5499402. Sewerage, **Foster Township**, 19 Lower Beechwood Avenue, Pottsville, PA 17901. Permit to construct sewage pumping station and a force main, located in Foster Township, **Schuylkill County**.

Northcentral Regional Office: Department of Environmental Protection, 208 West Third Street, Suite 101, Grit Building, Williamsport, PA 17701.

NPDES Permit No. PA0113913. Sewerage, **Irvin's Tinware Company**, R. R. 1, Box 73, Mt. Pleasant Mills, PA 17853. Renewal granted to Irvin's Tinware Company to discharge treated wastewater from facility located at West Perry Township, **Snyder County**.

NPDES Permit No. PA0208922. Sewerage, **Woodward Township Sewer 7 Water Authority**, P. O. Box 6, Houtzdale, PA 16651. Renewal granted to Woodward Township to discharge treated wastewater from facility located at Woodward Township, **Clearfield County**.

NPDES Permit No. PA 0112445. Sewerage, **P & N Packing Inc.**, R. R. 2, Box 180, Wyalusing, PA 18853-9671. Renewal granted to discharge treated Industrial Wastewater to North Branch Susquehanna River. Facility located at Terry Township, **Bradford County**.

NPDES Permit No. PA0228087. Industrial waste, **Rockwell International**, 600 Anton Blvd., Suite 700, Costa Mesa, CA 92628-5090. Permit granted to discharge

treated groundwater at Equimeter Plant No. 2 to unnamed tributary to Pentz Run. Facility located at City of Dubois, **Clearfield County**.

WQM Permit No. 49842910A1. Industrial waste, **Furman Foods Inc.**, R. D. 2, Northumberland, PA 17857. Permit amendment to replace Lagoon No. 2 with aeration tank and to construct a new sludge storage tank, the improvements are in preparation for the effluents limits contained in their current NPDES permit. Facility located at Point Township, **Northumberland County**.

WQM Permit No. 1999401. Sewerage, **H H Knoebel Sons, Inc.**, P. O. Box 317, Elysburg, PA 17824-0317. Applicant granted permission to construct and operate a package sewage treatment plant to serve 4 existing cottages and 44 campsites and 67 campsites. Facility located at Cleveland Township, **Columbia County**.

WQM Permit No. 1499402. Sewerage, **Kenneth B. Klein**, P. O. Box 189, Port Matilda, PA 16870. Permission granted to construct a single family sewerage treatment facility located at Worth Township, **Centre County**.

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

NPDES Permit No. PA0027481-A1. Industrial waste, **Pennsylvania Power Company**, One East Washington Street, New Castle, PA 16103 is authorized to discharge from a facility located at Bruce Mansfield Plant, Shippingport Borough, **Beaver County**.

NPDES Permit No. PA0204862. Industrial waste, **Guardian Industries Corporation**, 300 Glasshouse Road, Floreffe, PA 15025 is authorized to discharge from a facility located at the Floreffe Plant, Jefferson Borough, **Allegheny County** to receiving waters named Monongahela River.

NPDES Permit No. PA0217891. Industrial waste, **Urban Redevelopment Authority of Pittsburgh**, 200 Ross Street, Pittsburgh, PA 15219-2069, is authorized to discharge from a facility located at Nine Mile Run Project, Summerset at Frick Park, City of Pittsburgh, **Allegheny County** to receiving waters named Nine Mile Run.

NPDES Permit No. PA0031291. Sewerage, **Deer Valley Camp—YMCA of Pittsburgh**, 254 Deer Valley Drive, Fort Hill, PA 15540-2116 is authorized to discharge from a facility located at Deer Valley Camp STP, Elk Lick Township, **Somerset County** to receiving waters named Cove Run.

NPDES Permit No. PA0032085. Sewerage, **Department of Conservation and Natural Resources, Prince Gallitzin State Park**, 966 Marina Road, Patton, PA 16668-6317, is authorized to discharge from a facility located at Prince Gallitzin State Park STP, White Township, **Cambria County** to receiving waters named Beaverdam Run.

NPDES Permit No. PA0093891. Sewerage, **Deer Creek Drainage Basin Authority**, P. O. Box 148, 945 Little Deer Creek Road, Russellton, PA 15076 is authorized to discharge from a facility located at Hampshire Estates STP, West Deer Township, **Allegheny County** to receiving waters named Dawson Run.

NPDES Permit No. PA0098230. Sewerage, **Fort Cherry Area School District**, 110 Fort Cherry Road, McDonald, PA 15057 is authorized to discharge from a facility located at Fort Cherry Jr./Sr. Elementary School STP, Mt. Pleasant Township, **Washington County** to receiving waters named Cherry Run.

Permit No. 0278408-A4. Sewerage, **Upper Allegheny Valley Joint Sanitary Authority**, 320 Fourth Avenue, Tarentum, PA 15084. Modification and operation of a sewage treatment plant and the Bull Creek pump station located in West Deer Township, **Allegheny County**.

Permit No. 0299410. Sewerage, **Public Auditorium Authority of Pittsburgh and Allegheny County**, 425 Sixth Avenue, Suite 1450, Pittsburgh, PA 15219. Construction and operation of a 54-inch combined sewer relocation and replacement located in City of Pittsburgh, **Allegheny County** to serve Three Rivers Stadium.

Permit No. 3086402-A1. Sewerage, **Lower Ten Mile Joint Sewer Authority** P. O. Box 14, Jefferson, PA 15344. Installation of overflows in Lagoon No. 1 and 2 located in East Bethlehem Township, **Washington County** to serve the Williamstown WWTP.

Permit No. 3093401-A3. Sewerage, **Pennsylvania Department of Transportation, Bureau of Design**, P. O. Box 3060, Harrisburg, PA 17105-3060. Modification of removing the comminutor and existing submersible pumps and replacing with an influent bar screen and duplex grinder pumps located in Whiteley Township, **Greene County** to serve PennDot Welcome Center STP.

Northwest Regional Office: Regional Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6942.

NPDES Permit No. PA0020052. Sewerage, **Eldred Borough Municipal Sewage Authority**, 3 Bennett Street, Eldred, PA 16731 is authorized to discharge from a facility located in Eldred Borough, **McKean County** to the Allegheny River.

NPDES Permit No. PA0222828. Sewerage, **James Schultz**, R. D. 1, Bertram Drive, P. O. Box 23, Saegertown, PA 16433 is authorized to discharge from a facility located in Hayfield Township, **Crawford County** to an unnamed tributary to French Creek.

NPDES Permit No. PA0101737. Sewerage, **Wilderness Mobile Home Park, George W. Yeagle**, P. O. Box 924, Warren, PA 16365 is authorized to discharge from a facility located in Pleasant Township, **Warren County** to an unnamed tributary to Morrison Run.

NPDES Permit No. PA0002216. Sewerage, **Concast Metal Products**, P. O. Box 816, Mars, PA 16046 is authorized to discharge from a facility located in Adams Township, **Butler County** to an unnamed tributary to Breakneck Creek.

WQM Permit No. 6299405. Sewerage, **Boyles, Pepperman and Main**, Scott Pepperman, 178 Eccles Road, Sugar Grove, PA 16350. This project is for the construction and operation of a small flow treatment facility in Sugar Grove Township, **Warren County**.

WQM Permit No. 2599403. Sewerage, **Wesleyan Church of the Nazarene**, 9580 U. S. Route 6N, Albion, PA 16401. This project is for the construction and operation of a small flow treatment facility located in Conneaut Township, **Erie County**.

WQM Permit No. 6299202. Industrial waste, **Loranger Manufacturing Corporation, Clark Street Facility**, P. O. Box 948, Warren, PA 16365. This project is for plans to install a cooling system and filtration system in the City of Warren, **Warren County**.

WQM Permit No. 6299201. Industrial waste, **Loranger Manufacturing Corporation, Starbrick Facility**, P. O. Box 948, Warren, PA 16365. This project is for plans to install a cooling system and filtration system in the City of Warren, **Warren 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 and Municipality</i>	<i>Receiving Stream</i>
PAS10-G340	Gambone Brothers Development PO Box 287 Fairview Village, PA 19409	East Goshen Township Chester County	East Branch Ridley Creek

Southcentral Regional Office: Section Chief, Water Management Program, Soils and Waterways Section, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4707.

PAS-10-C030. Individual NPDES, **Greth Development Group**, P. O. Box 305, Temple, PA 19560. To implement an Erosion and Sedimentation Control Plan for the construction of the Cedar Hollow Farms residential subdivision on 82.11 acres in Brecknock Township, **Berks County**. The project is located on both sides of Route 568 and west of T-333 (Kremp Road) (Morgantown, PA Quadrangle N: 20.0 inches; W: 10.1 inches). Drainage will be to Allegheny Creek and a Tributary to Allegheny Creek.

INDIVIDUAL PERMITS

(PAR)

Approvals to Use NPDES and/or Other General Permits

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 contract 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**Facility Location
County and
Municipality**Permit No.**Applicant Name
and Address**Receiving Stream
or Body of Water**Contact Office and
Telephone No.*

Radnor Township Delaware County	PAR10-J150	Radnor Township Elementary School 135 South Wayne Avenue Wayne, PA	Gulph Creek	Department of Environmental Protection Suite 6010, Lee Park, 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Upper Providence Township Montgomery County	PAR10-T460	Oaks Mills, Inc. 2629 Egypt Road Norristown, PA 19403	Perkiomen Creek	Department of Environmental Protection Suite 6010, Lee Park, 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Abington Township Montgomery County	PAR10-T534	Abington Township 1176 Old York Road Abington, PA 19002	Sandy Run Creek	Department of Environmental Protection Suite 6010, Lee Park, 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Horsham Township Montgomery County	PAR10-T499	The Cutler Group, Inc. Suite 100, 5 Sentry Parkway West Blue Bell, PA 19422	Unnamed Tributary to Park and Little Neshaminy Creeks	Department of Environmental Protection Suite 6010, Lee Park, 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Franconia Township Montgomery County	PAR10-T522	WB Homes Inc/DJC Development 538 East Main Street, Lansdale, PA 19446	Unnamed Tributary to Skippack Creek	Department of Environmental Protection Suite 6010, Lee Park, 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Upper Dublin Township Montgomery County	PAR10-T492	The Assisted Living Group, Inc. 263 Glenville Road Glenville, PA 19063	Intermittent Tributary to Sandy Run	Department of Environmental Protection Suite 6010, Lee Park, 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Upper Providence Township Montgomery County	PAR10-T535	Miller Brothers Contracting P. O. Box 472, Schuylkill Haven, PA 17901	Unnamed Tributary to Schuylkill River	Department of Environmental Protection Suite 6010, Lee Park, 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Lackawanna Co. Dickson City Borough	PAR10N082	Robert Defazio Kenneth Powell 808 Laurel Creek Dr. Dickson City, PA 18519	Trib. to Lackawanna River	Lackawanna CD (570) 281-9495
Luzerne Co. Fairview Twp.	PAR10R176	Hallmark Homes 95 S. Main Rd. Mountaintop, PA 18707	Big Wapwallopen Creek	Luzerne CD (570) 674-7991

NOTICES

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<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>
Erie County Summit Township	PAR10K133	JDN Development Co., Inc. 359 E. Paces Ferry Rd., NE Suite 450 Atlanta, GA 30305	Unnamed Tributary to Walnut Creek	Erie Conservation District 12723 Route 19 P. O. Box 801 Waterford, PA 16441 (814) 796-4203
Clearfield County Decatur and Morris Townships	PAR101751	Landmark Organization 1250 Capital of Texas Highway Building 1, Suite 100 Austin, TX 78746	Moshannon Creek	Clearfield County CD 650 Leonard St. Clearfield, PA 16830 (814) 765-2629
Lycoming County Old Lycoming Twp.	PAR103927	Old Lycoming Twp. Auth. 1951 Green Ave. Williamsport, PA 17701	Municipal Storm Sewers/ Lycoming Creek	Lycoming County CD 542 County Farm Rd., Suite 2 Montoursville, PA 17754 (570) 433-3003
Lycoming County Porter Township	PAR103928	Jersey Shore Area School District 175 A&P Drive Jersey Shore, PA 17740	Unt. Susquehanna River	Lycoming County CD 542 County Farm Rd., Suite 2 Montoursville, PA 17754 (570) 433-3003
Maidencreek Township Berks County	PAR-10-C273	Creek Side Manor Subdivision Harry J. O'Neill, President O'Neill Financial 1420 Clarion Street Reading, PA 19601	Willow Creek	Berks County CD P. O. Box 520 1238 County Welfare Road Leesport, PA 19533 (610) 372-4657
Lower Allen Township Cumberland County	PAR-10-H200	The Storing Crew Jeffery Grubb 501 Rolling Ridge Drive State College, PA 16801	Cedar Run	Cumberland County CD 43 Brookwood Avenue, Suite 4 Carlisle, PA 17013 (717) 240-7812
Reed Township Dauphin County	PAR-10-I197	Robert Bonitz 27 Chevron Drive Duncannon, PA 17020	Juniata River	Dauphin County CD 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
West Hanover Township Dauphin County	PAR-10-I199	Nickson W. Oyer Box 216 Waynesboro, PA 17268	Manada Creek	Dauphin County CD 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Washington Township Franklin County	PAR-10-M169	Michael and Beverly Ann Henicle 11001 Anthony Highway Waynesboro, PA 17268	Antietam Creek	Franklin County CD 550 Cleveland Avenue Chambersburg, PA 17201 (717) 264-8074
Guilford Township Franklin County	PAR-10-M170	Hock Development P. O. Box 909 Augusta, GA 30901	Conococheague Creek	Franklin County CD 550 Cleveland Avenue Chambersburg, PA 17201 (717) 264-8074
Delaware Township Juniata County	PAR-10-3505	Warehouse and Distribution Facil. Triangle Pacific Corporation P. O. Box 146 Thompsontown, PA 17094	UNT Juniata River	Juniata County CD R. R. 3, Box 302 (Smith Road) Mifflintown, PA 17059 (717) 436-6919

<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>
East Cocalico Township Lancaster County	PAR-10-O-367	East Cocalico Twp. Auth. 100 Hill Road, Box 402 Reamstown, PA 17567	Stony Run	Lancaster County CD 1383 Arcadia Road Rm. 6 Lancaster, PA 17601 (717) 299-5361
East Lampeter Township Lancaster County	PAR-10-O-379	Fred and Richard Steudler 2599 Old Philadelphia Pike Bird in Hand, PA 17505	Mill Creek	Lancaster County CD 1383 Arcadia Road, Rm. 6 Lancaster, PA 17601 (717) 299-5361
Rapho Township Lancaster County	PAR-10-O-380	Utility/Keystone Trailer Sales 1550 Commerce Drive Box 4454 Lancaster, PA 17604	Chickies Creek	Lancaster County CD 1383 Arcadia Road, Rm. 6 Lancaster, PA 17601 (717) 299-5361
East Hempfield Township Lancaster County	PAR-10-O384	Lancaster County Engineers Off. Box 83480 50 North Duke Street Lancaster, PA 17608	Unt. Chickies Creek	Lancaster County CD 1383 Arcadia Road, Rm. 6 Lancaster, PA 17601 (717)299-5361
New Holland Borough Lancaster County	PAR-10-O-385	Zausner Foods Corporation 400 South Custer Avenue New Holland, PA 17557	Unt. Mill Creek	Lancaster County CD 1383 Arcadia Road, Rm. 6 Lancaster, PA 17601 (717) 299-5361
Mount Joy Township Lancaster County	PAR-10-O-386	Waste Management of PA, Inc. 1121 Bordentown Road Morrisville, PA 19067	Little Chickies Creek	Lancaster County CD 1383 Arcadia Road, Rm. 6 Lancaster, PA 17601 (717) 299-5361
<i>General Permit Type—PAG-3</i>				
<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 County City of Scranton	PAR802221	United States Postal Service Scranton Auxiliary Garage 2800 Stafford Avenue Scranton, PA 18505-9603	Stafford Meadow Brook	Northeast Office 2 Public Square Wilkes-Barre, PA 18711 (570) 826-2511
Washington County Chartiers Township	PAR206104	Dynamet Incorporated 195 Museum Road Washington, PA 15301	Chartiers Creek (Main Stem)	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Indiana County Blairsville Borough	PAR216145	Blairsville Wilbert Vault Co. 100 North East Lane Blairsville, PA 15717	Tributary to Conemaugh River	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

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General Permit Type—PAG-4

<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>
Allegheny County Richland Township	PAG046181	James B. and Christine A. O'Shell 823 Parkview Boulevard Pittsburgh, PA 15215	UNT of Deer Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Clearfield County Bradford Township	PAG044801	Bradley Livergood R. D. 1, Box 376A Frenchville, PA 16836	Unnamed tributary of Sulfur Run	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Montour County Mahoning Township	PAG045057	Mark S. Ruk 209 Bald Top Rd. Danville, PA 17821	UNT to Susquehanna	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Lycoming County Upper Fairfield Township	PAG044975	Henry G. Thomas 848 Back Street Montoursville, PA 17754	UNT of Kaiser Hollow Run	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Clearfield County Bradford Township	PAG045065	John and Diane Price R. D. 1, Box 315 Port Matilda, PA 16870	West Br. Susquehanna	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Centre County Worth Township	PAG045066	Kenneth B. Klein P. O. Box 189 Port Matilda, PA 16870	Laurel Run	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664

General Permit Type—PAG-5

<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>
Westmoreland County Ligonier Township	PAG056132	Ligonier Township Authority 18 Old Lincoln Highway Ligonier, PA 15658	Storm Sewer to Mill Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-6

<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>
Beaver County East Rochester Borough	PAG066132	East Rochester Borough 760 Spruce Avenue East Rochester, PA 15074	Ohio River	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-8**Facility Location**County and Municipality**Permit No.**Applicant Name and Address**Receiving Stream or Body of Water**Contact Office and Telephone No.*Washington Township
Franklin County

PAG-08-3538

Washington Twp. Mun.
Auth.
11102 Buchanan Trail East
Waynesboro, PA 17268

N/A

DEP
SCRO
909 Elmerton Avenue
Harrisburg, PA 17110
(717) 705-4707**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, (570) 826-2511.***City of Pottsville, Borough of Carbon,
Schuylkill County**

The Department has completed its review of the Official Sewage Facilities Plan Special Study (Special Study), dated February 19, 1999 (received by the Department on February 23, 1999), with additional supporting documentation transmitted to the Department and dated April 5, 1999 (received by the Department on April 6, 1999), May 6, 1999 (received by the Department on May 7, 1999) and May 26, 1999 (received by the Department on May 26, 1999).

The Department's review has found that the Special Study is acceptable and hereby grants planning approval. This review has also not identified any significant environmental impacts resulting from this proposal.

In conjunction with this approval, the Department is granting planning approval of the Sewage Facilities Planning Modules submitted for the proposed Yuengling Brewery Expansion (PADEP ID#-254-811-005-3) under separate cover.

The Special Study calls for the abandonment of the Greater Pottsville Area Sewer Authority's (Authority) Port Carbon Wastewater Pumping Station. The Port Carbon Pumping Station will be replaced with a new 6,300 foot, 24 inch PVC gravity interceptor line. This line will replace the existing sections of the 15 inch and 18 inch gravity interceptor and the existing 10 inch force main. The proposed 24 inch interceptor will be constructed between a manhole located at Anderson Street in the City of Pottsville and the existing Port Carbon Wastewater Pumping Station. The 24 inch interceptor line has been sized to accommodate present and future wastewater flows from areas currently served by the Port Carbon Wastewater Pumping Station. The 24 inch interceptor line will also possess capacity for the proposed Yuengling Brewery Expansion Project and future wastewater flows from the proposed Schuylkill Valley Sewer Authority wastewater collection and conveyance system.

The Special Study also calls for the construction of a 2,100 foot, 12 inch, PVC wastewater collector line. This collector line will convey wastewater flows from the proposed Yuengling Brewery Pre-Treatment Facility to the proposed 24 inch gravity interceptor. The proposed wastewater flow to be treated at and discharged from the Yuengling Brewery Pre-Treatment Facility will not exceed 560,000 gpd.

All wastewater from the project area will be treated at the Authority's Main Wastewater Treatment Facility. Since the Main Wastewater Treatment Facility is currently under a sewer connection prohibition, there was a need to obtain a connection allocation for the proposed Yuengling Brewery Expansion Project's wastewater flows of 560,000 gpd. On February 8, 1999, the Authority executed a Consent Order and Agreement (CO&A) with the Department in exchange for a connection allocation of 2,133 EDU's or approximately 560,000 gpd.

Financing of the proposed wastewater construction improvements is proposed to be provided by the Pennsylvania Infrastructure Investment Authority (PENNVEST). This includes the construction of the proposed Yuengling Brewery Pre-Treatment Facility. The pre-treatment facility will be owned by the Authority, but leased to and operated by D. G. Yuengling and Sons Inc.

In accordance with the provisions of the Pennsylvania Sewage Facilities Act, 35 P. S. §§ 750.1—750.20(a) (Act 537), and Chapter 71 of the Department's regulations (25 Pa. Code Ch. 71), the Department will hold the City of Pottsville and the Greater Pottsville Area Sewer Authority responsible for the complete and timely implementation of the Special Study's selected wastewater disposal alternative, as listed in the Special Study, and its corresponding Schedule of Implementation.

Any additional wastewater-related improvements, additions, deletions or changes outside of those explicitly described in the Special Study and this correspondence must be in compliance with the Department's regulations and be submitted to and approved by the Department in writing.

SAFE DRINKING WATER**Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).***Southcentral Regional Office: Sanitarian Regional Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4708.*

Permit No. 0699504. Public water supply, **Citizens Utilities Water Co. of PA**, Amity Township, **Berks County**, *Responsible Official:* Brian J. Hassinger, General Manager, 4 Wellington Blvd., P. O. Box 6342, Wyomissing, PA 19610-6342. *Type of Facility:* Booster pump station for Greenbriar Estates Subdivision. *Consulting Engineer:* Ralph S. Bucci, 408 Laurel Lane, Wallingford, PA 19086, *Permit to Construct Issued/Denied:* May 26, 1999.

Permit No. 0699503. Public water supply, **Mt. Penn Borough Municipal Authority**, Mt. Penn Borough, **Berks County**, *Responsible Official:* Dale Bolton, Authority Chairperson, 200 North 25th Street, Reading, PA 19606. *Type of Facility:* Construction of the new Sylvan Dell booster station. *Consulting Engineer:* Larry A. Dietrich, Lead Project Engineer, Acer Engineers & Con-

sultants, Inc., 649 North Lewis Road, Suite 100, Limerick, PA 19468. *Permit to Construct Issued/Denied:* May 26, 1999.

Regional Office: Northcentral Field Operations, Environmental Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701.

Permit No. Minor Amendment. The Department issued a construction permit to **Penn Township Municipal Authority**, 12 Clifford Road, Selinsgrove, PA 16870, Penn Township, **Snyder County**. The permit was issued for construction of approximately 3 miles of transmission main between the three existing Penn Township water systems.

Permit No. 1498505. The Department issued a construction permit to **College Township Water Authority**, 1481 East College Avenue, State College, PA 16801, College Township, **Centre County**. The permit was issued for construction of Spring Creek Park well, a disinfection system, a sequestration system and the pump station.

Permit No. MA. The Department issued an operating permit to **Mansfield University**, Mansfield Borough, **Tioga County**. This permit amendment authorizes operation of corrosion control facilities to comply with the lead and copper rule.

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

Permit No. 0299502. Public water supply, **Pittsburgh Water and Sewer Authority**, 441 Smithfield Street, Pittsburgh, PA 15222. Sodium hypochlorite disinfection system and chemical storage. Permit for construction issued: June 8, 1999.

Permit No. 0297503. Public water supply, **Borough of Brackenridge**, 1000 Brackenridge Avenue, Brackenridge, PA 15014. 1.0 MG water storage tank. Permit for operation issued: June 8, 1999.

Permit No. 0298506. Public water supply, **Municipal Authority of the Borough of West View**, 210 Perry Highway, Pittsburgh, PA 15229. North Allegheny Water Storage Tank. Permit for operation issued: June 8, 1999.

Permit No. 3289503-A2. Public water supply, **Blairsville Borough Municipal Authority**, 203 East Market Street, Blairsville, PA 15717. Transmission line from Well No. 2 to the plant and chlorine injection point. Permit for construction issued: June 8, 1999.

Permit No. 6399503. Public water supply, **Pennsylvania American Water Company**, P. O. Box 1290, 300 Galley Road, McMurray, PA 15317. Christy Ridge Booster Pump Station. Permit for construction issued: June 8, 1999.

Permit No. 6399501. Public water supply, **Authority of the Borough of Charleroi**, 3 McKean Avenue, P. O. Box 211, Charleroi, PA 15022. Somerset Township water line extension and miscellaneous improvements. Permit for construction issued: June 8, 1999.

HAZARDOUS SITES CLEANUP

Under the Act of October 18, 1988

Notice of Settlement under the Hazardous Sites Cleanup Act

The Commonwealth of Pennsylvania, Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA), has

entered into settlement with Harris Goldstein for response costs associated with the Havertown PCP Superfund Site in Havertown, Delaware County, PA. The Site is located along Eagle Road near the intersection of Lawrence Road and consists primarily of pentachlorophenol and heavy metals contamination associated with the former Wood Processors facility on Eagle Road.

Under the terms of the proposed consent decree, Harris Goldstein agrees to forward the majority of his share of the proceeds of a land transfer litigation over the prior sale of a portion of the Site in exchange for an inability-to-pay covenant not to sue from the Department. Subject to the terms and conditions set forth in the various settlement documents associated with this litigation, this consent decree will terminate both the Department's action for response costs at the Site and the land transfer litigation referenced above.

This Notice is provided under section 1113 of HSCA, 35 P. S. § 6020.1113. Copies of the proposed consent decree are in the possession of the Department and may be examined at the Department's offices at Lee Park, Suite 6010, Conshohocken, PA 19428. Interested persons should contact George Danyliw at (610) 832-5967 or Anderson Lee Hartzell at (610) 832-6300 during normal business hours. The Department will provide a 60 day public comment period from the date of this notice. Persons may submit comments to George Danyliw at the above address. The Department will provide a response to all significant comments received during the public comment period and the proposed consent decree authorizes the Department to withdraw or withhold its consent in the event that the Department determines, based on the comments received during the public comment period, that the consent decree is inappropriate, improper, or not in the public interest.

Settlements Under the Hazardous Sites Cleanup Act Quality Container Corporation Site City of Philadelphia, Philadelphia County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305), has entered into multiple Consent Decrees for settlements with 10 parties regarding the Department's costs incurred for conducting response activities at the Quality Container Corporation (QCC) site. The QCC site is a parcel of land of approximately 1.25 acres located in the City of Philadelphia, Philadelphia County, at the intersection of Collins Street and E. Ontario Street. The surrounding area is zoned commercial and residential.

QCC operated a drum reconditioning facility from 1977 through 1990. QCC stopped operations in 1990 and subsequently abandoned the site leaving roll-off containers, drums and wastes generated by facility operations. In addition, process equipment on the site was not cleaned of wastes at the time the facility was abandoned. The roll-off containers, drums, process equipment, and abandoned wastes were not contained and were accessible to the public.

Because of the threat to human health and the environment posed by the QCC site, the site was deemed as a HSCA site on August 12, 1994 under section 502 of HSCA, 35 P. S. § 6020.502. The Department subsequently implemented and completed an interim response from March 20, 1995 through February 8, 1996 to address the release or threat of release of hazardous substances. To date, the Department has incurred response costs of

approximately \$1.85 million related to the release or threat of release of hazardous substances.

The Department has entered into Consent Decrees for settlements with the following Defendants in the matter of *Commonwealth of Pennsylvania, Department of Environmental Protection v. Borden Chemical, Inc., et al.*, 99-CV-647 (E.D. Pa.): Borden Chemical, Inc., Ciba Specialty Chemicals Corporation, Novartis Corporation, Cookson Pigments, Inc., Daicolor-Pope, Inc., E. F., Houghton & Company, Millmaster Onyx Group and United States Printing Ink, A Division of Sun Chemical Corporation, for and in place of United States Printing Ink Corporation, National Starch and Chemical Co., Reichhold, Inc., and Zeneca, Inc.

The proposed Consent Decrees with Defendants were lodged with the United States District Court for the Eastern District of Pennsylvania on February 5, 1999. Under the terms of the Consent Decrees subject to this notice, the Department will receive a total of \$960,478.09.

This notice is provided under section 1113 of HSCA, 35 P. S. § 6020.1113. The proposed Consent Decree is subject to final approval by the Department following the receipt and review of any comments submitted by the public. The proposed Consent Decrees containing the specific terms of the settlements are available for public review and comment. The proposed Consent Decrees can be examined from 8 a.m. to 4 p.m. at the Department's office at 555 North Lane, Suite 6010, Lee Park, Conshohocken, PA 19428 by contacting Sonja Smith at (610) 832-6003 or through the PA AT&T Relay Service at (800) 654-5984 (TDD). A public comment period on the proposed consent order and agreement will extend for 60 days from the date of publication of this notice. Persons may submit written comments regarding the proposed Consent Decrees to the Department by August 25, 1999, by submitting them to April Flipse, Project Officer, at the above address.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 2

The following final reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site 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, please contact the Environmental Cleanup Program Manager in the Department of Environmental Protection Regional Office under which the notice of receipt of a

final report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate regional office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department of Environmental Protection has received the following final report(s):

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

Bell Atlantic-Material Reclamation Center, Youngwood, **Westmoreland County**. Buncher Management Agency, Inc., 5600 Forward Avenue, Box 81930, Pittsburgh, PA 15217-0187 and Michael Galenski, Bell Atlantic-Pennsylvania, Inc., 1717 Arch Street 25W, Philadelphia, PA 19103 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with lead. The report is intended to document remediation of the site to meet the Statewide health standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908) 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 remediation standards of the Land Recycling and Environmental Remediation Standards Act (act). Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of 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 Manager 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.

Katz & Katz, Hilltown Township, Bucks County. Michael A. Christie, P. G., Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440, has submitted a Final Report concerning remediation of site soils contaminated with petroleum hydrocarbons. The report demonstrated attainment of the Statewide health standard and was approved by the Department on May 17, 1999.

10 E. Wolf Street Site, City of Philadelphia, Philadelphia County. Thomas G. May, Urban Engineers, Inc., 530 Walnut Street, 14th Floor, Philadelphia, PA 19106, has submitted a Baseline Remedial Report concerning remediation of site soils contaminated with lead and polycyclic aromatic hydrocarbons and groundwater contaminated with lead, heavy metals, BTEX and polycyclic aromatic hydrocarbons. The report was approved by the Department on May 19, 1999.

Spring Mill Estates-North Parcel, Upper Providence Township, Montgomery County. Ann Logue, DelVal Soil & Environmental Consultants, Inc., Sky Run II, Suite A1, 4050 Skyron Drive, Doylestown, PA 18901, has submitted a Final Report concerning remediation of site soils contaminated with heavy metals. The report demonstrated attainment of the Statewide health standard and was approved by the Department on May 26, 1999.

SMK Speedy International, Inc., City of Chester, Chester County. Sean Grexa, The Tyree Organization, Ltd., 1350 S. U. S. Highway 130, Burlington, NJ 08016, has submitted a Remedial Investigation Report concerning remediation of site soils and groundwater contaminated with polycyclic aromatic hydrocarbons. The report was approved by the Department on May 26, 1999.

Montgomery Equities, Inc., Plymouth Township, Montgomery County. Darryl D. Borrelli, Manko, Gold & Katcher, LLP, Suite 500, 401 City Avenue, Bala Cynwyd, PA 19004, has submitted a Final Report concerning remediation of site soils contaminated with PCBs, lead, heavy metals, pesticides, dioxin, solvents, BTEX, petroleum hydrocarbons, and polycyclic aromatic hydrocarbons. The report demonstrated attainment of the Statewide health standard and was approved by the Department on May 27, 1999.

Penns Park Road Spill Site, Wrightstown Township, Bucks County. Richard A. Weaver, Kleeman Associates, Inc., 1500 S. Delaware Avenue, Suite 200, Philadelphia, PA 19147, has submitted a Final Report concerning remediation of site soils contaminated with petroleum hydrocarbons. The report demonstrated attainment of the Statewide health standard and was approved by the Department on May 28, 1999.

PECO Energy Company—Former Germantown Service Facility, City of Philadelphia, Philadelphia County. Blake N. Moyer, Jr., National Environmental Technologies Corp., 2840 W. Clymer Avenue, P. O. Box

204, Telford, PA 18969, has submitted a Final Report concerning remediation of site soils contaminated with petroleum hydrocarbons. The report demonstrated attainment of the Statewide health standard and was approved by the Department on June 1, 1999.

SOLID AND HAZARDOUS WASTE BENEFICIAL USE DETERMINATIONS

Approval of determination of applicability 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 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 17105-8472.

General Permit Determination of Applicability No. WMGR003D001. CMI-Tech Cast, Inc., 640 South Cherry Street, Myerstown, PA 17067. This determination of applicability under permit WMGR003 is for the beneficial use of waste foundry sand from an investment casting foundry, using the lost wax casting process, for use as a fine aggregate, road bedding material or pipe bedding material. The determination of applicability was issued by Central Office on June 4, 1999.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

Responsible Office: Southcentral Regional Office, Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4706.

Permit No. 603285. Frank Borkey Farms BE5-1 and BE5-2, BIO GRO Division, (P. O. Box 266, Somerset, PA 15501). This permit has been revoked at the request of the permittee for a site in Upper Bern Township, **Berks County.** Permit revoked in the Regional Office May 28, 1999.

Permit No. 603285. Harold Hetrick Farm, BIO GRO Division, (P. O. Box 266, Somerset, PA 15501). This permit has been revoked at the request of the permittee for a site in Oley Township, **Berks County.** Permit revoked in the Regional Office June 3, 1999.

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and regulations to operate solid waste processing or disposal area or site.

Northwest Regional Office: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6848.

A permit to operate a municipal waste transfer station was issued by the Regional Office on May 17, 1999, to **Sanitation Disposal Inc.,** Permit No. 101487, 1626 Raspberry Street, Erie, PA 16502, located in the City of Erie, **Erie County.**

General permit 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 municipal waste regulations for a general permit to operate infectious waste processing facilities.

Central Office: Division of Municipal and Residual Waste, 14th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101-2301.

General Permit Application No. WMGI011. Antaeus Group, Inc., P. O. Box 432, Hunt Valley, MD 21030. General permit for the processing of infectious waste through the use of mechanical grinding, superheated water and steam was issued by Central Office on June 2, 1999.

AIR QUALITY OPERATING PERMITS

General Plan Approval and Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.

GP-20-277. Range Operating Co., Anderson Compressor Station (State Route 1018, Bloomfield Township, PA 16404) issued June 3, 1999, for operation of a natural gas fired compressor engine in Bloomfield Township, **Crawford County**.

GP-20-273. Range Operating Co., Izbicki Compressor Station (State Route 1024, Centerville, PA 16404) issued June 3, 1999, for operation of a natural gas fired compressor engine in Athens Township, **Crawford County**.

GP-20-254. Range Operating Co., Hasbrouck Compressor Station (Bethel Road, State Route 1032, Rome Township, PA 16404) issued June 3, 1999, for the operation of a natural gas fired compressor engine in Rome Township, **Crawford County**.

GP-62-154. Range Operating Co., Swart Compressor Station (Jinks Road, Spring Creek, PA 16404) issued June 3, 1999, for operation of a natural gas fired compressor engine in Springcreek Township, **Crawford County**.

Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.

TVOP-53-00004. CNG Transmission Corp., Harrison Station (5th Floor, 625 Liberty Avenue, Pittsburgh, PA 15222-3197) issued June 4, 1999, for natural gas fired internal combustion engines, boilers, storage tanks and heaters in Harrison Township, **Potter County**.

TVOP-59-00005. CNG Transmission Corporation, Sabinsville Station (5th Floor, 625 Liberty Avenue, Pittsburgh, PA 15222-3197) issued June 9, 1999, for

natural gas fired internal combustion engines, boilers, storage tanks and heaters in Clymer Township, **Tioga County**.

City of Philadelphia, Air Management Services, 321 University Avenue, Philadelphia, PA 19104, (215) 823-7584.

S95-035. International Paper (2100 East Byberry Road, Philadelphia, PA 19116) issued June 10, 1999, for operation of a flexographic printing facility in **Philadelphia County**.

S95-074. Veterans Affairs Medical Center and Nursing Home Care Unit (University and Woodland Avenues, Philadelphia, PA 19104) issued June 10, 1999, for operation of a hospital and nursing home in Philadelphia County. The facility's air emission sources include boilers (three are rated at 29.4 mmbtu/hr), hot water heaters, emergency generators, and ethylene oxide sterilizers.

S97-013. Laurel Linen Service (4601 West Girard Avenue, Philadelphia, PA 19131) issued June 10, 1999, for operation of a commercial laundry/linen supplier in **Philadelphia County**. The facility's air emission source is a 16.7 mmbtu/hr boiler.

S96-024. Saint Joseph's University (5930 City Line Avenue, Philadelphia, PA 19131) issued June 10, 1999, for operation of a university providing education in Philadelphia County. The facility's air emission sources include boilers (two rated at 13.4 mmbtu/hr and one rated at 20.7 mmbtu/hr), hot water heaters and emergency generators.

S95-070. Henshell Corp. (2922 North 19th Street, Philadelphia, PA 19132) issued June 10, 1999, for operation of electrocoating and powder coating finishes to plastic and metal parts, primarily for the automotive and construction fastener industries in **Philadelphia County**. The facility's air emission sources include boilers, a heater, coating process, ovens and pyrolysis cleaning furnace.

PLAN APPROVALS

Plan Approvals issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Northwest Regional Office: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6940.

PA-33-155A. Trail King Industries, Inc. (Exit 14, Interstate 80, Brookville, PA 15825) issued June 7, 1999, for installation of a paint booth in Brookville, **Jefferson County**.

PA-20-232A. Meadville Plating Co. (10775 Franklin Pike, Meadville, PA 16335) issued June 3, 1999, for installation of two packed bed scrubbers in West Mead Township, **Crawford County**.

PA-10-028F. Armstrong Cement & Supply Co. (100 Clearfield Road, Cabot, PA 16023) issued June 3, 1999, for installation of an electrostatic precipitator in West Winfield Township, **Butler County**.

Plan Approvals extensions issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.

PA-11-005B. Bar Technologies, Inc. (1001 Main Street, Gate 3, Johnstown, PA 15909) issued June 9, 1999, for installation of bloom/billet caster at Johnstown Plant in Franklin Borough, **Cambria County**.

04-307-073C. Koppel Steel Corp. (P. O. Box 750, Beaver Falls, PA 15010) issued June 9, 1999, for installation of multi-lance manipulator at Koppel Plant in Koppel Borough, **Beaver County**.

PA-65-173A. Dynamic Metal Forming, Inc. (7544 Route 18 North, Koppell, PA 16136) issued June 9, 1999, for installation of replacement degreaser tank at the Scottdale Plant in Scottdale Borough, **Westmoreland County**.

PA-04-483B. Interforest Corp. (119 AID, Darlington, PA 16115) issued June 9, 1999, for installation of two hurst boilers at Penn-Beaver Veneers Corp. in Darlington Township, **Beaver County**.

PA-56-266A. Double D. Energy Association, LLC (106 East Market Street, Suite 615, Warren, OH 44481) issued June 9, 1999, for installation of Coal Alomeration in Shade Township, **Somerset County**.

Northwest Regional Office: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6940.

PA-43-034A. Dunbar Asphalt Products, Inc. (Ohio Street Extension, P. O. Box 291, Wheatland PA 16161) issued April 30, 1999, for a bituminous Asphalt Plant in Wheatland, **Mercer County**.

MINING

APPROVALS TO CONDUCT COAL AND NONCOAL ACTIVITIES

The Bureau of Deep Mine Safety (BDMS) has approved Eighty Four Mining Company's request for a variance from the requirements of section 268(b) of the Pennsylvania Bituminous Coal Mine Act at the Mine 84 concerning shelter hole construction. This notification contains a summary of this request. A complete copy of the variance request may be obtained from Allison Gaida by calling (724) 439-7469 or from the BDMS web site at <http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>.

Summary of the request: Eighty Four Mining Company requested a variance from section 268(b) of the Pennsylvania Bituminous Coal Mine Act for a "shelter hole notch" to be cut into the clearance side coal rib at Mine 84. The proposal accords protections to persons and property substantially equal to or greater than the requirements of section 268(b).

The basis for the Bureau's approval is summarized in the following conclusions: Eighty Four Mining Company's request for "shelter notches" provides equal protection to the employes as compared to the alternative method which would require persons traveling underneath high voltage cable, trolley wire, and also exiting the vehicles and crossing the track in front of or behind vehicles.

Advantages to the "Shelter Notch" are as follows:

1. The width and height of the notch are the same as a crosscut.
2. The dimensions of the notch are adequate given the absence of coal haulage equipment.

3. Persons are not required to travel near or under high voltage cables and/or trolley wire.

This approval is limited to Eighty Four Mining Company's variance from the requirements in section 268(b). All other terms and requirements of section 268(b) shall remain in effect. Continued authorization for operation under the approval is contingent upon compliance with the measures described in Mine 84's plan.

The Bureau of Deep Mine Safety (BDMS) has approved Mears Enterprises, Inc.'s request for a variance from the requirements of section 242(c) of the Pennsylvania Bituminous Coal Mine Act at the Ondo Mine. This notification contains a summary of this request. A complete copy of the variance request may be obtained from Allison Gaida by calling (724) 439-7469 or from the BDMS web site at <http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>.

Summary of the request: Mears Enterprises, Inc. requested a variance from section 242(c) of the Pennsylvania Bituminous Coal Mine Act to allow for the common ventilation of belt conveyor entry with other entries at the Ondo Mine. The proposal accords protections to persons and property substantially equal to or greater than the requirements of section 242(c).

The basis for the Bureau's approval is summarized in the following statements:

1. Ondo's plan provides early warning fire detection by the use of carbon monoxide (CO) detectors, and audible alarm over the mine communication system.
2. Ondo's plan provides a separate, isolated intake escapeway that will be maintained at a higher ventilation pressure than the belt and common entries.
3. Ondo's plan provides for the belt and common entries to serve as an alternate intake escapeway.
4. There are significant health and safety benefits associated with allowing entries in common with the belt entry. Repair and maintenance work in the belt entry is afforded safer access. Improved visual safety inspections are facilitated by open crosscuts.

This approval is limited to a variance from the requirements in section 242(c) requiring that the belt entry is isolated from other entries. All other terms and requirements of section 242(c) shall remain in effect. This approval applies to all areas developed after May 20, 1998. Continued authorization for operation under the approval is contingent upon compliance with the measures described in Ondo's approved plan.

The Bureau of Deep Mine Safety (BDMS) has approved Helvetia Coal Company's request for a variance from the requirements of section 268(b) of the Pennsylvania Bituminous Coal Mine Act at the Lucerne No. 6 Extension Mine. This notification contains a summary of this request. A complete copy of the variance request may be obtained from Allison Gaida by calling (724) 439-7469 or from the BDMS web site at <http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>.

Summary of the request: Helvetia Coal Company requested a variance from section 268(b) of the Pennsylvania Bituminous Coal Mine Act to extend shelter hole spacing to a maximum of 130 feet in the Stewart Run Stream area of D-Main for a distance of approximately 500 feet at the Lucerne No. 6 Extension Mine. The proposal accords protections to persons and property substantially equal to or greater than the requirements of section 268(b).

The basis for the Bureau's approval is summarized in the following statements:

1. All rail equipment must stop and let workers enter the nearest shelter hole before proceeding.
2. The track haulage is used for transportation of personnel and mine supplies. Coal is transported by belt conveyor.
3. Signs will identify the area in question, and shelter hole location will be marked with a reflective indicator.

This approval is limited to a variance from the requirements in section 268(b) requiring that shelter hole spacing not exceed 80 feet. All other terms and requirements of section 268(b) shall remain in effect. This approval applies to the area specified. Continued authorization for operation under the approval is contingent upon compliance with the measures described in Lucerne's approved plan and the following conditions:

1. Signs shall be posted inby and outby the Stewart Run Stream area in D-Main that state the shelter hole spacing may vary up to 130 feet.
2. Flashing warning lights shall be placed at least 100 feet from each approach to each work site when men are working in the affected area.

The Bureau of Deep Mine Safety (BDMS) has approved Pierpont Mining, Inc.'s request for a variance from the requirements of section 242(c) of the Pennsylvania Bituminous Coal Mine Act at the Pierpont No. 10 Mine. This notification contains a summary of this request. A complete copy of the variance request may be obtained from Allison Gaida by calling (724) 439-7469 or from the BDMS web site at <http://www.dep.state.pa.us/deputate/minres/dms/dms.htm>.

Summary of the request: Pierpont Mining, Inc. requested a variance from section 242(c) of the Pennsylvania Bituminous Coal Mine Act to allow for the common ventilation of belt conveyor entry with other entries at the Pierpont No. 10 Mine. The proposal accords protections to persons and property substantially equal to or greater than the requirements of section 242(c).

The basis for the Bureau's approval is summarized in the following statements:

1. Pierpont's plan provides early warning fire detection by the use of carbon monoxide (CO) detectors, and audible alarm over the mine communication system.
2. Pierpont's plan provides a separate, isolated intake escapeway that will be maintained at a higher ventilation pressure than the belt and common entries.
3. Pierpont's plan provides for the belt and common entries to serve as an alternate intake escapeway.
4. There are significant health and safety benefits associated with allowing entries in common with the belt entry. Repair and maintenance work in the belt entry is afforded safer access. Improved visual safety inspections are facilitated by open crosscuts.

This approval is limited to a variance from the requirements in section 242(c) [DEP1] requiring that the belt entry is isolated from other entries. All other terms and requirements of section 242(c) [DEP2] shall remain in effect. This approval applies to all areas developed after May 20, 1998. Continued authorization for operation under the approval is contingent upon compliance with the measures described in Pierpont Mining Inc.'s approved plan.

The Bureau of Deep Mine Safety (BDMS) has approved Mears Enterprises, Inc.'s request for a variance from the requirements of section 242(c) of the Pennsylvania Bituminous Coal Mine Act at the Penn Run Mine. This notification contains a summary of this request. A complete copy of the variance request may be obtained from Allison Gaida by calling (724) 439-7469 or from the BDMS web site at <http://www.dep.state.pa.us/deputate/minres/dms/dms.htm>.

Summary of the request: Mears Enterprises, Inc. requested a variance from section 242(c) of the Pennsylvania Bituminous Coal Mine Act to allow for the common ventilation of belt conveyor entry with other entries at the Penn Run Mine. The proposal accords protections to persons and property substantially equal to or greater than the requirements of section 242(c).

The basis for the Bureau's approval is summarized in the following statements:

1. Penn Run's plan provides early warning fire detection by the use of carbon monoxide (CO) detectors, and audible alarm over the mine communication system.
2. Penn Run's plan provides a separate, isolated intake escapeway that will be maintained at a higher ventilation pressure than the belt and common entries.
3. Penn Run's plan provides for the belt and common entries to serve as an alternate intake escapeway.
4. There are significant health and safety benefits associated with allowing entries in common with the belt entry. Repair and maintenance work in the belt entry is afforded safer access. Improved visual safety inspections are facilitated by open crosscuts.

This approval is limited to a variance from the requirements in section 242(c) requiring that the belt entry is isolated from other entries. All other terms and requirements of section 242(c) shall remain in effect. This approval applies to all areas developed after May 20, 1998. Continued authorization for operation under the approval is contingent upon compliance with the measures described in Penn Run's approved plan.

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.)

Permits Issued and Actions on 401 Certification

Southeast Regional Office: Program Manager, Water Management Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

E15-566. Encroachment Permit, **William E. Freas**, 211 Carter Drive, West Chester, PA 19382. To perform the following activities associated with the William E. Freas Golf Development (Construction & Design, Inc.):

1. To construct and maintain a footbridge across Goose Creek (WWF) consisting of a single span of approximately 50 feet and average underclearance of approximately 8.0 feet near the easterly property boundary;

2. To construct and maintain a vehicular bridge across Goose Creek consisting of a prefabricated concrete arch situated just north of the Hagerty Boulevard Cul-de-Sac. This bridge has a span of approximately 32 feet and maximum underclearance of approximately 15 feet;

3. To construct and maintain a footbridge across Goose Run consisting of a twin span, measuring 50 feet and 30 feet, respectively. The maximum underclearance of this structure will be approximately 9.0 feet. This bridge occurs just upstream from the Goose Creek confluence with Bypass Run.

This permit also includes after-the-fact authorization for the following activities:

4. To maintain fill within approximately 0.17 acre of wetland (PEM) adjacent to Bypass Run;

5. To maintain fill along the 100-year floodway of Goose Creek;

6. To operate and maintain approximately 250 linear feet of a relocated section of Bypass Run and approximately 170 linear feet of a relocated section of Goose Creek;

7. To operate and maintain a temporary stream crossing near the location of the aforementioned vehicular bridge.

The site is located southeast of the intersection of the Southeast Pennsylvania Transportation Authority (SEPTA) Railroad and the West Chester By-Pass (S. R. 0202) just north of the Hagerty Boulevard Cul-de-Sac (West Chester USGS Quadrangle N: 13.25 inches; W: 11.25 inches) in West Goshen Township, **Chester County**. The permittee has made a contribution to the wetland replacement fund to compensate for the 0.17 acre of wetland impact.

This permit was issued under § 105.13(e) "small projects."

This permit also includes 401 Water Quality Certification.

Northeast Regional Office: Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Permit No. E40-517. Encroachment. **City of Wilkes-Barre**, 40 East Market Street, Wilkes-Barre, PA 18711. To remove the existing structure and to construct and maintain a prestressed concrete box beam bridge, having a span of 21.3 feet (6.5 meters) and an underclearance of 7.2 feet (2.2 meters), across Coal Brook. The project is located on Scott Street, approximately 300 feet west of the intersection of Scott Street and Business Route 309 (Wilkes-Barre East, PA Quadrangle N: 22.4 inches; W: 14.7 inches), in the City of Wilkes-Barre, **Luzerne County**.

Permit No. E64-199. Encroachment. **Gordon and Nan Worum**, 885 Bohnet Drive, Fairbanks, AK 99712. To modify and maintain an existing single-span bridge across the West Branch Lackawaxen River, with work consisting of replacing the bridge deck using steel I-beams with a wooden deck. The bridge has a span of approximately 30 feet and an underclearance of approximately 5 feet, and is located on the northeastern side of S. R. 0170, approximately 0.85 mile southeast of the intersection of S. R. 0170 and S. R. 4025 (Forest City, PA Quadrangle N: 15.3 inches; W: 4.0 inches), in Mount Pleasant Township, **Wayne County**.

Permit No. E40-518. Encroachment. **E. Donald Chellis**, R. R. 1, Box 290, Harveys Lake, PA 18618. To modify and maintain an existing pile-supported dock in Harveys Lake, with work consisting of enlarging the dock area to add a boat slip and boathouse. As modified, the structure extends approximately 46 feet from the shoreline, and has an overall width of 52 feet and areal coverage of approximately 2,180 square feet. The project is located at Pole No. 60, Lakeside Drive (Harveys Lake, PA Quadrangle N: 22.0 inches; W: 5.5 inches), in Harveys Lake Borough, **Luzerne County**.

Permit No. E40-519. Encroachment. **Pete Bayo**, R. R. 1, Box 122, Harveys Lake, PA 18618. To modify and maintain an existing pile-supported dock in Harveys Lake, with work consisting of enlarging the dock area from approximately 400 square feet to 1,260 square feet. As modified, the dock extends 50 feet from the shoreline and has an overall width of 42 feet. The project is located at Pole No. 157-B, Lakeside Drive (Harveys Lake, PA Quadrangle N: 22.3 inches; W: 6.5 inches), in Harveys Lake Borough, **Luzerne County**.

Permit No. E40-520. Encroachment. **Jack Smulovitz**, 69 Wyoming Street, Wilkes-Barre, PA 18702. To modify and maintain an existing pile-supported dock/boathouse in Harveys Lake, with work including repairs to the existing structure and enlargement of the dock area. As modified, the structure extends approximately 47 feet from the shoreline and has an overall width of 32 feet and areal coverage of 1,240 square feet. The project is located at Pole No. 51, Lakeside Drive (Harveys Lake, PA Quadrangle N: 21.0 inches; W: 5.4 inches), in Harveys Lake Borough, **Luzerne County**.

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

E01-204. Encroachment. **Gettysburg Municipal Authority**, 601 E. Middle St., Gettysburg, PA 17325. To construct and maintain an 8-inch fire service waterline through Willoughby Run (CH93-WWF) at the National Park Service Eisenhower National Historic Site located

east of Eisenhower Farm No. 4 (Fairfield, PA Quadrangle N: 7.4 inches; W: 3.3 inches) in Cumberland Township, **Adams County**. The construction of this line will result in 1,050 square feet of temporary impact to an adjacent wetland. This permit also includes 401 Water Quality Certification.

E07-310. Encroachment. **Northern Blair County Regional Sewer Authority**, R. R. 4, Box 236A, Tyrone, PA 16686. To construct and maintain about 10.8 miles of sanitary sewer collection system partially located in the floodway/floodplain of (South) Bald Eagle Creek (TSF) and crossing 10 separate stream channels and about 1.5 acres of 14 associated wetland areas in the (South) Bald Eagle Creek watershed for the purpose of mitigating the pollution problems associated with malfunction private in-ground septic systems in the Vail/Bald Eagle area (Tyrone, PA Quadrangle N: 13.7 inches; W: 13.0 inches) in Snyder Township, **Blair County**. This permit also includes 401 Water Quality Certification.

E36-671. Encroachment. **Rapho Township**, 971 N. Colebrook Rd., Manheim, PA 17545. To remove three existing structures and construct and maintain a precast reinforced concrete box culvert at three locations on Hernley Road (T-855) across Rife Run (WWF) and two tributaries to Rife Run. Box culvert No. 1 is a 12-foot span with a 5.5-foot rise waterway opening in a tributary channel located near the intersection of Hernley Road with Old Line Road (SR 4026). Realignment of approximately 40 linear feet upstream and 60 linear feet downstream channel at Culvert No. 1 is authorized by this permit. Box culvert No. 2 will have a 12-foot span × 6-foot rise waterway opening in Rife Run tributary. Box culvert No. 3 will have a 17-foot span with a 4-foot rise waterway opening in Rife Run. The realignment of approximately 20 linear feet upstream and 50 linear feet downstream channel at Culvert No. 3 is made a part of this permit. The proposed roadway improvements on Hernley Road are located (Manheim, PA Quadrangle N: 8.5 inches; W: 5.0 inches) in Rapho Township, **Lancaster County**. This permit was issued under § 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E44-096. Encroachment. **Mifflin County Commissioners**, 20 North Wayne St., Lewistown, PA 17044. To remove an existing bridge and to construct and maintain a single span prestressed spread box beam bridge having a clear span of 103.35 feet and an underclearance of about 9.0 feet across Jacks Creek (CWF) located on Township Road T-385, SR 96111, Section 000, about 0.23 mile east of its intersection with Township Road T-705 (Alfarata, PA Quadrangle N: 11.3 inches; W: 4.2 inches) in Decatur Township, **Mifflin County**. This permit was issued under § 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

E12-112. Encroachment. **Timothy Vermillion**, 9903 Tomahawk Trail, Wexford, PA 15090. To remodel and maintain an existing hunting cabin and to construct and maintain a shed, 9 feet by 9 feet, in the floodway of First Fork of Sinnemahoning Creek located off Route 872 approximately 3 miles north of Route 120 (Sinnemahoning, PA Quadrangle N: 20.7 inches; W: 7.7 inches) in Grove Township, **Cameron County**. This permit was issued under § 105.13(e) "Small Projects."

E14-335. Encroachment. **College Township Water Authority**, 1481 East College Avenue, State College, PA

16801. To construct, operate and maintain a potable water facility and a flood protection berm in the 100-year floodplain of Spring Creek for the development of a public drinking water supply. The construction of the well facility shall consist of installing a submersible well pump, motor, wellhead and pump station. The flood protection berm shall be constructed with a maximum length of 350-feet, side slopes of 4-feet horizontal to 1-foot vertical and a maximum height of 3-feet. The project is located along the northern right-of-way of SR 0322 approximately 5-miles north of the intersection of Pudding Town Road and SR 0026 (State College, PA Quadrangle N: 12.7 inches; W: 11.4 inches) in College Township, Centre County. This permit was issued under § 105.13(e) "Small Projects."

E18-264. Encroachment. **Schrack Farms Partnership**, R. R. 2, Box 68, Loganton, PA 17747. To realign the channel of Fishing Creek for the mitigation of flood damage. The realignment shall consist of removing 1771 cubic yards of deposition, debris and woody vegetation through an 820-foot reach of Fishing Creek channel. The project is located along the eastern right-of-way of S. R. 0880 approximately 2,000-feet east of the intersection of T-346 and S. R. 0880 (Mill Hall, PA Quadrangle N: 0.6 inch; W: 1.9 inches) in Logan Township, **Clinton County**. This permit also authorizes the construction, operation and maintenance of an agricultural crossing of Fishing Creek which shall be done in accordance with the Department's BDWM-GP-6. This permit was issued under § 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E19-188. Encroachment. **Victor Nestico**, 430 Maple Street, Kulpmont, PA 17834. To maintain a 4-foot diameter culvert pipe approximately 40 feet in length in an unnamed tributary to South Branch Roaring Creek at the intersection of T-302 and T-309 (Shamokin, PA Quadrangle N: 15.8 inches; W: 0.6 inch) in Cleveland Township, **Columbia County**. The project will not impact on wetlands while impacting approximately 50 feet of waterway. The unnamed tributary to South Branch Roaring Creek is a High Quality Cold Water Fisheries Stream.

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

E02-1268. Encroachment. **Owl Cleaners, Inc.**, 10562 Perry Highway, Wexford, PA 15090. To place and maintain fill along the right side of a tributary to Brush Creek (WWF) (known as Tributary No. 2) for a distance of approximately 40 feet for the purpose of expanding an existing parking lot for a commercial building. The site is located along the west side of Northgate Drive approximately 100 feet north of its intersection with Shenot Road (Mars, PA Quadrangle N: 4.8 inches; W: 11.1 inches) in Marshall Township, **Allegheny County**. This permit was issued under § 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E04-264. Encroachment. **Bet-Tech International**, 1150 Brodhead Road, Monaca, PA 15001. To perform maintenance dredging and to operate and maintain a barge docking facility along the left bank side of the Ohio River (WWF) near River Mile 22.6 (Beaver, PA Quadrangle N: 8.5 inches; W: 1.2 inches) in Center Township, **Beaver County**. This permit was issued under § 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E56-289. Encroachment. **Pennsylvania Department of Transportation**, Engineering District 9-0, 1620 North Juniata Street, Hollidaysburg, PA 16648. To remove the

existing structure and to construct and maintain a bridge having a span of 18.00 meters and an underclearance of 4.56 meters across Laurel Hill Creek (HQ-CWF) located on S. R. 0031, Section 005, Segment 90, Offset 169M; to construct and maintain a temporary roadway crossing consisting of four 1800-mm diameter pipes, and to place and maintain rock protection along each abutment. Also, to permanently place and maintain fill in 0.0391 hectare of PSSI/PEM wetlands for the purpose of improving highway safety by widening the bridge and to temporarily place and maintain fill in 0.163 hectare of PSSI wetlands for the purpose of constructing the temporary road crossing (Bakerville, PA Quadrangle N: 6.0 inches; W: 12.2 inches) in Jefferson Township, **Somerset County**. To compensate for the wetland impacts, the applicant will construct 0.0743 hectare of replacement wetlands on an adjoining area.

E56-290. Encroachment. **Precision Pallets and Lumber**, 7044 National Road, P. O. Box 51, Addison, PA 15411. To construct and maintain a pond having a length of 250.0 feet, a width of 200.0 feet and a depth of 8.0 feet in and along Chub Run (WWF) located south of the intersection of Route 40 and the Addison-Friendsville Road (Accident, PA Quadrangle N: 21.0 inches; W: 11.1 inches) in Addison Township, **Somerset County**. This permit was issued under § 105.13(e) "small projects." This permit also includes 401 Water Quality Certification.

E65-721. Encroachment. **Westmoreland County Industrial Development Corporation**, 601 Courthouse Square, 2 North Main Street, Greensburg, PA 15601. To place and maintain fill in 0.56 acre of PEM wetlands and to construct 0.90 acre of PEM replacement wetlands as part of the development of the I-70 Industrial Park. The project is located off of Township Route 378 north of its intersection with S. R. 3031 (Smithton, PA Quadrangle N: 9.3 inches; W: 17.0 inches) in South Huntingdon Township, **Westmoreland County**.

E65-722. Encroachment. **Pennsylvania Department of Transportation**, Engineering District 12-0, Box 459, Uniontown, PA 15401. To remove the existing structure and to construct and maintain a 10.7 meters long Precast box culvert having a clear span of 4.27 meters and an underclearance of 1.45 meters (invert Depressed 0.3 meter) in an unnamed tributary to McGee Run (WWF). The project is located on S. R. 217, Section 01R (West 4th Avenue) at the intersection of West Mentor Street and West 4th Avenue (Derry, PA Quadrangle N: 14.30 inches; W: 7.00 inches) in Derry Borough, **Westmoreland County**. This permit was issued under § 105.13(e) "small projects." This permit also includes 401 Water Quality Certification.

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

E20-469. Encroachment. **Bloomfield Township**, 22978 Shreve Ridge Road, Union City, PA 16438. To remove the existing Township Bridge No. 5 on Lakeview Drive across East Shreve Run and to construct and maintain twin 13-foot wide by 7-foot high concrete box culverts or a 28-foot wide by 7.5-foot high Con Span concrete arch and to install and maintain approximately 70 feet of rock riprap and gabion basket streambank stabilization along the right bank approximately 160 feet upstream of the bridge (Lake Canadohta, PA Quadrangle N: 12.1 inches; W: 11.2 inches) located in Bloomfield Township, **Crawford County**.

E20-472. Encroachment. **PA Department of Transportation, District 1-0**, 1140 Liberty Street, Franklin,

PA 16323. To place concrete streambed paving 1.0-foot below the existing streambed elevation and maintain the reinforced concrete slab bridge having a span of 8 feet and an underclearance of 8 feet across Williams Run on S. R. 0019, Segment 0090, Offset 0367 approximately 0.25 mile south of S. R. 285 (Geneva, PA Quadrangle N: 6.5 inches; W: 8.25 inches) located in Greenwood Township, **Crawford County**.

E20-473. Encroachment. **PA Department of Transportation, District 1-0**, 1140 Liberty Street, Franklin, PA 16323. To place streambed paving 1.0 foot below the existing streambed elevation and maintain the reinforced concrete slab bridge having a span of 10 feet and an underclearance of 5 feet across a Tributary to French Creek (Coulter Run) on S. R. 1006, Segment 0010, Offset 1706 approximately 0.65 mile east of I-79 (Edinboro South, PA Quadrangle N: 11.3 inches; W: 4.9 inches) in Cussewago Township, **Crawford County**.

E20-474. Encroachment. **PA Department of Transportation, District 1-0**, 1140 Liberty Street, Franklin, PA 16323. To place concrete streambed paving 1.0 foot below the existing streambed elevation and maintain the reinforced concrete slab bridge having a span of 10 feet and an underclearance of 6.5 feet across a tributary to Little Sugar Creek (Brown Run) on S. R. 2014, Segment 0100, Offset 0000 (Sugar Lake Road) approximately 2.4 miles of Pettis Corners (Cochranon, PA Quadrangle N: 12.25 inches; W: 0.85 inch) located in Wayne Township, **Crawford County**.

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, Sanitarian Regional Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4708.

Permit No. 67-1010. Water allocations, **New Freedom Borough**, York County, *Responsible Official: Scott A. DePoe, 49 E. High St., New Freedom, PA 17349.* Request: The right to purchase 200,000 gallons per day (gpd), based on a 30-day average, but not to exceed 6 million gallons per month, from the York Water Company (Company), located in **York County**. *Permit Issued: June 8, 1999.*

[Pa.B. Doc. No. 99-1018. Filed for public inspection June 25, 1999, 9:00 a.m.]

Air Quality Technical Advisory Committee; Meeting Notice

The Air Quality Technical Advisory Committee will meet on June 29, 1999, in Room 105 of the Rachel Carson State Office Building. For more information, contact Terry Black at (717) 787-2030.

Persons with a disability who wish to attend and require an auxiliary aid, service or other accommodations should contact Susan Smith at (717) 787-6548 to discuss how the Department may accommodate their needs.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 99-1019. Filed for public inspection June 25, 1999, 9:00 a.m.]

Availability of Final General NPDES Permit for Wastewater Discharges from Hydrostatic Testing of Tanks and Pipelines (PAG 10)

In compliance with the provisions of the Federal Clean Water Act, The Clean Streams Law (35 P. S. §§ 691.1—691.1001), sections 1905-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-5, 510-7 and 510-20), the Department of Environmental Protection (Department) by this notice announces the availability of a final NPDES general permit, the permit application (Notice of Intent—NOI) and related documents for discharges from hydrostatic testing of tanks and pipelines for use within this Commonwealth. The NOI sets forth the eligibility criteria for submission of the permit application and other data submission requirements. The permit sets forth the effluent limitations, monitoring and reporting requirements and other terms and conditions for compliance with the general permit. This permit and related documents are applicable for discharges to all waters of the Commonwealth except in waters designated for “Special Protection” in 25 Pa. Code Chapter 93. In accordance with 25 Pa. Code § 92.83, an individual NPDES permit will continue to be required for discharges to waters designated for “Special Protection.” In addition, a public hearing is also required for discharges to exceptional value waters. Applicants for permits in these waters should contact the appropriate Department field office for application requirements and further information.

A notice requesting public comments on the draft documents was published in the *Pennsylvania Bulletin* on June 13, 1998. The 30-day comment period ended on July 12, 1998. The Department received comments from one commentator. The Department considered these comments. The comment received concerned perceived or expected delays associated with the proposed minimum 60-day permit processing and approval time. The 60-days processing time is on the lower side of the Department's normal processing times for other general permits which range from 60 to 90 days. In these cases, all of the effluent limitations, monitoring and reporting requirements, and other terms and conditions of the general permit would be operative and enforceable upon the permittee. The Department would forward a signed copy of the permit with a unique permit number to the permittee at a later date.

To address a need for pollution prevention and emergency response, the Department has added a pollution prevention and contingency (PPC) plan requirement applicable to the type of pipeline and tank testing activities. The permittee should refer to the Department's “Guidelines for the Development and Implementation of Environmental Emergency Response Plans (12/97).” In addition, some missing instructions on signatory requirements also have been added. The NOI has been reformatted to look like NOIs for other NPDES general permits.

The general permit allows the Department to approve Statewide and local or regional permit coverage depending upon the type of activity or operation. Only one NOI for coverage under the general permit must be submitted for Statewide use of the general permit for discharges from hydrostatic testing of pipelines that cross regional boundaries. For test water discharges from tanks, the NOI can also be used for requesting approval of coverage to discharge to a specific site or within a specific region. The instructions for the NOI provide the following general procedures to be used for approving Statewide or regional/site specific coverage.

(1) *Statewide Coverage Approval:* All NOIs for a Statewide coverage should be submitted to the Harrisburg Central Office of the Department, Division of Wastewater Management, Bureau of Water Quality Protection, P. O. Box 8774, Harrisburg, PA 17105-8774. Due to the total length of pipeline crossing the State, the lack of specific known discharge points and the crossing of several regional office jurisdictions, the applicant may submit only one completed NOI for processing. The Central Office would process the NOI and if found to be acceptable, forward a signed copy of the permit with a unique permit number to the permittee. However, to operate under the general permit, the permittee must provide a 15-day written notification to the Department's affected regional office before discharging at any location. The notifications must demonstrate completion and implementation of the PPC plan, installation of necessary BMPs, obtaining of other required approval/permits prior to or at the time of the submission of notification to the regional office.

(2) *Site or Region Specific Coverage Approval:* All NOIs for discharges resulting from regional or site specific testing of tanks should continue to be submitted to the appropriate regional office at locations provided in the NOI instructions. The NOI must be submitted at least 30 days before the proposed discharge. The regional office will process the NOI and if found to be acceptable, forward a signed copy of the permit with a unique permit number to the permittee. The notifications must demonstrate completion and implementation of the PPC plan, installation of necessary BMPs, obtaining of other required approvals/permits prior to or at the time of the submission of NOI to the Department.

In either situation, the Department will publish the receipt of the NOI and the approval of general permit coverage in the *Pennsylvania Bulletin* together and issue a formal signed general permit with a unique permit number to the applicant following the publication.

Upon duplication and posting on the DEP Web Site, the final permit documents will be available for downloading from the Department's Web Site at: <http://www.dep.state.pa.us>. The documents will also be available by contacting the appropriate Department Regional Office having jurisdiction over the county with the proposed discharge. Addresses of Regional Offices and the counties each office covers and of the Central Office are provided in the instructions to the NOI.

The final General NPDES permit for wastewater discharges from hydrostatic testing of tanks and pipelines (PAG 10) is now available for use as provided for in the permit. The Department also may allow existing eligible individual permit holders of the discharges to apply for and obtain coverage under the general permit when the existing permit is due for renewal.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 99-1020. Filed for public inspection June 25, 1999, 9:00 a.m.]

Availability of Technical Guidance

Guidance Documents are on DEP's World Wide Web site (<http://www.dep.state.pa.us>) at the Public Participation Center. The “January 1999 Inventory” heading is the Governor's List of Nonregulatory 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 1999.

Ordering Paper Copies of DEP 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 Guidance Documents

Here is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document. Persons who have questions or comments in general should call Joe Sieber at (717) 783-8727.

Draft Guidance

DEP ID: 383-3310-609 Title: PADWIS Reporting Description: This manual provides revised instructions for generating reports using information stored in the Pennsylvania Drinking Water Information System (PADWIS) database system. PADWIS is maintained by the DEP Bureau of Water Supply Management, Division of Drinking Water Management, Information Services Section. Comment Period Ends: July 26, 1999 Anticipated Effective Date: August 1, 1999 Contact: Trudy Troutman at (717) 783-3795.

Final Guidance

DEP ID: 012-5500-001 Title: 2000 Environmental Education Grants Program Manual and Forms Description: This guidance provides information on applying for an Environmental Education Grant, as well as to inform potential awardees as to what is involved once an Environmental Education Grant award is made. Effective Date: July 1, 1999 Contact: Heidi Haertsch at (717) 705-3767.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 99-1021. Filed for public inspection June 25, 1999, 9:00 a.m.]

Mining and Reclamation Advisory Board Meeting

The Mining and Reclamation Advisory Board (MRAB) will meet on Thursday, July 1 and Friday, July 2, 1999, at the Best Western Inn and Conference Center in DuBois, PA. On Thursday, the MRAB will tour BMP Permit—Amerikohl Rathmel Site, GFCC Project—Alvin Gearhart/ACV Power Site, Passive Treatment/Pollution Trading—Hanley Brick Confer Project, and Doverspike Brothers Dora Prep Plant and Refuse Disposal Areas. On Friday, the full board meeting will take place, beginning at 8 a.m.

Questions concerning the agenda may be directed to Robert Dolence at (717) 783-5338 or e-mail to Dolence.Robert@dep.state.pa.us. The agenda for this

meeting will also be available through the Public Participation Center on DEP's World Wide Web site at <http://www.dep.state.pa.us>.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Robert Dolence directly at (717) 783-5338 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 99-1022. Filed for public inspection June 25, 1999, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Availability of the Low-Income Home Energy Assistance Program; Proposed State Plan and Public Hearing Schedule

The Department of Public Welfare (Department) is making available for public review and comment the Fiscal Year (FY) 1999-00 Low-Income Home Energy Assistance Program (LIHEAP) proposed State Plan. Comments on this document and testimony received at public hearings scheduled for August will be used to formulate the Department's final State Plan for using Federal funds in the FY 1999-00 LIHEAP Program.

The Department has sent advance copies of the proposed State Plan to the LIHEAP Advisory Committee. In addition, copies have been sent to fuel associations, legal service agencies and Area Agencies on Aging for distribution to their members or constituents. Other persons who want copies can obtain them after July 30, 1999, either by contacting their local county assistance office or by calling Karen Kirk at (717) 772-7906.

The Department will hold three public hearings throughout this Commonwealth to allow testimony on the proposed State Plan and fulfill the Federal mandate for public input into the planning process. This mandate appears in Title XXVI (The Low-Income Home Energy Assistance Act of 1981) (Pub. L. 97-35, 42 U.S.C.A. §§ 8621 et. seq.) as amended by the Human Services Reauthorization Act of 1984 (Pub. L. 98-558), the Human Services Reauthorization Act of 1986 (Pub. L. 99-425), the Augustus F. Hawkins Human Services Reauthorization Act of 1990 (Pub. L. 101-501), the National Institutes of Health Revitalization Act of 1993 (Pub. L. 103-43), the Low-Income Home Energy Assistance Amendments of 1994 (Pub. L. 103-252) and the Coats Human Services Reauthorization Act of 1998 (Pub. L. 105-285).

Public Hearing Schedule

August 17, 1999
10 a.m.—12 noon
Allegheny County Courthouse
Gold Room, 4th Floor
436 Grant Street
Pittsburgh, PA

August 19, 1999
10 a.m.—1 p.m.
Philadelphia County Assistance Office
LIHEAP Conference Room, 2nd Floor
4601 Market Street
Philadelphia, PA

August 20, 1999
10 a.m.—12 noon
Room 812, Health and Welfare Building
Forster Street
Harrisburg, PA

Persons who wish to testify on the proposed State Plan at a public hearing should arrange a time by telephoning (717) 772-7906 before August 6, 1999. Persons from outside the Harrisburg area should call toll-free (800) 692-7462 or send a written request, including their telephone number, to Nancy Poindexter, Federal Programs and Program Management, Room 224, Willow Oak Building, Complex 2, Bldg. 42, P. O. Box 2675, Harrisburg, PA 17105.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

FEATHER O. HOUSTOUN,
Secretary

[Pa.B. Doc. No. 99-1023. Filed for public inspection June 25, 1999, 9:00 a.m.]

Inpatient Hospital Services

The purpose of this announcement is to provide advance public notice of the Department of Public Welfare's (Department) intent to revise its payment method for inpatient hospital services effective July 1, 1999. These revisions will affect acute care general hospitals, private psychiatric hospitals, psychiatric units of general hospitals, rehabilitation hospitals and rehabilitation units of general hospitals.

The Department is discussing with representatives of the hospital industry the possibility of extending the existing Hospital Rate Agreement (Agreement) which governs the payment methods and standards applicable to hospitals participating in the Medical Assistance program. The Agreement was effective July 1, 1997, and expires on June 30, 1999. If a revised Agreement is adopted by the Department and participating hospitals, the Department expects the payment provisions to be generally similar to those set forth in the current Agreement.

In the absence of a revised rate agreement, the Department intends to adopt the following significant changes to its hospital payment systems effective July 1, 1999:

1. The rebasing of inpatient hospital rates to Fiscal Year 1993-94.
2. The acute care general hospital prospective capital add-on will be adjusted to reflect the ratio of capital to operating costs for Fiscal Year 1993-94.
3. A revision to the inpatient disproportionate share criteria. The Department has been utilizing criteria that exceed minimum Federal requirements. The revisions would reflect minimum Federal requirements.
4. The discontinuation of direct medical education payments. These payments relate to costs that need not be

incurred by hospitals to achieve licensure or certification to participate in the Medical Assistance program and are not required to be made under either Federal or State law.

5. The discontinuation of outpatient disproportionate share payments which are not required to be made under either Federal or State law.

6. For the acute care general hospital, psychiatric hospital and rehabilitation hospital inflation factor, the use of the DRI/McGraw-Hill, PPS type hospital, market basket index, with adjustments that allow for cost and policy-related considerations not fully addressed by the DRI/McGraw-Hill Index.

7. Hospital-specific upper limits based on peer groupings for all hospital types. The Department has determined that a payment system base that relies on each hospital's historical costs allows inefficient hospitals to receive excessive payments.

8. A total cost moratorium for new or additional beds and technical changes to the current capital moratoriums.

9. A moratorium on all new hospital enrollments in the Medical Assistance program.

The Department is also considering the discontinuation of exceptional payments to financially distressed hospitals.

Fiscal Impact

This change will result in a savings of \$59.062 million in total funds (\$26.940 million in State funds and \$32.122 million in Federal funds) for Fiscal Year 1999-00.

Contact Person

A copy of this notice is available for review at local county assistance offices. Interested persons are invited to submit written comments to this notice within 15 days of this publication. These comments should be sent to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Deputy Secretary's Office, Attention: Suzanne Love, Room 515 Health and Welfare Building, Harrisburg, PA 17120.

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-NOT-210. No fiscal impact; (8) recommends adoption. This change will result in a savings of \$26.94 million in State funds in 1999-2000.

[Pa.B. Doc. No. 99-1024. Filed for public inspection June 25, 1999, 9:00 a.m.]

Inpatient Hospitals Qualifying for Medical Assistance (MA) Disproportionate Share Payments for the Period July 1, 1998 through June 30, 1999

On July 1, 1988, the Department of Public Welfare (Department) implemented a disproportionate share payment system. Under Pennsylvania regulations, the Department is required to annually publish the names of each inpatient acute care general hospital, rehabilitation hospital and private psychiatric hospital qualifying for a disproportionate share payment and their respective disproportionate share payment percentage.

A. *Disproportionate Share for Acute Care General Hospitals, Rehabilitation Hospitals and Private Psychiatric Hospitals.*

The following lists identify the inpatient acute care general hospitals, psychiatric units and rehabilitation

units of acute care general hospitals, rehabilitation hospitals and private psychiatric hospitals eligible for disproportionate share payment for the period July 1, 1998 through June 30, 1999 and their respective payment percentages. For all inpatient facilities, disproportionate share payments are calculated as a percentage of projected MA inpatient income.

**Payment period July 1, 1998 to June 30, 1999,
disproportionate share payment percentages:**

Acute Care General Hospitals

AEHN-GERMANTOWN HOSP	4.245%
ALBERT EINSTEIN	6.564%
ARMSTRONG COUNTY MEMORIAL	3.591%
A. I. DUPONT	8.124%
BARNES KASSON	4.065%
CHARLES COLE MEMORIAL	4.476%
CHILDRENS HOSPITAL-PGH	8.857%
CHILDRENS HOSPITAL-PHIL	11.904%
CLARION HOSPITAL	7.135%
CLEARFIELD	2.648%
CROZER CHESTER	3.819%
DUBOIS REGIONAL MED CTR	10.000%
EPISCOPAL	10.035%
HIGHLAND HEALTH CENTER	5.510%
HOSP UNIV OF PENNA	4.349%
INDIANA HOSPITAL	1.000%
J C BLAIR	6.390%
J F KENNEDY MEMORIAL	2.362%
JAMESON MEMORIAL	1.010%
KENSINGTON	5.573%
LGH—SUSQUEHANNA DIV.	3.154%
LOCK HAVEN	6.297%
MAGEE WOMENS	6.463%
MEADVILLE	6.449%
MEMORIAL HOSPITAL-TOWANDA	3.205%
MEMORIAL OF BEDFORD	7.184%
MERCY CATHOLIC-MISERICORDIA	5.164%
MERCY PROVIDENCE-PGH	3.964%
MILLCREEK COMMUNITY	4.438%
MONSOUR	7.595%
NPHS - GIRARD	1.000%
NPHS - ST. JOSEPHS	9.682%
PINNACLE HEALTH SYSTEM	5.013%
PRESBYT MED CTR OF UPHS	4.118%
PUNXSUTAWNEY	6.204%
SOLDIERS AND SAILORS	8.323%
ST. FRANCIS-NEW CASTLE	9.000%
TEMPLE	7.326%
TEMPLE EAST, INC.	5.477%
TEMPLE UNIV. CHILDREN'S MED CTR	14.000%
THOMAS JEFFERSON	5.260%
THS-CITY AVENUE HOSPITAL	6.813%
THS-HAHNEMANN HOSPITAL	5.933%
THS-MED COLL OF PS HOSP	9.399%
THS-PARKVIEW HOSPITAL	6.200%
THS-ST. CHRISTOPHERS	15.000%
TITUSVILLE	3.051%
TROY COMMUNITY	6.500%
UPMC - BRADDOCK MED CTR	3.977%
VALLEY FORGE	4.617%
WAYNE COUNTY MEMORIAL	1.996%
WEST VIRGINIA	6.673%

Psychiatric Units of Acute Care Hospitals

ALBERT EINSTEIN	4.104%
ARMSTRONG COUNTY MEMORIAL	2.164%
CITY AVENUE	4.243%
CROZER CHESTER	2.572%

Psychiatric Units of Acute Care Hospitals

DUBOIS REGIONAL MED CENTER	3.167%
HAHNEMANN HOSPITAL	3.752%
HARRISBURG-POLYCLINIC	3.239%
HIGHLANDS HEALTH CENTER	3.516%
HOSP-UNIV OF PA	2.868%
J C BLAIR	2.419%
MEADVILLE	2.425%
MED COL HOSP-EPPI	5.685%
MERCY CATHOLIC-MISERICORDIA	3.323%
MERCY PROVIDENCE	2.653%
MONSOUR	4.679%
NPHS-GIRARD	1.000%
PARKVIEW	3.901%
PRESBY MED CNTR, UPHS	2.739%
SOLDIERS AND SAILORS	2.595%
ST FRANCIS-NEW CASTLE	2.657%
TEMPLE	4.529%
TEMPLE EAST	3.498%
THOMAS JEFFERSON	3.376%
UPMC-BRADDOCK	2.661%

Private Psychiatric Hospitals

BELMONT CENTER (PHILA PSY CNTR)	4.854%
CHARTER FAIRMOUNT INSTITUTE	3.372%
CLARION PSYCH CENTER	6.067%
DELAWARE VALLEY M H	10.000%
EDGEWATER PSYCHIATRIC	5.269%
EUGENIA HOSPITAL	6.625%
FIRST HOSP WYOMING VALLEY	5.030%
HORSHAM HOSPITAL	4.839%
HUNTINGTON	4.154%
KIRKBRIDE CENTER	3.063%
LAKEWOOD PSYCHIATRIC HOSPITAL	3.135%
MEADOWS PSYCH CENTER	5.227%
MONTGOMERY EMER SRVCS	4.673%
NAT'L HOSP FOR KIDS IN CRISIS	8.715%
NORTHWESTERN	3.892%
PHILA CHILD GUIDANCE	8.511%
PHILHAVEN	4.109%
SOUTHWOOD PSYCH CENTER	7.585%

Drug and Alcohol Units of Acute Care Hospitals

DUBOIS D&A UNIT	3.614%
LANCASTER/SUSQ DIV	2.285%
MEADVILLE D&A UNIT	2.592%
NPHS-ST. JOSEPH	7.301%
PRESBYTERIAN/UPHS	3.026%
VALLEY FORGE D&A	3.410%

Medical Rehab Units of Acute Care Hospitals

ALBERT EINSTEIN	4.905%
CROZER CHESTER	2.796%
DUBOIS	3.614%
EAGLEVILLE (D & A)	2.974%
HARRISBURG-POLYCLINIC	3.713%
HOSP-UNIV OF PA	3.203%
JAMESON MEMORIAL	1.910%
MERCY-PROV	2.908%
ST FRANCIS-NEW CASTLE	2.912%
TEMPLE	5.490%
THOS JEFFERSON	3.903%

Freestanding Rehab Hospitals

CHILDREN'S HOME-PITTSBURGH	6.746%
CHILDREN'S SEASHORE HOUSE	10.000%
MAGEE MEMORIAL	3.542%
READING REHAB HOSPITAL	1.000%

B. Additional Disproportionate Share Payments

Additional disproportionate share payments are made to inpatient facilities, with a Medicaid inpatient utilization rate of not less than 1%, which have provided services to persons who have been determined to be low income by meeting the income and resource standards for the State's general assistance program.

The payment adjustments are paid directly proportional to the payment received for either general assistance recipients for all hospital services or Title XIX recipients age 21—64 for services rendered by institutions for mental diseases under the fee-for-service and capitation programs.

The following hospitals are eligible for this payment adjustment:

Acute Care General Hospitals

ABINGTON MEMORIAL
 AEHN-GERMANTOWN HOSP
 ALBERT EINSTEIN
 ALLEGHENY GENERAL
 ALTOONA
 AMERICAN ONCOLOGICAL
 ARMSTRONG COUNTY MEMORIAL
 ASHLAND REG MED CTR
 AUMC-ALLEGHENY VALLEY
 AUMC-CANNONSBURG GENERAL
 A. I. DUPONT
 BARNES KASSON
 BERWICK
 BLOOMSBURG
 BON SECOURS HOSPITAL
 BRADFORD REG MED CTR
 BRANDYWINE HOSPITAL
 BROOKVILLE
 BROWNSVILLE
 BRYN MAWR
 BUCKTAIL MEDICAL CENTER
 BUTLER COUNTY MEMORIAL
 CARLISLE HOSPITAL
 CENTRE COMMUNITY
 CHAMBERSBURG HOSPITAL
 CHARLES COLE MEMORIAL
 CHESTER COUNTY
 CHESTNUT HILL
 CHILDRENS HOSPITAL-PGH
 CHILDRENS HOSPITAL-PHIL
 CITIZENS GENERAL
 CLARION HOSPITAL
 CLEARFIELD
 COMMUNITY HOSP OF LANCASTER
 COMMUNITY HOSPITAL-KANE
 COMMUNITY MEDICAL CENTER
 CONEMAUGH VALLEY
 CORRY MEMORIAL
 CROZER CHESTER
 DELAWARE COUNTY
 DELAWARE VALLEY
 DIVINE PROVIDENCE-WMSPT
 DOYLESTOWN
 DUBOIS REGIONAL MED CTR
 EASTON HOSPITAL
 ELK COUNTY GENERAL
 ELLWOOD CITY
 EPHRATA COMMUNITY
 EPISCOPAL
 EVANGELICAL COMMUNITY
 FORBES METRO HEALTH CNTR
 FORBES REG. HEALTH CNTR

FRANKFORD
 FRICK COMMUNITY HLTH CNTR
 FULTON COUNTY MEDICAL CENTER
 GEISINGER MEDICAL CENTER
 GEISINGER WYOMING VALLEY
 GETTYSBURG HOSPITAL
 GNADEN HUETTEN
 GOOD SAMARITAN-LEBANON
 GOOD SAMARITAN-POTTSVILLE
 GRANDVIEW
 GREENE COUNTY MEMORIAL
 HAMOT MEDICAL CENTER
 HANOVER GENERAL
 HAZLETON GENERAL HOSPITAL
 HIGHLAND HEALTH CENTER
 HOLY REDEEMER
 HOLY SPIRIT
 HORIZON HOSPITAL SYS, INC
 HOSP UNIV OF PENNA
 INDIANA HOSPITAL
 J C BLAIR
 J F KENNEDY MEMORIAL
 JAMESON MEMORIAL
 JEANES
 JEANNETTE DIST MEMORIAL
 JEFFERSON HEALTH SERV
 JERSEY SHORE HOSPITAL
 KENSINGTON
 LANCASTER GENERAL
 LANKENAU
 LATROBE AREA
 LEHIGH VALLEY
 LEWISTOWN
 LGH—SUSQUEHANNA DIV.
 LOCK HAVEN
 MAGEE WOMENS
 MARIAN COMMUNITY HOSPITAL
 MCKEESPORT
 MEADVILLE
 MED CTR, BEAVER PA, INC.
 MEMORIAL—YORK
 MEMORIAL HOSPITAL-TOWANDA
 MEMORIAL OF BEDFORD
 MERCY CATHOLIC-FITZGERALD
 MERCY CATHOLIC-MISERICORDIA
 MERCY HAVERFORD
 MERCY HOSP OF NANTICOKE
 MERCY HOSPITAL-PGH
 MERCY HOSPITAL-SCRANTON
 MERCY HOSPITAL-WILKES-BAR
 MERCY PROVIDENCE-PGH
 METRO HEALTH CENTER
 MEYERSDALE
 MID VALLEY
 MILLCREEK COMMUNITY
 MILTON S. HERSHEY MED CTR
 MINERS HOSPITAL
 MINERS MEMORIAL MED CTR
 MONONGAHELA VALLEY
 MONSOUR
 MONTGOMERY
 MOSES TAYLOR
 MUHLENBERG
 MUNCY VALLEY
 NASON HOSPITAL
 NAZARETH
 NORTH PENN
 NORTHWEST MEDICAL CENTER
 NPHS—GIRARD
 NPHS—ST. JOSEPHS

OHIO VALLEY
 PALMERTON
 PAOLI MEMORIAL
 PHILIPSBURG AREA
 PINNACLE HEALTH SYSTEM
 POCONO HOSPITAL
 PODIATRY HOSPITAL
 POTTSTOWN MEMORIAL
 POTTSVILLE HOSPITAL
 PRESBYT MED CTR OF UPHS
 PRESBYT UNIV HOSPITAL—PGH
 PUNXSUTAWNEY
 READING HOSPITAL
 RIDDLE MEMORIAL
 ROBERT PACKER
 ROXBOROUGH MEMORIAL
 SACRED HEART-ALLENTOWN
 SEWICKLEY VALLEY HOSPITAL
 SHADYSIDE
 SHAMOKIN AREA COMM HOSP
 SHARON
 SOLDIERS AND SAILORS
 SOMERSET COMMUNITY
 SOUTHERN CHESTER
 ST. AGNES
 ST. CLAIR MEMORIAL
 ST. FRANCIS CENTRAL
 ST. FRANCIS-NEW CASTLE
 ST. FRANCIS-PITTSBURGH
 ST. JOSEPH MED CTR - HAZLETON
 ST. JOSEPH MED CTR READING
 ST. JOSEPH-LANCASTER
 ST. LUKES - QUAKERTOWN
 ST. LUKES BETHLEHEM
 ST. MARY-LANGHORNE
 ST. MARYS MEDICAL CENTER
 ST. VINCENT
 SUBURBAN GENERAL-NORRISTO
 SUBURBAN GENERAL-PGH
 SUNBURY COMMUNITY
 TEMPLE
 TEMPLE EAST, INC.
 TEMPLE UNIV. CHILDREN'S MED CTR
 TEMPLE-LOWER BUCKS
 THOMAS JEFFERSON
 THS-CITY AVENUE HOSPITAL
 THS-ELKINS PARK
 THS-GRADUATE HOSPITAL
 THS-HAHNEMANN HOSPITAL
 THS-MED COLL OF PA HOSP
 THS-PARKVIEW HOSPITAL
 THS-ST. CHRISTOPHERS
 THS-WARMINSTER
 TITUSVILLE
 TROY COMMUNITY
 TYLER MEMORIAL
 TYRONE HOSP
 UNION CITY
 UNIONTOWN
 UNITED COMMUNITY
 UPHS—PENNSYLVANIA HOSPITAL
 UPHS—PHOENIXVILLE HOSPITAL
 UPMC—BEAVER VALLEY
 UPMC—BRADDOCK MED CTR
 UPMC—LEE HOSPITAL
 UPMC—PASSAVANT HOSPITAL
 UPMC—SOUTHSIDE
 UPMC—ST. MARGARET—PGH
 VALLEY FORGE
 WARREN GENERAL

WASHINGTON
 WAYNE COUNTY MEMORIAL
 WAYNESBORO
 WEST VIRGINIA
 WESTERN PENN
 WESTMORELAND
 WILLIAMSPORT
 WILLS EYE HOSPITAL
 WINDBER
 WYOMING VALLEY HEALTH CARE SYSTEM
 YORK HOSPITAL

Freestanding Drug and Alcohol Hospitals

EAGLEVILLE

Freestanding Rehab Hospitals

ALLIED SERVICES
 BRYN MAWR REHAB HOSPITAL
 CHESTNUT HILL /SPRINGFIELD
 CHILDREN'S HOME-PITTSBURGH
 CHILDRENS SEASHORE HOUSE
 D.T.WATSON
 GOOD SHEPHERD
 H/S HARMARVILLE
 H/S LAKE ERIE INSTIT
 H/S NITTANY VALLEY REHAB
 H/S OF MECHANICSBURG REHAB
 H/S REHAB OF ALTOONA
 H/S REHAB OF GREATER PGH
 H/S REHAB OF YORK
 JOHN HEINZ REHAB HOSP
 MAGEE MEMORIAL
 READING REHAB HOSPITAL
 REHAB INSTITUTE OF PGH

Freestanding Psychiatric Hospitals

BELMONT CENTER
 CHARTER FAIRMONT
 CLARION PSYCH
 DELAWARE VALLEY MH
 EDGEWATER
 EUGENIA HOSPITAL
 FIRST HOSP. WYOMING VALLEY
 FRIENDS HOSPITAL
 HORSHAM
 KIRKBRIDE CENTER
 LAKEWOOD PSYCHIATRIC HOSPITA
 MEADOWS
 MONTGOMERY EMER SRVCS
 NAT HOSP FOR KIDS IN CRISIS
 NORTHWESTERN
 PHILA CHILD GUIDANCE
 PHILHAVEN
 SOUTHWOOD PSYCH CENTER

Drug and Alcohol Units of Acute Care Hospitals

BUTLER COUNTY MEMORIAL
 HAMOT MEDICAL CENTER
 HORIZON-SHENANGO VALLEY
 LANCASTER GEN HOSP-SUSQUEHANNA DIV
 MEADVILLE MED CNTR
 NPHS-ST JOSEPHS HOSP
 PRESBY MED CTR OF UNIV OF PA HLTH SYST
 ST FRANCIS-PITTSBURGH
 VALLEY FORGE
 WESTMORELAND

Medical Rehab Units of Acute Care Hospitals

ABINGTON MEMORIAL HOSP
 ALBERT EINSTEIN
 BON SECOURS HOLY FAMILY REG HLTH SYS

CHAMBERSBURG HOSPITAL
 COMMUNITY HOSP-LANCASTER
 CONEMAUGH VALLEY HOSP
 CROZER-CHESTER MED CNTR
 DELAWARE CNTY MEM HOSP
 DIVINE PROV-WILLIAMSPORT
 DOYLESTOWN HOSPITAL
 DUBOIS REG MED CNTR
 EASTON HOSPITAL
 FORBES METRO HOSP
 FRANKFORD
 GEISINGER-WYOMING VALLEY
 GOOD SAMARITAN HOSPITAL-LEBANON
 HORIZON HOSP SYS, INC.
 HOSP OF THE UNIV OF PA
 JAMESON MEMORIAL
 JEANNETTE DIST MEM HOSP
 JEFFERSON HEALTH SERVICES
 LANCASTER GENERAL HOSP
 MERCY CATHOLIC-FITZGERALD
 MERCY HOSPITAL-PITTSBURGH
 MERCY PROVIDENCE-PGH
 MILTON S. HERSHEY MED CTR
 MONONGAHELA VALLEY HOSP
 NAZARETH
 NORTHWEST MED CTR FRANKLIN
 PINNACLE HEALTH HOSPITALS
 POTTSVILLE HOSPITAL
 PRESBYTERIAN UNIV-PGH
 SEWICKLEY VALLEY HOSPITAL
 ST AGNES MEDICAL CNTR
 ST FRANCIS CENTRAL
 ST FRANCIS HOSP-NEW CASTLE
 ST FRANCIS MED CNTR-PITTS
 ST JOSEPH HOSP-LANCASTER
 ST MARY HOSP-LANGHORNE
 ST VINCENT HEALTH CNTR
 SUBURBAN GENERAL HOSPITAL-PGH
 THS-ELKINS PARK
 THS-WARMINSTER HOSPITAL
 TEMPLE UNIVERSITY HOSP
 THOMAS JEFFERSON UNIV HOSP
 UNIV OF PITTS MED CTR-LEE HOSP
 UNIV OF PITTS MED CTR-MCKEESPORT
 UNIV OF PITTS MED CTR-SOUTHSIDE
 UNIV OF PITTS MED CTR-ST MARGARET
 WESTMORELAND HOSPITAL
 WILLIAMSPORT HOSPITAL

Psychiatric Units of Acute Care Hospitals

AUH-ALLEGHENY GENERAL
 AUH-ALLEGHENY VALLEY
 ABINGTON MEMORIAL
 ALBERT EINSTEIN
 ALTOONA
 ARMSTRONG COUNTY MEMORIAL
 BLOOMSBURG HOSP
 BON SECOURS HOLY FAM REG HLTH SYS
 BRADFORD
 BRANDYWINE HOSPITAL
 BROWNSVILLE
 BRYN MAWR HOSP
 BUTLER COUNTY MEMORIAL
 CARLISLE HOSPITAL
 CENTRE COMMUNITY
 CHAMBERSBURG HOSPITAL
 COMMUNITY HOSP OF LANCASTER
 COMMUNITY MEDICAL CENTER
 CONEMAUGH VALLEY
 CORRY MEMORIAL

CROZER CHESTER
 DELAWARE VALLEY
 DIVINE PROVIDENCE-WMSPT
 DOYLESTOWN
 DUBOIS REGIONAL MED CNTR
 ELK COUNTY GENERAL
 EPHRATA COMMUNITY
 FORBES METRO GEROPSYCH
 FORBES REG HOSP
 GEISINGER MEDICAL CENTER
 GNADEN HUETTEN
 GRANDVIEW
 GREENE COUNTY MEMORIAL
 HAMOT MEDICAL CENTER
 HANOVER GENERAL
 HAZELTON GEN HOSP
 HIGHLAND HOSPITAL
 HOLY SPIRIT
 HOSP-UNIVERSITY OF PA
 J C BLAIR
 JEFFERSON HEALTH SERV
 LANCASTER GENERAL
 LANKENAU
 LATROBE AREA
 LEHIGH VALLEY HOSPITAL
 LEWISTOWN
 MARIAN COMMUNITY HOSPITAL
 MEADVILLE MED CNTR
 MEDICAL CENTER, BEAVER PA., THE
 MEMORIAL HOSP-YORK
 MERCY CATHOLIC-FITZGERALD
 MERCY CATHOLIC-MISERICORD
 MERCY HOSPITAL-PGH
 MERCY HOSPITAL-WILKES-BARRE
 MERCY HOSP OF NANTICOKE
 MERCY PROVIDENCE HOSP-PGH
 MILTON S. HERSHEY MEDICAL CENTER
 MONONGAHELA VALLEY
 MONSOUR MED CNTR
 MONTGOMERY
 MOSES TAYLOR GEROPSYCH UNIT
 MUHLENBERG
 NAZARETH
 NPHS-GIRARD
 NORTHWEST MED CTR OIL CITY
 PAOLI MEMORIAL
 PENNSYLVANIA HOSPITAL/UPHS
 PINNACLE HEALTH HOSPITALS
 POCONO HOSPITAL
 POTTSSTOWN MEMORIAL MED CTR
 POTTSVILLE HOSPITAL
 PRESBYTERIAN MED CNTR OF UPHS
 PRESBYTERIAN UNIV HOSP-PGH
 READING HOSPITAL
 ROBERT PACKER
 SEWICKLEY VALLEY HOSP
 SHARON REGIONAL HLTH SYST
 SOLDIERS AND SAILORS
 SOMERSET HOSP CNTR FOR HEALTH
 ST CLAIR MEMORIAL
 ST FRANCIS-NEW CASTLE
 ST FRANCIS-PITTSBURGH
 ST JOSEPH-LANCASTER
 ST JOSEPH MED CTR-READING
 ST LUKES-QUAKERTOWN
 ST LUKES OF BETHLEHEM
 ST VINCENT
 THS-CITY AVENUE HOSPITAL
 THS-HAHNEMANN UNIV HOSP
 THS-MEDICAL COL OF PA HOSP (EPPI)

THS-PARKVIEW HOSPITAL
 THS-WARMINSTER HOSPITAL
 TEMPLE EAST HOSPITAL
 TEMPLE-LOWER BUCKS
 TEMPLE UNIVERSITY HOSPITAL
 THOMAS JEFFERSON
 UNIV OF PITT MED CTR-BEAVAR VALLEY
 UNIV OF PITT MED CTR-BRADDOCK
 UNIV OF PITT MED CTR-MCKEESPORT
 UNIV OF PITT MED CTR-SOUTHSIDE PSY
 WARREN GENERAL
 WASHINGTON
 WESTERN PENN
 WESTMORELAND
 WYOMING VALLEY HLTH CARE SYSTEM
 WILLIAMSPORT
 WILLS EYE
 YORK HOSPITAL

C. Additional Class of Disproportionate Share Payments

Effective March 1, 1998, the Department established a new class of disproportionate share payments to hospitals which render uncompensated care and which the Department has determined are experiencing significant revenue loss as a result of Medical Assistance program revisions under Act No. 1996-35.

The following hospitals qualify for this new class of disproportionate share payments:

Albert Einstein
 Allegheny General
 Barnes Kasson
 Braddock Medical Center
 Charles Cole Memorial
 Clarion Osteopathic
 Clearfield
 Crozer Chester Medical Center
 Dubois Regional Medical Center
 Eagleville
 Episcopal
 Fulton County Medical Center
 Graduate Hospital
 Indiana Hospital
 JC Blair
 Jameson Memorial
 Lehigh Valley
 Lockhaven
 Meadville Medical Center
 Memorial Hospital Bedford
 Memorial Hospital Towanda
 Mercy Catholic-Fitzgerald
 Mercy Catholic-Misericordia
 Mercy Hospital-Pittsburgh
 North Philadelphia Health System
 Pennsylvania Hospital
 Presbyterian Medical Center of Philadelphia
 Punxsutawney
 Soldiers and Sailors
 St. Francis Pittsburgh
 Titusville
 Valley Forge
 Wayne County Memorial

Effective January 15, 1999, the Department revised its previously established new class of disproportionate share payments to include a Charity Care component of the Community Access Fund. A disproportionate share payment will be made to qualifying hospitals based on each hospital's percentage of charity care cost to the total charity care costs of all qualifying hospitals. The Depart-

ment also established a disproportionate share payment for those hospitals that experience a high volume of MA births.

The following hospitals qualify for this payment:

Abington Memorial
 A.I. Dupont
 Albert Einstein
 Allegheny General
 Altoona
 Childrens Hospital of Philadelphia
 City Avenue Hospital
 Crozer Chester Medical Center
 Doylestown
 Easton Hospital
 Episcopal
 Evangelical Community
 Frankford
 Geisinger Medical Center
 Hahnemann Hospital
 Hamot Medical Center
 Hazelton General Hospital
 Hospital of the University of PA
 Indiana Hospital
 Jeannette Dist Memorial
 Lankenau
 Lehigh Valley
 Magee Womens
 Med Coll Hospital-Main
 Mercy Catholic-Misericordia
 Milton S. Hershey Medical Center
 North Philadelphia Health System
 NPHS-Girard
 Parkview Hospital
 UPHS-Pennsylvania Hospital
 Presbyterian Med Ctr of Philadelphia
 Presbyterian University Hospital-Pgh
 Reading Hospital
 Shadyside
 St. Agnes
 St. Francis-Pittsburgh
 St. Lukes of Bethlehem
 Temple University Hospital
 Thomas Jefferson
 UPMC-Beaver Valley
 Western Penn
 West Virginia
 York Hospital

Contact Person

A copy of this notice is available for review at local county assistance offices. Interested persons are invited to submit written comments within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Comments should be addressed to: Department of Public Welfare, Attention: Suzanne Love, Room 515 Health and Welfare Building, Harrisburg, PA 17105.

Persons with a disability may use the AT&T Relay Services by calling (800) 654-5984 (TDD Users) or (800) 654-5988 (voice users). Persons who require another alternative should contact Thomas Vracarich in the Office of Legal Counsel at (717) 783-2209.

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-NOT-207. (1) General Fund; (2) Implementing Year 1998-99 is \$36.518 million; (3) 1st Succeeding Year 1999-00 is \$6.339 million; 2nd Succeeding Year 2000-01 is \$0; 3rd Succeeding Year 2001-02 is \$0; 4th Succeeding Year 2002-03 is \$0; 5th Succeeding Year

2003-04 is \$0; (4) 1997-98 Program—\$428.079 million; 1996-97 Program—\$436.941 million; 1995-96 Program—\$452.180 million; (7) Medical Assistance—Inpatient; (8) recommends adoption. There will be funds available in the Department's budget to cover the cost of this

increase. Costs will be incurred in 1999-00 as well as 1998-99 due to a lag in payments.

[Pa.B. Doc. No. 99-1025. Filed for public inspection June 25, 1999, 9:00 a.m.]

Office of Medical Assistance Programs; Fee Increase for Selected Outpatient Services

The General Appropriations Act of 1999 provided funds to increase fees for outpatient psychiatric clinic services, outpatient partial hospitalization services and outpatient drug and alcohol services. By this notice, the Department of Public Welfare announces that the fees for the following outpatient services will be increased, effective July 1, 1999.

<i>Procedure Code</i>		<i>Description</i>	<i>Fee</i>
Outpatient Drug and Alcohol			
W9801	AF	Individual Psychotherapy; 1/2 hour	\$26
W0856	AG	Methadone Maintenance Clinic Visit for Administration and Evaluation of Methadone (15 minute visit only)	\$7.50
W0981	AF	Group Psychotherapy; 1/2 hour, \$14 per person per hour; minimum session 1 hour; minimum two and maximum ten persons (recipients and nonrecipients)	\$7
W0987	AF	Psychiatric Evaluation; Examination and Evaluation of a Patient	\$75
W0983	AF	Family Psychotherapy; 1/2 hour	\$26
W0845	AF	Personality Inventories (without graphics or projectives) MMPI or (16 personality factors)	\$31
W0841	AF	Individual Measurements: WAIS, WISC, Binet or Raven only	\$31
Outpatient Psych Partial Hospitalization			
W0865	AH	Licensed Children's Psychiatric Partial Hospitalization Program, Child, Per Hour	\$15
W0860	AH	Licensed Adult Psychiatric Partial Hospitalization Program; Adult; Per Hour	\$14
W0862	AH	Psy Partial Hospital Program; Noncovered Medicare Hours, Adult	\$14
W0866	AH	Licensed Children's Psychiatric Partial Hospitalization Program; Child (15—20 years of age) Per Hour	\$15
W0861	AH	Licensed Adult Psychiatric Partial Hospitalization Program; Child, Per Hour	\$15
W0868	AH	Licensed Child Psychiatric Partial Hospitalization Program; Child, Per Hour (0—14 years of age) (Services beyond 720 hours)	\$15
W0869	AH	Licensed Child Psychiatric Partial Hospitalization Program; Child, Per Hour (15—20 years of age) (Services beyond 720 hours)	\$15
W0867	AH	Licensed Adult Psychiatric Partial Hospitalization Program; Child, Per Hour (0—20 years of age) (Services beyond 720 hours)	\$15
Outpatient Psychiatric			
W9801	70	Individual Psychotherapy; 1/2 hour	\$26
W1855	70	Psychiatric Clinic Med Visit (15 minute visit only) for Drug Administration and Evaluation	\$15
W0987	70	Psychiatric Evaluation; Examination and Evaluation of a Patient	\$75
W0981	70	Group Psychotherapy 1/2 hour, \$14 per person per hour; minimum sessions 1 hr; minimum two and maximum ten sessions in group (recipients and nonrecipients)	\$7
W0983	70	Family Psychotherapy; 1/2 hour	\$26
W0984	70	Collateral Fam Psychotherapy; 1/2 hour Session provided to the family members of a clinical patient in the absence of that patient	\$26
W1856	70	Clozaril Monitor & Evaluation Visit-Psych Clinic	\$20
W0988	40	Anesthesia for Electroconvulsion Therapy	\$41

<i>Procedure Code</i>		<i>Description</i>	<i>Fee</i>
W0988	70	Anesthesia for Electroconvulsion Therapy	\$41
W0841	70	Generally Accepted Individual Measurements	\$31
W0845	70	Generally Accepted Personality Inventories	\$31
W0986	70	Clinic, Neurological Follow-Up	\$15
W0985	70	Clinic, Neurological Evaluation	\$53
W0148	70	Psychotherapy (Indiv, Family, Collat) quarter-hour increments; only to be used after the initial 1/2-hour session	\$10

The fiscal note was prepared under provision of section 612 of The Administrative Code of 1929 (71 P. S. § 232).

Contact Person

A copy of this notice is available for review at local County Assistance Offices. Interested persons are invited to submit written comments to this notice within 30 days of this publication. These comments should be sent to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Deputy Secretary's Office, Attention: Regulations Coordinator, Room 515 Health and Welfare Building, Harrisburg, PA 17120.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). Persons who require another alternative should contact Thomas Vracarich in the Office of Legal Counsel at (717) 783-2209.

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-NOT-209. (1) General Fund; (2) Implementing Year 1999-00 is \$28.158 million; (3) 1st Succeeding Year 2000-01 is \$33.781 million; 2nd Succeeding Year 2001-02 is \$34.119 million; 3rd Succeeding Year 2002-03 is \$34.460 million; 4th Succeeding Year 2003-04 is \$34.805 million; 5th Succeeding Year 2004-05 is \$35.153 million; (4) 1997-98 Program—\$662.740 million; 1996-97 Program—\$798.836 million; 1995-96 Program—\$792.293 million; (7) Medical Assistance—Outpatient; (8) recommends adoption. There will be funds available in the Department's budget to cover the cost of this increase.

[Pa.B. Doc. No. 99-1026. Filed for public inspection June 25, 1999, 9:00 a.m.]

Office of Medical Assistance Programs; Intergovernmental Transfer of Funds; Extension of County Nursing Facility Transition Payments

The purpose of this announcement is to provide advance notice under 42 CFR 447.205 that during FYs 1999—2003, the Department of Public Welfare (Department) intends to make changes in its payments to county nursing facilities participating in the Medical Assistance program.

The Department entered into an agreement with the County Commissioners Association of Pennsylvania which authorizes the transfer of funds to the Commonwealth from several counties (as authorized under Federal law (42 U.S.C.A. § 1396b(w)(6)(A) and 42 CFR 433.51(b)). The funds from this intergovernmental transfer will be used as the State share for a portion of the county transition payments during FYs 1999—2003.

The Department intends to revise its method for setting payment rates for county nursing facilities participating

in the Medical Assistance program during FYs 1999—2003 to allow for county transition payments to be paid. The payments are currently authorized through June 30, 1999.

These proposed changes in nursing facility payments during FYs 1999-2003 are contingent upon: (1) approval by the Federal government of amendments to Pennsylvania's State Plan authorizing the county transition payments; (2) the Commonwealth's receipt of intergovernmental transfers of funds from county governments in amounts sufficient to make these payments; and (3) the promulgation of regulations to permit county transition payments during FYs 1999—2003.

The estimated increase in annual aggregate expenditures during FYs 1999—2003 is \$22.800 million in total funds (\$10.562 million in intergovernmental transfer funds). The Department will publish revisions to 55 Pa. Code Chapter 1187 to implement the changes with respect to the county transition payments.

A copy of this notice is available for review at the local County Assistance Offices throughout this Commonwealth.

Interested persons are invited to submit written comments to the Department within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Comments should be addressed to: Department of Public Welfare, Office of Medical Assistance Programs, Attention: Regulations Coordinator, Room 515 Health and Welfare Building, Harrisburg, PA 17105.

Persons with a disability may use the AT&T Relay Services by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users), or may use the Department's TDD by calling (717) 787-3616. Persons who require another alternative should contact Thomas Vracarich at (717) 783-2209.

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-NOT-208. (1) General Fund; (2) Implementing Year 1998-99 is \$0; (3) 1st Succeeding Year 1999-00 is \$5.281 million; 2nd Succeeding Year 2000-01 is \$2.641 million; 3rd Succeeding Year 2001-02 is \$1.584 million; 4th Succeeding Year 2002-03 is \$1.056 million; 5th Succeeding Year 2003-04 is \$0; (4) 1997-98 \$617.252 million; 1996-97 \$591.910 million; 1995-96 \$648.549 million; (7) Medical Assistance—Long Term Care; (8) recommends adoption. Funds will be available in the Department's budget.

[Pa.B. Doc. No. 99-1027. Filed for public inspection June 25, 1999, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Retention of Engineering Firms

Erie County

Project Reference No. 08430AG2368

The Department will retain an engineering firm to provide the final design and services during construction for S.R. 4034, Section A60, (Erie East Side Access Highway). This section is from 12th Street to Broad Avenue. This project is located in the City of Erie, Erie County, Engineering District 1-0. The estimated construction cost is \$32.5 million.

The selected firm will be required to perform field surveys; preliminary roadway and railroad design; cross sections; soils and geological investigation; erosion and sedimentation control plan; preliminary right-of-way submission; preliminary utility and railway investigation; preliminary traffic investigation; prepare structure design and develop final plans for the new roadway. The attendance at various public involvement meetings is required. The consultant will be required to provide material for and attend a safety review meeting; attend various field views to be held on the site; provide material for and participate in value engineering reviews, and provide efficient project management.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting acceptable 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, and ability to meet schedules.
- d. Project management skills and public involvement experience. The specific experience of individuals who constitute the firms will be considered.
- e. Method of controlling quality of projects and submissions. Consideration will be given to coordination between disciplines, subconsultants, etc.
- f. Location of consultant with respect to the District. This will include ability/provisions for quick responses to District requests.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen (15%) percent of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information section after the advertised project(s).

This project reference assignment is considered complex. The letter of interest shall be limited to a maximum of five (5) pages, 8 1/2" x 11", one sided, plus an organizational chart (up to 11" x 17" size), and additional resumes, if applicable. (See the General Requirements and Information Section for additional requirements for the Letter of Interest).

The Letter of Interest submission shall be sent to: Mr. John L. Baker, P.E., District Engineer, Engineering District 1-0, 1140 Liberty Street, Franklin, PA 16323, Attention: Mr. Michael L. McMullen, P.E.

The Letter of Interest submission for this project reference number must be received at the address listed above by 4:30 p.m. prevailing time on the sixth (6th) day following the date of this Notice.

Engineering District 1-0 will announce the firms that have been shortlisted at an open public meeting to be held in the District Office. All firms that have submitted a letter of interest will be notified of the time and date. Specify two (2) contact persons in the letter of interest.

Any technical questions concerning the requirements for this project should be directed to: Mr. Michel L. McMullen, P.E., District 1-0, at (814) 437-4331 or Mr. Richard R. Paravano, District 1-0, at (814) 437-4384.

Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York Counties

Project Reference No. 08430AG2369

The Department will retain an engineering firm to provide for the review and documentation of Highway Occupancy Permit applications and the review of traffic, construction and hydraulic considerations for Highway Occupancy Permit applications for driveways of all classifications and other roadway improvements. The firm will also assist in the final inspection of permit work. This contract will be to assist the Department of Transportation District 8-0 Traffic Unit in Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York Counties.

The selected firm will be required to perform timely and accurate reviews under the direction of the District Traffic Engineer. At times, it may be necessary to meet with developers and/or their Engineers. Qualified Engineers, and/or technicians must be provided in order to complete these tasks.

This agreement will be a Specific Project Engineering Agreement for a period of thirty (30) months.

The following factors, in general order of descending importance, will be used during the evaluation of firms submitting letters of interest:

- a. Education, experience and competence of those employees to be associated with the performance of the contract. Particularly important is their traffic and drainage experience and past record of performance with similar projects.
- b. Past performance record of firm on Department projects.
- c. Facilities and equipment.
- d. Understanding of Department requirements, policies and specifications as they relate to the review of highway occupancy permits firms.
- e. General quality of the letter of interest and technical proposal submitted to the Department by the firm.
- f. Location of firm.

The consultant must use his own offices and must be located in Pennsylvania. The selected firm shall not be permitted to work on any assignment for which it has a conflict of interest.

This project reference assignment is considered non-complex. The letter of interest shall be limited to a maximum of three (3) pages, 8 1/2" x 11", one sided, plus an organizational chart (up to 11" x 17" size), and additional resumes, if applicable. (See the General Requirements and Information Section for additional requirements for the Letter of Interest).

The Letter of Interest submission shall be sent to: Mr. Barry G. Hoffman, P.E., District Engineer, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103-1699, Attention: Mr. Michael C. Lapano.

The Letter of Interest submission for this project reference number must be received at the address listed above by 4:30 p.m. prevailing time on the twentieth (20th) day following the date of this Notice.

Engineering District 8-0 will announce the firms that have been shortlisted at an open public meeting to be held in the District Office. All firms that have submitted a letter of interest will be notified of the time and date. Specify two (2) contact persons in the letter of interest.

Any technical questions concerning the requirements for this project should be directed to: Mr. Glenn Rowe, P.E., District 8-0, at (717) 783-3981.

Luzerne County

Project Reference No. 08430AG2370

The Department will retain an engineering firm to perform preliminary design and services during construction for S.R. 2005, Section 371, the replacement of the existing Carey Avenue Bridge, a 1,885 LF, 7-span thru truss bridge carrying West End Road (S.R. 2005) over the Susquehanna River, connecting Plymouth Borough and Hanover Township on new location. The new structure will be located upstream, and will be approximately 2,400 feet in length, including 4 lanes plus median and shoulders. The project also includes approximately 1,000 LF of roadway relocation (West End Road) and widening of Route 11 to accommodate turn lanes.

The Department intends to use a Modified Turn-Key concept for this project. The Department will advertise for a contractor to complete the design and construct the project, based on the approved conceptual design.

The selected firm will be required to perform field surveys; plot topography and cross sections; prepare Design Field View Submission; prepare submissions for utility verification and relocations engineering; develop erosion control plans, details and narratives; prepare right-of-way plans; prepare hydraulic and hydrologic analysis; prepare permit applications; prepare type, size and location reports; prepare/inspect core boring layouts; prepare foundation designs and reports; develop traffic control plans; participate in value engineering and constructability reviews; conduct traffic counts; prepare preliminary signal plans; prepare Modified Turn-Key bidding documents, including specifications and estimates; and provide project management.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting acceptable letters of interest:

- a. Specialized experience and technical competence of the 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 the respect to cost control, work quality and ability to meet schedules.
- d. Location of the consultant with respect to the District Office.
- e. Method of controlling quality of projects and submissions. Consideration will be given to coordination between disciplines, subconsultants, etc.

This project reference assignment is considered complex. The letter of interest shall be limited to a maximum of five (5) pages, 8 1/2" x 11", one sided, plus an organizational chart (up to 11" x 17" size), and additional resumes, if applicable. (See the General Requirements and Information Section for additional requirements for the Letter of Interest).

The Letter of Interest submission shall be sent to: Mr. Charles M. Mattei, P.E., District Engineer, Engineering District 4-0, O'Neill Highway, Dunmore, PA 18512.

The Letter of Interest submission for this project reference number must be received at the address listed above by 4:30 p.m. prevailing time on the sixth (6th) day following the date of this Notice.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen (15%) percent of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information section after the advertised project(s).

Any technical questions concerning the requirements for this project should be directed to: Mr. George J. Roberts, P.E., District 4-0, at (570) 963-4064.

General Requirements and Information

Firms interested in providing the above work and services are invited to submit a Letter of Interest with the required information for each Project Reference Number for which the applicant wishes to be considered.

The Letter of Interest and required information must be submitted to the person designated in the individual advertisement.

The Letter of Interest and required information must be received by the Deadline indicated in the individual advertisement.

All consultants, both prime consultants and subconsultants, who desire to be included in a Letter of Interest must have an Annual Qualification Package on file with the appropriate District Office, by the deadline stipulated in the individual advertisements.

For Statewide projects, all consultants, both prime consultants and subconsultants, who desire to be included in a Letter of Interest must have an Annual Qualification Package on file with the Central Office, Bureau of Design by the deadline stipulated in the individual advertisements.

By submitting a letter of interest for the projects that requests engineering services, the consulting firm is certifying that the firm is qualified to perform engineering services in accordance with the laws of the Commonwealth of Pennsylvania.

Information concerning the Annual Qualification Package can be found in Strike-off Letter No. 433-99-04 or under the Notice to all Consultants published in the February 27, 1999 issue of the *Pennsylvania Bulletin*.

The requirements for Letters of Interest, in addition to the requirements stipulated in the individual advertisement, are as follows:

1. The Letter of Interest must include the project reference number, the firm's legal name, and the firm's federal identification number.
2. Identify the project manager.
3. Identify subconsultants, if any, including DBE/WBE, if required.

4. Identify key project staff.

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 a Letter of Interest 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 Transportation Equity Act for the 21st century (TEA-21) 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 TEA-21 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 DBEs (as they are defined prior to the act, WBEs 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 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. 99-1028. Filed for public inspection June 25, 1999, 9:00 a.m.]

HOUSING FINANCE AGENCY

Availability of Year 2000 PennHOMES Program Funds

The Housing Finance Agency (Agency) is announcing the availability of Year 2000 PennHOMES Program funds. PennHOMES Program funds include Federal HOME Program funds and Agency funds and may be utilized for the construction and permanent financing of multifamily rental housing developments located in this Commonwealth containing five or more units. To assist prospective applicants in preparing applications for funding, five workshops will be offered Statewide. A review of the PennHOMES Program, the application process and an explanation of selection criteria will be provided at each of the following workshops or by contacting the Agency at the following address.

PennHOMES Pre-Application Workshop Schedule

September 28, 1999	Erie	October 12, 1999	King of Prussia
September 29, 1999	Monroeville	October 19, 1999	Carlisle
October 5, 1999	Scranton		

The registration deadline for these workshops is September 15, 1999. A nonrefundable registration fee of \$10 will be charged for each registrant.

The Agency will accept applications from October 15, 1999, through December 15, 1999, for developments located in the following nonparticipating jurisdictions for Federal HOME funds made available by the Department of Economic and Community Development. Reservation of funds are anticipated to be made in March 2000.

Nonparticipating Jurisdictions: Abington Township (Montgomery County), Adams County, Arnold City (Westmoreland County), Armstrong County, Bedford County, Blair County (except Altoona City), Bradford County, Bradford Woods Borough (Allegheny County), Bristol Township (Bucks County), Butler County, Cambria County (except Johnstown), Cameron County, Carbon County, Centre County (except State College), Clarion County, Clearfield County, Clinton County, Columbia County, Conshohocken Borough (Montgomery County), Crawford County, Cumberland County, Dauphin County

(except Harrisburg City), Elk County, Ellwood City Borough (Beaver County), Erie County (except Erie City), Fayette County, Forest County, Franklin County, Fulton County, Greene County, Hanover Township (Luzerne County), Haverford Township (Delaware County), Hazleton (Luzerne County), Huntingdon County, Indiana County, Jefferson County, Juniata County, Lackawanna County (except Scranton City), Lawrence County, Lebanon County, Lehigh County (except Allentown City), Limerick Township (Montgomery County), Lower Merion Township (Montgomery County), Lycoming County (except Williamsport City), McKean County, Mercer County, Mifflin County, Monroe County, Montour County, Nanticoke (Luzerne County), New Kensington City (Westmoreland County), Norristown Borough (Montgomery County), Northampton County (except Bethlehem), Northumberland County, Perry County, Pike County, Pittston (Luzerne County), Potter County, Scottsdale Borough (Westmoreland County), Schuylkill County, Snyder County, Somerset County, Sullivan County, Susquehanna

County, Tioga County, Union County, Upper Darby Township (Delaware County), Venango County, Warren County, Wayne County, Wyoming County.

The Agency will accept applications from January 1, 2000, through February 28, 2000, for projects located in the following participating jurisdictions for other Agency funds. Reservation of these funds are anticipated to be made in June 2000.

Participating Jurisdictions: Allegheny County Consortium (except Bradford Woods), Allentown, Altoona, Beaver County (except Ellwood City), Berks County, Bethlehem, Bucks County Consortium (except Bristol Township), Chester County, Delaware County (except Haverford Township, Upper Darby Township), Erie, Harrisburg, Johnstown, Lancaster, Lancaster County, Luzerne County (except Hanover Township, Hazleton, Nanticoke, Pittston), Montgomery County (except Abington Township, Conshohocken Borough, Limerick Township, Lower Merion, Norristown), Philadelphia, Pittsburgh, Reading, Scranton, State College, Washington County, Westmoreland County Consortium (except Arnold, New Kensington, Scottdale), Wilkes-Barre, Williamsport, York, York County.

The Agency is committed to the policy that all persons shall have equal access to its programs and employment without regard to race, religion, gender, national origin, handicap, familial status or age. Additional information may be published, from time to time, on the Agency's website—www.phfa.org. Requests for a copy of the 2000 PennHOMES Program Application and Guidelines or requests for information regarding the PennHOMES Pre-Application Workshops may be submitted to: Pennsylv-

nia Housing Finance Agency, Attn: Beth Underkoffler, P. O. Box 8029, Harrisburg, PA 17105-8029, (717) 780-3882, TDD# (717) 780-1869.

WILLIAM C. BOSTIC,
Executive Director

[Pa.B. Doc. No. 99-1029. Filed for public inspection June 25, 1999, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) (act) provides that the designated standing committees may issue comments within 20 days of the close of the public comment period, and the Independent Regulatory Review Commission (Commission) may issue comments within 10 days of the close of the committee comment period. The Commission comments are based upon the criteria contained in section 5a(h) and (i) of the act (71 P. S. § 745.5a(h) and (i)).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulations. The final-form regulations must be submitted by the dates indicated.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Issued</i>	<i>Final-Form Submission Deadline</i>
7-339	Environmental Quality Board Surface Coating Processes (RBI #4) (29 Pa.B. 1299 (March 6, 1999))	6/11/99	5/10/01
7-343	Environmental Quality Board Nitrogen Oxides Allowance (29 Pa.B.1214 (March 6, 1999))	6/11/99	5/10/01
7-345	Environmental Quality Board Interstate Ozone Transport Reduction (29 Pa. B. 1319 (March 6, 1999))	6/11/99	5/10/01
16A-693	State Board of Social Work Examiners Verification Fee (29 Pa.B. 1897 (April 10, 1999))	6/11/99	5/10/01
16A-477	State Registration Board For Professional Engineers, Land Surveyors and Geologists Verification/ Certification Fees (29 Pa.B. 1897 (April 10, 1999))	6/11/99	5/10/01
16A-578	State Board of Veterinary Medicine Fees (29 Pa.B. 1897 (April 10, 1999))	6/11/99	5/10/01
16A-672	State Board of Occupational Therapy, Education and Licensure Fees (29 Pa.B. 1896 (April 10, 1999))	6/11/99	5/10/01
16A-469	State Board of Dentistry Verification/Certification Fees (29 Pa.B. 1895 (April 10, 1999))	6/11/99	5/10/01

**Environmental Quality Board Regulation No. 7-339
Surface Coating Processes (RBI #4)
June 11, 1999**

We have reviewed this proposed regulation from the Environmental Quality Board (EQB) and submit for your consideration the following objections and recommendations. Section 5.1(h) and (i) of the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) specifies the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to reasonableness, economic impact and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. Reasonableness of requiring compliance with presumptive RACT and Section 129.52—Reasonableness and Clarity.

The EQB has asked for comment on whether the Department of Environmental Protection (DEP) should require certain wood furniture manufacturing facilities to comply with both the presumptive reasonably available control technology (RACT) requirements in §§ 129.101—129.107 and the surface coating requirements in § 129.52. The facilities affected would be those with actual emissions of, or the potential to emit, 25 tons per year or more of volatile organic compounds (VOCs). The presumptive RACT requirements are based on the U.S. Environmental Protection Agency's (EPA) Control Techniques Guidelines (CTG) and the Model Rule for Wood Furniture Finishing and Cleaning Operations (Model Rule).

Wood furniture manufacturing facilities, which submitted comments, oppose requiring compliance with both presumptive RACT and § 129.52. Commentators assert that requiring compliance with two sets of regulations is burdensome, confusing and unnecessary. It will result in Pennsylvania's regulations being more stringent than federal requirements, without adequate justification. It would also place Pennsylvania's manufacturers at a competitive disadvantage with manufacturers in other states that require compliance only with the Federal CTG. Commentators further assert that requiring compliance with two sets of regulations is inconsistent with Executive Order 1996-1 and the DEP's own Regulatory Basics Initiative.

The commentators raise valid concerns. Sections 1.e. and 1.i. of Executive Order 1996-1 state the following:

e. 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.

* * * * *

i. Regulations shall not hamper Pennsylvania's ability to compete effectively with other states.

The EQB has not demonstrated that compliance with both presumptive RACT and § 129.52 complies with the directives of Executive Order 1996-1. It is unclear what "compelling and articulable Pennsylvania interest" justifies requiring compliance with dual standards. We request the EQB explain the compelling public interest that justifies requiring certain wood furniture manufacturers to comply with both presumptive RACT and § 129.52. It is our opinion that the EQB should require compliance only with presumptive RACT.

2. Reasonableness of adopting the Federal reporting requirements at 40 CFR 63.7—63.10.

The EQB has asked for comment on whether it should adopt the reporting requirements at 40 CFR 63.7—63.10. The Model Rule provides these reporting requirements as an optional State presumptive RACT program component.

Since presumptive RACT requirements are based on the Federal CTG and Model Rule, it is reasonable to adopt the Federal reporting requirements. If the EQB elects to adopt these reporting requirements, we suggest that the best way to do so is to incorporate 40 CFR 63.7—63.10 by reference. In addition, the EQB should amend the proposed reporting requirements in §§ 129.105 and 129.106 as necessary to be consistent with the Federal reporting requirements.

3. Section 121.1. Definitions—Clarity.

Coating solids or solids.

This definition states that "Solids content is determined using data from the EPA Reference Method 24 or an alternative method." It is unclear if the "alternative method" must be approved by the EPA or the DEP. The EQB should clarify this point in the final regulation.

Enamel.

The definition of "enamel" reads as follows:

A coat of colored material, usually opaque, that is applied as a protective topcoat over a basecoat, primer or previously applied enamel coat. The term includes a coating that may be applied as a topcoat over the enamel.

This definition is consistent with the federal Model Rule. However, the definition conflicts with the existing definition of "opaque ground coats and enamels" found in § 121.1. To eliminate this inconsistency, the EQB should define "opaque ground coats" and "enamel" separately.

4. Section 129.52. Surface coating processes—Clarity.

Table I.

Table I, Category 11(e), includes "all other coatings" as a category. However, the defined term in § 121.1 is "other coatings." The inclusion of the word "all" in the proposed regulation has caused confusion among commentators concerning whether coatings not included in the definition of "other coatings" are regulated under Table I. It is our understanding that the DEP did not intend to broaden the number of coatings that fall under Table I by using the phrase "all other coatings." Therefore, the EQB should delete the word "all" in front of "other coatings" to be consistent with the existing definition of "other coatings" in § 121.1.

5. Section 129.102. Emission standards—Clarity.

Section 129.102(3) provides:

Using a control system that will achieve a reduction in emissions equivalent to 0.8 lb VOC/lb solids for topcoats and 1.9 lbs VOC/lb solids for sealers.

This provision is inconsistent with the corresponding federal Model Rule, which specifies 0.8 lb VOC/lb solids for topcoats or 1.8 lb VOC/lb solids for topcoats and 1.9 lbs VOC/lb solids for sealers. The EQB should amend § 129.102(3) to be consistent with the Federal requirement or explain the compelling public interest which justifies a more stringent standard in Pennsylvania.

6. The final-form rulemaking should address how the adoption of presumptive RACT requirements will affect facilities with case-by-case RACT permits and those with case-by-case RACT permits pending before the DEP or the EPA. Sections 129.52(a) and 129.101—Economic Impact, Reasonableness and Clarity.

The proposed regulation is silent on how the DEP's case-by-case RACT rules (25 Pa. Code §§ 129.91—129.95) will be affected by the adoption of presumptive RACT.

Commentators stated that case-by-case RACT imposes many additional and unnecessarily prescriptive requirements on Pennsylvania manufacturers. They asserted that this excessive regulation places them at a severe competitive disadvantage with manufacturers in other states. One commentator noted that complying with case-by-case RACT for a permit approval would result in several hundreds of thousands of dollars of additional operational costs than would be incurred under presumptive RACT.

Presumptive RACT, as mandated by Section 182 of the Clean Air Act and the EPA-approved CTG, is intended to be the universal compliance standard for all wood furniture manufacturing and finishing operations subject to it. Therefore, unless the high standard of a "compelling and articulable Pennsylvania interest" under Executive Order 1996-1 justifies retaining both sets of RACT rules, the EQB should phase-out or modify the DEP's case-by-case RACT rules as part of phasing-in presumptive RACT.

Consequently, the provisions of §§ 129.91—129.95 of 25 Pa. Code should be amended to reflect the adoption of presumptive RACT, in place of case-by-case RACT, for those facilities subject to it. Sections 129.52(a) and 129.101 should be similarly amended as necessary for consistency.

The final-form rulemaking should also be amended to allow companies with existing case-by-case RACT permits and those with operating permits based on case-by-case RACT, but without State Implementation Plan approvals, to convert to presumptive RACT.

**Environmental Quality Board Regulation No. 7-343
Nitrogen Oxides Allowance
June 11, 1999**

We have reviewed this proposed regulation from the Environmental Quality Board (EQB) and submit for your consideration the following objections and recommendations. Section 5.1(h) and (i) of the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) specifies the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to need, reasonableness and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. Section 123.115. Initial NOx allowance NOx allocations—Need and Clarity.

Subsection (b) would only apply to the Colver Power Project. Inter-Power/AhlCon Partners, L.P. commented that the Colver Power Project began operation on November 18, 1994. If the Colver Power Project is operating, why wasn't Subsection (b) deleted?

2. Appendix E—Reasonableness and Clarity.

NOx affected sources

TOSCO commented that two boilers will no longer meet the definition of "NOx affected source" because their maximum heat capacity is less than 250 MMBtu. TOSCO is in the process of modifying the permit to be consistent with the capacity of the boilers. The EQB should delete these sources if the boilers do not meet the definition of "NOx affected source."

Allowance allocation

Zinc Corporation of America (ZCA) believes their original allocation of allowances was not accurate. ZCA believes they are being further penalized by this rulemaking because they are losing two more allowances as a result of the accounting error adjustment. We note that some source allocations were adjusted and some were not. The EQB should explain why the allocation of allowances to ZCA is reasonable and why ZCA's allocation of allowances is being adjusted while some other sources are not.

Source designations

PECO Energy and TOSCO commented on corrections to the "County," "Facility" and "Combustion Source Name" of several sources. The EQB should make these corrections in the final-form regulation.

**Environmental Quality Board Regulation No. 7-345
Interstate Ozone Transport Reduction
June 11, 1999**

We have reviewed this proposed regulation from the Environmental Quality Board (EQB) and submit for your consideration the following objections and recommendations. Section 5.1(h) and (i) of the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) specifies the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to reasonableness, economic impact, implementation procedures, timetable for compliance, feasibility and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. Protection of Pennsylvania's competitive interests—Reasonableness, Economic Impact and Implementation Procedures.

The Federal interstate ozone transport reduction program will affect 22 states and the District of Columbia. The design and timing of the program affects the competitiveness of the affected industries in each state. The Pennsylvania House of Representatives unanimously approved House Resolution No. 182, a concurrent resolution specifically directed at this rulemaking. As of the date of these comments, the concurrent resolution was sent to the Senate for consideration. House Resolution No. 182 resolved, in part, the following:

RESOLVED, That the Department of Environmental Protection revise its proposed regulations implementing the SIP Call (29 Pa.B. 1319, March 6, 1999) to give effect to the purpose and intent of this resolution, namely, to ensure that major fossil-fired steam electric generating units in Pennsylvania are not subject to emission control requirements more stringent than, or on a compliance schedule sooner than, those required by Phase II of the OTC Memorandum of Understanding, until and unless similar generating units in each state adjacent to Pennsylvania are subject to a comparable schedule of equivalent emission control requirements established in approved

State Implementation Plans adopted in conformance with: (1) the EPA's Regional Ozone Transport Rulemaking; (2) the Federal Implementation Plans promulgated in accordance with the EPA's proposed Ozone Transport Federal Implementation Plan; or (3) a final rulemaking granting the relief requested in the petition filed by Pennsylvania on August 14, 1997, pursuant to section 126 of the Clean Air Act;

Several commentators requested that language be added to the regulation to protect Pennsylvania's competitive interests. They are concerned that the rules may not go into effect in all states at the same time as planned. They are also concerned that ongoing court challenges may change the compliance deadlines and technical requirements. The commentators proposed adding language which would hold off implementation of the requirements until the overall program requirements are uniformly adopted.

The unanimous adoption of House Resolution No. 182, and the concerns of the commentators raise serious concerns with the proposed regulation. Pennsylvania's industries could be competitively disadvantaged if they comply with requirements not imposed on adjacent states. Pennsylvania's industries could also be burdened if they must make investments to comply with this regulation, but the underlying federal requirements are subsequently modified by the courts. For these reasons, language should be added to the regulation to protect Pennsylvania's competitive interests.

2. Transition to Chapter 145—Reasonableness, Implementation Procedures and Clarity.

The EQB requested comment on how to create as few additional administrative requirements as possible. Comments were submitted on minor conflicts between existing equipment requirements and the requirements of the new regulations. For example, the proposed regulation requires reporting in tons per hour, but one commentator's existing equipment records in pounds per hour. To deal with minor conflicts, the EQB should either incorporate a waiver process or reference an existing waiver process whereby a regulated NOx source could apply to the Department of Environmental Protection (DEP) for a waiver.

3. Section 145.2. Definitions—Clarity.

"Electric generating unit" and "Nonelectric generating unit"

The terms "electric generating unit" and "nonelectric generating unit" are used in § 145.40. Each type of facility is allocated a portion of the state NOx budget allocation. However, these terms are not defined in § 145.2. The EQB should define these terms for clarity.

"Nameplate capacity"

The term "Nameplate capacity" is used in § 145.4(1) Applicability. The model Federal rule has a definition of "nameplate capacity." However, this definition was omitted in the proposed rulemaking. The EQB should add the Federal model definition of "Nameplate capacity" for clarity.

"NOx allowances held or hold NOx allowances"

The definition of "NOx allowances held or hold NOx allowances" appears to have a typographical error. One portion reads "...submitted for recordation this subchapter. . . ." The EQB should clarify this definition in the final-form regulation.

"NOx allowance transfer deadline"

The definition of "NOx allowance transfer deadline" specifies November 30 as the annual deadline to submit allowances for compliance. Commentators requested that the deadline be changed to December 31 to give them greater flexibility to identify cost-effective means for compliance. The EQB should consider changing the deadline to December 31, or explain the need for the November 30 deadline.

"NOx Budget Trading Program" and "State"

The definitions of "NOx Budget Trading Program" and "State" use the phrase "under this subchapter." This phrase gives the impression that other states would fall under the requirements of Pennsylvania's regulation. For clarity, the EQB should modify these definitions.

"Unit"

Commentators are concerned that the definition of "unit" does not clearly include cement kiln systems. This may affect their ability to "opt-in." The EQB should clarify the definition of "unit" to include cement kiln systems.

4. Section 145.4. Applicability—Economic Impact, Need, Reasonableness and Clarity.

We have two concerns with § 145.4. First, § 145.4(1) specifies that the regulation is applicable to units with a capacity greater than or equal to 15 MWe. The model Federal rule uses a cutoff of 25 MWe. The EQB should explain the need to regulate units between 15 and 25 MWe and the economic impact this would have on existing and future units or adopt the federal limit.

Second, some commentators suggested adding a § 145.4(3) regarding an exemption for units that accept a 25-ton ozone season limit. We note that the model Federal rule has this exemption in § 96.4(b). Why wasn't this exclusion included in Pennsylvania's regulations?

5. Section 145.6. Standard requirements—Need and Reasonableness.

Subsection (e) requires records to be kept onsite, at the source, for 5 years. Cost savings could be realized by keeping these records in central files for multiple units and made available upon request. Why is it necessary to keep this information onsite?

Portions of the model Federal rule were not included in the proposed rulemaking. Specifically, the regulation does not include §§ 96.6(c)(8) and 96.6(f)(1) and (2) regarding recording allowances and liability for violations. Why didn't the EQB include these provisions?

6. Section 145.21. NOx budget permit applications—Timetable for Compliance and Clarity.

We have two concerns with § 145.21. First, subsection (b)(1) requires permit applications to be filed within 6 months after the effective date of the final-form regulation. There is a possibility that Pennsylvania's permit applications would be required much earlier than would be required by the Federal model rule. The EQB should explain the need to require applications within 6 months of publication of the final-form regulation.

Second, § 145.21 also does not provide a timetable for DEP to respond to the applications. The EQB should add a provision stating when DEP must act on a complete application.

7. Section 145.30. Compliance certification report—Need.

This section specifies November 30 as the annual deadline to file the compliance certification report. Commentators requested that the deadline be changed to December 31 to give them greater flexibility to identify cost-effective means for compliance. The EQB should consider changing the deadline to December 31, or explain the need for the November 30 deadline.

8. Section 145.40. State trading program budget—Clarity.

Paragraphs (1) and (2) use the phrase “tons per season.” For clarity, the EQB should designate these as “tons per control period” to be consistent with definitions in § 145.2.

9. Section 145.42. NO_x allowance allocations—Need and Reasonableness.

Allocation method

Commentators suggested several changes to the NO_x allowance allocation method in § 145.42. Suggestions included the following:

- Change the allocation method for the year 2006 and thereafter,
- Subsection (a)(2) should be revised to give DEP more discretion,
- The EPA’s SIP contains inaccuracies that should be corrected,
- Allocation of NO_x allowances should be changed to provide more incentives for low emission units,
- Allocation periods should be longer,
- Allocations should be modified to better accommodate future planning,
- The size of the set-aside pool in Subsection (d) should be reduced.

On the other hand, several commentators advocate adopting EPA’s allocation approach without changes, despite its flaws. Any method will create some degree of advantages and disadvantages. The EQB should explain why the method used in the proposed rulemaking is the best alternative.

Exception to 0.15 lb/MMBtu allocation

Subsection (b)(1) contains the phrase “or allowable emission level, whichever is lower.” This additional criteria is not in the federal model rule. Why is this criteria needed?

10. Section 145.54. Compliance—Reasonableness, Economic Impact, Feasibility and Clarity.

Although the penalty provisions in Subsection (d) are contained in Chapter 123 and the Federal model rule, the penalties can be severe. Specifically, Subsection (d) requires:

- A deduction of three NO_x allowances for every ton of excess emissions,
- Each ton of excess emissions will be viewed as a separate violation, and
- A fine. The potential exists for a violator to be penalized up to \$25,000 a day for every day in the 153-day control period.

Under these provisions, a violation could result in a fine of up to \$3.8 million and a loss of allocations in the

next control period. The EQB should explain the need and reasonableness of these deductions and penalties.

Subsection (d)(3) indicates the fines will be assessed under “the Clean Air Act or the act.” It is not clear what penalties apply. For clarity, the EQB should reference the specific provisions in “the Clean Air Act or the act” which contain the applicable penalties for the violation.

11. Section 145.55. Banking—Economic Impact, Reasonableness and Clarity.

Section 145.55(c)(9) allows facilities to carry over allowances they banked from 2000 to 2002 to the program under Chapter 145. We have four questions concerning the implementation of this provision.

First, the regulation is not clear regarding how Pennsylvania will maintain compliance in 2003 if all of the banked allowances carried forward are used in that year. The EQB should explain how DEP will ration the banked NO_x allowances to assure that Pennsylvania does not exceed its NO_x allocation.

Second, the regulation does not allow facilities to carry over allowances banked in 1999. Why can’t allowances banked in 1999 be carried forward?

Third, the section provides emission reduction credits for years 2001 and 2002. It is not clear if a facility can carry forward banked allowances and also receive emission reduction credits. The EQB should clarify whether a facility will receive credit for both a banked allowance and emission reductions, or if the facility will only be credited once.

Finally, subsection (c)(10) provides that the compliance supplemental pool for Pennsylvania is 13,716. Why is it necessary to include the specific allocation in the regulation, especially if EPA may change it?

12. Section 145.70. General Monitoring—Need, Economic Impact and Reasonableness.

Commentators expressed concern with the new monitoring requirements established in this rulemaking. They observe that regulated facilities incurred significant costs to comply with the monitoring requirements in Chapter 123 (which started in 1999). Now they would have to make further adjustments. The Commentators recommend that the monitoring requirements in Chapter 123 be maintained.

The Preamble states the monitoring requirements are consistent with the existing NO_x budget rule. The monitoring requirements contained in this rulemaking are the same as those contained in the EPA’s model rule. However, there is no mandate that Pennsylvania must follow the EPA model rule.

We have two concerns with § 145.70. First, the need to impose any variance in existing monitoring requirements is not clear. Has the EPA stated or implied that existing monitoring requirements are not acceptable under the new program? The EQB should consider maintaining the current monitoring requirements for those facilities currently in compliance with existing monitoring requirements.

Second, if alterations are necessary, the EQB should provide an analysis of the additional costs generated by the new monitoring requirements. The EQB should then explain why these additional costs are necessary.

13. Section 145.71. Initial certification and recertification procedures—Consistency and Reasonableness.

The EPA expressed concern that subsection (b)(3) does not require DEP to issue certification disapproval within 120 days. Adding a specific time period would provide notice to facilities of when the DEP will take action. The EQB should consider including this timeframe.

14. Section 145.74 Recordkeeping and Reporting—Clarity.

Subsection (d)(1) provides that NOx budget units shall meet the annual reporting requirements of this subchapter. Clarification of whether "annual" refers to the term "control period" as defined in § 145.2 is needed.

15. Section 145.101. Applicability—Reasonableness, Economic Impact and Clarity.

Brake horsepower standard vs. emission based standard

In Subsections (a)—(c), the EQB uses brake horsepower to determine which internal combustion engines (ICE) must comply with Subchapter B. Commentators suggested using emission-based standards, such as one ton of NOx per day, to determine which ICEs must comply. Since emissions control is the ultimate goal, why does the EQB use brake horsepower instead of emissions to determine which ICEs must comply with Subchapter B?

Exemptions

We have four concerns with the exemption in subsection (d). First, subsection (d) may be overly prescriptive. Commentators are concerned that the language does not allow sufficient flexibility to exempt standby diesel generators. Why does the EQB need limitations such as a unit having "the sole purpose of providing emergency electric service to the facility where it is located"? Why does the EQB need to prescribe anything beyond the limitation to 208 hours of operation?

Second, the exemption is limited to electric generation units. Why wouldn't the exemption apply to ICEs used for other purposes?

Third, the regulation does not include a EPA exemptions for start-up, shutdown, and malfunction emissions that do not exceed 36 consecutive hours. Why didn't the EQB include these exemptions?

Finally, commentators stated there are instances where compliance costs are high, but the reduction of NOx is minimal. The regulation does not address alternatives when a NOx reduction may not be cost effective. The EQB should consider adding a process where a NOx source could ask for alternatives, or waivers if compliance costs are excessive in relation to the reduction of NOx.

16. Section 145.102. Definitions—Need and Clarity.

We could not find the defined term "permitted capacity factor" in the body of this subchapter. Is this term needed?

17. Section 145.143. Standard requirements—Need, Economic Impact and Reasonableness.

Commentators state that the federal model rule does not have an emissions rate or an emissions cap for cement kilns. They also state that the regulation does not allow alternatives for compliance such as the use of low-NOx burners or mid-kiln firing systems. Meeting the emissions rates is the only option available. The commentators believe the proposed standards will disadvantage 30 to 50% of the cement plants in Pennsylvania. The EQB

should explain the need to vary from the federal model rule and explain why options available under federal guidelines were not included in Pennsylvania's regulation

18. Section 145.144. Reporting, monitoring and recordkeeping—Reasonableness.

The regulation does not include EPA exemptions for start-up, shutdown and malfunction emissions. Why didn't the EQB include these exemptions?

**State Board of Social Work Examiners Regulation
No. 16A-693
Verification Fee
June 11, 1999**

We have reviewed this proposed regulation from the State Board of Social Work Examiners (Board) and submit for your consideration the following objections and recommendations. Sections 5.1(h) and (i) of the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) specify the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to fiscal impact, consistency and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. Section 47.4. Licensure fees—Fiscal Impact, Consistency and Clarity.

Administrative overhead costs

In the proposed regulation's fee report forms, there are significant differences in the costs for both fees except for "Bureau Average Administrative Overhead" costs. According to staff at the Department of State and its Bureau of Professional and Occupational Affairs (BPOA), the allocated share of overhead cost for each fee category is calculated by dividing total overhead costs for all boards by the number of active licensees for all boards. This methodology for overhead cost allocation is not unreasonable and has been consistently applied. On the other hand, the staff cost allocations are based on estimates of the actual time BPOA staff spends performing the tasks related to each fee.

For overhead cost allocations, there appears to be no direct relationship to the services covered by the fees or frequency of fee payments. Therefore, there is no indication that the fees will recover actual or projected overhead costs. In addition, the allocated costs are based on past expenditures rather than estimates or projections of future expenditures. Hence, there is no certainty that the fees' "projected revenues will meet or exceed projected expenditures" pursuant to section 18(c) of the Social Workers' Practice Act (63 P. S. § 1918(c)).

We question the use of a constant overhead cost allocation that appears to be unrelated to the actual costs of activities covered by different fees. Even though this process was used to determine other fees, why should BPOA maintain this approach? The Board and BPOA should specifically identify the overhead costs, or portion of the total overhead, to be recouped by these fees, and review their methodology for allocating these overhead costs. Is it the Board's goal to allocate all overhead costs by category to each fee? If so, we do not believe the current allocation formula gives the desired result.

Board duties for certification and verification

The House Professional Licensure Committee requested additional information from the Board in two areas. First, it questioned the Board's role in the certification of scores, licensure, certification and registration. In addi-

tion, it noted that the description of Board staff functions in the fee report forms for certification and verification fees were very similar. However, there was a significant difference in the staff time and costs for these fees. Staff time for certification equaled 45 minutes at a cost of \$15.23. Staff time for verification was 4.8 minutes at a cost of \$1.62.

Why does the Board certify scores? What is the difference between certification and verification? How much work is required to provide these services? The Board should explain in detail the answers to these questions when it submits the final-form version of this regulation.

**State Registration Board for Professional
Engineers, Land Surveyors and Geologists
Regulation No. 16A-477
Verification/Certification Fees
June 11, 1999**

We have reviewed this proposed regulation from the State Registration Board for Professional Engineers, Land Surveyors and Geologists (Board) and submit for your consideration the following objections and recommendations. Sections 5.1(h) and (i) of the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) specify the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to fiscal impact, consistency and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. Section 37.17. Schedule of fees—Fiscal Impact, Consistency and Clarity.

Administrative overhead costs

In the proposed regulation's fee report forms, there are significant differences in the costs for both fees except for "Bureau Average Administrative Overhead" costs. According to staff at the Department of State and its Bureau of Professional and Occupational Affairs (BPOA), the allocated share of overhead cost for each fee category is calculated by dividing total overhead costs for all boards by the number of active licensees for all boards. This methodology for overhead cost allocation is not unreasonable and has been consistently applied. On the other hand, the staff cost allocations are based on estimates of the actual time BPOA staff spends performing the tasks related to each fee.

For overhead cost allocations, there appears to be no direct relationship to the services covered by the fees or frequency of fee payments. Therefore, there is no indication that the fees will recover actual or projected overhead costs. In addition, the allocated costs are based on past expenditures rather than estimates or projections of future expenditures. Hence, there is no certainty that the fees' "projected revenues will meet or exceed projected expenditures" pursuant to section 9(a) of the Engineer, Land Surveyor and Geologist Law (63 P.S. § 156(a)).

We question the use of a constant overhead cost allocation that appears to be unrelated to the actual costs of activities covered by different fees. Even though this process was used to determine other fees, why should BPOA maintain this approach? The Board and BPOA should specifically identify the overhead costs, or portion of the total overhead, to be recouped by these fees, and review their methodology for allocating these overhead costs. Is it the Board's goal to allocate all overhead costs by category to each fee? If so, we do not believe the current allocation formula gives the desired result.

Board duties for certification and verification

The House Professional Licensure Committee requested additional information from the Board in two areas. First, it questioned the Board's role in the certification of scores, licensure, certification and registration. In addition, it noted that the description of Board staff functions in the fee report forms for certification and verification fees were very similar. However, there was a significant difference in the staff time and costs for these fees. Staff time for certification equaled 45 minutes at a cost of \$15.23. Staff time for verification was 4.8 minutes at a cost of \$1.62.

Why does the Board certify scores? What is the difference between certification and verification? How much work is required to provide these services? The Board should explain in detail the answers to these questions when it submits the final-form version of this regulation.

**State Board of Veterinary Medicine Regulation No.
16A-578
Fees
June 11, 1999**

We have reviewed this proposed regulation from the State Board of Veterinary Medicine (Board) and submit for your consideration the following objections and recommendations. Section 5.1(h) and (i) of the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) specify the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to fiscal impact, consistency and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. Section 31.41. Schedule of fees—Fiscal Impact, Consistency and Clarity.

Administrative overhead costs

In the proposed regulation's fee report forms, there are significant differences in the costs for both fees except for "Bureau Average Administrative Overhead" costs. According to staff at the Department of State and its Bureau of Professional and Occupational Affairs (BPOA), the allocated share of overhead cost for each fee category is calculated by dividing total overhead costs for all boards by the number of active licensees for all boards. This methodology for overhead cost allocation is not unreasonable and has been consistently applied. On the other hand, the staff cost allocations are based on estimates of the actual time BPOA staff spends performing the tasks related to each fee.

For overhead cost allocations, there appears to be no direct relationship to the services covered by the fees or frequency of fee payments. Therefore, there is no indication that the fees will recover actual or projected overhead costs. In addition, the allocated costs are based on past expenditures rather than estimates or projections of future expenditures. Hence, there is no certainty that the fees' "projected revenues will meet or exceed projected expenditures" pursuant to section 13(b) of the Veterinary Medicine Practice Act (63 P.S. § 485.13(b)).

We question the use of a constant overhead cost allocation that appears to be unrelated to the actual costs of activities covered by different fees. Even though this process was used to determine other fees, why should BPOA maintain this approach? The Board and BPOA should specifically identify the overhead costs, or portion of the total overhead, to be recouped by these fees, and review their methodology for allocating these overhead

costs. Is it the Board's goal to allocate all overhead costs by category to each fee? If so, we do not believe the current allocation formula gives the desired result.

Board duties for certification and verification

The House Professional Licensure Committee requested additional information from the Board in two areas. First, it questioned the Board's role in the certification of scores, licensure, certification and registration. In addition, it noted that the description of Board staff functions in the fee report forms for certification and verification fees were very similar. However, there was a significant difference in the staff time and costs for these fees. Staff time for certification equaled 45 minutes at a cost of \$15.23. Staff time for verification was 4.8 minutes at a cost of \$1.62.

Why does the Board certify scores? What is the difference between certification and verification? How much work is required to provide these services? The Board should explain in detail the answers to these questions when it submits the final-form version of this regulation.

**State Board of Occupational Therapy, Education
and Licensure Regulation No. 16A-672
Fees**

June 11, 1999

We have reviewed this proposed regulation from the State Board of Occupational Therapy, Education and Licensure (Board) and submit for your consideration the following objections and recommendations. Section 5.1(h) and (i) of the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) specify the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to fiscal impact, consistency and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. Section 42.17. Licensure fees—Fiscal Impact, Consistency and Clarity.

Administrative overhead costs

In the proposed regulation's fee report forms, there are significant differences in the costs for both fees except for "Bureau Average Administrative Overhead" costs. According to staff at the Department of State and its Bureau of Professional and Occupational Affairs (BPOA), the allocated share of overhead cost for each fee category is calculated by dividing total overhead costs for all boards by the number of active licensees for all boards. This methodology for overhead cost allocation is not unreasonable and has been consistently applied. On the other hand, the staff cost allocations are based on estimates of the actual time BPOA staff spends performing the tasks related to each fee.

For overhead cost allocations, there appears to be no direct relationship to the services covered by the fees or frequency of fee payments. Therefore, there is no indication that the fees will recover actual or projected overhead costs. In addition, the allocated costs are based on past expenditures rather than estimates or projections of future expenditures. Hence, there is no certainty that these fees are "necessary to the administration of this act" pursuant to section 17(a) of the Occupational Therapy Practice Act (63 P. S. § 1517(a)).

We question the use of a constant overhead cost allocation that appears to be unrelated to the actual costs of activities covered by different fees. Even though this process was used to determine other fees, why should BPOA maintain this approach? The Board and BPOA

should specifically identify the overhead costs, or portion of the total overhead, to be recouped by these fees, and review their methodology for allocating these overhead costs. Is it the Board's goal to allocate all overhead costs by category to each fee? If so, we do not believe the current allocation formula gives the desired result.

Board duties for certification and verification

The House Professional Licensure Committee requested additional information from the Board in two areas. First, it questioned the Board's role in the certification of scores, licensure, certification and registration. In addition, it noted that the description of Board staff functions in the fee report forms for certification and verification fees were very similar. However, there was a significant difference in the staff time and costs for these fees. Staff time for certification equaled 45 minutes at a cost of \$15.23. Staff time for verification was 4.8 minutes at a cost of \$1.62.

Why does the Board certify scores? What is the difference between certification and verification? How much work is required to provide these services? The Board should explain in detail the answers to these questions when it submits the final-form version of this regulation.

**State Board of Dentistry Regulation No. 16A-469
Verification/Certification Fees
June 11, 1999**

We have reviewed this proposed regulation from the State Board of Dentistry (Board) and submit for your consideration the following objections and recommendations. Section 5.1(h) and (i) of the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) specify the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to fiscal impact, consistency and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. Section 33.3. Fees—Fiscal Impact, Consistency and Clarity.

Administrative overhead costs

In the proposed regulation's fee report forms, there are significant differences in the costs for both fees except for "Bureau Average Administrative Overhead" costs. According to staff at the Department of State and its Bureau of Professional and Occupational Affairs (BPOA), the allocated share of overhead cost for each fee category is calculated by dividing total overhead costs for all boards by the number of active licensees for all boards. This methodology for overhead cost allocation is not unreasonable and has been consistently applied. On the other hand, the staff cost allocations are based on estimates of the actual time BPOA staff spends performing the tasks related to each fee.

For overhead cost allocations, there appears to be no direct relationship to the services covered by the fees or frequency of fee payments. Therefore, there is no indication that the fees will recover actual or projected overhead costs. In addition, the allocated costs are based on past expenditures rather than estimates or projections of future expenditures. Hence, there is no certainty that the fees' "projected revenues will meet or exceed projected expenditures" pursuant to Section 4(b) of the Dental Law (63 P. S. § 123(b)).

We question the use of a constant overhead cost allocation that appears to be unrelated to the actual costs of activities covered by different fees. Even though this

process was used to determine other fees, why should BPOA maintain this approach? The Board and BPOA should specifically identify the overhead costs, or portion of the total overhead, to be recouped by these fees, and review their methodology for allocating these overhead costs. Is it the Board's goal to allocate all overhead costs by category to each fee? If so, we do not believe the current allocation formula gives the desired result.

Board duties for certification and verification

The House Professional Licensure Committee requested additional information from the Board in two areas. First, it questioned the Board's role in the certification of scores, licensure, certification and registration. In addition, it noted that the description of Board staff functions in the fee report forms for certification and verification fees were very similar. However, there was a significant difference in the staff time and costs for these fees. Staff time for certification equaled 45 minutes at a cost of \$15.23. Staff time for verification was 4.8 minutes at a cost of \$1.62.

Why does the Board certify scores? What is the difference between certification and verification? How much work is required to provide these services? The Board should explain in detail the answers to these questions when it submits the final-form version of this regulation.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 99-1030. Filed for public inspection June 25, 1999, 9:00 a.m.]

INSURANCE DEPARTMENT

Appeal of Sonia Costello Under The Motor Vehicle Financial Responsibility Law, Catastrophic Loss Benefits Continuation Fund; Doc. No. CF99-06-005

A prehearing/settlement telephone conference initiated by the Administrative Hearings Office, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102 shall occur on August 18, 1999, at 10 a.m. A date for a hearing shall be determined, if necessary, at the prehearing/settlement telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notice of intervention, if any, must be filed on or before July 19, 1999, with the Docket Clerk, Administrative Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102. Answers to petitions to intervene, if any, shall be filed on or before August 11, 1999.

A written request for continuance of the scheduled hearing, for good cause, will be considered by the Presiding Officer. Prior to requesting a continuance, a party must contact the opposing party. All continuance requests must indicate whether the opposing party objects to a continuance.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 99-1031. Filed for public inspection June 25, 1999, 9:00 a.m.]

Application and Request for a Certificate of Authority

The Covenant at South Hills, Inc. has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at The Covenant at South Hills, Mt. Lebanon, PA. The initial filing was received on June 9, 1999, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act of June 18, 1984, P.L. 391, No. 82, as amended. Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed, and a concise statement with sufficient detail to inform the Insurance Department of the exact basis of the statement. Written statements should be directed to Michael S. Graeff, Insurance Company Licensing Specialist, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, or by fax (717) 787-8557.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 99-1032. Filed for public inspection June 25, 1999, 9:00 a.m.]

Per Diem Charges for Financial Examinations Conducted by the Department

Under the authority contained in section 907 of the Insurance Department Act of 1921 (40 P.S. § 323.7) and under 31 Pa. Code § 12.4, an updated schedule of per diem charges for financial examinations conducted by the Pennsylvania Insurance Department is hereby adopted.

The new schedule of charges is as follows:

Examiner Trainee	\$212 per day
Examiner 1	\$268 per day
Examiner 2	\$338 per day
Examiner 3	\$413 per day
Examination Manager	\$485 per day

As prescribed in 31 Pa. Code § 12.4(c), the Insurance Department will calculate and bill per diem charges for financial examination costs in one-half hour units.

This schedule is effective July 1, 1999.

This document supersedes the notice published at 28 Pa.B. 2992 (June 27, 1998) and shall remain in effect until a subsequent notice is published in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 99-1033. Filed for public inspection June 25, 1999, 9:00 a.m.]

Per Diem Charges for Market Conduct Examinations Conducted by the Department

Each year, the Insurance Department (Department) updates its schedule of per diem charges for market conduct examinations conducted by the Department.

These charges are authorized by section 907 of The Insurance Department Act of 1921 (40 P. S. § 323.7) and 31 Pa. Code § 12.4 (relating to per diem charges).

The new schedule of charges is as follows:

Examiner Trainee	\$216 per day
Examiner 1	\$275 per day
Examiner 2	\$300 per day
Examiner Manager	\$418 per day

As prescribed in 31 Pa. Code § 12.4(c), the Department will calculate and bill per diem charges for examination costs in 1/2 hour units.

This schedule is effective July 1, 1999.

This notice supersedes the schedule of per diem charges published at 28 Pa.B. 2992 (June 27, 1998), which prior notice is hereby repealed. These new charges shall remain in effect until a subsequent notice is published in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 99-1034. Filed for public inspection June 25, 1999, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing, as authorized by the act of June 17, 1998 (P. L. 464, No. 68) in connection with their company's termination of the insured's automobile policies. The hearings will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). All administrative hearings are held in the Insurance Department Offices in Harrisburg, PA. Failure by the appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The hearings will be held in the Capitol Associates Building, 901 North Seventh Street, Second Floor Hearing Room, Harrisburg, PA 17102.

Appeal of Syed M. Sibtain; file no. 99-121-02218; Motorists Mutual Insurance Company; doc. no. P99-06-007; July 14, 1999, at 1 p.m.;

Appeal of Tarleton D. and Lisa Williams; file no. 99-210-31718; American Motorists Insurance Company; doc. no. PH99-06-006; July 15, 1999, at 10 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses and the like necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Commissioner may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The order of the Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearings, and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 99-1035. Filed for public inspection June 25, 1999, 9:00 a.m.]

State Farm Mutual Automobile Insurance Company; Private Passenger Automobile Rate and Rule Revision

On June 11, 1999, the Insurance Department received from State Farm Mutual Automobile Insurance Company a filing for a rate level change for private passenger automobile insurance.

State Farm Mutual Automobile Insurance Company requests an overall 5.7% decrease amounting to -\$57,700,000 annually, to be effective September 1, 1999, for new and renewal business.

Unless formal administrative action is taken prior to August 10, 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 Chuck Romberger, CPCU, Insurance Department, Bureau of Regulation of Rates and Policies, Room 1311, Strawberry Square, Harrisburg, PA 17120 (e-mail at cromberg@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. 99-1036. Filed for public inspection June 25, 1999, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board leases will expire:

Schuylkill County, Wine & Spirits Shoppe #5403, 238 E Broad Street, Tamaqua, PA 18252-2014.

Lease Expiration Date: May 31, 2001

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,800

to 3,300 net useable square feet of new or existing retail commercial space within the Borough of Tamaqua.

Proposals due: July 16, 1999 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Ronald Hancher, (717) 657-4228

Allegheny County, Wine & Spirits Shoppe #0249, Whitehall Terrace Shopping Center, 4120 Brownsville Road, Pittsburgh, PA 15227-3307.

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 3,200 net useable square feet of new or existing retail commercial space near the intersection of Brownsville Road and PA Route 51. Site must have free, off-street parking and access for tractor trailer deliveries.

Proposals due: July 9, 1999 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Bruce VanDyke, (412) 565-5130

JOHN E. JONES, III,
Chairperson

[Pa.B. Doc. No. 99-1037. Filed for public inspection June 25, 1999, 9:00 a.m.]

PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY

Application Cut-Off Dates

The Fiscal Year 1999-00 application cut-off dates and regular meetings of the Pennsylvania Infrastructure Investment Authority (PENNVEST) Board of Directors have been scheduled. Funding applications must be received by 5 p.m. on the stated cut-off dates at the PENNVEST office, 22 South Third Street, Harrisburg, PA 17101. All meetings of the PENNVEST Board of Directors will begin at 10 a.m. on the stated meeting dates at the Governor's Residence, 2035 North Front Street, Harrisburg, PA 17102.

Application Cut-Off Dates *Board Meeting Dates*

September 8, 1999
 January 19, 2000

July 14, 1999
 November 17, 1999
 March 22, 2000

PAUL K. MARCHETTI,
Executive Director

[Pa.B. Doc. No. 99-1038. Filed for public inspection June 25, 1999, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

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 July 19, 1999, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protests shall also indicate whether it applies to the temporary authority application or the permanent application or both.

Applications of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under each application.

A-00108503, Folder 1, Am-D. Gary L. Arndt, t/d/b/a A Limousine Service (30 Prager Street, Pittsburgh, Allegheny County, PA 15215)—persons, in limousine service, from points in the county of Allegheny, to points in the counties of Fayette, Somerset, Washington and Westmoreland, and return: *So as to permit* the transportation of persons in limousine service: (1) between points in the county of Westmoreland, and from points in said county, to points in Pennsylvania, and return; and (2) from points in the county of Allegheny, to points in Pennsylvania, and return. *Attorney:* John A. Pillar, 1106 Frick Building, Pittsburgh, PA 15219.

June 14, 1999

Provost Transport Inc., 7887 Grenache St., Anjou Quebec CD HIJ1C4; A-00112606C9701, A-00112606

On October 22, 1997, the Bureau of Transportation and Safety instituted a complaint against Provost Transport, Inc., respondent, alleging failure to maintain proper evidence of current insurance in violation of the Public Utility Code. The respondent was duly notified that if acceptable evidence of insurance or an answer was not filed, the Bureau would request that the Secretary of the Commission revoke the certificate of public convenience issued to the respondent at A-00112606.

The complaint and notice were published in the December 26, 1998, issue of the *Pennsylvania Bulletin*, after unsuccessfully attempting to serve respondent by certified mail; to date, more than 20 days later, neither evidence of insurance nor an answer to the complaint has been filed. Therefore, the allegation in the complaint is deemed to be admitted.

The complaint at A-00112606C9701 is hereby sustained and the rights and the certificate of public convenience issued to the respondent at A-00112606 be and are hereby revoked; and the respondent has no other operating authority. The respondent is hereby notified to cease and desist from providing service previously authorized under the certificate of public convenience.

June 14, 1999

Samuel R. Snader, 538 E 28th Division Highway, Lititz, PA 17543; A-00113683C9801, A-00113683

On June 20, 1998, the Bureau of Transportation and Safety instituted a complaint against Samuel R. Snader, respondent, alleging failure to maintain proper evidence of current insurance in violation of the Public Utility Code. The respondent was duly notified that if acceptable evidence of insurance or an answer was not filed, the Bureau would request that the Secretary of the Commission revoke the certificate of public convenience issued to the respondent at A-00113683.

The complaint and notice were published in the December 26, 1998, issue of the *Pennsylvania Bulletin*, after unsuccessfully attempting to serve respondent by certified mail; to date, more than 20 days later, neither evidence of insurance nor an answer to the complaint has been filed. Therefore, the allegation in the complaint is deemed to be admitted.

The complaint at A-00113683C9801 is hereby sustained and the rights and the certificate of public convenience issued to the respondent at A-00113683 be and are hereby revoked; and the respondent has no other operating authority. The respondent is hereby notified to cease and desist from providing service previously authorized under the certificate of public convenience.

June 14, 1999

Pottle's Transportation Inc., P. O. Box 877, Oldin Road, Bangor, Maine 04401; A-00108574C9701, A-00108574

On May 28, 1997, the Bureau of Transportation and Safety instituted a complaint against Pottle's Transportation, Inc., respondent, alleging failure to maintain proper evidence of current insurance in violation of the Public Utility Code. The respondent was duly notified that if acceptable evidence of insurance or an answer was not filed, the Bureau would request that the Secretary of the Commission revoke the certificate of public convenience issued to the respondent at A-00108574.

The complaint and notice were published in the December 26, 1998, issue of the *Pennsylvania Bulletin*, after unsuccessfully attempting to serve respondent by certified mail; to date, more than 20 days later, neither evidence of insurance nor an answer to the complaint has been filed. Therefore, the allegation in the complaint is deemed to be admitted.

The complaint at A-00108574C9701 is hereby sustained and the rights and the certificate of public convenience issued to the respondent at A-00108574 be and are hereby revoked; and the respondent has no other operating authority. The respondent is hereby notified to cease and desist from providing service previously authorized under the certificate of public convenience.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 99-1039. Filed for public inspection June 25, 1999, 9:00 a.m.]

Telecommunications

A-310654F0002. GTE North Incorporated and Teligent, Inc. Joint Petition of GTE North Incorporated

and Teligent, Inc. for approval of an Interconnection Agreement under section 252(e) of the Telecommunications Act of 1996.

GTE North Incorporated and Teligent, Inc. by its counsel, filed on June 8, 1999, 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 GTE North Incorporated and Teligent, 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. 99-1040. Filed for public inspection June 25, 1999, 9:00 a.m.]

Water Service Without Hearing

A-210110F0002. Village Water Company, Inc. Application of Village Water Company, Inc., for approval to begin to offer, render, furnish or supply water service to the public in additional portions of Fairfield Township, Lycoming County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before July 16, 1999, under 52 Pa. Code (relating to public utilities).

Applicant: Village Water Company, Inc.

Through and By Counsel: Janet L. Miller, Malatesta Hawke & McKeon LLP, Village Water Company, Inc., 100 North Tenth Street, P. O. Box 1778, Harrisburg, PA 17105-1778.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 99-1041. Filed for public inspection June 25, 1999, 9:00 a.m.]

TURNPIKE COMMISSION

Retention of an Engineering Firm

Open End Contract Traffic Engineering Services

Reference No. 3-112

The Turnpike Commission (Commission) will retain an engineering firm to perform traffic engineering related services. The contract will be for a period of 2 years or \$500,000, whichever occurs first.

The engineering services required may include signing, capacity and operational analysis, traffic and revenue studies, origination and destination studies, ITS planning and design, and traffic studies including counts.

Direct inquiries to Timothy M Scanlon, P.E. at (717) 939-9551, Ext. 5590; or by e-mail at tscanlon@paturndpike.com.

The following factors will be considered by the Commission during the evaluation of the firms submitting Letters of Interest for this project:

a. Specialized experience and technical competence of prime consultant and subconsultants. The team must clearly demonstrate an ability to analyze available data to make decisions and develop plans to complete the project in a timely and cost effective manner.

b. Past record of performance with respect to cost control, work quality ability to meet schedules and previous experience on similar projects. The consultant should identify similar projects that have been completed by that firm as the prime, the magnitude of the project, and the client.

c. The specific experience and number of individuals who constitute the firm.

d. Location of consultant's office where the work will be performed.

e. Workload of the prime consultant and subconsultants for all Pennsylvania Department of Transportation and Pennsylvania Turnpike Commission projects.

f. Other factors, if any, specific to the project.

General Requirements and Information

Firms interested in providing the above work and services are invited to submit a Letter of Interest with the required information. The Letters of Interest must include the following:

1. One page transmittal letter clearly identifying the project reference number, brief description of the project from the advertisement, the firm's Federal identification number, the firm's legal name, contact person or project manager, address of corporate office and project office. If the firm has multiple offices, the location of the office performing the work must be identified.

2. Three page expression of interest in the advertised project. Each firm should demonstrate their ability to perform the specific requirements indicated for this project and provide explanation that the firm has successfully completed similar type projects of the same magnitude.

3. An organization chart for the project, identifying key personnel and any subconsultants and their roles. Any deviation from the subconsultants listed in the letter of interest will require written approval from the Commission.

4. Tabulation of workload for the prime consultant and all subconsultants for all Pennsylvania Department of Transportation and Pennsylvania Turnpike Commission projects.

5. Annual Qualification Package submitted to the Pennsylvania Department of Transportation for the current year, containing the following for the prime consultant and all subconsultants which should be attached to the back of the letter of interest (subs to follow primes):

- Standard Form (SF) 254—Architect-Engineer and Related Services Questionnaire in its entirety, not more than 1 year old as of the date of the advertisement.

- Resumes of key personnel expected to be involved in the project; limit to one 8 1/2 x 11 page, one side, per person. Only resumes of key personnel should be included.

- Copy of the firm's registration to do business in this Commonwealth as provided by the Department of State for firms with out-of-State headquarters or corporations not incorporated in Pennsylvania.

- A copy of the Department's DBE/WBE Certification, if applicable.

If a joint venture responds to a project advertisement, the Commission will not accept separate letters of interest from joint venture constituents. A firm will not be permitted to submit a letter of interest on more than one 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 subconsultant to another firm that responds to the same project advertisement. This does not preclude a firm from being set forth as a designated subconsultant to more than one prime consultant responding to the project advertisement.

Firms interested in performing the above services are invited to submit a letter of interest and required information to Barry L. Troup, P.E., Assistant Chief Engineer for Design, at the 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 letter of interest and required information must be received by 12 p.m. Friday, July 16, 1999. Any letters of interest received after this date and time will be time-stamped and returned.

Based on an evaluation of acceptable letters of interest received in response to this solicitation, one firm will be selected for this project. 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 letters of interest, to cancel solicitation requested under this notice, and/or to re-advertise solicitation for the work and services.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 99-1042. Filed for public inspection June 25, 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

- 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

8250380 Agricultural machinery and supplies—7 each conversion, herbicide sprayer to be mounted on Department owned truck chassis.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8250410 Agricultural machinery and supplies—7 each latest model tractor/mower, hydrostatic drive with rotary head boom arm attachment.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8250420 Agricultural machinery and supplies—6 each latest model tractor/mower, hydrostatic drive with rotary head boom arm and rear flail attachments.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8250100 Motor vehicles, trailers and cycles—12 each latest model conventional cab and chassis manual transmission with tandem drive rear axle, wet line and sliding fifth wheel; 12 each latest model conventional cab and chassis manual transmission with tandem drive rear axle and sliding fifth wheel (without wet line); 6 each latest model trailer, lowboy tandem axle with wet line.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8250160 Motor vehicles, trailers and cycles—11 each latest model dump truck, Type II 4x4, aluminum cab, manual transmission, single rear axle with dual rear wheels and stainless steel dump body.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8250170 Motor vehicles, trailers and cycles—6 each latest model cab and chassis, steel, 1 ton, automatic transmission, dual rear wheels, with service body; 6 each latest model cab and chassis, steel, 1 ton, manual transmission, dual rear wheels, with service body; 6 each latest model cab and chassis, steel, 1 ton, manual transmission, dual rear wheels, with extended cab and flatbed body.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8250180 Motor vehicles, trailers and cycles—14 each latest model compact heavy duty pickup truck with automatic transmission and air conditioning; 12 each latest model compact heavy duty pickup truck with extended cab automatic transmission and air conditioning.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8250200 Motor vehicles, trailers and cycles—2 each latest model full size 1/2 ton 4x4 pickup truck with automatic transmission, yellow exterior paint color; 1 each latest model full size 1/2 ton 4x4 pickup truck with automatic transmission, blue exterior paint color; 17 each latest model full size 1/2 ton pickup truck with automatic transmission.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8250210 Motor vehicles, trailers and cycles—16 each refurbish/retrofit conventional Type II dump trucks, IHC/Navistar Model No. 5-2554.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8250230 Motor vehicles, trailers and cycles—6 each latest model cab and chassis with aerial work platform body.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8250240 Motor vehicles, trailers and cycles—6 each retrofit; bottom loading/vapor recovery system on Department owned truck.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

8250250 Motor vehicles, trailers and cycles—6 each latest model passenger minivan with mobile data recorder automatic transmission.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 98—99
Contact: Vendor Services: fax request to (717) 787-0725 or call (717) 787-2199

1009 Household and commercial furnishings and appliances—4' wide x 12' long kitchen range hood ventilation system with fire suppression.

Department: Military and Veterans Affairs
Location: Carlisle, Cumberland County, PA
Duration: FY 98—99
Contact: Military and Veterans Affairs, Emma Schroff, (717) 861-8518

PSU 5606-g Communication equipment—Teleconferencing system.

Department: Penn State University
Location: University Park, Centre County, PA
Duration: FY 98—99
Contact: Penn State, Steve Blazer, (814) 865-1402; fax (814) 865-3028

99-CI021 Textiles—Pocketing, various blends. Fabric to be used in the manufacturing of officer uniforms.

Department: Correctional Industries
Location: Waymart, Wayne County, PA
Duration: FY 98—99
Contact: State Correctional Institution Waymart, MaryAnn Ulrich, (717) 731-7134; fax (717) 731-7008

SERVICES

Advertising—01

KURFP-0002 Kutztown University is seeking qualified firms for the printing of student designed collateral materials for promotions campus wide. Duties to include but not limited to: printing of 2-color and 4-color work, posters, brochures, menus, and the like. Successful vendor will be located within a 1/2 hour driving distance of the University or provide messenger service for the pickup and delivery of proofs and printed pieces. Vendors interested in receiving a copy of the RFP package must request it in writing from: Barbara Reitz, Director of Purchasing, Kutztown University, Kutztown, PA 19530, (610) 683-4132; fax (610) 683-4674 or e-mail: reitz@kutztown.edu. Packages are available on June 28, 1999. Questions requiring clarification prior to proposal submission are due by 12 noon on July 8, 1999. Proposals are due by 2 p.m. on July 19, 1999.

Department: State System of Higher Education
Duration: 1 year after notice to proceed
Contact: Barbara Reitz, (610) 683-4132

Audio/Video—04

998301 Contractor to provide a maintenance service to include preventative maintenance repair parts, and emergency service for the University's entire telephone network to exclude incoming service/trunk lines.

Department: State System of Higher Education
Duration: One year with the option to renew up to 4 years
Contact: Antonia Williams, (610) 399-2360

Construction—09

Contract No. FDC-214-562 Maintenance and protection of traffic, PennDOT 2A aggregate (500 tons); B.C.B.C.—(1,500 tons); ID-2 wearing (800 tons); and tack cost (9,000 S. Y.). Work is in Ryerson Station State Park. To obtain a bid package contact Construction Management Section at (717) 787-5055.

Department: Conservation and Natural Resources
Duration: 90 days
Contact: Construction Management Section, (717) 787-5055

Contract No. FBP-08-0003 Replacement of a bridge—Removal of existing structure; clearing, grubbing and rough grading; excavating, backfilling and compacting; rock lining; erosion and sediment pollution control measures; selected material surfacing; traffic signing; guide rail; landscaping; plain and reinforced concrete structures; architectural surface treatment; and prestressed concrete spread box beams. Project is located in northern Jefferson County near the village of Heath Pump Station. To obtain a bid package contact Construction Management Section at (717) 787-5055.

Department: Conservation and Natural Resources
Duration: Complete all work by October 31, 2000
Contact: Construction Management Section, (717) 787-5055

DGS 948-41 FII Revised Rebid Project title: Painting. Brief description: The package consists of, but is not limited to, the following work: All painting work required for this project except as otherwise indicated in the contract documents. This package also includes thin film intumescent fire proofing work. Estimated range: \$500,000 to \$1,000,000. General construction. Plans deposit: \$250 for one set. Payable to: CRSS Constructors. 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 in the amount of \$15 made payable to Reliance Reprographics, Inc. must be submitted to cover the cost of delivery. Additional sets may be purchased. Mail request to: Reliance Reprographics, Inc., 535 West Hamilton Street, Ste. 101, Allentown, PA 18101. Attn: Matthew F. Swartz, (610) 821-5100. Bid date: Wednesday, July 14, 1999, at 2 p.m. A prebid conference has been scheduled for the subject project on Thursday, July 1, 1999, at 2 p.m. in the Arsenal Building, Corporate Board Room, 18th and Herr Streets, Harrisburg, PA 17125. Contact Scott Ercolino, (717) 233-7507. All contractors who have secured contract documents are invited and urged to attend this prebid conference. All questions must be submitted in writing to CRSS Constructors, Inc. in Association with the Quandel Group, Inc., P. O. Box 60827, Harrisburg, PA 17106-0827, Attn: Scott Ercolino, (717) 233-7507, fax (717) 233-7528 by July 8, 1999.

Department: General Services
Duration: 400 calendar days from preconstruction conference date
Contact: Contract Bidding Unit, (717) 787-6556

Contract No. FBP-012-9007 Removal of existing structure (40' long, 8' diameter CM pipe), construct a 6' x 12' precast reinforced concrete box culvert, including reinforced concrete toewalls, inlet and outlet structure with architectural surface treatment. To obtain a bid package contact Construction Management Section at (717) 787-5055.

Department: Conservation and Natural Resources
Duration: 180 days
Contact: Construction Management Section, (717) 787-5055

Engineering Services—14

08430AG2368 To provide final design and services during construction on S. R. 4034, Section A60 (Erie East Side Access Highway from 12th Street to Broad Avenue) in Erie County.

Department: Transportation
Location: Engineering District 1-0
Duration: Forty-eight (48) months
Contact: Consultant Agreement Division, (717) 783-9309

08430AG2369 To provide highway occupancy permit review services in Engineering District 8-0, that is Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York Counties.

Department: Transportation
Location: Engineering District 8-0
Duration: Thirty (30) months
Contact: Consultant Agreement Division, (717) 783-9309

08430AG2370 Retain an engineering firm to perform preliminary engineering and services during construction for S. R. 2005, Section 371, the replacement of the existing Carey Avenue Bridge, a 1,885 LF, 7-span thru truss bridge carrying West End Road (S. R. 2005) over the Susquehanna River, connecting Plymouth Borough and Hanover Township on new location. The Department will use a modified turnkey concept for this project.

Department: Transportation
Location: Engineering District 4-0
Duration: Twelve (12) months
Contact: Consultant Agreement Division, (717) 783-9309

Contract No. FDC-500-632 Retention of an engineering firm to develop and prepare emergency action plans for high hazard dams owned and operated by the Bureau of Forestry and State Parks. Proposals must be submitted no later than 4 p.m. on July 30, 1999. To request a bid package contact Construction Management Section at (717) 787-5055.

Department: Conservation and Natural Resources
Duration: Two years with renewal option of three 12 month extensions
Contact: Construction Management Section, (717) 787-5055

SSHE-PR-01-99 Invitation to Qualify construction management firms, partnerships or joint ventures to provide project representation services for the 14 universities of the system and Dixon Center. Project representation is intended to include quality assurance, project management during the course of a project. Intend to have multiyear contracts for three major areas of the Commonwealth. Qualified firms can obtain an Invitation to Qualify (ITQ) from Rebecca Novak at Dixon University Center, 2986 North 2nd Street, North Hall, Room 105, Harrisburg, PA 17110. Facsimile requests can be sent to (717) 720-4013. Responses due July 15, 1999, by 4 p.m.

Department: State System of Higher Education
Location: Throughout the Commonwealth
Duration: 5 years
Contact: Rebecca Novak, fax (717) 720-7117

Food—19

401 Perishable foods: Meat and meat products; poultry and poultry products; fish and fish products and shell eggs. Specification, quantities, special delivery instructions available upon request. For month of August 1999.

Department: Public Welfare
Location: Polk Center, Polk, Venango County, PA 16342
Duration: August 1999
Contact: Patty Frank, (814) 432-0229

402 Miscellaneous foods: Frozen cakes, frozen milkshakes, frozen pies, and the like. Specifications, quantities, special delivery instructions available upon request. September—December 1999.

Department: Public Welfare
Location: Polk Center, Polk, Venango County, PA 16342
Duration: September—December 1999
Contact: Patty Frank, Purchasing Agent, (814) 432-0229

403 Frozen juices: Specifications, quantities, special delivery instructions available upon request.

Department: Public Welfare
Location: Polk Center, Polk, Venango County, PA 16342
Duration: September—December 1999
Contact: Patty Frank, Purchasing Agent, (814) 432-0229

98-701 The contractor shall supply tofu to the State Correctional Institution at Camp Hill.

Department: Corrections
Location: State Correctional Institution Camp Hill
Duration: July 1, 1999 to June 30, 2000
Contact: Delores Stephens, (717) 975-5200

99-001 Poultry and poultry products. Call purchasing for details.

Department: Public Welfare
Duration: August, September, October 1999
Contact: Dorthia Claud-Williams, (215) 953-6412

99-002 Miscellaneous foods. Call purchasing for details.

Department: Public Welfare
Duration: August, September, October 1999
Contact: Dorthia Claud-Williams, (215) 953-6412

99-003 Meat and meat products. Call purchasing for details.

Department: Public Welfare
Duration: August, September, October 1999
Contact: Dorthia Claud-Williams, (215) 953-6412

99-004 Fruit and vegetables, fresh. Call purchasing for details.

Department: Public Welfare
Duration: August, September, October 1999
Contact: Dorthia Claud-Williams, (215) 953-6412

99-006 Dairy products. Call purchasing for details.

Department: Public Welfare
Duration: August, September, October 1999
Contact: Dorthia Claud-Williams, (215) 953-6412

99-005 Juice, frozen. Call purchasing for details.

Department: Public Welfare
Duration: August, September, October 1999
Contact: Dorthia Claud-Williams, (215) 953-6412

99-007 Frozen juices. Call purchasing for details.

Department: Public Welfare
Duration: August, September, October 1999
Contact: Dorthia Claud-Williams, (215) 953-6412

CC: 8915-2055-000. Carbonated beverage products, disposable 5 gallon containers to be used in conjunction with dispensing machines, a minimum of two dispensing units shall be provided and maintained by the vendor with a dispensing capability of five different flavors. Approximate annual consumption of the requested product: 17,000 gallons. Vendor shall provide approximately 600 20 lb. capacity of carbon dioxide in a squat, returnable/refillable cylinders per annum. Deliveries shall be provided on a weekly basis.

Department: Corrections
Duration: July 1, 1999 to June 30, 2002
Contact: Kim Kline, (724) 662-1837, ext. 184

99-008 Eggs and egg products. Call purchasing for details.

Department: Public Welfare
Duration: August, September, October 1999
Contact: Dorthia Claud-Williams, (215) 953-6412

99-009 Vegetables, frozen. Call purchasing for details.

Department: Public Welfare
Duration: August, September, October 1999
Contact: Dorthia Claud-Williams, (215) 953-6412

99-010 Fish and fish products, frozen. Call purchasing for details.

Department: Public Welfare
Duration: August, September, October 1999
Contact: Dorthia Claud-Williams, (215) 953-6412

FS 0399 Contractor shall supply various food items for the staff and inmates at the State Correctional Institution, Cambridge Springs, PA. Meats and miscellaneous frozen and specialty items are bid every 3 months. Produce and eggs are bid monthly.

Department: Corrections
Location: State Correctional Institution, Cambridge Springs, PA
Duration: July 1, 1999 to June 30, 2000
Contact: Quentin Hargenrater, Jr., (814) 398-5400

8970-1000-000 Frozen beef, poultry, fish, vegetables, processed foods, eggs and margarine prints. Items to be bid on a quarterly (90 day) basis with scheduled deliveries. Approximate velocities of consumption are carcass and processed beef products—20 m lbs.; carcass and processed chicken products—31 m lbs.; carcass and processed turkey products—33 m lbs.; vegetables—4.5 m lbs.; processed foods—6 m lbs.; vegetable pie—180 cases; waffles—280 cases; eggs—640 cases; margarine prints—2 m cases; and frozen prepared soy/grain products—10 m lbs. Specifications for these requested items shall be contained with bid format. All quantities are approximations. To obtain a bid package contact John Pitonyak at (724) 662-1837, ext. 194.

Department: Corrections
Duration: July 1, 1999 to June 30, 2000
Contact: John Pitonyak, Purchasing Agent, (724) 662-1837, ext. 194

8970-1300-000 Cheese products as follows: Yellow, Grade B or better, processed cheese—8 m lbs.; mozzarella—5 m lbs.; and cheddar—4 m lbs. All items shall be bid on a quarterly (90 day) basis with scheduled deliveries. Cheese specifications shall be contained within the quote format. Poundages per item are approximations. To obtain a bid package contact John Pitonyak at (724) 662-1837, ext. 194.

Department: Corrections
Duration: July 1, 1999 to June 30, 2000
Contact: John Pitonyak, Purchasing Agent, (724) 662-1837, ext. 194

8970-1400-000 Milk and milk products. Milk items shall be Grade A, Vitamins A and D enriched, pasteurized, homogenized. They are: 2% milk packed in 5 gallon bulk dispensers—33,800 gallon; skim milk packed in 5 gallon bulk dispensers—1,200 gallons; 2% milk in half-pint (8 ounce) containers—2,500 each; and skim milk in half-pint (8 oz) containers—21,000 each. Milk products shall be cottage cheese, 1% minimum milk fat, small curd, packed in 5 pound containers—6,760 pounds. To obtain a bid package contact John Pitonyak at (724) 662-1837, ext. 194.

Department: Corrections
Duration: July 1, 1999 to June 30, 2000
Contact: John Pitonyak, (724) 662-1837, ext. 194

99-011 Ice cream, sherbet and related novelties. Call purchasing for details.

Department: Public Welfare
Duration: August, September, October 1999
Contact: Dorthia Claud-Williams, (215) 953-6412

Fuel Related Services—20

PDA 429 The Pennsylvania Department of Agriculture, Bureau of Ride and Measurement Standards will be issuing a bid to test 400 samples of gasoline for quality analysis. All 400 samples are to be tested for octane while 100 of the samples will be tested for other parameters (that is, Benzene, Sulfur, Distillation, Vapor Pressure, and the like).

Department: Agriculture
Duration: August 1, 1999—June 30, 2000
Contact: Michael Mesaris, (717) 787-5674

HVAC—22

Project 1001 Purchase and install a gas-fired steam boiler in the Army National Guard Armory at 261 King Street, Pottstown, PA. Work includes demolition and removal of the existing boiler and installation of a new gas-fired steam boiler with hook-up of all appurtenant utilities (gas, water, electric).

Department: Military Affairs
Duration: August 1, 1999—January 30, 2000
Contact: Emma Schroff, (717) 861-8518

98-700 The contractor will provide all material, labor and equipment to remove and replace 12 inch valve at the water plant.

Department: Corrections
Duration: July 1, 1999 to June 30, 2000
Contact: Delores Stephens, (717) 975-5200

B-10881 The State Correctional Institution Graterford is requesting a vendor to supply all parts, labor and equipment to remove and replace with new equipment the existing Baily Electronic and Pneumatic Process Controls located at the boiler plant.

Department: Corrections
Location: State Correctional Institution, Graterford, PA
Duration: 6 months
Contact: Kelly Richardson, Purchasing Agent II, (610) 489-4151

Janitorial Services—23

06-Q-99 Janitorial services: To be provided daily Monday—Friday, except State holidays. Involves 12,250 square feet of office space.

Department: Labor and Industry
Duration: October 1, 1999 through September 30, 2001
Contact: Norman J. Kee, (717) 705-0450

SBC90022002 Contractor to provide all cleaning materials, equipment, paper supplies, antibacterial soap, sanitary napkins, tampons, paper can liners, air sanitizer for restrooms and toilet bowl fresheners for janitorial services at the Dauphin County Assistance Offices. This area is approximately 36,000 square feet. Complete details and specifications may be obtained from the procurement office. Please fax to (717) 787-3560 your name, address and bid no. you would like to receive to the contact person listed.

Department: Public Welfare
Location: Dauphin County Assistance Offices
Duration: July 1, 1999—June 30, 2002 with two additional 1 year renewals
Contact: Doyle Shull, (717) 787-7585

SP-260020 Provide all labor, materials, tools, equipment, transportation and temporary means of protection of store shelving, furniture and other Board equipment as required for dry carpet cleaning at the frequencies specified for Wine and Spirits Shoppes and Liquor Control Board offices located throughout the Commonwealth of Pennsylvania.

Department: Liquor Control Board
Location: Wine and Spirits Shoppes and Liquor Control Board Offices throughout the Commonwealth of PA
Duration: One year with the option to renew for two additional 1 year periods
Contact: Betty J. Goodling, (717) 787-6360

Laboratory Services—24

PDA 428 Provide various laboratory media to the State Veterinary Laboratory. Examples are blood agar, lysine iron agar slant and triple sugar iron (tsi).

Department: Agriculture
Duration: 12 month supply of test kits
Contact: Mike Mesaris, (717) 787-5674

Lodging/Meeting Facilities—27

OVR-4-99 Facility needed for 1-day meeting to hold 47th Annual Governor's Committee on Employment of People with Disabilities. Services needed include meeting space for 300 people, soda/coffee breaks, luncheon, and audio/visual equipment. Overnight accommodations will be needed for approximately 60 people. Bid specifications will be sent to interested parties. Facility must be accessible to persons with disabilities in accordance with the Americans with Disabilities Act of 1990. Facility must be located within 30 miles of GCEPD Headquarters (Labor and Industry Building, Harrisburg, PA) and must be available either October 3, 4, 5, 6, 17, 18, 19, 20, 24, 25, 26 or 27, 2000.

Department: Labor and Industry
Location: Within 30 miles of GCEPD Headquarters, Harrisburg, PA
Duration: October 1, 2000—October 31, 2000
Contact: Raymond L. Walker, (717) 787-5735

2010990029 The Pennsylvania State Police is seeking a facility to conduct a conference within a 25-mile radius of Harrisburg beginning January 10—January 15, 2000. Fifty single lodging rooms are required per night (nonsmoking and smoking). Two large conference rooms to accommodate 50 people and two small breakout rooms for 25 people each. Hot/cold buffet breakfast for 50 people, lunch for 100 people from January 11—January 15, 2000, in separate rooms and break refreshments daily.

Department: State Police
Location: Within a 25-mile radius of Harrisburg, PA
Duration: January 10 through January 15, 2000
Contact: Deshawn Lewis, (717) 783-5485

2010990031 The Pennsylvania State Police is seeking a facility to conduct a conference in the Philadelphia, Bucks, Delaware or Montgomery area beginning November 14, 1999—November 19, 1999. Facility must be within a 25-mile radius of the Philadelphia City limits. Sixty-five single lodging rooms per night (smoking and nonsmoking). Three large conference/meeting rooms to accommodate 50+ people each, two breakout rooms and one break room for 50 people each. Hot/cold buffet style breakfast, break refreshments daily and lunch for 65—150 people in a separate room.

Department: State Police
Location: Within a 25-mile radius of the Philadelphia City limits, PA
Duration: November 14, 1999 through November 19, 1999
Contact: Deshawn Lewis, (717) 783-5485

SBC No. ASA026 The State System of Higher Education is soliciting bids for lodging and food services for the period August 1, 1999—August 6, 1999. Approximately 40 rooms will be required for 5 nights. Please contact Linda Venneri at (717) 720-4135 or lvenneri@sshchcan.edu for bid package. Bids must be submitted by July 7, 1999 at 3 p.m.

Department: State System of Higher Education
Duration: August 1, 1999—August 6, 1999
Contact: Linda Venneri, (717) 720-4146

2010990030 The Pennsylvania State Police is seeking a facility to conduct a conference in the Allegheny, Fayette or Westmoreland County area beginning October 25—October 29, 1999. Sixty-five single lodging rooms per night are required (smoking and nonsmoking). Three large conference/meeting rooms to accommodate 50+ people, two breakout rooms and two break rooms for 50 people. Hot/cold buffet style breakfast and lunch for 65—150 people each from October 26—October 29 in a separate room and break refreshments daily.

Department: State Police
Location: Allegheny, Fayette or Westmoreland County Area
Duration: October 25, 1999 through October 29, 1999
Contact: Deshawn Lewis, (717) 783-5485

Medical Services—29

134199008 Provide alternate licensed pharmacist services for coverage of staff pharmacist when on annual, sick, personal or educational leave.

Department: Military Affairs
Duration: July 1, 1999 and ending on June 30, 2002 with two 1-year renewals
Contact: Jeanette Gualtieri, (814) 878-4930

724123 Provide Class I and Class II flight physicals. Physician's office must be within 25 miles of the Flight Services Hangar at Capital City Airport, New Cumberland, PA 17070.

Department: Transportation
Location: Within 25 miles of the Flight Services Hangar, Capital City Airport, New Cumberland, PA 17070
Duration: December 1, 1999 through November 30, 2004
Contact: Ryan M. Kociolek, (717) 705-1236

0330 Millersville University is seeking bidders who are FDA licensed and DEA registered to provide the university's infirmary with a medication dispensing system. Qualified vendors should fax their requests to be placed on a bidders list to Anna Stauffer, (717) 871-2000 no later than 2 p.m., Tuesday, July 6, 1999.

Department: State System of Higher Education
Location: Millersville University, Millersville, PA 17551
Duration: August 15, 1999—August 14, 2000
Contact: Anna Stauffer, (717) 872-3041

Property Maintenance—33

Project 922 Two overhead door replacements for OMS Shop 17, Lock Haven, PA.

Department: Military Affairs
Location: OMS Shop 17, Lock Haven, PA
Duration: August 1, 1999—June 30, 2000
Contact: Emma Schroff, (717) 861-8580

Project 1008 Replace vault door.

Department: Military Affairs
Duration: August 1, 1999—June 30, 2000
Contact: Emma Schroff, (717) 861-8518

Project 1002 Repair/replace gutters and downspouts.

Department: Military Affairs
Duration: August 1, 1999—June 30, 2000
Contact: Emma Schroff, (717) 861-8518

SU-49230-67 Shippensburg University is seeking vendors interested in bidding on rolled sod for the practice football field renovation. (52,800 square feet of sod). Bid due date will be July 6, 1999, by 4 p.m. Bid opening will be held on July 7, 1999, at 2 p.m. in 207 Old Main. Vendors interested in receiving a bid package should fax their request to Janet Neidigh, Purchasing Agent at (717) 532-1350 by July 1, 1999. The University encourages responses from small and disadvantaged, minority and women-owned firms.

Department: State System of Higher Education
Location: Shippensburg University, Shippensburg Township, Shippensburg, Cumberland County, PA
Duration: Indeterminate 1998—99
Contact: Janet Neidigh, (717) 532-1386

Sanitation—36

0810-Trash Refuse removal and disposal from various locations within Adams County.

Department: Transportation
Location: Adams County, PA
Duration: November 1, 1999—October 31, 2002
Contact: Donald J. Crabbs, (717) 334-3155

Security Services—37

SP 1196000-008 The contractor shall provide testing, repairs, adjustments, maintenance and training on the Com-Tec Control Panel System at the State Correctional Institution at Pittsburgh. Interested vendors contact John Murphy at (412) 761-1955, ext. 251 for additional information.

Department: Corrections
Duration: September 1, 1999 to June 30, 2002
Contact: Carol Schaeffer, Purchasing Agent, (412) 761-1955, ext. 291

Vehicle, Heavy Equipment—38

90671029 Provide all labor, equipment, material and supervision for the rental of four diesel powered generators for the hospital's building Nos. 1, 9, 10 and 53. The generators needed are as follows: 70KW diesel powered, 120/208 volt, 3-phase w/100 ft. of 4/0 copper jumper cable per phase and neutral; 40KW diesel powered, 120/208 volt 3 phase with 100 ft. of 3/0 copper jumper cable per phase and neutral. Two 70KW and two 40KW will be needed.

Department: Public Welfare
Duration: November 1, 1999 through February 28, 2000
Contact: Gary Raisner, (610) 313-5465

Miscellaneous—39

SP-260032 Provide all labor, material, tools, equipment, supervision and transportation to conduct an annual certified test and inspection, including necessary adjustments and repairs, on the Fire Suppression System including, but not limited to: centrifugal fire pumps, fire hose including couplings and nozzles and signaling systems for Central Station Service.

Department: Liquor Control Board
Duration: Five (5) years
Contact: Betty J. Goodling, (717) 787-6360

99-CI01 Fabric pocketing. Various blends.

Department: Corrections
Duration: 1 year
Contact: MaryAnn Ulrich, (717) 731-7134

FLDTR-003 The Hiram G. Andrews Center is seeking the services of a contractor to provide transportation services for its students. The contractor must provide drivers and vehicles: bus/minibus/bus with wheelchair lift. Students will be transported for educational field trips and recreational activities. There will be approximately 50 1-day trips to various locations, such as, Washington D.C./Columbus, OH/Harrisburg, Williamsport, Lancaster, Pittsburgh, Altoona and State College, PA. Trips will be scheduled on an as-needed basis.

Department: Labor and Industry
Location: Various
Duration: 3-year term, to commence upon final approval of contract
Contact: Robert D. Robinson, Purchasing Agent II, (814) 255-8210

SO-184 The State Correctional Institution at Somerset will be bidding a redundant power plant rectifier and installation of this rectifier for the Harris phone system already in place at the institution.

Department: Corrections
Location: State Correctional Institution, Somerset, PA
Duration: June 1, 1999—September 30, 1999
Contact: Theresa Solarczyk, (814) 443-8100, ext. 311

5401-99-1 AutoCAD Upgrade 2000 and AutoCAD Map 2000.

Department: Environmental Protection
Duration: 30 days
Contact: Phyllis Cocco, (814) 472-1800

98-6127-504 The contractor shall provide the OIG with access to on-line real estate information enabling the OIG to conduct investigative activities. The contractor shall provide service necessary to bring the contractor's real estate information system on-line and functioning. The contractor shall provide training necessary to enable the OIG staff to access and operate the contractor's system and to understand the various contractor services. The contractor shall provide the OIG with access to comprehensive, up-to-date real estate information from the County Assessor's office and the Recorder of Deeds office in the following counties in PA: Bucks, Chester, Delaware, Montgomery and Philadelphia.

Department: Governor's Office
Duration: July 1, 1999—June 30, 2002
Contact: Michael P. Hayes, (717) 783-7696

[Pa.B. Doc. No. 99-1043. Filed for public inspection June 25, 1999, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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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	Requisition or Contract #	Awarded On	To	In the Amount Of
0042-03	06/15/99	Moore Business Forms	406,930.20	8520-01	06/18/99	Dermarite Industries	5,000.00
3610-05	06/18/99	Danka Office Imaging Co.	50,000.00	8520-01	06/18/99	Edlis, Inc.	20,000.00
3610-05	06/18/99	OCE-USA, Inc.	25,000.00	8520-01	06/18/99	International Shaving Systems	10,000.00
3610-05	06/18/99	Pitney Bowes, Inc.	25,000.00	8520-01	06/18/99	Red Line Medical Supply	5,000.00
3610-05	06/18/99	Ricoh Corp.	40,000.00	8520-01	06/18/99	Village Sundries and Tobacco, Inc.	85,000.00
3610-05	06/18/99	G. E. Richards, Inc.	60,000.00	8520-01	06/18/99	XPEDX	25,000.00
3610-05	06/18/99	Sharp Electronics Corp.	50,000.00	9905-09	06/15/99	Traffic Signal of Wisconsin, Inc.	5,535.00
3610-05	06/18/99	Engle Business Equipment, Inc.	15,000.00	9905-09	06/15/99	Davidson Plastics	31,305.00
3610-05	06/18/99	Xerox Corp.	100,000.00	9905-09	06/15/99	U. S. Municipal Supply, Inc.	11,779.00
6510-01	06/16/99	Druzak Medical, Inc.	791,953.50	1016159-01	06/15/99	Custom Printing Co.	131,128.40
6510-01	06/16/99	Dynarex Corp.	51,998.50	1018119-01	06/15/99	Chemtick Coated Fabrics, Inc.	20,840.00
6510-01	06/16/99	Interior Designs By Ricci, Inc.	39,751.20	1019159-01	06/15/99	Content Vision LLC	149,500.00
6510-01	06/16/99	Johnstown Physician Supply Co.	134,480.40	1537138-01	06/15/99	Rohrer Bus Sales	34,410.00
6510-01	06/16/99	Leading Source, Inc.	46,900.00	1552158-01	06/15/99	Easley & Rivers, Inc.	35,071.30
6510-01	06/16/99	Micro Bio Medics, Inc.	54,227.70	1568228-01	06/15/99	Evans Asphalt Co., Inc.	27,921.00
6510-01	06/16/99	Penn Jersey Paper Co.	9,214.00	1659228-01	06/15/99	HRI, Inc.	23,173.50
6510-01	06/16/99	Red Line Healthcare Corp.	52,680.20	1677138-01	06/15/99	Twin Medical Co.	31,893.75
6510-01	06/16/99	Tetra Medical Supply Co.	13,183.50	1693358-01	06/15/99	Calumet Coach Co./ Mobil Tech., Inc.	119,500.00
6510-01	06/16/99	XPEDX/Harrisburg Division	1,756,128.40	1695117-01	06/15/99	Wacor Electronic Systems	197,210.27
8415-02 Sup. No. 1	06/18/99	Lamco Safety Products, Inc.	5,462.00	1708208-01	06/15/99	Gulf Coast Avionics Corp.	17,201.00
8415-02 Sup. No. 1	06/18/99	KLM Associates	2,300.00	1728128-01	06/15/99	Snap-On Industrial	25,666.00
8520-01	06/18/99	Airwick Professional Products/Phila., Inc.	5,000.00	1746158-01	06/15/99	Systems Solution, Inc.	46,081.00
8520-01	06/18/99	Steris Corp.	5,000.00	1749158-01	06/15/99	Video Corporation of America	124,559.00
8520-01	06/18/99	Coloplast Corp.	5,000.00				

STATE CONTRACTS INFORMATION

3291

Requisition or Contract #	Awarded On	To	In the Amount Of
1757358-01	06/15/99	Westco Scientific Instruments, Inc.	21,620.00
1761708-01	06/15/99	Dodge-Graphic Press, Inc.	29,258.22
8215720-01	06/15/99	Cumberland Truck	21,880.00

Requisition or Contract #	Awarded On	To	In the Amount Of
8217670-01	06/15/99	RJ Lee Instruments GARY E. CROWELL, <i>Secretary</i>	216,650.00

[Pa.B. Doc. No. 99-1044. Filed for public inspection June 25, 1999, 9:00 a.m.]

RULES AND REGULATIONS

Title 55—PUBLIC WELFARE

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CHS. 3130, 3680, 3710, 3800, 3810, 5310 AND 6400]

Child Residential and Day Treatment Facilities

Statutory Authority

The Department of Public Welfare (Department), by this order, under the authority of Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922 and 1001—1080) adopts amendments to read as set forth in Annex A.

Notice of proposed rulemaking was published at 28 Pa.B 953 (February 14, 1998).

Background

The purpose of these amendments is to establish requirements to protect the health, safety and well-being of children who receive services in residential or day treatment facilities within this Commonwealth. These amendments strengthen health and safety requirements based on current information and research and reduce duplication and inconsistencies within multiple chapters of licensing regulations.

This regulatory reform initiative is the first of many regulatory reform initiatives of the Cross-System Licensing Project (Project). The purpose of the Project is to improve existing human service licensing functions within State government by strengthening health and safety protections and reducing duplication and inefficiency within the licensing process. The Departments of Public Welfare, Health and Aging are working jointly with external stakeholders to improve, strengthen and streamline the licensing function for all human service disciplines including child welfare, child care, personal care, mental health, mental retardation, drug and alcohol and aging. While the Project includes many initiatives, such as the development of new human service licensing legislation, automation, inferential inspection systems and training of licensing staff, the regulatory reform initiative is one of the most critical of the Project's activities.

These regulatory amendments are the first of ten regulatory amendments planned by the Project to be completed over the next 4 years. In February 1998, the Project presented a regulatory consolidation proposal to external stakeholders to consolidate and combine at least 28 chapters of existing licensing regulations into ten chapters. These regulations are intended to protect the health, safety and well-being of consumers receiving services by the regulated facilities and agencies.

The development and adoption of a single set of regulations applicable to a variety of program models and settings is being done to reduce duplication and inconsistency among chapters of regulations that are intended to care for children who are exposed to similar health and safety risks. The consolidation of multiple chapters of regulations is an effort to reduce the many, and often conflicting and duplicative sets of regulations that now apply to a single corporation or business. Many human service providers operate different types of human service facilities and therefore must meet several sets of regulations. This is very difficult and requires administrative

and staff time and attention to devote to regulatory compliance. Moreover, from a health and safety perspective, there is little value to having multiple sets of regulations where the risks to the consumers is similar. It is anticipated that eliminating some of the burden of complying with multiple sets of disparate regulations will enable facilities to improve their ability to comply with regulations and to spend more time and effort in providing direct services to consumers. The primary intent of regulation consolidation is to improve services and protections to consumers by focusing provider effort on fundamental health and safety regulatory compliance and thus improving the provision of consumer services.

Scope

These amendments apply to a variety of child residential and part-day program types currently operating within this Commonwealth. The amendments apply equally to profit and nonprofit facilities, including service providers who do and do not receive public funds.

The amendments apply to facilities currently governed by Chapter 3810 (relating to residential child care facility), including, but not limited to, facilities and programs such as group homes generally serving no more than 12 children in a small, home-like setting; residential treatment facilities serving children with mental illness or serious emotional disturbance in a short-term specialized mental health treatment environment; and nonsecure residential facilities serving both dependent and delinquent children in various sizes and types of physical structures and diverse program models ranging from the more traditional residential settings to alternative programs and settings such as boot camps, outdoor wilderness programs, mobile programs and transitional living located in large settings. Approximately 450 residential facilities are currently certified under Chapter 3810.

The amendments will also apply to non-State operated, secure residential facilities currently licensed under Chapter 3680 (relating to administration and operation of a children and youth social service agency) and previously governed by requirements for training schools (formerly uncodified Title 6500) in which the building itself is kept locked or there is secure fencing around the perimeter of the building. Fewer than 20 secure residential facilities are currently certified in this Commonwealth. The amendments also govern 21 secure detention facilities currently certified in accordance with Chapter 3760 (relating to secure detention facility), where children are held temporarily awaiting court disposition, in which the facility is locked or the perimeter is fenced.

Also included within the scope of these amendments are maternity homes, which are currently certified in accordance with Chapter 3710 (relating to maternity homes) serving an average of 5 expectant or new mothers who are under 18 years of age. Only 11 maternity homes are currently certified in this Commonwealth. The Department has been transitioning certification of these maternity homes from Chapter 3710 to Chapter 3810.

These amendments also will apply to community residential mental retardation facilities serving exclusively children. There are approximately 30 facilities currently certified under Chapter 6400 (relating to community homes for individuals with mental retardation). These facilities provide specialized care for children with mental retardation.

The amendments will also apply to approximately 45 community mental health residential facilities serving exclusively children currently certified under Chapter 5310 (relating to community residential rehabilitation services for the mentally ill). The mental health children's facilities are residential care facilities providing community care for children with mental illness.

In addition to the various types of residential programs that the amendments will govern, the amendments also apply to approximately 75 child part-day service facilities currently certified under Chapter 3680. These are full-day and extended-day alternative education and service programs for children who are transitioning from a more intense residential program back to their families or who need special services for the child to remain at home and avoid more intensive residential placement.

These amendments do not apply to Department-operated facilities that provide secure and nonsecure care to children who are adjudicated delinquent. While Department Youth Development Centers and Youth Forestry Camps will not be certified, it is the Department's intent to apply the same regulatory and inspection instruments to these facilities as those applied with private facilities.

Regulatory Formulation Process

A work plan describing the process and time frames for the regulatory development and promulgation of these amendments was developed in January 1997. The plan provided for ongoing and active consultation and involvement with many external advocacy, consumer and provider organizations. Throughout the 2-year regulatory formulation process, the plan called for external stakeholder participation through many and varied opportunities such as formal and informal meetings, discussing issues and submitting written comment.

In February 1997, March 1997, October 1997, March 1998 and June 1998, individual meetings were held with several Statewide provider, advocacy and consumer organizations. The meetings were convened to give briefings on the scope and content of the amendments and to obtain input on major issues of particular concern to the different organizations.

To allow for dialogue and to obtain specific feedback from those most directly affected by the amendments, a regulation work group was formed and met for several days during May 1997, July 1997 and August 1998. Work group members included over 55 individuals representing consumers, families, advocates, providers, county government, other professionals in the field of child residential and day treatment services and regional licensing inspectors. Provider participants represented a cross section of geographic areas, program types and sizes of facilities. Written drafts of the amendments were also sent to work group members on several occasions for written review and comment.

In accordance with section 201 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1201) (CDL), the amendments were also published as proposed rulemaking in the *Pennsylvania Bulletin* on February 14, 1998, with a 60-day public comment period. The Department received 145 letters submitting recommendations for changes to the proposed amendments.

Through the regulatory process, including the various public comment forums and the proposed rulemaking public comment period, many valuable comments and suggestions were received from the many external stakeholders who participated in the process. The Department values the comments submitted and has incorporated

many of the suggested changes in the final-form regulations. The Department appreciates the time and expertise external stakeholders have given to make the final regulatory document an effective regulatory tool for protecting the children served in these facilities.

Format

These amendments apply to a variety of types of facilities with diverse program approaches to the care and supervision of children, operated in varied types of physical site settings. The final-form regulations are formatted so that the first 75% of the requirements are universal requirements for all facility types (§§ 3800.1—3800.245). The last 25% of the final-form regulations include exceptions or additions that apply for special facility types such as facilities serving nine or more children, secure care, secure detention, outdoor and mobile programs, transitional living and day treatment (§§ 3800.251—3800.312).

Need for Amendments

These amendments are needed to protect children who receive care and services in residential or day treatment settings away from their homes and families. The amendments will protect the health, safety and well-being of children who are not under the direct care and supervision of responsible parents or caregivers, until such time as the caregivers reassume parenting responsibility.

These amendments cover some types of facilities, such as secure care, day treatment, transitional living, outdoor programs and mobile programs, for which no facility-based requirements now exist. These amendments are needed to protect the health, safety and well-being of the children. Current regulations for several facility types, including maternity homes and community residential rehabilitation facilities, were promulgated over 17 years ago and do not address current issues and research related to health and safety risks. These amendments will ensure that children receive care in a safe and healthy manner in the various facility types covered by this chapter.

Affected Individuals and Organizations

Child residential and day treatment facilities as defined in the scope of the amendments are directly affected and must comply with these amendments to operate. The children receiving care and services in licensed facilities are directly affected by these amendments since they are the consumers the amendments are aimed at protecting. Families of the children receiving care and services are affected in their interest to assure healthy, safe and quality care for their children. Purchasers of service and placement agencies such as county government agencies and State entities, are affected by the amendments in that they purchase and monitor the quality of the services. Juvenile courts are affected in that they use these facilities as a resource when making placement decisions regarding children who are adjudicated dependent or delinquent.

Paperwork Requirements

Paperwork requirements have been reduced from the existing child residential regulations. Paperwork reductions include the elimination of requirements for some policies and procedures, independent audits, hiring practices, personnel records, job descriptions and staff discipline procedures from the current regulations governing administration and operation of children and youth facilities (Chapter 3680). While the existing regulations may support best practice for facility operation, they are not considered to be directly related to the health, safety and

well-being protection of children. Providers or funding sources may choose to continue to maintain current practices in these areas.

Departmental forms that are required, such as the reportable incident form, will be shared in draft form with external stakeholders for review and comment prior to implementation.

Summary of Public Comment and Changes

Written comments, suggestions and objections regarding the proposed amendments were requested within a 30-day period following publication of proposed rulemaking. In response to requests from several external stakeholders, the Department extended the public comment period by an additional 30 days. A total of 145 letters were received by the Department within the 60-day public comment period, in response to the proposed rulemaking. Following is a summary of the major comments received and the Department's response to those comments. A summary of all major changes from proposed rulemaking is also included.

General—consolidation

Many comments were received both in support of and in opposition to the consolidation of eight chapters of regulations into one. The Independent Regulatory Review Commission (IRRC) recommended that separate regulations for day treatment and secure detention be developed. Those who supported the consolidation did so due to the ease of regulatory burden for providers who now operate under various duplicative and conflicting regulations. Those who opposed the consolidation raised concern about the need to address differences for day treatment and secure detention facilities and concern that the result of the consolidation was lessened requirements from existing regulations.

Response

While the amendments include the requirements for several service types in one chapter, unique program differences are retained. The amendments include special requirements for programs such as secure care, detention, day treatment, outdoor programs, mobile programs and transitional living. As the Department discussed this issue further with external stakeholders, the commentators in opposition to the consolidation explained that their concerns were largely based on content issues that they believed were not addressed for specific program types, rather than objections based on *Pennsylvania Code* format and style issues.

While the Department is proceeding with the consolidation effort, concerns expressed by those in opposition were reviewed and considered. In response to concerns about the differences in day treatment and secure detention facilities, significant time was devoted to additional research, visits to facilities and discussions related to secure detention and day treatment both at individual meetings with commentators during the spring of 1998, and at the regulation work group meeting in August 1998. As a result of public comment and subsequent discussions with commentators, many additional requirements and new exceptions were added for day treatment and secure detention facilities as described in §§ 3800.271—3800.312 of this comment and response section.

In response to concerns about lessening of requirements, the amendments are not reduced protections for children. Rather, they include many new and strengthened protections from those that exist in current regula-

tions. Improved and strengthened areas of the regulations include: new facility-specific requirements for many service types such as secure care, transitional living, day treatment and outdoor and mobile programs; reportable incident requirements; medication administration; restrictive procedures; fire safety; physical plant; program planning; child health; staffing; and staff training.

The Department believes that consolidation of regulations increases safeguards to consumers. Many of the providers of service regulated by these regulations operate various types of day and residential programs for children. For example, of the 21 licensed secure detention facilities, nine operate nonsecure care within the same building as secure detention, one is a private corporation that operates many other types of facilities under the scope of these regulations, and two new applications for secure detention to be operated by multifacility, private companies are being processed. The regulatory consolidation allows providers of various service types to focus less time on unnecessary regulatory compliance with multiple and inconsistent sets of regulations, and more time on quality direct services for children.

In addition, many of the children served in programs covered by these amendments move regularly within these various service types. For example, it is not uncommon for a child to move from a secure detention facility, to a secure facility, and then back home with his family to receive day treatment services. Currently, varied and sometimes conflicting requirements apply that are confusing for the child and the child's family to understand, as well as for the provider to understand and comply. By having one set of consistent requirements applicable for all types of children's facilities, the Department believes that the interests and needs of the child are best met. The consolidation supports equal and consistent protections for children and continuity of care and services for children who receive various services. The need for health, safety and well-being protections for children served in these facilities is similar regardless of any treatment need, while program and treatment needs of the child should be met on an individualized basis based upon each child's unique needs.

General—program and quality of care

IRRC and several commentators raised concern about reduction in program standards, placement issues and the difficulty of adopting universal program standards for children with many different needs.

Response

In response to these concerns, the Department reevaluated the existing regulations to determine where, if any, reductions in program standards occurred. As suggested by commentators, the Department found the reductions largely in the areas of service description, admissions and placement. Based on public comment, the Department has made additions to the final-form regulations to address these areas (§§ 3800.221—3800.223). In response to the concerns about the prevention of inappropriate placement of children in facilities that cannot meet the child's needs, application of these three new sections will assure that a child is placed in an appropriate facility that can meet the child's needs. The Department also added several new sections to the content of the individual program plan in § 3800.226 in response to public comments. With these amendments, the regulations do not reduce program protections to children, but instead include many additional and updated requirements to protect the health, safety and well-being of children in care.

The approach used in the amendments is to provide similar, comprehensive health and safety protections for all children, while maintaining, and even requiring, individual program planning for each child based on the child's needs. The amendments require individualized health and safety assessments for each child upon admission (§ 3800.141), detailed individual health assessments and screenings for each child (§§ 3800.143—3800.146), individual service plans based upon the needs of the child with content of the plan expanded from all chapters of existing regulations (§ 3800.226), and individual restrictive procedure plans for each child that now exist only in regulations for community mental retardation facilities (§ 3800.203). These requirements, coupled with the new additions of admission, service description, placement (§§ 3800.221—3800.223) and increased program plan content (§ 3800.226) that were added from proposed rulemaking to final-form regulations include a comprehensive package of service protections based upon each child's needs.

In addition, these licensing regulations by definition are minimum requirements necessary to operate a child residential or day treatment facility in this Commonwealth, they are just one piece of a total quality of care system. Other protections continue to apply, such as the Mental Health Procedures Act (50 P. S. §§ 7101—7503) and Chapter 5100 (relating to mental health procedures) addressing consent issues and program planning, county children and youth program regulations and Chapter 3130 (relating to administration of county children and youth social services programs) governing family service planning, placement, and case management, and the mental retardation system include long-term planning for children. These licensing regulations apply in tandem with many other existing applicable laws, regulations, monitoring systems and training programs.

General—cost

Some commentators suggested that the amendments will create a significant financial burden on providers of service, particularly related to staff training, reportable incident reporting and physical site changes.

Response

While there are some additional requirements in the staffing and physical site areas, many providers are already meeting higher standards than currently required. The cost impact of meeting any new regulations is outweighed by the potential benefits to children. Reference the Fiscal Impact section of this preamble for further fiscal analysis and discussion.

§ 3800.1. Purpose

One commentator suggested that the purpose section of the amendments reference the Child and Adolescent Service System Program (CASSP) as a foundation for the amendments.

Response

The Department fully supports the principles of CASSP in the provision of services for children, and these amendments reflect CASSP principles. CASSP principles advance family involvement, child-centered programming, multisystem service planning, cultural competence, least restrictive settings and community-based services, and these amendments include tangible requirements that support CASSP principles.

§ 3800.3(1). Exemptions—Department-operated facilities

Five commentators suggested that facilities operated by the Department be required to meet these amendments.

IRRC requested clarification as to why the Department's facilities should not meet the same standards as private facilities, and whether these amendments apply to State-owned buildings that are operated by a private corporation.

Response

These amendments apply to State-owned buildings if the facility is operated by a private company. The exemption applies only for facilities that are directly operated by the Department.

The Department believes that the same standards should be applied to Department-operated facilities as to private facilities to provide equal protection to children. The Department will manage, supervise and monitor the Department-operated facilities to achieve and maintain compliance with the amendments. While Department Youth Development Centers and Youth Forestry Camps will not be certified, it is the Department's intent to apply the same regulatory and inspection instruments to these facilities as those applied with private facilities.

In addition to the application of the amendments, the Department's facilities have rigorous and extensive reportable incident procedures. The Department intends to maintain this rigorous reporting system that provides for routine and immediate follow-up whenever there are unusual occurrences. Also, the Department plans to continue its peer review system in which a comprehensive monitoring tool is applied to each Department-operated facility, using juvenile probation officers and other State facility staff to conduct the reviews. These intensive peer reviews address regulatory compliance, as well as compliance with internal Departmental policies and procedures.

With these protections, the Department is confident that children served in facilities that are operated by the Department will be provided protection equal to that of children served in private facilities.

§ 3800.3(9). Exemptions—drug and alcohol facilities

Seventeen comments were received about drug and alcohol facilities not being covered by this chapter. Eight commentators suggested that children's drug and alcohol facilities should be included in the scope of the amendments, while nine commentators supported the proposed exemption for drug and alcohol facilities.

Response

The Department of Health in accordance with 28 Pa. Code Chapters 709 and 711 (relating to standards for licensure of freestanding treatment facilities; and standards for certification of treatment activities which are a part of a health care facility) currently licenses, and will continue to license, child residential drug and alcohol facilities. Due to the requirements of section 202 of the CDL (45 P. S. § 1202), expansion of the scope of these amendments to include facilities not covered in the proposed rulemaking, may not be considered. Further discussion of this issue and the appropriate licensure for children's drug and alcohol facilities will likely occur in the future in a separate regulatory forum.

Based on public comment, one change was made to further clarify the exemption. Concern was expressed that the amendments as proposed would no longer allow dual licensure by the Departments of Health and Public Welfare if both types of programs were provided in one setting. This is clearly allowed and there is no intent to change current practice. Therefore, the exemption was clarified to exempt programs in which the residents' sole need is the treatment of drug and alcohol dependence.

The Department of Health has reviewed and concurred with this amended language.

§ 3800.4. Inspections and certificates of compliance

IRRC suggested that this section be moved from the applicability section and placed in a separate section.

Response

This change was made.

§ 3800.5. Definition of "child"

Two commentators suggested that "through counsel" be deleted.

Response

This change was made.

§ 3800.5. Definition of "child"

The Department clarified the definition to be consistent with 42 Pa.C.S. § 6302 (relating to definitions).

§ 3800.5. Definition of "ISP—individual service plan"

IRRC suggested a more complete definition of "ISP—individual service plan."

Response

This change was made.

§ 3800.5. Definition of "relative"

Three commentators suggested adding "legal guardian." One commentator suggested adding "or other extended family member as defined and designated by the child and family."

Response

The terms "child's guardian or custodian" was added to accurately reflect the meaning of "relative" as used in § 3800.3(11) (relating to exceptions).

§ 3800.5. Definition of "secure care"

Based on informal discussions with stakeholders, and a review of existing secure detention facilities, the Department clarified that secure care can be in a portion of a building. A facility can provide both secure care and nonsecure care within the same building. The special requirements for secure care apply for the secure portion of the building.

§ 3800.5. Definitions of "secure care" and "secure detention"

A comment was received suggesting clarification that secure care and secure detention are limited to delinquent or alleged delinquent children.

Response

This change was made.

§ 3800. Definitions—new

IRRC suggested adding definitions for "child care supervisor," "child care worker," "day treatment center," "pressure point techniques" and "serious communicable disease." No public comments were received relating to defining these terms.

Response

The term "child day treatment center" is clearly defined in § 3800.3. All staffing positions, including supervisor and worker positions, are clearly explained by the responsibilities specified in §§ 3800.54(c) and 3800.55(f) (relating to child care supervisor; and child care worker). Further definition of "pressure point techniques" has been added in § 3800.208(a) (relating to pressure points),

which is the correct location of a definition used only in one or a few specific sections of the chapter. "Serious communicable disease" is clarified as one which may be spread through causal contact, where these terms are used, including §§ 3800.151 and 3800.152 (relating to staff health statement; and serious communicable diseases).

§ 3800.14 Fire safety approval

The Department revised this section to reference applicable State law and regulation, rather than specifically address current fire and panic law and regulation. This change was made so that the regulations would remain current in the event of an amendment in the State fire and panic law or regulations.

§ 3800.15(b) Child abuse.

The Department added a new subsection to reference requirements of 23 Pa.C.S. §§ 6301—6385 (relating to Child Protective Services Law) requiring a plan of supervision if there is an allegation of child abuse involving facility staff persons.

§ 3800.16(a) Reportable incidents

Sixty-three comments were received on the definition of "reportable incident." IRRC also submitted comments on this subsection. One commentator suggested changing the proposed term "unusual" to "reportable." Six commentators stated the definition was too broad and would require increased paperwork. Eight commentators requested clarification of "action taken by a child to commit suicide," with three of those suggesting the addition of the term "physical" action. Seventeen commentators and IRRC suggested a more narrow definition and clarification of "injury, trauma or illness." Two commentators requested clarification of "intimate sexual contact." One commentator suggested adding civil rights as examples of child's rights. Two commentators suggested deletion of assault on staff persons. Eleven commentators and IRRC either raised questions about, or objected to, the 30-minute time frame for child absences. One commentator requested deletion of abuse or misuse of child funds or property. Two commentators and the IRRC requested further limitation on reporting of incidents requiring the services of a fire department.

Response

The majority of the requested changes were made. The term "unusual" was changed to "reportable" as suggested to more accurately reflect the meaning of this subsection.

The Department agrees with the commentators that the proposed definition of "reportable incident" was too broad and burdensome. Further, the Department agrees that by requiring more reports than are necessary, more important incidents that need to be quickly and carefully investigated may go unnoticed and unattended to in a paperwork backlog, thus placing children at risk.

The Department added the word "physical" to further clarify suicide acts as suggested.

The Department narrowed the definition of "injury, trauma or illness" by requiring reporting of all inpatient hospital care, but only outpatient hospital care for serious injuries or traumas. Illnesses, sprains, cuts and other less serious treatment received on an outpatient basis are no longer included as reportable. The regulation work group, which included advocates, providers and other professionals, supported this revised definition.

As requested by commentators, an assault on a staff person was removed from the definition of "reportable

incident" as it relates to nonsecure care, but it continues to apply for secure care as specified in § 3800.274(2) (relating to additional requirements). Since this relates largely to staff safety, this was removed from the definition. It was retained in secure care however, to indicate potential staff supervision issues that are more likely to occur with the secure care population.

The Department revised and narrowed the circumstances under which child absences must be reported to include those where a child is absent for more than 4 hours or for more than 30 minutes if the child may be in immediate jeopardy.

In response to specific concerns, the Department did remove abuse or misuse of a child's "property," while retaining "funds."

The Department did not change the terms covering intimate sexual contact, violation of rights or fire department services. Regarding the comment about the fire department services, these regulations have been in effect for over 10 years for community mental retardation facilities and the Department has found no unreasonable reporting. Reporting only incidents where a fire has caused actual damage or injury is not sufficient. Even when a child pulls a false alarm, or when a fire department arrives in time to avert major property damage, children are placed at risk and the incident should be reported. Frequent false fire alarms could indicate serious staff supervision issues at the facility, as well as create the risk of failure to evacuate in the event of a real fire.

§ 3800.16(c) Reportable incidents

IRRC and one commentator requested clarification of the proposed subsection regarding the meaning of "immediately" and who must do the reporting.

Response

The Department agrees that this was confusing and deleted this requirement. This was intended to refer to internal facility reporting procedures leading up to the 12 or 24 hour reporting requirement in subsections (c) and (d). However, in accordance with subsection (b) the facility must write its own internal reporting procedures which may reasonably vary from facility to facility. It is not necessary for the Department to dictate internal reporting procedures, as long as appropriate offices are notified within 12 or 24 hours.

§ 3800.16(d). Reportable incidents

Several comments were received suggesting an oral report for more serious incidents.

Response

The Department agrees and has made this change to require oral reporting within 12 hours for a fire requiring relocation of the children, an unexpected death of a child and a missing child if police have been notified for assistance.

§ 3800.16(e). Reportable incidents

One commentator suggested that the investigation be completed within 10 days.

Response

The Department clarified that investigations must be completed within a reasonable period of time.

§ 3800.16(f). Reportable incidents

One commentator suggested a specific time frame for submission of final reports and three questioned the necessity and cost of submitting a final report.

Response

No change was made. Because initial reports of reportable incidents must be filed very quickly, there are often additional internal and external investigations and follow-up corrective action that need to occur. A final report is necessary for the Department and the contracting agency to be informed of the resolution of the incident. It would be unreasonable to specify a time frame for the final report since investigation and follow-up for each incident may vary greatly.

§ 3800.16(h). Reportable incidents

One commentator suggested adding "individual" to modify court order. Two commentators requested immediate notification of the child's parent and attorney in the event of a reportable incident.

Response

The word "individual" was added as suggested. The child's parent must be notified immediately as specified in this subsection. The child's attorney was not added as this is not appropriate for routine reporting procedures for all children.

§ 3800.17. Recordable incidents

Eleven comments were received on this section. Some commentators suggested that medication errors, suicidal gestures and child absences be eliminated. Others suggested adding use of restrictive procedures.

Response

The Department eliminated medication errors, since recording of medication errors is required in § 3800.185(a) (relating to medication errors). The Department clarified reporting of child absences, injuries, traumas and illnesses, in accordance with the changes made in § 3800.16(a). The use of restrictive procedures was not added, since separate, very comprehensive reporting of each restrictive procedure use is required in § 3800.213 (relating to restrictive procedure records). Suicidal gestures was not eliminated since these are incidents of warnings of problems and must be logged and monitored to avoid serious injury or death.

§ 3800.18. Child funds

One commentator suggested adding a section under child rights to protect a child's funds.

Response

The Department agrees this was an oversight in the proposed amendments and has added a new section covering protection of child funds. This section is based on current regulations found in § 6400.22 (relating to individual funds and property).

§ 3800.19. Consent to treatment

Three commentators requested clarification relating to consent to treatment.

Response

This change was made.

§ 3800.20. Confidentiality

Two commentators and IRRC requested additional requirements clarifying confidentiality requirements.

Response

The Department agrees this issue was not addressed in the proposed amendments and added a new section on confidentiality. The section requires compliance with applicable laws and regulations as well as specifies require-

ment for specific circumstances where there is no other statutory or regulatory protection. As suggested by IRRC, the new requirements are based on §§ 3680.35 and 3760.92 (relating to release of information in client records; and confidentiality).

§ 3800.31. Notification of rights and grievances

Several commentators suggested that additional protections for children and families be added including the right to lodge grievances without fear of retaliation, communicating in an easily understood manner, communicating in the primary language or mode of communication of the child and parent, providing copies of rights and grievance procedures to the child and parent, providing notice of consent to treatment protections and posting of rights and grievance procedures. One commentator suggested that reference to “parent, guardian or custodian” be changed to include the parent as a necessary rather than an optional person to involve through the regulations. It was suggested that the grievance procedure requirements (§ 3800.34 as proposed) be relocated to the section relating to notification of rights and grievance procedures.

Response

These changes were made.

§ 3800.32(f). Specific rights—visits

IRRC and several commentators submitted comments regarding visits to the child. Some suggested that 2 week visits were minimal and that more frequent visits should be required or encouraged. One commentator suggested that visits every 2 weeks are difficult to arrange for mobile programs. One commentator suggested that visits should be individualized and required as specified in the individual service plan (ISP) rather than as a child right. Three commentators suggested that at times visits are clinically inappropriate. One commentator raised concerns about the child’s right to refuse visits. Commentators also suggested visits that are mutually convenient for the child’s family and the facility. IRRC questioned how the 2-week minimum was established.

Response

The Department carefully considered the many varying views on the issue of child visits and discussed this issue with interested groups. The Department added the requirement that visits must be at a mutually convenient time and location. The Department clarified that visits are a right and not just an opportunity. While more frequent visits are encouraged, the 2 week minimum is required to assure that family ties are not broken during the time the child is receiving services away from his/her family. In response to IRRC’s question, the 2 week minimum requirement for child visits is based on the current regulations regarding child visits in § 3680.44(2) (relating to visiting and communications) and is recommended by the Department as the frequency of time necessary for the child and family to be in contact so that family ties and bonds are not broken; more frequent visits with the child’s family are encouraged.

§ 3800.32(g). Specific rights—mail

IRRC and several commentators requested changes to the right regarding mail and the circumstances the child’s mail may be opened in the presence of staff persons.

Response

In response to public comment, the Department revised the entire subsection on the child’s rights to receive and send mail. The Department clarified the circumstances

under which a child’s mail may be opened in the presence of staff persons, including when there is suspicion that contraband or other materials or information that may place the child at risk may be enclosed.

§ 3800.32. Specific rights—additional

Commentators suggested the addition of several rights including communication and visits with attorneys and clergy, behavioral health treatment, appropriate clothing, protection from inappropriate discipline, privacy and the right to practice no religion.

Response

The Department added rights relating to communication with clergy and attorneys, behavioral health, clothing, religion and discipline. The right to privacy in bathrooms is included in § 3800.103(e) (relating to bathrooms).

§ 3800.33. Prohibition against deprivation of rights

A suggestion was received to add that rights may not be used as a reward or sanction.

Response

This change was made. In addition, the Department clarified that family visits may not be used as a reward or sanction.

§ 3800.34. Rights—general

One commentator recommended the addition of a requirement for each facility to have an independent ombudsman.

Response

This change was not made. Although an independent ombudsman for each facility may be a good standard for the oversight of the child’s interests, this is not an appropriate minimum requirement for licensure regulations.

§ 3800.54(a) and (b). Child care supervisor—number present

IRRC and two commentators recommended that a supervisor be onsite at all times for all sizes of facilities. One commentator suggested that a supervisor does not need to be present while children are sleeping. Another commentator suggested that there should be no requirement for presence of a supervisor at all, since technology such as beepers can be used to contact a supervisor if needed.

Response

The Department strengthened the proposed amendments to change the conditions and the minimum number of children present requiring the presence of a supervisor. A supervisor must be onsite at all times 16 or more children are present in the facility. Requiring a supervisor present at all times, regardless of the size of the facility, is not necessary for the protection of the children and would be cost prohibitive for county government and providers of service.

§ 3800.54(d). Child care supervisor—qualifications

Twelve comments were received on the qualifications for child care supervisor. Four commentators did not support any lowering of the qualifications. Seven commentators suggested adding an option of additional years of experience in lieu of college credit hours.

Response

In response to the concern requesting lowering of qualifications by adding an option that would require

experience but no college credits, the Department prepared a draft of the final-form regulations including this option (5 years work experience). However, when the draft was shared with the regulations work group in August 1998, the majority of the work group members did not support the experience option for supervisor positions. The final-form regulations therefore reflect no change from the proposed rulemaking in regard to supervisor qualifications.

§ 3800.55(a)—(d). Child care worker—ratios

One comment was received suggesting a reduction of the ratio of staff to children to 1 staff to 6 children for facilities with 24 or more children. One commentator suggested that ratios are too low during sleeping hours. One commentator suggested that overnight staffing is not necessary.

Response

These changes were not made since it does not reflect the consensus of the regulations work group and they are not necessary for the protection of children in all types of facilities. Facilities or funding agencies are permitted and encouraged to exceed the minimum certification requirements whenever appropriate to best meet the needs of the children. The staffing ratios in these amendments are not less stringent, and in some cases are more stringent, than existing licensure regulations.

§ 3800.55(h). Child care worker-age

Eight commentators requested the minimum age for child care workers to be 18 as opposed to 21 years of age, citing various program and hiring pool concerns.

Response

The Department has carefully considered this suggestion and has revised this section to require staff persons to be at least 18 years of age if all of the children in the facility are under 18 years of age. However, if any of the children in the facility are 18 years of age or older, staff must be at least 21 years of age due to the staff maturity required to effectively provide care and services in those facilities serving young adults. In response to concern about currently employed staff persons who may be 18, 19 or 20 years of age, the Department has included a grandparent clause in § 3800.56(b) (relating to exceptions for staff qualifications) to permit these young staff persons to continue to work at facilities.

§ 3800.55(g). Child care worker-qualifications

IRRC requested consideration of why child care workers are not required to have college training or work experience. Six commentators do not support lowering of qualifications for child care workers.

Response

No change was made. The qualifications of a high school degree or GED certificate were discussed and supported in large part by the regulations work group. Overall, these worker qualifications are not reduced from the current regulations. Chapter 3810 requires 50% of the workers to have at least 2 years of college or experience, while the other 50% of the workers have no minimum qualifications at all. Chapters 6400 and 5310 (relating to community homes for individuals with mental retardation; and community residential rehabilitation services for the mentally ill) have no minimum staff qualifications for workers. Hiring and retention of employees in child care worker positions continue to be major challenges for human service providers. To limit the pool of potential employees in an already stressed and thin employment

pool is not responsible and could result in reduced protection to children if qualified staff could not be recruited.

§ 3800.56. Exceptions for staff qualifications

Sixteen commentators requested that the new staff qualifications not be applied to currently employed staff persons.

Response

This change was made.

§ 3800.57(a). Supervision—checks

Two commentators suggested that checking on children every hour is excessive. One commentator suggested checks on children every 10 minutes as opposed to every hour.

Response

No change was made. A minimum of hourly checks of children is necessary to protect the health and safety of the children.

§ 3800.57(d). Supervision—sleeping hours

Eight commentators requested that the exceptions for child supervision during sleeping hours not be limited to those facilities serving no children who are adjudicated delinquent.

Response

This change was made. The Department agrees it is not reasonable to limit this exception as proposed.

§ 3800.58(a). Staff training—orientation

Several questions were raised about who would require training.

Response

In response, the Department further clarified this requirement by adding "regular and significant" before "direct contact with children."

§ 3800.58(b). Staff training—training hours

IRRC suggested that both part-time and full-time staff persons should be required to have the same amount of training hours, since both staff persons may be alone with the children and would perform the same duties. Five commentators asked for an extension of time for completion of the 30 hours of training, while one commentator asked for a reduction in the time period. Three commentators recommended the number of training hours be reduced from 30 to 24 hours consistent with the current Chapter 6400 regulations for community mental retardation facilities.

Response

The Department changed the requirement for annual training in subsection (d) to apply to both full-time and part-time staff. The Department supports the request for an extension of time to complete the training and made a change to require 30 hours of training for both full-time and part-time staff, within 120 days of the person's date of hire. The Department did not reduce the number of training hours because the majority of the regulations work group members and public commentators supported the 30 hour requirement and the training requirements are considered a major health and safety protection for the children.

§ 3800.58(b). Staff training—training content

Suggestions were received to add the following training content areas: CASSP principles, universal precautions,

behavior management, special education regulations, family dynamics and relationships, use of psychotropic drugs and cultural diversity. IRRC also asked if the Department will approve specific training courses used by providers.

Response

The Department has added two additional training content areas that relate directly to child health and safety: universal precautions and behavior management. Training on administration of medications is addressed in §§ 3800.187 and 3800.188. The Department will not be approving specific training courses for training areas identified in this subsection, since there are many acceptable training alternatives available and appropriate for a facility's particular needs and audiences.

§ 3800.58(e). Staff training—first aid

Several commentators and IRRC requested clarification that a formal certification that is valid for more than 1 year be acceptable for the length of the certification. IRRC asked if the Department will approve this training.

Response

The Department has made the clarification regarding formal certification. The Department will not approve this training, but the training must be completed by a certified individual as specified in subsection (f).

§ 3800.81. Physical accommodations and equipment

One commentator requested a change since this would appear to permit facilities to refuse service to children with a disability.

Response

This was not the Department's intent, and the language was rewritten with involvement of the interested commentator.

§ 3800.89(b). Temperature

Two commentators and a member of the House Aging and Youth Committee suggested that the indoor temperature during sleeping hours was too low.

Response

The Department increased the minimum temperature from 58° to 62° during sleeping hours. Sleeping temperatures will be applied in coordination with the requirements in § 3800.102(2) relating to appropriate bedding to assure comfort while the child is sleeping.

§ 3800.101. Firearms and weapons

One commentator suggested that even police should not be permitted to carry weapons into the facility. One commentator wrote in support of the proposed amendments.

Response

The Department did not change these amendments. Regulation of firearms and weapons carried and used by law enforcement officials is not within the facility's or the Department's responsibility or authority.

§ 3800.102. Child bedrooms

IRRC asked what was meant by an average ceiling height. One comment was received in support of the square footage requirements. One commentator requested room size of 74 rather than 70 square feet. One commentator asked that bunk beds allow enough space for the child to lie comfortably rather than to sit up in bed. One commentator requested the addition specifying circumstances during which children should be placed in private rooms.

Response

In response to IRRC's question, the Department refers to average ceiling height to allow for measurement of rooms with eaves, gables or slanted ceilings. Other changes to the child bedroom requirements were not made as these did not represent the mainstream of public comment on this section.

§ 3800.103. Bathrooms

One commentator suggested that bar soap should be permitted in family settings. One commentator asked about the requirement to provide and label individual toiletry items.

Response

Use of bar soap by multiple users is prohibited since bar soap is a receptacle for transmission of bacteria and germs. The Department clarified subsections (g) and (h) so that individual items required for each child include a towel, washcloth, comb, hairbrush and toothbrush. Other nonpersonal toiletry items such as toothpaste and shampoo may be shared by children.

§ 3800.106. Swimming

IRRC and seven commentators objected to the requirement to fence ponds and lakes on the premises due to the cost impact. Several comments also suggested that a lifeguard should be required only when children are swimming, and not while boating or fishing.

Response

In consideration of cost implications, the Department eliminated these two requirements. The Department cautions providers of service to institute the precautions necessary to protect child safety if water areas are located near areas accessible by the children and during water activities while children are not swimming.

§ 3800.121. Unobstructed egress

Four commentators requested allowance for delayed locking devices on doors.

Response

In accordance with regulations of the Department of Labor and Industry, this change could not be made. Title 34 Pa. Code Chapters 49—60 (relating to fire and panic regulations) do not permit use of delayed locking devices on doors used for egress, except for C-5 occupancies. The Department of Labor and Industry Industrial Board will entertain requests for variances of this requirement if appropriate fire safety safeguards and protections are in place. For further information on delayed locking devices on doors in non-C-5 occupancies, contact the Bureau of Occupational and Industrial Safety, Department of Labor and Industry.

The Department clarified that even if fire safety approval is not required in accordance with State law, means of egress shall not be locked. Means of egress may not be locked unless the facility has a C-5 Certificate of Occupancy from the Pennsylvania Department of Labor and Industry, or an approval in accordance with appropriate local codes in the cities of Scranton, Philadelphia and Pittsburgh.

§ 3800.129. Fireplaces

Five commentators and IRRC suggested that use of fireplaces should be permitted with specific precautions in place.

Response

The Department made this change.

§ 3800.132(j). Fire drills

The Department clarified that elevators will not be used during a fire drill or an actual fire, due to possible power failure and the possibility of elevator shafts acting as chimneys to funnel flames and smoke. Since fire drills are used to practice actual evacuation routes and actions in the event of a real fire, elevators cannot be used in drills.

§ 3800.141. Child health and safety assessment

Three commentators suggested requiring compliance with the requirements of Early and Periodic Screening, Diagnosis and Treatment Program (EPSDT). One commentator suggested adding special diets to the assessment. Three commentators suggested adding hospitalizations, medical diagnoses, medical problems and mother's pregnancy issues to the assessment.

Response

EPSDT is a Medical Assistance (MA) benefit which is available only to children who are eligible for Medical Assistance. While many children receiving services in these facilities are eligible for MA, not all children are eligible. Therefore, it would not be appropriate for these amendments to specify a particular program or benefit to which all children are not entitled. Rather, the Department identified the components of the EPSDT screen as required elements of the child health assessment to assure equal access to appropriate health assessments to all children, regardless of MA eligibility status.

The Department added special dietary needs, hospitalizations, medical diagnoses, medical problems and mother's pregnancy issues to the assessment.

§ 3800.143. Child health examination-general

Three commentators supported the unclothed physical examination, while three commentators objected to an unclothed exam as being intrusive and intimidating. Several commentators requested clear requirements for written documentation of pre-admission examinations. Several commentators suggested adding a history of mental health development, blood lead level assessments and sickle cell screening. One commentator requested that health exams be completed annually at a minimum.

Response

The requirement for an unclothed physical examination was not changed. The other requested changes were made. In response to discussion with commentators following the comment period, the Department also added a requirement for recommendations for follow-up health services, examinations and treatment in § 3800.143(e) (15). The Department changed the term "physical" examination to "health" examination to more accurately reflect the comprehensive nature of the examination process including more than a physical examination. The Department added that health exams shall be completed annually, or more frequently as recommended by the American Academy of Pediatrics.

§ 3800.143. Child health examination-behavioral health

Two commentators requested addition of a behavioral health exam as part of each child's exam.

Response

The Department did not make this change since all children receiving services in these facilities do not

require a behavioral health examination. In accordance with § 3800.143(e)(15), the health examination shall include recommendations for any follow-up examinations, such as behavioral health, and in accordance with § 3800.148 (relating to health services) the services shall be provided. The Department did add a reference to behavioral health to §§ 3800.143(e)(15) and 3800.148 to emphasize the requirement to include behavioral health services when appropriate for the individual child. This will assure that children receive appropriate behavioral health services based upon their own needs, rather than force a blanket requirement for all children that is not always necessary or appropriate.

§ 3800.144. Dental care

Suggestions were received to require dental care at as early an age as necessary, require protective sealants where indicated by the examination, and require an initial exam within 30 days following admission if there is no record of a prior exam within the past 6 months.

Response

These changes were made.

§ 3800.145 and 3800.146. Vision and hearing care

IRRC requested clarification that American Academy of Pediatrics guidelines recommend vision and hearing screenings at appropriate intervals. Several commentators requested special sections on hearing and vision care.

Response

The Department added new comprehensive sections on both hearing and vision care.

§ 3800.147. Use of tobacco

Many comments were received on this proposed amendment. Most commentators were in favor of restricting child smoking but recommended that staff persons be permitted to smoke outside the facility and out of sight and secondary smoke access of the children.

Response

The Department agrees with the commentators and revised this amendment to prohibit possession and use of tobacco products by children, to prohibit possession and use of tobacco by staff persons inside the facility, and to allow staff use of tobacco outside the facility if fire safety precautions are taken and use of tobacco is out of sight of the children.

§ 3800.148. Health services

Commentators suggested adding diagnostic services, follow-up examinations and treatment, hearing, vision, blood lead level and psychiatric services as examples of medically necessary services.

Response

These items were added to the list of examples of health services that may be planned or prescribed for a child. The Department also clarified that acute and chronic conditions shall be identified for a child, in addition to providing or arranging appropriate medical treatment.

§ 3800.149. Emergency medical plan

One commentator requested that parents receive copies of emergency plans and notification of implementation of the plans.

Response

This change was made. The Department also clarified that conditions that warrant emergency medical care should be listed in the emergency medical plan.

§ 3800.163. Food groups and alternative diets

One commentator suggested adding a requirement to provide dietary alternatives for children with special health needs, religious beliefs regarding dietary restrictions or vegetarian preferences.

Response

This change was made.

§ 3800.164. Withholding or forcing of food prohibited

IRRC and six commentators requested that withholding of snacks and desserts as punishment be permitted as it can be an effective tool in managing a child's behavior.

Response

While the Department does not endorse use of snacks or desserts as a behavior management tool, the amendments have been changed so this is not a regulatory prohibition.

§ 3800.171(4). Safe transportation

Five commentators suggested that the age of drivers be lowered from 21 to 18 years of age.

Response

This change was not made. Staff persons at all levels, including drivers, must be of a maturity level and age to handle the important responsibilities of child care. Drivers in particular require maturity and driving experience that is generally achieved with age.

§ 3800.181(d). Storage of medication

A question was asked about what needs to be stored separately.

Response

The Department clarified this subsection to state that prescription and over-the-counter medications shall be stored separately, as was intended by the proposed rulemaking.

§ 3800.184. Medication log

One commentator suggested that subsection (a)(3)–(5) be removed from the medication log and placed in the child's record. One commentator suggested blood test monitoring for certain psychotropic medications. IRRC suggested that the log be updated at the same time a medication is administered.

Response

The Department made the clarification suggested by IRRC. Side effects, contraindicated medications and special administration instructions are critical items that shall be readily available at the time a medication is administered and therefore cannot be kept in the child's record. Blood test monitoring should be ordered by the prescribing physician and would be required to be provided in accordance with § 3800.148 (relating to health and behavioral health services).

§ 3800.185. Medications errors

IRRC requested an explanation of what constitutes a medication error and the procedures to be followed after a medication error. One question was received from a commentator asking what constitutes a medication error.

Response

The Department added the definition of a "medication error" and added that follow-up action taken after a medication error shall be documented. Since the specific procedures to be taken after an error will vary according to the type of medication, type of error and individual child's needs, it is not practical to specify standard follow-up procedures in the regulations. The Department will monitor, through licensing inspections, to assess whether the follow-up action taken was appropriate.

§ 3800.186. Adverse reaction

IRRC and one commentator requested that parents be notified in the event of an adverse medication reaction. IRRC also asked where and for how long this information shall be kept.

Response

Notification to parents was added. Clarification was added that the information shall be kept in the child's record. Section 3800.244 (relating to record retention) specifies how long record information shall be kept.

§ 3800.188. Medications administration training

Ten commentators raised concern and requested more information about the availability and cost of the medications administration course. One commentator requested that the Department should have many courses already approved by the time of regulations implementation. One commentator objected to Departmental approval of the course. One commentator suggested that the 2-year retraining requirement is not necessary. IRRC questioned the qualification of existing in-house provider training programs, requested public notice about the criteria used to determine approval of a training program and asked whether staff persons would be permitted a phase-in period to meet the training requirement.

Response

The Department is very pleased that, throughout the regulatory process, so many providers and other stakeholders have supported the strengthened protections for children in the area of medication administration. The new and improved regulations regarding medications administration and the medications training programs will be a vast improvement over existing protections. The Department notes that there were no objections to the concept of medications administration training and that the concerns and questions centered around the approval and implementation of the training programs.

In August 1998, the Department developed and distributed a draft bulletin to outline the criteria and procedures for Departmental approval of the training programs. The draft bulletin was sent to a representative work group of external stakeholders, including Statewide provider organizations, for review, comment and discussion at a meeting in September 1998. The final bulletin will be published in the *Pennsylvania Bulletin* as a statement of policy. A list of approved training programs will be published and updated regularly and transmitted to all licensed facilities through a Departmental bulletin.

As specified in the statement of policy, the Department will review the following training information and materials to approve a training program: the training sequence to be used, the time schedule for the training, the method and resources used to evaluate effectiveness of the training, location of training, the number of students to be accommodated in each class, the outline of training curriculum, teaching methods and strategies, course test-

ing provisions, validation of successful completion, trainer qualifications and sample training materials.

The statement of policy will also identify core training content areas to include: reporting and observing skills, types of medication and side effects, staff responsibilities, handling emergencies, facility policies, communication, managing special instructions, administration rights of children and regulatory compliance.

Facilities that have existing in-house training programs are encouraged to submit proposals for approval of their programs to the Department. Training programs will be considered in accordance with the criteria specified in the bulletin.

Due to the serious nature and specific procedures and methods acceptable in the medical field relating to medications administration, the Department does not believe it is appropriate to permit medication administration without Departmental approval of each training program. The Department has met with the State Board of Nursing, which also believes that Departmental approval and monitoring of the training programs is essential to assure the children's safety.

The Department believes that a 2-year retraining requirement is critical to assure staff are trained in up-to-date practice issues and to keep staff skills and knowledge current.

The Department has considered IRRC's and commentators concerns about a phase-in period and assurance of a sufficient supply of training programs before implementing this section of the regulations. The Department has decided to adopt an effective date of 12 months after the publication of the amendments as final rulemaking, for §§ 3800.187 and 3800.188, to permit adequate time for the development and implementation of medication administration programs. By June 26, 2000, all staff persons who administer medications shall meet the criteria specified in §§ 3800.187 and 3800.188.

The Department revised the source for the Standards for Diabetes Education Programs from the National Diabetes Advisory Board to the Pennsylvania Department of Health, since the National Diabetes Advisory Board no longer exists. The Department of Health standards are based on the former standards of the National Diabetes Advisory Board. The Department of Health publishes a list of approved diabetes patient education programs for public use. This list is available through the Department's regional offices.

§ 3800.189. Self-administration of medications

Three commentators and IRRC suggested the elimination of the proposed requirement to limit self-administration to children who are 13 years of age or older.

Response

This change was made.

§ 3800.201. Restrictive procedure

IRRC and one commentator requested a change in terms from "behavior intervention" to "restrictive" to be consistent with current Chapter 6400 (relating to community homes for individuals mental retardation). Commentators contend that the terms "behavior intervention" include a much broader set of procedures and techniques than is meant by use of the term in this chapter.

Response

This change was made.

§ 3800.202. Appropriate use of restrictive procedures

One commentator and IRRC requested the addition of "or as a program substitution" in subsection (a), consistent with current Chapter 6400. Four commentators and IRRC requested that restrictive procedures also be permitted to prevent serious property damage in subsection (b). IRRC requested examples of less intrusive techniques.

Response

The addition of "or as a program substitution" was added to subsection (a). However, the Department did not add that restrictive procedures may be used to prevent property damage in subsection (b).

Use of restrictive procedures should always be the method of last resort in any behavior management program, even for children with difficult and aggressive behaviors. Other less intrusive methods and techniques to encourage positive behaviors are available and encouraged, such as close observation and supervision of a child to anticipate and de-escalate frustration and anger in advance of aggressive behavior, positive rewards for good behavior, clear expectations and rules for the child, teaching of all staff persons to apply the facility rules consistently, separation of the child from an activity or person before aggressive behavior escalates, removal of the child from the group accompanied by staff consultation and active and interesting programs for the children so they are not idle.

If a child's behavior escalates and damage to property is threatened or occurs, often the behavior that causes property damage may be a direct threat to the health and safety of others, such as throwing a large heavy item or breaking glass. In such a case, the behavior that causes property damage poses a threat to the child or others, and a restrictive procedure may be used to prevent injury, as long as other less intrusive methods have been tried but have failed. If, however, the child threatens or causes property damage that does not pose a health and safety threat, such as writing on a wall or tearing pages from a book, other methods of behavior management shall be used and restrictive procedures are not permitted. The Department believes that restrictive procedures are generally unnecessary and that they are ineffective in treating or changing maladaptive behavior. Positive behavior management methods have been used as a successful tool for the treatment of even the most difficult and challenging behaviors.

§ 3800.203. Restrictive procedure plan

Three commentators stated that this will significantly increase paperwork. One commentator requested an addition to the planning group to include any person invited by the child or parent.

Response

The Department believes that the benefit of protecting children from abuse or misuse of restrictive procedures justifies any additional time spent in developing the restrictive procedure plan. Paperwork will not be required if restrictive procedures are not used, which is strongly encouraged whenever possible.

Other persons invited by the child and parent were added to the restrictive procedure planning group.

The Department clarified in subsection (d) that the child and the child's parents should have the opportunity to sign the plan.

§ 3800.204. Unanticipated use

IRRC and several commentators asked for clarification of the meaning of "unanticipated" and "used more than four times." One commentator wrote in full support of the proposed amendment. One commentator suggested that eliminating options for behavior management may limit the ability to manage aggressive youth. Another commentator asked for the ability to apply restrictive procedures for up to 5 weeks after admission with no plan in place. One commentator suggested that the proposed amendment may be appropriate for children with disabilities, but it is not appropriate for children in children and youth programs.

Response

The Department does not agree that this limits options for managing difficult behaviors. Rather it allows restrictive procedures to be used as part of an array of options, with appropriate assessment and planning for each individual child. Allowing the use to restrictive procedures for up to 5 weeks without assessment or planning does not assure the child's safety. After restrictive procedures have been necessary for four incidents within a 3-month period, assessment and planning for the individual child is very reasonable and necessary.

The Department clarified that this requirement applies after any type of restrictive procedure is used four times for the same child in any 3-month period. "Unanticipated" as per Webster's dictionary means "unexpected or unforeseen." There is no special use of this word in these regulations; therefore, a definition in this chapter is not appropriate. If the facility does not have any reason to expect that a child may have behaviors that may require the use of restrictive procedures, but a situation arises when as a last resort restrictive procedures are necessary, that is an unanticipated situation. If, on the other hand, a child with a history of aggressive and assaultive behaviors is admitted, and the facility expects that restrictive procedures may be used for this child, a restrictive procedure plan shall be developed prior to use of a restrictive procedure.

§ 3800.205. Staff training

Three commentators suggested that the Department should not approve restrictive procedure training programs. Four commentators asked for clarification about the Department's approval process and criteria. One commentator thought the proposed amendment was a reduction in training requirements. One commentator suggested adding training in cultural competence. One commentator wrote in support of the proposed amendment. IRRC asked that "for as long as the person is employed" be added after the word "kept" in subsection (c).

Response

In response to public comment, the Department has eliminated the requirement to formally approve each training program. However, facilities must comply with the training components specified in subsection (b). The Department will monitor each facility and assess the training programs as part of the inspection process to determine if the components specified in subsection (b) are included.

In response to the commentator who perceived the training requirements to be a reduction from current regulation, the Department disagrees. This particular area of regulation has been improved and strengthened for all existing sets of regulations, particularly in the

children and youth and mental health areas where no specific restrictive procedure training content was previously specified.

Training in cultural competence was not added, since this is not a direct health and safety issue for the appropriate use of restrictive procedures.

A change was not made to require facilities to keep staff training records for as long as a person is employed. This is not necessary. The length of time staff records are kept should be determined by facility policy and not subject to State regulations, with the exception of keeping documentation long enough to verify compliance with the regulations.

§ 3800.208. Pressure points

Five commentators and IRRC suggested allowing the use of pressure point techniques at the jaw point for bite release.

Response

This change was made.

§ 3800.209. Chemical restraints

IRRC questioned why a physician must examine a child before administration of a chemical restraint, how long vital signs must be monitored, and how long and where documentation in subsection (g) shall be kept. Two commentators suggested that it is not reasonable to require a physician to examine a child before a chemical restraint is administered. One commentator requested parent consent be required prior to administration of a chemical restraint. One commentator objected to the prohibition of PRN orders for control of acute, episodic behavior. Two commentators and IRRC requested clarification on how long of a period vital signs shall be monitored.

Response

Subsection (d)(1) was changed to clarify that vital signs must be monitored for at least 1 hour and for the frequency and duration specified by the prescribing physician. Subsection (f) was changed to reflect that documentation shall be kept in the child's record. The period of time records shall be kept is specified in § 3800.244 (relating to record retention).

No other changes were made. Injecting or administering drugs into a child to control behavior on an emergency basis is perhaps the most serious and intrusive procedure that can be used. Only an onsite, direct physical examination of the child's medical condition, conducted by a licensed physician, prior to each administration of a chemical restraint, can reasonably assure the child's health and safety. This requirement is not intended to support the use of chemical restraints or in any way aid in the ease of administering chemical restraints to children. The Department does not encourage the use of chemical restraints.

Parental consent prior to administration of a chemical restraint is governed in accordance with § 3800.19 (relating to consent to treatment).

Facility administration of PRNs to control a child's behavior is a very dangerous use of medication and subjects a child to unnecessary and unreasonable health risks.

§ 3800.210. Mechanical restraints

One commentator asked to add papoose boards to the list of prohibited mechanical restraints. One commentator

suggested that the prohibition of mechanical restraints does not permit facilities to appropriately serve aggressive youth.

Response

A papoose board was added to the list of examples.

If positive behavior management methods, such as those listed in the response to § 3800.202, are used, coupled with limited and reasonable use of manual restraints and exclusion in extreme situations as permitted in §§ 3800.211 and 3800.212, use of mechanical restraints is not necessary to control behavior in nonsecure facilities. Use of mechanical restraints in secure care facilities is permitted.

§ 3800.211. Manual restraints

Seven commentators and IRRC recommended that the requirement in subsection (d) to change positions every 10 consecutive minutes of using a manual restraint be eliminated due to safety issues for staff and children when releasing a child from a manual restraint before a child has gained control. Ten commentators and IRRC recommended that the requirement in subsection (e) to observe and document the condition of the child every 10 minutes a manual restraint is used be eliminated due to staffing costs. One commentator suggested increasing the time for staff observation from 10 to 15 minutes.

Response

The Department did not lessen the requirements for use of manual restraint. Extended use of hands-on control of children beyond 10 minutes is potentially very dangerous and, if not properly administered, controlled and monitored, can result in serious injury or death of a child. There have been several incidents when a person died due to the misuse of a manual restraint.

The Department does not encourage the use of manual restraints. Manual restraints may be used as a last resort only when all other methods of behavior intervention have been tried but have failed. Manual restraints shall be immediately released when the child has regained self-control. The Department believes that changing positions and requiring another staff person to observe and document the physical and emotional conditions of the child every 10 minutes, will be best protect the child during use of manual restraints.

Throughout the regulatory development process, advocacy organizations have supported these safeguards for use of manual restraints.

§ 3800.212. Exclusion

One commentator requested further prohibitions on the use of exclusion. One commentator suggested that the time frame in subsection (b) be eliminated. One commentator suggested that use of exclusion be part of the child's individual service plan. Two commentators and IRRC requested that subsection (c), which restricts the frequent use of exclusion within the same day, be eliminated.

Response

No changes were made to this section. Comments indicate a continuum of opinion on the regulation of exclusion, from those who believe there should be more stringent requirements to those who believe that the requirements are overly restrictive. The Department believes the amendments strike the proper balance of interests and that, as proposed, will protect children from the potentially harmful effects of overuse of exclusion. The use of exclusion for a child for more than four times

in a day is confusing to the child, and, frequent use of exclusion decreases the effectiveness of this method of behavior intervention.

As suggested, the amendments do require the development of an extensive plan for use of exclusion (§ 3800.203) and that plan shall be part of the individual service plan (§ 3800.226(5)).

§ 3800.221—3800.223. Description of services, admission and placement process

IRRC and several commentators raised concern about reduction in program standards, particularly relating to placement and admission procedures and safeguards.

Response

In response to these concerns, the Department reevaluated the existing regulations to determine where, if any, reductions in program standards occurred. As suggested by commentators, the Department found the reductions largely in the areas of service description, admissions and placement. Based on public comment, the Department has made additions to the final-form regulations to address these areas (§§ 3800.221—3800.223). In response to the concerns about the prevention of inappropriate placement of children in facilities that cannot meet a child's needs, these three new sections will assure that a child is placed in an appropriate facility that can meet the child's needs.

§ 3800.224. Development of ISP

Two commentators and IRRC requested increased facilitated involvement of the child's parent. One commentator suggested that a short term ISP be developed within 72 hours of arrival at the facility. One commentator and IRRC requested addition of an emergency care plan for children who are in short-term emergency placements of 30 or fewer days.

Response

The Department strengthened the requirements for facilities to involve the child's parent by adding requirements to include any person invited by the child or the child's parent in subsection (b), mutually convenient meeting times and places in subsection (c), documentation of efforts to involve the parent in subsection (d) and an explanation that the child and the child's parents shall have the opportunity to sign the plan in subsection (e).

The Department did not add a requirement for a short-term plan within 72 hours of the child's arrival or for children in placement for 30 or fewer days. It would be very difficult for facilities to prepare an effective service plan within a few days of a child's arrival due to staffing issues, time to notify and involve appropriate persons, and the lack of time to observe the child's needs and behaviors in the new setting. Preparing a plan within a few days or a week of a child's arrival could result in staff time being misdirected to unnecessary paperwork without increased protections for the child.

Emergency care and placement can be received at any setting covered by these or other regulations such as child foster care. A contracting agency that purchases emergency placement services may require short-term planning services as part of its funding requirements.

§ 3800.225. Review and revision of the ISP

Three commentators suggested that quarterly reporting should be required. IRRC and one commentator suggested that these regulations should be consistent with the Mental Health Procedures Act relating to progress re-

views every 30 days. IRRC also questioned if parents would be involved in the review and revision of the plan.

Response

As suggested by IRRC, the Department added a cross reference to § 3800.224 to specify that parents must be involved in review and revision of the plan.

The time frame for formal review and revision of the plan remains at 6 months. This time frame is based upon section 471(a)(16) and 475(5)(B) of the Social Security Act (42 U.S.C.A. §§ 671(a)(16) and 675(5)(B)) and 42 Pa.C.S. § 6351(e) (relating to disposition of dependent child), both of which require 6 month program reviews. The Department did consider, and an original draft of the regulations shared with external stakeholders included, quarterly reviews of the ISP; however, many objections were received from external groups citing statutory requirements and current § 3810.35 requiring 6 month reviews.

The Mental Health Procedures Act and Chapter 5100 are not referenced in this section because only some of the children served in these facilities fall under the jurisdiction of the act. The Mental Health Procedures Act applies independently and separately from these regulations. These regulations are the minimum requirements for any facility serving children with a wide variety of needs. These regulations apply in tandem with the Mental Health Procedures Act, if applicable for an individual child. If there are different or conflicting requirements, the more stringent requirement shall be met.

While the formal review and revision period for the ISP remains at a minimum of 6 months, the Department did consider IRRC's suggestion to require monthly progress reports and has added this requirement in § 3800.226(3) (relating to content of ISP). Monthly progress reports will serve to assess a child's progress and provide regular updates for parents.

§ 3800.226. Content of ISP

One commentator suggested reduction in the ISP content in that it exceeds minimum health and safety requirements. IRRC and several commentators suggested adding measurable and individualized goals, how progress will be measured, who will measure progress and what criteria will be used to measure progress. Other suggested additions include adding components on educational needs, a schedule of family visits, competency development, strengthened family involvement, special education services, medication plan, community linkages and more detailed discharge planning and parental involvement.

Response

The Department added measurable and individualized goals, monthly documentation of the child's progress (see comments received on § 3800.225), the child's need for safety, competency development and permanency, an educational component, methods to measure progress, who is to measure progress and objective criteria to measure progress. The Department also added a new section in § 3800.230, to address parental involvement in discharge planning and notification.

§ 3800.229. Education

Two commentators and IRRC suggested adding several specific requirements of other laws and regulations regarding educational requirements. Three commentators suggested that facilities be prohibited from requiring a child to attend on-grounds schools as a condition of

participation at the residential facility. One commentator suggested adding the child's education records to the child's record.

Response

The Department revised this section to broaden the citations of appropriate education regulations in 22 Pa. Code Chapters 11, 14 and 15 (relating to pupil attendance; special education services and programs; and protected handicapped students). However, it is the Department of Education through statutory authority and regulations that will apply and enforce these rights to education protections, and not the Department through these residential licensure regulations. If in the course of Department licensure inspections, suspected violation of education laws and regulations is observed, the Department will notify the Department of Education.

The Department added education and service records to the child's record in § 3800.243.

§ 3800.271. Criteria for secure care

Two commentators suggested additional clarification that secure care is permitted only for children who are alleged delinquent or adjudicated delinquent.

Response

This change was made.

§ 3800.272. Admission to secure care

One commentator suggested the addition of admission requirements for secure care facilities.

Response

This change was made.

§ 3800.274(14) and (15). Additional requirements for secure care—dangerous items

In response to concerns raised at the August 1998 regulations work group meeting, the Department added two new paragraphs relating to furnishings and other items that could pose a danger to children whose health and safety assessment indicates known or suspected suicide or self-injury attempts or known incidents of aggressive or violent behavior. These additional requirements were supported by consensus of the work group members.

§ 3800.274(16) and (17). Additional requirements for secure care—use of handcuffs, leg restraints and seclusion

Several commentators and IRRC suggested that the use of handcuffs, leg restraints and seclusion be prohibited completely or further restricted by decreasing times permitted for their use. IRRC suggested that the current requirements in Chapter 3760 provide more guidance to facilities and more protection to children and that they be retained.

Response

The Department does not agree that the current regulations in Chapter 3760 provide more guidance and more protection than the proposed amendments. Many of the sections in Chapter 3760 are vague and subject to broad interpretation and the proposed amendments include better protections for children. Several examples follow: 1) while § 3760.42(1)(i) allows use of seclusion for up to 16 hours in a 48-hour period, the proposed amendments limit use of seclusion to no more than 12 hours in a 48-hour period; 2) while § 3760.42(2) states that an administrator may order handcuffs for a period not to exceed 1 hour there is no requirement about extended use of handcuffs or any limitation of how long they may be

used in a 48-hour period as addressed fully in the proposed amendments; 3) there is no requirement in Chapter 3760 for a restrictive procedure plan for each child, as in the proposed amendments; 4) there is no regulation of exclusion or manual restraints in Chapter 3760, as in the proposed amendments; 5) there are no staff training requirements for the use of restrictive procedures in Chapter 3760 as in the proposed amendments; and 6) there is no requirement for a medical examination regarding the physical health of the child prior to extended use of seclusion or restraint as in the proposed amendments.

The Department concurs with the commentators that use of seclusion, leg restraints and handcuffs should be used as a last resort and that the restraint or seclusion shall be removed as soon as the child has regained control of his behavior. It should be emphasized that the requirements in § 3800.202 apply to the use of seclusion, handcuffs and leg restraints including: may be used only to prevent a child from injuring himself or others, may not be used in a punitive manner, may be used only after other less restrictive methods must have been tried and failed, and shall be discontinued as soon as the child regains control of his behavior.

The Department did reduce the time frames for use of handcuffs and leg restraints from 6 hours to 2 hours. The time for a supervisory check of handcuffs and leg restraints was reduced from 2 hours to 1 hour. A new requirement was added to limit use of handcuffs and leg restraints to no more than 4 hours in any 48-hour period.

The use of seclusion was reduced from 6 hours to 4 hours and from 12 hours to 8 hours in any 48-hour period. Requirements for the seclusion room were added.

Lastly, new requirements were added to restrict use of mechanical restraints and seclusion simultaneously, and to limit use of seclusion and mechanical restraints to no more than 6 hours in a 48-hour period.

The final-form regulations regarding use of seclusion, leg restraints and handcuffs in secure facilities represent significantly increased protections to children from the current regulations and are supported by those commentators who were concerned about protecting children from overuse of seclusion, handcuffs and leg restraints.

§ 3800.283. Additional requirements for secure detention—bedrooms

Three commentators requested that the special requirement for detention for no more than one child per bedroom be eliminated, since many detention centers currently permit two children per room as required under § 3800.274(11).

Response

This change was made.

§ 3800.283(1). Additional requirements for secure detention—staff qualifications

One commentator suggested that the minimum qualifications for a child care worker in a secure detention facility be maintained as an associate's degree as in the current regulations in Chapter 3760.

Response

This change was made.

§ 3800.283. Additional requirements for secure detention—other

One commentator suggested that several additional requirements that exist in Chapter 3760 be added, includ-

ing compliance with specific portions of 42 Pa.C.S. §§ 6301—6365, minimum age of children in detention, continual contact with children, prohibition of children and adult offenders in the same areas, reporting to the Department of children detained for more than 35 days, placement reviews, limits on new buildings, specifications for living and study areas and requirements for recreation programs.

Response

The Department very seriously considered these additions. The Department carefully reviewed the current Chapter 3760 requirements and the proposed amendments for gaps and important requirements that were excluded. In response to public comment, the Department added the following requirements: compliance with all the sections of Juvenile Act relating to detention, the minimum age of children in detention, continual visual or audio contact with children, prohibition of children and adult offenders in same space, quarterly reporting to the Department for children detained for more than 35 days and placement reviews. The Department did not add the requirement for limitations on new buildings because this is not appropriate for licensure regulations. The Department did not add a requirement for living and study areas or recreation programs, since these are issues for all facilities and not just secure detention, no other comments were received on these issues, and these are not health and safety protections appropriate for minimum licensure regulations.

§ 3800.291. Criteria for transitional living

Three commentators suggested eliminating or clarifying the Departmental approval of training courses.

Response

Upon reconsideration, the Department eliminated the requirement for Department approval.

§ 3800.293. Additional requirements for transitional living

IRRC requested clarification of this section as it relates to onsite staff supervision and the number of children on the premises.

Response

The Department agrees this was confusing as proposed and made this clarification.

§ 3800.303(a)(3). Additional requirements for outdoor and mobile programs—handwashing

The Department of Agriculture and IRRC suggested that children have the opportunity to wash their hands before each meal and brush their teeth at least daily.

Response

This change was made.

§ 3800.303(a)(6). Additional requirements for outdoor and mobile programs—litter

One commentator requested deletion of a litter from the list of emergency items.

Response

This change was not made. A portable litter is necessary for transportation of a child in an emergency situation if the children are not in an area that can be reached by a rescue vehicle.

§ 3800.303(a)(8) and (9). Additional requirements for outdoor and mobile programs—map and schedule

One commentator suggested that the requirement for staff to have a map and the 7-day schedule apply only when the children are away from the stationary site.

Response

This change was made.

§ 3800.303(b)(4). Additional requirements for outdoor and mobile programs—training

IRRC suggested that the Department clarify appropriate recognized training sources. One commentator suggested that there is no such thing as an appropriate recognized training source and that some outdoor programs have their own in-house training programs for staff and children.

Response

The Department eliminated “by an appropriate, recognized source” and will instead assess each training program as to the appropriateness and effectiveness of the training program, as part of the annual licensing inspection.

§ 3800.311. Exceptions for day treatment

Several commentators suggested additions to the list of exceptions for day treatment facilities including: child funds, certain reportable incidents, fire drills, vision care, hearing care and meals.

Response

These exemptions were added.

§ 3800.312(3). Additional requirements for day treatment—staffing

A commentator suggested that in day treatment, children are often not directly supervised at all times.

Response

The Department eliminated the requirement for direct supervision at all times. The Department also clarified and reduced the number of children present in the facility requiring a supervisor, from 36 to 32, to increase protection for children and in keeping with multiples of the staff to child ratios at 1:8.

§ 3800.312(4). Additional requirements for day treatment—indoor square footage

A commentator suggested reducing the amount of indoor square footage from 50 to 15 square feet in accordance with school requirements.

Response

This change was made.

Six commentators requested the acceptance of a school health examination.

Response

In an effort to avoid duplication, this change was made. The school examination may be accepted by the day treatment facility, if the examination meets public school requirements and has been done within the periodicity schedule required by the public school.

§ 3800.312(8). Additional requirements for day treatment—meals

IRRC and two commentators suggested adding “break after meal to assure that day treatment programs do not need to provide meals to the children but can instead require children to bring meals from home.

Response

This change was made.

§ 5310.3. Applicability

IRRC requested clarification about the applicability of host homes.

Response

This change was made.

Fiscal Impact

Some commentators suggested that the proposed amendments would have a significant impact on the cost of providing care, particularly related to staff training, incident reporting and a few physical site requirements. In drafting the final-form regulations, careful consideration was given to the effect the amendments will have on the cost of providing care. Following is discussion regarding the regulatory areas that will have the greatest impact on the cost of care.

1. *Staff training.* The amendments place a strong emphasis on initial and ongoing staff training as an important component to protect the health and safety of children. The amendments require that new staff persons receive at least 30 hours of specific health and safety related training prior to working alone with children and within 120 days after the date of hire. The amendments also require that veteran staff persons receive at least 40 hours of training each year in general child care topics including first aid, Heimlich techniques, cardiopulmonary resuscitation and fire safety.

The current regulations for child residential facilities (Chapter 3810), which apply to the majority of facilities governed by this new chapter, require an unspecified number of hours of training for new staff persons in most of the same areas required by the new regulations and 40 hours of training in the first year of employment. Also currently required is 40 hours of training each year for veteran staff. The current regulations for community mental retardation homes (Chapter 6400) require orientation for new staff persons and at least 24 hours of training each year for veteran staff persons. The current regulations for secure detention and community residential mental health facilities do not address staff training hours or content areas.

While community mental retardation homes may need to increase the number of training hours from 24 to 40 hours per year, and community mental health and secure detention facilities may need to enhance their training programs, the Department does not anticipate the staff training requirements to be cost prohibitive for providers. The Department will permit a variety of staff training models and options including effective on-the-job training programs and staff meetings that include training components. In addition, the Department offers many free and low-cost training programs for staff persons in children's residential and day treatment facilities. For children and youth programs, the cost of providing training is an allowable cost for Federal, State and county children and youth reimbursement.

The staff training requirements have been widely supported by the regulations work group, providers of service, parents and consumers and child advocates as being essential to protecting the health and safety of children. Any minimal increase in costs associated with the new staff training requirements is outweighed by the benefit of protecting children.

2. *Reportable incidents.* The new requirements for reporting reportable incidents will increase paperwork for certain facility types. The amendments require reporting of specific types of incidents to the Department and the contracting agency. This reporting system is imperative to protect children from harm by studying patterns of incidents and taking action where appropriate to improve health and safety protections to children.

In response to public comment regarding the anticipated cost of reporting incidents in the proposed amendments, the Department amended § 3800.16(a) to reduce the types of incidents that are reportable.

Current regulations for child residential and day treatment facilities (Chapter 3680) and community mental retardation homes (Chapter 6400) require reporting systems for many incidents. While the requirements for the types of incidents in children and youth facilities have been expanded, facilities do already have reporting systems and procedures established.

The amount of increased paperwork to comply with the amendments will be negligible.

3. *Physical site.* Public comments regarding the cost of the new physical site requirements were mainly concerned with the proposal to fence ponds and lakes and to limit bedrooms to one child per room in secure detention. The Department amended §§ 3800.106 and 3800.283 to eliminate these requirements.

4. *Administration.* Many administrative and fiscal requirements governing the operation and administration of child residential and day treatment facilities (Chapter 3680) and community mental health residential facilities (Chapter 5310) have been eliminated. Requirements governing areas such as independent audits, governing body, administrative records, hiring practices, personnel management, job descriptions and staff discipline procedures are no longer required.

The reduction in paperwork requirements in the area of administration will result in a cost savings, with no diminished protection of children.

Effective Date

With the exception of §§ 3800.187 and 3800.188, this chapter is effective October 26, 1999. Sections 3800.187 and 3800.188 are effective June 26, 2000.

Implementation

As requested by providers of service, the Department will develop a licensing measurement instrument that regional licensing inspectors will use to apply and measure compliance with the new regulations. The draft measurement instrument will be shared with Statewide external stakeholder organizations for review and comment prior to implementation of the amendments and the instrument.

The Department will provide a training and orientation course on the new regulations, in each of the Department's regions, for providers and other interested persons, prior to implementation of the amendments.

Sunset Date

The effectiveness of these amendments will be evaluated as part of the Department's annual licensing inspection process for child residential and day treatment facilities. While no sunset date has been established for these amendments, it is anticipated that the Department will pursue necessary revisions to the amendments, based on public comment and research, within 5 years from the date of this publication.

Contact Person

Questions about these amendments should be directed to the Department of Public Welfare, Office of Policy Development, Karen E. Kroh, Licensing Manager, P. O. Box 2675, Harrisburg, PA 17105-2675, (717) 783-2207; fax (717) 772-4957.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 8, 1999, the Department submitted a copy of these final-form regulations to IRRC and to the Chairpersons of the House Committee on Aging and Youth and the Senate Committee on Public Health and Welfare. The Department provided IRRC and the Committees with copies of all comments received during the public comment period. The Department has also provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this form is available to members of the public upon request.

In preparing the final-form regulations, the Department has considered all comments received from the public, IRRC and the Committees.

These final-form regulations were deemed approved by the House Aging and Youth Committee and the Senate Public Health and Welfare Committee on May 3, 1999. IRRC approved the final-form regulations on May 6, 1999, in accordance with section 5.1(e) of the Regulatory Review Act (71 P. S. § 745.5a(e)).

Findings

The Department finds that:

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

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

(3) These final-form regulations are necessary and appropriate for the administration and enforcement of Articles IX and X of the Public Welfare Code.

Order

The Department, acting under the Public Welfare Code, orders that the regulations of the Department, 55 Pa. Code Chapters 3130, 3680, 3710, 3800, 3810, 5310 and 6400 are amended by:

(a) Amending §§ 3130.81, 3680.1, 5310.3, 5310.6, 5310.92 and 6400.3; by

(b) Adding §§ 3800.1—3800.6, 3800.11—3800.22, 3800.31—3800.33, 3800.51—3800.58, 3800.81—3800.106, 3800.121—3800.132, 3800.141—3800.149, 3800.151, 3800.152, 3800.161—3800.164, 3800.171, 3800.181—3800.189, 3800.201—3800.213, 3800.221—3800.230, 3800.241—3800.245, 3800.251—3800.257, 3800.271—3800.274, 3800.281—3800.283, 3800.291—3800.293, 3800.301—3800.303, 3800.311 and 3800.312; and by

(c) Deleting §§ 3710.1—3710.4, 3710.11, 3710.21—3710.24, 3710.31—3710.33, 3710.41—3710.44, 3710.51—3710.53, 3710.61—3710.67, 3710.71, 3710.81—3710.83, 3710.91, 3710.92, 3710.101—3710.105, 3710.111—3710.121, 3710.131, 3710.141—3710.143, 3760.1—3760.11, 3760.21—3760.23, 3760.31—3760.42, 3760.51—3760.60, 3760.71—3760.81, 3760.91—3760.93, 3810.1—3810.5, 3810.11, 3810.12, 3810.21—3810.25, 3810.31—3810.41, 3810.51—3810.56, 3810.61—3810.68, 3810.81,

3810.82, 3810.91—3810.94, 3810.101—3810.103 and 5310.161 to read as set forth in Annex A.

(d) The following uncodified regulation is hereby rescinded in whole: Training School Requirements, formerly referred to as Title 6500.

(e) The following guideline is hereby superseded by this chapter: Secure Residential Facilities, formerly referred to as draft Chapter 3820 and applicable to the Department-operated youth development centers.

(f) The Secretary of Public Welfare has submitted this order and Annex A to the Office of General Counsel and the Office of the Attorney General for review and approval as to legality and form as required by law. The Office of General Counsel and the Office of the Attorney General have approved this order and Annex A as to legality and form.

(g) The Secretary of Public Welfare shall certify and deposit this order and Annex A with the Legislative Reference Bureau as required by law.

(h) This order takes effect on October 26, 1999, with the exception of §§ 3800.187 and 3800.188 which take effect on June 26, 2000.

FEATHER O. HOUSTOUN,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 29 Pa.B. 2734 (May 22, 1999).)

Fiscal Note: Fiscal Note 14-442 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 55. PUBLIC WELFARE

**PART V. CHILDREN, YOUTH AND FAMILIES
MANUAL**

**Subpart C. ADMINISTRATION AND FISCAL
MANAGEMENT**

**CHAPTER 3130. ADMINISTRATION OF COUNTY
CHILDREN AND YOUTH SOCIAL SERVICE
PROGRAMS**

**REQUIREMENTS FOR FOSTER CARE PROGRAMS
AND CHILD CARE FACILITIES OPERATED
BY A COUNTY AGENCY**

**§ 3130.81. Licensure, approval and notification re-
quirements.**

(a) The county agency shall ensure that foster homes which it approves and child care facilities which it operates comply with applicable fire, safety and building requirements of the Department of Labor and Industry and local authorities located in Philadelphia, Pittsburgh or Scranton.

(b) The county agency shall identify in writing, at the time of its application for licensure, approval or renewal, the name of the individual who is responsible for the daily operation of a child care facility which it operates.

(c) The county agency shall submit, in writing and within 30 calendar days of occurrence, notification of changes in the information provided under subsection (b).

(d) Sections 3130.81(a)—(c) and 3130.82—3800.92 do not apply to child residential and day treatment facilities which are governed by Chapter 3800 (relating to child residential and day treatment facilities).

**Subpart E. RESIDENTIAL AGENCIES, FACILITIES
AND SERVICES**

ARTICLE I. LICENSING/APPROVAL

**CHAPTER 3680. ADMINISTRATION AND
OPERATION OF A CHILDREN AND YOUTH
SOCIAL SERVICE AGENCY**

GENERAL PROVISIONS

§ 3680.1. Applicability.

(a) With four exceptions, this chapter applies to the administration and operation of an agency, whether public or private, for profit or not-for-profit, which provides the social services specified in subsection (c). This chapter does not govern the administration or operation of probation offices; county children and youth social service agencies governed by Chapter 3130 (relating to administration of county children and youth services programs); child residential and day treatment facilities governed by Chapter 3800 (relating to child residential and day treatment facilities); or child day care facilities governed by Chapters 3270, 3280 and 3290 (relating to child day care centers; group day care homes; and family day care homes).

(b) Social services provided for a child by an agency subject to this chapter include the following:

- (1) Foster family care.
- (2) Adoption services.

(c) An agency that operated solely to provide services to children in their own homes as defined in § 3680.4 (relating to definitions) is not subject to this chapter.

CHAPTER 3710. (Reserved)

§§ 3710.1—3710.4. (Reserved).

§ 3710.11. (Reserved).

§§ 3710.21—3710.24. (Reserved).

§§ 3710.31—3710.33. (Reserved).

§§ 3710.41—3710.44. (Reserved).

§§ 3710.51—3710.53. (Reserved).

§§ 3710.61—3710.67. (Reserved).

§ 3710.71. (Reserved).

§§ 3710.81—3710.83. (Reserved).

§ 3710.91. (Reserved).

§ 3710.92. (Reserved).

§§ 3710.101—3710.105. (Reserved).

§§ 3710.111—3710.121. (Reserved).

§ 3710.131. (Reserved).

§§ 3710.141—3710.143. (Reserved).

CHAPTER 3760. (Reserved)

§§ 3760.1—3760.11. (Reserved).

§§ 3760.21—3760.23. (Reserved).

§§ 3760.31—3760.42. (Reserved).

§§ 3760.51—3760.60. (Reserved).

§§ 3760.71—3760.81. (Reserved).

§§ 3760.91—3760.93. (Reserved).

CHAPTER 3800. CHILD RESIDENTIAL AND DAY TREATMENT FACILITIES**GENERAL PROVISIONS**

Sec.	Purpose.
3800.1.	Applicability.
3800.2.	Exemptions.
3800.3.	Inspections and certificates of compliance.
3800.4.	Definitions.
3800.5.	Applicability to specific facility types.
3800.6.	

GENERAL REQUIREMENTS

3800.11.	Licensure or approval of facilities.
3800.12.	Appeals.
3800.13.	Maximum capacity.
3800.14.	Fire safety approval.
3800.15.	Child abuse.
3800.16.	Reportable incidents.
3800.17.	Recordable incidents.
3800.18.	Child funds.
3800.19.	Consent to treatment.
3800.20.	Confidentiality of records.
3800.21.	Applicable health and safety laws.
3800.22.	Waivers.

CHILD RIGHTS

3800.31.	Notification of rights and grievance procedures.
3800.32.	Specific rights.
3800.33.	Prohibition against deprivation of rights.

STAFFING

3800.51.	Child abuse and criminal history checks.
3800.52.	Staff hiring, retention and utilization.
3800.53.	Director.
3800.54.	Child care supervisor.
3800.55.	Child care worker.
3800.56.	Exceptions for staff qualifications.
3800.57.	Supervision.
3800.58.	Staff training.

PHYSICAL SITE

3800.81.	Physical accommodations and equipment.
3800.82.	Poisons.
3800.83.	Heat sources.
3800.84.	Sanitation.
3800.85.	Ventilation.
3800.86.	Lighting.
3800.87.	Surfaces.
3800.88.	Water.
3800.89.	Temperature.
3800.90.	Communication system.
3800.91.	Emergency telephone numbers.
3800.92.	Screens.
3800.93.	Handrails and railings.
3800.94.	Landings and stairs.
3800.95.	Furniture and equipment.
3800.96.	First aid supplies.
3800.97.	Elevators.
3800.98.	Indoor activity space.
3800.99.	Recreation space.
3800.100.	Exterior conditions.
3800.101.	Firearms and weapons.
3800.102.	Child bedrooms.
3800.103.	Bathrooms.
3800.104.	Kitchen areas.
3800.105.	Laundry.
3800.106.	Swimming.

FIRE SAFETY

3800.121.	Unobstructed egress.
3800.122.	Exits.
3800.123.	Evacuation procedures.
3800.124.	Notification of local fire officials.
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GENERAL

§ 3800.1. Purpose.

The purpose of this chapter is to protect the health, safety and well-being of children receiving care in a child residential facility through the formulation, application and enforcement of minimum licensing requirements.

§ 3800.2. Applicability.

(a) This chapter applies to child residential facilities and child day treatment centers, except as provided in § 3800.3 (relating to exemptions).

(b) This chapter contains the minimum requirements that shall be met to obtain a certificate of compliance to provide child residential care or child day treatment in this Commonwealth.

(c) This chapter applies equally to profit, nonprofit, publicly funded, privately funded, church operated and nonchurch operated facilities.

(d) This chapter applies to the following:

(1) Any premise or part thereof, operated in a 24-hour living setting in which care is provided for one or more children who are not relatives of the facility operator, except as provided in § 3800.3.

(2) Child residential facilities that are either secure or nonsecure settings, including child detention centers.

(3) Child residential facilities that are located in a fixed structure, are mobile or any combination of fixed and mobile settings.

(4) Child day treatment centers.

(5) Transitional living facilities with more than one transitional living residence in the same building.

(6) Facilities serving children with disabilities, that serve exclusively children.

§ 3800.3. Exemptions.

This chapter does not apply to the following:

(1) Child residential and child day treatment facilities operated directly by the Department.

(2) Transitional living residences which are located in freestanding private residences.

(3) Residential camps for children who are enrolled in a grade or educational level higher than kindergarten which operate for fewer than 90 days per year.

(4) Residential children's schools which are licensed and operated solely as private academic schools or registered and operated solely as nonpublic nonlicensed schools by the Department of Education.

(5) Foster care homes that are licensed under Chapter 3700 (relating to foster family care agency).

(6) Family living homes for children with mental retardation which are licensed under Chapter 6500 (relating to family living homes).

(7) Community homes for individuals with mental retardation that provide care to both children and adults in the same facility and that are licensed under Chapter 6400 (relating to community homes for individuals with mental retardation).

(8) Community residences for individuals with mental illness that provide care to both children and adults in the same facility or community residential host homes for individuals with mental illness that are certified under Chapter 5310 (relating to community residential rehabilitation services for the mentally ill).

(9) Drug and alcohol residential facilities that provide care exclusively to residents whose sole need is the treatment of drug and alcohol dependence and that are licensed under 28 Pa. Code Chapters 701, 704 and 709 (relating to general provisions staffing requirements for drug and alcohol treatment facilities; and standards for licensure of freestanding treatment facilities).

(10) Child day care facilities certified or registered under Chapter 3270, 3280 or 3290 (relating to child day care centers; group child day care; and family child day care).

(11) Private homes of persons providing care to a relative, except homes in which children live with their own children but no other relative, unless the home is a transitional living residence that is exempt from this chapter under paragraph (2).

§ 3800.4. Inspections and certificates of compliance.

(a) Each facility to which this chapter applies shall be individually inspected at least once a year, unless otherwise specified by statute.

(b) A separate certificate of compliance shall be issued for each physical structure that qualifies for a certificate.

§ 3800.5. Definitions.

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

Child—An individual who meets one of the following conditions:

(i) Is under 18 years of age.

(ii) Is under 21 years of age and committed an act of delinquency before reaching 18 years of age and remains under the jurisdiction of the juvenile court.

(iii) Was adjudicated dependent before reaching 18 years of age and while engaged in instruction or treatment, requests the court to retain jurisdiction until the instruction or treatment is completed, but a child may not remain in a course of instruction or treatment past 21 years of age.

(iv) Has mental retardation, a mental illness or a serious emotional disturbance, with a transfer plan to move to an adult setting by 21 years of age.

Child day treatment center (facility)—A premise or part thereof, operated for a portion of a 24-hour day in which alternative education, intervention or support programs are provided to one or more children to prevent a child's

placement in a more restrictive setting or to facilitate a child's reunification with his family. A child day treatment center does not include:

(i) Mental health outpatient or partial hospitalization facilities.

(ii) Drug and alcohol outpatient facilities.

(iii) Facilities that provide only aftercare services provided after regular hours of education.

Child residential facility (facility)—A premise or part thereof, operated in a 24-hour living setting in which care is provided for one or more children who are not relatives of the facility operator, except as provided in § 3800.3 (relating to exemptions).

Department—The Department of Public Welfare of the Commonwealth.

Fire safety expert—A local fire department, fire protection engineer, Commonwealth certified fire protection instructor, college instructor in fire science, county or Commonwealth fire school, volunteer person trained and certified by a county or Commonwealth fire school or an insurance company loss control representative.

ISP—Individual Service Plan—A written document for each child describing the child's care and treatment needs.

Mobile program—A residential program that provides services in a variety of settings that do not occupy a stationary site.

Outdoor program—A residential program where children sleep outdoors or in structures intended for an outdoor experience, where the primary program focus is on outdoor experiences.

Relative—A parent, child, child's guardian, individual with legal custody, stepparent, stepchild, grandparent, grandchild, sibling, half-sibling, aunt, uncle, niece, nephew or spouse.

Secure care—Care provided in a 24-hour living setting to one or more children who are delinquent or alleged delinquent, from which voluntary egress is prohibited through one of the following mechanisms:

(i) Egress from the building, or a portion of the building, is prohibited through internal locks within the building or exterior locks.

(ii) Egress from the premises is prohibited through secure fencing around the perimeter of the building.

Secure detention—A type of secure care located in a temporary 24-hour living setting, in which one or more delinquent or alleged delinquent children are detained, generally in a preadjudication status.

Transitional living residence—A home or living unit for fewer than five children, who are 16 years of age or older, with or without their own children, who are all able to live in a semi-independent living setting. A child's own children are counted to determine the maximum number of four children per transitional living residence.

§ 3800.6. Applicability to specific facility types.

Except as otherwise provided in §§ 3800.251—3800.257, 3800.271—3800.274, 3800.281—3800.283, 3800.291—3800.293, 3800.301—3800.303, 3800.311 and 3800.312, all sections of this chapter apply to the facilities within the scope of this chapter.

GENERAL REQUIREMENTS

§ 3800.11. Licensure or approval of facilities.

The requirements of Chapter 20 (relating to licensure or approval of facilities) shall be met.

§ 3800.12. Appeals.

Appeals related to the Department's licensure or approval shall be made in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

§ 3800.13. Maximum capacity.

(a) The maximum capacity specified on the certificate of compliance shall be based on available bedroom square footage and the number of toilets and sinks.

(b) The maximum capacity specified on the certificate of compliance may not be exceeded.

§ 3800.14. Fire safety approval.

(a) If a fire safety approval is required in accordance with State law or regulations, a valid fire safety approval from the appropriate authority, listing the type of occupancy, is required prior to receiving a certificate of compliance under this chapter.

(b) If the fire safety approval is withdrawn or restricted, the facility shall notify the Department orally within 24 hours and in writing within 48 hours of the withdrawal or restriction.

(c) If a building is structurally renovated or altered after the initial fire safety approval is issued, the facility shall submit the new fire safety approval, or written certification that a new fire safety approval is not required, from the appropriate fire safety authority.

§ 3800.15. Child abuse.

(a) The facility shall immediately report suspected abuse of a child in accordance with 23 Pa.C.S. §§ 6301—6385 (relating to the Child Protective Services Law) and Chapter 3490 (relating to child protective services).

(b) If there is an allegation of child abuse involving facility staff persons, the facility shall submit and implement a plan of supervision in accordance with 23 Pa.C.S. § 6368 (relating to investigation of reports) and § 3490.56 (relating to CRS investigation of suspected child abuse perpetrated by persons employed or supervised by child caring agencies and residential facilities).

§ 3800.16. Reportable incidents.

(a) A reportable incident is the following:

(1) A death of a child.

(2) A physical act by a child to commit suicide.

(3) An injury, trauma or illness of a child requiring inpatient treatment at a hospital.

(4) A serious injury or trauma of a child requiring outpatient treatment at a hospital, not to include minor injuries such as sprains or cuts.

(5) A violation of a child's rights.

(6) Intimate sexual contact between children, consensual or otherwise.

(7) A child absence from the premises for 4 hours or more without the approval of staff persons, or for 30 minutes or more without the approval of staff persons if the child may be in immediate jeopardy.

(8) Abuse or misuse of a child's funds.

(9) An outbreak of a serious communicable disease as defined in 28 Pa. Code § 27.2 (relating to reportable diseases).

(10) An incident requiring the services of the fire or police departments.

(11) Any condition which results in closure of the facility.

(b) The facility shall develop written policies and procedures on the prevention, reporting, investigation and management of reportable incidents.

(c) The facility shall complete a written reportable incident report, on a form prescribed by the Department, and send it to the appropriate Departmental regional office and the contracting agency, within 24 hours.

(d) The facility shall orally report to the appropriate Departmental regional office and the contracting agency within 12 hours, a fire requiring the relocation of children, an unexpected death of a child and a child who is missing from the facility if police have been notified.

(e) The facility shall initiate an investigation of a reportable incident immediately following the report of the incident and shall complete the investigation within a reasonable time.

(f) The facility shall submit a final reportable incident report to the agencies specified in subsection (c) immediately following the conclusion of the investigation.

(g) A copy of reportable incident reports shall be kept.

(h) The facility shall notify the child's parent and, if applicable, a guardian or custodian, immediately following a reportable incident relating to a specific child, unless restricted by applicable confidentiality statutes, regulations or an individual child's court order.

§ 3800.17. Recordable incidents.

The facility shall maintain a record of the following:

- (1) All seizures.
- (2) Suicidal gestures.
- (3) Any incidence of intentionally striking or physically injuring a child.
- (4) Property damage of more than \$500.
- (5) A child absence from the premises without the approval of staff persons, that does not meet the definition of reportable incident in § 3800.16(a) (relating to reportable incidents).
- (6) Injuries, traumas and illnesses of children that do not meet the definition of reportable incident in § 3800.16(a), which occur at the facility.

§ 3800.18. Child funds.

(a) Money earned or received by a child is the child's personal property.

(b) The facility may place reasonable limits on the amount of money to which a child has access.

(c) The facility shall maintain a separate accounting system for child funds, including the dates and amounts of deposits and withdrawals. Commingling of child and facility funds is not permitted.

(d) Except for children expected to be in the facility for fewer than 30 days, the facility shall maintain an interest-bearing account for child funds, with interest earned tracked and applied for each child.

(e) Money in the child's account shall be returned to the child upon discharge or transfer.

(f) There shall be no borrowing of child funds by the facility or staff persons.

§ 3800.19. Consent to treatment.

(a) The facility shall comply with the following statutes and regulations relating to consent to treatment, to the extent applicable:

- (1) 42 Pa.C.S. §§ 6301—6365 (relating to the Juvenile Act).
- (2) The Mental Health Procedures Act (50 P. S. §§ 7101—7503).
- (3) The act of February 13, 1970 (P. L. 19, No. 10) (35 P. S. §§ 10101—10105).
- (4) Chapter 5100 (relating to mental health procedures).
- (5) The Pennsylvania Drug and Alcohol Abuse Control Act (71 P. S. §§ 1690.101—1690.115).
- (6) Other applicable statutes and regulations.

(b) The following consent requirements apply unless in conflict with the requirements of applicable statutes and regulations specified in subsection (a):

(1) Whenever possible, general written consent shall be obtained upon admission, from the child's parent or legal guardian, for the provision of routine health care such as child health examinations, dental care, vision care, hearing care and treatment for injuries and illnesses.

(2) A separate written consent shall be obtained prior to treatment, from the child's parent or legal guardian, or, if the parent or guardian cannot be located, by court order, for each incidence of nonroutine treatment such as elective surgery and experimental procedures.

(3) Consent for emergency care or treatment is not required.

§ 3800.20. Confidentiality of records.

(a) The facility shall comply with the following statutes and regulations relating to confidentiality of records, to the extent applicable:

- (1) 23 Pa.C.S. §§ 6301—6385 (relating to the Child Protective Service Law).
- (2) 23 Pa.C.S. §§ 2101—2910 (relating to Adoption Act).
- (3) The Mental Health Procedures Act (50 P. S. §§ 7101—7503).
- (4) Section 602(d) of the Mental Health and Mental Retardation Act (50 P. S. § 4602(d)).
- (5) The Confidentiality of HIV-Related Information Act (35 P. S. §§ 7601—7612).
- (6) Sections 5100.31—5100.39 (relating to confidentiality of mental health records).
- (7) Sections 3490.91—3490.95 (relating to confidentiality).
- (8) Other applicable statutes and regulations.

(b) The following confidentiality requirements apply unless in conflict with the requirements of applicable statutes and regulations specified in subsection (a):

(1) A child's record, information concerning a child or family, and information that may identify a child or family by name or address, is confidential and may not be disclosed or used other than in the course of official facility duties.

(2) Information specified in paragraph (1) shall be released upon request only to the child's parent, the child's guardian or custodian, if applicable, the child's and parent's attorney, the court and court services, including probation staff, county government agencies, authorized agents of the Department and to the child if the child is 14 years of age or older. Information may be withheld from a child if the information may be harmful to the child. Documentation of the harm to be prevented by withholding of information shall be kept in the child's record.

(3) Information specified in paragraph (1) may be released to other providers of service to the child if the information is necessary for the provider to carry out its responsibilities. Documentation of the need for release of the information shall be kept in the child's record.

(4) Information specified in paragraph (1) may not be used for teaching or research purposes unless the information released does not contain information which would identify the child or family.

(5) Information specified in paragraph (1) may not be released to anyone not specified in paragraphs (2)—(4), without written authorization from the court, if applicable, and the child's parent and, if applicable, the child's guardian or custodian.

(6) Release of information specified in paragraph (1) may not violate the confidentiality of another child.

§ 3800.21. Applicable health and safety laws.

The facility shall have a valid certificate or approval document from the appropriate State or Federal agency relating to health and safety protections for children required by another applicable law, not to include local zoning ordinances.

§ 3800.22. Waivers.

(a) The facility may submit a written request for a waiver on a form prescribed by the Department, and the Department may grant a waiver of a specific section of this chapter if the following conditions exist:

- (1) There is no significant jeopardy to the children.
- (2) There is an alternative for providing an equivalent level of health, safety and well-being protection of the children.
- (3) The benefit of waiving the regulation outweighs any risk to the health, safety and well-being of the children.
- (b) The scope, definitions or applicability of this chapter may not be waived.

CHILD RIGHTS

§ 3800.31. Notification of rights and grievance procedures.

(a) Upon admission, each child and available parent and, if applicable, an available guardian or custodian, unless court-ordered otherwise, shall be informed of the child's rights, the right to lodge grievances without fear of retaliation and applicable consent to treatment protections specified in § 3800.19 (relating to consent to treatment).

(b) Each child and parent and, if applicable, the child's guardian or custodian, shall be informed of the child's rights, the right to lodge grievances as specified in subsection (a), and applicable consent to treatment protections specified in § 3800.19 (relating to consent to treatment), in an easily understood manner, and in the

primary language or mode of communication of the child, the child's parent and, if applicable, the child's guardian or custodian.

(c) A copy of the child's rights, the grievance procedures, and applicable consent to treatment protections shall be posted and given to the child, the child's parent and, if applicable, the child's guardian or custodian, upon admission.

(d) A statement signed by the child, the child's parent and, if applicable, the child's guardian or custodian, acknowledging receipt of a copy of the information specified in subsection (a), or documentation of efforts made to obtain the signature, shall be kept.

(e) A child and the child's family have the right to lodge a grievance with the facility for an alleged violation of specific or civil rights without fear of retaliation.

(f) The facility shall develop and implement written grievance procedures for the child, the child's family and staff persons to assure the investigation and resolution of grievances regarding an alleged violation of a child's rights.

§ 3800.32. Specific rights.

(a) A child may not be discriminated against because of race, color, religious creed, disability, handicap, ancestry, sexual orientation, national origin, age or sex.

(b) A child may not be abused, mistreated, threatened, harassed or subject to corporal punishment.

(c) A child has the right to be treated with fairness, dignity and respect.

(d) A child has the right to be informed of the rules of the facility.

(e) A child has the right to communicate with others by telephone subject to reasonable facility policy and written instructions from the contracting agency or court, if applicable, regarding circumstances, frequency, time, payment and privacy.

(f) A child shall have the right to visit with family at least once every 2 weeks, at a time and location convenient for the family, the child and the facility, unless visits are restricted by court order. This right does not restrict more frequent family visits.

(g) A child has the right to receive and send mail.

(1) Outgoing mail may not be opened or read by staff persons.

(2) Incoming mail from Federal, State or county officials, or from the child's attorney, may not be opened or read by staff persons.

(3) Incoming mail from persons other than those specified in paragraph (2), may not be opened or read by staff persons unless there is reasonable suspicion that contraband, or other information or material that may jeopardize the child's health, safety or well-being, may be enclosed. If there is reasonable suspicion that contraband, or other information that may jeopardize the child's health or safety may be enclosed, mail may be opened by the child in the presence of a staff person.

(h) A child has the right to communicate and visit privately with his attorney and clergy.

(i) A child has the right to be protected from unreasonable search and seizure. A facility may conduct search and seizure procedures, subject to reasonable facility policy.

(j) A child has the right to practice the religion or faith of choice, or not to practice any religion or faith.

(k) A child has the right to appropriate medical, behavioral health and dental treatment.

(l) A child has the right to rehabilitation and treatment.

(m) A child has the right to be free from excessive medication.

(n) A child may not be subjected to unusual or extreme methods of discipline which may cause psychological or physical harm to the child.

(o) A child has the right to clean, seasonal clothing that is age and gender appropriate.

§ 3800.33. Prohibition against deprivation of rights.

(a) A child may not be deprived of specific or civil rights.

(b) A child's rights may not be used as a reward or sanction.

(c) A child's visits with family may not be used as a reward or sanction.

STAFFING

§ 3800.51. Child abuse and criminal history checks.

Child abuse and criminal history checks shall be completed in accordance with 23 Pa.C.S. §§ 6301—6385 (relating to the Child Protective Services Law) and Chapter 3490 (relating to child protective services).

§ 3800.52. Staff hiring, retention and utilization.

Staff hiring retention and utilization shall be in accordance with 23 Pa.C.S. §§ 6301—6385 (relating to the Child Protective Services Law) and Chapter 3490 (relating to child protective services).

§ 3800.53. Director.

(a) There shall be one director responsible for the facility. A director may be responsible for more than one facility.

(b) The director shall be responsible for administration and management of the facility, including the safety and protection of the children, implementation of policies and procedures and compliance with this chapter.

(c) A director of a facility shall have one of the following:

(1) A master's degree from an accredited college or university and 2 years work experience in administration or human services.

(2) A bachelor's degree from an accredited college or university and 4 years work experience in administration or human services.

§ 3800.54. Child care supervisor.

(a) There shall be one child care supervisor available either onsite or by telephone at all times children are at the facility.

(b) For facilities serving 16 or more children, whenever 16 or more children are present at the facility, there shall be at least one child care supervisor present at the facility.

(c) The child care supervisor shall be responsible for developing and implementing the program and schedule for the children and for supervision of child care workers.

(d) The child care supervisor shall have one of the following:

(1) A bachelor's degree from an accredited college or university and 1 year work experience with children.

(2) An associate's degree or 60 credit hours from an accredited college or university and 3 years work experience with children.

§ 3800.55. Child care worker.

(a) There shall be one child care worker present with the children for every eight children who are 6 years of age or older, during awake hours.

(b) There shall be one child care worker present with the children for every 16 children who are 6 years of age and older, during sleeping hours.

(c) There shall be one child care worker present with the children for every four children who are under 6 years of age, during awake hours.

(d) There shall be one child care worker present with the children for every eight children who are under 6 years of age, during sleeping hours.

(e) If there are children who are under 6 years of age and 6 years of age and older in the same group, the ratios specified in subsections (c) and (d) apply.

(f) The child care worker shall be responsible for implementing daily activities and for supervision of the children.

(g) The child care worker shall have a high school diploma or general education development certificate.

(h) A child care worker who is counted in the worker to child ratio shall be 18 years of age or older if all the children served in the facility are under 18 years of age. A child care worker who is counted in the worker to child ratio shall be 21 years of age or older if one or more children served in the facility are 18 years of age or older.

§ 3800.56. Exceptions for staff qualifications.

(a) The staff qualification requirements specified in §§ 3800.53(c), 3800.54(d), 3800.55(g) and 3800.283(1) do not apply to staff persons hired or promoted to the specified positions prior to October 26, 1999.

(b) For facilities previously certified under Chapter 5310 or 6400 (relating to community residential rehabilitation services for the mentally ill; and community homes for individuals with mental retardation), the age requirements specified in § 3800.55(h) (relating to child care worker) do not apply to staff persons hired, or counted in the worker to child ratio, prior to October 26, 1999.

§ 3800.57. Supervision.

(a) While children are at the facility, children shall be supervised during awake and sleeping hours by conducting observational checks of each child at least every hour.

(b) Observational checks of children specified in subsection (a) shall include actual viewing of each child.

(c) Staff persons may not sleep while being counted in the staff to child ratios.

(d) The requirements in subsections (a)—(c) regarding supervision of children during sleeping hours do not apply if the facility serves 12 or fewer children and one of the following conditions is met:

(1) Each of the children has lived at any facility within the legal entity for at least 6 months and each child's

health and safety assessment indicates there are no high risk behaviors during sleeping hours.

- (2) There are live-in staff persons at the facility.

§ 3800.58. Staff training.

(a) Prior to working with children, each staff person who will have regular and significant direct contact with children, including part-time and temporary staff persons and volunteers, shall have an orientation to the person's specific duties and responsibilities and the policies and procedures of the facility, including reportable incident reporting, discipline, care and management of children, medication administration and use of restrictive procedures.

(b) Prior to working alone with children and within 120 calendar days after the date of hire, the director and each full-time, part-time and temporary staff person who will have regular and significant direct contact with children, shall have at least 30 hours of training to include at least the following areas:

- (1) The requirements of this chapter.
- (2) 23 Pa.C.S. §§ 6301—6385 (relating to child protective services law) and Chapter 3490 (relating to child protective services).
- (3) Fire safety.
- (4) First aid, Heimlich techniques, cardiopulmonary resuscitation and universal precautions.
- (5) Crisis intervention, behavior management and suicide prevention.
- (6) Health and other special issues affecting the population.
- (c) If a staff person has completed the training required in subsection (b) within 12 months prior to the staff person's date of hire, the requirement for training in subsection (b) does not apply.
- (d) After initial training, the director and each full-time, part-time and temporary staff person, who will have regular and significant direct contact with children, shall have at least 40 hours of training annually relating to the care and management of children. This requirement for annual training does not apply for the initial year of employment.
- (e) Each staff person who will have regular and significant direct contact with children, shall complete training in first aid, Heimlich techniques and cardiopulmonary resuscitation at least every year. If a staff person has a formal certification from a recognized health care organization which is valid for more than 1 year, retraining is not required until expiration of the certification.
- (f) Training in first aid, Heimlich techniques and cardiopulmonary resuscitation shall be completed by an individual certified as a trainer by a hospital or other recognized health care organization.
- (g) Training in fire safety shall be completed by a fire safety expert or, in facilities serving 20 or fewer children, by a staff person trained by a fire safety expert. Video tapes prepared by a fire safety expert are acceptable for the training if accompanied by an onsite staff person trained by a fire safety expert.

(h) A record of training including the person trained, date, source, content, length of each course and copies of any certificates received, shall be kept.

PHYSICAL SITE

§ 3800.81. Physical accommodations and equipment.

The facility shall provide or arrange for physical site accommodations and equipment necessary to meet the health and safety needs of a child with a disability.

§ 3800.82. Poisons.

- (a) Poisonous materials shall be kept locked and inaccessible to children.
- (b) Poisonous materials shall be stored in their original, labeled containers.
- (c) Poisonous materials shall be kept separate from food, food preparation surfaces and dining surfaces.

§ 3800.83. Heat sources.

Heat sources, such as hot water pipes, fixed space heaters, hot water heaters and radiators, exceeding 120°F that are accessible to children, shall be equipped with protective guards or insulation to prevent children from coming in contact with the heat source.

§ 3800.84. Sanitation.

- (a) Sanitary conditions shall be maintained.
- (b) There may be no evidence of infestation of insects or rodents in the facility.
- (c) Trash shall be removed from the premises at least once a week.
- (d) Trash in kitchens and bathrooms shall be kept in covered trash receptacles that prevent the penetration of insects and rodents.
- (e) Trash outside the facility shall be kept in closed receptacles that prevent the penetration of insects and rodents.

§ 3800.85. Ventilation.

Living areas, recreation areas, dining areas, bathrooms, bedrooms and kitchens shall be ventilated by at least one operable window or mechanical ventilation.

§ 3800.86. Lighting.

Rooms, hallways, interior stairs, outside steps, outside doorways, porches, ramps and fire escapes shall be lighted to avoid accidents.

§ 3800.87. Surfaces.

- (a) Floors, walls, ceilings, windows, doors and other surfaces shall be free of hazards.
- (b) If the facility was constructed before 1978 and serves one or more children who are 2 years of age or younger or who are likely to ingest inedible substances, the facility shall test all layers of interior paint in the facility and exterior paint and soil accessible in the play and recreation areas, for lead content. If lead content exceeds .06% in wet paint, .5% in a paint chip sample or 400 ppm in the soil, lead remediation activity is required based on recommendations of the Department of Health. Documentation of lead testing, results and corrections made shall be kept.
- (c) The facility may not use asbestos products for any renovations or new construction.

§ 3800.88. Water.

- (a) The facility shall have hot and cold water under pressure.

(b) Hot water temperature in areas accessible to children may not exceed 120°F.

(c) A facility that is not connected to a public water system shall have a coliform water test at least every 3 months, by a Department of Environmental Protection-certified laboratory, stating that the water is safe for drinking. Documentation of the certification shall be kept.

§ 3800.89. Temperature.

(a) Indoor temperature shall be at least 65°F during awake hours when children are present in the facility.

(b) Indoor temperature may not be less than 62°F during sleeping hours.

(c) When indoor temperature exceeds 90°F, mechanical ventilation such as fans or air conditioning shall be used.

§ 3800.90. Communication system.

(a) The facility shall have a working, noncoin-operated, telephone with an outside line that is accessible to staff persons in emergencies.

(b) The facility shall have a communication system to allow staff persons to contact other staff persons in the facility for assistance in an emergency.

§ 3800.91. Emergency telephone numbers.

Telephone numbers for the nearest hospital, police department, fire department, ambulance and poison control center shall be posted on or by each telephone with an outside line.

§ 3800.92. Screens.

Windows, including windows in doors, shall be securely screened when doors or windows are open.

§ 3800.93. Handrails and railings.

(a) Each ramp, interior stairway and outside steps exceeding two steps shall have a well secured handrail.

(b) Each porch that has over an 18-inch drop shall have a well-secured railing.

§ 3800.94. Landings and stairs.

(a) There shall be a landing which is at least as wide as the doorway, beyond each interior and exterior door which opens directly into a stairway.

(b) Interior stairs shall have nonskid surfaces.

§ 3800.95. Furniture and equipment.

(a) Furniture and equipment shall be free of hazards.

(b) There shall be enough furniture to accommodate the largest group of children that may routinely congregate in a room at any given time.

(c) Power equipment shall be kept in safe condition.

(d) Power equipment, excluding normal household appliances, shall be stored in a place that is inaccessible to children.

(e) Power equipment excluding normal household appliances, may not be used by children except under supervision of a staff person.

§ 3800.96. First aid supplies.

The facility shall have a first aid manual, nonporous disposable gloves, antiseptic, adhesive bandages, gauze pads, thermometer, tape, scissors and syrup of Ipecac that are stored together.

§ 3800.97. Elevators.

Each elevator shall have a valid certificate of operation from the Department of Labor and Industry.

§ 3800.98. Indoor activity space.

The facility shall have separate indoor activity space for activities such as studying, recreation and group activities.

§ 3800.99. Recreation space.

The facility shall have regular access to outdoor, or large indoor, recreation space and equipment.

§ 3800.100. Exterior conditions.

(a) The exterior of the building and the building grounds or yard shall be free of hazards.

(b) Outside walkways shall be free of ice, snow and obstruction.

§ 3800.101. Firearms and weapons.

Firearms, weapons and ammunition are not permitted in the facility or on the facility grounds, except for those carried by law enforcement personnel.

§ 3800.102. Child bedrooms.

(a) Each single bedroom shall have at least 70 square feet of floor space per child measured wall to wall, including space occupied by furniture.

(b) Each shared bedroom shall have at least 60 square feet of floor space per child measured wall to wall, including space occupied by furniture.

(c) No more than four children may share a bedroom.

(d) Ceiling height in each bedroom shall be at least an average of 7 1/2 feet.

(e) Each bedroom shall have a window with a source of natural light.

(f) Each child shall have the following in the bedroom:

(1) A bed with solid foundation and fire retardant mattress in good repair.

(2) A pillow and bedding appropriate for the temperature in the facility.

(3) A storage area for clothing.

(g) Cots or portable beds are not permitted. This prohibition does not apply for the first 30 days of a child's placement if a facility is given 7 days or less notice of the placement.

(h) Bunk beds shall allow enough space in between each bed and the ceiling to allow the child to sit up in bed.

(i) Bunk beds shall be equipped with securely attached ladders capable of supporting a staff person.

(j) The top bunk of bunk beds shall be equipped with a secure safety rail on each open side and open end of the bunk.

(k) A bedroom may not be used as a means of egress from or access to another part of the facility.

§ 3800.103. Bathrooms.

(a) There shall be at least one flush toilet for every six children.

(b) There shall be at least one sink for every six children.

(c) There shall be at least one bathtub or shower for every six children.

(d) There shall be slip-resistant surfaces in all bathtubs and showers.

(e) Privacy shall be provided for toilets, showers and bathtubs by partitions or doors.

(f) There shall be at least one wall mirror for every six children.

(g) An individual towel, washcloth, comb, hairbrush and toothbrush shall be provided for each child.

(h) Toiletry items including toothpaste, shampoo, deodorant and soap shall be provided.

(i) Bar soap is not permitted unless there is a separate bar clearly labeled for each child.

§ 3800.104. Kitchen areas.

(a) A facility shall have a kitchen area with a refrigerator, sink, cooking equipment and cabinets for storage.

(b) Utensils for eating, drinking and food serving and preparation shall be washed and rinsed after each use.

(c) Food shall be protected from contamination while being stored, prepared, transported and served.

(d) Uneaten food from a person's dish may not be served again or used in the preparation of other dishes.

(e) Cold food shall be kept at or below 40°F. Hot food shall be kept at or above 140°F. Frozen food shall be kept at or below 0°F.

§ 3800.105. Laundry.

Bed linens, towels, washcloths and clothing shall be laundered at least weekly.

§ 3800.106. Swimming.

(a) Above-ground and in-ground outdoor pools shall be fenced with a gate that is locked when the pool is not in use.

(b) Indoor pools shall be made inaccessible to children when not in use.

(c) A certified lifeguard shall be present with the children at all times while children are swimming.

(d) The certified lifeguard specified in subsection (c) may not be counted in the staff to child ratios specified in §§ 3800.54 and 3800.55 (relating to child care supervisor; and child care worker).

FIRE SAFETY

§ 3800.121. Unobstructed egress.

(a) Stairways, hallways, doorways, passageways and egress routes from rooms and from the building shall be unlocked and unobstructed, unless the fire safety approval specified in § 3800.14 (relating to fire safety approval) permits locking of certain means of egress. If a fire safety approval is not required in accordance with § 3800.14, means of egress may not be locked.

(b) Doors used for egress routes from rooms and from the building may not be equipped with key-locking devices, electronic card operated systems or other devices which prevent immediate egress of children from the building.

§ 3800.122. Exits.

If more than four children sleep above the ground floor, there shall be a minimum of two interior or exterior exits from each floor. If a fire escape is used as a means of egress, it shall be permanently installed.

§ 3800.123. Evacuation procedures.

There shall be written emergency evacuation procedures that include staff responsibilities, means of transportation and emergency location.

§ 3800.124. Notification of local fire officials.

The facility shall notify local fire officials in writing of the address of the facility, location of bedrooms and assistance needed to evacuate in an emergency. The notification shall be kept current.

§ 3800.125. Flammable and combustible materials.

(a) Combustible materials may not be located near heat sources.

(b) Flammable materials shall be used safely, stored away from heat sources and inaccessible to children.

§ 3800.126. Furnaces.

Furnaces shall be inspected and cleaned at least annually by a professional furnace cleaning company or trained maintenance staff persons. Documentation of the inspection and cleaning shall be kept.

§ 3800.127. Portable space heaters.

Portable space heaters, defined as heaters that are not permanently mounted or installed, are not permitted in the facility.

§ 3800.128. Wood and coal burning stoves.

The use of wood and coal burning stoves is not permitted.

§ 3800.129. Fireplaces.

(a) Fireplaces shall be securely screened or equipped with protective guards while in use.

(b) A staff person shall be present with the children while a fireplace is in use.

(c) A fireplace chimney and flue shall be cleaned when there is an accumulation of creosote. Written documentation of the cleaning shall be kept.

§ 3800.130. Smoke detectors and fire alarms.

(a) A facility shall have a minimum of one operable automatic smoke detector on each floor, including the basement and attic.

(b) There shall be an operable automatic smoke detector located within 15 feet of each bedroom door.

(c) The smoke detectors specified in subsections (a) and (b) shall be located in common areas or hallways.

(d) Smoke detectors and fire alarms shall be of a type approved by the Department of Labor and Industry or listed by Underwriters Laboratories.

(e) If the facility serves four or more children or if the facility has three or more stories including the basement and attic, there shall be at least one smoke detector on each floor interconnected and audible throughout the facility or an automatic fire alarm system that is audible throughout the facility.

(f) If one or more children or staff persons are not able to hear the smoke detector or fire alarm system, all smoke detectors and fire alarms shall be equipped so that each person with a hearing impairment will be alerted in the event of a fire.

(g) If a smoke detector or fire alarm becomes inoperative, repair shall be completed within 48 hours of the time the detector or alarm was found to be inoperative.

(h) There shall be a written procedure for fire safety monitoring if the smoke detector or fire alarm becomes inoperative.

§ 3800.131. Fire extinguishers.

(a) There shall be at least one operable fire extinguisher with a minimum 2-A rating for each floor, including the basement and attic.

(b) If the indoor floor area on a floor including the basement or attic is more than 3,000 square feet, there shall be an additional fire extinguisher with a minimum 2-A rating for each additional 3,000 square feet of indoor floor space.

(c) A fire extinguisher with a minimum 2A-10BC rating shall be located in each kitchen. The kitchen extinguisher meets the requirements for one floor as required in subsection (a).

(d) Fire extinguishers shall be listed by Underwriters Laboratories or approved by Factory Mutual Systems.

(e) Fire extinguishers shall be accessible to staff persons. Fire extinguishers may be kept locked if access to the extinguisher by a child may cause a safety risk to the child. If fire extinguishers are kept locked, each staff person shall be able to immediately unlock the fire extinguisher in the event of a fire emergency.

(f) Fire extinguishers shall be inspected and approved annually by a fire safety expert. The date of the inspection shall be on the extinguisher.

§ 3800.132. Fire drills.

(a) An unannounced fire drill shall be held at least once a month.

(b) Fire drills shall be held during normal staffing conditions and not when additional staff persons are present.

(c) A written fire drill record shall be kept of the date, time, the amount of time it took for evacuation, the exit route used, the number of children in the facility at the time of the drill, problems encountered and whether the fire alarm or smoke detector was operative.

(d) Children shall be able to evacuate the entire building into a public thoroughfare, or to a fire-safe area designated in writing within the past year by a fire safety expert, within 2 1/2 minutes or within the period of time specified in writing within the past year by a fire safety expert. The fire safety expert may not be an employee of the facility.

(e) A fire drill shall be held during sleeping hours at least every 6 months.

(f) Alternate exit routes shall be used during fire drills.

(g) Fire drills shall be held on different days of the week, at different times of the day and night and on different staffing shifts.

(h) Children shall evacuate to a designated meeting place outside the building or within the fire-safe area during each fire drill.

(i) A fire alarm or smoke detector shall be set off during each fire drill.

(j) Elevators may not be used during a fire drill or a fire.

CHILD HEALTH

§ 3800.141. Child health and safety assessment.

(a) A child shall have a written health and safety assessment within 24 hours of admission.

(b) The assessment shall be completed or coordinated, signed and dated by medical personnel or staff persons trained by medical personnel.

(c) The assessment shall include the following:

(1) Medical information and health concerns such as allergies; medications; immunization history; hospitalizations; medical diagnoses; medical problems that run in the family; issues experienced by the child's mother during pregnancy; special dietary needs; illnesses; injuries; dental, mental or emotional problems; body positioning and movement stimulation for children with disabilities, if applicable; and ongoing medical care needs.

(2) Known or suspected suicide or self-injury attempts or gestures and emotional history which may indicate a predisposition for self-injury or suicide.

(3) Known incidents of aggressive or violent behavior.

(4) Substance abuse history.

(5) Sexual history or behavior patterns that may place the child or other children at a health or safety risk.

(d) A copy of the assessment shall be kept in the child's record.

§ 3800.142. Health and safety plan.

If the health and safety assessment in § 3800.141 (relating to health and safety assessment) identifies a health or safety risk, a written plan to protect the child shall be developed and implemented within 24 hours after the assessment is completed.

§ 3800.143. Child health examination.

(a) A child shall have a health examination within 15 days after admission and annually thereafter, or more frequently as specified at specific ages in the periodicity schedule recommended by the American Academy of Pediatrics, "Guidelines for Health Supervision," available from 141 Northwest Point Boulevard, Post Office Box 927, Elk Grove Village, Illinois, 60009-0927.

(b) If the child had a health examination prior to admission that meets the requirements of subsection (a) within the periodicity schedule specified in subsection (a), and there is written documentation of the examination, an initial examination within 15 days after admission is not required. The next examination shall be required within the periodicity schedule specified in subsection (a).

(c) If the child will participate in a program that requires significant physical exertion, a health examination shall be completed before the child participates in the physical exertion portion of the program.

(d) The health examination shall be completed, signed and dated by a licensed physician, certified registered nurse practitioner or licensed physician's assistant. Written verification of completion of each health examination, date and results of the examination, the name and address of the examining practitioner and follow-up recommendations made, including each component, shall be kept in the child's record.

(e) The health examination shall include:

(1) A comprehensive health and developmental history, including both physical and behavioral health development.

(2) A comprehensive, unclothed physical examination.

(3) Immunizations, screening tests and laboratory tests as recommended by the American Academy of Pediatrics, "Guidelines for Health Supervision."

(4) Blood lead level assessments for children 5 years of age or younger, unless the examining practitioner determines that the testing is unnecessary, after reviewing the results of previously conducted blood lead testing, which review and conclusion is documented in the child's medical record.

(5) Sickle cell screening for children who are African-American unless the examining practitioner determines that the testing is unnecessary, after reviewing the results of previously conducted sickle cell testing, which review and conclusion is documented in the child's medical record.

(6) A gynecological examination including a breast examination and a Pap test if recommended by medical personnel.

(7) Communicable disease detection if recommended by medical personnel based on the child's health status and with required written consent in accordance with applicable laws.

(8) Specific precautions to be taken if the child has a communicable disease, to prevent spread of the disease to other children.

(9) An assessment of the child's health maintenance needs, medication regimen and the need for blood work at recommended intervals.

(10) Special health or dietary needs of the child.

(11) Allergies or contraindicated medications.

(12) Medical information pertinent to diagnosis and treatment in case of an emergency.

(13) Physical or mental disabilities of the child, if any.

(14) Health education, including anticipatory guidance.

(15) Recommendations for follow-up physical and behavioral health services, examinations and treatment.

(f) Immunization records, screening tests and laboratory tests may be completed, signed and dated by a registered nurse or licensed practical nurse instead of a licensed physician, certified registered nurse practitioner or licensed physician's assistant.

§ 3800.144. Dental care.

(a) Each child shall receive dental care, at as early an age as necessary, needed for relief of pain and infections, restoration of teeth and maintenance of dental health.

(b) A child who is 3 years of age or older shall have a dental examination performed by a licensed dentist and teeth cleaning performed by a licensed dentist or dental technician at least semiannually. If a child has not had a dental examination and teeth cleaning within 6 months prior to admission, a dental examination and teeth cleaning shall be performed within 30 days after admission.

(c) A written record of completion of each dental examination, including the preadmission examination permitted in subsection (b), specifying the date of the examination, the dentist's name and address, procedures completed and follow-up treatment recommended and dates provided, shall be kept in the child's record.

(d) Follow-up dental work indicated by the examination, such as treatment of cavities and the application of protective sealants, shall be provided in accordance with recommendations by the licensed dentist.

§ 3800.145. Vision care.

(a) Each child shall receive vision screening and services to include diagnosis and treatment including eyeglasses, for defects in vision.

(b) Each child who is 3 years of age or older shall receive vision screening within 30 days after admission in accordance with the periodicity schedule recommended by the American Academy of Pediatrics, "Guidelines for Health Supervision," and "Eye Examination and Vision Screening in Infants, Children and Young Adults (RE9625)."

(c) If the child had a vision screening prior to admission that meets the requirements of subsection (a) within the periodicity schedule specified in subsection (b), an initial examination within 30 days after admission is not required. The next screening shall be required within the periodicity schedule specified in subsection (b).

(d) Follow-up treatment and services, such as provision of eyeglasses, shall be provided as recommended by the treating practitioner.

(e) A written record of completion of each vision screening, including the preadmission screening permitted in subsection (c), specifying the date of the screening, the treating practitioner's name and address, results of the screening, follow-up recommendations made, and the dates and provision of follow-up services and treatment, shall be kept in the child's record.

§ 3800.146. Hearing care.

(a) Each child shall receive a hearing screening and services to include diagnosis and treatment including hearing aids, for defects in hearing.

(b) Each child who is 3 years of age or older shall receive a hearing screening within 30 days after admission in accordance with the periodicity schedule recommended by the American Academy of Pediatrics, "Guidelines for Health Supervision."

(c) If the child had a hearing screening prior to admission that meets the requirements of subsection (a) within the periodicity schedule specified in subsection (b), an initial examination within 30 days after admission is not required. The next screening shall be required within the periodicity schedule specified in subsection (b).

(d) Follow-up treatment and services, such as provision of hearing aids, shall be provided as recommended by the treating practitioner.

(e) A written record of completion of each hearing screening, including the preadmission screening permitted in subsection (c), specifying the date of the screening, the treating practitioner's name and address, the results of the screening, follow-up recommendations made, and the dates and provision of follow-up services and treatment, shall be kept in the child's record.

§ 3800.147. Use of tobacco.

(a) Use or possession of tobacco products by children is prohibited.

(b) Use or possession of tobacco products by staff persons is prohibited in the facility and during transportation provided by the facility.

(c) If staff persons use tobacco products outside but on the premises of the facility, the following apply:

(1) The facility shall have written fire safety procedures. Procedures shall include extinguishing procedures

and requirements that smoking shall occur only a safe distance from the facility and from flammable or combustible materials or structures.

- (2) Written safety procedures shall be followed.
- (3) Use of tobacco products shall be out of the sight of the children.

§ 3800.148. Health and behavioral health services.

(a) The facility shall identify acute and chronic conditions of a child and shall arrange for or provide appropriate medical treatment.

(b) Medically necessary physical and behavioral health services, diagnostic services, follow-up examinations and treatment, such as medical, nursing, pharmaceutical, dental, dietary, hearing, vision, blood lead level, psychiatric and psychological services that are planned or prescribed for the child, shall be arranged for or provided.

§ 3800.149. Emergency medical plan.

(a) The facility shall have a written emergency medical plan listing the following:

- (1) The hospital or source of health care that will be used in an emergency.
- (2) The method of transportation to be used.
- (3) An emergency staffing plan.
- (4) Medical and behavior health conditions or situations under which emergency medical care and treatment are warranted.

(b) The child's parent and, if applicable, the child's guardian or custodian, shall be given a copy of the emergency medical plan upon admission.

(c) The child's parent and, if applicable, the child's guardian or custodian, shall be notified immediately if the emergency plan is implemented for the child.

STAFF HEALTH

§ 3800.151. Staff health statement.

A staff person or volunteer who comes into direct contact with the children or who prepares or serves food, shall have a statement signed and dated by a licensed physician, certified registered nurse practitioner or licensed physician's assistant, within 12 months prior to working with children or food service and every 2 years thereafter, stating that the person is free of serious communicable disease that may be spread through casual contact or that the staff person has a serious communicable disease that may be spread through casual contact but is able to work in the facility if specific precautions are taken that will prevent the spread of the disease to children.

§ 3800.152. Serious communicable diseases.

(a) If a staff person or volunteer has a serious communicable disease that may be spread through casual contact, written authorization from a licensed physician, certified nurse practitioner or licensed physician's assistant is required for the person to be present at the facility.

(b) Written authorization from a licensed physician, certified nurse practitioner or licensed physician's assistant shall include a statement that the person will not pose a serious threat to the health of the children and specific instructions and precautions to be taken for the protection of the children.

(c) The written instructions and precautions specified in subsection (b) shall be followed.

NUTRITION

§ 3800.161. Three meals a day.

At least three meals and one snack a day shall be provided to the children.

§ 3800.162. Quantity of food.

(a) The quantity of food served shall meet minimum daily requirements as recommended by the United States Department of Agriculture, unless otherwise recommended in writing by a licensed physician, certified nurse practitioner or licensed physician's assistant for a specific child.

(b) Additional portions of meals shall be available for the children.

§ 3800.163. Food groups and alternative diets.

(a) Each meal shall contain at least one item from the dairy, protein, fruits and vegetables and grain food groups, unless otherwise recommended in writing by a licensed physician, certified nurse practitioner or licensed physician's assistant for a specific child.

(b) Dietary alternatives shall be available for a child who has special health needs, religious beliefs regarding dietary restrictions or vegetarian preferences.

§ 3800.164. Withholding or forcing of food prohibited.

- (a) A facility may not withhold meals or drink as punishment.
- (b) A child may not be forced to eat food.

TRANSPORTATION

§ 3800.171. Safe transportation.

The following requirements apply whenever the facility, facility staff persons or facility volunteers provide transportation for the children. These requirements do not apply if transportation is provided by a source other than the facility.

- (1) The child care worker to child ratios specified in § 3800.55 (relating to child care worker) apply.
- (2) Each child shall be in an individual, age and size appropriate, safety restraint at all times the vehicle is in motion.
- (3) The restrictive procedures specified in §§ 3800.201—3800.213 (relating to restrictive procedures) apply.
- (4) The driver of a vehicle shall be 21 years of age or older.

MEDICATIONS

§ 3800.181. Storage of medications.

- (a) Prescription and over-the-counter medications shall be kept in their original containers.
- (b) Prescription and potentially poisonous over-the-counter medications shall be kept in an area or container that is locked.
- (c) Prescription and potentially poisonous over-the-counter medications stored in a refrigerator shall be kept in a separate locked container.
- (d) Prescription and over-the-counter medications shall be stored separately.
- (e) Prescription and over-the-counter medications shall be stored under proper conditions of sanitation, temperature, moisture and light.

(f) Discontinued and expired medications, and prescription medications for children who are no longer served at the facility, shall be disposed of in a safe manner.

§ 3800.182. Labeling of medications.

(a) The original container for prescription medications shall be labeled with a pharmacy label that includes the child's name, the name of the medication, the date the prescription was issued, the prescribed dosage and the name of the prescribing physician.

(b) Over-the-counter medications shall be labeled with the original label.

§ 3800.183. Use of prescription medications.

Prescription medications shall be used only by the child for whom the medication was prescribed.

§ 3800.184. Medication log.

(a) A medication log shall be kept to include the following for each child:

- (1) A list of prescription medications.
- (2) The prescribed dosage.
- (3) Possible side effects.
- (4) Contraindicated medications.
- (5) Specific administration instructions, if applicable.
- (6) The name of the prescribing physician.

(b) For each prescription and over-the-counter medication including insulin administered or self-administered, documentation in the log shall include the medication that was administered, dosage, date, time and the name of the person who administered or self-administered the medication.

(c) The information in subsection (b) shall be logged at the same time each dosage of medication is administered or self-administered.

§ 3800.185. Medication errors.

(a) Documentation of medication errors shall be kept in the medication log. Medication errors include the failure to administer medication, administering the incorrect medication, administering the correct medication in an incorrect dosage or administering the correct medication at the incorrect time.

(b) After each medication error, follow-up action to prevent future medication errors shall be taken and documented.

§ 3800.186. Adverse reaction.

If a child has a suspected adverse reaction to a medication, the facility shall notify the prescribing physician, the child's parent and, if applicable, the child's guardian or custodian, immediately. Documentation of adverse reactions and the physician's response shall be kept in the child's record.

§ 3800.187. Administration.

(a) Prescription medications and injections of any substance shall be administered by one of the following:

(1) A licensed physician, licensed dentist, licensed physician's assistant, registered nurse, certified registered nurse practitioner, licensed practical nurse or licensed paramedic.

(2) A graduate of an approved nursing program functioning under the direct supervision of a professional nurse who is present in the facility.

(3) A student nurse of an approved nursing program functioning under the direct supervision of a member of the nursing school faculty who is present in the facility.

(4) A staff person who meets the criterion in § 3800.188 (relating to medications administration training) for the administration of oral, topical and eye and ear drop prescriptions, insulin injections and epinephrine injections for insect bites.

(5) A child who meets the requirements in § 3800.189 (relating to self-administration of medications).

(b) Prescription medications and injections shall be administered according to the directions specified by a licensed physician, certified registered nurse practitioner or licensed physician's assistant.

§ 3800.188. Medications administration training.

(a) A staff person who has completed and passed a Department-approved medications administration course within the past 2 years is permitted to administer oral, topical and eye and ear drop prescription medications and epinephrine injections for insect bites.

(b) A staff person who has completed and passed a Department-approved medications administration course and who has completed and passed a diabetes patient education program within the past 12 months that meets the Standards for Diabetes Patient Education Programs of the Pennsylvania Department of Health is permitted to administer insulin injections.

(c) A record of the training shall be kept including the person trained, the date, source, name of trainer, content and length of training.

§ 3800.189. Self-administration of medications.

A child is permitted to self-administer medications, insulin injections and epinephrine injections for insect bites, if the following requirements are met:

(1) A person who meets the qualifications of § 3800.187(a)(1)—(4) (relating to administration) is physically present observing the administration and immediately records the administration in accordance with § 3800.184 (relating to medication log).

(2) The child recognizes and distinguishes the medication and knows the condition or illness for which the medication is prescribed, the correct dosage and when the medication is to be taken.

RESTRICTIVE PROCEDURES

§ 3800.201. Restrictive procedure.

A restrictive procedure includes chemical restraint, exclusion and manual restraint and for secure care, mechanical restraint and seclusion.

§ 3800.202. Appropriate use of restrictive procedures.

(a) A restrictive procedure may not be used in a punitive manner, for the convenience of staff persons or as a program substitution.

(b) With the exception of exclusion as specified in § 3800.212 (relating to exclusion), a restrictive procedure may be used only to prevent a child from injuring himself or others.

(c) For each incident in which use of a restrictive procedure is considered:

(1) Every attempt shall be made to anticipate and de-escalate the behavior using methods of intervention less intrusive than restrictive procedures.

(2) A restrictive procedure may not be used unless less intrusive techniques and resources appropriate to the behavior have been tried but have failed.

(3) A restrictive procedure shall be discontinued when the child demonstrates he has regained self-control.

§ 3800.203. Restrictive procedure plan.

(a) For each child for whom restrictive procedures will be used beyond unanticipated use specified in § 3800.204 (relating to unanticipated use), a restrictive procedure plan shall be written and included in the ISP specified in § 3800.226 (relating to content of the ISP), prior to use of restrictive procedures.

(b) The plan shall be developed and revised with the participation of the child, the child's parent and, if applicable, the child's guardian or custodian, if available, any person invited by the child and the child's parent, guardian or custodian, child care staff persons, contracting agency representative and other appropriate professionals.

(c) The plan shall be reviewed every 6 months and revised as needed.

(d) The plan shall be reviewed, approved, signed and dated by persons involved in the development and revision of the plan, prior to the use of a restrictive procedure, whenever the plan is revised and at least every 6 months. The child, the child's parent and, if applicable, the child's guardian or custodian shall be given the opportunity to sign the plan.

(e) The plan shall include:

(1) The specific behavior to be addressed, observable signals that occur prior to the behavior and the suspected reason for the behavior.

(2) The behavioral outcomes desired, stated in measurable terms.

(3) The methods for modifying or eliminating the behavior, such as changes in the child's physical and social environment, changes in the child's routine, improving communications, teaching skills and reinforcing appropriate behavior.

(4) The types of restrictive procedures that may be used and the circumstances under which the restrictive procedures may be used.

(5) The length of time the restrictive procedure may be applied, not to exceed the maximum time periods specified in this chapter.

(6) Health conditions that may be affected by the use of specific restrictive procedures.

(7) The name of the staff person responsible for monitoring and documenting progress with the plan.

(f) The plan shall be implemented as written.

(g) Copies of the plan shall be kept in the child's record.

§ 3800.204. Unanticipated use.

If restrictive procedures are used on an unanticipated basis, § 3800.203 (relating to restrictive procedure plan) does not apply until after any type of restrictive procedure is used four times for the same child in any 3-month period.

§ 3800.205. Staff training.

(a) If restrictive procedures are used, each staff person who administers a restrictive procedure shall have completed training within the past year in the use of restrictive procedures.

(b) Training shall include:

(1) Using de-escalation techniques and alternative non-restrictive strategies and addressing the child's feelings after use of a restrictive procedure.

(2) Child development principles appropriate for the age of the children served, to understand normal behavior reactions to stress at various ages.

(3) The proper use of the specific techniques or procedures that may be used.

(4) Techniques and procedures appropriate for the age and weight of the children served.

(5) Experience of use of the specific procedures directly on each staff person and demonstration of use of the procedure by each staff person.

(6) Health risks for the child associated with use of specific procedures.

(7) A testing process to demonstrate understanding of and ability to apply specific procedures.

(c) A record of the training including the person trained, the date, source, name of trainer and length of training shall be kept.

§ 3800.206. Seclusion.

Seclusion, defined as placing a child in a locked room, is prohibited. A locked room includes a room with any type of door-locking device, such as a key lock, spring lock, bolt lock, foot pressure lock or physically holding the door shut.

§ 3800.207. Aversive conditioning.

The use of aversive conditioning, defined as the application of startling, painful or noxious stimuli, is prohibited.

§ 3800.208. Pressure points.

(a) Pressure point techniques, defined as the application of pain for the purpose of achieving compliance, are prohibited, except as provided in subsection (b).

(b) The use of a pressure point technique that applies pressure at the child's jaw point for the purpose of bite release, is permitted.

§ 3800.209. Chemical restraints.

(a) A chemical restraint is a drug used to control acute, episodic behavior that restricts the movement or function of a child. A drug ordered by a licensed physician as part of ongoing medical treatment, or as pretreatment prior to a medical or dental examination or treatment, is not a chemical restraint.

(b) Administration of a chemical restraint is prohibited except for the administration of drugs ordered by a licensed physician and administered by licensed/certified/registered medical personnel on an emergency basis.

(c) If a chemical restraint is to be administered as specified in subsection (b), the following apply:

(1) Immediately prior to each incidence of administering a drug on an emergency basis, a licensed physician shall have examined the child and given a written order to administer the drug.

(2) Immediately prior to each readministration of a drug on an emergency basis, a licensed physician shall have examined the child and ordered readministration of the drug.

(d) If a chemical restraint is administered as specified in subsection (c), the following apply:

(1) The child's vital signs shall be monitored at least once each hour and in accordance with the frequency and duration recommended and documented by the prescribing physician.

(2) The physical needs of the child shall be met promptly.

(e) A Pro Re Nata (PRN) order for controlling acute, episodic behavior is prohibited.

(f) Documentation of compliance with subsections (b)—(e) shall be kept in the child's record.

§ 3800.210. Mechanical restraints.

(a) A mechanical restraint is a device that restricts the movement or function of a child or portion of a child's body. Examples of mechanical restraints include handcuffs, anklets, wristlets, camisoles, helmets with fasteners, muffs and mitts with fasteners, poseys, waist straps, head straps, papoose boards, restraining sheets and similar devices.

(b) The use of a mechanical restraint is prohibited.

(c) Devices used to provide support for functional body position or proper balance and a device used for medical treatment, such as sand bags to limit movement after medical treatment, a wheelchair belt that is used for body positioning and support or a helmet used for prevention of injury during seizure activity, are not considered mechanical restraints.

§ 3800.211. Manual restraints.

(a) A manual restraint is a physical hands-on technique that lasts more than 1 minute, that restricts the movement or function of a child or portion of a child's body. A manual restraint does not include a manual assist of any duration for a child during which the child does not physically resist or a therapeutic hold for a child who is 8 years of age or younger for less than 10 minutes during which the child does not physically resist.

(b) Manual restraints that apply pressure or weight on the child's respiratory system are prohibited.

(c) Prone position manual restraints are not permitted for girls who are pregnant.

(d) The position of the manual restraint or the staff person applying a manual restraint shall be changed at least every 10-consecutive minutes of applying the manual restraint.

(e) A staff person who is not applying the restraint shall observe and document the physical and emotional condition of the child, at least every 10 minutes the manual restraint is applied.

§ 3800.212. Exclusion.

(a) Exclusion is the removal of a child from the child's immediate environment and restricting the child alone to a room or area. If a staff person remains in the exclusion area with the child, it is not exclusion.

(b) Exclusion may not be used for more than 60 minutes, consecutive or otherwise, within a 2-hour period.

(c) Exclusion may not be used for a child more than 4 times within a 24-hour period.

(d) A staff person shall observe a child in exclusion at least every 5 minutes.

(e) A room or area used for exclusion shall have the following:

(1) At least 40 square feet of indoor floor space.

(2) A minimum ceiling height of 7 feet.

(3) An open door or a window for observation.

(4) Lighting and ventilation.

(5) Absence of any items that might injure a child.

§ 3800.213. Restrictive procedure records.

A record of each use of a restrictive procedure, including the emergency use of a restrictive procedure, shall be kept and shall include the following:

(1) The specific behavior addressed.

(2) The methods of intervention used to address the behavior less intrusive than the procedure used.

(3) The date and time the procedure was used.

(4) The specific procedure used.

(5) The staff person who used the procedure.

(6) The duration of the procedure.

(7) The staff person who observed the child.

(8) The child's condition following the removal of the procedure.

SERVICES

§ 3800.221. Description of services.

The facility shall have a written description of services that the facility provides to include the following:

(1) The scope and general description of the services provided by the facility.

(2) The ages, needs and any special characteristics of the children the facility serves.

(3) Specific activities and programs provided by the facility.

§ 3800.222. Admission.

Prior to admission, a determination shall be made and documented in writing, that the age, needs and any special characteristics of the child can be appropriately met by the services, activities and programs provided by the facility.

§ 3800.223. Placement process.

The facility shall have a placement process that assesses, and documents the following for each child, prior to or upon admission:

(1) The service needs of the child.

(2) The child's legal status.

(3) Circumstances that make placement of the child necessary.

(4) How the activities and services provided by the facility will meet the needs of the child.

§ 3800.224. Development of the ISP.

(a) An ISP shall be developed for each child within 30 calendar days of the child's admission.

(b) The ISP shall be developed by the child, the child's parent and, if applicable, the child's guardian or custodian, if available, any person invited by the child and the child's parent, guardian or custodian, child care staff persons, a contracting agency representative and other appropriate professionals.

(c) Reasonable effort shall be made to involve the child and the child's parent and, if applicable, a guardian or custodian, in the development of the ISP at a time and

location convenient for the child, the child's parent, the child's guardian or custodian, if applicable, and the facility.

(d) Documentation of reasonable efforts made to involve the child's parent and, if applicable, guardian or custodian, shall be kept.

(e) Persons who participated in the development of the ISP shall sign and date the ISP, with the exception of the child, the child's parent and, if applicable, the child's guardian or custodian, who shall be given the opportunity to sign the ISP.

§ 3800.225. Review and revision of the ISP.

(a) A review of each child's progress on the ISP, and a revision of the ISP if necessary, shall be completed at least every 6 months.

(b) The ISP shall be revised in accordance with subsection (a) if there has been no progress on a goal, if a goal is no longer appropriate or if a goal needs to be added.

(c) A review and revision of the ISP shall be completed in accordance with § 3800.224 (b)—(e) (relating to development of the ISP).

§ 3800.226. Content of the ISP.

An ISP shall include:

- (1) Measurable and individualized goals and time-limited objectives for the child.
- (2) Evaluation of the child's skill level for each goal.
- (3) Monthly documentation of the child's progress on each goal.
- (4) Services and training that meet the child's needs, including the child's needs for safety, competency development and permanency.
- (5) A restrictive procedure plan, if appropriate.
- (6) A component addressing family involvement.
- (7) A plan to teach the child health and safety, if the child has a child living with him at the facility.
- (8) A component addressing how the child's educational needs will be met in accordance with applicable Federal and State laws and regulations.
- (9) The anticipated duration of stay at the facility.
- (10) A discharge or transfer plan.
- (11) Methods to be used to measure progress on the ISP, including who is to measure progress and the objective criteria.
- (12) The name of the person responsible for coordinating the implementation of the ISP.

§ 3800.227. Implementation of the ISP.

An ISP shall be implemented as written.

§ 3800.228. Copies of the ISP.

(a) Copies of the ISPs, revisions to the ISP and monthly documentation of progress shall be provided to the child if the child is over 14 years of age, the parent, the child's guardian or custodian, if applicable, the contracting agency and persons who participated in the development and revisions to the ISP.

(b) Copies of ISPs, revisions to the ISP and monthly documentation of progress shall be kept in the child's record.

§ 3800.229. Education.

Under 22 Pa. Code Chapters 11, 14 and 15 (relating to pupil attendance; special education services and programs; and protected handicapped students), each child who is of compulsory school age shall participate in a Department of Education-approved school program or an educational program under contract with the local public school district.

§ 3800.230. Transfer or discharge.

Prior to the transfer or discharge of a child, the facility shall inform, and when possible discuss with, the child's parent and, if applicable, the child's guardian or custodian, the recommended transfer or discharge. Documentation of the discussion or transmission of the information shall be kept.

CHILD RECORDS

§ 3800.241. Emergency information.

(a) Emergency information for children shall be easily accessible at the facility.

(b) Emergency information for each child shall include the following:

- (1) The name, address, telephone number and relationship of a designated person to be contacted in case of an emergency.
- (2) The name, address and telephone number of the child's physician or source of health care and health insurance information.
- (3) The name, address and telephone number of the person able to give consent for emergency medical treatment, if applicable.
- (4) A copy of the child's most recent health examination.

§ 3800.242. Child records.

- (a) A separate record shall be kept for each child.
- (b) Entries in a child's record shall be legible, dated and signed by the person making the entry.

§ 3800.243. Content of records.

Each child's record shall include:

- (1) Personal information including:
 - (i) The name, sex, admission date, birth date and Social Security Number.
 - (ii) The race, height, weight, color of hair, color of eyes and identifying marks.
 - (iii) The dated photograph of the child taken within the past year.
 - (iv) Language or means of communication spoken and understood by the child and the primary language used by the child's family, if other than English.
 - (v) Religious affiliation.
 - (vi) The name, address and telephone number of the person to be contacted in the event of an emergency.
- (2) Health records.
- (3) Dental, vision and hearing records.
- (4) Health and safety assessments.
- (5) ISPs.
- (6) Restrictive procedure plans.
- (7) Restrictive procedure records relating to the child.

- (8) Reports of reportable incidents.
- (9) Consent to treatment, as specified in § 3800.19 (relating to consent to treatment).
- (10) Court order, if applicable.
- (11) Admission and placement information specified in §§ 3800.222 and 3800.223 (relating to description of services; and admission).
- (12) Signed notification of rights, grievance procedures and applicable consent to treatment protections specified in § 3800.31 (relating to notification of rights).
- (13) Service records of the contracting agency.
- (14) Education records.

§ 3800.244. Record retention.

- (a) Information in the child's record shall be kept for at least 4 years or until any audit or litigation is resolved.
- (b) A child's record shall be kept for at least 4 years following the child's departure or until any audit or litigation is resolved.

§ 3800.245. Locked records.

A child's record shall be kept in a locked location when unattended.

FACILITIES SERVING NINE OR MORE CHILDREN

§ 3800.251. Additional requirements.

This section and §§ 3800.252—3800.257 apply to facilities serving nine or more children. These provisions are in addition to the other provisions of this chapter.

§ 3800.252. Sewage system approval.

A facility that is not connected to a public sewer system shall have a written sanitation approval for its sewage system by the sewage enforcement official of the municipality in which the facility is located.

§ 3800.253. Evacuation procedures.

Written emergency evacuation procedures and an evacuation diagram specifying directions for egress in the event of an emergency shall be posted in a conspicuous place.

§ 3800.254. Exit signs.

- (a) Signs bearing the word "EXIT" in plain legible letters shall be placed at exits.
- (b) If the exit or way to reach the exit is not immediately visible, access to exits shall be marked with readily visible signs indicating the direction of travel.
- (c) Exit sign letters shall be at least 6 inches in height with the principal strokes of letters at least 3/4 inch wide.

§ 3800.255. Laundry.

- (a) There shall be a laundry area which is separate from kitchen, dining and other living areas.
- (b) Soiled linen shall be covered while being transported through food preparation and food storage areas.

§ 3800.256. Dishwashing.

- (a) Utensils used for eating, drinking, preparation and serving of food or drink shall be washed, rinsed and sanitized after each use by a mechanical dishwasher or by a method approved by the Department of Agriculture.
- (b) A mechanical dishwasher shall use hot water temperatures exceeding 140°F in the wash cycle and 180°F in the final rinse cycle or shall be of a chemical sanitizing type approved by the National Sanitation Foundation.

(c) A mechanical dishwasher shall be operated in accordance with the manufacturer's instructions.

§ 3800.257. Bedrooms.

A child's bedroom may not be more than 200 feet from a bathtub or shower and a toilet.

SECURE CARE

§ 3800.271. Criteria.

Secure care is permitted only for children who are alleged delinquent, or adjudicated delinquent and court ordered to a secure facility.

§ 3800.272. Admission to secure care.

Prior to accepting a child in secure care, the facility shall request the following documents from the committing court:

- (1) A description of the offenses and circumstances that make secure care necessary.
- (2) The child's needs to be addressed during placement.
- (3) The court order committing the child to a secure care facility.

§ 3800.273. Exceptions for secure care.

The following requirements do not apply to facilities in which secure care is provided:

- (1) Section 3800.55(a)—(d) (relating to child care worker).
- (2) Section 3800.57(d) (relating to supervision).
- (3) Section 3800.102(c) (relating child bedrooms).
- (4) Section 3800.103(f) (relating to bathrooms).
- (5) Section 3800.171(1) (relating to safe transportation).
- (6) Section 3800.206 (relating to seclusion).
- (7) Section 3800.210(b) (relating to mechanical restraints).

§ 3800.274. Additional requirements.

The following additional requirements apply to facilities in which secure care is provided:

- (1) The facility shall have a valid fire safety occupancy approval appropriate for locked facilities from the appropriate authority, listing the type of occupancy, prior to receiving a certificate of compliance under this chapter.
- (2) A reportable incident as specified in § 3800.16(a) (relating to reportable incidents) includes a child's absence from the premises for any period of time, an assault on a staff person by a child that requires medical treatment for the staff person, the use of handcuffs or leg restraints beyond 2 hours, and the use of seclusion beyond 4 hours.
- (3) Children shall be directly supervised at all times during awake hours.
- (4) A minimum of two child care workers shall be present in the facility at all times.
- (5) There shall be one child care worker present with the children for every six children during awake hours.
- (6) There shall be one child care worker present with the children for every 12 children during sleeping hours.
- (7) Children shall be supervised by conducting observational checks of each child within 15 minute intervals during sleeping hours.
- (8) Observational checks of children during sleeping hours shall include actual viewing of each child.

(9) Observational checks of children during sleeping hours shall be recorded in writing noting the date, time, person making the check and any unusual circumstances observed.

(10) The driver and at least one additional staff person shall be present in the vehicle at all times one or more children are being transported. There shall be one child care worker present with the children for every three children during transportation of children either by the facility or another transportation source. The driver of the vehicle may not be counted in the staffing ratio.

(11) No more than two children may share a bedroom.

(12) Glass windows, windows in doors, shower doors and light fixtures and other glass surfaces shall be protected with a secure, nonbreakable covering or composed of shatterproof glass.

(13) Glass mirrors are not permitted.

(14) Furnishings or other items such as drapery cords, electrical outlets, shower curtains, shoe strings, razors and noncollapsing clothing hooks, that may create a risk for self-injury or suicide may not be accessible to a child whose health and safety assessment specified in § 3800.141 (relating to child health and safety assessment) indicates known or suspected suicide or self-injury attempts or gestures or an emotional history which may indicate a predisposition to self-injury or suicide, except during specific activities while these items are in use and the child is under direct supervision by staff persons.

(15) Items such as knives, razors, matches and tools, that may create an opportunity for use as a weapon or tool in an assault or other violent behavior may not be accessible to a child whose health and safety assessment specified in § 3800.141 indicates known incidents of aggressive or violent behavior, except during specific activities while these items are in use and the child is under direct supervision by staff persons.

(16) The following requirements apply to the use of mechanical restraints:

(i) Handcuffs behind the back, leg restraints and locking transportation waist belts with handcuffs in front of the child used during transportation, are the only types of mechanical restraints that are permitted.

(ii) A child may not be handcuffed to an object or another person.

(iii) Oral or written authorization by supervisory staff is required prior to each use of a mechanical restraint, except for those restraints used during transportation.

(iv) The use of handcuffs or leg restraints, except for those used during transportation, may not exceed 2 hours, unless a licensed physician, a licensed physician's assistant or registered nurse examines the child and gives written orders to continue the use of the restraint. Reexamination and new written orders are required for each 2-hour period the restraint is continued. If a restraint is removed for any purpose other than for movement and reused within 24 hours after the initial use of the restraint, it is considered continuation of the initial restraint.

(v) The restraint shall be checked for proper fit by a staff person at least every 15 minutes, except for those used during transportation.

(vi) The physical needs of the child shall be met promptly.

(vii) Handcuffs and leg restraints, except for those used during transportation, shall be removed completely for at least 10 minutes during every 2 hours the restraint is used.

(viii) Handcuffs and leg restraints, except those used during transportation, shall be checked and observed by a supervisory staff person who is not administering the restraint, at least every 1 hour the restraint is used.

(ix) The use of handcuffs and leg restraints for any child, except those used during transportation, may not exceed 4 hours in any 48-hour period without a written court order.

(17) The following requirements apply to the use of seclusion:

(i) Oral or written authorization by supervisory staff is required prior to each use of seclusion.

(ii) The use of seclusion may not exceed 4 hours, unless a licensed physician, a licensed physician's assistant or registered nurse examines the child and gives written orders to continue the use of seclusion. Reexamination and new written orders are required for each 4-hour period the seclusion is continued. If seclusion is interrupted for any purpose and reused within 24 hours after the initial use of seclusion, it is considered continuation of the initial seclusion period.

(iii) A staff person shall observe a child in seclusion at least every 5 minutes.

(iv) The physical needs of the child shall be met promptly.

(v) A child in seclusion shall be checked and observed by a supervisory staff person who is not continually observing the child as required in subparagraph (iii), at least every 2 hours the seclusion is used.

(vi) The use of seclusion for any child may not exceed 8 hours in any 48-hour period without a written court order.

(vii) A room used for seclusion shall meet the conditions as specified in § 3800.212(e) (relating to exclusion).

(18) Mechanical restraints and seclusion may not be used simultaneously for any child.

(19) The use of any combination of mechanical restraints and seclusion for any child may not exceed 6 hours in any 48-hour period without a written court order.

SECURE DETENTION

§ 3800.281. Requirements for secure detention.

The requirements and exceptions for secure care apply for secure detention.

§ 3800.282. Exceptions for secure detention.

The following requirements do not apply for secure detention:

- (1) Section 3800.55(g) (relating to child care worker).
- (2) Section 3800.143(b) (relating to child health examination).
- (3) Sections 3800.221—3800.228.

§ 3800.283. Additional requirements.

The following additional requirements apply to facilities in which secure detention is provided:

(1) The child care worker shall have an associate's degree or 60 credit hours from an accredited college or university.

(2) No more than 12 children may be in a group at any one time.

(3) No more than 12 children may occupy a sleeping unit or area.

(4) The child health and safety assessment required in § 3800.141 (relating to child health and safety assessment) shall be completed within 1 hour of admission.

(5) The child health examination as required in § 3800.143 (relating to child health examination) shall be completed within 96 hours after admission.

(6) The facility shall comply with 42 Pa.C.S. §§ 6301—6365 (relating to the Juvenile Act) related to detention.

(7) A child may not be admitted to a secure detention facility who is 9 years of age or younger, or who is 18 years of age or older, unless the child is a juvenile as defined in the Juvenile Act.

(8) A child may not remain in the facility longer than is absolutely necessary.

(9) Staff persons shall have visual or auditory contact with children at all times.

(10) Children may not share space or have contact with adult offenders.

(11) The facility shall submit a written quarterly report to the appropriate regional office of the Department with the following information, for every child detained in a secure detention facility for more than 35 days:

- (i) The child's name and birth date.
- (ii) The committing court and probation officer.
- (iii) The date the petition was filed.
- (iv) The reason the child is still in the facility.

(12) The placement of each child shall be reviewed by a staff person designated by the director or the court at least weekly to assess whether the child could be served in a less restrictive setting. If a recommendation is made for a less restrictive setting, written documentation shall be included in the child's record and sent to the court.

TRANSITIONAL LIVING

§ 3800.291. Criteria.

A child shall complete a training program and demonstrate competency in the following areas to be eligible for transitional living:

- (1) Health, general safety and fire safety practices.
- (2) Money management.
- (3) Transportation skills.

(4) Child health and safety, child development and parenting skills, if the child has a child living with him at the residence.

§ 3800.292. Exceptions for transitional living.

The following requirements do not apply for transitional living:

- (1) Section 3800.4 (relating to inspections and certificates of compliance).
- (2) An incident specified in § 3800.17 (relating to incident records) does not include a child who leaves the premises of the facility for any period of time without the

approval of staff persons, but does include a child whose whereabouts are unknown for more than 24 hours.

(3) Sections 3800.55 and 3800.57 (relating to child care worker; and supervision).

(4) Sections 3800.82, 3800.83 and 3800.88(b) (relating to poisons; heat sources; and water), unless infants or toddlers live at the residence.

(5) Section 3800.90 (relating to communication system).

(6) Sections 3800.98 and 3800.99 (relating to indoor activity space; and recreation space).

§ 3800.293. Additional requirements.

(a) Each building in which transitional living is provided shall be inspected at least once a year. Annual inspection of each individual transitional living residence is not required.

(b) If there are 11 or fewer children present on the premises at any one time, one child care worker shall be available onsite or by telephone. A child's own children present at the residence shall be counted in the staffing ratio.

(c) If there are 12 or more children present on the premises at any one time, there shall be one child care worker present on the premises for every 12 children. A child's own children present at the residence shall be counted in the staffing ratio.

OUTDOOR AND MOBILE PROGRAMS

§ 3800.301. Applicability.

The exceptions for outdoor and mobile programs specified in §§ 3800.302 and 3800.303 (relating to exceptions for outdoor and mobile programs; and additional requirements for outdoor and mobile programs) apply during the time in which children receive services in outdoor or mobile settings.

§ 3800.302. Exceptions for outdoor and mobile programs.

(a) The following requirements do not apply for mobile and outdoor programs that operate from nonstationary settings.

- (1) Section 3800.13(a) (relating to maximum capacity).
- (2) Section 3800.14 (relating to fire safety approval).
- (3) Section 3800.57 (relating to supervision), for outdoor programs.
- (4) Section 3800.83 (relating to heat sources).
- (5) Sections 3800.84(b)—(e) (relating to sanitation).
- (6) Sections 3800.85—3800.88.
- (7) Section 3800.90(a) (relating to communication system).
- (8) Sections 3800.91—3800.93 (relating to emergency telephone numbers; screens; and handrails and railings).
- (9) Sections 3800.96—3800.99.
- (10) Sections 3800.101—3800.105.
- (11) Section 3800.124 (relating to notification of local fire officials).
- (12) Section 3800.130 (relating to smoke detectors and fire alarms).
- (13) Section 3800.131 (relating to fire extinguishers), for outdoor programs.
- (14) Section 3800.132 (relating to fire drills).

(15) Sections 3800.251—3800.257 (relating to facilities serving nine or more children).

(b) The following requirements do not apply for mobile and outdoor programs that operate from stationary settings such as tepees and cabins:

- (1) Section 3800.13(a) (relating to maximum capacity).
- (2) Section 3800.57, for outdoor programs.
- (3) Sections 3800.85 and 3800.86 (relating to ventilation; and lighting).
- (4) Sections 3800.88(a) and 3800.89 (relating to water; and temperature).
- (5) Section 3800.90(a).
- (6) Sections 3800.91—3800.94.
- (7) Sections 3800.97—3800.100.
- (8) Sections 3800.101—3800.106.
- (9) Section 3800.124.
- (10) Sections 3800.251—3800.257.

§ 3800.303. Additional requirements.

(a) The following additional requirements apply for outdoor and mobile programs:

- (1) There shall be a supply of food and water for drinking, cleaning and bathing for the number of days until the program will reach the next supply of food and water.
- (2) Potable drinking water shall be available to children at all times.
- (3) There shall be an opportunity for children to bathe once a week, brush their teeth once a day and wash their hands before each meal.
- (4) There shall be a communication system such as a CB radio to communicate with public emergency sources in the event of a medical, police, fire or other emergency.
- (5) There shall be a source for routine weather information for advance warning of severe or dangerous weather conditions.
- (6) There shall be a written emergency transportation and staffing plan and equipment such as a litter to transport a child in a medical emergency.
- (7) There shall be a written plan for conducting a search for a missing child and requesting assistance from local authorities.
- (8) For mobile programs and outdoor programs whenever children are away from the stationary outdoor site, each staff person shall have a map of the area.
- (9) For mobile programs and outdoor programs whenever children are away from the stationary outdoor site, each staff person shall have a written anticipated schedule of the dates, times and estimated locations for the next 7 days.
- (10) Each child shall wear footwear that is well-constructed, in good condition and appropriate for the activity being conducted.

(b) The following additional requirements apply for outdoor programs:

- (1) Each child shall have personal hygiene supplies, shelter such as a fire retardant tent or tarpaulin, a fire retardant sleeping bag or other sleeping equipment, bedding appropriate to the temperature and at least one change of clothing.

(2) While the child is engaged in an activity away from a stationary site, each child shall have a daily water supply and a whistle for use in emergencies.

(3) Safe and well-maintained equipment shall be provided for activities.

(4) Staff persons responsible for teaching children high-risk activities such as boating, biking, horseback riding, swimming and climbing shall be trained in safe practices regarding these activities. Documentation of the training shall be kept.

(5) At least one staff person shall be present with the children at all times who has current certification from a hospital or other recognized health care organization in first aid, Heimlich techniques and cardiopulmonary resuscitation.

(c) The following additional requirement applies for mobile and outdoor programs that operate from stationary settings such as tepees and cabins: The maximum capacity specified on the certificate of compliance shall be based on 30 square feet per child, including measurement of all floor space.

DAY TREATMENT

§ 3800.311. Exceptions for day treatment.

The following requirements do not apply for child day treatment centers:

- (1) Section 3800.13(a) (relating to maximum capacity).
- (2) Sections 3800.16(a) (relating to reportable incidents), as it applies to a child absence from the premises without the approval of staff persons.
- (3) Section 3800.18 (relating to child funds).
- (4) Section 3800.32(f), (g) and (k) (relating to specific rights).
- (5) Section 3800.54(a) and (b) (relating to child care supervisor).
- (6) Section 3800.57(d) (relating to supervision).
- (7) Section 3800.98 (relating to indoor activity space).
- (8) Section 3800.102 (relating to child bedrooms).
- (9) Sections 3800.103(a)—(d) and (f)—(h) (relating to bathrooms).
- (10) Section 3800.104(a) (relating to kitchen areas).
- (11) Section 3800.105 (relating to laundry).
- (12) Section 3800.124 (relating to notification of local fire officials).
- (13) Section 3800.130(b) and (e) (relating to smoke detectors and fire alarms).
- (14) Section 3800.132(e) (relating to fire drills).
- (15) Sections 3800.144—3800.146 (relating to dental care; vision care; and hearing care).
- (16) Section 3800.161 (relating to three meals a day).
- (17) Sections 3800.162 and 3800.163 (relating to quantity of food; and food groups and alternative diets) if the facility does not provide meals.
- (18) Section 3800.171(1) (relating to safe transportation).
- (19) Section 3800.255 (relating to laundry).
- (20) Section 3800.257 (relating to bedrooms).

§ 3800.312. Additional requirements.

The following additional requirements apply for child day treatment centers:

(1) The maximum capacity specified on the certificate of compliance shall be based on the available indoor square footage and the number of sinks and toilets.

(2) If a child is absent from the premises without approval of staff persons, the facility shall orally notify the child's parent and, if applicable, the child's guardian or custodian, immediately.

(3) For facilities serving 32 or more children, whenever 32 or more children are present at the facility, there shall be at least one child care supervisor present at the facility.

(4) The facility shall have at least 15 square feet of indoor activity space per child, measured wall to wall including space occupied by furniture. Indoor activity space includes areas accessible to children such as dining areas, recreation areas and other general living areas. Indoor activity space does not include kitchens, bathrooms, counseling rooms, offices or hallways.

(5) There shall be at least one flush toilet for every 18 children.

(6) There shall be at least one sink for every 24 children.

(7) If the child had a health examination that was completed in accordance with Article XIV of the Public School Code of 1949 (24 P. S. §§ 14-1401—14-1422) and 28 Pa. Code § 23.2 (relating to medical examinations), for content and periodicity of the examination, an initial health examination within 15 days after admission is not required. The next examination shall be required within the periodicity schedule by the public school. The health examination completed in accordance with the public school requirements shall be accepted for day treatment service. A copy of the health examination shall be on file at the facility within 30 days after admission.

(8) A meal break shall be provided to the children at least every 5 hours they are at the facility.

(9) An evening snack shall be provided to children who are at the facility more than 3 hours beyond the evening meal.

(10) Certified teachers may be substituted for a child care supervisor to meet the requirements of paragraph (3).

CHAPTER 3810. (Reserved)**§§ 3810.1—3810.5. (Reserved).****§ 3810.10. (Reserved).****§ 3810.11. (Reserved).****§§ 3810.21—3810.25. (Reserved).****§§ 3810.31—3810.41. (Reserved).****§§ 3810.51—3810.56. (Reserved).****§§ 3810.61—3810.68. (Reserved).****§ 3810.81. (Reserved).****§ 3810.82. (Reserved).****§§ 3810.91—3810.94. (Reserved).****§§ 3810.101—3810.103. (Reserved).****PART VII. MENTAL HEALTH MANUAL****Subpart E. RESIDENTIAL AGENCIES FACILITIES/SERVICES****CHAPTER 5310. COMMUNITY RESIDENTIAL REHABILITATION SERVICES FOR THE MENTALLY ILL****Subchapter A. GENERAL PROVISIONS****§ 5310.3. Applicability.**

(a) This chapter applies to providers of full-care or partial-care community residential rehabilitation services, or both, as defined in § 5310.6 (relating to definitions).

(b) This chapter does not apply to child residential facilities which serve exclusively children, which are governed by Chapter 3800 (relating to child residential and day treatment facilities).

(c) This chapter applies to host homes serving one or more children.

§ 5310.6. Definitions.

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

CRRS—Community residential rehabilitation services— Transitional residential programs in community settings for persons with chronic psychiatric disability. CRRS's provide housing, personal assistance and psychosocial rehabilitation to clients in nonmedical settings. There are two levels of care, full or partial, which are distinguished by the level of functioning of the clients served and the intensity of rehabilitation and training services provided by CRRS staff to the clients. In both levels of care, the provider acts as landlord to the client. Except host homes for children, every site used by a CRRS to house clients is owned, held, leased or controlled by the provider or a provider-affiliate.

*Child—*A person who is under 18 years of age and who is not an emancipated minor.

*Full-care CRRS for adults—*A program that provides living accommodations for the client with staff onsite whenever a client is there and a full range of personal assistance and psychosocial rehabilitation for psychiatrically disabled adults who display severe community adjustment problems and who require an intensive, structured living situation.

*Full-care CRRS for children—*A program providing living accommodations with maximum supervision, personal assistance and a full range of psycho-social rehabilitation services for psychiatrically disabled children who display severe interpersonal adjustment problems and who require an intensive, structured living situation.

*Host home for children—*A private residence of a family, other than the home of the child's parents, with whom the CRRS contracts to provide a structured living arrangement for one to three children.

*Mental disorder—*Conditions classified as mental disorders by the International Classification of Diseases (ICD-9-CM) excluding mental retardation and drug/alcohol conditions.

*Mental health professional—*A person trained in a generally recognized clinical discipline, including, but not limited to, psychiatry, social work, psychology, nursing, rehabilitation, special education or activity therapies who has a graduate degree and clinical experience.

*Mobile ambulatory—*Able to walk without assistance.

Mobile nonambulatory—The ability to move from place to place with the use of devices such as walkers, crutches, wheelchairs, wheeled platforms, and the like, by a person who is otherwise unable to walk independently.

Parent—The mother or father by birth or adoption or the legal guardian of the child.

Partial-care CRRS—A program that provides living accommodations for the client. Staff is at the site on a regularly scheduled basis including evenings and weekends. A limited range of personal assistance and psychosocial services are provided for psychiatrically disabled adults who display community adjustment problems and require a living situation which includes rehabilitation and training services.

**Subchapter C. CHILDREN SERVICES
GENERAL PROVISIONS**

§ 5310.92. Applicability.

(a) This subchapter applies to all CRRS that provide full-care for children in host home settings. Persons under 18 years of age, with the exception of emancipated minors, may not be cared for in a partial-care CRRS nor in a CRRS site in which adults are served.

(b) When a CRRS accepts a child who is in the legal custody of the county children and youth agency or a public or private social service agency for placement in CRRS group home or host home, the requirements of Chapter 3800 (relating to child residential and day treatment facilities) apply. These requirements are additional to the requirements in this chapter.

PHYSICAL FACILITY STANDARDS

§ 5310.161. (Reserved).

**Subpart E. RESIDENTIAL
AGENCIES/FACILITIES/SERVICES
ARTICLE I. LICENSING/APPROVAL**

**CHAPTER 6400. COMMUNITY HOMES FOR
INDIVIDUALS WITH MENTAL RETARDATION**

§ 6400.3. Applicability.

(a) This chapter applies to community homes for people with mental retardation, except as provided in subsection (f).

(b) This chapter contains the minimum requirements that shall be met to obtain a certificate of compliance. A certificate of compliance shall be obtained prior to opera-

tion of a community home for people with mental retardation.

(c) This chapter applies to profit, nonprofit, publicly funded and privately funded homes.

(d) Each home serving nine or more individuals shall be inspected by the Department each year and shall have an individual certificate of compliance specific for each building.

(e) Each agency operating one or more homes serving eight or fewer individuals shall have at least a sample of its homes inspected by the Department each year. The certificate of compliance issued to an agency shall specify the location and maximum capacity of each home the agency is permitted to operate.

(f) This chapter does not apply to the following:

(1) Private homes of persons providing care to a relative with mental retardation.

(2) Residential facilities operated by the Department.

(3) Intermediate care facilities for the mentally retarded licensed by the Department in accordance with Chapter 6600 (relating to intermediate care facilities for the mentally retarded).

(4) Foster family care homes licensed by the Office of Children, Youth and Families of the Department that serve only foster care children.

(5) Summer camps.

(6) Facilities serving exclusively personal care home, drug and alcohol, mental health or domiciliary care residents.

(7) Residential homes for three or fewer people with mental retardation who are 18 years of age or older and who need a yearly average of 30 hours or less direct staff contact per week per home.

(8) Child residential facilities which serve exclusively children, which are regulated under Chapter 3800 (relating to child residential and day treatment facilities).

(g) This chapter does not measure or assure compliance with other applicable Federal, State and local statutes, regulations, codes and ordinances. It is the responsibility of the home to comply with other applicable laws, regulations, codes and ordinances.

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