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# PENNSYLVANIA BULLETIN

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the Department of Health's  
Managed Care Organizations  
Proposed Rulemaking

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Legislative Reference Bureau  
Liquor Control Board  
Pennsylvania Public Utility Commission  
Turnpike Commission

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

**No. 301, December 1999**

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

## *Pennsylvania Bulletin*

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

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

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

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

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

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

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

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

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

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

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

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#### **Printing Format**

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

#### **Fiscal Notes**

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

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

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# List of Pa. Code Chapters Affected

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

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 3 . . . . . 1360  
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 9 . . . . . 1360  
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# PENNSYLVANIA BULLETIN

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Number 51

## **Part II**

This part contains the  
Department of Health's  
Managed Care Organizations  
Proposed Rulemaking

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## BULLETIN

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# THE COURTS

## Title 207—JUDICIAL CONDUCT

### PART IV. COURT OF JUDICIAL DISCIPLINE [207 PA. CODE CH. 1]

#### Amendment to the Rules of Procedure of the Court of Judicial Discipline; Doc. No. 1 JD 94

*Per Curiam*

#### Order

*And Now*, this 3rd day of December, 1999, the Court, pursuant to Article 5, Section 18(b)(4) of the Constitution of Pennsylvania, having adopted a proposed amendment to Rule of Procedure No. 102 (Panel), as more specifically hereinafter set forth, *It Is Hereby Ordered*:

That Court Administrator Wanda W. Sweigart provide for the publication of the Amendment in the *Pennsylvania Bulletin*, and

That interested parties shall submit suggestions, comments, or objections no later than thirty days from the publication of this Order in that Bulletin.

#### Annex A

### TITLE 207. JUDICIAL CONDUCT PART IV. COURT OF JUDICIAL DISCIPLINE ARTICLE I. PRELIMINARY PROVISIONS CHAPTER 1. GENERAL PROVISIONS IN GENERAL

#### Rule 102. Definitions.

The following words and phrases when used in these rules shall have the following meanings, unless the context or subject matter otherwise requires:

\* \* \* \* \*

*Panel* is a group of **no fewer than three** members of the Court appointed by the President Judge [ **to act on behalf of the Court, one of whom is a member of the bar of the Supreme Court of Pennsylvania and one of whom is a non-lawyer elector** ].

\* \* \* \* \*

[Pa.B. Doc. No. 99-2117. Filed for public inspection December 17, 1999, 9:00 a.m.]

### PART IV. COURT OF JUDICIAL DISCIPLINE [207 PA. CODE CH. 5]

#### Rule 501, Appointment of Panel; Doc. No. 1 JD 94

#### Order

*And Now*, this 3rd day of December, 1999, the Court, pursuant to Article 5, Section 18(b)(4) of the Constitution of Pennsylvania, having adopted a proposed amendment to Rule of Procedure No. 501(B), as more specifically hereinafter set forth, *It Is Hereby Ordered*:

That Court Administrator Wanda W. Sweigart provide for the publication of the Amendment in the *Pennsylvania Bulletin*, and

That interested parties shall submit suggestions, comments, or objections no later than thirty days from the publication of this Order in that *Bulletin*.

#### Annex A

### TITLE 207. JUDICIAL COURT PART IV. COURT OF JUDICIAL DISCIPLINE CHAPTER 5. TRIAL PROCEDURES

#### Rule 501. Appointment of Panel.

\* \* \* \* \*

(B) The Panel shall consist of no fewer than three members of the Court, [ **at least** ] one of whom shall be [ **a non-lawyer elector, and one of whom shall be** ] the Conference Judge, appointed pursuant to Rule 301(B), **and, whenever possible, one of whom shall be a non-lawyer elector.**

[Pa.B. Doc. No. 99-2118. Filed for public inspection December 17, 1999, 9:00 a.m.]

### PART IV. COURT OF JUDICIAL DISCIPLINE [207 PA. CODE CH. 21]

#### Internal Operating Procedures of the Court of Judicial Discipline; Doc. No. 1 JD 94

*Per Curiam*

#### Order

*And Now*, this 6th day of December, 1999, the Court, pursuant to Article 5, Section 18(b)(4) of the Constitution of Pennsylvania, having adopted Section 110 of the Internal Operating Procedures, as more specifically hereinafter set forth, *It Is Hereby Ordered*:

That Section 110 of the Internal Operating Procedures shall become effective immediately.

#### Annex A

### TITLE 207. JUDICIAL CONDUCT PART IV. COURT OF JUDICIAL DISCIPLINE ARTICLE IV. INTERNAL OPERATING PROCEDURES CHAPTER 21. INTERNAL OPERATING PROCEDURES GENERAL PROVISIONS

#### § 110. Recusal.

**Recusal is an official means by which a member may disqualify himself or herself from participating in a pending matter. In this regard members shall be guided by Rule 5(C) of the Rules Governing the Conduct of Members of the Court of Judicial Discipline, pertaining to disqualification. When a member determines that he or she must recuse themselves from participation in a pending matter, they shall submit to the Court Administrator a memo indicating that they have recused themselves from participating in the pending matter. Such memo is**

**necessary even if the member has officially recused himself or herself during the course of a Court proceeding. The memo need not specify the reasons for recusal.**

[Pa.B. Doc. No. 99-2119. Filed for public inspection December 17, 1999, 9:00 a.m.]

## **Title 210—APPELLATE PROCEDURE**

### **PART I. RULES OF APPELLATE PROCEDURE [210 PA. CODE CH. 3]**

## **Title 231—RULES OF CIVIL PROCEDURE**

### **PART II. ORPHANS' COURT RULES [231 PA. CODE PART II]**

#### **Proposed Amendments to Pa.R.A.P. 341 and Orphans' Court Rules 7.1 and 7.2; Revised Joint Recommendation 98-1**

The Appellate Court Procedural Rules Committee and the Orphans' Court Procedural Rules Committee have determined to publish for comment its revised proposals to amend Rule 341 of the Pennsylvania Rules of Appellate Procedure, together with Rule 7.1 of the Orphans' Court Rules. The amendments are being submitted to the Bench and Bar for comments and suggestions prior to their submission to the Supreme Court.

All communications in reference to the proposed amendments should be sent not later than February 15, 2000 to the Appellate Court Procedural Rules Committee or the Orphans' Court Procedural Rules Committee, P. O. Box 447, Ridley Park, PA 19078-0447.

The Revised Explanatory Comment which appears in connection with these proposed amendments has been inserted by the Committee for the convenience of the Bench and Bar. It will not constitute part of the rules nor will it be officially adopted or promulgated by the Court. The original Joint Recommendation 98-1 and Explanatory Comment was published in the *Pennsylvania Bulletin* on April 3, 1999 at Vol. 29, pages 1709-1712 with a revision appearing on May 29, 1999 in Vol. 29, page 2766.

*By the Appellate Court Procedural Rules Committee*

HONORABLE JOSEPH M. AUGELLO,  
*Chair*

*By the Orphans' Court Procedural Rules Committee*

HONORABLE JANE CUTLER GREENSPAN,  
*Chair*

#### **Explanatory Comment—Revised Joint Recommendation 98-1**

On April 3, 1999, the Orphans' Court Procedural Rules Committee and the Appellate Court Procedural Rules Committee published for comment Joint Recommendation 98-1 addressing the related issues of exceptions practice in the Orphans' Court and finality for purposes of appeal with respect to Orphans' Court orders, decrees and adjudications.

Following review of comments from the Bench, Bar and court administrators, the Orphans' Court Procedural Rules Committee at its meeting on July 22, 1999 and the Appellate Court Procedural Rules Committee at its October 22, 1999 meeting recommended republication with the following changes to the Joint Recommendation:

1. Proposed new subdivision (f) to Rule 341 is moved to Rule 342 of the Rules of Appellate Procedure. Since orders determining an interest in personalty, realty or the status of individuals are not true final orders because they do not dispose of all claims and all parties, see Rule 341, the Committee determined that Rule 342 was the appropriate location for an exception to the strict finality requirement for Orphans' Court orders. Following receipt of comments from the Bench and Bar, the Committees are satisfied that the orderly administration of estates requires a vehicle for immediate appeal once certain interests are determined. The Committees received no criticism of such an exception. Rule 342 had previously permitted appeals from nonfinal orders of distribution upon a determination of the Orphans' Court that the order is sufficiently definite to determine the substantial issues between the parties. The original Joint Recommendation had recommended deletion of Rule 342 in its entirety. The revised Joint Recommendation retains the right of the Orphans' Court to determine finality as to nonfinal orders of distribution. Following an informal work session with interested Orphans' Court judges, the consensus was that nonfinal orders of distribution should continue to result in an immediate appeal.

The Committees rejected several comments suggesting that the scope of the proposed amendment should be expanded to include orders "impacting" on realty, personalty or individual rights. The Committees agreed to recommend that only orders "determining" such rights be immediately appealable.

All references to a standard for a determination of finality were previously deleted and the Orphans' Court Procedural Rules Committee recommended that the Orphans' Court have sole discretion to determine finality under the proposed amendment to Rule 342. Nothing in this proposed amendment limits the right of a party to seek leave to appeal pursuant to subdivision (c) of Rule 341 or pursuant to Rules 311, 312, 313 or 1311. Also, nothing in the proposed amendment to Rule 342 is intended to preclude a party from an appeal pursuant to Rule 341(b) where an Orphans' Court order ends a case as to all claims or parties.

2. Following review of comments, the Orphans' Court Procedural Rules Committee has proposed that the original proposed amendment to Orphans' Court Rule 7.1 be modified to make exceptions optional with the aggrieved party. This optional exceptions practice would apply statewide. The original Joint Recommendation had proposed a rule of statewide application mandating exceptions to preserve issues statewide. Current Rule 7.1 permits local courts to prescribe if exceptions are required.

Under the proposed revision, an aggrieved party would have the option of filing exceptions to an order that would otherwise be final or taking an immediate appeal. Failure to file exceptions would not result in waiver of issues on appeal. This is analogous to the practice under the Pennsylvania Rules of Criminal Procedure and under the Federal Rules of Procedure. It is generally agreed that exceptions are rarely granted and that the goals of judicial economy and finality are best achieved if exceptions are limited to those cases in which an aggrieved party perceives a realistic possibility that the trial court



is inclined to change its mind. It should be noted that the idea of optional exceptions was favorably received by the judges attending the work session, although two judges recommended that exceptions be permitted only when requested by the judge, as is the current practice in Montgomery County.

3. Subsequent to publication of the original Joint Recommendation, the Superior Court requested that the Orphans' Court Procedural Rules Committee consider amendments to Rule 7.1 eliminating exceptions in adoptions and involuntary termination of parental rights' cases. See *In Re: A.L.A.*, 719 A.2d 363 (Pa. Super. 1998) (en banc). In that opinion, the Superior Court held that post-trial practice does not apply to adoption and termination matters in Philadelphia because such matters fall within the jurisdiction of Family Court. Pa.R.Civ.P. 1930.2 eliminates post-trial practice in domestic relations' matters. In broad dicta, the Superior Court in *A.L.A.* suggested elimination of post-trial practice in termination and adoption matters arising in all other counties where such matters fall within Orphans' Court jurisdiction stating:

We believe that the time sensitive nature of these proceedings warrants the elimination of post-trial practice. Such a practice often extends the process to the detriment of the child, natural parents, and prospective adoptive parents."

Id. at 364. See also *In Re: J.J.F.*, 729 A.2d 79 (Pa. Super. 1999). The Committees believe that consideration of such a dramatic departure from prior practice should involve input from the Bench and Bar familiar with such matters and, accordingly, solicit your comments on this issue.

4. The title of Rule 7 has been changed from Post-Trial Practice to Exceptions.

5. Proposed Rule 7.3 has been renumbered Rule 7.2

#### Annex A

### TITLE 210. APPELLATE PROCEDURE

#### PART I. RULES OF APPELLATE PROCEDURE

##### ARTICLE I. PRELIMINARY PROVISIONS

#### CHAPTER 3. ORDERS FROM WHICH APPEALS MAY BE TAKEN

##### FINAL ORDERS

Rule 342. [Final Distribution Orders] Orphans' Court Orders Determining Property, Interest and Status of Individuals.

[An appeal may be taken as of right from any order of distribution entered in an orphans' court division which is not final within the meaning of Rule 341 (final orders generally) if the lower court shall certify that the order is sufficiently definite to determine the substantial issues between the parties.]

In addition to final orders pursuant to subdivision (b) of Rule 341, an order of the Orphans' Court Division determining an interest in realty, personalty, the status of individuals or entities or an order of distribution not final under subdivision (b) of Rule 341 shall constitute a final order upon a determination of finality by the Orphans' Court.

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART II. ORPHANS' COURT RULES

##### RULE 7. EXCEPTIONS

#### Rule 7.1. Exceptions.

[Exceptions shall be filed at such place and time, shall be in such form, copies thereof served and disposition made thereof as local rules shall prescribe.]

(a) *General Rule.* No later than twenty (20) days after entry of an order, decree or adjudication, a party may file exceptions to any order, decree or adjudication which would become a final appealable order under Pa.R.A.P. 341(b) or Rule 342 following disposition of the exceptions. If exceptions are filed, no appeal shall be filed until the disposition of exceptions. Failure to file exceptions shall not result in waiver if grounds for appeal are preserved as provided in subdivision (b) of this Rule.

(b) *Waiver.* Exceptions may not be sustained unless the grounds are specified in the exceptions and were raised by petition, motion, answer, claim, objection, offer of proof or other appropriate method.

(c) *Time for Filing Exceptions.* If a party files timely exceptions, any other party may file cross exceptions within ten (10) days after the filing of exceptions.

(d) *Time Limits for Decision on Exceptions.* The Orphans' Court shall decide exceptions including supplemental exceptions and cross exceptions within one hundred and twenty (120) days of the filing of the initial exceptions. If the Orphans' Court fails to decide the exceptions within one hundred and twenty (120) days, the exceptions shall be deemed denied by operation of law on the one hundred and twenty first (121st) day and the clerk is directed to enter the deemed denial on the docket as of that date. The appeal period shall begin to run as of the one hundred and twenty first (121st) day.

(e) *Exceptions.* Exceptions shall be the exclusive procedure for review by the Orphans' Court of a final order, decree or adjudication. A party may not file a motion for reconsideration of a final order.

*Official Note:* The 2000 amendment discontinues the prior practice permitting local rules to govern whether exceptions are required after entry of an order, decree or adjudication. The 2000 amendment limits the filing of exceptions to order, decree or adjudication which are final appealable orders after disposition of exceptions under Pa.R.A.P. 341(b) or amended Pa.R.A.P. 342. If an aggrieved party appeals from such order, that appeal shall not affect proceedings with regard to other aspects of the case.

It is understood that failure to appeal may constitute a waiver of any issues in the order which the Orphans' Court has determined as final.

The 30 day appeal period pursuant to Pa.R.A.P. 903 from such final orders begins to run from the date of entry of an order disposing of exceptions or on the date of a deemed denial pursuant to subdivision (d) of this rule.

If an order would not become final within the definition of Pa.R.A.P. 341(b) or Pa.R.A.P. 342, then no exceptions may be filed until subsequent entry of a final order within the definition of Pa.R.A.P. 341(b) or Pa.R.A.P. 342. This will eliminate the practice in some counties of permitting issues to be raised by exception following entry of an otherwise interlocutory order and raising the same issues in exceptions to a final order, decree or adjudication. See, e.g., *Estate of McCutcheon*, 699 A.2d 746 (Pa. Super. 1997).

Rule 7.1 permits but does not require exceptions to orders pursuant to Pa.R.A.P. 341(b) and 342. The election of an aggrieved party not to file exceptions will not result in waiver of issues on appeal. However, nothing in this rule is intended to abrogate the requirement of decisional law or court rule mandating that issues on appeal be preserved by a timely petition, answer, claim, objection, offer of proof or other appropriate vehicle.

The 2000 amendments to Rule 7.1 and to Pa.R.A.P. 341 resolve the dilemma that the judiciary and litigants have faced in determining whether exceptions are required under local practice and whether issues have been preserved for appeal in accordance with the disparate rules throughout the Commonwealth. The prior practice also made it difficult to draw conclusions as to whether an appellate decision constituted controlling authority on a statewide basis or whether the holding was based in whole or part on the vagaries of a local rule.

Local practice shall continue to govern with respect to place of filing, briefs, oral argument, courts en banc, etc. Neither Pa.R.C.P. 227.1 nor 1517 shall apply to Orphans' Court matters.

#### Rule 7.2. Transcript of Testimony.

All exceptions shall contain a request designating a portion of the record to be transcribed in order to enable the court to dispose of the exceptions. Within ten days after the filing of the exceptions, any other party may file an objection requesting that an additional, lesser or different portion of the record be transcribed. If no portion is indicated, the transcription of the record shall be deemed unnecessary to the disposition of the exceptions. The trial judge shall promptly decide the objection to the portion of the record to be transcribed.

[Pa.B. Doc. No. 99-2120. Filed for public inspection December 17, 1999, 9:00 a.m.]

### PART I. GENERAL

#### [231 PA. CODE CH. 4000]

#### Amendment of Rule 4001(d) Governing Discovery; No. 327; Doc. No. 5

#### Order

*Per Curiam:*

And Now, this 1st day of December, 1999, Pennsylvania Rule of Civil Procedure 4001(d) is amended by the addition of a note to read as follows.

Whereas prior distribution and publication of the amendment would otherwise be required, it has been

determined that the amendment is of a perfunctory nature and that immediate promulgation is required in the interest of efficient administration.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective January 1, 2000.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 4000. DEPOSITIONS AND DISCOVERY

#### Rule 4001. Scope. Definitions

\* \* \* \* \*

(d) Subject to the provisions of this chapter, any party may obtain discovery by one or more of the following methods: depositions upon oral examination (Rule 4007.1) or written interrogatories (Rule 4004); written interrogatories to a party (Rule 4005); production of documents and things and entry for inspection and other purposes (Rule 4009); physical and mental examinations (Rule 4010); and requests for admission (Rule 4014).

**Official Note:** Under subdivision (d), for example, a party may discover documents and things in the possession of a person not a party by means of a subpoena duces tecum issued in connection with a deposition upon oral examination under Rule 4007.1, a subpoena for the production of documents and things under Rule 4009.21 et seq., and an independent action.

[Pa.B. Doc. No. 99-2121. Filed for public inspection December 17, 1999, 9:00 a.m.]

## Title 246—MINOR COURT CIVIL RULES

### PART I. GENERAL

#### [246 PA. CODE CHS. 200—500 AND 800]

#### Service of Civil Documents by Certified Constables

#### Introduction

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt the following proposed amendments to Rules 202, 307, 403, 404, 405, 506, 508, 516 and 811 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices. These amendments will allow a district justice to effectuate service of civil documents by the use of any certified constable in the Commonwealth, when his/her district is located in a county where there are no certified constables and the sheriff is unwillingly to make service.

These proposals have not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory *Report* highlights the Committee's considerations in formulating this proposal. Please note that the Committee's *Reports* should not be confused with the official Committee *Comments* to the rules. Also note that the Supreme Court does not adopt the Committee's *Comments* or the contents of the explanatory *Reports*.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through: The Honorable Kenneth E. Deatelhauser, District Justice, 66 County Line Road, Sounderton, PA 18964-1252, no later than Friday, January 28, 2000.

By the Minor Court Rules Committee:

FRED A. PIERANTONI, III,  
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 200. RULES OF CONSTRUCTION;  
GENERAL PROVISIONS

Rule 202. Definitions.

As used in these rules:

\* \* \* \* \*

(3) "Constable" includes a **certified or** deputy constable.

\* \* \* \* \*

CHAPTER 300. CIVIL ACTION

Rule 307. Service of the Complaint.

Service shall be made at least ten (10) days before the hearing, in the following manner:

(1) A copy of the complaint for each defendant shall be delivered by the district justice for service to the sheriff of, or any **certified** constable in, the county in which the magisterial district of the district justice is situated. **If this service is not available to the district justice, service may be made by any certified constable of the Commonwealth.** If the complaint is delivered for service to the sheriff and service is to be made in a county other than the one in which the magisterial district of the district justice is situated, the sheriff shall deputize the sheriff of the county in which service is to be made. A **certified** constable may serve the complaint anywhere in the Commonwealth.

(2) If service is to be made in a county other than the one in which his magisterial district is situated, the district justice, instead of acting in accordance with (1), above, may:

(a) send the copy of the complaint for service to a district justice in the county in which service is to be made who shall deliver it for service to the sheriff of, or any **certified** constable in, that county[, or ]. **If this service is not available to the district justice, service may be made by any certified constable of the Commonwealth, or**

\* \* \* \* \*

**Official Note:** This rule provides a number of alternative methods of serving the complaint. Subdivision (1) permits a **certified** constable to serve the complaint anywhere in the Commonwealth and authorizes deputized service by sheriffs. Subdivision (2)(a) permits service out of the county through district justices in the county in which service is to be made, a method of service which might be preferable to service under subdivision (1) by a **certified** constable of the county where the complaint was filed when that county is a considerable distance from the county of service. Subdivision (2)(b) provides for service in Philadelphia by writ servers of the Philadelphia Municipal Court or by the Sheriff of Philadelphia, al-

though service may still be made in accordance with subdivision (1) if the district justice so desires. Subdivision (3) makes service by mail, when permitted, at the option of the plaintiff. This was done because service by mail will ordinarily reduce costs.

CHAPTER 400. EXECUTION OF JUDGMENTS FOR  
THE PAYMENT OF MONEY

Rule 403. Issuance and Reissuance of Order of Execution.

A. Upon the filing of the request form, the district justice shall note on the form the time and date of its filing and shall issue the order of execution thereon. The district justice shall deliver the order of execution for service and execution to the sheriff of, or any **certified** constable in, the county in which the office of the district justice issuing the order is situated. **If this service is not available to the district justice, service may be made by any certified constable of the Commonwealth.**

\* \* \* \* \*

**Official Note:** Under subdivision A, the order may be executed by the sheriff of the county in which the office of the issuing district justice is situated, as well as by any **certified** constable in that county.

Rule 404. Notation of Time of Receipt.

The sheriff or **certified** constable receiving the order shall note upon the form the date and time that he received it.

Rule 405. Service of Order of Execution.

A. [ **Service of the order of execution shall be made by the sheriff or constable by levy within sixty (60) days of the issuance or reissuance of the order.** ] Service of the order of execution shall be made by the sheriff of, or any **certified** constable in, the county in which the office of the district justice is situated by levy within sixty (60) days of the issuance or reissuance of the order. **If this service is not available to the district justice, service may be made by any certified constable of the Commonwealth.**

\* \* \* \* \*

CHAPTER 500. ACTIONS FOR THE RECOVERY OF  
POSSESSION OF REAL PROPERTY

Rule 506. Service of Complaint.

A. The district justice shall serve the complaint by mailing a copy of it to the defendant by first class mail and by delivering a copy of it for service to the sheriff of, or any **certified** constable in, the county in which the office of the district justice is situated. **If this service is not available to the district justice, service may be made by any certified constable of the Commonwealth.** The officer receiving the copy shall serve it by handing it to the defendant or to an adult person in charge for the time being of the premises possession of which is sought to be recovered or, if none of the above is found, by posting it conspicuously on those premises.

\* \* \* \* \*

Rule 508. Claim by Defendant.

\* \* \* \* \*

C. The defendant's cross-complaint shall be served on the plaintiff at least five (5) days before the hearing. At the option of the defendant, the district justice shall serve the cross-complaint by mailing a copy of it to the plaintiff. If the defendant does not request service by mail, the district justice shall deliver a copy of the cross-complaint for service to the sheriff of, or any certified constable in, the county in which the office of the district justice is located. **If this service is not available to the district justice, service may be made by any certified constable of the Commonwealth.** The officer receiving the copy shall serve it by handing it to the plaintiff or to an adult person in charge for the time being of the plaintiff's residence or usual place of business.

\* \* \* \* \*

**Rule 516. Issuance of Order for Possession.**

Upon the filing of the request form, the district justice shall issue the order for possession and shall deliver it for service and execution to the sheriff of, or any certified constable in, the county in which the office of the district justice is situated. **If this service is not available to the district justice, service may be made by any certified constable of the Commonwealth.** The order shall direct the officer executing it to deliver actual possession of the real property to the plaintiff.

\* \* \* \* \*

**CHAPTER 800. MINORS AND INCOMPETENTS AS PARTIES**

**Rule 811. Service of the Complaint.**

Service of the complaint upon a defendant who is an incompetent, or of a cross-complaint upon a plaintiff who is an incompetent, shall be upon his guardian. **This service shall be made in accordance with Rule 307.**

\* \* \* \* \*

*Explanatory Report*

The current rules for service of district justice court process require service be made by, "the sheriff of, or any constable in, the county in which the magisterial district of the district justice is situated." As of November 1, 1998, all constables that effect this service must be certified by the Pennsylvania Commission on Crime and Delinquency. Therefore, the Committee believes that the Rules should be amended to provide that service shall be made by "the sheriff of, or any certified constable in, the county in which the magisterial district of the district justice is situated."

In addition, this requirement that only a certified constable can effectuate service has created a problem for some district justices in that their districts are in counties where there are no certified constables and the sheriff is unwillingly to perform service. Thus, the Committee believes in order to alleviate this problem, the Rules should be amended to state that service be made by "the sheriff of, or any certified constable in, the county in which the magisterial district of the district justice is situated. If this service is not available to the district justice, service may be made by any certified constable of the Commonwealth."

[Pa.B. Doc. No. 99-2122. Filed for public inspection December 17, 1999, 9:00 a.m.]



**PART I. GENERAL**

**[246 PA. CODE CHS. 300—500 AND 1000]**

**Judgments Appealed to Court of Common Pleas**

**Introduction**

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt these proposed amendments to the following Rules of Conduct, Office Standards and Civil Procedure for District Justices: the Note following Rule 315 (Claim by Defendant) to clarify that only one money judgment should be entered even when cross-complaints are filed in a case; Rule 402 (Request for Order of Execution; Entry of Judgment in Court of Common Pleas) and the Note following to clarify when a Request for an Order of Execution should be filed as well as when a judgment can be filed in the Court of Common Pleas; Rule 510 (Subpoena of Witnesses) to provide that a district justice may issue a subpoena that requires an individual to produce documents or things which are in their possession, custody, or control; Rule 517 (Notation of Time of Receipt; Service of Order of Possession) to clarify that the district justice shall mail a copy of the order for possession to the defendant by first class mail; Rule 1002 (Time and Method of Appeal) to clarify the appeal period for judgments for money as well as judgments for the delivery of possession of real property arising out of a nonresidential lease; and the Note following Rule 1004 (Filing Complaint or Praeceptum on Appeal; Appeals Involving Cross-Complaints) to clarify that all judgments (in one case) must be appealed to the Court of Common Pleas to preserve all issues.

These proposals have not been submitted for review by the Supreme Court of Pennsylvania. In addition, the Supreme Court does not adopt the Committee's *Comments*.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through: The Honorable Dennis Joyce, District Justice, 136 Bradford Ave., Pittsburgh, PA 15205, no later than Friday, January 28, 2000.

*By The Minor Court Rules Committee*

FRED A. PIERANTONI, III,  
*Chair*

**Annex A**

**TITLE 246. MINOR COURT CIVIL PROCEDURE**

**PART I. GENERAL**

**CHAPTER 300. CIVIL ACTION**

**Rule 315. Claim by Defendant.**

\* \* \* \* \*

C. A money judgment for the plaintiff or for the defendant, but not for both, [ **may** ] **shall** be entered with respect to such cross-complaints, any lesser amount found due on the claim asserted in one being deducted from the greater amount found due on the claim asserted in the other.

\* \* \* \* \*

**Official Note:**

\* \* \* \* \*

Under subdivision C, a judgment shall be entered on both complaints where a cross-complaint has been filed, but the award of money shall only be for one party.

**CHAPTER 400. EXECUTION OF JUDGMENTS FOR THE PAYMENT OF MONEY**

**Rule 402. Request for Order of Execution. Entry of Judgment in Court of Common Pleas.**

A. Execution of a judgment for the payment of money rendered by a district justice may be ordered by a district justice in whose office the judgment was rendered or entered, provided the plaintiff files in that office

(1) not before the expiration of thirty (30) days after the date [ of ] the judgment is entered by the district justice, and

\* \* \* \* \*

D. The plaintiff may enter the judgment in the court of common pleas in any county. When so entered, the indexing, revival and execution of the judgment shall be in accordance with procedures applicable in the court of common pleas. The judgment may be entered in the court of common pleas by filing with the prothonotary a copy of the record of the proceedings containing the judgment, certified to be a true copy by the district justice in whose office the judgment was rendered or by any other official custodian of the record. The judgment may [ not ] be entered in the court of common pleas [ until ] after thirty (30) days [ after ] from the date the [ of ] judgment is entered by the district justice. The judgment may not be entered in the court of common pleas after five (5) years from the date the judgment is entered by the district justice.

**Official Note:**

\* \* \* \* \*

As to subdivision D, see the Judicial Code, § 1516, 42 Pa.C.S. § 1516. The thirty day limitation appears to be required by this Section. **Certification by the district justice should not be done before the expiration of thirty (30) days after the date of entry of the judgment. The only method available to renew a judgment would be to record the judgment in the Prothonotary's office prior to the expiration of the five year period and then follow the applicable Rules of Civil Procedure for the Revival of a Judgment, Rule 1521 and 3025 et seq. Also, Subdivision D is intended that when the judgment is entered in the court of common pleas, that all further process shall come from the court of common pleas and that no further process shall be issued by the district justice.**

**CHAPTER 500. ACTIONS FOR THE RECOVERY OF POSSESSION OF REAL PROPERTY**

**Rule 510. Subpoena of Witnesses.**

A district justice may issue subpoenas throughout the Commonwealth to require the attendance of witnesses in any cause of action triable before him. **The subpoena may also require the person to produce documents or things which are in the possession, custody or control of that person.**

**Official Note:** This rule is the same as Rule 317 (of the trespass and assumpsit rules) governing subpoenas in civil actions.

**Rule 517. Notation of Time of Receipt; Service of Order of Possession.**

The [ plaintiff ] district justice shall [ serve ] mail a copy of the order for possession [ by mailing a copy of it ] to the defendant by first class mail and shall deliver a copy of it for service to the sheriff of, or any certified constable in, the county in which the office of the district justice is situated. **If this service is not available to the district justice, service may be made by any certified constable of the Commonwealth.** The officer receiving the order for possession shall note upon the form the time and date that he received it. He shall serve the order within forty-eight (48) hours by handing a copy of it to the defendant or to an adult person in charge for the time being of the premises possession of which is to be delivered or, if none of the above is found, by posting it conspicuously on those premises. The service copy of the order shall contain the following notice:

\* \* \* \* \*

**CHAPTER 1000. APPEALS**

**Rule 1002. Time and Method of Appeal.**

A. A party aggrieved by a judgment for money, or a judgment affecting the delivery of possession of real property arising out of a nonresidential lease, may appeal therefrom within thirty (30) days after the date of the entry of the judgment by filing with the prothonotary of the court of common pleas a notice of appeal on a form which shall be prescribed by the State Court Administrator together with a copy of the Notice of Judgment issued by the district justice. The Prothonotary shall not accept an appeal from an aggrieved party which is presented for filing more than thirty (30) days after the date of entry of judgment without leave of Court and upon good cause shown.

B. A party aggrieved by a judgment for the delivery of possession of real property arising out of a residential lease may appeal therefrom within ten (10) days after the date of the entry of judgment by filing with the prothonotary of the court of common pleas a notice of appeal on a form which shall be prescribed by the State Court Administrator, together with a copy of the Notice of Judgment issued by the district justice. The prothonotary shall not accept an appeal from an aggrieved party which is presented for filing more than ten (10) days after the date of entry of judgment without leave of Court and upon good cause shown.

**Official Note:** The thirty day limitation in subdivision A of this rule is the same as that found in the Judicial Code, § 5571(b), 42 Pa.C.S. § 5571(b), as amended by § 10(67) of the Judiciary Act Repealer Act, Act of April 28, 1978, P.L. 202, No. 53. The ten day limitation in subdivision B of this rule is designed to implement the time for appeal set forth in § 513 of the Landlord and Tenant Act of 1951 (Act No.1995-33, approved July 6, 1995) **(Act No. 1995-33 was suspended by the Pa. Supreme Court on March 28, 1996 by Order of Court insofar as the Act is inconsistent with Rules of Civil Procedure Governing Actions and Proceedings Before District Justices, as adopted by that Order).** The two subdivisions of this rule are intended to clarify that where the right of possession of residential real estate is at issue, the shorter, ten day period for appeal applies; where [ judgment from which ] the appeal is taken from any judgment [ is a judgment ] for money, or a judgment affecting a nonresidential lease,

under these rules, the thirty day period of time for appeal applies. **A party may appeal the money portion of a judgment only within the thirty day appeal period specified in subsection A of this rule. It is the intent of this rule that no supersedeas under Pa.R.C.P.D.J. No. 1008 shall be issued by the Prothonotary after the ten (10) days period for filing an appeal, unless by order of court.**

*Explanatory Comment to Rule 1002*

The proposed amendments to 1002A and 1002B are to make the language within the Rule consistent. Previously, the Rule used the words "date of entry of judgment" and then "date of judgment." It is the opinion of the Committee that the phrase "date of entry of judgment" should be used and that it should be used consistently throughout the Rule.

The amendment to the Note is necessitated because Rule 514 of the Rules of Civil Procedure Governing Action Before District Justices requires that a judgment be rendered for the delivery of possession of the real property to the plaintiff and a separate entry of a judgment for money, whether it be for rent, damages, or costs. The separate entry of the judgment for money should be treated the same as a judgment in a Civil Action and there are no additional exigencies requiring an accelerated appeal period. The ten (10) day appeal period should only be applicable to the possession judgment and not to the money judgment.

The purpose of this amendment to the Note and this comment is to clarify the intent of the Rule and permit an appeal of the money judgment only within the thirty (30) day appeal period. (See *Cherry Ridge Development v. Chenoga*, 703 A.2d 1061 (Pa.Super. 1997).

**Rule 1004. Filing Complaint or Praecipe on Appeal. Appeals Involving Cross-Complaints.**

**Official Note:**

\* \* \* \* \*

**All judgments entered must be appealed to preserve all issues, if such issue can be properly pleaded in the court of common pleas. This is of particular importance under subdivision C, where both complaints must be appealed to preserve all issues. See *Borough of Downingtown v. Wagner*, 702 A.2d 593 (Commonwealth Ct. 1997).**

[Pa.B. Doc. No. 99-2123. Filed for public inspection December 17, 1999, 9:00 a.m.]

**PART I. GENERAL**

**[246 PA. CODE CH. 1200]**

**Emergency Relief under the Protection from Abuse Act**

**Introduction**

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt these proposed amendments to the following Rules of Conduct, Office Standards and Civil Procedure for District Justices: Rule 1201 (Applicability) and the Note following the Rule, to clarify that a District Justice has jurisdiction to grant emergency relief from abuse under 23 Pa.C.S. § 6110; Rule 1202 (Definitions) and the Note following the Rule, to clarify that the meanings of the words "abuse," "adult," and "family or household member"

are the same as set forth in 23 Pa.C.S. § 6102. In the definition of the word "Court," the phrase "district justice" is replaced with "hearing officer"; Rule 1203 (Limitation on Jurisdiction) and the Note following the Rule, to clarify that a District Justice has jurisdiction under 23 Pa.C.S. § 6110 to grant emergency relief from abuse when the Court is unavailable; Rule 1204 (Venue) and the Note following the Rule, to set forth that a proceeding for emergency relief may only be brought within the county in which the plaintiff resides or where the abuse occurred; however, if the relief sought includes possession of the residence or household to the exclusion of the defendant, the action shall only be brought in the county in which the residence or household is located; Rule 1205 (Persons who may seek emergency relief) and the Note following the Rule, to clarify that a person who may seek emergency relief includes but is not limited to an adult, an emancipated minor, a guardian ad litem, or a guardian of an incapacitated person (as defined in 20 Pa.C.S. Chapter 55); Rule 1206 (Commencement of Proceedings) and the Note following the Rule, to set forth that the petition for emergency relief from abuse shall be filed and served without prepayment of fees; the Note following Rule 1207 (Hearing) to make some editorial corrections to various citations; Rule 1208 (Findings and Protection Orders) and the Note following the Rule, to clarify that a District Justice may grant emergency relief in accordance with 23 Pa.C.S. § 6110(a); Rule 1209 (Execution of Protection Orders) and the Note following the Rule, to set forth the procedure for serving and executing a protection order upon a defendant; Rule 1210 (Duration of Protection Orders) and the Note following the Rule, to clarify that an emergency protection order issued by a District Justice expires at the end of the next business day the Court deems itself available; Rule 1211 (Certification to Court) and the Note following the Rule, to set forth that a District Justice may certify to the Court any emergency protection order it issued together with any supporting documentation.

These proposals have not been submitted for review by the Supreme Court of Pennsylvania. In addition, the Supreme Court does not adopt the Committee's Comments.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through: Michael F. Krimmel, Special Court Administrator, Berks County Courthouse, 633 Court Street, Reading, PA 19601, no later than Friday, January 28, 2000.

*By the Minor Court Rules Committee*

FRED A. PIERANTONI, III,  
*Chair*

**Annex A**

**TITLE 246. MINOR COURT CIVIL RULES**

**PART I. GENERAL**

**CHAPTER 1200. EMERGENCY RELIEF UNDER THE PROTECTION FROM ABUSE ACT**

**Rule 1201. Applicability.**

The rules in this chapter apply to the exercise by a hearing officer of jurisdiction under Section 6110[ ], **Title 23** ] of the Protection From Abuse Act, **23 Pa.C.S. § 6110**, to grant emergency relief from abuse.

**Official Note:** See the Protection From Abuse Act set forth in the Domestic Relations Code, 23 Pa.C.S.[ **A., Section** ] § 6101 et seq.

**Rule 1202. Definitions.**

As used in these rules:

(1) *Abuse, adults and family or household members* shall have the meanings given to those words in Section 6102 [ , Title 23 ] of the Protection From Abuse Act, 23 Pa.C.S. § 6102.

(2) *Court* means the court of common pleas of the judicial district in which the office of the [ **district justice** ] **hearing officer** taking action under these rules is located.

\* \* \* \* \*

[ **Official Note: The definition of "court" varies somewhat from the definition in Section 6102, Title 23 of the Protection from Abuse Act, which merely defines "court" as "the court of common pleas," since under 6110(c), orders issued by the hearing officer must be certified to "the court" and it was thought necessary to define more particularly the court of common pleas to which the order will be certified. ]**

**Rule 1203. Limitation on jurisdiction.**

The hearing officer may grant relief under these rules only when the court is unavailable to do so pursuant to the provisions of Section 6110[ , Title 23 ] of the Protection From Abuse Act, 23 Pa.C.S. § 6110, or local rule of court.

**Official Note:** The limitation in this rule is taken from Section 6110[ , Title 23 ] of the Protection From Abuse Act, 23 Pa.C.S. § 6110

**Rule 1204. Venue.**

**A. Except as provided in subdivision B, [ A ] a proceeding for emergency relief [ shall ] may be brought in [ the ] a magisterial district within the county in which [ the abuse for which relief is requested occurred ]**

**(1) the plaintiff resides, either temporarily or permanently, or**

**(2) the abuse occurred.**

**B. If the relief sought includes possession of the residence or household to the exclusion of the defendant, the action shall be brought only in a magisterial district within the county in which the residence or household is located.**

**Official Note:** [ In view of the nature of the proceedings and the type of relief that may be granted, it was thought best to limit venue to the magisterial district in which the abuse occurred. ] This rule is consistent with Pa.R.C.P. No. 1901.1 and provides the necessary flexibility to a plaintiff who may have to flee the county of permanent residence to escape further abuse. A proceeding is considered to have been brought in a magisterial district even if it is before a hearing officer serving temporarily in that district, or before a hearing officer who has been invested by local rule with temporary county-wide jurisdiction.

**Rule 1205. Persons who may seek emergency relief.**

[ **A person** ] An adult or an emancipated minor may seek emergency relief from abuse for himself or herself. Also, any parent [ or ], adult household member or guardian ad litem may seek emergency relief from

abuse on behalf of minor children. In addition, a guardian of the person of an [ **incompetent adult** ] **incapacitated person as defined in 20 Pa.C.S. Chapter 55** may seek emergency relief on behalf of the [ **incompetent adult** ] **incapacitated person.**

**Official Note:** This rule [ **was taken** ] is derived from Section 6106[ , Title 23 ] of the Protection From Abuse Act, 23 Pa.C.S. § 6110.

**Rule 1206. Commencement of Proceedings**

\* \* \* \* \*

**C. The petition shall be filed and service shall be made without prepayment of fees.**

**Official Note:** It was thought desirable to require the petition to be on a simple, prescribed form since this is an emergency proceeding and the plaintiff is apt to be in an excited state at the time of the filing. Subdivision B is added to assure compliance with the requirement of Section 6110(d) [ , Title 23 ] of the Protection From Abuse Act, 23 Pa.C.S. § 6110(d). Subdivision C is consistent with Section 6106(b) of the Act, 23 Pa.C.S. § 6106(b).

**Rule 1207. Hearing.**

\* \* \* \* \*

**Official Note:** Under Section 6110(a)[ , Title 23 ] of the Protection From Abuse Act, 23 Pa.C.S. § 6110(a), the hearing is ex parte, and under Section 6110(b)[ , Title 23 ] of the Act, 23 Pa.C.S. § 6110(b), the emergency orders issued by the hearing officer as a result of the hearing are of short duration. Accordingly, there are no provisions in these rules for notice to the defendant prior to hearing. The hearing need not be held at the office of the hearing officer. The last phrase was added to insure compliance with Section 6112[ , Title 23 ] of the Act, 23 Pa.C.S. § 6112.

**Rule 1208. Findings and protection orders.**

**A.** If the hearing officer, upon good cause shown, finds it necessary to protect the plaintiff or minor children from abuse, he may grant relief in accordance with Section [ **6108(a)** ] **6110(a)** [ , Title 23 ] of the Protection from Abuse Act, 23 Pa.C.S. § 6110(a), and make any protection orders necessary to effectuate that relief. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause.

\* \* \* \* \*

**Official Note:** Subdivision A of this rule is [ **taken** ] derived from Section 6110(a)[ , Title 23 ] of the Protection From Abuse Act, 23 Pa.C.S. § 6110(a), which permits the hearing officer to grant limited relief in accordance with Section 6108(a)(1), (2) and (6) or (1) and (6) of the Act (relating to relief).

**Rule 1209. Service and [ Execution ] execution of emergency protection orders.**

**The hearing officer shall provide to the plaintiff a copy of a protection order made under Rule 1208. The hearing officer or, when necessary, the plaintiff shall immediately deliver a service copy of any protection order made under Rule 1208 to a police officer, police department, sheriff or certified constable for service upon the defendant and execution. [ If the defendant is present at the time the protection order is executed, the executing officer shall serve a copy of**

the petition form containing the order upon the defendant. Otherwise,] After making reasonable effort, if the executing officer is unable to serve the protection order upon the defendant in a timely fashion, the executing officer [shall] may leave [the] a service copy of the petition form containing the order with the plaintiff for service upon the defendant.

**Official Note:** The hearing officer should provide the plaintiff with at least one copy of a protection order, but more than one copy may be needed. For example, the plaintiff may wish to serve the order upon multiple police departments when the plaintiff lives and works in different police jurisdictions, etc. If it is necessary for the plaintiff to deliver the protection order to the executing officer, the hearing officer should make sure that the plaintiff fully understands the process and what must be done to have the order served upon the defendant. Due to the emergency nature of these protection orders and the fact that to be meaningful they must be served and executed at night or on a weekend, the hearing officer should have the authority to use police officers as well as sheriffs and certified constables to serve and execute these orders. See Section 6109(a)[, Title 23] of the Protection From Abuse Act, 23 Pa.C.S. § 6109(a).

Service shall be made without prepayment of fees. See Rule 1206(C).

Service of protection orders upon the defendant at the time of execution may not be possible under some circumstances.

Rule 1210. Duration of emergency protection orders.

Protection orders issued under Rule 1208 shall expire [as of the resumption of business of the court at the beginning of the next business day] at the end of the next business day the court deems itself available.

**Official Note:** This rule is [taken] derived from Section 6110(b)[, Title 23] of the Protection From Abuse Act, 23 Pa.C.S. § 6110(b). Practice varies among the judicial districts as to what procedures the plaintiff must follow to seek a temporary protection order from the Court of Common Pleas upon the expiration of an emergency protection order. The hearing officer should provide clear instructions to the plaintiff as to what must be done to continue in effect the protection order in the Court of Common Pleas. See Rule 1211 and Note.

**Rule 1211. Certification to court.**

A. Any protection order issued under Rule 1208, together with any documentation in support thereof, [shall immediately] may be certified to the court by the hearing officer.

B. Certification under subdivision A of this Rule [shall] may be accomplished by sending to the prothonotary of the court by first class mail or messenger a certified [true] copy of the petition form containing the order, with any supporting documentation attached.

**Official Note:** [Certification under subdivision A of this rule is required by Section 6110(c), Title 23 of the Protection From Abuse Act.] This rule is consistent with Pa.R.C.P. No. 1901.3(b) which permits commencement of an action by filing with the prothonotary a certified copy of an emergency

protection order. However, practice varies among the judicial districts as to how this is accomplished. For example, some judicial districts may require that the plaintiff appear in person to commence an action in the Court of Common Pleas. Others may automatically commence an action in the Court of Common Pleas upon receipt of a certified copy of the emergency order from the hearing officer. See Rule 1210 and Note.

[At the request of the plaintiff, the hearing officer may appoint] Depending on local practice, the plaintiff or the plaintiff's representative [to] may act as a messenger under subdivision B of this rule.

[Pa.B. Doc. No. 99-2124. Filed for public inspection December 17, 1999, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### DELAWARE COUNTY

Amendment of Rule of Civil Procedure 400.1 Governing Service of Original Process and Other Legal Papers; Misc. Doc. No. 90-18200

#### Amended Order

And Now, to wit, this 23rd day of November, 1999, in conformity with Pa. R.C.P. 400.1(b)(1), as recently amended and adopted by the Supreme Court of Pennsylvania, and which amendment was scheduled to take effect on September 1, 1999, it is hereby *Ordered* and *Decreed* that original process shall be served within Delaware County

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

(b) by the sheriff in all other actions, or such other means, as provided in the Pennsylvania Rules of Civil Procedure.

This Order shall remain in effect until the matter may be more closely examined by the Delaware County Civil Rules Committee and the Board of Judges of Delaware County and a local rule passed thereafter.

By the Court

A. LEO SERENI,  
*President Judge*

[Pa.B. Doc. No. 99-2125. Filed for public inspection December 17, 1999, 9:00 a.m.]

### DELAWARE COUNTY

Amendment of Rule of Criminal Procedure 4006(c)(3)(d) Governing Bail Conditions; Misc. Doc. No. 90-18200

#### Order

And Now, to wit, this 23rd day of November, 1999, it is hereby *Ordered* and *Decreed* that Local Rule of Criminal Procedure 4006(c)(3)(d) is hereby *Amended* as follows:



If the defendant does not appear or surrender to the Court within twenty (20) days after the Notice of Bail Forfeiture is sent, the Court shall enter a certification order for judgment in favor of the County for the full amount of bail.

This Order is effective immediately and shall remain in effect until further Order of Court.

*By the Court*

A. LEO SERENI,  
*President Judge*

[Pa.B. Doc. No. 99-2126. Filed for public inspection December 17, 1999, 9:00 a.m.]

## LUZERNE COUNTY

### Adoption of Rules of Criminal Procedure; No. 1868-99

Now This 6th day of December, 1999, the Court hereby adopts Luzerne County Rules of Criminal Procedure Nos. 4, 107, 161, 303, 310, 316, 324, 1409 and 2002A to be effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*. The following Luzerne County Court Rules are hereby rescinded, effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*, 107, 130(c), 176, 288, 289, 290, 291, 293, 303, 317 and 323.

It is further ordered that the District Court Administrator shall file seven (7) certified copies of this Rule with the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, one (1) certified copy to the Criminal Procedural Rules Committee, one (1) certified copy to the Judicial Council of Pennsylvania Statewide Rules Committee, and one (1) copy to the *Luzerne Legal Register* for publication in the next issue.

It is further ordered that these local rules shall be kept continuously available for public inspection and copying in the Clerk of Court's Office.

*By the Court*

JOSEPH M. AUGELLO,  
*President Judge*

#### Rule 4. Citing the Criminal Procedural Rules.

All criminal procedural rules adopted by the Court of Common Pleas of Luzerne County shall be known as the Luzerne County Rules of Criminal Procedure and shall be cited as "Luz. Co. Crim. P."

#### Rule 107. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth—Local Option.

The District Attorney of Luzerne County having filed a certification pursuant to Pa.R.Crim.P. 107, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure charging one or more of the following offenses, or an attempt, solicitation, or conspiracy to commit any of the following:

(a) All offenses set forth in Chapter 25 of the Crimes Code (relating to criminal homicide): Murder of the first degree; Murder of the second degree; Murder of the third degree; Voluntary manslaughter; Involuntary manslaughter; Causing or aiding suicide; and Drug delivery resulting in death;

(b) Rape, in violation of 18 Pa.C.S.A. § 3121;

(c) Statutory sexual assault, in violation of 18 Pa.C.S.A. § 3121.1;

(d) Involuntary deviate sexual intercourse, in violation of 18 Pa.C.S.A. § 3123;

(e) Sexual Assault, in violation of 18 Pa.C.S.A. § 3124.1;

(f) Aggravated indecent assault in violation of 18 Pa.C.S.A. § 3125;

(g) Robbery, in violation of 18 Pa.C.S.A. § 3701;

(h) Arson, in violation of 18 Pa.C.S.A. § 3301;

(i) All prohibited acts set forth in the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. § 780-113(a)(30);

(j) Kidnapping, in violation of 18 Pa.C.S.A. § 2901;

(k) Homicide by vehicle, in violation of 75 Pa.C.S.A. § 3732;

(l) Homicide by vehicle while driving under the influence, in violation of 75 Pa.C.S.A. § 3735;

(m) Corrupt organizations, in violation of 18 Pa.C.S.A. § 911;

(n) Ethnic intimidation, in violation of 18 Pa.C.S.A. § 2710;

(o) All offenses as set forth in Chapter 47 of the Crimes Code, relating to bribery and corrupt influence;

(p) Obstructing administration of law or other governmental function, in violation of 18 Pa.C.S.A. § 5101;

(q) All offenses as set forth in Chapter 53 of the Crimes Code, relating to abuse of office;

(r) All offenses as set forth in Chapter 57 of the Crimes Code, relating to wiretapping and electronic surveillance;

(s) Obscene and other sexual materials and performances, in violation of 18 Pa.C.S.A. § 5903;

shall not hereafter be accepted by any judicial officer unless the complaint and/or affidavit has the approval of an attorney for the Commonwealth prior to filing.

#### Rule 161. Procedures for Accelerated Rehabilitative Disposition in Summary Cases before the Minor Judiciary.

(a) Eligibility: All summary offenders may apply for admission to the program with the following exceptions:

i. Any offense which is excluded by statute.

ii. Any offense under Title 75 (Vehicles).

iii. Any offense charged by local ordinance.

iv. Any offense, which is the result of an original charge, classified as a misdemeanor or above, which is subsequently reduced.

v. Any offense which is joined with a court case which is held or waived for trial at a preliminary hearing.

vi. In order to be considered eligible, a defendant must specifically waive all statutes of limitations and speedy trial rights, and agrees to abide by all terms, conditions and monetary obligations imposed by the issuing authority.

(b) Program Costs: The administrative fee taxable under each application shall be \$50 (fifty dollars), which shall be paid over to Luzerne County in addition to restitution, if any, both of which shall be payable no later than the day of admission to the program. The defendant shall further agree, as a condition of the ARD program, to

pay the fees of any recommended treatment and/or community service program and/or approved alternative adjudication program.

(c) Application:

i. Application for summary ARD shall be made upon the same forms as used in the Court of Common Pleas in court cases.

ii. The issuing authority shall establish the duration and conditions of defendant's probation, and transmit two copies of the application, and note thereon the transmittal date to the District Attorney. If the District Attorney disapproves the application, he shall retain one copy and transmit one copy back to the issuing authority noting disapproval within 20 days of the transmittal of the application.

(d) Program Conditions: An offender admitted to ARD shall comply with the following:

i. Obey all federal, state and local penal laws, and all rules of probation; and,

ii. Complete an approved adjudication alternative program as directed by the issuing authority; and,

iii. Undergo a drug and alcohol evaluation, if required by the issuing authority, and complete any recommended treatment.

(e) Program Admission and Completion: Unless the district attorney has disapproved the application, an eligible offender may be admitted to ARD by the issuing authority thirty days after transmittal of the application to the District Attorney. Bail, security or other collateral shall terminate upon entry. Admission to ARD shall not affect any period of license suspension/revocation directed by statute. Upon satisfactory completion of the program, the charges against the defendant shall be dismissed. The record of arrest shall not be affected by the operation of this local rule, however upon successful completion of the program, the case record shall be sealed by the issuing authority.

(f) Program Monitoring: Representatives from an approved adjudication alternative program are hereby authorized to monitor and supervise a defendant's progress in the summary ARD program. Further such organizations shall inform the issuing authority of either the offender's successful completion, or the failure to complete, and in the latter case may testify as to the reasons therefor in program revocation proceedings.

(g) Revocation: Should a defendant fail to comply with any condition of the ARD program, he or she may be revoked from the program by order of the issuing authority at a revocation hearing where the defendant will be afforded an opportunity to be heard. The issuing authority may issue such process as is necessary to bring the defendant before the Court. Should the defendant fail to appear after receiving notice of a revocation hearing, the issuing authority may issue a warrant pursuant to Pa.R.Crim.P. 75. No appeal shall be allowed from a revocation order.

Upon disapproval of the application by the district attorney, or upon revocation of the defendant's summary ARD program, or if a defendant declines to accept the program the case shall thereafter be scheduled for trial pursuant to Chapter 50 of the Pennsylvania Rules of Criminal Procedure.

(h) Monthly Report: Issuing authority shall submit a monthly report on the final disposition of all cases in

which a defendant has applied for entry into the ARD program to the District Attorney.

(i) Adjudication alternative programs shall be approved by the Court of Common Pleas.

**Rule 303. Arraignment.**

(a) Each Defendant in a criminal case shall be arraigned before a judge or before the court administrator or a deputy court administrator when such court administrator or deputy is designated and authorized by order of the president judge.

(1) Whenever arraignments are held before the court administrator or a deputy court administrator, and the defendant stands mute, the clerk is authorized and directed to enter a plea of not guilty for the defendant.

(2) Whenever arraignments are held before the court administrator or a deputy court administrator, and the defendant fails to appear, the court administrator, or deputy court administrator, shall report such fact in writing to the judge of the court, and the court may authorize that a bench warrant be issued for the apprehension and arrest of the defendant so that he or she may be brought before the court and that the bail be forfeited.

(3) Arraignment shall take place at the Luzerne County Courthouse, at the Luzerne County Prison, Luzerne County, Pennsylvania, or at such other places in the County of Luzerne as may from time to time be designated by a judge of the Court of Common Pleas and may be conducted by means of video conferencing.

(b) A defendant who is represented by counsel may waive formal arraignment in writing if the requirements of Pa.R.Crim.P. 303(c) are met.

**Rule 310. Dispositions of Pretrial Motions.**

Pretrial motions shall be decided in advance of trial by the trial judge on the day scheduled for trial or such other day selected by the trial judge unless:

(1) A party requests earlier determination by presenting a copy of the motion together with a comprehensive brief in support of the motion and a scheduling order to the court administrator when no trial judge has been assigned; or

(2) The president judge or the court administrator assigns the motion for determination.

(3) No brief is required for pretrial bail motions.

**Rule 316. Assignment of Counsel.**

Requests for the expenditure of public funds on behalf of a defendant who is without financial resources shall be presented by assigned counsel to the president judge for approval prior to the obligation being incurred. Notice to the district attorney is not required.

**Rule 324. Motion for Return of Property.**

(b) Except as provided in (c) motions for return of property shall be heard in criminal miscellaneous court.

(c) A motion for return of property joined with a motion to suppress evidence under Rule 323 shall be heard by the judge assigned to the Rule 323 motion.

**Rule 1409. Probation, Intermediate Punishment or Parole.**

(1) When a defendant is sentenced and the sentence is to be supervised by the Luzerne County Adult Probation and Parole Department, unless incarcerated, the defendant shall report immediately to the department for intake and supervision. The defendant shall be subject to

rules, regulations and direction of the department immediately upon imposition of sentence. Defendants incarcerated only on weekends or other short periods each week shall be subject to supervision of the department during non-incarceration intervals.

(2) This rule does not govern parole or probation cases under the jurisdiction of the Pennsylvania Board of Probation and Parole.

**Rule 2002A. Approval of Search Warrant Applications by Attorney for the Commonwealth—Local Option.**

The District Attorney of Luzerne County having filed a certification pursuant to Pa.R.Crim.P. 2002A, search warrants, in all circumstances, shall not hereafter be issued by any judicial officer unless the search warrant application has the approval of an attorney for the Commonwealth prior to filing.

[Pa.B. Doc. No. 99-2127. Filed for public inspection December 17, 1999, 9:00 a.m.]

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**SCHUYLKILL COUNTY**

**Termination of Inactive Cases; S-2339-99**

*And Now*, this 3rd day of December, 1999, at 8:30 a.m., the Court hereby amends Schuylkill County Rule of Civil Procedure 1901(b)(1)(a) for use in the Court of Common Pleas of Schuylkill County, Pennsylvania (21st Judicial District). This rule shall be effective thirty days after publication in the *Pennsylvania Bulletin*.

The Prothonotary of Schuylkill County is Ordered and Directed to do the following:

- 1) File ten (10) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.
- 2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette reflecting the text in the hard copy version.
- 3) File one (1) certified copy of this Order and Rule with the Pennsylvania Civil Procedural Rules Committee.
- 4) Forward one (1) copy to the Schuylkill County Law Library for publication in the *Schuylkill Legal Record*.
- 5) Keep continuously available for public inspection copies of this Order and Rule.

*By the Court*

WILLIAM E. BALDWIN,  
*President Judge*

**Rule 1901: Termination of Inactive Cases.**

(b)(1)(a) The Prothonotary shall prepare on or before the second Monday of August each year, or on such other

date as the Court by special order may direct, a list containing all civil matters in which no steps or proceedings have been taken for two years or more prior to the preceding June 30 and shall give notice thereof to counsel of record and to those parties for whom no appearance has been entered as required by Pa.R.J.A. No. 1901(c). The notice shall inform them that the case shall be terminated by order of Court for inactivity unless a written motion is filed setting forth good cause for continuing the matter.

Counsel and unrepresented parties who have received notice that a case is on the list of inactive cases may file a motion to remove the case from the purge list, alleging in said motion whatever facts may support good cause for continuing the matter. The motion must be filed not later than forty-five (45) days after the date of notice, and the moving party shall immediately serve all other counsel of record and unrepresented parties in accordance with Pa.R.C.P. No. 440. Any party opposing such motion must file an answer not later than twenty (20) days after service of the motion.

When a motion has been timely filed to remove the case from the purge list and alleges on its face facts setting forth good cause for continuing the matter, and when no answer thereto has been timely filed opposing its continuance, the Court shall enter an order striking the case from the purge list. In those cases where a timely motion and answer thereto have both been filed, the Court will notify the parties of the date and time where they may be heard on said motion and answer. When no motion is timely filed to remove the case from the purge list, or when the facts alleged in the motion fail to set forth good cause for continuing the matter, the Court shall enter an order dismissing the case.

[Pa.B. Doc. No. 99-2128. Filed for public inspection December 17, 1999, 9:00 a.m.]

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**SUPREME COURT**

**Transfer of Positions and Employees to the Unified Judicial System of Pennsylvania Under Act 12 of 1999; No. 215 Judicial Administration Doc. No. 1**

**Order**

*Per Curiam:*

*And Now*, this 1st day of December, 1999, it is *Ordered* that the transfer of county-level court administrators specified in Act 12 of 1999 shall occur on January 1, 2000.

[Pa.B. Doc. No. 99-2129. Filed for public inspection December 17, 1999, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 40—LIQUOR

### LIQUOR CONTROL BOARD

[40 PA. CODE CHS. 3, 11 and 13]

#### Vendor Registration and New Year's Eve Meal Package

The Liquor Control Board (Board) amends §§ 3.31, 3.33, 3.63, 3.73, 11.91, 11.92, 13.71—13.75, 13.77—13.79, 13.81, 13.86 and 13.87, relating to registration of vendors' agents and § 13.102 relating to discount pricing practices to read as set forth in Annex A.

The Board no longer has any need to register agents of vendors. The practice of registration and subsequent issuance of photo-identification to vendors' agents is cumbersome to the Board as well as the vendors and their agents. Permitting hotels to offer an open bar to registered overnight guests of their hotel after 7 a.m. on December 31, 1999, until 2 a.m. the following day codifies a policy the Board desires to implement for hotel licensees. The Board realizes that time is of the essence and intends to notify all hotel licensees prior to publication of this final-omitted rulemaking in the *Pennsylvania Bulletin*.

Notice of proposed rulemaking is omitted under section 204(1) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(1)) (CDL) since these regulatory amendments are related to agency practice and procedure and all affected licensees have been notified of these regulatory changes.

#### *Fiscal Impact*

These regulatory changes will impose no new costs upon vendors' agents, hotel licensees, the Board or the public. Elimination of vendor registration and issuance of photo-identification will be a cost savings to the Board as well as its vendors.

#### *Paperwork Requirements*

These amendments will not impose additional paperwork requirements.

#### *Statutory Authority*

The authority for these amendments is section 207(i) of the Liquor Code (47 P. S. § 2-207(i)).

#### *Contact Person*

Anyone requiring an explanation of these amendments or information related thereto, should contact Jerry Danyluk, Room 513, Northwest Office Building, Harrisburg, PA 17124-0001.

#### *Regulatory Review*

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on November 8, 1999, the Board submitted copies of these amendments with proposed rulemaking omitted to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Liquor Control and Senate Committee on Law and Justice. On the same date, the amendments were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. § 732-101—732-506).

In accordance with section 5(c) of the Regulatory Review Act, these amendments were deemed approved by

the House and Senate Committees on November 28, 1999. IRRC approved the amendments on December 2, 1999.

#### *Findings*

The Board finds that:

(1) The notice of proposed rulemaking is omitted under the authority of section 204(1) of the CDL since these regulatory amendments relate to Board policy, practice and procedure and all affected parties have been notified.

(2) The amendment of the Board's regulations in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

#### *Order*

The Board, acting under the enabling statute, orders that:

(a) The regulations of the Board, 40 Pa. Code Chapters 3, 11 and 13, are amended by amending §§ 3.31, 3.63, 3.73, 11.91, 13.71, 13.73, 13.77—13.79, 13.81, 13.86, 13.87 and 13.102; and by deleting §§ 3.33, 11.92, 13.72, 13.74 and 13.75 to read as set forth in Annex A.

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

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

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

JOHN E. JONES, III,  
Chairperson

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 29 Pa. B. 6384 (December 18, 1999).)*

**Fiscal Note:** 54-56. No fiscal impact; (8) recommends adoption.

#### Annex A

#### TITLE 40. LIQUOR

#### PART I. LIQUOR CONTROL BOARD

#### CHAPTER 3. LICENSE APPLICATIONS

#### Subchapter D. PHOTOGRAPHS AND CRIMINAL HISTORY RECORD INFORMATION CHECKS

#### PHOTOGRAPHS

#### § 3.31. Personal photographs.

(a) A photograph shall be furnished to the Board's representative by the following:

(1) Individuals; members of partnerships; and principal officers of a corporation applying for Retail Liquor Licenses, Retail Dispenser Malt Beverage Licenses, Distributor Licenses and Importing Distributor Licenses, except Public Service and Club Licenses.

(2) Current managers/stewards and proposed managers/stewards.

(b) The photograph shall:

(1) Be 1 1/2 inches square and unmounted with a matte finish.

(2) Bear the name of the individual and the address of the licensed premises.

(3) Be taken within 60 days of the date submitted.

**§ 3.33. (Reserved).**

**Subchapter G. LIMITED WINERY LICENSES**

**§ 3.63. Agents.**

A limited winery licensee may employ individuals to solicit orders, off the licensed premises, for wine produced by it or to promote the sale of wines off the premises. Agents may advertise and promote the sale of merchandise by "missionary work" of only brands sold by the limited winery licensee by whom the agents are employed and may solicit orders from licensees and make deliveries in properly registered vehicles.

**Subchapter H. LICENSED DISTILLERIES OF HISTORICAL SIGNIFICANCE**

**§ 3.73. Agents.**

Agents may advertise and promote the sale of merchandise of brands sold by the licensed distillery of historical significance by whom the agents are employed.

**Subchapter C. WINES**

**AGENTS OF SACRAMENTAL WINE LICENSEES**

**§ 11.91. Employment of agents.**

A sacramental wine licensee may employ individuals to solicit orders for sacramental wines or to promote the sale of the wines.

**§ 11.92. (Reserved).**

**CHAPTER 13. PROMOTION**

**Subchapter B. PROMOTION OF SALE OF LIQUOR BY VENDORS**

**§ 13.71. Definitions.**

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

*Agent*—An individual employed by a licensed vendor, to promote the sale of liquor through State Liquor Stores. A person who is a licensee or the holder of a Malt or Brewed Beverage License, or an officer, director, agent or employe of either a licensee or such a licensee, or who is not at least 21 years of age, and of good character, is not eligible to be an agent of a vendor under this subchapter.

*Licensed vendor*—A licensee holding a Manufacturer or Importer License, or a vendor's permit, and selling liquors to the Board.

*Licensee*—A natural person, partnership, association or corporation holding a Hotel, Restaurant, Club or Public Service Liquor License issued by the Board.

*Miniature*—A container containing less than 6 ounces of a liquor, as prepared for the market.

*Special order listing*—The formal filing with the Board, on its prescribed form, of information the Board requires as to brand, age, proof, type, blend, cost, and the like, of liquors to be sold through the Special Liquor Order Division. The listing does not become effective until approved by the Board or its authorized representative.

*Stock merchandise*—Liquors which are obtainable at a State Liquor Store, without placing a special liquor order.

*Vendor's permit*—A permit issued to a nonresident vendor under section 208(j) of the Liquor Code (47 P. S. § 2-208(j)). An application for the permit shall be filed with the Board accompanied by proper fees in accordance

with section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14A). A permit will be issued for the calendar year only.

**§ 13.72. (Reserved).**

**§ 13.73. Privileges of vendors' agents.**

(a) Agents may advertise and promote the sale of stock merchandise by "missionary work" of only those brands sold to the Board by the vendor by whom the agents are employed. The work may include the use of the "Agents Order" form approved by the Board.

(b) Agents may solicit orders from retail purchasers for stock merchandise or gift certificates for the merchandise.

(c) Agents may solicit from licensees or other persons, orders for those brands of liquor which have been listed with the Special Liquor Purchase Division by the vendors by whom the agents are employed. Special orders obtained by vendors' agents shall be filed with one of the State Liquor Stores as required in this subchapter.

**§ 13.74. (Reserved).**

**§ 13.75. (Reserved).**

**§ 13.77. Agents' order books.**

(a) The Board, upon request, will issue order books to vendors for themselves and their agents, in which each special order for liquors shall be entered. Each order shall be prepared in quadruplicate and bear the signature and address of the person from whom it is obtained, and the signature of the agent. In the case of a licensee, the order shall include the license number. The original order shall be forwarded to a State Liquor Store not later than the business day after the order is obtained. One copy of the order shall be furnished by the licensed vendor or the vendor's agent to the person from whom the order is obtained and one copy shall be retained by the vendor for vendor's records; and the other copy shall remain in the order book. The Board reserves the right to examine the records of any licensed vendor or the vendor's agents.

**§ 13.78. Special orders: requirements and conditions.**

(a) Orders obtained in accordance with this subchapter and presented by licensed vendors or their agents to State Liquor Stores for licensees shall be filed at the established wholesale case prices prescribed by the Board for sales to licensees. The wholesale prices apply only when the retail value of the order equals or exceeds the minimum retail value established by the Board.

(b) Orders presented at State Liquor Stores by agents on behalf of persons other than licensees shall be at the established retail special liquor order prices. No order may be taken for less than case quantities.

(c) A licensed vendor or the vendor's agents may not obtain an order from either a licensee or other person unless there is obtained at the same time a sum not less than the amount required by the Board for deposit on special order sales under the Liquor Code. State Liquor Stores may, at the time of receiving the order or releasing the liquor to the purchaser, accept the checks of licensees in payment.

(d) A licensed vendor or the vendor's agent may not extend credit to a licensee or any other person.

**§ 13.79. Special orders: restrictions.**

(a) Licensed vendors and their agents shall place special orders for liquor at State Liquor Stores on the

prescribed order book forms signed by the licensee or an authorized agent, or in the case of a retail sale, by the customer.

(b) Except by special permission of the Board, no special order merchandise may be delivered to a State Liquor Store until the licensed vendor has received from the Board a formal purchase order calling for the delivery of the liquor. Each case of liquor so delivered shall have clearly marked thereon, in addition to the information required by Federal or State regulations, the purchase order number, the store order number, the brand and size, the code number as called for in the purchase order, and other information the Board may prescribe.

(c) Liquor sold to licensees will be released only at the State Store, to the licensee or the licensee's agent as named on the Wholesale Purchase Permit Card of the licensee.

(d) Special orders placed by a licensed vendor or the vendor's agent for a retail customer may be released by the State Liquor Store for delivery to the customer.

**§ 13.81. Samples of liquor.**

(a) Each agent of a licensed vendor may not use more than one case of each brand of liquor sold by the vendor as samples during any calendar month. The samples shall be purchased only through the Board, at a sum equal to the cost price to the Board plus 25% and any required taxes. The purchase of samples at retail in any State Store is prohibited. A separate order for samples shall be placed for each agent, and the name of the agent shall appear on the order. The vendor (or the vendor's authorized supervisor) may be permitted to purchase and distribute to the vendor's agents the prescribed allotment for all agents under the vendor's supervision. The vendor shall, upon request, file with the Board a statement giving the name of the vendor's authorized supervisor, together with the territories and names of all agents under his supervision.

(b) The samples described in subsection (a) shall be restricted in size to half pints of distilled spirits, and to half bottles or smaller sizes of wine, except when operating conditions do not permit supplying the sizes, in which cases the Board may, upon proper application setting forth satisfactory reasons, permit the use of other sizes as samples.

(c) Sample bottles, before leaving the State Liquor Store, shall have affixed thereto a separate label, or lettering on the commercial label, at least 1/4 inch high, reading: "Sample. Not to be sold. Possession of this bottle by licensee unlawful."

(d) Each licensed vendor shall keep a permanent stock ledger record of all the samples purchased by him, the names of the agents to whom samples were issued, and the quantity and brand. Each authorized supervisor of a vendor shall keep in his office in this Commonwealth a permanent stock ledger record of all samples purchased and distributed by him to his agents as provided in this section. A requisition shall be prepared for each package removed from sample stock, bearing the signature of the agent receiving the merchandise.

**§ 13.86. Agency provisions.**

Licensed vendors and their agents shall, except as otherwise restricted in this title, be considered the agents of the persons from whom they obtain special liquor orders. Neither the Commonwealth nor the Board will be responsible for the proper disposition of moneys collected from a licensee or other person by a licensed vendor or

his agents, and under no circumstances will the Commonwealth or the Board be responsible for actions of a licensed vendor or his agents.

**§ 13.87. Records.**

(a) Every licensed vendor shall maintain and keep complete records of all operations in this Commonwealth for 2 years, which shall be open to inspection by authorized representatives of the Board during normal business hours. These records shall include salaries or commissions of all agents and other employees working in this Commonwealth, expenses of the employees supported by detailed vouchers, all promotional and advertising expenditures, special order sales, and stock merchandise requests.

(b) The agents of vendors operating in this Commonwealth shall maintain complete records covering their operations in this Commonwealth. The records shall also be open to inspection by authorized representatives of the Board during normal business hours.

**§ 13.102. Discount pricing practices.**

(a) *General.* Retail licensees may discount the price of alcoholic beverages for a consecutive period of time not to exceed 2 hours in a business day, but may not engage in discount pricing practices between 12 midnight and the legal closing hour. Retail licensees may not engage in the following discount pricing practices unless specifically excepted in subsection (b):

(1) The sale or serving, or both, of more than one drink of liquor, wine, or malt or brewed beverages at any one time to any one person, for the price of one drink.

(2) The sale or serving, or both, of an increased volume of one drink of liquor, wine, or malt or brewed beverages without a corresponding and proportionate increase in the price for the drink.

(3) The sale or serving, or both, of an unlimited or indefinite amount of liquor, wine, or malt or brewed beverages for a set price.

(4) The pricing of alcoholic beverages in a manner which permits the price to change within the 2-hour period.

(b) *Exceptions.* Nothing in subsection (a) prohibits:

(1) The sale or serving, or both, of an unlimited or indefinite amount of liquor, wine or malt or brewed beverages for a fixed price for catered events which have been arranged at least 24 hours in advance.

(2) The offering for sale of one specific type of alcoholic beverage or drink per day or a portion thereof at a reduced price, if the offering does not violate subsection (a).

(3) The sale, serving or offering of an unlimited or indefinite amount of alcoholic beverages as part of a meal package after 7 a.m. on December 31, 1999, until 2 a.m. on the following day by a hotel licensee to registered overnight guests of the hotel.

[Pa.B. Doc. No. 99-2130. Filed for public inspection December 17, 1999, 9:00 a.m.]

# PROPOSED RULEMAKING

## GAME COMMISSION

[58 PA. CODE CH. 147]  
Deer Control Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its October 5, 1999, meeting proposed the following amendments:

Amend Chapter 147, Subchapter R (relating to agriculture deer control) to provide more relief to qualified farmers and expand opportunities for junior resident license holders.

These proposed amendments will have no adverse impact on the wildlife resources of this Commonwealth.

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

This proposal was made public at the October 5, 1999, meeting of the Commission, and comments on this proposal may be sent to the Executive Director of the Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until December 31, 1999.

### 1. Introduction

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its October 5, 1999, meeting proposed amendments to Chapter 147, Subchapter R (relating to deer control). The changes involve the authorization of twice the number of subpermits, the issuance of subpermits to residents under 18 years of age and to those who qualify for license and fee exemptions, and reporting on a monthly rather than weekly basis. This change was proposed under section 2901(b) of the code (relating to regulations for permits).

### 2. Purpose and Authority

The regulations currently in place for the issuance of agricultural deer control permits currently authorize the issuance of a maximum of one subpermit for every 10 acres under cultivation (§ 147.553), prohibit issuance of subpermits to residents under 18 years of age (§ 147.554), do not provide for issuance of subpermits to individuals exempt from license and fee requirements and require weekly reports of activities conducted under the permits (§ 147.557). As a result of comments and input received from the agricultural community, the Commission has decided to propose changes in the requirements as outlined previously.

Section 2901(b) of the code authorizes the Commission to promulgate regulations for the issuance of any permit. This provides the authority for the proposed changes.

### 3. Regulatory Requirements

The proposed changes will relax and expand existing requirements.

### 4. Persons Affected

Persons wishing to obtain an agricultural deer control permit and their subpermittees will be affected by the proposed changes.

### 5. Cost and Paperwork Requirement

The proposed changes will increase the number of subpermits that can be issued but will reduce the number of required reports.

### 7. Effective Date

These changes will be effective on final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

### 8. Contact Person

For further information on the proposed changes, contact Thomas R. Littwin, Acting Director, Bureau of Law Enforcement, (717) 783-6526, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** 48-115. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 147. SPECIAL PERMITS

#### Subchapter R. DEER CONTROL

#### AGRICULTURE

#### § 147.553. Permit.

The deer control permit authorizes the permittee to enlist the aid of a limited number of subpermits. The maximum number of subpermits issued will be no more than one for every [ 10 ] 5 acres of land that is under cultivation enrolled in the Deer Damage Area Program unless the wildlife conservation officer recommends an increase in the number due to warranted circumstances.

\* \* \* \* \*

#### § 147.554. Subpermit.

The permittee may acquire from the Commission subpermits, not to exceed the number provided for in § 147.553 (relating to permit), to be issued to qualified individuals of the permittee's choosing for the purpose of removing deer from the permittee's property by shooting. There is no fee charged for the subpermit. Qualifications are as follows:

(1) A subpermit will only be issued to residents of this Commonwealth who [are at least 18 years of age and ] possess a valid resident hunting license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions).

\* \* \* \* \*

#### § 147.557. Reporting of deer taken.

The permittee shall report, on a form provided by the Commission, the number of deer killed and other information the Commission deems necessary. The completed report shall be submitted to the district wildlife conservation officer within 5 days after the end of each [ week ] month while the permit is valid. If no deer are killed, a negative report shall be submitted.

[Pa.B. Doc. No. 99-2131. Filed for public inspection December 17, 1999, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CHS. 3270, 3280 and 3290]

#### Release of Children from Day Care

##### *Scope*

These statements of policy apply to:

- (1) Child day care center operators.
- (2) Group day care home operators.
- (3) Family day care home operators.

##### *Purpose*

The purpose of these statements of policy is to clarify the requirements regarding release of a child in care at the facility.

##### *Discussion*

The Department of Public Welfare regulations require that a child shall be released only to the child's parent or to an individual designated in writing by the enrolling parent. See §§ 3270.117(a), 3280.117(a) and 3290.116(a). Questions have been raised about the interpretation of these regulations, specifically whether the reference to "the child's parent" means only the enrolling parent or both parents.

According to State statute, the singular includes the plural when constructing regulatory language (See 1 Pa.C.S. § 1902 (relating to number; gender; tense)). This means that the reference to "the child's parent," in the singular, also means the child's parents, in the plural.

Unless stated otherwise by court order, either parent always has the right of release of that person's child and an operator may not refuse to release the child to either parent.

##### *Policy*

A facility operator shall release a child to either parent unless a court order states otherwise.

##### *Contact Person*

Refer comments and questions regarding these statements of policy to: Jennifer Lau, Bureau of Child Day Care Services, 4th Floor Bertolino Building, 1401 N. 7th St., P. O. Box 2675, Harrisburg, PA 17105-2675, (717) 787-8691.

##### *Effective Date*

These statements of policy are effective September 7, 1999.

FEATHER O. HOUSTOUN,  
*Secretary*

*(Editor's Note: The regulations of the Department, 55 Pa. Code Chapters 3270, 3280 and 3290, are amending by adding statements of policy in §§ 3270.117a, 3280.117a and 3290.116a to read as set forth in Annex A.)*

**Fiscal Note:** 14-BUL-059. No fiscal impact; (8) recommends adoption.

#### **Annex A**

#### **TITLE 55. PUBLIC WELFARE**

#### **PART V. CHILDREN, YOUTH AND FAMILIES MANUAL**

#### **Subpart D. NONRESIDENTIAL AGENCIES, FACILITIES AND SERVICES**

#### **ARTICLE I. LICENSING/APPROVAL**

#### **CHAPTER 3270. CHILD DAY CARE CENTERS PROGRAM**

#### **§ 3270.117a. Release of children—statement of policy.**

The facility operator shall release a child to either parent unless a court order states otherwise.

#### **CHAPTER 3280. GROUP DAY CARE HOMES PROGRAM**

#### **§ 3280.117a. Release of children—statement of policy.**

The facility operator shall release a child to either parent unless a court order states otherwise.

#### **CHAPTER 3290. FAMILY DAY CARE HOMES PROGRAM**

#### **§ 3290.116a. Release of children—statement of policy.**

The facility operator shall release a child to either parent unless a court order states otherwise.

[Pa.B. Doc. No. 99-2132. Filed for public inspection December 17, 1999, 9:00 a.m.]



# NOTICES

## DEPARTMENT OF AGRICULTURE

### Agricultural Advisory Board; Cancellation of Meeting

Due to a lack of agenda items, the Agricultural Advisory Board's (Board) December 15, 1999, meeting has been cancelled. The Board's next scheduled meeting will be held on February 16, 2000, at 10 a.m. in room 105 of the Rachel Carson State Office Building in Harrisburg.

For further information, contact Dean Auchenbach at (717) 772-5668.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 99-2133. Filed for public inspection December 17, 1999, 9:00 a.m.]

### Land Trust Reimbursement Grant Program

The Department of Agriculture (Department) hereby gives notice that the State Agricultural Land Preservation Board (State Board) has allocated \$500,000 from the Supplemental Agricultural Conservation Easement Purchase Account for the purposes of the grant program described in section 1716(a)(3) of The Administrative Code of 1929 (71 P. S. § 456(a)(3)), and for reimbursing the Department the expenses it incurs in administering this grant program. The allocation was made at the State Board meeting held on December 3, 1999. The grant program funded by this allocation shall be known as the Land Trust Reimbursement Grant Program (Program).

Act 15 of 1999 added a new section—Section 1716 (71 P. S. § 456)—to The Administrative Code of 1929. That section authorizes the State Board to allocate up to \$500,000 from the Supplemental Agricultural Conservation Easement Purchase Account for reimbursement grants to be awarded among qualified land trusts and to the Department for expenses it incurs in administering the distribution of these grants. Funds from this allocation may be encumbered through June 30, 2000. Beyond that date, the allocation expires and the Department may no longer encumber these funds for grants under the Program.

An individual grant will reimburse a qualified land trust up to \$5,000 of the expenses it has incurred in acquiring an "agricultural conservation easement," as that term is defined in the Agricultural Area Security Law (3 P. S. §§ 901—915). These expenses include appraisal costs, legal services, title searches, document preparation, title insurance, closing fees and survey costs.

The statutory language establishing the Program is self-executing. The following restates the statutory procedures and standards under which grants will be awarded under the Program, and provides references to sources of further information or assistance.

1. *Eligible Land Trust.* In order to be eligible to register with State Board and to receive reimbursement grants under the Program, a land trust must be a tax-exempt institution under section 501(c)(3) of the

Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.A. § 501(c)(3)) and include the acquisition of agricultural conservation easements or other conservation easements in its stated purpose.

2. *Registration of Eligible Land Trust.* An eligible land trust seeking reimbursement grants under the Program shall register with the State Board. Registration shall be accomplished by delivering a registration letter to the following address: Department of Agriculture, ATTN: Bureau of Farmland Protection, 2301 North Cameron Street, Harrisburg, PA 17110-9408.

3. *Contents of Registration Letter.* A registration letter shall:

a. Set forth a request that the eligible land trust be registered with the State Board for the purpose of receiving reimbursement grants under the Program;

b. Be signed by the president or other appropriate officer of the land trust;

c. Have enclosed a true and correct copy of the section 501(c)(3) tax-exempt certification issued to the land trust by the Internal Revenue Service, and any other documentation necessary to demonstrate the section 501(c)(3) tax-exempt status of the land trust and that the land trust has the acquisition of agricultural conservation easements or other conservation easements as its stated purpose; and

d. If the land trust seeks to be registered to receive reimbursement grants with respect to agricultural conservation easements it acquires in a county that is an "eligible county" under section 3 (3 P. S. § 913) of the Agricultural Area Security Law (an "eligible county" is a county whose agricultural conservation easement purchase program has been approved by the State Board), have enclosed a letter from either the Director or the Chairperson of the Agricultural Land Preservation Board in that eligible county verifying that the land trust coordinates its farmland preservation activities with the farmland preservation activities of the county.

4. *Acknowledgement of Registration.* The Department will promptly provide an eligible land trust that delivers a complete registration letter as described in the preceding paragraph with written confirmation that the eligible land trust is registered to receive reimbursement grants under the Program.

5. *Application for Reimbursement Grant—Forms.* Reimbursement grant application forms may be downloaded from the Department's website: [www.pda.state.pa.us](http://www.pda.state.pa.us). The Department will also provide reimbursement grant application forms upon written request to the address set forth in paragraph (2) or upon requests telephoned to the Department's Bureau of Farmland Protection, at (717) 783-3167. The Department will also enclose a reimbursement grant application form with any "Acknowledgement of Registration" described in paragraph (4).

6. *Application for Reimbursement Grant—Timing.* If an eligible land trust is registered to receive reimbursement grants under the Program it may, within 60 days of closing on the acquisition of an agricultural conservation easement, deliver to the State Board a written application for a reimbursement grant under the Program. An eligible land trust may submit a reimbursement grant application with respect to an agricultural conservation easement

acquisition that predates the publication date of this notice, as long as it meets the referenced 60-day filing deadline.

7. *Application for Reimbursement Grant—Content.* A reimbursement grant application shall be delivered to the address set forth in paragraph (2) and shall:

a. Request a reimbursement of costs incidental to the acquisition of an agricultural conservation easement;

b. Have enclosed a statement of the costs (such as costs of appraisals, legal services, title searches, document preparation, title insurance, closing fees and surveys) incidental to the acquisition of the agricultural conservation easement; and

c. Have enclosed a true and correct copy of the recorded deed of agricultural conservation easement.

8. *State Board Review.* The State Board will review any complete, timely application for a reimbursement grant within 60 days of receipt. The Department shall stamp or otherwise identify each complete reimbursement grant application to record the date and the order in which these applications are received. The State Board will consider reimbursement grant applications in the order they are received. The State Board may not approve a reimbursement grant application unless all of the following criteria are met:

a. The application meets the requirements of 71 P. S. § 456.

b. The land use restrictions imposed under the deed of agricultural conservation easement are comparable to restrictions imposed under a deed of agricultural conservation easement acquired in accordance with the Agricultural Area Security Law.

c. The land subject to the agricultural conservation easement is economically viable for agricultural production. A tract of land is economically viable for agricultural production if it meets the criteria set forth in 7 Pa. Code § 138e.16(a) (relating to minimum criteria for applications), which are as follows:

i. The land is in an agricultural security area consisting of 500 acres or more.

ii. The land is contiguous acreage of at least 50 acres in size unless the tract is at least 10 acres in size and is either utilized for a crop unique to the area or is contiguous to a property which has a perpetual conservation easement in place which is held by a "qualified conservation organization," as that term is defined in section 170(h)(3) of the Internal Revenue Code (26 U.S.C.A. § 170(h)(3)).

iii. The land contains at least 50% of soils which are both available for agricultural production and of land capability classes I-IV, as defined by the USDA-NRCS.

iv. The land contains the greater of 50% or 10 acres of harvested cropland, pasture or grazing land.

d. There are sufficient unencumbered funds available to fund the reimbursement grant amount sought in the reimbursement grant application.

9. *Notice of Decision.* The State Board will, within 10 days of completing its review, mail a reimbursement grant applicant written notice as to whether the reimbursement grant application is approved. If the application is not approved, the written notice will specify the basis for disapproval.

10. *Counties that are not "Eligible Counties."* Under the Agricultural Area Security Law (at 3 P. S. § 903), an "eligible county" is a county whose agricultural conservation easement purchase program has been approved by the State Board. If an eligible land trust that is registered to receive reimbursement grants seeks a reimbursement grant with respect to an agricultural conservation easements it acquires in a county that is not an "eligible county," it must coordinate its farmland preservation activities in that county with the farmland preservation activities of the State Board.

11. *Expiration of Allocation/Encumbrance of Allocated Funds.* The \$500,000 allocation made in this notice is available through June 30, 2000. Allocated funds that are not "encumbered" by that date will not be available for distribution under the Program. Allocated funds will be considered encumbered as of the date the Department receives a complete, timely reimbursement grant application and records the date of receipt on the application in accordance with paragraph (8). For example, if an eligible land trust delivers a complete, timely reimbursement grant application to the Department on or before June 30, 2000, and there remain allocated funds for the grant, these allocated funds will be considered encumbered and the grant may subsequently be awarded. If an eligible land trust delivers a complete, timely reimbursement grant application to the Department after June 30, 2000, though, the allocation of funds for reimbursement grants under the Program will have lapsed and no grant may be awarded.

12. *No Right or Entitlement to Allocated or Encumbered Funds.* The referenced allocation of funds does not create in an eligible land trust a right or entitlement to a grant from these allocated funds. Similarly, the encumbrance of allocated funds does not create such a right or entitlement. State Board approval of a reimbursement grant application is the event that establishes entitlement of the applicant to the grant funds sought, provided allocated funds are available in an amount adequate to fund the grant.

13. *Additional Information.* Further information may be obtained by contacting the Department of Agriculture, Attn: Raymond C. Pickering, Director, Bureau of Farmland Protection, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 783-3167.

SAMUEL E. HAYES, Jr.,  
Secretary

[Pa.B. Doc. No. 99-2134. Filed for public inspection December 17, 1999, 9:00 a.m.]

# DEPARTMENT OF BANKING

## Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending December 7, 1999.

### BANKING INSTITUTIONS

#### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
12-1-99	NBT Bancorp, Inc., Norwich, New York, to acquire 100% of the voting shares of Lake Ariel Bancorp, Inc., Lake Ariel, Pennsylvania, and thereby indirectly acquire LA Bank, National Association, Lake Ariel, PA	Norwich, NY	Approved

#### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-1-99	First Union National Bank, Charlotte, NC, and Meridian Trust Company, Reading, PA Surviving Institution—First Union National Bank, Charlotte, NC	Charlotte, NC	Effective

#### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-2-99	East Penn Bank Emmaus Lehigh County	Emmaus High School 851 North Street Emmaus Lehigh County	Opened
12-3-99	Mauch Chunk Trust Company Jim Thorpe Carbon County	1202 North Street Jim Thorpe Carbon County	Approved
12-3-99	The Drovers & Mechanics Bank York York County	30 West Patrick St. Frederick Frederick County, MD	Approved
12-6-99	The Glen Rock State Bank Glen Rock York County	3090 Cape Horn Road Red Lion York County	Approved

#### Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
12-1-99	Meridian Trust Company Reading Berks County	Amendment to Article Three provides for a change in the purpose clause to that of a bank and trust company.	Effective

### SAVINGS ASSOCIATIONS

No activity.

**CREDIT UNIONS****Conversions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
12-1-99	Atlantic Employees Federal Credit Union Newtown Square Delaware County <i>To:</i> Atlantic Credit Union Newtown Square Delaware County	16 Campus Boulevard Newtown Square Delaware County	Effective
Represents conversion from a Federally-chartered credit union to a State-chartered credit union.			

**Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
12-1-99	Philadelphia District Railway Postal Clerks Federal Credit Union, Philadelphia, and Mutual Credit Union, Philadelphia Surviving Institution—Philadelphia District Railway Postal Clerks Federal Credit Union, Philadelphia	Philadelphia	Effective
12-2-99	Atlantic Credit Union, Newtown Square, and P.S.W.C. Employees Credit Union, Bryn Mawr Surviving Institution—Atlantic Credit Union, Newtown Square	Newtown Square	Approved

DAVID E. ZUERN,  
*Secretary*

[Pa.B. Doc. No. 99-2135. Filed for public inspection December 17, 1999, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

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#### APPLICATIONS

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#### 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 0057720.** Industrial waste, **Sunny Dell Foods, Inc.**, 214 South Mill Road, Kennett Square, PA 19348.

This application is for issuance of an NPDES permit to discharge treated process wastewater (Outfall 001) and cooling water (Outfall 002) from Sunny Dell Foods, Inc. facility in Kennett Township, **Chester County**. This is a new discharge to West Branch Red Clay Creek.

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

The proposed effluent limits for Outfall 001 (process water), based on an average flow of 50,000 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10	20	25
Total Suspended Solids	30	45	60
Oil and Grease	15		30
pH	within limits of 6.0—9.0 standard units at all times		
Total Dissolved Solids	1,000	2,000	2,500
NH <sub>3</sub> -N	2.0	4.0	5.0
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
Fecal Coliform	# 200/100 ml		

The effluent limits for Outfall 002 (cooling water) based on an average flow of 90,000 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10	20	25
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N	2.0	4.0	5.0
Fecal Coliform	#200/100 ml		
Total Residual Chlorine	0.5	1.0	1.2
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
pH	within limits of 6.0—9.0 standard units at all times		

<i>Temperature</i>	<i>Daily Average °F</i>	<i>Instantaneous Maximum °F</i>
January 1-January 31	87	110
February 1-February 29	83	110
March 1-May 31	110	110
June 1-June 15	92	110
June 16-June 30	108	110
July 1-July 31	78	110
August 1-October 15	110	110
October 16-October 31	98	110
November 1-November 15	110	110
November 16-November 30	73	110
December 1-December 31	77	110

*Other Conditions:*

The EPA waiver is in effect.

Conditions for future permit modification.

Effective disinfection.

Thermal Requirements.

TRC Requirement

No Chemical Additives

TMDL/WLA Data

**PA 0050911.** Sewage, **Upper Perkiomen School District**, 201 West Fifth Street, East Greenville, PA 18041.

This application is for renewal and amendment 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, from permit issuance lasting through completion of new WWTP based on an average flow of 4,000 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Suspended Solids	30	60
Ammonia (as N)	20	40
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 thru year 2)	0.7	1.5
(year 3 thru expiration)	0.5	1.2

The proposed effluent limits for Outfall 001, from completion of new WWTP lasting through expiration, based on an average flow of 4,250 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
Ammonia as N	20	40
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	

*Other Conditions:*

The EPA waiver is in effect.

Conditions for future permit modification.

Effective disinfection.

**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. 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 of Environmental Protection 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 protests. Each writer will be notified in writing of the time and place if a hearing or conference concerning the plan, 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 proceedings, should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Industrial waste and sewerage applications received under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).**

*Northwest Regional Office: Regional Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6942.*

**WQM Permit No. 2099414.** Sewage. **Spartansburg Borough**, P. O. Box 222, Spartansburg, PA 16434. This project is for the construction and operation of a wastewater treatment facility located in Spartansburg Borough and Sparta Township, **Crawford County**.

**WQM Permit No. 6299415.** Sewage. **Glade Township Municipal Authority**, 99 Cobham Park Road, Warren, PA 16365. This project is for the construction and opera-

tion of pump stations and sewer extensions to service several areas in Glade Township, **Warren County**.

**WQM Permit No. 4399428.** Sewage, **Jay C. Lynch**, 69 S. Summit Road, Greenville, PA 16125. This project is for the construction of a Single Residence Sewage Treatment Plant in West Salem Township, **Mercer County**.

**INDIVIDUAL PERMITS  
(PAS)**

**NPDES INDIVIDUAL**

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

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the office noted above the application within 30 days from the date of this public notice. Comments reviewed within this 30-day 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 the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

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

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

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

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

**NPDES Permit PAS10-G393.** Stormwater. **Brian F. Forcine**, Forcine Concrete, 2403 Yellow Springs Road, Malvern, PA 19355, has applied to discharge stormwater from a construction activity located in East Whiteland Township, **Chester County**, to Little Valley Creek.

**NPDES Permit PAS10-J046.** Stormwater. **Edgemont Realty Associates**, 1595 Paoli Pike, West Chester, PA 19380-6167, has applied to discharge stormwater from a

construction activity located in Edgmont Township, **Delaware County**, to Ridley Creek.

*Northeast Regional Office: Water Management Program, Two Public Square, Wilkes-Barre, PA 18711.*

**NPDES Permit PAS142202.** Stormwater. **Packaging Corporation of America**, P. O. Box 58, Trexlertown, PA 18087 has applied to discharge stormwater from an industrial site located in Upper Macungie Township, **Lehigh County**, to Iron Run.

*Northampton County Conservation District, District Manager, Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.*

**NPDES Permit PAS10U122.** Stormwater. **Atul Patel, President, H.M.B. Management, Inc.**, 2375 Woodland Drive, Allentown, PA 18103, has applied to discharge stormwater from a construction activity located in Palmer Township, **Northampton County**, to Bushkill Creek.

**NPDES Permit PAS10U123.** Stormwater. **Dave Schumacher, Schumacher, Inc.**, 3765 Highland St., Allentown, PA 18104, has applied to discharge stormwater from a construction activity located in Forks Township, **Northampton County**, to Bushkill Creek.

*Northcentral Regional Office: Regional Water Management Program Manager, 208 W. 3rd St., Suite 101, Williamsport, PA 17701, (717) 327-3574.*

*Centre County Conservation District, 414 Holmes Ave., Suite 5, Bellefonte, PA 16823.*

**NPDES Permit PAS10F081.** Stormwater. **David Nevins, Cedar Cliff Subdivision**, P. O. Box 10414, State College, PA 16805 has applied to discharge stormwater from a construction activity located in Patton Township, **Centre County** to Buffalo Run.

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

**NPDES PAS1021022.** Stormwater. **Jackson Township Water Authority**, 2949 William Penn Avenue, Johnstown, PA 15909 has applied to discharge stormwater from a construction site located in Jackson Township, **Cambria County** to Laurel Run and Saltlick Run.

**SAFE DRINKING WATER**

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

*Northeast Regional Office: Sanitarian Regional Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**5499505.** Public water supply. **Mountain Water Authority of Joliett**, Charles Yerges, Treasurer, 23 Joliett Street, Joliett, PA 17981. This proposal involves the addition of Corrosion Control treatment facilities consisting of pH/Alkalinity adjustment with soda ash with provisions for the addition of corrosion inhibitor, zinc orthophosphate. It is located in Porte and Tremont Townships, **Schuylkill County**. *Engineer: Angelo Tesoriero, PE, Geo Source Engineers.*

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

### Preamble 1

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

Sections 302, 303, 304 and 305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background standard, Statewide health standard, the site-specific standard, or who intend to remediate a site as a special industrial area, must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known suspected contaminants at the site, the proposed remediation measures for the site, and a description of the intended future use of the site. A person who demonstrates attainment of one, or a combination of the cleanup standards, or who receives approval of a special industrial area remediation identified under the act, will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(l)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the site(s) identified below proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period the municipality may request that the person identified below, as the remediator of the site, develop and implement a public involvement plan. Requests to be involved, and comments, should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, please contact the Environmental Cleanup Program Manager in the Department of Environmental Protection Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

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

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

**Estate of Martin Spinelli**, Tredyffrin Township, **Chester County**. William G. Murray, URS Greiner Woodward Clyde, 1400 Union Meeting Road, Suite 202, Blue Bell, PA 19422-1972, has submitted a Notice of Intent to Remediate site soil contaminated with lead and BTEX. The applicant proposes to remediate the site to meet the Statewide health standard. A summary of the Notice of Intent to Remediate was reported to have been published in *Suburban & Wayne Times*, on October 28, 1999.

**L. B. Smith Property**, Plymouth Township, **Montgomery County**. J. Curtis Hatfield, P.E., Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104, has submitted a Notice of Intent to Remediate site soil/fill and groundwater contaminated with asbestos. The applicant proposes to remediate the site to meet a combination of Statewide health and site specific standards. A summary of the Notice of Intent to Remediate was reported to have been published in *The Times Herald* on November 8, 1999.

**Schramm, Inc.**, West Goshen Township, **Chester County**. David B. Farrington, P.G., Walter B. Satherthwaite Associates, Inc., 720 Old Fern Hill Road, West Chester, PA 19380, has submitted a Notice of Intent to Remediate site groundwater contaminated with solvents. The applicant proposes to remediate the site to meet background standards. A summary of the Notice of Intent to Remediate was reported to have been published in *Daily Local News* on November 19, 1999.

*Northeast Regional Field Office: Joseph A. Brogna, Regional Environmental Cleanup Program Manager; 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**Pennsylvania Power & Light Company (PP&L)—Distribution Pole No. 71189553648 (Rt. 611)**, Bangor Borough, **Northampton County**. PP&L, Environmental Management Division, 2 North Ninth Street, Allentown, PA 18101 has submitted a Notice of Intent to Remediate concerning the remediation of site soils found to be contaminated with PCBs (polychlorinated biphenyls). The notice indicates that the site will be remediated to meet the Statewide human health standard.

**Industrial Engraving—Knox Facility (1101 Knox Avenue)**, Forks Township, **Northampton County**. Floyd R. Lear, III, President, Industrial Engraving Company, Inc., 1350 Sullivan Trail, P.O. Box 311, Easton, PA 18044-0311, has submitted a Notice of Intent to Remediate concerning the remediation of site groundwater found to have been contaminated with chlorinated solvent compounds. The applicant proposes to remediate the site to meet the site-specific standard. A summary of the Notice of Intent to Remediate was reportedly published in *The Express Times* on October 24, 1999. This notice corrects one previously published on November 13, 1999.

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

**Engineered Products, Inc. Property**, Canonsburg Borough and North Strabane Township, **Washington County**. Engineered Products, Inc. Property, 1844 Ardmore Boulevard, Pittsburgh, PA 15221 and James S. Zubrow, Key Environmental, Inc., Rosslyn Farms Industrial Park, 1200 Arch Street, Suite 200, Carnegie, PA 15106 has submitted a Notice of Intent to Remediate soil



contaminated with lead. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Washington Observer Reporter* on November 22, 1999.

### **SOLID AND HAZARDOUS WASTE BENEFICIAL USE DETERMINATIONS**

**Application received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and the residual waste regulations for a general permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.**

*Central Office: Division of Municipal and Residual Waste, 14th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101-2301.*

**General Permit Application No. WMGR065. Bethlehem Steel Corporation**, 1170 Eighth Avenue, Bethlehem, PA 18106-7699. General Permit Number WMGR065 for beneficial use, in the Northeast Region, of various wastes from steelmaking and foundry operations for use as construction fill at a site undergoing remediation under Act 2. The Department accepted the application as administratively complete on December 3, 1999. Comments concerning the application should be directed to Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472. Persons interested in obtaining more information about the general permit application may contact the Division at (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

### **OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

**Applications submitted 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.**

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

**Permit I. D. No. 603281. Pocono Grow Fertilizer Corporation**, P. O. Box 406, East Stroudsburg, PA 18301. An application for permit reissuance of this municipal waste (special handling waste/sewage sludge septage) processing facility, located in East Stroudsburg Borough, **Monroe County**. The application was received in the Regional Office on September 15, 1999; and as of November 3, 1999, the application was found to be administratively complete.

**Permit I. D. No. 100020. IESI PA Bethlehem Landfill (Eastern Waste of Bethlehem, Inc. Landfill)**, IESI PA Bethlehem Landfill Corporation, 2335 Applebutter Road, Bethlehem, PA 18015. A major permit modification to revise the excavation grades of Cell 3-D and lower the final contours to maintain the capacity without a change

in volume at this municipal waste landfill, located in Lower Saucon Township, **Northampton County**. The application was received in the Regional Office on October 26, 1999; and as of November 3, 1999, the application was found to be administratively complete.

### **REQUEST FOR PROPOSALS FOR MUNICIPAL SOLID WASTE CAPACITY**

**The following notices are placed through the Department of Environmental Protection as required by section 502(d) of the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. § 4000.502)**

**Luzerne County** through the Solid Waste Department is soliciting disposal/processing facilities to provide all or part of the disposal capacity required annually for Luzerne County municipal waste for the next 10 years. Interested parties should contact the Luzerne County Solid Waste Department at (570) 820-6300 to obtain a copy of the Facility Qualification Request, which will be used to qualify facilities to participate in the Luzerne County Municipal Waste Management Plan. Responses to the Facility Qualification Request must be submitted on or before March 31, 2000, at 3 p.m.

### **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.

Notice is hereby given that 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 person may also request that a hearing be held concerning the proposed plan approval and operating permit. Any comments or protests filed with the Department Regional Offices must include a concise statement of the objections to the issuance of the plan approval or operating permit and relevant facts which serve as the basis for the objections. If DEP schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is con-

structed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121 through 143, the Federal Clean Air Act and regulations adopted under the act.

### OPERATING PERMITS

#### 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.*

**38-03003A: Bayer Corp.** (400 W. Stoever Avenue, Myerstown, PA 17067) for operation of a tablet spray coater controlled by a fabric collector in Myerstown Borough, **Lebanon County**.

**06-05080: O. B. Dyers, Inc.** (45 Noble Street, Reading, PA 19611) for a Synthetic Minor Operating Permit for a fabric dyeing process in the City of Reading, **Berks County**.

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**49-319-001: Arcos Alloys** (1 Arcos Drive, Mt. Carmel, PA 17851) for operation of four cold continuous web wire degreasers (No. 14, 15, 16 and 17) in Mt. Carmel Township, **Northumberland County**. These degreasers are subject to Subpart T of the National Emission Standards for Hazardous Air Pollutants.

*City of Philadelphia: Air Management Services, 321 University Avenue, Philadelphia, PA 19104, (215) 685-7584.*

**V99-002: ST Services Terminal** (67th Street and the Schuylkill River, Philadelphia, PA 19153) for operation of a bulk liquid storage and distribution terminal. The facility's air emission sources include a 30 MMBTU/hr thermal fluid heater, a 20 MMBTU/hr thermal fluid heater, a vapor incinerator, 12 petroleum products storage tanks, truck loading, non-gasoline marine loading, barge cleaning, and washwater treatment in the City of Philadelphia, **Philadelphia County**. The facility is a Title V Facility.

**V95-088: Tasty Baking Co.** (2801 Hunting Park Avenue, Philadelphia, PA 19129-1392) for operation of a facility which makes baked goods. The facility's air emission sources include a 15 MMBTU/hr boiler, a boiler that is limited to 49 MMBTU/hr, a 3950 kW cogen unit turbine, an emergency generator, and two donut fryers in the City of Philadelphia, **Philadelphia County**. The facility is a Title V Facility.

**S95-060: Anchor Dye & Finishing Co., Inc.** (Adams Avenue and Leiper Street, Philadelphia, PA 19124) for operation of a textile manufacturing facility. The facility's air emission sources includes 300 HP, 400 HP, and 600 HP boilers, two dryers, spray gun cleaners, and four cyclones as control devices for wool flock collection systems in the City of Philadelphia, **Philadelphia County**.

**S97-012: Hahnemann University Hospital** (Broad and Vine Streets, Philadelphia, PA 19102). The facility's air emission sources include a 200lbs/hr pathological incinerator, four <5 MMBTU/hr boilers, nine emergency generators, and three fire pumps in the City of Philadelphia, **Philadelphia County**.

**S95-067: Ryder Truck Rental, Inc.** (9751 Blue Grass Road, Philadelphia, PA 19114) for operation of a truck

renting and leasing facility. The facility's air emission sources include a paint booth in the City of Philadelphia, **Philadelphia County**.

**S95-040: SmithKline Beecham Pharmaceuticals** (1500 Spring Garden Street, Philadelphia, PA 19130) for operation of offices and warehouse operations from mail, packaging components and paper, and unassigned space. The facility's air emission sources include two 33.5 MMBTU/hr boilers and one emergency generator in the City of Philadelphia, **Philadelphia County**.

**N97-009: Belmont Center for Comprehensive Treatment** (4200 Monument Avenue, Philadelphia, PA 19131) for operation of a psychiatric hospital. The facility's air emission sources include two 200 HP boilers, one 45 HP boiler, and one emergency generator in the City of Philadelphia, **Philadelphia County**.

**N98-001: Consolidated Drake Press** (5050 Parkside Avenue, Philadelphia, PA 19131) for operation of a commercial printing facility. The facility's air emission sources include five non-heatset sheetfed offset lithographic printing presses and two 70 HP boilers in the City of Philadelphia, **Philadelphia County**.

**N96-046: National Publishing Co.** (11311 Roosevelt Boulevard, Philadelphia, PA 19154) for operation of a facility that prints and publishes bibles and books. The facility's air emission sources include a 10 MMBTU/hr boiler, a 6.7 MMBTU/hr boiler, eight 275,000 BTU/hr space heaters, two heatset web offset presses and ovens, and two aqueous-based spray booths in the City of Philadelphia, **Philadelphia County**.

**N95-062: Simkar Corp.** (601 E. Cayuga Street, Philadelphia, PA 19120) for operation of a facility that manufactures lighting fixtures. The facility's air emission sources include a 4.5 MMBTU/hr paint bake and part dryoff oven, a 1.2 MMBTU/hr boiler, a 7.5 MMBTU/hr boiler, a manual powder spray booth, and an automatic powder spray booth in the City of Philadelphia, **Philadelphia County**.

#### 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 (relating to operating permit requirements) and G (relating to 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 below. For additional information, contact the regional office noted below.

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(s) submitting the comments, along with the reference number of the proposed permit. The commentator should also include a concise statement of any objections to the permit issuance and the relevant facts upon which the objections are based.

The Department reserves the right to hold a public hearing on the proposed action based upon the informa-

tion received during the public comment period and will provide notice of any scheduled public hearing at least thirty 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.

*Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Attn: Mark Wayner, (412) 442-4161.*

**TV-65-00042: Ranbar Electrical Materials, Inc., Manor Division** (Route 993, Box 607, Manor, PA 15665) for their paint and coatings manufacturing facility in Manor Township, **Westmoreland County**. The facility's major sources of emissions include paint and resin manufacturing which emit major quantities of volatile organic compounds (VOCs).

#### PLAN APPROVALS

#### Applications received and intent to issue Plan Approvals under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

*Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (570) 826-2531.*

**40-320-010: Plainwell Tissue** (901 Sathers Drive, P. O. Box 6000, Pittston, PA 18640) for construction of a napkin water-based printing operation in Pittston Township, **Luzerne County**.

**48-313-086: Elementis Pigments, Inc.** (1525 Wood Avenue, Easton, PA 18042) for construction of a finish plant milling operation in Easton, **Northampton County**.

**54-308-019: Alcoa Extrusions, Inc.** (P. O. Box 187, Cressona, PA 17929) for modification of a dross loading process on 53 Pottsville Street, Cressona Borough, **Schuylkill County**.

**54-320-002: OMNOVA Solutions, Inc.** (Hickory Drive, Auburn, PA 17922) for construction of a rotogravure printer in West Brunswick Township, **Schuylkill County**.

*Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.*

**28-03029: Cumberland Valley Animal Shelter, Inc.** (2325 County Road, Chambersburg, PA 17201) for installation of an animal cremator in Guilford Township, **Franklin County**.

**67-05068: Highway Materials, Inc.** (1750 Walton Road, P. O. Box 1667, Blue Bell, PA 19422) for construction of a new asphalt batch plant to replace the existing asphalt batch plant in Hellam Township, **York County**.

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**OP-14-0004C: Graybec Lime, Inc.** (P. O. Box 448, Bellefonte, PA 16823) for construction of a bituminous coal/petroleum coke-fired rotary lime kiln (#6) and associated air cleaning device (a fabric collector), a bituminous coal-fired rotary lime kiln (#7) and associated air cleaning device (a fabric collector), a glass stone dryer and associated air cleaning devices (3 fabric collectors), a hydrator, lime handling operations and associated air cleaning devices (6 fabric collectors) and limestone handling operations and associated air cleaning device (a fabric collector). This construction is subject to Federal Prevention of

Significant Deterioration (PSD) regulations as well as to Subpart HH of the Federal Standards for Performance for New Stationary Sources.

**08-310-003: State Aggregates, Inc.** (4401 Camp Meeting Road, Center Valley, PA 18034) for construction of a sand and gravel processing plant (Scrivens plant) in Sheshequin Township, **Bradford County**. This plant will be subject to Subpart OOO of the Federal Standards of Performance for New Stationary Sources.

**41-318-046: Sonoco Products Co.** (P. O. Box 4008, Williamsport, PA 17701-4008) for modification of a steel reel surface coating operation in the City of Williamsport, **Lycoming County**.

*Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.*

**PA-32-348A: DLR Mining, Inc.** (R. D. 3, Box 115-A, Indiana, PA 15701) for installation of coal crushing/cleaning/storage at Nolo Deep Mine in Buffington Township, **Indiana County**.

**PA-04-699E: National Gypsum Co.** (2001 Rexford Road, Charlotte, NC 28211) for installation of wallboard manufacturing at Shippingport Plant in Shippingport Borough, **Beaver County**.

**PA-65-914A: Preform Specialties, Inc.** (R. D. 3, Box 250-I, Blairsville, PA 15717) for installation of tungsten carbide preform mfg. in Derry Township, **Westmoreland County**.

**PA-11-288A: Johnstown America Corp.** (17 Johns Street, Johnstown, PA 15907) for installation of cleaning booth at Franklin Plant in Franklin Borough, **Cambria County**.

**PA-03-168A: Rosebud Mining Co.** (R. D. 9, Box 379A, Kittanning, PA 16201) for installation of diesel generator in Kittanning Borough, **Armstrong County**.

*Northwest Regional Office: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6940.*

**PA-25-069C: Engelhard Corp.** (1729 East Avenue, Erie, PA 16503-2367) for construction of a pneumatic conveying system and installation of a dust collector at the catalyst manufacturing plant in the City of Erie, **Erie County**.

**PA-37-051C: Reactive Metals & Alloys Corp.** (Route 168, West Pittsburg, PA 16160) for installation of a third mill, feed system, larger cyclone, duct and fan in the existing VICT grinding system in Taylor Township, **Lawrence County**.

#### REASONABLY AVAILABLE CONTROL TECHNOLOGY

#### (RACT)

The Department of Environmental Protection (Department) will conduct a public hearing on January 28, 2000, beginning at 1 p.m. in the Air Quality conference room at the Meadville Regional Office located at 230 Chestnut Street.

The hearing is for the Department to accept testimony concerning the Department's decision to approve, with conditions, the case by case Reasonably Available Control Technology (RACT) plans by:

Erie Forge & Steel, Inc. (1341 W. 16th Street, Erie, PA 16512) in Erie, Erie County to meet the requirements under 25 Pa. Code §§ 129.91—129.95 (RACT), concerning the emissions of oxides of nitrogen (NO<sub>x</sub>) from various air contamination sources. The final RACT proposals will be submitted to the United States Environmental Protection Agency (EPA) as a revision to Pennsylvania's State Implementation Plan.

The proposed SIP revisions do not adopt any new regulations. They incorporate the provisions and requirements contained in RACT approvals for these facilities to comply with current regulations.

The preliminary RACT determinations, if finally approved, will be incorporated into Plan Approvals and/or Operating Permits for the facilities and will be submitted to the United States Environmental Protection Agency (EPA) as a revision to Pennsylvania's State Implementation Plan.

The following is a summary of the preliminary NO<sub>x</sub> RACT determination for the above listed facility:

Electric Arc Furnaces 6 & 8 and Ladle Refining Furnace No. 7

Case by Case determination that no technically feasible control alternatives exist for NO<sub>x</sub> reduction from these sources.

A public hearing will be held for the purpose of receiving comments on the above proposed Operating Permit and the proposed SIP revisions. The public hearing is scheduled as follows:

DEP Meadville Regional Office,  
Air Quality Conference Room,  
230 Chestnut Street,  
Meadville, PA 16335,  
January 28, 2000, 1 p.m. to 3 p.m.

Persons wishing to present testimony at the hearing should contact Robert Huston, Air Pollution Control Engineer, DEP, 230 Chestnut Street, Meadville, PA 16335-3494, (814) 332-6940 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 minutes and two written copies of the oral testimony are required. Each organization is requested to designate one witness to present testimony in its own behalf.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact Robert Huston, (814) 332-6940 or the Pennsylvania AT&T relay service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Those unable to attend the hearing but wish to comment should provide written comments to Robert Huston, Air Pollution Control Engineer, Department of Environmental Protection, 230 Chestnut Street, Meadville, PA 16335-3494. Comments should be submitted within 30 days of the date of this publication notice.

All the pertinent documents (applications, review memos, and draft approvals) are also available for review from 8 a.m. to 4 p.m. at the Meadville Regional DEP office (Air Quality). Appointments for scheduling a review must be made by calling the DEP contact person noted previously.

## MINING

### APPLICATIONS TO CONDUCT COAL AND NONCOAL ACTIVITIES

#### MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection. A copy of the application is available for inspection at the District mining office indicated above each application. Where a 401 water quality certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for such certification.

Written comments or objections, or requests for informal conferences on applications, may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—23 and 86.31—34 (relating to public notices of filing of permit applications, opportunity for comment, and informal conferences).

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. The NPDES permits will contain, at a minimum, technology-based effluent limitations (as described in the Department's regulations—25 Pa. Code §§ 77.522, 87.102, 88.92, 88.187, 88.242, 89.52, and 90.102) for iron, manganese, suspended solids, settleable solids, alkalinity, and pH. In addition to the above, more restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit when necessary for compliance with water quality standards (in accordance with 25 Pa. Code Chapter 93 and 95). Persons or agencies which have requested review of the NPDES permit requirements for a particular mining activity within the above-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

Written comments or objections should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor de-

sires to have the conference conducted in the locality of the proposed mining activities.

*Hawk Run District Office, P. O. Box 209, Off Empire Road, Hawk Run, PA 16840.*

*Coal Applications Received*

**17970107. Al Hamilton Contracting Company** (R. D. 1, Box 87, Woodland, PA 16681), major permit revision to an existing bituminous surface mine permit to apply biosolids (stabilized sewage sludge) to enhance vegetation on a 458 acre permit located in Boggs Township, **Clearfield County**. Application received November 15, 1999.

*Greensburg District Office, R. R. 2, Box 603-C, Greensburg, PA 15601.*

**26980104. Gary Gioia Coal Company** (319 Karen Drive, Elizabeth, PA 15037). Application received for commencement, operation and reclamation of a bituminous surface mine located in Wharton Township, **Fayette County**, proposed to affect 133.6 acres. Receiving streams: Big Sandy Creek and unnamed tributary to Big Sandy Creek to Cheat River and McIntire Run and unnamed tributaries to McIntire Run to Big Sandy Creek to the Cheat River. A social and economic justification is included with this application. Application received: December 1, 1999.

*Ebensburg District Office, 437 South Center Street, P. O. Box 625, Ebensburg, PA 15931-0625.*

**11890103.** Permit renewal for reclamation only, **Mar-quis Mining Corporation** (3889 Menoher Boulevard, Johnstown, PA 15905), for continued restoration of a bituminous strip mine in Lower Yoder Township, **Cambria County**, affecting 67.0 acres, receiving streams unnamed tributaries to/and St. Clair Run, application received November 24, 1999.

**32890107.** Permit Renewal for reclamation only, **T.L.H. Coal Company** (R. D. 1, Box 170, Rochester Mills, PA 15771), for continued restoration of a bituminous strip mine in Rayne and East Mahoning Townships, **Indiana County**, affecting 16.0 acres, receiving stream Dixon Run and unnamed tributaries to Rayne Run, application received December 1, 1999.

*Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

**13890201R2. Panther Creek Partners**, (1001 Industrial Road, Nesquehoning, PA 18240-2244), renewal of an existing coal refuse reprocessing operation in Nesquehoning Borough, **Carbon County**, affecting 428.0 acres, receiving stream—Deep Run. Application received November 19, 1999.

*McMurray District Office, 3913 Washington Road, McMurray, PA 15317.*

**32991301. DLR Mining, Inc.** (R. D. 3, Box 115-A, Indiana, PA 15701), to develop and operate a new deep mine for the Nolo Mine in Buffington Township, **Indiana County**, permit application for a new deep mine, Little Yellow Creek and unnamed tributary to Little Yellow Creek. Application received November 8, 1999.

**32840701. Tanoma Coal Company, Inc.** (600 Rayne Run Road, Marion Center, PA 15759-8004), to renew the permit for the No. 2 Refuse Area in Rayne Township, **Indiana County** to renew the coal refuse disposal permit which expires 5/6/2000, no additional discharges. Application received November 8, 1999.

**63733708. Mon View Mining Company** (P. O. Box 1203, 250 West Main St., Uniontown, PA 15401), to renew the permit for the Mathis Coal Refuse Disposal Area in Carroll and Union Townships, **Washington County** to renew application for an existing coal refuse disposal area, no additional discharges. Application received November 15, 1999.

**63831302. Eighty Four Mining Company** (P. O. Box 284, Eighty Four, PA 15330), to revise the permit for the Mine No. 84 in South Strabane Township, **Washington County**, revision to add 30 acres to the surface permit area for a new ventilation shaft, unnamed tributary to Little Chartiers Creek. Application received November 15, 1999.

**33901602. Energy Resources, Inc.** (P. O. Box 259, Brockway, PA 15824), to transfer the permit for the Brockway Tipple in Snyder Township, **Jefferson County** to transfer of permit from Hepburnia Coal Co. to Energy Resources, Inc., no additional discharges. Application received November 18, 1999.

*Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

*Noncoal Applications Received*

**8175SM3A1C5. Warner Company** (Yellow Springs Road, P. O. Box 457, Devault, PA 19432), correction to an existing quarry operation in Tredyffrin Township, **Chester County** affecting 262.0 acres, receiving stream—unnamed tributary to Valley Creek. Application received November 18, 1999.

**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. 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—131, 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 the issuance of a Dam Safety or Encroachment Permit or the approval of Environmental Assessments must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted above the application.

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

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

*Northeast Regional Office: Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E58-232.** Encroachment. **Department of Transportation**, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501. To remove the existing structure, to place fill in a de minimis area of wetlands equal to 0.03 acre and to construct and maintain a 4-span prestressed concrete I-beam bridge or an alternative 3-span steel I-beam bridge having a total span of approximately 537 feet and underclearance of approximately 26 feet across the Susquehanna River. A temporary 4-span bridge is also proposed immediately downstream of S. R. 0011 to detour traffic during construction. The project is located along S. R. 0011, approximately 0.2 mile downstream of the S. R. 0081 bridge. (Great Bend, PA Quadrangle N: 18.8 inches; W: 17.3 inches), Hallstead Borough and Great Bend Township, **Susquehanna County** (Baltimore District, U. S. Army Corps of Engineers).

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

**E05-279.** Encroachment. **Janet Fetter**, 217 Watson Road, Manns Choice, PA 15550. To fill in 0.044 acre of wetland (after-the-fact) in order to expand the width of the property located about 2,000 feet north of Manns Choice Borough (Bedford, PA Quadrangle N: 2.83 inches; W: 12.55 inches) in Harrison Township, **Bedford County**.

**E22-409.** Encroachment. **Robert Fried**, 2323 Patton Road, Harrisburg, PA 17112. To place fill within a 0.046 acre wetland area which drains to a tributary to Manada Creek (WWF) and is located at the intersection of Route 39 and Old Jonestown Road (Hershey, PA Quadrangle N: 8.4 inches; W: 2.5 inches) for the purpose of construction of a commercial development in West Hanover Township, **Dauphin County**.

**E22-410.** Encroachment. **Hershey Trust Co.**, P. O. Box 830, Founders Hall, Hershey, PA 17033. To remove an existing bridge and to construct and maintain a pedestrian bridge having a span of 40 feet and an underclearance of 6 feet across the channel of a tributary to Spring Creek (WWF) at a point immediately upstream of Meadow Lane (Hershey, PA Quadrangle N: 6.0 inches; W: 1.5 inches) in Derry Township, **Dauphin County**.

**E34-094.** Encroachment. **Robert & Kathryn Ewing Trust**, 113 E. Roland Rd., Parkside, PA 19015. To construct and maintain a bridge having a span of 22 feet and an underclearance of 2.7 feet across the channel of Doyle Run (CWF) at a point approximately 2.2 miles upstream of its mouth (McCoysville, PA Quadrangle N: 21.6 inches; W: 3.4 inches) for the purpose of providing access to form fields in Beale Township, **Juniata County**.

**E36-683.** Encroachment. **Steven Beiler**, 405 Red Hill Road, Narvon, PA 17555. To construct and maintain a bridge having a clear span of 40-foot with an underclearance of 7-foot across Pequea Creek (HQ-TSF) for an access driveway from Jacobs Road to a 57 acre farm land tract (New Holland, PA Quadrangle N: 11.5 inches; W: 12.5 inches) in Salisbury Township, **Lancaster County**.

**E67-679.** Encroachment. **Blackford Development, Inc.**, 1891 Santa Barbara Drive, Ste. 201, Lancaster, PA 17601. To place fill in 0.13 acre of wetlands in association with a 240 foot long stream enclosure (with a drainage area of less than 100 acres) in an unnamed tributary to Kreutz Creek (WWF) for the proposed Windsor Commons Industrial Development located east of Cape Horn Road and Chapel Church Road (York, PA Quadrangle N: 8.0

inches; W: 0.0 inches) in Windsor Township, **York County**. The permittee is required to provide a minimum of 0.13 acre of replacement wetlands.

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

**E14-362.** Encroachment. **Edward Sherman, Chairperson**, East Nittany Valley Joint Municipal Authority, P. O. Box 314, Lamar, PA 16848. To construct and maintain a total of 19 sewer line crossings and 6 pump stations. The crossings will consist of one 10-inch line, eleven 8-inch lines, one 4-inch line, three 3-inch lines, and three 2-inch lines. There are three methods of crossing consisting of boring at a minimum of 3 feet under the stream, hanging the line from an existing bridge, or using an open trench. If the open trench method is utilized the work will be completed when the stream is dry. The crossings will be through Fishing Creek (HQ-CWF), Little Fishing Creek (HQ-CWF), Cedar Run (HQ-CWF), Long Run (HQ-CWF), Roaring Run (HQ-CWF), and Axe Factory Hollow (CWF). The project's centralized location is at the intersection of SR 80 and SR 64 (Beech Creek, PA Quadrangle N: 5.65 inches, W: 2.69 inches) in Porter Township, **Clinton County**. This project proposes to impact 550 linear feet of stream and does not propose to impact any wetlands.

**E18-289.** Encroachment. **Edward Sherman, Chairperson**, East Nittany Valley Joint Municipal Authority, P. O. Box 314, Lamar, PA 16848. To construct and maintain a total of 19 sewer line crossings and 6 pump stations. The crossings will consist of one 10 inch line, eleven 8 inch lines, one 4 inch line, three 3 inch lines, and three 2 inch lines. There are three methods of crossing consisting of boring at a minimum of 3 feet under the stream, hanging the line from an existing bridge, or using an open trench. If the open trench method is utilized the work will be completed when the stream is dry. The crossings will be through Fishing Creek (HQ-CWF), Little Fishing Creek (HQ-CWF), Cedar Run (HQ-CWF), Long Run (HQ-CWF), Roaring Run (HQ-CWF), and Axe Factory Hollow (CWF). The project's centralized location is at the intersection of SR 80 and SR 64 (Beech Creek, PA Quadrangle N: 5.65 inches; W: 2.69 inches) in Porter Township, **Clinton County**. This project proposes to impact 550 linear feet of stream and does not propose to impact any wetlands.

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

**18531.** Encroachment. **Aspinwall Marina, Inc.**, 285 River Avenue, Pittsburgh, PA 15215. To amend Permit No. E18531 to rearrange, operate and maintain the existing boat docking facility in the channel of and along the right bank of the Allegheny River (WWF) located at River Mile 7.3 approximately 2,500 feet upstream from the Highland Park Bridge (Pittsburgh East, PA Quadrangle N: 20.5 inches; W: 3.9 inches) in Aspinwall Borough, **Allegheny County**.

**E04-269.** Encroachment. **Dennis and Kathleen Costa**, 1501 Tevebaugh Road, Baden, PA 15005-1512. To construct and maintain a 5 foot diameter CMP culvert in Tevebau Run (WWF) to provide access to the private residence. The project is located on the northwest side of Tevebaugh Hollow Road approximately 1 mile northeast of its intersection with SR 0065 (Baden, PA Quadrangle N: 4.9 inches; W: 13.3 inches) in Baden Borough, **Beaver County**.

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

**E16-113.** Encroachment. **Limestone Township**, R. D. 2, Box 313A, Summerville, PA 15864-9027. To remove the existing structure and to construct and maintain a composite steel I-beam bridge having a single normal span of 9.449 meters, a minimum underclearance of 2.46 meters on a skew of 50 degrees across Little Piney Creek (CWF) on T-539 (McGregor Road). The new structure will be placed downstream of the existing bridge approximately 9.5 meters to provide a safer roadway alignment. The project is located on T-539 (McGregor Road) across Little Piney Creek approximately 0.15 mile west of the intersection of T-539 (McGregor Road) and SR 66 (Strattanville, PA Quadrangle N: 2.9 inches; W: 10.4 inches) located in Limestone Township, **Clarion County**.

**E43-275.** Encroachment. **Mercer Raceway Park, LLC**, R. D. 1, Pulaski, PA 16143. To operate and maintain an existing 280-foot-long by 3-inch-diameter corrugated metal pipe stream enclosure and to place and maintain an additional 60 feet of 36-inch-diameter corrugated metal pipe stream enclosure in a tributary to Munnell Run (TSF) (contributory drainage area 160 acres) to allow for expansion of an existing parking area at Mercer Raceway Park. The project is located at Mercer Raceway Park on the south side of SR 2013 approximately 1,000 feet east of the intersection of SR 19 and SR 62 (Mercer, PA Quadrangle N: 20.0 inches; W: 15.1 inches) located in Findley Township, **Mercer County**.

**E62-359.** Encroachment. **PA Electric Company d/b/a GPU Energy**, 2800 Pottsville Pike, Reading, PA 19640-0001. To install an aerial fiber optic utility crossing and to operate and maintain existing aerial electric utility crossings (WD line) across Brokenstraw Creek (CSF, Trout Stocked, Nominated 1-A Scenic) on existing support structures. The project is located across Brokenstraw Creek approximately 2,000 feet south of the intersection of SR 6 and SR 957 in the village of Columbus (Columbus, PA-NY Quadrangle N: 10.3 inches; W: 12.1 inches) located in Columbus Township, **Warren County**.

**E62-360.** Encroachment. **John Johnson**, Bob's Garage, R. D. 1, Box 167, Youngsville, PA 16371. To remove the existing structure and to construct and maintain a steel girder/wooden deck bridge having a single clear span of 30 feet and a maximum underclearance of approximately 11.5 feet across Matthews Run (CWF) for private driveway access. The new bridge will be located approximately 15 feet upstream of the existing bridge across Matthews Run approximately 1.4 miles on SR 27 north of the Borough of Youngsville limits (Sugar Grove, PA Quadrangle N: 0.5 inch; W: 12.0 inches) located in Brokenstraw Township, **Warren County**.

#### ENVIRONMENTAL ASSESSMENT

**Requests for Environmental Assessment approval under section 105.15 of 25 Pa. Code and requests for certification under section 401 of the Federal Water Pollution Control Act.**

*Central Office: Bureau of Waterways Engineering, 400 Market Street, 3rd Floor, P. O. Box 8554, Harrisburg, PA 17105-8555, (717) 787-8568.*

**D65-081EA.** Environmental Assessment. **Westmoreland County Girl Scout Council**, (545 South Main Street, Greensburg, PA 15601). To breach and remove the Lake Janet Ruth Dam across Loyalhanna Creek (HQ-CWF) for the purpose of restoring the stream to a free

flowing condition. The dam is located approximately 4,000 feet southwest of the intersection of S. R. 381 and Weaver Mill Rector Road (Stahlstown, PA Quadrangle N: 11.00 inches; W: 0.15 inch) in Cook Township, **Westmoreland County**.

**D54-001EA.** Environmental Assessment. **Pennsylvania Game Commission** (2001 Elmerton Avenue, Harrisburg, PA 17110). To breach and remove the Lofty Reservoir Dam across Messers Run (HQ-CWF) for the purpose of restoring the stream to a free flowing condition (Delano, PA Quadrangle N: 22.25 inches; W: 6.30 inches).

### 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 has taken the following actions on previously received permit applications and requests for plan approval and has issued the following significant orders.

Any person aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, 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 provide 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. PA0011436.** Industrial waste. **Handy and Harmon Tube Company**, 701 West Township Line Road, Norristown, PA 19403-4629 is authorized to discharge from a facility located in East Norriton Township, **Montgomery County** to receiving waters named Stoney Creek.

**NPDES Permit No. PA0056316.** Sewerage. **Robert G. Fitton**, 3260 Mink Road, Kintnersville, PA 18930-9547, is authorized to discharge from a facility located in Springfield Township, **Bucks County** to an unnamed tributary to Haycock Creek.

**NPDES Permit No. PA0036897.** Sewage. **Borough of South Coatesville**, 136 Modena Road, South Coatesville,

PA 19320, is authorized to discharge from a facility located in South Coatesville Borough, **Chester County** to receiving waters named West Branch of Brandywine Creek.

**WQM Permit No. 1598201.** Sewerage. **Herr Foods, Inc.**, P. O. Box 300, Nottingham, PA 19362. Applicant was granted approval to upgrade the industrial wastewater treatment plant and to add a new 26.2 acre spray field located in West Nottingham Township, **Chester County**.

**WQM Permit No. 0998428.** Sewerage. **Bucks County Water and Sewer Authority**, 1275 Almshouse Road, Warrington, PA 18976. Applicant is granted approval for the construction and operation of sanitary sewers and pump station to serve Brayton Gardens Residential Sub-division located in Richland Township, **Bucks County**.

**WQM Permit No. 0999422.** Sewerage. **Newtown Bucks County Joint Municipal Authority**, P. O. Box 329, Newtown, PA 18940. Applicant is granted approval for the construction and operation of a pump station known as Eagle Glenn Pump Station located in Newtown Township, **Bucks County**.

**WQM Permit No. 0981420T1. Amendment No. 1.** Sewerage. **Quakerwoods Campground, Inc.**, 2225 Rosedale Road, Quakertown, PA 18951. Applicant is granted approval for the construction and operation of sewage treatment plant with infiltration beds located in Milford Township, **Bucks County**.

**WQM Permit No. 2399409.** Sewerage. **Upper Providence Township Sewer Authority**, 935 North Providence Road, Media, PA 19063. Applicant is granted approval for the construction and operation of a low pressure sanitary sewer extension known as Wooded Way located in Upper Providence Township, **Delaware County**.

*Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**NPDES Permit No. PA-0060691.** Sewerage. **Luzerne County Parks Department**, R. R. 2, Box 301, Hunlock Creek, PA 18621 is authorized to discharge from a facility located in Plymouth Township, **Luzerne County**.

**NPDES Permit No. PA-0060917.** Sewerage. **Chestnut Ridge Associates**, P. O. Box 1085, Mechanicsburg, PA 17055 is authorized to discharge from a facility located in Lehman Township, **Luzerne County**.

*Southcentral Regional Office: Regional Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4795.*

**Permit No. 0699406.** Sewage. **Kutztown School District**, 50 Trexler Avenue, Kutztown, PA 19530. This permit approves the construction of Sewage Treatment Facilities in Greenwich Township, **Berks County**.

**Permit No. 2199408.** Sewage. **Lower Allen Township Authority**, 120 Limekiln Road, New Cumberland, PA 17070. This permit approves the construction of Pump Station in Lower Allen Township, **Cumberland County**.

**Permit No. 0699408.** Sewage. **Lower Heidelberg Township Municipal Authority**, 720 Brownsville Road, Sinking Springs, PA 19608. This permit approves the construction of Sewers and Appurtenances in Lower Heidelberg Township, **Berks County**.

**Permit No. 0007391.** Industrial waste. **The York Water Company**, 130 East Market Street, P. O. Box 15089, York, PA 17405-7089 is authorized to discharge from a facility located in Spring Garden Township, **York**

**County** to the receiving waters named the south branch of Codorus Creek (Outfall 001) and an unnamed tributary of Codorus Creek (Outfall 002).

**Permit No. 0081515.** Sewerage. **Lancaster County Career & Technology Center**, (Brownstown Campus), 1730 Hans Herr Drive, P. O. Box 527, Willow Street, PA 17584 is authorized to discharge from a facility located in West Earl Township, **Lancaster County** to the receiving waters named Conestoga River.

**Permit No. 0086304.** Sewerage. **Earl Township Sewer Authority**, 517 North Railroad Avenue, New Holland, PA 17557 is authorized to discharge from a facility located in Earl Township, **Lancaster County** to the receiving waters named Mill Creek.

**Permit No. 0080764.** Industrial waste. **Red Lion Municipal Authority**, (Cabin Creek Water Treatment Plant), P. O. Box 190, Red Lion, PA 17356 is authorized to discharge from a facility located in Windsor Township, **York County** to the receiving waters named Cabin Creek.

**Permit No. PA0088064.** Concentrated Animal Feeding Operations. **Ruth Family Farms, L. P.**, 357 Yorktown Road, Hershey, PA 17033 is authorized to operate a 1277 Animal Equivalent Unit Concentrated Animal Feeding Operation (CAFO) located at Perry Meadows Farm, R. D. 1, Box 150-A, Blain, PA 17006 in Jackson Township, **Perry County**.

**Permit No. PAG043508.** Sewerage—Single Family Residence. **Michael J. McDermott**, 1113 Seifrit Lane, Bernville, PA 19506 is authorized to discharge from a facility located in Bern Township, **Berks County** to the receiving waters named unnamed tributary to Plum Creek.

**Permit No. PAG053529.** Groundwater Cleanup. **Former Wolfe's Repair**, P. O. Box 9, Fishertown, PA 15539 is authorized to discharge from a facility located at Route 56E in East St. Clair Township, **Bedford County** to the receiving waters named unnamed tributary to Dunning Creek.

**Permit No. PA0087009.** Industrial waste. **Hanover Cold Storage**, 1301 Carlisle Pike, Hanover, PA 17331 is authorized to discharge from a facility located in Penn Township, **York County** to the receiving waters named South Branch of West Conewago Creek.

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

**NPDES Permit No. PA0101664.** Sewage. **Orchard Park Plan of Lots**, John B. Best, Bredinsburg Road, Franklin, PA 16323 is authorized to discharge from a facility located in Cranberry Township, **Venango County** to an unnamed tributary to Lower Twomile Run.

**NPDES Permit No. PA0222968.** Sewage. **Humane Society of Mercer County, Inc.**, P. O. Box 331, Sharpsville, PA 16150 is authorized to discharge from a facility located in Jefferson Township, **Mercer County** to an unnamed tributary to Daley Run.

**NPDES Permit No. PA0222852.** Sewage. **West Fallowfield Township**, 6993 Westford Road, Hartstown, PA 16131 is authorized to discharge from a facility located in West Fallowfield Township, **Crawford County** to Patton Creek.



**NPDES Permit No. PA0222976.** Sewage. **Albert R. Shouey**, R. R. 2, Box 113B, Worthington, PA 16262 is authorized to discharge from a facility located in Barnett Township, **Jefferson County** to an unnamed tributary to Cathers Run.

**NPDES Permit No. PA0004251.** Industrial Waste. **Advanced Cast Products, Inc.**, P. O. Box 417, Mill Street, Meadville, PA 16335 is authorized to discharge from a facility located in Vernon Township, **Crawford County** to French Creek.

**NPDES Permit No. PA0030724.** Sewage. **Pleasant Ridge Manor—West**, 8300 West Ridge Road, Girard, PA 16417 is authorized to discharge from a facility located in Fairview Township, **Erie County** to Trout Run.

**NPDES Permit No. PA0005061.** Industrial Waste. **Pennsylvania Power Company**, New Castle Plant, 76 South Main Street, Akron, OH 44308 is authorized to discharge from a facility located in Taylor Township, **Lawrence County** to the Beaver River and McKee Run.

**WQM Permit No. 2499402.** Sewage **City of St. Marys**, 808 South Michael Road, St. Marys, PA 15857. This project is for the sewer replacement project at the 4th Street Bridge in the City of St. Marys, **Elk County**.

**WQM Permit No. 2599419.** Sewage. **Washington Township Sewer Authority**, 11800 Edinboro Road, Edinboro, PA 16412. This project is for the installation of a new, additional microscreen at the existing wastewater treatment plant in Washington Township, **Erie 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 or Body of Water</i>
PAS10-G345	Megill Development Company, Inc. 2 Huntrise Lane West Chester, PA 19382	Lower Oxford Township Chester County	McDonald Run

*Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream or Body of Water</i>
PAS10U121	Saint Jane Frances DeChantal Church 1918 Washington Blvd. Easton, PA 18042	Northampton County Palmer Township	Bushkill Creek
PAS101319	Ray C. Tuthill P. O. Box 216 Palmerton, PA 18701	Carbon County Lower Towamensing Township	Aquashicola Creek
PAS10Q013-R	Anthony Koneski 5202 Mill Rd. Emmaus, PA 18049	Lehigh County Upper Milford Township	Little Lehigh Creek
PAS10Q177	Lehigh West Land Associates 4445 Harriet Lane Bethlehem, PA 18017	Lehigh County Lower Macungie Township	Little Lehigh 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-I016-1.** Individual NPDES. **The McNaughton Company**, 4400 Deer Path Road, Harrisburg, PA 17110. To Implement an Erosion and Sedimentation Control Plan for a residential development (Deer Path Woods PRD) on 309.1 acres in Susquehanna Township, **Dauphin County**. The project is located north of Route 39 near Crooked Hill Road (Harrisburg East, PA Quadrangle N: 15.0 inches; W: 20.1 inches). Drainage will be to a tributary to Wildwood Lake and Paxton Creek. (WWF).

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream or Body of Water</i>
PAS10A109	Ron Plis Co. P. O. Box 545 Monroeville, PA 15146	Allegheny County North Versailles Township	Jack's Run

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<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream or Body of Water</i>
PAS10B011	Armstrong County Industrial Development Authority Armstrong County Dept. of Planning and Development 402 Market Street Kittanning, PA 16201-1485	Armstrong County North Buffalo Township South Buffalo Township	Pine Creek Nicholson Run
PAS100245	Chippewa Township 2568 Darlington Road Beaver Falls, PA 15010	Beaver County Chippewa Township	North Fork of Little Beaver Creek
PAS10L021	Level 3 Communications 14023 Denver West Parkway Golden, CO 80401-3107	Fayette County Brownsville Borough Henry Clay Township Menallen Township North Union Township Redstone Township Uniontown City Wharton Township	Beaver Creek Bennington Spring Run Big Sandy Creek Braddock Run Coal Lick Run Deadman Run Jennings Run Meadow Run Monongahela River Noahs Glade Run Pickham Run Redstone Creek UNT Beaver Creek UNT Big Sandy Creek UNT Braddock Run UNT Deadman Run UNT Dunlap Creek Little Sandy Creek UNT Meadow Run UNT Pinkham Run UNT Redstone Creek UNT Saltlick Run
		Washington County Allenport Borough California Borough Carroll Township Charleroi Borough Coal Center Borough Donora Township Dunlevy Borough Elco Borough Monongahela City New Eagle Borough North Charleroi Borough Roscoe Borough Speers Borough Union Township West Brownsville Borough	Dry Run Hooder Run Houston Run Lily Run Maple Creek Mingo Creek Monongahela River Pigeon Creek Pike Run UNT Monongahela River Wood Run
		Allegheny County Baldwin Borough Clairton City Dravosburg Borough Duquesne City Homestead Borough Jefferson Borough Pittsburgh City West Homestead Borough West Mifflin Borough Whitaker Borough	Becks Run Homestead Run Lobbs Run Monongahela River Ohio River Peters Creek Sawmill Run Thompson Run UNT Monongahela River West Run
PAS10X094	Ralph Smith & Son, Inc. R. D. 1, Box 184C Derry, PA 15627	Westmoreland County Salem Township	UNT Porters Run

Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS232207	Gellner & Company, Inc. P. O. Box 208 Tamaqua, PA 18252	Schuylkill County Tamaqua Borough	Unnamed Tributary to Nesquehoning Creek

### INDIVIDUAL PERMITS

(PAR)

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### APPROVALS TO USE NPDES AND OTHER GENERAL PERMITS

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The following parties have submitted (1) Notices of Intent (NOIs) for coverage under General NPDES Permit(s) to discharge wastewater into the surface waters of this Commonwealth; (2) NOIs for coverage under General Permit(s) for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania; or (3) Notifications for First Land Application of Sewage Sludge.

The approval of coverage under these General Permits may be subject to one or more of the following: pollutant or effluent discharge limitations, monitoring and reporting, 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 (Department) has reviewed the NOIs and determined that they comply with administrative requirements of the respective permit application. Also, the Department has evaluated the First Land Application of Sewage Sludge for the sites applying for coverage under PAG-7, PAG-8, and PAG-9 and determined that the sites are suitable for land application of sewage sludge.

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 arrangement made for copying at the contact office noted.

The Department has acted on the following requests for coverage under the specified General Permit as follows:

*List of  
General Permit Type*

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater 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
PAG-10	General Permit for Discharges Resulting From Hydrostatic Testing of Tanks and Pipelines

*General Permit Type—PAG-2*

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Lower Pottsgrove Township Montgomery County	PAR10-T447	Sanatoga Ridge Community, Inc. 2461 East High Street Pottstown, PA	Sanatoga Creek	Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130

## 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, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Whitpain Township Montgomery County	PAR10-T592	Wings Field Preservation Assoc., LP, Inc. Wings Field 1501 Narcissa Road Blue Bell, PA 19422	Prophecy Creek	Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Antis Township Snyder Township Blair County	PAR-10-0689	Bellwood Road & Roots Area Sewer N. Blair Regional Sewer Auth.	Bells Gap Run & Little Juniata	Blair County CD 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877
Hampden Township Cumberland County	PAR-10-H207	Pinehurst Hills LP Watts Tract 2171 Tall Oaks Lane York, PA 17403	Sears Run	Cumberland County CD 43 Brookwood Avenue, Suite 4 Carlisle, PA 17013 (717) 240-7812
Monroe Township Cumberland County	PAR-10-H212	Ridge Marketing Associates Mountain View Subdivision 621 Lemar Avenue Harrisburg, PA 17112	Hogestown Run	Cumberland County CD 43 Brookwood Avenue Suite 4 Carlisle, PA 17013 (717) 240-7812
Bethel Township Lebanon County	PAR-10-P108	CDS Storage Facility Donald Smith 5023 Trindle Road PO Box 688 Mechanicsburg, PA 17055	Little Swatara	Lebanon County CD 2120 Cornwall Rd. Suite 5 Lebanon, PA 17042 (717) 272-3908 Ext. 3
Bethel Township Lebanon County	PAR-10-P116	Leroy Geesaman Subdivision Leroy Geesaman 53 Maple Drive Fredericksburg, PA 17026	Beach Run Little Swatara	Lebanon County CD 2120 Cornwall Rd. Suite 5 Lebanon, PA 17042 (717) 272-3908 Ext. 3
Derry Township Lewistown Borough Mifflin County	PAR-10-4503	Municipal Authority of Lewistown 70 Chestnut Street P. O. Box 68 Lewistown, PA 17044-0068	Jacks Creek	Mifflin County CD 20 Windmill Hill, Rm. 4 Burnham, PA 17009 (717) 248-4695
Luzerne County Hanover Township	PAR10R191	Greater Wilkes-Barre Ind. Fund, Inc. 2 Public Square P. O. Box 5340 Wilkes-Barre, PA 18710-5340	E. Branch Warrior Run (Garringers Creek)	Luzerne CD (570) 674-7991
Schuylkill County Schuylkill Township	PAR105794	Tamaqua Anthracite, Inc. DEP/Bur. of Abandoned Mine Reclamation P. O. Box 8476 Harrisburg, PA 17105-8476	Schuylkill River	Schuylkill CD (570) 622-3742
Luzerne County Sugar Notch Borough	PAR10R182	Mericle Commercial 600 Baltimore Dr. E. Mountain Corp. Ctr. Wilkes-Barre, PA 18702	Unnamed Trib. to Warrior Creek	Luzerne CD (570) 674-7991
Butler County Buffalo Township	PAS10E070	South Pike Square L. P. 100 Highland Avenue Cheswick, PA 15024	Buffalo Creek Little Buffalo Creek	Butler Conservation District 122 McCune Drive Butler, PA 16001-6501 (724) 284-5270

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Forest County Howe Township	PAR102700	Azco Oil Company, Inc. HC-1, Box 645 Sheffield, PA 16347-9738	Bush Creek UNT to Bush Creek Tionesta Creek	Northwest Region Oil and Gas Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6860
Mercer County West Salem Township Greenville Borough	PAR104345	West Salem Township Municipal Sewage Authority 610 Vernon Road Greenville, PA 16125	Shenango River and Big Run Tributaries	Mercer Conservation District 747 Greenville Road Mercer, PA 16137 (724) 662-2242
Centre County Union Township	PAR10F093	Eagle Creek Mfg. Home Community 1901 East College Ave. State College, PA 16801	Bald Eagle Creek	Centre County CD 414 Holmes Ave., Suite 4 Bellefonte, PA 16823 (814) 355-6817
Centre County College Township	PAR10F105	Penn State Research Park PSRP Developers, Inc. The Belgravia Suite 701 1811 Chestnut St. Philadelphia, PA 19102	Unt. Spring Creek	Centre County CD 414 Holmes Ave., Suite 4 Bellefonte, PA 16823 (814) 355-6817
Columbia County Town of Bloomsburg	PAR102139	Franklin Heights Develop. Susquehanna Valley Dev. Gp. R. R. 2, Box 181 Turbotville, PA 17772	Muni Separate Storm Sew/ Fishing Creek (Main Stem, Green Creek to Mouth) WWF	Columbia County CD 702 Sawmill Rd., Suite 202 Bloomsburg, PA 17815 (570) 784-1310

*General Permit Type—PAG-8*

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Bod of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Schuylkill County Butler Township	PAG08-2209	Frackville WWTP 41 N. Lehigh Ave. Frackville, PA 17931	N/A	Northeast Reg. Office Water Mgmt. Program 2 Public Sq. Wilkes-Barre, PA 18711 (570) 826-2511

**SEWAGE FACILITIES ACT****PLAN APPROVAL**

The Department of Environmental Protection has taken actions on municipal requests for Act 537 Plan Approval.

Any person aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514), and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, 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 are also available in Braille or on audio tape 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 Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).**

*Southeast Regional Office: Sewage Planning Specialist Supervisor; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

The Plan Approval is granted for a revision to the **Official Sewage Facilities Plan of Marple Township, Morton Borough, Nether Providence Township, Prospect Park Borough, Ridley Park Borough, Ridley Township, Rutledge Borough, Springfield Township and Swarthmore Borough, Delaware County** to provide for the diversion of existing sewage flows currently treated at the City of Philadelphia Southwest Wastewater Treatment Facility to the DELCORA Western Regional Wastewater Treatment Facility (WRWWTF). This will be accomplished by upgrade, expansion and modification to the Central Delaware County Sewer Authority Service Area Pump Station to 12 mgd

average annual and 40 mgd peak instantaneous and construction of a new force main to connect to the existing Chester Force Main at Concord Avenue. The diverted flows will be managed so as to not cause an exceedance of the permitted capacity at the WRWWTF nor exceed maximum daily flow of 12 million gallons. The balance of the sewage flow above 12 million gallons will continue to be pumped to the City of Philadelphia Southwest Wastewater Treatment Facility. The Department's review of the sewage facilities update has not identified any significant environmental impacts resulting from this approval. A Water Quality Part II permit is required for the facility.

## SAFE DRINKING WATER

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

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

**Permit No. 3599502.** Public water supply. **Pennsylvania American Water Company**, 800 West Hershey Park Drive, Hershey, PA 17033. David R. Kaufman, Oper. Manager, 20 East Union Street, Wilkes-Barre, PA 18701. This proposal involves an extension to the existing PAWC system that services a large portion of **Lackawanna County**. The project will serve the PEI Power Park, to provide the necessary pressure to serve the PEI Power Park. Water will be taken from the existing White Oak Finished Water Storage Tank (IMG) and pumped to the new Salem Mountain finished water tank via a 16" water main. The Salem Mountain Water Tank (05.MG) feeds the PEI Power Park by gravity. The elevation difference from the White Oak Water Tank to the Salem Mountain Water Tank is approximately 300 feet. Thus, the booster station is required to adequately maintain the new Salem Mountain Water Tank.

**Permit Transfer. Lake Side Mobile Home Park to George H. Roeder**, 2465 Milford Square Pike, Quakertown, PA 18951. Permit issued on November 15, 1999.

**Minor Amendment.** Public water supply. **Montrose Water Treatment Plant, PAWC**, 800 West Hershey Drive, Hershey, PA 17033, Paul Zielinski. Service Pump Replacement located in Bridgewater Township, **Susquehanna County**. Permit issued November 16, 1999.

**Operations Permit** issued to **Community Association of Pocono Farms** on November 12, 1999, located in Coolbaugh Township, **Monroe County**.

**Operations Permit** issued to **Lehigh County Authority, Far View Farms Pump Station**, on November 16, 1999, located in Upper Milford Township, **Lehigh County**.

**Operations Permits** issued to **Schuylkill County Municipal Authority, Mount Laurel, Indian Run, Broad Mountain Sites**, November 12, 1999, located in **Schuylkill County**.

**Operations Permit** issued to **Country Estates Mobile Home Park** on November 23, 1999, located in Salem Township, **Luzerne County**.

**Operations Permit** issued to **Upper Saucon Township** on November 23, 1999, located in Upper Saucon Township, **Lehigh County**.

*Regional Office: Northcentral Field Operations, Environmental Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701.*

**Permit No. 1999501. Construction Innovative Technology.** The Department issued an Innovative Technology Construction Permit to Benton Municipal Water & Sewer Authority, P. O. Box 516, Benton, PA 17814-0516, Benton Borough, **Columbia County**. This permit authorizes construction of an Environmental Products Division (EPD) pressure sand filtration plant to treat water from the existing Artesian Well #1.

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

**Permit No. 2099501.** Public water supply. **Cambridge Springs Borough**, 26 Federal Street, Cambridge Springs, PA 16403 has been issued a permit for the construction of new water filtration facilities to include raw water pumps, chemical addition, flash mix, flocculation, settling, filtration, clearwell and finished water pumps in Cambridge Springs Borough, **Crawford County**.

*Type of Facility: Community Water Supply.*

*Consulting Engineer: John F. Larimer, P.E., The EADS Group, Inc., 1126 Eighth Avenue, Altoona, PA 16602.*

*Permit to Construct Issued: November 30, 1999.*

## 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 1-(800) 654-5984.

The Department has received the following final reports:

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

**Estate of Martin Spinelli**, Tredyffrin Township, **Chester County**. William G. Murray, URS Greiner Woodward Clyde, 1400 Union Meeting Road, Suite 202,

Blue Bell, PA 19422-1972, has submitted a Final Report concerning remediation of site soil contaminated with lead and BTEX. The report is intended to document remediation of the site to meet the Statewide health standard.

**Eddystone Crossing**, Eddystone Borough, **Delaware County**. J. Anthony Sauder, P.E., P.G., Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104-2897, has submitted a combined Remedial Investigation/Final Report concerning remediation of site soil contaminated with lead, heavy metals and polycyclic aromatic hydrocarbons; and groundwater contaminated with polycyclic aromatic hydrocarbons. The report is intended to document remediation of the site to meet site-specific standards.

**Schramm, Inc.**, West Goshen Township, **Chester County**. David B. Farrington, P.G., Walter B. Satterthwaite Associates, Inc., 720 Old Fern Hill Road, West Chester, PA 19380, has submitted a Final Report concerning remediation of site groundwater contaminated with solvents. The report is intended to document remediation of the site to meet background standards.

*Northwest Regional Field Office: Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**Former Penn Reed & Harness Factory**, City of Allentown, **Lehigh County**. Doug Sammak, President, American Analytical and Environmental, Inc., 738 Front Street, Catasauqua, PA 18032 has submitted a Final Report (on behalf of his client, Sally Kutz, Penn Reed & Harness Company, P. O. Box 1189, Allentown, PA 18105) concerning the remediation of site soils contaminated with lead, hexavalent chromium, selenium and arsenic. The report was submitted to document remediation of the site to meet the Statewide health standard.

**Former Penn Reed & Harness Factory**, City of Allentown, **Lehigh County**. Doug Sammak, President, American Analytical and Environmental, Inc., 738 Front Street, Catasauqua, PA 18032 has submitted a Final Report (on behalf of Robert Morgan, 127 South Aubrey Street, Allentown, PA 18103) concerning the remediation of site soils contaminated with lead, hexavalent chromium, selenium and arsenic. The report was submitted to document remediation of the site to meet the Statewide health standard.

**Former Penn Reed & Harness Factory**, City of Allentown, **Lehigh County**. Doug Sammak, President, American Analytical and Environmental, Inc., 738 Front Street, Catasauqua, PA 18032 has submitted a Final Report (on behalf of Eli J. Deily, Jr., 115 South Aubrey Street, Allentown, PA 18103) concerning the remediation of site soils contaminated with lead, hexavalent chromium, selenium and arsenic. The report was submitted to document remediation of the site to meet the Statewide health standard.

**Former Penn Reed & Harness Factory**, City of Allentown, **Lehigh County**. Doug Sammak, President, American Analytical and Environmental, Inc., 738 Front Street, Catasauqua, PA 18032 has submitted a Final Report (on behalf of Tami Van Horn, 117 South Aubrey Street, Allentown, PA 18103) concerning the remediation of site soils contaminated with lead, hexavalent chromium, selenium and arsenic. The report was submitted to document remediation of the site to meet the Statewide health standard.

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

**Rockwell International Corporation**, New Castle, City of, **Lawrence County**, has submitted a Final Report concerning remediation of groundwater contaminated with Solvents and PAHs. The report is intended to document remediation of the site to meet the Site Specific 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 Remediations Act (35 P. S. §§ 6026.101—6026.908) and Chapter 250 Administration of Land Recycling Program.**

Provisions of 25 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 Remediations 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, please contact the Environmental Cleanup Program Manager in the Department of Environmental Protection 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 of Environmental Protection 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.*

**Norquay Technology, Inc.**, City of Chester, **Delaware County**. John F. Van Wagenen, P.G., Coventry Environmental Associates, Inc., 991 Ridge Road, Bucktown, PA 19165 has submitted a Baseline Remedial Report, concerning remediation of site soil contaminated with heavy metals, petroleum hydrocarbons and polycyclic aromatic hydrocarbons; and groundwater contaminated with solvents, petroleum hydrocarbons and polycyclic aromatic hydrocarbons. The report was disapproved by the Department on November 22, 1999.

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

**Pittsburgh Tube Company**, Monaca Borough, **Beaver County**. Timothy M. Rea, Mount Research, Inc., 825 25th Street, Altoona, PA 16601 and the Pittsburgh Tube Company, Cherrington Corporate Center, 600 Clubhouse Drive, Moon Township, PA 15408-3195 has submitted a final report concerning remediation of site soil contaminated with heavy metals. The final report demonstrated attainment of the Statewide health standard and was approved by the Department on June 14, 1999.

## SOLID AND HAZARDOUS WASTE

### RESIDUAL WASTE PROCESSING FACILITIES

**Registration revoked under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and the residual waste regulations for a general permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.**

*Central Office—Division of Municipal and Residual Waste, 14th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101-2301.*

**Registration under General Permit No. WMGR011R003. Residua, Inc.**, P. O. Box 233, Malvern, PA 19355. Residua, Inc. no longer operates under General Permit Number WMGR011 for the processing of spent ethylene glycol base antifreeze in mobile processing units for the purpose of reconditioning spent antifreeze generated by coolant or heating systems. The Department revoked the registration on December 3, 1999.

### HAZARDOUS WASTE, TREATMENT, STORAGE AND DISPOSAL FACILITIES

**Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous and mixed waste storage facility.**

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

**Permit ID No. PA0890090004. U. S. Department of Energy**, Pittsburgh Naval Reactors Office, Bettis Atomic Power Laboratory. Operation of a mixed waste storage facility in West Mifflin Borough, **Allegheny County**. Permit modified in the Regional Office on December 1, 1999.

### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permits issued 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.**

*Southcentral Regional Office: Regional Solid Waste Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706.*

**Permit No. 101566. Hanover Area Transfer Station**, (Borough of Hanover, 44 Frederick Street, Hanover, PA 17311). Application for permit renewal of a transfer station in Penn Township, **York County**. Permit issued in the Regional Office December 3, 1999.

**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.**

*Southcentral Regional Office: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4706.*

**Permit No. 603318. Sinking Springs Farm, Inc.**, Northeastern York County Sewer Authority, 175 Chestnut Street, Mount Wolf, PA 17347. This permit has been revoked at the request of the permittee for a site in Manchester Township, **York County**. Permit revoked in the Southcentral Regional Office November 18, 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.*

**48-323-007GP: M. A. Hanna Color** (2513 Highland Avenue, Bethlehem, PA 18020) for construction and operation of a burn off oven at its Wire and Cable Division facility in Bethlehem Township, **Northampton County**.

**48-323-008GP: M. A. Hanna Color** (2513 Highland Avenue, Bethlehem, PA 18020) for construction and operation of a burn off oven at its Wire and Cable Division facility in Bethlehem Township, **Northampton County**.

**54-310-023GP: Haines & Kibblehouse, Inc.** (P. O. Box 196, Skippack, PA 19474) for construction and operation of a portable stone crushing plant in Tremont Township, **Schuylkill County**.

**54-310-024GP: Haines & Kibblehouse, Inc.** (P. O. Box 196, Skippack, PA 19474) for construction and operation of a portable stone crushing plant in Tremont Township, **Schuylkill County**.

*Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.*

**GP4-05-03001A: Bedford Burn Off Oven Services, Inc.** (528 Forbes Road, Bedford, PA 15522) issued a general permit for two burn off ovens in Fannett Township, **Franklin County**.



**GP3-28-03028A: New Enterprise Stone & Lime Co., Inc.** (P. O. Box 77, New Enterprise, PA 16664) issued a general permit for a second portable nonmetallic mineral processing plant at the Dry Run Quarry in Fannett Township, **Franklin County**.

*Northwest Regional Office: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6940.*

**GP-33-001: Brookville Area School District, Brookville Junior Senior High School** (Jenks Street, Brookville, PA 15825) on November 30, 1999, for operation of two natural gas fired boilers (Spencer, Models 6080115-6080130) in Brookville Borough, **Jefferson County**.

**Operating Permits Minor Modification 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.*

**35-318-048C: Gentex Corp.** (P. O. Box 315, Carbondale, PA 18407) for minor modification of a Surface Coating Process in Fell Township, **Lackawanna County**.

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**18-322-003: Clinton County Solid Waste Authority** (P. O. Box 209, McElhattan, PA 17748-0209) on December 1, 1999, to incorporate the provisions of a revised municipal waste landfill surface monitoring plan and change the surface monitoring frequency from monthly to quarterly at the Clinton County Landfill in Wayne Township, **Clinton County**.

**Administrative Amendment of 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.**

*Southeast Regional Office: Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.*

**CP-46-0005: Merck & Co., Inc.** (770 Sumneytown Pike, West Point, PA 19486) on November 29, 1999, for Facility VOCs/NOx RACT in Upper Gwynedd Township, **Montgomery County**.

**OP-15-0014A: Norwood Industries, Inc.** (57 Morehall Road, Frazer, PA 19355) on December 2, 1999, for Facility VOC/NOx RACT in East Whiteland Township, **Chester 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.**

*Southeast Regional Office: Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.*

**NMOP-46-00173: New Hanover Incineration, Inc.** (3645 Church Road, Perkiomenville, PA 18074) for operation of a Natural Minor Operating Permit in New Hanover Township, **Montgomery County**.

*Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.*

**06-01069D: East Penn Mfg. Co., Inc.** (P. O. Box 147, Lyon Station, PA 19536-0147) on December 1, 1999, for operation of a battery assembly facility at the Battery Assembly Plant in Richmond Township, **Berks County**. These sources are subject to 40 CFR Part 60, Subpart KK of the Standards of Performance for New Stationary Sources.

**06-03001A: Unicast Co.** (241 Washington Street, Boyertown, PA 19512) on December 1, 1999, for operation of a gray iron foundry controlled by various devices in Boyertown Borough, **Berks County**.

**06-307-068A: PA Steel Foundry & Machine Co.** (P. O. Box 128, Hamburg, PA 19526) on November 24, 1999, for operation of a steel foundry controlled by eight fabric collectors at the Hamburg Plant in Hamburg Borough, **Berks County**.

**21-03001A: Ahlstrom Filtration, Inc.** (P. O. Box A, Mount Holly Springs, PA 17065) on November 24, 1999, for operation of a No. 1 dual-fuel Johnston boiler in Mount Holly Springs, **Cumberland County**. This source is subject to 40 CFR Part 60, Subpart Dc—Standards of Performance for Small Industrial-Commercial-Institutional Stream Generating Units.

**28-02001A: Martin's Famous Pastry Shoppe, Inc.** (1000 Potato Roll Lane, Chambersburg, PA 17201-8800) on November 24, 1999, for operation of the Chambersburg Bakery in Guilford Township, **Franklin County**.

**67-05024B: Lehigh Portland Cement Co.** (200 Hokes Mill Road, York, PA 17404) on November 30, 1999, for operation of a raw mill feed system controlled by a fabric collector in West Manchester Township, **York County**.

**67-309-107: Lehigh Portland Cement Co.** (200 Hokes Mill Road, York, PA 17404) on November 30, 1999, for operation of a railcar cement loading system controlled by a cartridge collector in West Manchester Township, **York County**.

**67-310-054: Lehigh Portland Cement Co.** (200 Hokes Mill Road, York, PA 17404) on November 30, 1999, for operation of a plaster mold roll crusher in West Manchester Township, **York County**.

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**17-303-006A: Clearfield Asphalt and Construction Supply, Inc.** (R. D. 1, Box 179, Curwensville, PA 16833) on November 2, 1999, for operation of a batch asphalt concrete plant and associated air cleaning device (a fabric collector) and 455 KW diesel generator in Lawrence Township, **Clearfield County**. The asphalt plant is subject to Subpart I of the Federal Standards of Performance for New Stationary Sources.

**41-318-043: John Savoy and Sons, Inc.** (P. O. Box 248, Montoursville, PA 17754) on November 2, 1999, for operation of a wood furniture finishing operation consisting of four spray booths and a UV coater in Montoursville Borough, **Lycoming County**.

**41-318-044: Ralph S. Alberts Co., Inc.** (60 Choate Circle, Montoursville, PA 17754) on November 2, 1999, for operation of molded plastic parts surface coating opera-

tion consisting of five spray booths and a spray gun solvent cleaning sink in Fairfield Township, **Lycoming County**.

**12-399-014A: GKN Sinter Metals** (R. R. 2, Box 47, Emporium, PA 15834-9740) on November 16, 1999, for operation of two sintered metal parts induction hardening operations and associated air cleaning device (an electrostatic precipitator) at Plant #6 (Airport Road Plant) in Emporium Borough, **Cameron County**.

**55-303-003: Meckley's Limestone Products, Inc.** (R. D. 1, Box 950, Herndon, PA 17830) on November 16, 1999, for operation of a batch asphalt plant and associated air cleaning device (a fabric collector) in Franklin Township, **Snyder County**. This plant is subject to Subpart I of the Federal Standards of Performance for New Stationary Sources.

**08-303-006B: Dalrymple Gravel and Contracting Co., Inc.** (2105 South Broadway, Pine City, NY 14871) on November 23, 1999, for operation of a drum mix asphalt concrete plant and associated air cleaning device (a fabric collector) in Athens Township, **Bradford County**. This plant is subject to Subpart I of the Federal Standards of Performance for New Stationary Sources.

**19-310-002C: Hanson Aggregates Pennsylvania, Inc.** (P. O. Box 231, Easton, PA 18044-0231) on November 23, 1999, for operation of a vertical shaft impact stone crusher and associated air cleaning device (a fabric collector) in Hemlock Township, **Columbia County**. This crusher is subject to Subpart OOO of the Federal Standards of Performance for New Stationary Sources.

**41-310-001F: Hanson Aggregates Pennsylvania, Inc.** (P. O. Box 231, Easton, PA 18044-0231) on November 23, 1999, for operation of stone crushing and screening equipment and associated air cleaning device (a fabric collector) at the Pine Creek Quarry in Limestone Township, **Lycoming County**.

**08-302-041: Cummings Lumber Company, Inc.** (P. O. Box 6, Troy, PA 16947) on November 30, 1999, for operation of a 16.7 million BTU per hour wood-fired boiler and associated air cleaning devices (2 sets of multiclones in series) in Troy Township, **Bradford County**. This boiler is subject to Subpart Dc of the Federal Standards of Performance for New Stationary Sources.

**17-305-043: M. B. Energy, Inc.** (P. O. Box 1319, Indiana, PA 15701) on November 30, 1999, for operation of a coal crushing, stockpiling and loading facility at the Brink-Scollon No. 3 Strip Mine in Chest Township, **Clearfield County**. This facility is subject to Subpart Y of the Federal Standards of Performance for New Stationary Sources.

**TVOP-19-00007: Transcontinental Gas Pipeline Corp., Station 517** (Benton, PA 17814) on December 1, 1999, for operation of three natural gas fired turbines, several small heaters, storage tanks and an emergency generator in Jackson Township, **Columbia County**.

*Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.*

**OP-04-445A: VEKA, Inc.** (100 Veka Drive, Fombell, PA 16123) on December 1, 1999, for operation of coating of PVC lineals in Marion Township, **Beaver County**.

## 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.**

*Southeast Regional Office: Air Quality Program, 555 North Lane, Conshohocken, PA 19428, (610) 832-6242.*

**PA-46-0025G: Lonza, Inc.** (900 River Road, Conshohocken, PA 19428) on December 2, 1999, for operation of two prescrubbers in Upper Merion Township, **Montgomery County**.

*Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.*

**06-03107: Morgan Corp.** (P. O. Box 588, Morgantown, PA 19543) on November 24, 1999, for construction of a paint spray booth with dry filters at Plant 7 in New Morgan Borough, **Berks County**.

**06-05035: Glidden Co. DBA ICI Paints** (301 Bern Street, Reading, PA 19601-1252) on November 24, 1999, for modification of thinning tanks controlled by a fabric collector at the Glidden Plant in Reading City, **Berks County**.

**67-318-124: Root Corp./New York Wire Co.** (152 N. Main Street, Mount Wolf, PA 17347) on November 24, 1999, for modification of a tenter frame line No. 2 controlled by an electrostatic precipitator in Mount Wolf Borough, **York County**.

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**49-309-008D: Watsonstown Brick Co.** (P. O. Box 68, Watsonstown, PA 17777) on November 3, 1999, for construction of a shale roll crusher and impact mill to be controlled by existing air cleaning devices (a water spray dust suppression system and a fabric collector) in Delaware Township, **Northumberland County**. The roll crusher and impact mill are subject to Subpart OOO of the Federal Standards of Performance for New Stationary Sources.

**TVOP-49-00003A: ACF Industries, Inc.** (P. O. Box 109, Milton, PA 17847) on November 4, 1999, for installation of an air cleaning device (a fabric collector) on a railcar grit blast operation in Milton Borough, **Northumberland County**.

**17-314-001E: Equimeter, Inc.** (P. O. Box 528, Dubois, PA 15801) on November 22, 1999, for modification of two rubber curing ovens and construction of a third curing oven, all three to be controlled by existing air cleaning devices (a venturi scrubber and a packed bed scrubber) at Plant #1 in the City of Dubois, **Clearfield County**.

**OP-18-0005A: International Paper Co.** (P. O. Box 268, Lock Haven, PA 17745) on November 22, 1999, for installation of air cleaning devices (flue gas recirculation systems) on two bituminous coal and tire derived fuel-fired spreader stoker-equipped boilers (Boilers 1 and 2) at the Lock Haven Mill in Castanea Township, **Clinton County**.

**17-329-002: Petroleum Development Corp.** (P. O. Box 26, Bridgeport, WV 26330-1706) on November 23, 1999, for construction of a 115 horsepower natural gas-fired reciprocating internal combustion compressor engine and a natural gas dehydrator at the Tate Compressor Site in Greenwood Township, **Clearfield County**.

**17-329-003: Petroleum Development Corp.** (P. O. Box 26, Bridgeport, WV 26330-1706) on November 23, 1999, for construction of a 180 horsepower natural gas-fired reciprocating internal combustion compressor engine and a natural gas dehydrator at the Passmore Compressor Site in Bell Township, **Clearfield County**.

*Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.*

**PA-04-065A: Midland Foundry Division** (1 12th Street, Midland, PA 15059) on December 1, 1999, for operation of a sand storage silo at Midland Foundry Division in Midland Borough, **Beaver County**.

**PA-63-028E: Cerdec Corp.** (P. O. Box 519, Washington, PA 15301) on December 1, 1999, for operation of product packaging station at Drakenfeld Products in Canton Township, **Washington County**.

**PA-63-014B: Duquesne Light Co.** (411 Seventh Avenue, Mail Drop 14-705, Pittsburgh, PA 15230) on December 1, 1999, for operation of low-NOx burner, Unit #4 at Alrama Station in Union Township, **Washington County**.

*Northwest Regional Office: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6940.*

**PA-42-310C: Duferco Farrell Corp.** (15 Roemer Boulevard, Farrell, PA 16121) on November 17, 1999, for operation of #4 Tandem Mill and oil mist emission control system in Farrell, **Mercer County**.

**PA-10-047E: Mine Safety Appliances, Co., Callery Chemical Division** (1420 Mars Evans City Road, Evans City, PA 16033) on November 29, 1999, for construction of an elemental potassium metal production facility in Forward Township, **Butler County**.

**PA-42-182B: Allegheny Store Fixtures, Inc.** (57 Holley Avenue, Bradford, PA 16701) on November 22, 1999, for operation of a surface coating operation in Bradford Township, **McKean 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.**

*Southcentral Regional Office: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4702.*

**21-05021A: Arnold Fuel Oil, Inc.** (P. O. Box 2621, Harrisburg, PA 17105) on December 1, 1999, for temporary operation of three gasoline storage tanks, covered under this Plan Approval until March 29, 2000, at the Star Mechanicsburg Terminal, 127 Texaco Road in Silver Spring Township, **Cumberland County**.

**36-310-023E: Compass Quarries, Inc.** (47 McIlvaine Road, Paradise, PA 17562) on December 1, 1999, for temporary operation of an agriculture limestone production plant, covered under this Plan Approval until November 30, 2000, in Paradise Township, **Lancaster County**.

*Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.*

**PA-04-009A: Maverick Tube, LP** (4400 W. Fourth Avenue, Beaver Falls, PA 15010) on July 16, 1999, for

operation of boiler and metal heat furnaces at Beaver Falls site in Beaver Falls, **Beaver County**.

**PA-65-884A: IA Construction Corp.** (P. O. Box 290, Homer City, PA 15648) on July 27, 1999, for operation of bituminous concrete plant at Donegal Plant in Mt. Pleasant Township, **Westmoreland County**.

*Northwest Regional Office: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6940.*

**PA-16-136A: Bituminous Road Maintenance** (521 South Street, Clarion, PA 16214) on November 30, 1999, for a drum type hot mix asphalt plant in Beaver and Licking Townships, **Clarion County**.

**Plan Approvals transferred under the Air Pollution Control Act (35 P. S. §§ 4001—4015).**

*Northcentral Regional Office: Air Quality Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3637.*

**17-305-042: DTE River Hill, LLC** (425 S. Main Street, Suite 201, Ann Arbor, MI 48107) owner, and Covol Technologies, Inc. (3280 Frontage Road, Lehi, UT 84043), operator, on November 17, 1999, for construction of a coal fines agglomeration (fuel pellet) facility previously owned by Commonwealth Synfuel LLC in Karthaus Township, **Clearfield County**.

## MINING

### APPROVALS TO CONDUCT COAL AND NONCOAL ACTIVITIES

#### MINING ACTIVITY ACTIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act, (52 P. S. §§ 1396.1—1396.31); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 water quality certification. Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4401—4015); the Dam Safety and encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

*Ebensburg District Office, 437 South Center Street, P. O. Box 625, Ebensburg, PA 15931-0625.*

#### Coal Applications Issued

**56803015, Permit Renewal. Action Mining, Inc.** (1117 Shaw Mines Road, Meyersdale, PA 15552), for continued operation and restoration of a bituminous strip mine in Elk Lick Township, **Somerset County**, affecting 375.8 acres, receiving stream unnamed tributaries of the Casselman River, application received October 9, 1998, issued November 24, 1999.

**56663069, Revision. Action Mining, Inc.** (1117 Shaw Mines Road, Meyersdale, PA 15552), to include a stream and road variance to conduct mining operations within the 100 foot barriers to an unnamed tributary to the Casselman River and to State Route 2014, in Elk Lick and Summit Townships, **Somerset County**, affecting 3110.0 acres, receiving streams unnamed tributaries of

and to the Casselman River; unnamed tributaries of and to Elk Lick Creek, application received October 9, 1998, issued November 24, 1999.

**56970103. Permit Revision. Marquise Mining Corporation** (3889 Menoher Boulevard, Johnstown, PA 15905), for a stream crossing relative to Fallen Timber Run in Shade Township, **Somerset County**, affecting 308.9 acres, receiving stream Fallen Timber Run and an unnamed tributary to Stonycreek, application received September 9, 1999, issued December 2, 1999.

*Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

**54991301. Joliett Coal Company** (837 East Grand Avenue, Tower City, PA 17980), commencement, operation and restoration of an anthracite underground mine operation in Porter Township, **Schuylkill County** affecting 3.0 acres, receiving stream—Wiconisco Creek. Permit issued November 22, 1999.

**54980102T. Triple T Mining Company, LP** (P. O. Box 487, New Philadelphia, PA 17959-0487), transfer of an existing anthracite surface mine operation in Blythe Township, **Schuylkill County** affecting 140.0 acres, receiving stream—none. Transfer issued November 23, 1999.

*Greensburg District Office, R. R. 2, Box 603-C, Greensburg, PA 15601.*

**03970109. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Permit revised: to relocate 11 acres of permit area; encroach within 100 feet of unnamed tributary #9 to Huskins Run (including a temporary stream crossing); erosion and sedimentation Module 12 modifications (addition of Sediment Pond F and treatment facilities TE and associated collection ditches) and new haul road #5; and Modules 19 and 20 to include new permit area and new pre and post mining land uses at an existing bituminous surface/auger mining site located in Cowanshannock Township, **Armstrong County**, affecting 97 acres. Receiving streams: Huskins Run and two unnamed tributaries to Huskins Run. Application received: October 20, 1999. Revision issued: December 1, 1999.

**65910111R. Ralph Smith & Son, Inc.** (200 Second Street, Derry, PA 15627). Renewal issued for continued reclamation only of a bituminous surface mine located in Salem Township, **Westmoreland County**, affecting 75.5 acres. Receiving streams: unnamed tributary to Beaver Run Reservoir. Application received: August 23, 1999. Reclamation only renewal issued: December 1, 1999.

**03990103. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Permit issued for commencement, operation and reclamation of a bituminous surface/auger mining site located in Cowanshannock Township, **Armstrong County**, affecting 59.5 acres. Receiving streams: unnamed tributaries to Cowanshannock Creek. Application received: June 8, 1999. Permit issued: December 3, 1999.

*McMurray District Office, 3913 Washington Road, McMurray, PA 15317.*

**17921603. Hepburnia Coal Company** (P. O. Box I, Grampian, PA 16838), to renew the permit for the Bells Landing Tipple in Greenwood Township, **Clearfield County** to renew permit, no additional discharges. Permit issued November 18, 1999.

*Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

*Small Noncoal (Industrial Mineral) Permits Issued*

**28992807. St. Thomas Towing Rollback Service & Auto Repair** (4571 Race Track Road, St. Thomas, PA 17252), commencement, operation and restoration of a quarry operation in St. Thomas Township, **Franklin County** affecting 3.0 acres, receiving stream—none. Permit issued November 23, 1999.

*Knox District Office, P. O. Box 669, Knox, PA 16232. Noncoal Permits Issued*

**3072SM3. Allegheny Mineral Corporation** (P. O. Box 1022, Kittanning, PA 16201) Renewal of NPDES No. PA0605336, Marion and Mercer Townships, **Butler County**. Receiving streams: Two unnamed tributaries to McMurray Run, McMurray Run and unnamed tributary to North Branch Slippery Rock Creek. Application received: November 2, 1999. Permit Issued: November 17, 1999.

**33900307. Robert J. Cole** (P. O. Box 678, Falls Creek, PA 15840) Revision to an existing noncoal clay and shale operation to add 1.5 acres in Washington Township, **Jefferson County**. New Surface Mining Permit acreage is 41.5 acres. Receiving streams: Beaver Dam Run and one unnamed tributary to Beaver Dam Run. Application received: July 27, 1998. Permit Issued: November 24, 1999.

*Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

*Noncoal Permits Issued*

**6476SM19T. David H. Martin Excavating, Inc.** (4961 Cumberland Highway, Chambersburg, PA 17201), transfer of an existing quarry operation in Greene Township, **Franklin County**, affecting 19.0 acres, receiving stream—none. Transfer issued November 22, 1999.

## **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, 1 (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of the written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

**Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and sections 5 and 402 of The Clean Streams Law (35 P. S. §§ 691.5 and 691.402) and notice of final action for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).** (Note: Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.)

*Northeast Regional Office: Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E35-317.** Encroachment. **Abington Heights School District**, 218 East Grove Street, Clarks Summit, PA 18411. To maintain additions to the existing school facility with a total of approximately 14,000 square feet within the floodplain of Leggetts Creek and Lackawanna Trail Tributary. The project, known as the Renovation and Expansion of South Abington Elementary School, includes the construction of sidewalks, parking areas and a basketball court. The project is located on the east side of S. R. 0006, approximately 0.2 mile north of the intersection with S. R. 4032 (Scranton, PA Quadrangle N: 18.5 inches; W: 8.0 inches) in South Abington Township, **Lackawanna County**.

**E39-369.** Encroachment. **North Whitehall Township Board of Supervisors**, 3256 Levans Road, Coplay, PA 18037. To maintain the existing twin span, steel I-beam bridge with spans of 14-feet, 10-inches and 15-feet, 9-inches and an average underclearance of 3 feet across Coplay Creek. The project involves construction of a new wooden deck and railings and is located at the former Conrail Railroad Bridge over Coplay Creek approximately 0.2 mile downstream of the T-695 bridge over Coplay Creek (Cementon, PA Quadrangle N: 8.7 inches; W: 5.7 inches) in North Whitehall Township, **Lehigh County**.

**E39-370.** Encroachment. **Cedar Fair, L. P.**, 3830 Dorney Park Road, Allentown, PA 18104. To construct and maintain a stream enclosure in a Tributary to Cedar Creek and in a portion of the floodway of Cedar Creek having a total length of 1,261.3 linear feet as follows: 122 feet of 36-inch diameter HDPE pipe, 743 feet of dual 36-inch diameter HDPE pipe, 376.5 feet of dual 42-inch diameter HDPE pipe and associated inlet/junction boxes; To place and maintain fill within the floodway of Cedar Creek associated with the expansion of the lower midway of Dorney Park and Wildwater Kingdom. The project is located at Dorney Park and Wildwater Kingdom, approximately 0.3 mile north of the intersection of S. R. 0309 and S. R. 0222 (Hamilton Boulevard) (Allentown West, PA Quadrangle N: 14.0 inches; W: 5.0 inches) in South Whitehall Township, **Lehigh County**.

**E40-527.** Encroachment. **Pennsylvania Department of Transportation, Engineering District 4-0**, P. O. Box 111, Scranton, PA 18501. To remove the existing structure and to construct and maintain a road crossing of Huntington Creek, approximately 40 feet downstream of the existing structure, consisting of twin 16.0-foot × 7.0-foot box culverts with their inverts depressed 1.0-foot below streambed elevation. The southern culvert will have a 1.0-foot high concrete weir at its inlet. The project is located on S. R. 4024, Section 270, approximately 1.1 miles south of the intersection of S. R. 4024 (Grassy Pond Road) and S. R. 0118 (Sweet Valley, PA Quadrangle N: 8.2 inches; W: 5.9 inches) in Ross Township, **Luzerne County**.

**E48-285.** Encroachment. **John and Susan Carl**, 1970 Bridge Lane, Bethlehem, PA 18015. To modify and maintain an existing single-span private bridge across Black River by replacing the existing deck and beams with a 12-inch thick pre-cast concrete deck to provide access to three private residences. The proposed superstructure will be attached to the existing stone abutments and the bridge will have a span of 12.5 feet and an underclearance of approximately 3.9 feet. The project is located along Bridge Lane, northwest of the intersection of Friedensville Road and Meadows Road (Hellertown, PA Quadrangle N: 14.3 inches; W: 16.3 inches) in Lower Saucon Township, **Northampton County**.

**E64-206.** Encroachment. **Pennsylvania Department of Transportation, Engineering District 4-0**, P. O. Box 111, Scranton, PA 18501. To remove the existing structure and to construct and maintain a road crossing of Little Keen Creek consisting of an 18.0-foot (5.48-meter) × 8.0-foot (2.43-meter) reinforced concrete box culvert with its invert depressed 1.0 foot (0.30 meter) below the streambed elevation. Also authorized is a temporary road crossing consisting of two 42-inch (1.05 meter) diameter CMP culverts. The project includes the placement of fill in a de minimis area of wetlands equal to 0.01 acre. The project is located on S. R. 0296, Section 671, Segment 0240, Offset 1311 (Waymart, PA Quadrangle N: 18.2 inches; W: 5.1 inches), in Clinton Township, **Wayne County**.

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

**E05-274.** Encroachment. **Bedford County Commissioners**, 230 S. Juliana Street, Bedford, PA 15522. To rehabilitate and maintain Hewitt Covered Bridge having a clear span of 79.39 feet with an underclearance of 11.29 feet over Town Creek (HQ-CWF) on T-305 located in the Village of Hewitt (Beans Cove, PA Quadrangle N: 0.8 inch; W: 1.6 inches) in Southampton Township, **Bedford County**. This permit also includes 401 Water Quality Certification.

**E06-526.** Encroachment. **Pioneer Crossing Landfill**, Ryan Inch, 727 Red Ln. Rd., Birdsboro, PA 19508. To construct and maintain a 200 foot extension of an existing twin 48-inch stream enclosure and to construct and maintain a 48-foot section of a 24-inch culvert in the channel of a tributary to the Schuylkill River (WWF) at a point at the Pioneer Crossing Landfill (Birdsboro, PA Quadrangle N: 4.99 inches; W: 8.79 inches) for the purpose of relocating the landfill entrance road in Exeter Township, **Berks County**. This permit also includes 401 Water Quality Certification.

**E31-154.** Encroachment. **PA Department of Transportation, Engineering District 9-0**, 1620 N. Juniata Street, Hollidaysburg, PA 16648. To remove an existing bridge and to (1) construct and maintain a single span prestressed concrete spread box beam bridge having a normal clear span of 31.16 feet and an underclearance of 6.48 feet in an unnamed tributary to Sideling Hill Creek (HQ-CWF), (2) excavate about 90 feet of stream channel to construct an armored elevated floodplain channel upstream, downstream and through the bridge, and (3) construct permanent rock lined channels on both streambanks below the bridge to convey stormwater drainage into the stream along with the construction of a temporary road crossing and a temporary sand bag cofferdam in the stream channel to facilitate construction of the bridge located on SR 0655, Segment 0020, Offset

1607 (Saltillo, PA Quadrangle N: 2.2 inches; W: 6.0 inches) in Clay Township, **Huntingdon County**. This permit also includes 401 Water Quality Certification.

**E36-659.** Encroachment. **City of Lancaster**, 120 N. Duke Street, Lancaster, PA 17608. To remove the existing pump station structure and construct and maintain a new Susquehanna (Sewage) Pump Station with a valve vault and wet well to be located within the 100-year floodplain of the Conestoga River. The purpose of the project is to increase the station capacity which conveys flows to the Lancaster City WWTP. The facility is located at the northeast corner of Chesapeake and Strawberry Streets (Lancaster, PA Quadrangle, N: 5.25 inches; W: 6.5 inches) in the City of Lancaster, **Lancaster County**. This permit was issued under Chapter 106 Floodplain Management.

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

**E03-382.** Encroachment. **Pennsylvania Department of Transportation, Engineering District 10-0**, P. O. Box 429, Route 286 S, Indiana, PA 15701. To remove the existing structure and to construct and maintain a single span bridge having a normal span of 43.467 meters and an underclearance of 5.7 meters across Crooked Creek (WWF) for the purpose of improving the roadway standards and transportation safety. This permit also authorizes the construction, maintenance and removal of a temporary causeway in Crooked Creek (WWF) for the purpose of removing the existing bridge piers. The project is located on S. R. 156, Segment 0362, Offset 2777, Station 7+009.00 m at the Village of South Bend (Elderton, PA Quadrangle N: 0.6 inch; W: 16.7 inches) in South Bend Township, **Armstrong County**.

**E26-262.** Encroachment. **Pennsylvania Department of Transportation Engineering District 12-0**, P. O. Box 459, Uniontown, PA 15401. To remove the existing structure and to construct and maintain a bridge having a normal clear span of 42 feet and an underclearance of 3.5 feet across Dunlap Creek (WWF) located on S. R. 4004 Section C01 approximately 200 feet west of its intersection with S. R. 3023. Also, to construct and maintain an 18-inch diameter CMP outfall structure in Dunlap Creek; to conduct channel cleaning within 70 feet upstream and 60 feet downstream of the bridge; to permanently place and maintain fill within a de minimis area of wetland totaling 0.033 acre (PEM/PFO); and to temporarily place and maintain fill within 0.017 acre of PEM/PFO wetlands (New Salem, PA Quadrangle N: 8.5 inches; W: 13.0 inches) in German and Menallen Townships, **Fayette County**.

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

**E20-481.** Encroachment **Conneaut Valley Economic and Industrial Development Authority**, 103 Main Street, P. O. Box 33, Springboro, PA 16435. To dredge approximately 812 cubic yards of accumulated sediment and maintain the channel capacity of a tributary to Conneaut Creek (CWF-MF) beginning at S. R. 18 and extending downstream approximately 850 feet and to construct and maintain a levee having a top elevation of 937 feet beginning at S. R. 18 and extending upstream along the right (north) bank approximately 637 feet to provide flood protection to the Logan Drive Trailer Court along S. R. 18 approximately 0.7 mile north of S. R. 198 (Conneautville, PA Quadrangle N: 2.8 inches; W: 16.9 inches) located in Spring Township and Conneautville Borough, **Crawford County**.

**E20-483.** Encroachment. **PA Department of Transportation**, 255 Elm Street, Oil City, PA 16301. To remove the existing bridge and to construct and maintain a prestressed concrete adjacent box beam bridge having two clear spans of 30.6 meters and an underclearance of 8.824 meters on an 83 degree skew across French Creek on S. R. 1025, Section B00 (Grant Street) (Cambridge Springs, PA Quadrangle N: 10.25 inches; W: 8.34 inches) located in Cambridge Springs Borough, **Crawford County**. This project includes impact to a de minimis area of wetland (0.01 hectare) associated with roadway approach fill.

**E20-484.** Encroachment. **Beaver Township**, 725 Artman Road, Conneautville, PA 16406. To remove the existing bridge and to construct and maintain a steel stringer bridge having a span of 25 feet and an underclearance of 5 feet across a tributary to Conneaut Creek on T-348 (Cole Road) approximately 500 feet south of S. R. 198 (Beaver Center, PA Quadrangle N: 1.35 inches; W: 4.9 inches) located in Beaver Township, **Crawford County**.

**E25-588.** Encroachment. **Level 3 Communication, L.L.C.**, 14023 Denver West Parkway, Golden, CO 80401-3107. To install and maintain a fiber optic cable communications line across the following streams and wetlands from the OH-PA state line approximately 1,800 feet north of S. R. 20 and crossing Erie County to the PA-NY state line approximately 2,700 feet south of S. R. 20, a distance of approximately 44 miles located within the existing Norfolk Southern Railroad right-of-way:

1. A tributary to Turkey Creek by open trench disturbing approximately 16 square feet (Conneaut OH-PA Quadrangle N: 13.9 inches; W: 12.5 inches) in Springfield Township, **Erie County**.

2. Turkey Creek within the existing railroad ballast (East Springfield, PA Quadrangle N: 14.8 inches; W: 15.8 inches) in Springfield Township, **Erie County**.

3. A tributary to Turkey Creek and adjoining EV wetlands by open trench disturbing approximately 13 square feet (East Springfield, PA Quadrangle N: 15.2 inches; W: 14.95 inches) in Springfield Township, **Erie County**.

4. A tributary to Turkey Creek and adjoining EV wetlands by open trench disturbing approximately 36 square feet (East Springfield, PA Quadrangle N: 15.35 inches; W: 14.6 inches) in Springfield Township, **Erie County**.

5. A tributary to Lake Erie and adjoining EV wetlands by open trench disturbing approximately 6 square feet (East Springfield, PA Quadrangle N: 18.7 inches; W: 5.2 inches) in Springfield Township, **Erie County**.

6. A tributary to Elk Creek and adjoining wetlands by open trench disturbing approximately 30 square feet (Albion, PA Quadrangle N: 21.1 inches; W: 14.6 inches) in Girard Township, **Erie County**.

7. Elk Creek by bridge attachment (Fairview, PA Quadrangle N: 0.6 inch; W: 13.3 inches) in Girard Township, **Erie County**.

8. A tributary to Elk Creek and adjoining wetlands by open trench disturbing approximately 12 square feet (Fairview, PA Quadrangle N: 2.5 inches; W: 9.5 inches) in Girard Borough, **Erie County**.

9. A tributary to Lake Erie (Godfrey Run) by directional drilling (Fairview, PA Quadrangle N: 3.5 inches; W: 7.8 inches) in Girard Township, **Erie County**.

10. A tributary to Lake Erie (Godfrey Run) by open trench disturbing approximately 10 square feet (Fairview, PA Quadrangle N: 3.9 inches; W: 7.3 inches) in Girard Township, **Erie County**.

11. Walnut Creek by bridge attachment (Swanville, PA Quadrangle N: 10.5 inches; W: 13.5 inches) in Fairview Township, **Erie County**.

12. A tributary to Lake Erie by bridge attachment (Swanville, PA Quadrangle N: 16.9 inches; W: 2.2 inches) in Millcreek Township, **Erie County**.

13. West Branch Cascade Creek by directional boring (Swanville, PA Quadrangle N: 17.8 inches; W: 0.5 inch) in the City of Erie, **Erie County**.

14. Fourmile Creek by bridge attachment (Erie North, PA Quadrangle N: 3.6 inches; W: 1.9 inches) in Lawrence Park Borough, **Erie County**.

15. A tributary to Fourmile Creek and adjoining wetlands by open trench disturbing approximately 38 square feet (Harborcreek, PA Quadrangle N: 4.7 inches; W: 16.7 inches) in Harborcreek Township, **Erie County**.

16. Sixmile Creek by bridge attachment (Harborcreek, PA Quadrangle N: 6.0 inches; W: 13.9 inches) in Harborcreek Township, **Erie County**.

17. A tributary to Sixmile Creek by open trench disturbing approximately 10 square feet (Harborcreek, PA Quadrangle N: 6.7 inches; W: 12.5 inches) in Harborcreek Township, **Erie County**.

18. A tributary to Sevenmile Creek by directional bore (Harborcreek, PA Quadrangle N: 7.1 inches; W: 11.6 inches) in Harborcreek Township, **Erie County**.

19. Sevenmile Creek by bridge attachment (Harborcreek, PA Quadrangle N: 7.5 inches; W: 11.0 inches) in Harborcreek Township, **Erie County**.

20. A tributary to Elliots Run by open trench disturbing approximately 6 square feet (Harborcreek, PA Quadrangle N: 8.1 inches; W: 9.7 inches) in Harborcreek Township, **Erie County**.

21. Elliots Run and adjoining wetlands by open trench disturbing approximately 30 square feet (Harborcreek, PA Quadrangle N: 8.8 inches; W: 8.3 inches) in Harborcreek Township, **Erie County**.

22. A tributary to Elliots Run and adjoining wetlands by open trench disturbing approximately 16 square feet (Harborcreek, PA Quadrangle N: 8.9 inches; W: 8.1 inches) in Harborcreek Township, **Erie County**.

23. A tributary to Eightmile Creek by open trench disturbing approximately 26 square feet (Harborcreek, PA Quadrangle N: 9.5 inches; W: 6.75 inches) in Harborcreek Township, **Erie County**.

24. Eightmile Creek and adjoining wetlands by open trench disturbing approximately 34 square feet (Harborcreek, PA Quadrangle N: 10.0 inches; W: 5.9 inches) in Harborcreek Township, **Erie County**.

25. A tributary to Scott Run and adjoining wetland by open trench disturbing approximately 38 square feet (Harborcreek, PA Quadrangle N: 10.35 inches; W: 5.2 inches) in Harborcreek Township, **Erie County**.

26. Scott Run and adjoining wetland by open trench disturbing approximately 20 square feet (Harborcreek, PA Quadrangle N: 10.8 inches; W: 4.2 inches) in Harborcreek Township, **Erie County**.

27. A tributary to Twelvemile Creek (HQ-CWF) and adjoining wetland by open trench disturbing approxi-

mately 48 square feet (Harborcreek, PA Quadrangle N: 11.0 inches; W: 3.8 inches) in Harborcreek Township, **Erie County**.

28. Twelvemile Creek (HQ-CWF) by bridge attachment (Harborcreek, PA Quadrangle N: 12.1 inches; W: 1.6 inches) in Harborcreek Township, **Erie County**.

29. A tributary to Twelvemile Creek (HQ-CWF) by directional boring (North East, PA-NY Quadrangle N: 13.0 inches; W: 16.7 inches) in North East Township, **Erie County**.

30. A tributary to Sixteenmile Creek and adjoining wetland by open trench disturbing approximately 12 square feet (North East, PA-NY Quadrangle N: 13.5 inches; W: 15.8 inches) in North East Township, **Erie County**.

31. A tributary to Sixteenmile Creek and adjoining wetland by open trench disturbing approximately 8 square feet (North East, PA-NY Quadrangle N: 13.9 inches; W: 15.0 inches) in North East Township, **Erie County**.

32. Sixteenmile Creek by bridge attachment (North East, PA-NY Quadrangle N: 15.0 inches; W: 12.7 inches) in North East Borough, **Erie County**.

33. A tributary to Sixteenmile Creek by open trench disturbing approximately 20 square feet (North East, PA-NY Quadrangle N: 16.1 inches; W: 10.4 inches) in North East Borough, **Erie County**.

34. A tributary to Lake Erie and adjoining wetland by open trench disturbing approximately 30 square feet (North East, PA-NY Quadrangle N: 17.7 inches; W: 7.4 inches) in North East Township, **Erie County**.

35. Eighteenmile Creek by bridge attachment (North East, PA-NY Quadrangle N: 19.0 inches; W: 3.8 inches) in North East Township, **Erie County**.

36. Twentymile Creek by bridge attachment (North East, PA-NY Quadrangle N: 19.3 inches; W: 2.8 inches) in North East Township, **Erie County**.

**E25-591.** Encroachment. **Amity Township**, 15030 Casler Road, Union City, PA 16438, **Venango Township**, 9141 Townhall Road, Wattsburg, PA 16442, **Wattsburg Borough**, 14431 Main Street, Wattsburg, PA 16442. To construct and maintain a total of approximately 3,500 feet of bank stabilization consisting of root wads, grading and plantings and a total of 1,000 feet of 20-foot-wide high flow channel impacting 0.4 acre of wetland (PSS/EM) at various locations along a total reach of approximately 1.5 miles of French Creek extending upstream from S. R. 8 (Union City, PA Quadrangle N: 22.4 inches; W: 8.3 inches) to near S. R. 474 (Wattsburg, PA-NY Quadrangle N: 1.1 inches; W: 5.8 inches) located in Amity and Venango Townships and Wattsburg Borough, **Erie County**.

**E25-593.** Encroachment. **PA Department of Transportation, District 1-0**, 255 Elm Street, P. O. Box 398, Oil City, PA 16301. To construct the following work in and along Walnut Creek on S. R. 79, Section A01 approximately 2,200 feet north of the Kearsarge Intyexchange (S. R. 4012) (Erie South, PA Quadrangle N: 13.2 inches; W: 14.5 inches) located in Millcreek Township, **Erie County**:

1. Remove the existing northbound and southbound bridges.

2. Remove a gravel bar extending upstream from the southbound bridge along the north bank approximately 180 feet.

3. Install and maintain rock riprap bank protection along both banks beginning approximately 50 feet upstream of the northbound bridge and extending downstream approximately 265 feet.

4. To construct and maintain two prestressed concrete composite I-beam bridges having clear spans of 90.5 feet with the northbound bridge having an underclearance of 14 feet and the southbound bridge having an underclearance of 12.25 feet.

**E37-128.** Encroachment. **Mitcheltree Brothers**, P. O. Box 332, Pulaski, PA 16143. To construct and maintain a 90-foot-long, 142-inch-wide by 91-inch-high corrugated steel pipe arch culvert in a tributary to Buchanan Run on an access roadway to Mitcheltree Brothers Sawmill extending west from Route 551 (T-649) approximately 1 mile north of S. R. 208 (Edinburg, PA Quadrangle N: 22.6 inches; W: 7.5 inches) located in Pulaski Township, **Lawrence County**.

**E61-226.** Encroachment. **Cranberry Township**, P. O. Box 378, Seneca, PA 16346. To remove the existing superstructure, modify and extend the existing abutments approximately 7 feet upstream, install new wingwalls, steel I-beam superstructure and rock riprap scour protection and to maintain the bridge having a clear span of 30 feet and an underclearance of 8.9 feet across Lower Twomile Run on Aires Road approximately 500 feet south

of Deep Hollow Road (Franklin, PA Quadrangle N: 0.4 inches; W: 1.3 inches) located in Cranberry Township, **Venango County**.

**E62-350.** Encroachment. **Cochran and Zandi Lumber Company**, P. O. Box 547, Sheffield, PA 16347. To construct and maintain a steel beam bridge having a clear span of 24 feet and an underclearance of 4 feet across Arnot Run (EV, Wild Trout) for a private timber access road 800 feet west of T-524 approximately 3,200 feet south of the intersection of Cherry Grove Road (S. R. 2001) and Sorenson Road (Cherry Grove, PA Quadrangle N: 3.3 inches; W: 1.8 inches) located in Cherry Grove Township, **Warren County**.

**E62-351.** Encroachment. **Allegheny Partners, L. P. c/o Forest Investment Associates**, Box 1474, 312 W. Main Street, Smethport, PA 16749. To remove the existing structure, remove a gravel bar, stabilize the stream banks and to construct and maintain a pre-fabricated steel bridge having a span of 22.5 feet and a maximum underclearance of 5.4 feet across tributary to Andrews Run for a private timber access road extending east from S. R. 3007 (Davy Hill Road) approximately 1.5 miles south of S. R. 27 (Pittsfield, PA Quadrangle N: 11.0 inches; W: 1.1 inches) located in Pittsfield Township, **Warren County**.

## STORAGE TANKS

### SITE SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site Specific Installation Permits under the authority of the Storage Tank and Spill Prevention Act, (35 P.S. §§ 6021.304, 6021.504, 6021.1101—1102) and 25 Pa. Code Chapter 245, Subchapter C have been issued by the Bureau of Watershed Conservation, Director, P. O. Box 8555, Harrisburg, PA 17105-8555, (717) 787-5267.

<i>SSIP Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Tank Type and Capacity</i>
99-02-004	Barry Atkins Neville Chemical Company 2800 Neville Road Pittsburgh, PA 15225-1496	Allegheny County Neville Township	1 AST storing aka LP-220 100,000 gallons
99-02-005	Robert Spargal U. S. Steel, Clairton Works 400 State Street Clairton, PA 15025-1855	Allegheny County Clairton	2 ASTs storing Methanol 50,000 gallons each
99-02-006	Dale Dodson U. S. Steel Group P. O. Box 878 MS #160 Dravosburg, PA 15034	Allegheny County West Mifflin	1 AST storing Hydrochloric Acid 40,000 gallons

## SPECIAL NOTICES

### 102/NPDES Stormwater Public Hearing

The Department of Environmental Protection (Department) Water Management Program will be holding a fact finding hearing on the following Stormwater NPDES permit applications: General Residential Properties, Lowland Farm, PAS10-G387, Carl Wright, Welsh Tract Subdivision, PAS10-G389, F. Brian Forcine, Forcine Concrete, PAS10-G393.

The hearing is scheduled for January 26, 2000, at 1:30 p.m. at the Chester County Conservation District Office, Conference Room 240, 601 Westtown Road, West Chester, PA 19382-4519, Chester County. The hearing is being held to solicit pertinent comments on these applications.

The applications are for stormwater construction activities, with a discharge to Valley Creek, Broad Run and Little Valley Creek respectively. A copy of the applications are available for review in the Southeast Regional Office's Record Management Section, (610) 832-6268. Those interested in reviewing the applications should call to schedule a date to review the file. The project sponsors are General Residential Properties, 666 Exton Commons, Exton, PA 1934; Carl Wright, 532 Bryn Mawr Avenue, Swarthmore, PA 19081; F. Brian Forcine, 2403 Yellow Springs Road, Malvern, PA 19355.

Comments received will be considered by the Department in completing its review and prior to taking final actions concerning any of the applications. The hearing will not be a question and answer session.



Anyone intending to make a presentation at the hearing should submit written notice to the Regional Manager, Water Management Program at the above address. The notice should include your name, address and phone number, whether you are opposed or in favor of the project and a brief statement about your presentation. Comments should be kept brief and, depending on the number of speakers, may be limited to 10 minutes per speaker. Where groups are represented, a spokesperson is requested to present the group's concern. Anyone wishing to present written material directly to the Department may do so within 30 days following the hearing.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodations to participate in the proceedings should contact Sharon Moore, at (610) 832-6073. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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**Availability of Grants for the Remediation of Waste Tire Piles in Pennsylvania under the Waste Tire Recycling Act (Act 190 of 1996)**

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The Department of Environmental Protection (Department) hereby announces the availability of grants under the Waste Tire Recycling Act (Act 190 of 1996) for fiscal year 99/00 for the remediation of waste tire piles in Pennsylvania. Act 190 provides a grant program, tax credits and enforcement provisions to reduce the stockpiles of waste tires. The Waste Tire Pile Remediation Grant Program is funded through the Used Tire Pile Remediation Restricted Account, which may receive up to \$1 million annually from the Recycling Fund established by Act 101, the Municipal Waste Planning, Recycling and Waste Reduction Act. The total grants funds available is \$200,000 that may be awarded to remediate the waste tire piles listed. Only those waste tire piles listed are eligible under this grant offering.

In order to be considered for a grant, an applicant: 1) must propose to remediate any of the following waste tire piles, Norman K. Lady located in Butler Township, Adams County, Moulstown Road located in Heidelberg Township, York County, and Beltrami located in Foster Township, Luzerne County (copies of this list is available from the Division of Municipal and Residual Waste, (717) 787-7381, or may be obtained electronically via the DEP Internet site on the world wide web at: <http://www.dep.state.pa.us> under the Municipal and Residual Waste page); 2) must not have contributed, in any manner, to the creation of a noncompliant waste tire pile; and 3) must have an identifiable end-use for the waste tires to be remediated.

Grant funds are to be used for activities directly related to the remediation of priority waste tire sites (such as

employ wages, operation of equipment, transportation, processing costs, and the like). Grants may not be used for the purchase of equipment and grant recipients shall use funds only for those activities approved by the Department.

All applicants must complete and submit an official two-part application for each proposed tire pile remediation. The Waste Tire Remediation Grant Application Parts A and B include all the materials and instructions necessary for applying for a grant. Copies of these documents are available by contacting the Division of Municipal and Residual Waste at (717) 787-7381 or may be obtained electronically from the DEP Internet site on the world wide web at: <http://www.dep.state.pa.us> (choose subject and select T). Six copies of the application containing both Parts A and B must be completed and submitted by 4 p.m. on January 28, 2000, to: Department of Environmental Protection, Division of Municipal and Residual Waste, 14th Floor—Rachel Carson State Office Building, 400 Market Street, P. O. Box 8472, Harrisburg, PA 17105-8472. Applications, which are incomplete or arrive after the deadline, will not be considered.

At a minimum, all applications must contain: (1) a description of the applicant's experience in waste tire remediation, (2) markets or end-uses for the remediated tires, (3) a schedule for the remediation of tires at the site, (4) proposed cost of the waste tire pile remediation, and (5) any additional information the Department deems necessary. Please follow the instructions in the Part A and B Grant Application to assure you are submitting all of the necessary information in the correct format.

Persons who have any questions about this grant program should contact the Division of Municipal and Residual Waste (717) 787-7381.

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**Certification to Perform Radon-Related Activities in Pennsylvania**

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In the month of November 1999 the Department of Environmental Protection of the Commonwealth of Pennsylvania, under the authority contained in the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the persons listed to perform radon-related activities in Pennsylvania. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in Pennsylvania and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Robert Anderson Radon Protection Services	282 Longstreet Drive Gettysburg, PA 17325	Mitigation
Michael Cush	P. O. Box 273 Gilbert, PA 18331	Testing
Arnold Fiergang	R. R. 2, Box 340B Dallas, PA 18612	Testing
Jeffrey Flood Centre Region Home Inspectors	P. O. Box 191 Centre Hall, PA 16828	Testing

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Steven Gorman Mason Dixon Home Insp. Services, Inc.	282 Longstreet Drive Gettysburg, PA 17325	Testing
David Grammer Radata, Inc.	27 Ironia Road, Unit 2 Flanders, NJ 07836	Laboratory
Robert Latorra	RR 1, Box 241 Benton, PA 17814	Testing
Juan Lluna-Garces	1324 Crestmont Drive Downingtown, PA 19335	Testing Mitigation
John Mallon, Jr. Radon Detection & Control	P. O. Box 419/153 Jordan Street South Heights, PA 15081	Testing Mitigation
Mid-State Inspections Service	2020 Bellemeade Drive Altoona, PA 16602	Testing
Bess Naylor Quality Testing Services, Inc.	1660 Camp Betty Washington Road York, PA 17402	Testing Mitigation
Randolph Ragland Radon Test, Inc.	145 Derr Drive Collegeville, PA 19426	Testing
John Trusa	454 Dana Street Wilkes-Barre, PA 18702	Mitigation
Malcolm Whipkey	1934 Overland Court Allison Park, PA 15101	Testing

[Pa.B. Doc. No. 99-2136. Filed for public inspection December 17, 1999, 9:00 a.m.]

### Availability of Technical Guidance

Technical Guidance Documents are on DEP's World Wide Web site ([www.dep.state.pa.us](http://www.dep.state.pa.us)) at the Public Participation Center. The "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 Technical Guidance*

Persons can order a bound paper copy of the latest Inventory or an unbound paper copy of any of the final documents listed on the Inventory by calling DEP at (717) 783-8727.

In addition, bound copies of some of DEP's documents are available as DEP publications. Please check with the appropriate bureau for more information about the availability of a particular document as a publication.

#### *Changes to Technical Guidance Documents*

Here is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number is listed with each document. Persons who have questions or comments in general should call Joe Sieber at (717) 783-8727.

#### *Draft Guidance—Substantive Revision*

DEP ID: 362-0300-007 Title: Alternate and Experimental Systems Guidance Description: This document identifies alternate and experimental onlot wastewater treat-

ment systems and technologies that are acceptable under Chapter 73. Chapter 73 allows for the use of these alternate and experimental systems for new land development and when applying the "best technical guidance" available for correcting a malfunction or making a repair of an existing onlot wastewater system. The revised guidance includes additional systems and proposes modifications to existing systems. This guidance was last published in 1997. The Sewage Advisory Committee reviewed this draft guidance in October 1999. Anticipated Effective Date: January 31, 2000 Comment Period Ends: January 18, 2000 Contact: Milton Lauch at (717) 787-8184, fax number is (717) 772-5156, or E-mail at [Lauch.Milton@dep.state.pa.us](mailto:Lauch.Milton@dep.state.pa.us)

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 99-2137. Filed for public inspection December 17, 1999, 9:00 a.m.]

### Coal Mining: Water Supply Replacement and Bond Release

The Department of Environmental Protection (Department), Bureau of Mining and Reclamation announces the development of several new forms that may affect coal mine operators. Use of these forms is consistent with the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31) and the Department's regulations in 25 Pa. Code Chapters 86—88 (relating to surface and underground coal mining: general; surface mining of coal; and anthracite coal). The new forms should be used immediately; the forms that they replace will not be accepted after December 31, 1999.

*Water Supply Waivers*

Coal mine operators whose surface mining activities and bituminous underground mining activities affect a water supply must replace or restore the affected supply with an alternate source of water. The alternate water source must be adequate in quantity and quality for the purposes served by the original supply. Water supply waiver forms are used to document a landowner's acceptance of a lesser replacement supply or the landowner's intent to abandon the original water supply. On May 9, 1998, the Department amended its regulations to require water supply replacement waivers to be on forms developed by the Department and, most importantly, to be recorded with the appropriate recorder of deeds. These requirements can be found in 25 Pa. Code § 87.119 (relating to hydrologic balances: water rights and replacement for bituminous coal surface mining activities; and § 88.107 (relating to hydrologic balance: water rights and replacement) for anthracite coal surface mining activities and bank removal.

Copies of the waiver forms, "Consent to a Lesser Water Supply Agreement" (5600-FM-MR0110) and "Abandonment of Water Supply Agreement" (5600-FM-MR0111), may be obtained from the District Mining Office. The forms may also be downloaded from the Department's web page at [www.dep.state.pa.us](http://www.dep.state.pa.us) (choose Subjects/Mineral Resources/Bureau of Mining and Reclamation). The District Mining Offices will continue to accept properly recorded waivers on other forms until December 31, 1999. However, beginning January 1, 2000, the Department will accept only waivers that are on the new Department form.

*Bond Release Completion Report*

The Department has revised the "Coal Completion Report" (5600-FM-MR0370). Permittees use this form when applying for a bond release. The form was revised because of changes to the regulations and to provide the Department more complete information on the amount of remaining performed by the permittee. Copies of the new "Coal Completion Report" may be obtained from the District Mining Office. The form may also be downloaded from the Department's web site at [www.dep.state.pa.us](http://www.dep.state.pa.us) (choose Subjects/Mineral Resources/Bureau of Mining and Reclamation).

The new form may be used immediately. The District Offices will accept the old forms until December 31, 1999. After January 1, 2000, the District Mining Offices will accept only the new forms.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 99-2138. Filed for public inspection December 17, 1999, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Expansion of the Long Term Care Capitated Assistance Program; Request for Information

The Long Term Care Capitated Assistance Program (LTCCAP) is a replication of the On Lok Model Program of All-inclusive Care for the Elderly (PACE). Under this Request for Information (RFI), the Department of Public

Welfare (Department) is asking organizations interested in participating as an LTCCAP provider during Fiscal Year 1999-2000 to contact the Department. Providers will be responsible to provide a specific package of services to individuals who are eligible for both Medicare and Medicaid and have been determined to require nursing facility services. To be considered for an LTCCAP site during Fiscal Year 1999-2000, organizations must be enrolled in the Medical Assistance Program, meet the requirements included in the PACE Protocols, and have a completed feasibility study through a PACE Technical Assistance Center.

The Department will consider, among other things, the following factors when determining site selection for LTCCAP:

- Medical Assistance service need
- Medical Assistance service availability (underbedded, overbedded, home and community based services, and the like)
- Project location (suburban v. urban, existing project sites, and the like)
- Uniqueness of project design (closing existing nursing facility beds, collaboration efforts, and the like)

Questions regarding PACE Protocols or the feasibility study through a PACE Technical Assistance Center should be directed to Cindy M. Proper at (717) 772-2525.

Individuals who feel they meet the above criteria, and are interested in being considered to provide services during Fiscal Year 1999-2000, should submit a letter of interest, along with a copy of their completed feasibility study within 30 days from the date of this publication to: LTCCAP, Division of LTC Client Services, Department of Public Welfare, 4th Floor Bertolino Building, P. O. Box 2675, Harrisburg, PA 17105.

FEATHER O. HOUSTOUN,  
*Secretary*

**Fiscal Note:** 14-NOT-229. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 99-2139. Filed for public inspection December 17, 1999, 9:00 a.m.]

### Payments to Nursing Facilities October 1, 1999 Final Rates

The purpose of this notice is to announce final payment rates for nursing facilities beginning October 1, 1999, in accordance with Section 1902(a)(13)(A) of the Social Security Act (42 U.S.C.A. § 1902(a)(13)(A)), as amended by Section 4711 of the Balanced Budget Act of 1997, P. L. 105-33, § 4711. An October 1, 1999 Proposed Rates Notice was published at 29 Pa.B. 5556 (October 23, 1999) and provided for a 30-day comment period. The Department did not receive any comments on the proposed October 1, 1999 rate notice.

*Rates*

The final October 1, 1999 rates are available through the Bulletin Board System (BBS) at (800) 833-5091, at the local County Assistance Offices throughout this Commonwealth, or by contacting Tom Jayson in the Policy Section of the Bureau of Long Term Care Programs at (717) 772-2570.

*Methodology*

The methodology that the Department used to set the final rates is contained in 55 Pa. Code Chapter 1187, Subchapter G (relating to rate setting) and the Commonwealth's approved Title XIX State Plan.

*Justification*

The justification for establishing the final rates is that the regulations at 55 Pa. Code Chapter 1187 and the Commonwealth's approved Title XIX State Plan require that rates be set on a quarterly basis.

The estimated increase in annual aggregate expenditures for Medical Assistance nursing facility services for FY 1999-2000 based on these final rates is \$9.340 million (\$4.314 million in State funds).

Interested persons are invited to submit written comments about the final rates 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: 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) 654-5968 (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-230. (1) General Fund; (2) Implementing Year 1999-00 is \$4.314 Million; (3) 1st Succeeding Year 2000-01 is \$6.040 Million; 2nd Succeeding Year 2001-02 is \$6.342 Million; 3rd Succeeding Year 2002-03 is \$6.659 Million; 4th Succeeding Year 2003-04 is \$6.992 Million; 5th Succeeding Year 2004-05 is \$7.341 Million; (4) 1998-99 Program—\$721.631 Million; 1997-98 Program—\$617.252 Million; 1996-97 Program—\$591.910 Million; (7) Medical Assistance—Long Term Care; (8) recommends adoption. There are funds available in the Department's budget to cover the cost of this increase.

[Pa.B. Doc. No. 99-2140. Filed for public inspection December 17, 1999, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Interest Rate Notice

Under the provisions of section 806 of the Fiscal Code (72 P. S. § 806), the Secretary of Revenue announces that, for the year commencing January 1, 2000, all unpaid taxes which became due and payable to the Commonwealth on and after January 1, 1982, shall bear interest at the rate of 8% per annum. This rate will remain constant until December 31, 2000. Under the provisions of section 6621(a)(2) of the Internal Revenue Code, this rate has been established by the Secretary of the Treasury of the United States, to be effective January 1, 2000.

This rate will be codified under 61 Pa. Code § 4.2(a) (relating to rate of interest).

Although the Tax Reform Act of 1986 amended Internal Revenue Code section 6621, by requiring that the Secretary of the Treasury of the United States establish quarterly rates of interest to become effective for Federal purposes on the first month of each calendar quarter, these amendments do not affect Commonwealth law. The Fiscal Code requires that the interest rate be established effective January 1 of each calendar year without regard to any change in the Federal interest rate during the calendar year.

ROBERT A. JUDGE, Sr.,  
*Secretary*

[Pa.B. Doc. No. 99-2141. Filed for public inspection December 17, 1999, 9:00 a.m.]

### Pennsylvania \$30,000 Clubs

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania \$30,000 Clubs.

2. *Price:* The price of a Pennsylvania \$30,000 Clubs instant lottery game ticket is \$2.00.

3. *Play Symbols:* Each Pennsylvania \$30,000 Clubs instant lottery game ticket will contain one play area. The play symbols and their captions located in the play area are: Heart Symbol (HEART), Spade Symbol (SPADE), Diamond Symbol (DIAMND) and Club Symbol (CLUB).

4. *Prizes:* The prizes that can be won in this game are \$2, \$3, \$9, \$12, \$30, \$60, \$90, \$120, \$300 and \$30,000.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 5,040,000 tickets will be printed for the Pennsylvania \$30,000 Clubs instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets with ten Club Symbol (CLUB) play symbols in the play area, on a single ticket, shall be entitled to a prize of \$30,000.

(b) Holders of tickets with nine Club Symbol (CLUB) play symbols in the play area, on a single ticket, shall be entitled to a prize of \$300.

(c) Holders of tickets with eight Club Symbol (CLUB) play symbols in the play area, on a single ticket, shall be entitled to a prize of \$120.

(d) Holders of tickets with seven Club Symbol (CLUB) play symbols in the play area, on a single ticket, shall be entitled to a prize of \$90.

(e) Holders of tickets with six Club Symbol (CLUB) play symbols in the play area, on a single ticket, shall be entitled to a prize of \$60.

(f) Holders of tickets with five Club Symbol (CLUB) play symbols in the play area, on a single ticket, shall be entitled to a prize of \$30.

(g) Holders of tickets with four Club Symbol (CLUB) play symbols in the play area, on a single ticket, shall be entitled to a prize of \$12.

(h) Holders of tickets with three Club Symbol (CLUB) play symbols in the play area, on a single ticket, shall be entitled to a prize of \$9.

(i) Holders of tickets with two Club Symbol (CLUB) play symbols in the play area, on a single ticket, shall be entitled to a prize of \$3.

(j) Holders of tickets with one Club Symbol (CLUB) play symbol in the play area, on a single ticket, shall be entitled to a prize of \$2.

(k) A prize will be paid only for the highest Pennsylvania \$30,000 Clubs instant lottery game prize won on the ticket if the ticket meets the criteria established in 61 Pa. Code § 819.213 (relating to ticket validation and requirements).

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

<i>Get</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 5,040,000 Tickets</i>
1 Club	\$2	1:6.00	840,000
2 Clubs	\$3	1:18.75	268,800
3 Clubs	\$9	1:75	67,200
4 Clubs	\$12	1:150	33,600
5 Clubs	\$30	1:75	67,200
6 Clubs	\$60	1:600	8,400
7 Clubs	\$90	1:6,000	840
8 Clubs	\$120	1:30,000	168
9 Clubs	\$300	1:120,000	42
10 Clubs	\$30,000	1:1,008,000	5

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania \$30,000 Clubs instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania \$30,000 Clubs, prize money from winning Pennsylvania \$30,000 Clubs instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania \$30,000 Clubs instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania \$30,000 Clubs or through normal communications methods.

ROBERT A. JUDGE, Sr.,  
*Secretary*

[Pa.B. Doc. No. 99-2142. Filed for public inspection December 17, 1999. 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Finding

#### Bradford County

Pursuant to the provisions of 71 P. S. Section 2002(b), the Secretary of Transportation makes the following written finding:

The Department of Transportation has designated the River Street Extension Alternative as the selected alternative for the Central Bradford County Traffic Improvement Project. The project involves the construction of a new roadway and intersection to connect S.R. 2027 to River Street, just south of the US 6 bridge in Towanda. Existing River Street would be reconstructed to provide a two-lane, two-direction roadway from just south of the US 6 bridge north along the west side of the Susquehanna River to Chestnut Street. This alternative would also include the construction of a new two-lane, two-direction roadway extension along the Susquehanna River from Chestnut Street to Pratt Avenue. The extension would then follow a northwesterly direction to the intersection of US 6 and Patterson Boulevard.

The River Street Extension Alternative best meets the identified project needs to reduce traffic/truck volume and congestion on Main Street and York Avenue, improve safety on Main Street and York Avenue, improve the quality of life in downtown Towanda, and support community enhancements. All practicable means to avoid or minimize harm to the environment have been adopted.

No adverse environmental effect is likely to result from the subject project.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 99-2143. Filed for public inspection December 17, 1999, 9:00 a.m.]

## Retention of Engineering Firms

### Centre County

#### Project Reference No. 08430AG2462

The Department will retain an engineering firm to provide final design services for S.R. 0080, Section B18 and S.R. 0080, Section A18 in Spring and Marion Townships, Centre County. These projects include the construction of two (2) interchanges between Interstates 80 and 99 and Interstate 80 and PA Route 26, respectively. The Department reserves the right to add construction consultation and shop drawing review at a later date.

S.R. 0080, Section B18 is the high-speed interchange between Interstates 80 and 99. This project includes the analysis/design of four (4) culverts, the replacement of two (2) sets of dual bridges (two 104', 112' and 105') and seven (7) new structures whose lengths are approximately 230', 197', 131', 131', 230', 1755' and 1165'. This Interchange is designed for continuity with the associated ramps. S.R. 0080, Section A18 is the construction of a new interchange between Interstate 80 and PA Route 26. This project includes one (1) structure approximately 328' in length. Approximately 3.5 miles of Interstate 80 will be designed using I-4R standards. Traffic for S.R. 0080 will be maintained using temporary crossovers. Traffic for S.R.'s 0026, 1005, 1008 will be maintained using temporary roadways, lane closures, flagging operations, and detours as necessary. Wetland mitigation will be required. The estimated construction cost is \$80 million for both Interchanges and the I-4R construction.

The selected engineering firm will be required to perform surveys; refine preliminary design/Step 9; utility coordination; archaeology; final roadway design; final right-of-way plans; structure design; culvert analysis/design; signing, pavement marking and delineation design/plans; erosion and sedimentation control plan; traffic control plan; wetland mitigation plan and necessary permits; geo-technical engineering; interchange lighting plan; incident management plan; and the construction plans, specifications, and estimates. This project will be performed in English units.

The letters of interest, at a minimum, will indicate the following; how the firm will accomplish the tasks outlined or provide the services required, and the names and resumes of key individuals that will provide the services. The anticipated time duration for this Agreement is eighteen (18) months. The Department reserves the right to change the Agreement duration to meet project needs.

The Department will establish an order of ranking of a minimum of three (3) firms. The following factors, listed in order of importance, will be considered by the Consultant Selection Committee during the evaluation of the firms submitting letters of interest:

- a. Proposed methodology to accomplish the required services within the proposed schedule.
- b. Specialized experience and technical competence of firm.

c. Specialized experience, previous experience, technical competence of individuals who constitute the firm.

d. Current workload and capacity of firm to perform work.

e. Past record of performance with respect to cost control, work quality, and ability to meet schedules.

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).

The shortlisting for this project will be done at the District. All firms submitting letters of interest will be notified by the District of the shortlisting date.

This project reference assignment is considered. 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).

The Letter of Interest submission shall be sent to:

Mr. George M. Khoury, P.E., District Engineer  
Engineering District 2-0  
1924-30 Daisy Street, P. O. Box 342  
Clearfield, PA 16830

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.

Any technical questions concerning the requirements for this project should be directed to: Mr. Mark L. Kucherer, P.E., District 2-0, at (814) 765-0440.

### Perry County

#### Project Reference No. 08430AG2463

The Department will retain an engineering firm for a multi-phase, specific project agreement to provide preliminary studies, environmental studies, preliminary engineering, final design, including preparation of bridge and roadway plans, specifications and estimates; shop drawing review and consultation during construction. This project is of the bridge replacement or bridge rehabilitation of three (3) covered bridges. The approved construction cost of these three (3) bridges is approximately \$2 million total. All three (3) projects will be together through the cultural resource process but may end up with separate environmental documents. Their locations are as follows:

- \* S.R. 3005, Section 003 Over Shermans Creek Southwest Madison Township
- \* S.R. 3008, Section 005 Adairs, Cisna mill bridge over Shermans Creek Southwest Madison Township
- \* S.R. 4001, Section 007 Saville Bridge over Buffalo Creek Saville Township

The required services will include preparation of intent to enter notices; field surveys; Categorical Exclusion Evaluation with emphasis on cultural resources and the potential for state and federal threatened and endangered species; public meetings; plotting of topography and cross sections; pavement and drainage design; submission of utility verification and relocation engineering; field view;

safety review meeting; Step 9 and value engineering; hydraulic report including Wetland Identification and Delineation report; type, size and location submissions; structure plans; line and grade submissions; right-of-way plans; viewers plans; erosion and sedimentation control plans and narratives; Environmental Assessment Form (4f) and the Application Checklist for Water Obstruction and Encroachment Permit; development of the soil and foundation engineering report; erosion and sedimentation control plans and narrative investigation of utility and property involvement; development of maintenance and protection of traffic plans and narratives; preparation of construction plans; specifications and estimates, and consultation services during construction.

\* The design of each project will be developed using metric units.

\* Welcom's Open Plan software will be used for project management and tracking.

\* A project specific Quality Development Plan will be prepared for each project.

The Department is seeking a multi-disciplined team with environmental, geotechnical, highway design, and structure design experience.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

a. Specialized experience and technical competence with replacement and rehabilitation of covered bridge projects and their ability to provide innovative solutions to complex technical problems.

b. Experience in environmental, highway design, structure design, geotechnical design, and hydrological/ hydraulic analysis and design.

c. Past record with respect to cost control, work quality, and ability to meet schedules.

d. The project team including subconsultants.

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).

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

Attention: Mr. Divyang P. Pathak

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.

Any technical questions concerning the requirements for this project should be directed to: Mr. Divyang P. Pathak, District 8-0, at (717) 787-7883.

**Chester and Delaware Counties  
Project Reference No. 08430AG2464**

The Department will retain an engineering firm to provide supplementary construction inspection staff of

approximately thirteen (13) inspectors, under the Department's Inspector(s)-in-Charge for construction inspection and documentation services on the following projects:

1. S.R. 0029, Section L02, Chester County This project consists of traffic signal installation, widening and resurfacing the intersections of S.R. 0029 with Phoenixville Pike and White Horse Road and installation of drainage in Charlestown Township.

2. S.R. 0029, Section 50S, Chester County This project consists of replacement of the existing three (3) span reinforced concrete bridge carrying State Road over Pickering Creek along with minor approach reconstruction and widening on T.R. 29 from a point north of Pickering Dam Road to a point south of Pot House Road in Charlestown Township.

3. S.R. 0030, Section M05, Chester and Delaware Counties This project consists of adding drainage, reconstruct drainage and reconstruct the entire highway of U.S. 30 from Route 252 to Old Eagle Road in Tredyffrin, Eastown and Radnor Townships.

4. S.R. 0322, Section 01L, Chester County This project consists of intersection improvement, widening, extending structure (culvert and arch bridge) and signals on Route 322 west of Copeland School Road and east of Highland Road in East Bradford Township.

5. S.R. 0926, Section S42, Chester County This project consists of realigning and reprofiling Street Road to improve the geometric alignment and sight distance. Adding 4' shoulders, bituminous curbing and drainage. Flattening side slopes to 1.5:1 or flatter. Performing minor bridge rehabilitation to the structure over the Pocopson Creek.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Engineering Agreement based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

a. Review of inspectors' resumes with emphasis on construction inspection capabilities. Department and District experience and supervisory experience.

b. Specialized experience in roadway and structure construction.

c. Number of NICET and NECEPT certified inspectors in each payroll classification.

d. Understanding of Department's requirements, policies, and specifications.

e. Ability to provide three (3) "CDS" operators or persons capable of inputting data into a personal computer (TCIS Classification).

f. Past performance.

The qualifications and experience required of the firm's inspectors will be established by the Department, and the qualifications of the firm's proposed employees will be reviewed and approved by the Department.

A minimum of four (4) individuals submitted as part of your inspection staff must have a NECEPT Bituminous Field Technician Certification.

It is anticipated that the supplementary construction inspection staff for this assignment will consist of the following number of inspectors who meet the requirements for the following inspection classifications:

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Ins. Super. (TCIS) (NICET Highway Construction Level 3 or equivalent)	7 (5)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	6 (4)

The numbers in parenthesis above indicate the number of inspectors in each Classification that must meet at least one of the following requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the Level required for the Inspection Classification.
2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
4. Hold a Bachelor of Science Degree in Civil Engineering or a Bachelor of Science Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.
5. Hold an Associate Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum reimbursement per hour of inspection for each Department Payroll Classification for calendar year of 2000:

<i>Payroll Classification</i>	<i>Maximum Straight Time Reimbursement Per Hour Of Inspection</i>
(TCIS)	\$41.75
(TCI)	\$36.53

The maximum reimbursement per hour of inspection includes all costs for providing construction inspection services at the project site during the normal work week.

Maximum reimbursement per hour of inspection for subsequent calendar years, if applicable, will be established at the scope of work meeting.

The firm selected may be required to attend a pre-construction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Department in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity provisions of the contract item; and perform other duties as may be required.

The firm selected will be required to supply the following equipment at no direct cost to the Department:

- a. 35 MM camera (one per project)
- b. Safety vests-high visibility for inspectors

c. Three (3) cellular phones on each of the S.R. 0030, Section M05 and S.R. 0926, Section S42 projects.

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen percent (15%) 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).

Letters of interest for this project must include a letter, signed by the individuals you propose for all TCIS positions, giving their approval to use their name in your letter of interest for this specific project.

The maximum number of resumes to be included in the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCIS	8
TCI	7

No resumes are required for the TA Classification.

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).

The Letter of Interest submission shall be sent to:

Mr. Andrew L. Warren, District Administrator  
Engineering District 6-0  
7000 Geerdes Blvd.  
King of Prussia, PA 19406-1525

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.

Any technical questions concerning the requirements for this project should be directed to: Mr. Russ Swallow, District 6-0 at (610) 964-6686 or after December 17, 1999 at (610) 205-6677.

**Chester County  
Project Reference No. 08430AG2465**

The Department will retain an engineering firm to provide supplementary construction inspection staff of approximately fourteen (14) inspectors, under the Department's Inspector(s)-in-Charge for construction inspection and documentation services on the following projects:

1. S.R. 0030, Section PM1, Chester County This project consists of reconstructing inside shoulders, placing concrete median barrier, modifying drainage, concrete pavement rehabilitation, resurfacing and bridge deck patching on T.R. 30 from Bell Tavern Road to west of T.R. 340 in E. Caln, Caln Townships and Downingtown Boro.
2. S.R. 0030, Section S26, Chester County This project consists of the construction of an off-ramp from eastbound U.S. 30 to northbound T.R. 113 and installing a median barrier from T.R. 113 to Creek Road at the intersection of U.S. 30 Coatesville Downingtown Bypass and T.R. 113 (Uwchaln Avenue) in East Caln Township.
3. S.R. 0162, Section 51S, Chester County This project consists of bridge rehabilitation by milling existing bituminous deck and replacing it with a reinforced concrete deck overlay, reshaping parapets, work on bridge approach slabs and reconstruction of roadway approaches on T.R. 162 over west branch of Brandywine Creek in Newlin Township.



4. S.R. 3077, Section 67S, Chester County This project consists of replacing a two (2) lane bridge over Buck Run with no shoulders with a two (2) lane bridge with shoulders and realigning S.R. 3077 (Park Avenue) to improve horizontal curve in East Fallowfield and Highland Townships.

5. S.R. 4021, Section 39M, Chester County This project consists of replacing box culvert and minor roadway realignment on Springton Road over Indian Run Creek in Wallace Township.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Engineering Agreement based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

- a. Review of inspectors' resumes with emphasis on construction inspection capabilities. Department and District experience and supervisory experience.
- b. Specialized experience in roadway and structure construction.
- c. Number of NICET and NECEPT certified inspectors in each payroll classification.
- d. Understanding the Department's requirements, policies, and specifications.
- e. Ability to provide three (3) "CDS" operators or persons capable of inputting data into a personal computer (TCIS Classification).
- f. Past performance.

The qualifications and experience required of the firm's inspectors will be established by the Department, and the qualifications of the firm's proposed employees will be reviewed and approved by the Department.

A minimum of two (2) individuals submitted as part of your inspection staff must have a NECEPT Bituminous Field Technician Certification.

Since the contractor may be performing some construction operations during the night, the engineering firm must be able to provide inspectors to meet this staffing need.

It is anticipated that the supplementary construction inspection staff for this assignment will consist of the following number of inspectors who meet the requirements for the following inspection classifications:

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Ins. Super. (TCIS) (NICET Highway Construction Level 3 or equivalent)	7 (5)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	6 (4)
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	1 (0)

The numbers in parenthesis above indicate the number of inspectors in each Classification that must meet at least one of the following requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the Level required for the Inspection Classification.

2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.

3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.

4. Hold a Bachelor of Science Degree in Civil Engineering or a Bachelor of Science Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

5. Hold an Associate Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum reimbursement per hour of inspection for each Department Payroll Classification for calendar year of 2000:

<i>Payroll Classification</i>	<i>Maximum Straight Time Reimbursement Per Hour Of Inspection</i>
(TCIS)	\$41.75
(TCI)	\$36.53
(TA)	\$25.10

The maximum reimbursement per hour of inspection includes all costs for providing construction inspection services at the project site during the normal work week.

Maximum reimbursement per hour of inspection for subsequent calendar years, if applicable, will be established at the scope of work meeting.

The firm selected may be required to attend a pre-construction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Department in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity provisions of the contract item; and perform other duties as may be required.

The firm selected will be required to supply the following equipment at no direct cost to the Department:

- a. 35 MM camera (one per project)
- b. Safety vests-high visibility for inspectors
- c. Three (3) cellular phones on S.R. 0030, Section PM1

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen percent (15%) 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).

Letters of interest for this project must include a letter, signed by the individuals you propose for all positions, giving their approval to use their name in your letter of interest for this specific project.

The maximum number of resumes to be included in the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCIS	8
TCI	7

No resumes are required for the TA Classification.

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).

The Letter of Interest submission shall be sent to:

Mr. Andrew L. Warren, District Administrator  
Engineering District 6-0  
7000 Geerdes Blvd.  
King of Prussia, PA 19406-1525

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.

Any technical questions concerning the requirements for this project should be directed to: Mr. Russ Swallow, District 6-0 at (610) 964-6686 or after December 17, 1999 at (610) 205-6677.

#### **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 request 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. A firm not conforming to this requirement may submit a letter of interest as a part of a joint venture with an individual, firm or corporation which is permitted under State law to engage in the practice of engineering.

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 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. 99-2144. Filed for public inspection December 17, 1999, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

### Nazareth Borough Municipal Authority v. DEP; EHB Doc. No. 99-240-K

Nazareth Borough Municipal Authority has appealed the issuance by the Department of Environmental Protection of an NPDES permit to same for a facility in Lower Nazareth Township, Northampton County. A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, please contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.62. Copies of the Board's rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,  
Chairperson

[Pa.B. Doc. No. 99-2145. Filed for public inspection December 17, 1999, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, December 2, 1999, and took the following actions:

#### *Regulations Approved:*

Pennsylvania Liquor Control Board # 54-56: Vendor's Registration and New Year's Eve Meal Package (amends 4055 Pa. Code Chapters 3, 11 and 13).

Pennsylvania Securities Commission # 50-113: National Securities Market Improvement Act of 1996 Amendments (amends 64 Pa. Code Chapters 202—205, 207, 209, 211, 504, 513, 603, 606 and 609).

State Real Estate Commission # 16A-567: Disclosure Summary (amends 49 Pa. Code §§ 35.201 and 35.336).

*Commissioners Voting:* John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held  
December 2, 1999

*Liquor Control Board—Vendor Registration and New Year's Eve Meal Package; Regulation No. 54-56*

### Order

On November 8, 1999, the Independent Regulatory Review Commission (Commission) received this regulation from the Liquor Control Board (LCB). This rulemaking amends 40 Pa. Code Chapters 3, 11 and 13. The authority for this regulation is section 207(i) of the Liquor Code (47 P. S. § 2-207(i)). Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This regulation eliminates the registration and issuance of identification cards to vendors' agents and permits hotels to offer an open bar with a meal package to their overnight guests on December 31, 1999.

The LCB estimates that approximately 330 promotional/sales agents licensed in Pennsylvania will benefit from the regulation. Vendors will save an estimated \$21,450 in registration fees and additional costs associated with photograph and application requirements. The LCB will realize savings by not processing the applications and issuing identifications. Hotels in the Commonwealth will benefit by being able to compete with hotels in neighboring states.

This regulation meets the criteria of the Regulatory Review Act.

*Therefore, It Is Ordered That:*

1. Regulation No. 54-56 from the Pennsylvania Liquor Control Board, as submitted to the Commission on November 8, 1999, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

*Commissioners Voting:* John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held  
December 2, 1999

*Pennsylvania Securities Commission—National Securities Market Improvement Act of 1996 Amendments; Regulation No. 50-113*

### Order

On July 1, 1999, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Securities Commission (PSC). This rulemaking amends 64 Pa. Code Chapters 202—205, 207, 209, 211, 504, 513, 603, 606 and 609. The authority for this regulation is section 609(a) of the Pennsylvania Securities Act (70 P. S. § 1-609(a)). The proposed regulation was published in the July 24, 1999 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on November 4, 1999.

This rulemaking amends various provisions of 12 chapters of the PSC's regulations. The changes are based on the Federal National Securities Markets Improvement Act of 1996 and Pennsylvania Act 109 of 1998. Hence, the rulemaking implements statutory changes and updates existing regulations.

This regulation meets the criteria of the Regulatory Review Act.

*Therefore, It Is Ordered That:*

1. Regulation No. 50-113 from the Pennsylvania Securities Commission, as submitted to the Commission on November 4, 1999, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

*Commissioners Voting:* John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III; John F. Mizner

Public Meeting held  
December 2, 1999

*State Real Estate Commission—Disclosure Summary; Regulation No. 16A-567*

**Order**

On August 9, 1999, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Real Estate Commission (SREC). This rulemaking amends 49 Pa. Code §§ 35.201 and 35.336. The authority for this regulation is found in section 608 of the Real Estate Licensing and Registration Act (63 P. S. § 455.608). The proposed regulation was published in the August 21, 1999 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on November 3, 1999.

Act 112 requires SREC to adopt a disclosure notice (notice) by regulation. Licensees must provide the notice to consumers at the initial interview where a substantive discussion about the consumer's real estate needs occurs. The notice must disclose information about the agency relationships between the licensee and the consumer; the broker's duties to the consumer; items which are negotiable; the purpose of the Real Estate Recovery Fund; and the telephone number of SREC.

This regulation meets the criteria of the Regulatory Review Act.

*Therefore, It Is Ordered That:*

1. Regulation No. 16A-567 from the State Real Estate Commission, as submitted to the Commission on November 3, 1999, is approved; and

2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 99-2146. Filed for public inspection December 17, 1999, 9:00 a.m.]

**Notice of Comments Issued**

Section 5(g) of the Regulatory Review Act (act) (71 P. S. § 745.5(g)) 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 (75 P. S. § 745.5a(h) and (i)).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulations must be submitted by the dates indicated.

<i>Reg. No.</i>	<i>Agency</i>	<i>Issued</i>	<i>Final-Form Submission Deadline</i>
16A-499	State Board of Nursing & State Board of Medicine Joint Regulation Certified Registered Nurse Practitioners Prescriptive Authority (29 Pa.B. 5101 (October 2, 1999))	12/2/99	11/01/01
16A-600	State Board of Vehicle Manufacturers Dealers & Salespersons Application Fees (29 Pa.B. 5105 (October 2, 1999))	12/2/99	11/01/01
57-207	Pennsylvania Public Utility Commission Natural Gas Choice and Competition (29 Pa.B. 5098 (October 2, 1999))	12/2/99	11/01/01

**State Board of Nursing & State Board of Medicine  
Joint Regulation No. 16A-499**

**Certified Registered Nurse Practitioners  
Prescriptive Authority**

**December 2, 1999**

We have reviewed this joint proposed regulation from the State Board of Nursing and the State Board of Medicine (Boards) and submit for consideration the following objections and recommendations. Subsection 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 protection of the public health, safety and welfare, reasonableness, implementation procedures and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

**1. Sections 18.53 and 21.283 Prescribing and dispensing drugs.—Protection of the Public Health, Safety and Welfare, Implementation Procedures and Clarity.**

*Collaborative Agreements*

Under existing regulations, a certified registered nurse practitioner (CRNP) works in collaboration with and under the direction of a physician. Collaborative agreements establish the conditions of the working relationship.

We have three concerns. First, the term "collaborative agreement" as used in this regulation should be defined. Second, §§ 18.53 and 21.283 should specifically require a collaborative agreement to be established and signed by the physician and CRNP before the CRNP can prescribe and dispense drugs. Finally, the regulations should also specify the required content of a collaborative agreement.

*Subsection (1)*

Subsection (1) allows a CRNP to prescribe and dispense drugs if the CRNP has completed an equivalent CRNP program in another state. However, how equivalency will be determined is not clear. The regulation should provide the criteria or standards the Board will use to establish reciprocal equivalency.

*Subsection (2)*

Subsection (2) requires a CRNP to complete an advanced pharmacology course. We have two concerns with this requirement.

First, some CRNP programs have specific advanced pharmacology courses while others integrate the course material into the overall curriculum. It is unclear what qualifies as an advanced pharmacology course.

Second, how will practicing CRNPs meet this requirement if their formal education did not specifically include an advanced pharmacology course? The Boards should specify the training required before a CRNP can prescribe and dispense drugs.

**2. Sections 18.54 and 21.284 Prescribing and dispensing parameters.—Protection of the Public Health, Safety and Welfare, Reasonableness, Consistency with Existing Regulations and Clarity.**

*General*

Physicians, hospitals and CRNPs have expressed concerns with the inclusion and exclusion of certain types of drugs. The Preamble does not provide background information concerning how the Boards developed the lists of drugs to be permitted, restricted or excluded. The enabling statutes do not specify the types of drugs that CRNPs can prescribe. Instead, the statutes direct the Boards to jointly promulgate regulations authorizing CRNPs to perform medical diagnosis and prescription. For this reason, the Boards should explain the basis for restrictions and prohibitions of certain drugs in this proposed regulation.

*Subsection (a)*

This subsection states that the *American Hospital Formulary Service Pharmacologic-Therapeutic Classification* will be used to identify drugs that the CRNP may prescribe and dispense. The statement seems to contradict the subsections that follow.

Subsection (a) seems to incorporate by reference a document listing the drugs that a CRNP is allowed to prescribe and dispense. Yet, the following subsections specifically list those drugs. It is our understanding that the purpose of this subsection is to provide a reference document for the types of drugs discussed in this section. If this is the case, the words "which the CRNP may prescribe and dispense subject to the parameters identified" should be deleted.

*Subsection (b)*

This subsection states that a CRNP may prescribe and dispense a drug from the following categories "without limitation." What is the purpose of the phrase "without limitation"? What impact will it have on collaborative agreements?

In existing regulations at 49 Pa. Code §§ 18.21 and 21.251, the Boards state that a CRNP:

... performs acts of medical diagnosis or prescription of medical therapeutic or corrective measures in collaboration with and under the direction of a physician licensed to practice medicine in this Commonwealth.

Depending on how it is implemented, the phrase "without limitation" could be seen as inconsistent with existing regulations. The Boards should clarify their intent.

*Subsection (c)*

This subsection states that a CRNP may prescribe and dispense a drug from the following lists or categories if that authorization is documented in the collaborative agreement. What documentation will be required to meet this requirement?

*Subsection (e)*

This subsection sets forth the procedures to follow when a collaborating physician discovers that a CRNP is prescribing or dispensing a drug inappropriately. There are two concerns with this subsection.

First, why does the regulation use the word "learn" to describe a physician's method of determining that a CRNP is prescribing or dispensing a drug inappropriately? What is required of a physician under a collaborative agreement?

Second, when a collaborating physician finds that a CRNP has inappropriately prescribed a drug, this subsection directs the CRNP to stop prescribing the drug and immediately advise the patient to stop taking the drug. This is the only course of action available under the regulation. Is it appropriate in all instances for a patient to immediately stop taking a drug? For example, some drug prescriptions come with warnings that abruptly stopping the therapy is dangerous and should only be done in consultation with a physician. Shouldn't the regulation require corrective action on behalf of the patient rather than simply requiring the CRNP to end the therapy?

*Subsection (f)*

The second sentence of paragraph (1) is confusing. When a CRNP writes a prescription for a Schedule II controlled substance, the CRNP must notify the collaborating physician "immediately (within 24 hours)." The subsection is unclear on whether the notice must be immediate or within 24 hours.

*Subsection (g)*

Subsection (g)(2) states that a CRNP may not prescribe a drug for a use not "permitted" by the United States Food and Drug Administration (FDA). The FDA does not prohibit or regulate the use of drugs once they are approved and released for general clinical practice. Therefore, the Boards intent in using the word "permitted" is unclear. The Boards should explain the purpose of this paragraph.

*Subsection (h)*

This subsection requires that the prescription blank bear the name and certification number of the CRNP and also identify the collaborating physician. The House Professional Licensure Committee expressed the concern that a CRNP who prescribes medications should also provide a clear and conspicuous notice to patients that he or she is a CRNP. The Boards should review what additional CRNP identification requirements are needed in the regulation.

**State Board of Vehicle Manufacturers,  
Dealers and Salespersons  
Regulation No. 16A-600**

**Application Fees**

**December 2, 1999**

We have reviewed this proposed regulation from the State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) and submit for consideration the following objections and recommendations. Subsections 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 and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

### 1. General.—Clarity.

The Regulatory Analysis Form (RAF) doesn't contain the past 3-year expenditure history for programs affected by the regulation. This information is required in item # 20b. The Board should include this information in the RAF accompanying the final-form regulation.

### 2. Section 19.4. Fees.—Fiscal Impact and Clarity

#### *Administrative overhead costs*

In the proposed regulation's fee report forms, there are significant differences in the costs covered by different fees except for "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 by the number of active licensees. 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 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" under section 30(b) of the Board of Vehicles Act (63 P. S. § 818.30(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.

#### *Differing overhead costs*

The administrative overhead costs for all fees are \$11.53, except for the certification of license history and verification of license fees, which are \$9.76. The Board should explain why these administrative costs are different.

#### *"Business name or post office address change" and "Business physical location change" fees*

We have two concerns about these fees. One, the Board increased the "Business name or post office address change" fee by 100%, and the "Business physical location change" fee by 200%. We understand that these fees haven't changed since 1989, and that the Board utilized a recent performance audit when computing the new fees. However, the Board should provide a more detailed explanation of the fee increases for these services.

Two, the fee report form for the "Business name or post office address change" fee includes the phrase "No Inspection Required." The fee report form for "Business physical location change" includes the phrase "Inspection Required." The regulation doesn't make it clear that one application requires an inspection, while the other does not. For increased clarity, the Board should consider adding these two phrases to their respective fee titles.

### **Pennsylvania Public Utility Commission Regulation No. 57-207**

#### **Natural Gas Choice and Competition**

**December 2, 1999**

We have reviewed this proposed regulation from the Pennsylvania Public Utility Commission (PUC) and submit for your consideration the following objections and recommendations. Subsections 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 statutory authority, legislative intent, fiscal impact and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

### 1. Section 53.69. Fixed rate option—Clarity.

#### *Applicable Revenue Threshold*

This proposed regulation is based on Section 1307(f) of the Natural Gas Choice Competition Act (Act). Section 1307(f) of the Act applies to distribution companies with annual operating revenues over \$40 million. However, the Regulatory Analysis Form indicates that distribution companies with revenues in excess of \$6 million must comply with this regulation. The PUC should explain this discrepancy and clarify the applicability of § 53.69 in the final regulation.

### 2. Section 53.69 (a), (b) and (e)—Statutory Authority, Legislative Intent, Fiscal Impact, Clarity.

#### *Subsection (a)*

This subsection allows a natural gas distribution company to offer the fixed rate option for either the heating season or another time period, as long as the time period does not exceed 12 months. It appears to be in direct conflict with the act. The following statutory provisions illustrate that the Legislature did not contemplate allowing a distribution company to offer the fixed rate option for a time period shorter than 12 months.

Section 1307(f)(1)(ii) of the act establishes "a fixed rate option which recovers natural gas costs *over a 12-month period.*" Additionally, Section 1307(f)(3) provides that "*at the end of such 12-month period,*" the distribution company shall file a statement with the PUC, indicating the difference between rates charged and the cost of natural gas. Finally, Section 1307(f)(5) provides that the PUC shall determine the amount of refund to the consumer by the distribution company by evaluating actual natural gas costs "*in the previous 12-month period.*" (Emphasis added.)

Therefore, we question the PUC's statutory authority to offer the fixed rate option for less than 12 months.

If the PUC can demonstrate its statutory authority for a time period less than 12 months, it must clarify what it means by "another time period." The regulation should include minimum and maximum time frames.

*Subsection (b)*

This subsection requires a separate reconciliation of the fixed rate option sales. We understand that separate reconciliation of these sales refers to a distinct calculation within a single 1307(f) proceeding. The PUC should clarify this point in the final regulation.

*Subsection (c)*

How is the date determined for the time period that "ends on the 1st day of the 12-month fixed rate option contract period?" Additionally, letter (E) of the Preamble states: "The process of when and how customers may elect to sign up for participation in a fixed rate offering needs to be established." These two statements are confusing.

Does the time period, as well as the sign up period, begin on the first day of the 1307(f) filing period? If so, nothing in the regulation supports that statement. For clarity, the PUC should specify this time frame in the final regulation.

In addition, letter (E) of the Preamble lists particular items that would be included on a customer's application form for the fixed rate option. These requirements should be included in a new proposed regulation with an opportunity for public comment.

### 3. Response to the PUC's Request for Comments—Statutory Authority.

#### *Fixed rate option with no reconciliation*

Section 1307(f)(1)(ii) of the Act requires the fixed rate option be "subject to annual reconciliation" if the natural gas distribution company adjusts its rates more often than quarterly. However, the PUC has requested comments on allowing the fixed rate option with no reconciliation. Since the Act requires annual reconciliation of the fixed rate option, the PUC does not have the statutory authority to allow the fixed rate option without reconciliation.

#### *Fixed rate option for companies with annual operating revenues less than \$40 million and greater than \$6 million*

The PUC requested comments on the appropriate reconciliation period for the fixed rate option for natural gas distribution companies with annual operating revenues less than \$40 million and greater than \$6 million. The PUC specifically asked if these companies could apply their current gas cost rate reconciliation period to the fixed rate option.

Can the PUC allow companies with revenues less than \$40 million to offer a fixed rate option? As noted above, Section 1307(f)(1)(ii) of the Act only applies to companies with annual operating revenues greater than \$40 million.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 99-2147. Filed for public inspection December 17, 1999, 9:00 a.m.]

### Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission received, on the dates indicated, the following regulations for review. To obtain the date and time of the meeting, interested parties may contact the office of the Commis-

sion at (717) 783-5417. To obtain a copy of the regulation, interested parties should contact the agency promulgating the regulation.

#### *Final-Form*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
16A-5310	State Board of Osteopathic Medicine Application Fees	12/7/99
59-06	Office of Attorney General Dog Purchaser Protection	12/7/99

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 99-2148. Filed for public inspection December 17, 1999, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Allstate Insurance Company; Private Passenger Automobile Insurance Program; Revised Rules, Rates and Rating Plans

On December 3, 1999, the Insurance Department (Department) received from Allstate Insurance Company a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 1.6% decrease amounting to -\$9.3 million annually, to be effective April 15, 2000.

Unless formal administrative action is taken prior to February 1, 2000, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Department's offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

All interested parties are invited to submit written comments, suggestions or objections to Michael W. Burkett, Pennsylvania Insurance Department, Office of Rate and Policy Regulation, Room 1311 Strawberry Square, Harrisburg, PA 17120 (E-mail at [m Burkett@ins.state.pa.us](mailto:m Burkett@ins.state.pa.us)) within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 99-2149. Filed for public inspection December 17, 1999, 9:00 a.m.]

### Application and Request for Approval to Redomesticate

The Orthodox Society of America has filed an application for a plan of redomestication whereby the state of domicile would change from Pennsylvania to Ohio. The initial filing was made under the requirements set forth under 15 Pa.C.S. §§ 1101—1997 (relating to Business Corporation Law of 1988). Persons wishing to comment on the grounds of public or private interest to the issuance of the Department's order approving the redomestication are invited to submit a written statement to the Pennsylvania Insurance Department within 7 days

from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include 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 and relevant facts to inform the Insurance Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Pennsylvania Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, by fax to (717) 787-8557 or by E-mail to rbrackbi@ins.state.pa.us.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 99-2150. Filed for public inspection December 17, 1999, 9:00 a.m.]

**Highmark Inc., d/b/a Highmark Blue Cross Blue Shield, d/b/a Pennsylvania Blue Shield; Filing No. 99090000**

Highmark Inc., d/b/a Highmark Blue Cross Blue Shield, d/b/a Pennsylvania Blue Shield submitted filing number 99090000 seeking authority to reduce the allowances for therapeutic drugs and biologicals (excluding immunizations) from 115% (AWP) to 100% of the average wholesale price (AWP). This request is applicable to all Blue Shield coverage where the drugs are a covered benefit. The filing seeks approval to implement the change March 6, 2000.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Insurance Department's office in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Actuary, Bureau of Accident and Health, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 99-2151. Filed for public inspection December 17, 1999, 9:00 a.m.]

## LEGISLATIVE REFERENCE BUREAU

### Documents Filed but Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of Bulletin). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no such documents have been received. For questions concerning or copies of documents filed, but not published, please call (717) 783-1530.

#### *Executive Board*

Resolution #CB-99-286, Dated November 5, 1999. Authorizes the Collective Bargaining Agreement between the

Commonwealth of Pennsylvania and the Instructional Tenured Unit (Scotland School for Veterans' Children and Scranton School for the Deaf) effective 8/16/99 through 8/15/2003.

Resolution #CB-99-287, Dated November 5, 1999. Authorizes the Collective Bargaining Agreement between the Commonwealth of Pennsylvania and the Instructional Tenured Unit (Thaddeus Stevens State College) effective 8/16/99 through 8/15/2003.

Resolution #CB-99-300, Dated November 16, 1999. Authorizes the provisions of the interest arbitration award between the Commonwealth of Pennsylvania and the AFSCME, Game Commission Act 111 bargaining unit for the years 1999 through 2002.

Resolution #CB-99-305, Dated November 17, 1999. Authorizes three side letters between the Commonwealth of Pennsylvania and the Pennsylvania State Education Association regarding conducting a job analysis for the appropriate pay for teachers, the impact of distance learning on faculties, and lunchroom monitoring duties for faculty members at Scranton State School for the Deaf.

#### *Governor's Office*

Manual M310.2 Definitions of Major and Minor Objects of Expenditures, Revision No. 1, Dated October 15, 1999.

Management Directive No. 305.9—Use of Forms STD-419/419L, Refund of Expenditures, and STD-420/C420/420L, Transmittal of Revenue, When Unaccompanied by Remittances, Amended November 5, 1999.

Management Directive No. 505.20—Wage Complement Management and Control, Amended November 10, 1999.

Administrative Circular No. 99-35—Placing of Decals and Logos on Commonwealth Vehicles, Dated November 2, 1999.

Administrative Circular No. 99-36—Winterization of State Vehicles and Commonwealth Garage Parking and Hours of Operation, Dated November 2, 1999.

Administrative Circular No. 99-37—Christmas Trees and Decorations, Dated November 8, 1999.

GARY R. HOFFMAN,  
*Director*

*Pennsylvania Code and Bulletin*

[Pa.B. Doc. No. 99-2152. Filed for public inspection December 17, 1999, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

**Investigation into the Year 2000 Compliance by Public Utilities; Doc. I-00980076; Default Orders Re: Complaints Filed by the Law Bureau Prosecutory Staff**

On December 3, 1999, the Pennsylvania Public Utility Commission entered default orders at the following dockets revoking the Certificates of Public Convenience for the named telecommunications service resellers listed:



<i>Company</i>	<i>A-Number</i>	<i>C-Number</i>	<i>Company</i>	<i>A-Number</i>	<i>C-Number</i>
AccuTel Communications Inc.	310587	134	WATS International Corp.	310214	142
Activetel Assoc Business Telephone Systems	310251	175	World Telecom Group Inc	310140	164
Advanced Telecom Network	310363	144			
AIS Telecommunications Services	310218	89			
American Automated Telecom Inc	310014	145			
American Telecommunications	310077	54			
American Telecommunications Systems	310507	95			
Amerishare Communication Inc.	310033	55			
AmTel Communications	310239	120			
Applied Signal Technologies	310134	96			
Coastal Automated Communication	310076	52			
Communications Buying Group Inc	310173	117			
Compath Communications	310411	128			
Comptel Computer Corp.	310101	58			
Conetco Corp	310315	86			
Corporate Calling Services Inc.	310629	188			
CPS Operator Services, Inc.	310094	53			
Fiberline Network Communications LP	310102	59			
Fone America Inc.	310081	64			
Future Telephone Communication	310330	100			
Great Lakes Telecom Corp	310199	171			
Hebron Communications Corp.	310468	140			
Hi-Rim Communications Inc.	310292	123			
Host Network Inc	310396	169			
Hotel Communications	310208	185			
Hotelco	310048	62			
Integrated Teletechnologies	310229	88			
International Tele Exchange Corp.	310023	135			
International Telecommunications	310402	193			
Interstate Savings Inc.	310240	103			
LECNET Inc	310065	146			
Lightcom International Inc.	310548	79			
Long Distance Direct Holdings	310427	129			
North American Comm Control	310393	127			
Northeast Payphones, Inc.	310015	197			
Ocom Corp.	310297	106			
One to One Communications	310246	147			
PATel Inc	310241	165			
Payline Systems Inc.	310096	66			
Petracom Corp.	310178	108			
Preferred Telecom Inc.	310384	148			
Princeton Telecom Corp	310049	76			
Providian Group LLC	310466	162			
Quarter Call	310276	122			
RD&J Communications Inc	310164	159			
Satellink Paging LLC	310656	158			
Satlink 3000 Inc.	310439	157			
Silverado Communications	310066	67			
Sonic Communications Inc	310249	109			
Telecomp Technologies Network	310070	69			
TeleDebit LP	310128	149			
The Nova Telecommunications Group	310556	133			
Total Telecommunications Inc.	310192	150			
Trans National Communications	310063	74			
UMG Communications Group	310227	156			
United Telephone Technologies	310057	70			
US Digital Network Ltd Partnership	310193	118			
USA Tele Corp	310576	155			
UStel Inc	310360	84			
VIP Telephone Network	310274	152			
Vista Group International	310327	124			
VNI Communications Inc	310041	72			
Voice Telephone CO	310382	83			

Each of the above-listed resellers must notify its customers of the revocation of its certificate of public convenience within 30 days of the date of publication of this notice and must cease providing telecommunication services to customers in this Commonwealth within 90 days of the date of publication of this notice.

Questions regarding this notice should be directed to Pennsylvania Public Utility Commission Assistant Counsel Patricia Krise Burket at (717) 787-3464.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 99-2153. Filed for public inspection December 17, 1999, 9:00 a.m.]

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority application for the right to render service as a common carrier or contract carrier in this Commonwealth has 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. The application will be considered without hearing in the absence of protests to the application. Protests to the application published herein are due on or before January 10, 2000, as set forth in 52 Pa. Code § 3.381 (relating to the applications for the transportation of property and persons). The protests shall also indicate whether it applies to the temporary authority application or the permanent application or both.

**Application of the following for approval of the beginning of the exercise of the right and privilege of operating as a common carrier for transportation of persons as described under each application.**

**A-00116420. Andrew Miller, t/d/b/a Miller's Transportation Service** (324 West Gay Street, West Chester, Chester County, PA 19380)—persons in paratransit service, between points in the counties of Montgomery and Delaware, and the city and county of Philadelphia.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 99-2154. Filed for public inspection December 17, 1999, 9:00 a.m.]

### Telecommunications

**A-310513F0002. GTE North Incorporated and Sprint Spectrum L.P.** Joint Petition of GTE North Incorporated and Sprint Spectrum L.P. for Approval of an Interconnection Agreement.

GTE North Incorporated and Sprint Spectrum L.P., by its counsel, filed on December 3, 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. All comments are due on or before 10 days after the date of publication of this notice. Copies of the GTE North Incorporated and Sprint Spectrum L.P. Joint Petition are on file with the Commission and are available for public inspection.

Contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 99-2155. Filed for public inspection December 17, 1999, 9:00 a.m.]

## TURNPIKE COMMISSION

### Retention of an Aerial Photogrammetric Mapping Firm for an Open End Contract

#### Systemwide

#### Reference No. 3-123

The Turnpike Commission (Commission) will retain one aerial photogrammetric mapping firm for an Open End Contract to provide analytical aerial triangulation, digital and conventional map compilation, cross section readout and conventional map drafting services. The work to be performed on each specific project may include any or all of the above phases of work on various projects located throughout the entire length of the Turnpike System. The Commission will provide mapping control. The contract will be for a maximum cost of \$750,000, or for a period of 3 years, whichever occurs first.

The photogrammetric mapping work must be performed in accordance with the requirements of applicable sections of the "Specifications For Aerial Photography, Field Control Surveys, and Topographic Mapping" contained in Form 442, Department of Transportation, Bureau of Design Specifications For Consultant Engineering Agreements and/or the "Surveying And Mapping Manual," Publication 122M, Department of Transportation, Bureau of Design as directed by the Commission. The services will encompass a wide range of design related mapping efforts with the possibility of several different types of projects being mapped under short completion schedules.

The firm may be required to: provide digital data in AutoCAD, DXF, ARC/INFO and Microstation formats; provide topographic mapping, GIS data, digital orthophoto mapping; provide low altitude photography for high accuracy aerial surveys; provide DTM and DEM collection; and Light Detection and Ranging (LIDAR) mapping.

The firm will provide analytically determined supplemental mapping control points meeting Commission specifications and a captured points file of existing roadway centerline in ASCII format. Map compilation may be in digital format with drafting by automated processes. Translation capability to other CADD systems will be required.

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. Firms should have prior experience in large-scale photogrammetric mapping,

low altitude photography for high accuracy aerial surveys for highway design and LIDAR mapping.

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. Firms should have sufficient qualified permanent full-time personnel to complete mapping work assignments with short delivery schedules utilizing current state-of-the-art photogrammetric instruments, equipment and software.

d. Location of consultant's office where the work will be performed.

e. Workload of the prime consultant and subconsultants for all Department of Transportation and Turnpike Commission projects.

f. Other factors, if any, specific to the project.

Address these items and any necessary further details in a brief yet comprehensive manner in the letter of interest.

Direct inquiries to Thomas E. Farcht, Jr., PLS at (717) 939-9551, Ext. 5761; or by e-mail at tfarcht@paturnpike.com.

#### 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:

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)

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.

An organization chart for the Project, identifying key personnel and any subconsultants and their roles. Any deviation from the subconsultant's listed in the letter of interest will require written approval from the Commission.

Tabulation of workload for the prime consultant and all subconsultants for all Department of Transportation and Turnpike Commission projects.

A copy of the Annual Qualification Package submitted to the Department of Transportation for the current year that is in the same District as this project or one that is best suited for this project.

The Annual Qualification Package should contain at a minimum, the following information 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 the 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 at 176 Kost Road, Carlisle, PA 17013-9779 (parcel delivery address) (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676).

The letter of interest and required information must be received by 12 p.m. (noon), Friday, January 7, 2000. 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. 99-2156. Filed for public inspection December 17, 1999, 9:00 a.m.]

## **Retention of an Engineering or Construction Management Firm**

### **Construction Management and Inspection Services Gettysburg Pike Interchange Reconstruction and Expansion Cumberland County, PA**

#### **Reference No. 3-121**

The Turnpike Commission (Commission) will retain an Engineering or Construction Management firm with in-

terchange rehabilitation inspection experience to provide a staff of approximately four field inspection personnel for the complete construction inspection, management, administration and documentation for the Gettysburg Pike Interchange, in Cumberland County. Construction will include the modification and expansion of the Gettysburg Pike Interchange. The total cost of this construction contract is \$8,000,000. The Construction Management Agreement is anticipated to start in October of 2000, and terminate in February of 2002.

The selected firm will be required to provide a full time onsite construction inspection staff, with sufficient office personnel, managers, engineers, technicians and clerical staff to support the field functions, and also be capable of incorporating and utilizing Commission inspectors if the Commission, at its discretion, chooses to assign one or more Commission inspectors to this Project. The selected firm will also be required to perform constructability reviews of the project documents, attend the prebid meeting and preconstruction conference, write all project correspondence, and review and approve contractor's submissions. In addition, the selected firm will be required to keep records utilizing the Turnpike's Construction Documentation System (CDS) to document the construction work, prepare current and final estimates for payment to the construction contractor, prepare change orders, conduct monthly job conferences, monitor the monthly progress, provide liaison with affected utilities and communities, conduct semifinal and final inspections, determine the final quantities of each contract item, and perform other duties as may be required.

Eighty percent (80%) of the inspection staff assigned to this Commission constructed project must meet the following Requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies, (NICET) as a Transportation Engineering Technician—Construction Level 2 or higher.
2. Be registered as a professional engineer by the Commonwealth of Pennsylvania with 1 year highway inspection experience acceptable to the Commission.
3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with 2 years of highway inspection experience acceptable to the Commission.
4. Hold a Bachelor of Science Degree in Civil Engineering or Civil Engineering Technology with 2 years of highway inspection experience acceptable to the Commission.
5. Hold an Associate Degree in Civil Engineering Technology with 3 years of highway inspection experience acceptable to the Commission.

The remaining 20% assigned to this project shall meet the following education and experience requirements:

*Education*—Graduation from High School or equivalent certification or formal training. Completion of a training program in construction inspection approved by the Commission may be substituted for High School graduation.

*Experience*—One year of experience in construction inspection or workmanship which requires reading and interpreting construction plans and specifications, or 1 year of experience in a variety of assignments involving the testing of materials used in highway or similar construction projects. A 2 to 4 year engineering college degree may be substituted for 1 year of experience.

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, completing 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 Department of Transportation and Turnpike Commission projects.

f. Other factors, if any, specific to the project.

Address these items and any necessary further details in a brief yet comprehensive manner in the letter of interest.

Questions and inquiries concerning this Project should be directed to Matthew J. Wagner, P.E., at (717) 939-9551, Ext. 5210, or by email at mwagner@paturnpike.com.

**Construction Management and Inspection Services  
Delaware River Bridge Redecking Project—Phase 3,  
Girder Spans  
Bucks County, PA/Burlington County, NJ**

**Reference No. 4-053**

The Turnpike Commission (Commission) will retain an Engineering or Construction Management firm with bridge redecking and rehabilitation inspection experience to provide a staff of approximately four field inspection personnel for the complete construction inspection, management, administration and documentation for phase 3 of the Delaware River bridge redecking project in Bucks County, PA. Construction will include redecking of the Girder Spans on the Pennsylvania side of the structure. The estimated cost of this construction contract is \$8,300,000. The Construction Management Agreement is anticipated to start in May of 2001, and terminate in December of 2002.

The selected firm will be required to provide a full time onsite construction inspection staff, with sufficient office personnel, managers, engineers, technicians and clerical staff to support the field functions, and also be capable of incorporating and utilizing Commission inspectors if the Commission, at its discretion, chooses to assign one or more Commission inspectors to this Project. The selected firm will also be required to perform constructability reviews of the project documents, attend the prebid meeting and preconstruction conference, write all project correspondence, and review and approve contractor's submissions. In addition, the selected firm will be required to keep records utilizing the Turnpike's Construction Documentation System (CDS) to document the construction work, prepare current and final estimates for payment to the construction contractor, prepare change orders, conduct monthly job conferences, monitor the monthly progress, provide liaison with affected utilities and communities, conduct semifinal and final inspections, determine the final quantities of each contract item, and perform other duties as may be required.

Eighty percent of the inspection staff assigned to this Commission constructed project must meet the following Requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies, (NICET) as a Transportation Engineering Technician—Construction Level 2 or higher.

2. Be registered as a professional engineer by the Commonwealth of Pennsylvania with 1 year highway inspection experience acceptable to the Commission.

3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with 2 years of highway inspection experience acceptable to the Commission.

4. Hold a Bachelor of Science Degree in Civil Engineering or Civil Engineering Technology with 2 years of highway inspection experience acceptable to the Commission.

5. Hold an Associate Degree in Civil Engineering Technology with 3 years of highway inspection experience acceptable to the Commission.

The remaining 20% assigned to this project shall meet the following education and experience requirements:

*Education*—Graduation from High School or equivalent certification or formal training. Completion of a training program in construction inspection approved by the Commission may be substituted for High School graduation.

*Experience*—One year of experience in construction inspection or workmanship which requires reading and interpreting construction plans and specifications, or 1 year of experience in a variety of assignments involving the testing of materials used in highway or similar construction projects. A 2 to 4 year engineering college degree may be substituted for 1 year of experience.

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, completing 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 Department of Transportation and Turnpike Commission projects.

f. Other factors, if any, specific to the project.

Address these items and any necessary further details in a brief yet comprehensive manner in the letter of interest.

Questions and inquiries concerning this Project should be directed to Matthew J. Wagner, P.E., at (717) 939-9551, Ext. 5210, or by email at mwagner@paturnpike.com.

### 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 subconsultant's 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 Department of Transportation and Turnpike Commission projects.
5. A copy of the Annual Qualification Package submitted to the Department of Transportation for the current year that is in the same District as the project or one that is best suited for the project.

The Annual Qualification Package should contain at a minimum, the following information 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 the 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 Michael W. Flack, P.E., Assistant Chief Engineer for Construction, at the Turnpike Commission Administration Building located at 176 Kost Road, Carlisle,

PA 17013-9779 (parcel delivery address) (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676).

The letter of interest and required information must be received by 12 p.m. (noon), Friday, January 7, 2000. 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 each 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. 99-2157. Filed for public inspection December 17, 1999, 9:00 a.m.]

### Retention of Two Surveying Firms

#### Open End Contracts to Provide Surveying Services

#### Reference No. 3-124

The Turnpike Commission (Commission) will retain two engineering/surveying firms for Open End Contracts to provide surveying services. One Contract will be for surveying services throughout the Eastern portion of the Turnpike System, generally Districts 3, 4 and 5 and one Contract will be for surveying services throughout the Western portion, generally Districts 1 and 2 of the Turnpike System. These surveying services may include: baseline stakeout, level runs, metes and bounds surveys, Right-of-Way surveys, topographic surveys, cross-section surveys, wetland location surveys, GPS surveys, aerial photogrammetry control surveys and construction surveys. The work to be performed on each specific project may include any or all of the above phases of work on various projects located throughout the Eastern or Western portions of the Turnpike System. Each contract will be for a maximum cost of \$500,000, or for a period of 2 years, whichever occurs first. Please specify interest in the western contract, eastern contract, or both.

The surveying work must be performed in accordance with the requirements of applicable sections of the "Surveying And Mapping Manual," Publication 122M, Department of Transportation, Bureau of Design and/or the "Specifications For Aerial Photography, Field Control Surveys, and Topographic Mapping" contained in Form 442, Department of Transportation, Bureau of Design Specifications For Consultant Engineering Agreements as directed by the Commission. The services will encompass a wide range of design related surveying efforts with the possibility of several different types of survey projects under short simultaneous completion schedules.

The firm may be required to provide topographic surveys; GIS data, aerial photogrammetry control surveys, survey worksheets, and GPS survey data in AutoCAD,

DXF, ARC/INFO and Microstation formats. Translation capability to other CADD systems may be required.

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. Firms should have prior experience in large-scale GPS control surveys for highway design.

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. Firms should have sufficient qualified permanent full-time personnel to complete survey assignments with short delivery schedules utilizing current state-of-the-art surveying instruments, equipment and software under the direct supervision of a PA registered Professional Land Surveyor.

d. Location of consultant's office where the work will be performed.

e. Workload of the prime consultant and subconsultants for all Department of Transportation and Turnpike Commission projects.

f. Other factors, if any, specific to the project.

Address these items and any necessary further details in a brief yet comprehensive manner in the letter of interest.

Direct inquiries to Thomas E. Farcht, Jr., PLS at (717) 939-9551, Ext. 5761; or by e-mail at [tfarcht@paturnpike.com](mailto:tfarcht@paturnpike.com).

### 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 subconsultant's 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 Department of Transportation and Turnpike Commission projects.

A copy of the Annual Qualification Package submitted to the Department of Transportation for the current year that is in the same District as this project or one that is best suited for this project.

The Annual Qualification Package should contain at a minimum, the following information 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 the 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 at 176 Kost Road, Carlisle, PA 17013-9779 (parcel delivery address) (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676).

The letter of interest and required information must be received by 12 p.m. (noon), Friday, January 7, 2000. 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 each contract. 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. 99-2158. Filed for public inspection December 17, 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". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center  
 PA Department of Community and Economic Development  
 374 Forum Building  
 Harrisburg, PA 17120  
 800-280-3801 or (717) 783-5700

### Reader's Guide

#### Legal Services & Consultation—26

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services  
 Location: Harrisburg, Pa.  
 Duration: 12/1/93-12/30/93  
 Contact: Procurement Division  
 787-0000

③ Contract Information

④ Department

⑦

⑤ Location

(For Commodities: Contact:)  
 Vendor Services Section  
 717-787-2199 or 717-787-4705

⑥ Duration

#### REQUIRED DATA DESCRIPTIONS

① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.

② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.

③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.

④ Department: State Department or Agency initiating request for advertisement.

⑤ Location: Area where contract performance will be executed.

⑥ Duration: Time estimate for performance and/or execution of contract.

⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

## GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania State Treasury  
 Room G13 Finance Building  
 Harrisburg, PA 17120  
 717-787-2990  
 1-800-252-4700

BARBARA HAFER,  
*State Treasurer*

### Commodities

**1187219** Install new carpet in chapel. For a copy of the bid package fax request to (717) 787-0725.

**Department:** Public Welfare  
**Location:** North Warren, PA  
**Duration:** FY 1999—2000  
**Contact:** Vendor Services, (717) 787-2199

**0031-11** Agriculture News. For a copy of the bid package fax request to (717) 787-0725.

**Department:** Agriculture  
**Location:** Various  
**Duration:** 4/15/2000—4/14/2001  
**Contact:** Vendor Services, (717) 787-2199

**7485-01** Ribbons: Printer/Typewriter. For a copy of the bid package fax request to (717) 787-0725.

**Department:** General Services  
**Location:** Various  
**Duration:** 4/1/2000—3/31/2001  
**Contact:** Vendor Services, (717) 787-2199

**3610-07** Multi-Function Office Equipment Lease with Purchase Option/Outright Purchase. For a copy of the bid package fax request to (717) 787-0725.

**Department:** General Services  
**Location:** Various  
**Duration:** 4/1/2000—3/31/2001  
**Contact:** Vendor Services, (717) 787-2199

**1302119** Razor ribbon. For a copy of the bid package fax request to (717) 787-0725.

**Department:** General Services  
**Location:** Various  
**Duration:** FY 1999—2000  
**Contact:** Vendor Services, (717) 787-2199

**0091-12** PennDOT Envelopes. For a copy of the bid package fax request to (717) 787-0725.

**Department:** Transportation  
**Location:** Various  
**Duration:** 4/1/2000—3/31/2001  
**Contact:** Vendor Services, (717) 787-2199

**0071-12** Keystone Wild Notes. For a copy of the bid package fax request to (717) 787-0725.

**Department:** Conservation and Natural Resources  
**Location:** Various  
**Duration:** 5/1/2000—4/30/2001  
**Contact:** Vendor Services, (717) 787-2199

**5850-03** Customer Service System & Supplies. For a copy of the bid package fax request to (717) 787-0725.

**Department:** General Services  
**Location:** Various  
**Duration:** 4/1/2000—3/31/2001  
**Contact:** Vendor Services, (717) 787-2199

**8345-01** Flags, United States & PA. For a copy of the bid package fax request to (717) 787-0725.

**Department:** General Services  
**Location:** Various  
**Duration:** 4/15/2000—4/14/2001  
**Contact:** Vendor Services, (717) 787-2199

**5805-03** Miscellaneous Telephone Equipment. For a copy of the bid package fax request to (717) 787-0725.

**Department:** General Services  
**Location:** Various  
**Duration:** 7/1/2000—6/30/2001  
**Contact:** Vendor Services, (717) 787-2199

**9330-01** Sheets, polycarbonate and acrylic. For a copy of the bid package fax request to (717) 787-0725.

**Department:** General Services  
**Location:** Various  
**Duration:** 4/1/2000—3/31/2001  
**Contact:** Vendor Services, (717) 787-2199

**9905-04** Pavement Markings Legends. For a copy of the bid package fax request to (717) 787-0725.

**Department:** Transportation  
**Location:** Various  
**Duration:** 4/1/2000—3/31/2001  
**Contact:** Vendor Services, (717) 787-2199

**3610-04** Offset Printing Equipment. For a copy of the bid package fax request to (717) 787-0725.

**Department:** General Services  
**Location:** Various  
**Duration:** 4/1/2000—3/31/2001  
**Contact:** Vendor Services, (717) 787-2199

**7920-06** Dilution Control Systems Contact. For a copy of the bid package fax request to (717) 787-0725.

**Department:** General Services  
**Location:** Various  
**Duration:** 12/1/1999—11/30/2000  
**Contact:** Vendor Services, (717) 787-2199

**8177330** Wizard Work Zone Alert and information radio system Model AR-103.

**Department:** Transportation  
**Location:** Harrisburg, PA  
**Duration:** FY 1999—2000  
**Contact:** Vendor Services, (717) 787-2199

**1309119** Furnish and install three sections of new cutler hammer motor control center with a 42 circuit panelboard. For a copy of the bid package fax request to (717) 787-0725.

**Department:** Corrections  
**Location:** Camp Hill, PA  
**Duration:** FY 1999—2000  
**Contact:** Vendor Services, (717) 787-2199



### Computer Related Services—08

**99-1000-26** The Office of Administration is seeking bidders who can provide Primavera Project Planner (P3) Software. Price should include maintenance covering telephone support, and any upgrades or enhancements to the software for the period of 1 year from date of purchase. Interested bidders should fax their requests to be placed on the bidders list to Jane Benfer (FAX: (717) 787-0776).

**Department:** Office of the Budget/Executive Offices  
**Location:** Office of Administration, Radio Project Office, 1 Technology Park, Harrisburg, PA 17110-2913  
**Duration:** FY 1999—2000  
**Contact:** Jane L. Benfer, (717) 787-8767

**KURFP-0016:** Kutztown University is seeking qualified leading personal computer consulting firms to submit proposals for the purpose of installing personal computers, printers, peripherals and software on campus. The scope of work will include but not be limited to: installation of new equipment, move computer equipment from one location to another, data transfer as required, physical inventory of models and serial numbers, configuration for networking, installation of standard software applications and testing for proper equipment functionality including hardware, operating system software and applications. Contractor may also be asked to upgrade existing personal computer hardware and software as needed. Scope of work will be done within normal operating hours of 8 a.m. and 4:30 p.m., Monday through Friday. Interested firms should request an RFP package in writing and direct it to: Barbara Reitz, Director of Purchasing, Kutztown University, Kutztown, PA 19530, Phone: (610) 683-4132, Fax: (610) 683-4674, email: reitz@kutztown.edu. Packages will be available January 5, 2000. Proposals are due on January 31, 2000.

**Department:** State System of Higher Education  
**Location:** Kutztown University, Kutztown, PA 19530  
**Duration:** 1 year option with option to renew for 4 additional 1 year terms  
**Contact:** Barbara Reitz, (610) 683-4132

**1891810046** The Commonwealth of PA, Department of Revenue, Bureau of Imaging & Document Management desires to engage vendor services to provide data entry and key verification of PA State Income Tax records, bid proposals to be submitted for PA-41 (Long Form) clean and establish, price per thousand, and PA-65 (Long Form) clean and establish, price per thousand records. Prices and daily production volumes must be stated in terms of 900 character records and firm for the period of March 1 to December 31, 2000 during the initial contract period. Records are to be recorded on 9 track 1600 B.P.1. magnetic tape (Required), or on 3480 or 3490 Data Cartridge, and possibly will migrate to File Transfer Protocol (FTP) during the term of this contract. One contract will be awarded. The Department of Revenue at its option may negotiate to extend this contract for additional 1 year terms. Any such extension shall be based upon the terms and prices to be charged and agreed to between the Department and the contractor.

**Department:** Revenue  
**Location:** 1854 Brookwood Street, Harrisburg, PA 17104  
**Duration:** March 1, 2000 to December 31, 2000  
**Contact:** William Lupp, (717) 705-6745

### Construction & Construction Maintenance—09

**FBP-10-0033,35,36,37R** Remove four existing structures; construct two reinforced box culverts; construct two steel-I beams w/glulam timber superstructures; reinforced concrete substructures and wing walls; clearing, grubbing and grading; excavating, backfilling, and compacting; dewatering; E & S measures; site drainage; paving; signing; architectural surface treatment; landscaping. Work is along Cooks Run Road near the Village of Keating. Note: Bid documents may be requested on or after December 20, 1999.

**Department:** Conservation and Natural Resources  
**Location:** East Keating and Noyes Townships  
**Duration:** Complete all work by October 31, 2000  
**Contact:** Construction Management Section, (717) 787-5055

**FDC-009-660** Scarifying, grading and compacting; bituminous paving (ID-2 & BCBC); 2A shoulder material; concrete curb and sidewalks. Work is at the Moshannon State Forest Headquarters, north of I-80 near Clearfield. Note: Bid Documents may be requested on or after December 20, 1999.

**Department:** Conservation and Natural Resources  
**Location:** Pine Township  
**Duration:** Complete all work within 180 days  
**Contact:** Construction Management Section, (717) 787-5055

**015DGS412-46** Project Title: Upgrade Sanitary Sewer System. Brief Description: All related work to install new sanitary sewer main. Rehabilitation of existing sewer main and pump station, replacement of a standby generator and all other related work for the rehabilitation. Estimated Range: \$100,000 to \$500,000. General, Plumbing and Electrical Construction. Plans Deposit: \$65 per set Payable to: Goodkind & O'Dea, Inc. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check for \$20 per set or provide your express mail account number to the office listed. Mail requests to: Goodkind & O'Dea, Inc., 101 Noble Boulevard, P.O. Box 340, Carlisle, PA 17013-0340, (717) 240-0344. Bid Date: Wednesday, January 19, 2000 at 2 p.m. A prebid conference has been scheduled for Tuesday, January 4, 2000 at 10 a.m. at Shippensburg University in the Old Main Building, Room 203A, Shippensburg, PA. Contact: Randy S. Bailey, (717) 240-0344 or Terrence E. Durbin, (717) 477-1123, Ext. 3030 at the University. All contractors who have secured contract documents are invited and urged to attend this Prebid Conference.

**Department:** General Services  
**Location:** Shippensburg University, Shippensburg, Cumberland County, PA  
**Duration:** 280 Calendar Days from date of initial job conference  
**Contact:** Contract and Bidding Unit, (717) 787-6556

### Elevator Maintenance—13

**00872003** Elevator maintenance.

**Department:** Public Welfare  
**Location:** Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821  
**Duration:** Anticipated to begin July 1, 2000—June 30, 2003  
**Contact:** Pamela Bauman, (570) 271-4578

### Engineering Services—14

**08430AG2462** To provide final design services on S. R. 0080, Section B18, Bellefonte Interchange, and S. R. 0080, Section A18, T. R. 80 Interchange, in Centre County.

**Department:** Transportation  
**Location:** Engineering District 2-0  
**Duration:** Eighteen (18) Months (Minimum)  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2463** To provide preliminary engineering, environmental studies, final design and services during construction on S. R. 3005, Section 003 (covered bridge), S. R. 3008, Section 005 (Cisna Mill Covered Bridge) and S. R. 4001, Section 007 (Saville Covered Bridge), in Perry County.

**Department:** Transportation  
**Location:** Engineering District 8-0  
**Duration:** Thirty (30) days after construction completion  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2464** To provide construction inspection and documentation services for S. R. 0029, Section L02; S. R. 0029, Section 50S; S. R. 0322, Section 01L; and S. R. 0030, Section M05 in Chester and Delaware Counties.

**Department:** Transportation  
**Location:** Engineering District 6-0  
**Duration:** Thirty (30) days after construction completion  
**Contact:** Consultant Agreement Division, (717) 783-9309

**08430AG2465** To provide construction inspection and documentation services for S. R. 0030, Section PM1; S. R. 0030, Section S26; S. R. 0162, Section 51S; S. R. 3077, Section 67S and S. R. 4021, Section 39M, in Chester County.

**Department:** Transportation  
**Location:** Engineering District 6-0  
**Duration:** Thirty (30) days after construction completion  
**Contact:** Consultant Agreement Division, (717) 783-9309

## Environmental Maintenance Services—15

**BF 448-101.1** Under Act 181 of 1984, the Department of Environmental Protection solicits letters of interest from the landowners and/or licensed mine operators for the reclamation of abandoned strip mine projects. Letters of interest must be received by Ernest F. Giovannitti, Director, Bureau of Abandoned Mine Reclamation, Department of Environmental Protection, 400 Market Street, P. O. Box 8476, Harrisburg, PA 17105-8476, no later than 4 p.m. Local Time, January 18, 2000, to be considered.

**Department:** Environmental Protection  
**Location:** 20 acres in Mt. Pleasant Township  
**Duration:** N/A  
**Contact:** Joe Schueck, (717) 783-5649

**SW 026-101.1** Passive Landfill Gas Venting System Installation. Richards Landfill involves installation of a passive landfill gas venting system consisting of approximately 30 vent wells, each to a depth of approximately 30 feet, 8 inches in diameter; each vent equipped with a wind turbine and constructed at directed locations. This project will issue December 20, 1999; bid documents will not be sent until payment of \$10 has been received.

**Department:** Environmental Protection  
**Location:** Conneville Township  
**Duration:** April 30, 2000  
**Contact:** Construction Contracts Section, (717) 783-7994

**OSM 02(1935)101.1** Mine Subsidence Control, Revenue Street involves an estimated drilling of 104 boreholes, 15,600 tons of injection material and sealing 104 boreholes. One hundred percent of this project is financed by the Federal government from the Pennsylvania's 1999 AML Grant in the amount of \$8.7 million. This project issues December 20, 1999; bid documents will not be sent until payment has been received.

**Department:** Environmental Protection  
**Location:** West Homestead  
**Duration:** 190 calendar days  
**Contact:** Construction Contracts Section, (717) 783-7994

**BR 452-101.1** Under Act 181 of 1984, the Department of Environmental Protection solicits letters of interest from the landowners and/or licensed mine operators for the reclamation of abandoned strip mine projects. Letters of interest must be received by Ernest F. Giovannitti, Director, Bureau of Abandoned Mine Reclamation, Department of Environmental Protection, 400 Market Street, P. O. Box 8476, Harrisburg, PA 17105-8476, no later than 4 p.m., local time, January 18, 2000, to be considered.

**Department:** Environmental Protection  
**Location:** 11 acres in Springfield Township  
**Duration:** N/A  
**Contact:** Ray Desai, (717) 783-5641

**BF 449-101.1** Under Act 181 of 1984, the Department of Environmental Protection solicits letters of interest from the landowners and/or licensed mine operators for the reclamation of abandoned strip mine projects. Letters of interest must be received by Ernest F. Giovannitti, Director, Bureau of Abandoned Mine Reclamation, Department of Environmental Protection, 400 Market Street, P. O. Box 8476, Harrisburg, PA 17105-8476, no later than 4 p.m., local time, January 18, 2000, to be considered.

**Department:** Environmental Protection  
**Location:** 49 acres in Little Beaver Township  
**Duration:** N/A  
**Contact:** Ray Desai, (717) 783-5641

**BF 446-101.1** Under Act 181 of 1984, the Department of Environmental Protection solicits letters of interest from the landowners and/or licensed mine operators for the reclamation of abandoned strip mine projects. Letters of interest must be received by Ernest F. Giovannitti, Director, Bureau of Abandoned Mine Reclamation, Department of Environmental Protection, 400 Market Street, P. O. Box 8476, Harrisburg, PA 17105-8476, no later than 4 p.m., local time, January 18, 2000, to be considered.

**Department:** Environmental Protection  
**Location:** 35 acres in Luzerne Township  
**Duration:** N/A  
**Contact:** Joe Schueck, (717) 783-5649

**BF 444-101.1** Under Act 181 of 1984, the Department of Environmental Protection solicits letters of interest from the landowners and/or licensed mine operators for the reclamation of abandoned strip mine projects. Letters of interest must be received by Ernest F. Giovannitti, Director, Bureau of Abandoned Mine Reclamation, Department of Environmental Protection, 400 Market Street, P. O. Box 8476, Harrisburg, PA 17105-8476, no later than 4 p.m., local time, January 18, 2000, to be considered.

**Department:** Environmental Protection  
**Location:** 24 acres in Highland Township  
**Duration:** N/A  
**Contact:** Ray Desai, (717) 783-5641

**BF 442-101.1** Under Act 181 of 1984, the Department of Environmental Protection solicits letters of interest from the landowners and/or licensed mine operators for the reclamation of abandoned strip mine projects. Letters of interest must be received by Ernest F. Giovannitti, Director, Bureau of Abandoned Mine Reclamation, Department of Environmental Protection, 400 Market Street, P. O. Box 8476, Harrisburg, PA 17105-8476, no later than 4 p.m., local time, January 18, 2000, to be considered.

**Department:** Environmental Protection  
**Location:** 12 acres in Boggs Township  
**Duration:** N/A  
**Contact:** Ray Desai, (717) 783-5641

**BF 441-101.1** Under Act 181 of 1984, the Department of Environmental Protection solicits letters of interest from the landowners and/or licensed mine operators for the reclamation of abandoned strip mine projects. Letters of interest must be received by Ernest F. Giovannitti, Director, Bureau of Abandoned Mine Reclamation, Department of Environmental Protection, 400 Market Street, P. O. Box 8476, Harrisburg, PA 17105-8476, no later than 4 p.m., local time, January 18, 2000, to be considered.

**Department:** Environmental Protection  
**Location:** 9.6 acres in Brady Township  
**Duration:** N/A  
**Contact:** Ray Desai, (717) 783-5641

**BF 275-102.1** Under Act 181 of 1984, the Department of Environmental Protection solicits letters of interest from the landowners and/or licensed mine operators for the reclamation of abandoned strip mine projects. Letters of interest must be received by Ernest F. Giovannitti, Director, Bureau of Abandoned Mine Reclamation, Department of Environmental Protection, 400 Market Street, P. O. Box 8476, Harrisburg, PA 17105-8476, no later than 4 p.m., local time, January 18, 2000, to be considered.

**Department:** Environmental Protection  
**Location:** 72 acres in Beaver Township  
**Duration:** N/A  
**Contact:** Joe Schueck, (717) 783-5649

**BF 451-101.1** Under Act 181 of 1984, the Department of Environmental Protection solicits letters of interest from the landowners and/or licensed mine operators for the reclamation of abandoned strip mine projects. Letters of interest must be received by Ernest F. Giovannitti, Director, Bureau of Abandoned Mine Reclamation, Department of Environmental Protection, 400 Market Street, P. O. Box 8476, Harrisburg, PA 17105-8476, no later than 4 p.m., local time, January 18, 2000, to be considered.

**Department:** Environmental Protection  
**Location:** 3 acres in Hempfield Township  
**Duration:** N/A  
**Contact:** Ray Desai, (717) 783-5641

## Extermination Services—16

**Bid # 186** Rockwell Tester, Instron # 2001T or equal.

**Department:** General Services  
**Location:** Penn State University/General Services Research Building at University Park.  
**Duration:** Indeterminate 1999—2000  
**Contact:** Steven Blazer, (814) 865-5418

**Bid # 187** Genie Model TMZ - 34/19 Lift or equal.

**Department:** General Services  
**Location:** Penn State University/General Services Research Building at University Park.  
**Duration:** Indeterminate 1999—2000  
**Contact:** Steven Blazer, (814) 865-5418

**Bid # 185** Universal Test Machine, ATS Model # 905 or equal.

**Department:** General Services  
**Location:** Penn State University/General Services Research Building at University Park.  
**Duration:** Indeterminate 1999—2000  
**Contact:** Steven Blazer, (814) 865-5418

**Bid # 8014** Pest control (extermination) services at the Gettysburg Station. Service to be rendered quarterly with initial visit to include installation of two Vector light fly traps. Services will be rendered March 1, 2000 to February 28, 2001.

**Department:** State Police  
**Location:** Gettysburg Station, 3033 Old Harrisburg Pike, Gettysburg, PA 17325  
**Duration:** 3/1/2000 to 2/28/2001  
**Contact:** Donna Enders, (717) 783-5484

**Food—19**

**Dairy-01** Vendor to provide to State Correctional Inst. dairy products—milk 1/2 pints (average monthly use 240,000 each) and bulk milk (average monthly use 400 gallons), ice cream products—slices/sandwich (average monthly use 1200 gallons), cottage cheese (average monthly use 600 pounds) and any other related product. This is bid out monthly.

**Department:** Corrections  
**Location:** State Correctional Inst. Graterford, Box 246, Rt. 29, Graterford, PA 19426  
**Duration:** 1 year  
**Contact:** Kelly Richardson, (610) 489-4151

**Frozen-01** Vendor to provide to State Correctional Inst. frozen food items. Pancakes, french toast, waffles (equal to Aunt Jemima frozen products), pastry to include danish, muffins, doughnuts, cupcakes and any other related item can not contain any pork products. To be bid out monthly or as needed.

**Department:** Corrections  
**Location:** State Correctional Institution at Graterford, P. O. Box 246 off Rt. 29, Graterford, PA 19426  
**Duration:** 1 Year  
**Contact:** Kelly Richardson, (610) 489-4151, Ext. 2429

**Frozen-02** Vendor to provide to State Correctional Inst. frozen food items. Frozen vegetables, fresh frozen, PA Spec. V-14 packed 20 to 60 lb. bulk. Approx. lb used per month 4,000 lbs. frozen cheese pizza ready to bake made with natural cheese and no sauce extenders (No pork ingredients in product). 21,000 each per month fish, pre-cooked and oven ready 7,400 lbs. per month, Diet TV dinners, (No pork ingredients in product) to be bid out on an as needed basis.

**Department:** Corrections  
**Location:** State Correctional Institution at Graterford, P. O. Box 246 off Rt. 29, Graterford, PA 19426  
**Duration:** 1 Year  
**Contact:** Kelly Richardson, (610) 489-4151, Ext. 2429

**Eggs-01** Vendor to provide to State Correctional Inst. fresh shell eggs, white grade a class 1, medium natural 30 dozen per case. pa spec. E-10 approx. monthly usage 9,000 dozen frozen eggs, average monthly usage 10,000 lbs. To include any other related products to be bid out monthly or on an as needed basis.

**Department:** Corrections  
**Location:** State Correctional Institution at Graterford, P. O. Box 246 off Rt. 29, Graterford, PA 19426  
**Duration:** 1 Year  
**Contact:** Kelly Richardson, (610) 489-4151, Ext. 2429

**Meat-01** Vendor to provide to State Correctional Institution meat items to be bid out monthly on an as needed basis. To include any other related items.

**Department:** Corrections  
**Location:** SCI Graterford, P. O. Box 246 off Rt. 29, Graterford, PA 19426  
**Duration:** 1 Year  
**Contact:** Kelly Richardson, (610) 489-4151

**Veggie-01** Vendor to provide to State Correctional Institution fresh fruit and vegetables, items to be bid out monthly. To include any other related items.

**Department:** Corrections  
**Location:** SCI Graterford, P. O. Box 246 off Rt. 29, Graterford, PA 19426  
**Duration:** 1 Year  
**Contact:** Kelly Richardson, (610) 489-4151

**Oleo-01** Vendor to provide to State Correctional Institution Oleo, type II style a, in 30 lb. plastic buckets. pa spec. C-94 eff amended, # 1 21 May 1973. To include any other related items. To bid out on an as needed basis.

**Department:** Corrections  
**Location:** SCI Graterford, P. O. Box 246 off Rt. 29, Graterford, PA 19426  
**Duration:** 1 Year  
**Contact:** Kelly Richardson, (610) 489-4151

**Cheese-01** Vendor to provide to State Correctional Institution processed white American cheese, solid block, pre-sliced or shredded, 30 lb. containers or any other related products as required. To be bid out on an as needed basis.

**Department:** Corrections  
**Location:** SCI Graterford, P. O. Box 246 off Rt. 29, Graterford, PA 19426  
**Duration:** 1 Year  
**Contact:** Kelly Richardson, (610) 489-4151, Ext. 2429

**G-2000-09** Fresh fruits and vegetables: Bids will be issued quarterly for the period specified. Delivery of the product(s) specified shall be made as needed and requested by the institution's dietary manager. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** Department of Corrections SCI Greene, 1030 East Roy Furman Highway, Waynesburg, PA 15370  
**Duration:** Bids to be issued quarterly for the time period January 1, 2000 through December 31, 2000  
**Contact:** Pat Nichols, (724) 852-5533

**G-2000-10** Bread and related products: Bids for bread will be issued semi-annually for the period specified. Related products will be bid on an as needed basis. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** Department of Corrections SCI Greene, 1030 East Roy Furman Highway, Waynesburg, PA 15370  
**Duration:** Bids will be issued during the time period of January 1, 2000 through December 31, 2000  
**Contact:** Pat Nichols, (724) 852-5533

**G-2000-07** Shell Eggs: Bids will be issued on a quarterly basis. Delivery of the product(s) specified shall be made as needed and requested by the institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** Department of Corrections SCI Greene, 1030 East Roy Furman Highway, Waynesburg, PA 15370  
**Duration:** Quarterly bid will be issued during the time periods of January 1, 2000 through December 31, 2000  
**Contact:** Pat Nichols, (724) 852-5533

**G-2000-08** Miscellaneous Frozen Foods: Bids will be issued on an as needed basis as determined by the dietary manager. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** Department of Corrections SCI Greene, 1030 East Roy Furman Highway, Waynesburg, PA 15370  
**Duration:** Bids to be issued during the time periods of January 1, 2000 through December 31, 2000  
**Contact:** Pat Nichols, (724) 852-5533

**G-2000-05** Margarine: Bids proposal will be issued on an as needed basis for the referenced item. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** Department of Corrections SCI Greene, 1030 East Roy Furman Highway, Waynesburg, PA 15370  
**Duration:** January 1, 2000 through December 31, 2000 on an as needed basis.  
**Contact:** Pat Nichols, (724) 852-5533

**G-2000-04** Dairy and related products: Bids will be issued on a semi-annual (or more frequent) basis. Delivery of the products specified shall be made approximately one or two days each week, or more often if deemed necessary by the institution. Listing of specific commodities and estimated quantities can be obtained by contacting the institutions contact person.

**Department:** Corrections  
**Location:** Department of Corrections SCI Greene, 1030 East Roy Furman Highway, Waynesburg, PA 15370  
**Duration:** Bidding period December 1, 1999 through November 30, 2000 on an as needed basis  
**Contact:** Pat Nichols, (724) 852-5533

**G-2000-06** Cheese products: Bid will be issued on an as needed basis as determined by the dietary manager. Listing of specific commodities and estimated quantities can be obtained by contacting the institutional contact person.

**Department:** Corrections  
**Location:** Department of Corrections SCI Greene, 1030 East Roy Furman Highway, Waynesburg, PA 15370  
**Duration:** Bid will be issued on an as needed basis during the period of January 1, 2000 through December 31, 2000  
**Contact:** Pat Nichols, (724) 852-5533

**Hazardous Material Services—21**

**120003** Qualified Waste Management Firms to provide services to dispose of hazardous and non-hazardous wastes located at county sites and within roadway right of ways within the Counties of Fayette, Greene, Washington and Westmoreland. Services include sampling, testing, identifying, providing overpacks when necessary, transporting and disposal. Bids must be submitted on the Commonwealth's Service Purchase Proposal/Contract form with required attachments which are to be obtained from PennDOT Engineering District 12-0, phone (724) 439-7236. This will be a 1 year contract with an annual renewal option of 4 consecutive years.

**Department:** Transportation  
**Location:** Fayette, Greene, Washington and Westmoreland Counties  
**Duration:** August 1, 2000 through July 31, 2001  
**Contact:** Lonnie J. Mangus, (724) 439-7236

**HVAC—22**

**00972005** Duct work in dietary areas at Mayview State Hospital. Contractor shall furnish all labor, materials and all necessary items needed to inspect, interior clean, sanitize and fireproof duct work equipment located in kitchen and serving areas in various buildings at MSH. Service to be provided annually and in accordance with NFPA safety regulations. Bidders must completely inspect project site prior to submitting bid. Type of equipment and location can be obtained by calling Purchasing at MSH or by faxing your complete company name, address, phone, Federal tax identification number and name of contact person to Purchasing at MSH, (412) 257-6761.

**Department:** Public Welfare  
**Location:** Mayview State Hospital, 1601 Mayview Road, Bridgeville, PA 15017-1599  
**Duration:** 7/1/2000 through 6/30/2005  
**Contact:** Fred Molisee, (412) 257-6215

**00872005** Control/Metering equipment maintenance (maintain, calibrate, adjust, repair and/or replace components of the Boiler Plant Control System). Site visit required.

**Department:** Public Welfare  
**Location:** Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821  
**Duration:** Anticipated to begin July 1, 2000—June 30, 2003  
**Contact:** Pamela Bauman, (570) 271-4578

**Janitorial Services—23**

**Bid 8013** Furnish all equipment, materials and labor to perform janitorial services. Two visits per week at the PA State Police, Punxsutawney Headquarters, 445 N. Findley Street, Punxsutawney, PA 15767. Detailed Work Schedule and Bid must be obtained from Facility Management Division, (717) 783-5484.

**Department:** State Police  
**Location:** Punxsutawney Headquarters, 445 N. Findley Street, Punxsutawney, PA 15767  
**Duration:** 4/1/2000 to 6/30/2003  
**Contact:** Donna Enders, (717) 783-5484

**Legal Services—26**

**081-OGC-ITQ-99-01** The Commonwealth of Pennsylvania is extending the time to accept qualifications from law firms for participation in bond counsel pools established by the Governor's Office of General Counsel (OGC). As previously advertised, OGC intends to establish pools of qualified counsel to serve as bond counsel to the following agencies: Commonwealth of Pennsylvania, Office of the Budget; PENNVEST; Pennsylvania Housing Finance Agency; Pennsylvania Economic Development Financing Authority; Pennsylvania Industrial Development Authority; Pennsylvania Higher Educational Facilities Authority; and the State Public School Building Authority. OGC is seeking to review qualifications from legal service providers (law firms) for participation in four designated bond counsel pools to serve the above-identified financing agencies through a formal Invitation to Qualify (ITQ) process. Those law firms that submitted qualifications by the November 22, 1999 deadline are not required to resubmit but may do so if desired. To obtain a copy of the ITQ or information on OGC and the executive agencies to be served by the four bond counsel pools, law firms are encouraged to visit OGC's web site at [www.ogc.state.pa.us](http://www.ogc.state.pa.us). Law firms may also obtain a copy of the ITQ by sending a written request to M. Jane Demko by mail at Office of General Counsel, 333 Market Street, 17th Floor, Harrisburg, PA 17101, by e-mail at [jdemko@state.pa.us](mailto:jdemko@state.pa.us), or by fax at (717) 787-1788. Law firms should address questions pertaining to this ITQ to M. Jane Demko at the above-listed address, e-mail, or fax. All submissions to this ITQ are due by 2 p.m. on January 14, 2000. OGC will reject as nonresponsive all submissions received after this date and time. OGC expects to make its bond counsel appointments for future Commonwealth financing transactions to law firms identified and qualified through this ITQ process and thus strongly encourages any and all interested law firms to participate at this time to ensure consideration of their qualifications to provide bond counsel services.

**Department:** Governor's Office  
**Location:** Office of General Counsel, 333 Market St., 17th Floor, Harrisburg, PA 17101  
**Duration:** 12/1/1999—12/31/2002  
**Contact:** M. Jane Demko, (717) 787-6563

**Medical Services—29**

**00872007** Physical therapy service.

**Department:** Public Welfare  
**Location:** Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821  
**Duration:** Anticipated to begin July 1, 2000—June 30, 2001  
**Contact:** Pamela Bauman, (570) 271-4578

**SP359600001 (revised)** The Northwest Regional Office of the Dept. of Environmental Protection requires a fixed site contractor to administer physical examinations and provide certification for Dept. employees. Facility shall be located within 100 miles of the regional office in downtown Meadville.

**Department:** Environmental Protection  
**Location:** Within 100 miles of downtown Meadville, PA  
**Duration:** January 1, 2000—June 30, 2000 with options to renew  
**Contact:** Doug Higby, (814) 332-6816

**Property Maintenance—33**

**3881109005** Service to plant hardwood and conifer seedlings. Approximately 127,800 seedlings to be planted on 599 acres in Sprout State Forest. There will be 19 separate planting sites. Seedlings to be planted are as follows: conifer seedlings 101,500; hardwood seedlings without tree shelters 3,950; hardwood seedlings with tree shelters 22,350. All quantities are estimates.

**Department:** Conservation and Natural Resources  
**Location:** Sprout State Forest, HCR 62, Box 90, Renovo, PA 17764  
**Duration:** June 30, 2000  
**Contact:** Richard Kugel, (570) 923-6011

**090-000236** Roadside Mowing: Cambria County (T. R.'s 22 and 219) and 17 interchanges. Two guaranteed mowing cycles and one optional cycle per year (2-year contract), 312.7 acres per cycle. (Possible renewals).

**Department:** Transportation  
**Location:** Cambria County (T. R.'s 22 and 219 including 17 interchanges)  
**Duration:** July 1, 2000 to June 30, 2002 (2 years)  
**Contact:** Sean C. Alexander, Roadside Specialist, (814) 696-7116

**090-000235** Roadside Mowing: Bedford County (I-99, S. R. 0220, limited access). Two guaranteed mowing cycles and two optional cycles. (2-year contract), 274.1 acres per cycle. Item 804-0057 (flail mowers).

**Department:** Transportation  
**Location:** Bedford County—I-99, S. R. 0220 (limited access)  
**Duration:** May 1, 2000 to April 30, 2002 (2 years)  
**Contact:** Sean C. Alexander, Roadside Specialist, (814) 696-7116

**090-000237** Roadside Mowing: Somerset County (S. R. 0219 limited access). Two guaranteed mowing cycles and two optional mowing cycles (2-year contract), 253.5 acres per cycle. Item 804-0057 (flail mowers). (Possible renewals).

**Department:** Transportation  
**Location:** Somerset County—S. R. 0219  
**Duration:** May 1, 2000 to April 30, 2002 (2 years)  
**Contact:** Sean C. Alexander, Roadside Specialist, (814) 696-7116

**120R031** Roadside mowing of Department maintained state routes located south of SR 0030 in Westmoreland County. All mowing will be performed according to contract specifications. This will be a 1 year contract with an option for five 2 year renewal periods.

**Department:** Transportation  
**Location:** Westmoreland County South of SR 0030  
**Duration:** 5/1/2000 to 4/30/2001  
**Contact:** Michael D. Maurer, (724) 439-7374

**Sanitation—36**

**99-806** The contractor shall provide services to clean, vacuum and view clogged sewer lines, sanitary sewer lines, manhole, bar screen at the State Correctional Institution at Camp Hill.

**Department:** Corrections  
**Location:** State Correctional Institution at Camp Hill, 2500 Lisburn Road, P. O. Box 8837, Camp Hill, PA 17001-8837  
**Duration:** July 1, 2000 to June 30, 2003  
**Contact:** Delores Stephens, (717) 975-5200

**Security Services—37**

**SP 00650001** Provide security guard services for the Westmoreland County Assistance Office—5 days per week (Monday through Friday) except State holidays. The hours are from 7:30 a.m. to 5 p.m. with 1 hour unpaid lunch from 12 p.m. to 1 p.m. This service will be provided to three offices. Guards must be uniformed. Complete details and specifications may be obtained by contacting the Procurement Office.

**Department:** Public Welfare  
**Location:** Department of Public Welfare, Westmoreland County Assistance Office, 587 Sells Lane, Greensburg, PA 15601  
**Duration:** July 1, 2000 to June 30, 2003  
**Contact:** Rose Wadlinger, (717) 783-3767

**Vehicle, Heavy Equipment & Powered Machinery—38**

**00872006** Backhoe/bulldozer service. Contractor shall supply a backhoe and/or bulldozer with qualified operator.

**Department:** Public Welfare  
**Location:** Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821  
**Duration:** Anticipated to begin July 1, 2000—June 30, 2004  
**Contact:** Pamela Bauman, (570) 271-4578

**Miscellaneous—39**

**00872004** Electric motor repair service.

**Department:** Public Welfare  
**Location:** Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821  
**Duration:** Anticipated to begin July 1, 2000—June 30, 2003  
**Contact:** Pamela Bauman, (570) 271-4578

**00872001** Fire equipment maintenance, hydrostatic testing and recharging of specialized portable and automatic fire suppression equipment/devices.

**Department:** Public Welfare  
**Location:** Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821  
**Duration:** Anticipated to begin July 1, 2000—June 30, 2003  
**Contact:** Pamela Bauman, (570) 271-4578

**180582** Repair service for Fujitsu 9600M PBX and associated equipment. Equipment includes analog line ports, digital line ports, analog trunk ports, voice mail ports, terminal, battery back up system and sentinel monitoring. Complete specifications can be obtained from facility.

**Department:** Public Welfare  
**Location:** Warren State Hospital, 33 Main Drive, N. Warren, PA 16365-5099  
**Duration:** 1/1/2000—12/31/2000  
**Contact:** Bobbie D. Muntz, PA III, (814) 726-4496

**00872002** Fire alarm system service.

**Department:** Public Welfare  
**Location:** Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821  
**Duration:** Anticipated to begin July 1, 2000—June 30, 2003  
**Contact:** Pamela Bauman, (570) 271-4578

**00873021** Lease of two pinball machines: To lease two pinball machines (flipper operated) on a monthly basis. The machines must have plexiglass instead of glass. The machines shall be replaced at the end of every sixth month with a change of games. Each pinball machine will be located at a different location within the hospital campus.

**Department:** Public Welfare  
**Location:** Harrisburg State Hospital, Cameron & Maclay Streets, Harrisburg, PA 17105-1300  
**Duration:** The estimated contract period if from July 1, 2000 through June 30, 2003, a period of 3 years  
**Contact:** Jack W. Heinze, Purchasing Agent III, (717) 772-7435

**Bid 8015** Trash and rubbish removal services for the PA State Police, Clearfield Station. Service to be rendered twice a month. Recycling, if applicable.

**Department:** State Police  
**Location:** Clearfield Station, R. D. 2, Box 314, Woodland, PA 16881-9781  
**Duration:** 3/1/2000 to 6/30/2002  
**Contact:** Donna Enders, (717) 783-5484

**GIARFP-2000** This Request for Proposal provides Pennsylvania intermediate units, institutions of higher education and private not-for-profit entities with information that enables them to prepare and submit proposals for consideration by the Commonwealth of Pennsylvania to serve in a partnership capacity with the PA Department of Education as a facilitator for site management for one or more Governor's Institutes or Academies for Educators.

**Department:** Education  
**Location:** Throughout Pennsylvania  
**Duration:** July 1, 2000—June 30, 2001  
**Contact:** Monica Washington, (717) 772-3817

**HUN 337** Vendor to supply 128 each custom made windows manufactured for 9/16" GCP. This Bid is for materials only, installation to be done by Agency personnel. Detailed material requirements and dimensional specifications will be provided on the Bid.

**Department:** Corrections  
**Location:** State Correctional Institution, 1100 Pike Street, Huntingdon, PA  
**Duration:** 12/6/99 to 6/30/2000  
**Contact:** Robert Jessell, Purchasing Agent, (814) 643-2400

**7300** Decentralized Driver Licensing and Vehicle Registration Services by Messenger Service Center Mainframe connection. In accordance with Act 92-166, the Department of Transportation has installed several types of pilot programs of private sector, decentralized services for motor vehicle and driver license services. It also gave the Department the authority to expand the pilot program on a permanent basis. The Department will allow authorized messenger services to provide some vehicle registration and driver licensing services via a mainframe connection with the Department at up to 50 additional sites. Each of the service vendors will provide face-to-face decentralized services via at least one site. Applicants must be currently authorized messenger services who have been actively engaged in messenger services in Pennsylvania since April 14, 1998. Applicants shall not have been sanctioned by the Department for violations of 75 Pa.C.S. for Department regulations since April 14, 1998. The term of the project will be July 3, 2000—July 3, 2005. Interested messenger services may obtain a copy of the application procedures and program requirements by contacting Laurie Cohrac, 1101 South Front Street, 4th Floor, Harrisburg, PA 17104, phone number (717) 787-3430. Questions should be submitted in writing to Laurie Cohrac by 4 p.m., January 19, 2000. In addition, a meeting will be held at 10 a.m. on February 9, 2000 on the 2nd floor of the Rachel Carson Building, 400 Market Street, Harrisburg, PA 17101 to address all questions from prospective applicants. Completed applications must be received by 4 p.m. April 14, 2000. Applications should be mailed to Driver and Vehicle Program Services, attention: Laurie Cohrac, 1101 South Front Street, 4th Floor, Riverfront Office Center, Harrisburg, PA 17104 or should be delivered to Ms. Cohrac at 1101 South Front Street, 4th Floor, Riverfront Office Center, Harrisburg, PA. Late applications will not be considered.

**Department:** Transportation  
**Location:** Various  
**Duration:** July 3, 2000—July 3, 2005  
**Contact:** Laurie Cohrac, (717) 787-3430

**SCID NRM # 2** Repair spalled brick over bottom 18" of radial brick chimney and spalled brick around throat area of incinerator. Site visit is required.

**Department:** Corrections  
**Location:** State Correctional Institution, Follies Road, Dallas, PA 18612  
**Duration:** 6/30/2000  
**Contact:** Chris Chollak, (570) 675-1101, Ext. 359

**M99-11** Contractor shall furnish two 60 lb. washer/extractors for our laundry at S.C.I. Cambridge Springs. Installation, start up, test, maintenance and operation instruction to be included.

**Department:** Corrections  
**Location:** S.C.I. Cambridge Springs, 451 Fullerton Avenue, Cambridge Springs, PA 16403  
**Duration:** Estimated time of delivery and installation 1/1/2000 to 2/29/2000  
**Contact:** Quentin Hargenrater, Jr., (814) 398-5400

[Pa.B. Doc. No. 99-2159. Filed for public inspection December 17, 1999, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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GARY E. CROWELL,  
*Secretary*

**Contract Awards**

The following awards have been made by the Department of General Services, Bureau of Purchases:

<b>Requisition or Contract #</b>	<b>PR Award Date or Contract Effective Date</b>	<b>To</b>	<b>In the Amount Of</b>
7350-09	12/09/99	XPEDX	294,267.26
7350-09	12/09/99	Feeser's Inc.	8,692.50
9120-04 SUP # 1	12/03/99	Green Mountain Com. Co.	30,000,000.00
1140239-01	12/07/99	Foster F. Wineland Inc.	126,287.70
1146119-01	12/07/99	Galey & Lord Inc.	88,000.00
1177219-01	12/07/99	Dick's Homecare Inc.	17,631.00
1190159-01	12/07/99	DSM Machinery	310,402.50

<b>Requisition or Contract #</b>	<b>PR Award Date or Contract Effective Date</b>	<b>To</b>	<b>In the Amount Of</b>
1194149-01	12/07/99	News Sports Microwave Rental Inc. d/b/a NS Microwave	38,500.00
8215740-01	12/07/99	Varitech Ind.	9,350.00
8505020-01	12/07/99	AC Miller Concrete Prod. Inc.	68,115.00
8505060-01	12/07/99	Creative Litho Systems Inc.	260,100.00

GARY E. CROWELL,  
*Secretary*

[Pa.B. Doc. No. 99-2160. Filed for public inspection December 17, 1999, 9:00 a.m.]



# PROPOSED RULEMAKING

## DEPARTMENT OF HEALTH

[28 PA. CODE CH. 9]

### Managed Care Organizations

The Department of Health (Department) proposes to amend Chapter 9 (relating to managed care organizations) by deleting the existing regulations in Subchapter A (relating to health care organizations), the statement of policy in Subchapter D (relating to PHOs, POs and IDs) and the statement of policy in Subchapter E (relating to quality health care accountability and protection). The Department proposes to replace these regulations and statements of policy with the proposed rulemaking regulations in Annex A.

#### *Purpose of the Proposed Rulemaking*

The Department's regulations governing health maintenance organizations (HMOs) in Chapter 9 (HMO regulations) were adopted in 1983. The rapid growth in the industry of managed care and the changes in the entities that may deliver and finance health services in the managed care field have caused the Department to supplement those regulations over time through statements of policy. One statement of policy addresses an HMO's ability to contract for certain services through an integrated delivery system. See §§ 9.401—9.416. Another provides guidelines for the implementation of Article XXI of the Insurance Company Law of 1921 amended by the act of June 17, 1998 (P. L. 464, No. 68) (40 P. S. §§ 991.2101—991.2361) (Act 68). See §§ 9.501—9.519.

In 1996, Governor Ridge issued Executive Order 1996-1, which required all State agencies under the Governor's jurisdiction to review their existing regulations. In response to Executive Order 1996-1, the Department convened managed care policy work groups on the following seven topics: consumers; providers; special needs; behavioral health; data collection and standards; quality assurance, utilization and credentialing; and risk assignment, fiscal and financial issues. Included in the work groups were representatives from health plans, providers, purchasers and consumers, as well as Department staff and select staff from the Departments of Public Welfare, Aging, Insurance, Education and the Health Care Cost Containment Council. These groups met from July 1997 to December 1997 for the explicit purpose of providing public input to the Department regarding managed care public policy, in preparation for the revision of the HMO regulations.

In 1998, before revisions to the HMO regulations were completed, the General Assembly passed amendments to The Insurance Company Law of 1921. Act 68 set out specific requirements for managed care plans, which it specifically defined to include any health care plan using a gatekeeper to manage the utilization of health care services. See 40 P. S. § 991.2102 (definition of "managed care plan"). In October of 1998, the Department issued a statement of policy providing interim guidance on implementation of The Insurance Company Law of 1921 (Article XXI). The Department also stated that in 1999 it would adopt formal regulations facilitating the implementation of Article XXI. In May 1999, the Department provided to stakeholders draft regulations combining revisions to the HMO regulations and new provisions facilitating the implementation of Article XXI, and received

comments from those entities. The Department has also received input, comments and suggestions from stakeholders concerning their experiences during the implementation stage of Article XXI.

In drafting its proposed regulations, the Department has taken into account the recommendations of the managed care work groups as well as the comments received on the draft regulations from stakeholders. The Department's proposed regulations are intended to address both those areas which specifically impact HMOs, and those requirements which managed care plans (other than managed care plans subject to ERISA) shall meet under Article XXI. These proposed regulations do not apply to traditional indemnity products or preferred provider organizations without gatekeepers, except with respect to proposed § 9.672 (relating to emergency services). Proposed § 9.742 (relating to CREs) reiterates the requirement of section 2151 of Article XXI (40 P. S. § 991.2152) concerning operational standards for utilization review (UR). Section 2151 requires licensed insurers and managed care plans with certificates of authority performing UR to comply with the operational standards for certified utilization review entities (CREs) in section 2152, although it does not require them to be certified by the Department. See 40 P. S. § 991.2151(e).

In proposing these regulations, the Department is attempting to address changes in the managed care industry, to include the statements of policy in regulation as necessary, and to implement the accountability and protection provisions of Act 68. Subchapter A is proposed to be repealed because the Department is updating its regulations governing health maintenance organizations. Subchapters D and E are proposed to be repealed, and relevant sections are being included in the proposed regulations.

#### *Summary of the Proposed Rulemaking*

##### *Subchapter F. General*

##### *Section 9.601. Applicability.*

This section would deal with new subject matter. Proposed § 9.601 defines the purpose of Chapter 9, and clarifies what entities are governed by the chapter. Chapter 9 is intended to apply to managed care plans as defined by Act 68, except when its application is specifically limited to HMOs. Chapter 9 would not apply to plans and HMOs exempted by the exception and preemption provisions of Act 68 (40 P. S. § 991.2193) and the HMO Act (40 P. S. § 1566). Generally, nothing in Chapter 9 is intended to prohibit plans from providing administrative services and health care provider networks to self-funded employers and other licensed insurers.

Subsection (a) would also put plans on notice that the Department also has pertinent regulations on these topics, and that plans shall be in compliance with both sets of regulations.

Subsection (b) would clarify that Chapter 9 applies to entities, including integrated delivery systems (IDS), which undertake plan functions through contracting arrangements. In some instances, the proposed regulations apply specifically to HMO-IDS arrangements.

Subsection (c) would clarify that Chapter 9 would not apply to licensed insurers, except with respect to those licensed insurers performing UR.

Subsection (d) would also clarify that Chapter 9 would not apply to ancillary services.

*Section 9.602. Definitions.*

The definition section would do two things: update and replace the current definitions relating to the HMO regulations in § 9.2 (relating to definitions); and add definitions relevant to the Department's responsibilities under Act 68.

In proposing changes to the current HMO regulations, the Department is proposing to eliminate outdated and unnecessary definitions, and to revise and add other definitions to reflect current industry trends. For example, the Department is proposing to delete the definitions of three types of HMOs: group practice HMOs, individual practice association HMOs and staff HMOs. Distinguishing these different types of HMOs by definition is no longer relevant for purposes of regulations; the Department applies the same regulations to all HMOs. Further, it is possible that listing only three types could give the impression that only three types of HMOs exist. That is not the case.

The Department is also proposing to delete the definition of the term, "Federally qualified health maintenance organization." Since Federal law no longer provides that a Federally qualified HMO may require an employer to offer it to employees, Federally qualified HMOs are no longer the dominant market force, and need not be addressed specifically in the Department's regulations.

The Department has attempted to recognize industry trends by proposing to add a definition for "IDS—integrated delivery system." An IDS is a method of provider contracting which has evolved since the passage of the HMO Act, and the promulgation of regulations under that act. This arrangement also allows a plan to delegate functions, including medical management oversight, to an entity more closely associated with and expert in those matters. An HMO-IDS arrangement also allows providers to benefit from the additional bargaining power provided by group activity. The Department's proposal to include IDSs in its proposed regulations is recognition that IDS arrangements exist, and are growing in size, scope and responsibility. The Department's responsibilities under the HMO Act require that it have the ability to regulate the arrangements and activities of these entities insofar as they perform the functions of and for HMOs.

The Department's proposal to add a definition for "medical management" is also intended to address the actual manner of doing business in the managed care industry. Medical management is a comprehensive term incorporating the full range of UR, quality assurance, and disease and case management activities. These services have been traditionally performed by HMOs, but with increasing frequency are being delegated by the HMO to IDSs and other entities, such as CREs.

The Department is also proposing to add definitions of terms used but not defined in the HMO Act. These terms include, "external quality assurance assessment," "external quality review organization," "foreign HMO," "inpatient services," "outpatient services," "preventive health care services," "provider network" and "service area." These definitions would add clarity to the regulations.

The Department is proposing to delete the term "primary care physician," and replace it with the term, "primary care provider." "Primary care provider" is the term used by Act 68. The term does not limit a primary care provider to a physician. By changing and broadening the term used, the Department intends to address con-

cerns over enrollee access and availability to physicians in medically underserved areas, and to recognize the ability of licensed professionals other than physicians to perform certain primary care functions by the terms of their licenses.

The Department is proposing to add definitions for the following terms: "ancillary service plans," "complaint," "drug formulary," "emergency service," "grievance," "health care provider," "health care service," "managed care plan," "utilization review" and "utilization review entity." These definitions are included in Act 68.

The Department is also proposing to add a definition for the term "ancillary services" since the industry usage of that term encompasses more than what is included by definition in the term "ancillary service plans."

Act 68 does not specifically define the term "gatekeeper." That term, however, is intrinsic to the determination of what entities are managed care plans for the purposes of the act. Act 68 specifically defines a managed care plan covered by the act as, among other things, "a health care plan that uses a gatekeeper . . ." In proposing a definition for the term, "gatekeeper," the Department has attempted to include the description of a gatekeeper included in definition of "managed care plan." Further, the Department would define "gatekeeper" to include an agent of a managed care plan. These agents may be entities acting on behalf of the plan as well as natural persons.

Along with the proposed definition of "gatekeeper," the Department is proposing to include definitions for two types of managed care plans covered by Act 68: "gatekeeper PPOs" and "POS—point-of-service" plans.

*Section 9.603. Technical advisories.*

This section would deal with new subject matter. It is intended to provide the Department with the flexibility to address the issues of a rapidly changing industry. A technical advisory issued by the Department would be guidance from the Department on how to meet statutory and regulatory requirements, but would not in and of itself set legally binding standards.

*Section 9.604. Plan reporting requirements.*

This section would revise and replace current §§ 9.91 and 9.92 (relating to annual reports; and quarterly reports). The Department is proposing to expand the requirements of annual and quarterly reporting, currently applicable only to HMOs, to all managed care plans covered by Act 68. This will enable the Department to fulfill its monitoring and enforcement responsibilities under that article.

The Department is proposing to add several items to the list of reportable items included in § 9.91. Subsection (a)(1) would request enrollment and disenrollment data by product line and county, rather than simply request enrollment and disenrollment data, as does § 9.91. The Department does ask for similar data with this specificity and clarity at the current time. The proposed regulation would merely require what HMOs are now doing voluntarily. Similarly, subsection (a)(4) would require a plan to provide, in an annual report, copies of enrollee literature, including any documents that contain information concerning complaint and grievance rights and procedures. The Department currently requests this information so that the information is available to Department staff to aid enrollees calling for assistance. The proposed regulation would also enable the Department to fulfill its responsibilities relating to the complaint and grievance procedures under Act 68.

In subsection (a)(2), the Department is proposing to ask for utilization data annually as well as quarterly. The Department would also require the plan to provide a copy of its current provider directory, (see subsection (a)(5)) and a listing of all IDS arrangements and enrollment. See subsection (a)(7)). The former is required by section 2111(12) of Article XXI (40 P. S. § 991.2111(12)) concerning responsibilities of managed care plans. The latter is a necessary part of ensuring that the HMO entering into the arrangement remains in compliance with the HMO Act. Since IDSs perform functions originally required of the HMO, the Department must ensure that the HMO-IDS arrangement has sufficient resources and oversight to provide adequate services based on the population being served. Requiring and reviewing reports including specific enrollment and disenrollment data is one way of ensuring that compliance.

In subsection (a)(10), the Department is also proposing to add the requirement that a plan provide a listing of all CREs that perform UR for the plan or a contracted IDS. This would limit possible conflicts of interest by enabling the Department to determine whether a CRE assigned by the Department to review external grievances had provided services to the plan in the past.

Current § 9.91 requires the submission of copies of the HMO's quality assurance report and grievance resolution system. The Department is proposing to extend these requirements to all managed care plans by virtue of Act 68 and the PPO Act. Section 5.1(b)(1)(ii) of the HMO Act (40 P. S. § 1555.1(b)(1)(ii)) provides the Department with authority to determine whether an HMO has demonstrated it has arrangements for an ongoing quality of health care assurance program. Section 10(e) of the HMO Act (40 P. S. § 1560(e)), requires that an HMO establish and maintain a grievance resolution system satisfactory to the Secretary. Section 630 of The Insurance Company Law of 1921, known as the PPO Act (40 P. S. § 764a(e)), provides the Department with the authority to review and approve grievance resolution systems and to require quality and utilization controls of certain preferred provider organizations (PPOs).

The Department is proposing to delete references to Federally qualified HMOs since that distinction is no longer relevant.

*Section 9.605. Department investigations.*

This section would replace and revise § 9.94 (relating to Departmental investigation) of the HMO regulations. The Department is proposing to extend the section to managed care plans covered by Act 68, under the authority given to it by that act to ensure compliance. See 40 P. S. § 991.2181(d) concerning Departmental powers and duties and 40 P. S. § 2131(c)(2)(ii) concerning confidentiality and Department access to medical records.

Subsection (b) would also expand onsite inspection to any IDS with which an HMO has contracted. This provision is included since an IDS is taking over functions which could have been reviewed during an onsite inspection of the Department if those functions were still being performed by the HMO.

Subsection (d) would allow the Department access to medical records for the purposes of quality assurance, investigation of complaints or grievances, enforcement or other activities related to ensuring an HMO's compliance with Article XXI, the regulations and the laws of the Commonwealth. Section 2131(c)(2)(ii) of Article XXI (40 P. S. § 991.2131(c)(2)(ii)) provides for the Department's review of medical records for this purpose.

*Section 9.606. Penalties and sanctions.*

Authority for this provision is contained in, and the language is taken directly from, section 15 of the HMO Act (40 P. S. § 1565) and section 2182 of Article XXI (40 P. S. § 991.2182).

*Subchapter G. HMOs*

This subchapter would be applicable to any corporation that proposes to undertake to establish, maintain and operate an HMO within this Commonwealth, with the exception of an HMO exempted under sections 16 and 17(b) of the HMO Act (40 P. S. §§ 1566 and 1567(b)).

The proposed regulations in this subchapter would be, for the most part, revisions of the regulations in existing Chapter 9, Subchapter A (HMO regulations). The Department proposes to delete several of the provisions altogether. Section 9.31 of the HMO regulations, refers to the Certificate of Need process. Chapter 701 of the Health Care Facilities Act (35 P. S. §§ 448.701—448.712) sunset in December of 1996, therefore, this provision is no longer relevant.

Sections 9.55 and 9.95 (relating to alternative application format for Federally-qualified health maintenance organizations; and Federally-qualified health maintenance organizations) would also be deleted as irrelevant. Since Federally-qualified HMOs are no longer relevant to the market, they no longer need to be regulated as a distinct entity.

Several of the current regulations add nothing to the Department's regulatory scheme. Retaining similar provisions in the new regulations would be unnecessary. Section 9.54 (relating to standards regarding approval of certificate of authority) merely states that an HMO must meet the minimum operating standards in the regulations. Section 9.71 (relating to operational standards), restates the HMO Act. The Department is proposing not to retain these provisions in the proposed rulemaking.

The Department is also proposing to not retain provisions in § 9.76 (relating to professional staffing) because specific staffing ratios contained in that section are obsolete. Staff model HMOs are no longer prevalent in the industry. Staffing requirements are dealt with at the individual HMO level through credentialing requirements, and provider network recruiting. The requirements for primary care physicians and health care providers would be incorporated into proposed §§ 9.678 and 9.681 (relating to primary care providers; and health care providers). So long as the HMO provides accessibility and access to personnel and facilities in a way that enhances the availability and accessibility of services, and provides for quality assurance mechanisms to ensure the safety of the enrollees, the Department would have no need to dictate staffing in this detail.

*Section 9.622. Prohibition against uncertified HMOs.*

This section would be substantially similar to current § 9.51 of the HMO regulations (relating to prohibition against uncertified health maintenance organizations). The Department proposes to clarify the language by adding provisions relating to foreign HMOs.

*Section 9.623. Preapplication development activities.*

This section would revise and replace current § 9.32 of the HMO regulations (relating to preapplication development activities). The revisions would not be substantive except for language stating that a certificate of authority would not be issued until the HMO is able to demonstrate that it has an adequate provider network. The Depart-

ment has been deeming applications complete even though the applicant has not provided all necessary relevant information relating to provider networks.

*Application for Certificate of Authority*

*Section 9.631. Content of an application for an HMO certificate of authority.*

This section would revise and replace current § 9.52 of the HMO regulations (relating to content of an application for certificate of authority). The proposed section would be substantially the same as § 9.52, with changes to reflect requirements of Act 68. For example, the Department would require the HMO to provide a copy of its policy on confidentiality (see § 9.631(10)), a description of its provider credentialing system, (see § 9.631(11)), and a description of its complaint and grievance systems. See § 9.631(7).

The Department is proposing to eliminate the requirement that the applicant provide a description of the manner in which subscribers would be selected to the HMO's board. The HMO Act requires that at least one-third of the board be subscribers. The Department is concerned with the outcome of the selection procedure, and not the procedure itself.

The Department is also proposing to eliminate current requirements that an HMO provide a detailed description or reasonable incentives for cost control within the structure and function of the HMO (§ 9.52(11) of the HMO regulations), a job description for the position of medical director, (§ 9.52(16) of the HMO regulations), a procedure for referral of subscribers to nonparticipating specialists (§ 9.52(17) of the HMO regulations), and written procedures for payment of emergency services provided by other than a participating provider (§ 9.52(18) of the HMO regulations). The Department has eliminated these requirements because they have been superseded by requirements in Act 68, or the Department believes they are no longer critical to the review of an applicant.

The Department also proposes to eliminate the requirement that HMOs provide a description of Federal grant or loan funds (§ 9.52(12) of the HMO regulations), since Federal qualification is no longer a relevant distinction.

The Department is also proposing to delete from its proposed regulations governing certificate of authority applications, requirements that the application include a copy of the applicant's most recent financial statement (§ 9.52(13) of the HMO regulations) and a copy of proposed subscriber literature § 9.52(15) of the HMO regulations. These two items are still required on the joint application developed by the Department and the Insurance Department. However, because they pertain to matters within the purview of the Insurance Department, the Department is proposing to remove them from its regulations.

*Section 9.632. HMO certificate of authority review by the Department.*

This section would be substantially similar to current § 9.53 of the HMO regulations (relating to review by the Department). This section would emphasize the fact that no application for a certificate of authority would be complete for purposes of the HMO Act until all requests for further information are adequately answered by the applicant, and there is evidence of a contracted and credentialed provider network of sufficient capacity to serve the proposed number of enrollees.

The Department is also proposing not to include in this section some of the language from § 9.53(f) of the HMO

regulations (relating to public meetings on the application). Since the decision to hold a meeting is within the discretion of the Department, the time frames included in § 9.53(f), which are regulatory and not statutory, are unnecessary.

*Section 9.633. HMO board requirements.*

This section would be substantially the same as current § 9.96 of the HMO regulations (relating to board composition). The Department is proposing to remove the requirement that the board be composed of one-third enrollees within 1 year from the date of receipt of the certificate of authority, since this is an artificial deadline. The HMO is required to have a board made up of one-third enrollees by the HMO Act (40 P. S. § 1557). The board must reflect the requirements of the act as soon as an HMO has enrollees.

*Section 9.634. Location of HMO activities, staff and materials.*

This section would deal with new subject matter. Paragraph (1) would require an HMO to make books, records and other documents relevant to it maintaining its certification and complying with Act 68, available to the Department at a location within this Commonwealth, within 48 hours of a Department request. This requirement would ensure that the Department has access to information necessary for it to perform its responsibilities, while allowing the HMO to run its operations as it finds its business requires. The Department is proposing, however, in paragraph (2), that the HMO's medical director responsible for overseeing UR and quality assurance activities would be licensed to practice in this Commonwealth, and qualified to oversee the delivery of health care services here. In paragraph (3), the Department is proposing that the HMO's quality assurance/improvement committee include Pennsylvania licensed health care providers. The Department believes these requirements would be essential for the provision of adequate services to enrollees of this Commonwealth.

*Section 9.635. Delegation of HMO operations.*

This section would deal with new subject matter. Subsection (a) would address a growing industry trend of the managed care organization delegating certain functions to a contractor with expertise in performing the function. HMOs have never been prohibited from this delegation. The Department asks for delegation information in § 9.52(7) of the HMO regulations (relating to content of application for a certificate of authority).

Although the "management" contracts are traditionally the province of the Insurance Department (see 40 P. S. § 1558(b)), they can impact upon the Department's ability to oversee the quality of health care services through review of provider contracts. See 40 P. S. § 1558(a) (The Secretary has the authority to require renegotiation of provider contracts when they are inconsistent with the purposes of the HMO Act). Subsection (a) would ensure that the Department is able to carry out its responsibilities under the HMO Act.

Further, the Department has the responsibility to ensure that an HMO can provide available and accessible services, and continuity of care. Since these are some of the responsibilities delegated to the contractor, the Department must have the same ability to oversee the contractor performing functions for which the HMO is responsible, as it would the HMO itself, if the functions were still performed directly by the HMO.

To ensure that delegation occurs in a controlled manner that protects both the enrollee and the participating

health care provider, the Department is proposing standards for delegation of this authority in proposed Subchapter H (relating to access and availability), and would require an HMO to meet these standards before a delegation contract would be approved.

*Section 9.636. Issuance of a certificate of authority to a foreign HMO.*

This section would deal with new subject matter. This proposed section tracks section 6.1 of the HMO Act (40 P. S. § 1556.1). The Department has received more inquiries in recent years from foreign HMOs seeking to do business in this Commonwealth. Therefore, the Department is proposing to include the HMO Act's requirements for a foreign HMO to obtain a certificate of authority in its regulations.

#### *Operational Standards*

*Section 9.651. HMO provision and coverage of basic health services to enrollees.*

*Section 9.652. HMO provision of other than basic health services to enrollees.*

These sections would revise and replace current § 9.72 of the HMO regulations (relating to basic health services). Section 9.72 implements the HMO Act's requirement that an HMO provide basic health services to the enrollee. See 40 P. S. § 1554. The Department is proposing to divide § 9.72 into several sections, one addressing the provision of basic health services, as defined by the HMO Act (see proposed § 9.651), and the other addressing nonbasic health services, as set out in § 9.72(d). See proposed § 9.652.

Section 9.651 would contain a listing of basic health services that the HMO Act requires an HMO to provide. The Department is proposing to eliminate the definitional language in § 9.72, and to expand, update and combine definitions when necessary. For example, the Department proposes to include physician services in the definition for "inpatient services." See proposed definition of "inpatient services" in proposed § 9.602 (relating to definition). The Department is also proposing to revise the definition of "emergency services" to reflect Act 68's definition of this term. See proposed definitions of "emergency care," "inpatient services," "outpatient services" and "preventive care services" in proposed § 9.602. Finally, the Department is proposing to insert the definitions, revised and updated, from current § 9.72 into proposed § 9.602.

The Department is also proposing to include the relevant material in § 9.72(b), which discusses co-pays and coinsurances, in a separate section specifically on those topics. See proposed § 9.653 (relating to use of co-payments and co-insurances in HMOs).

*Section 9.653. Use of co-payments and co-insurances in HMOs.*

This section would replace and revise § 9.72(b) of the HMO regulations (relating to basic health services). Section 9.72(b) prohibits unreasonable limitations as to time and cost on an HMO's provision of basic health services. It provides for the imposition of copayments only if those copayments do not exceed the maximum allowable percentages included in the regulations. The Department is proposing to eliminate those percentages because they are too confusing to be effective.

*Section 9.654. HMO provision of limited networks to select enrollees.*

This section would deal with new subject matter. In the current market, purchasers of health care looking to limit

cost are willing to purchase limited networks of health care providers. The Department has the responsibility to ensure HMOs are able to provide access and availability of adequate health care services to enrollees. See 40 P. S. § 1555.1(b)(1)(i). The Department is proposing to add this section to ensure that the limited networks offered are not so circumscribed as to force enrollees out of network to obtain necessary services. If that were to happen, the enrollee could be continuously in a position of incurring maximum out-of-pocket expense for health care services. This situation would violate requirements of the HMO Act that the HMO be able to assure the accessibility and availability of adequate health care services.

In subsection (b)(1), the Department is proposing to require that enrollees in limited networks be fully informed by the HMO of out of network consequences. This would prevent enrollees from incurring unexpected costs.

*Section 9.655. HMO external quality assurance assessment.*

This section would replace and revise § 9.93 of the HMO regulations (relating to external quality assurance assessment). In subsection (a), the Department is proposing to increase the time frame in which the quality assurance assessment would be required of the HMO from 1 year from the date the HMO receives its certificate of authority to 18 months from that date. This change would be in accordance with standards of Nationally recognized accrediting bodies. In subsection (e), the Department is also proposing to increase the time frame in which an HMO is required to submit a copy of the external quality assurance assessment report to it from 10 business days from the date of receipt by the HMO to 15 days from that date.

*Section 9.656. Standards for approval of point-of-service options by HMOs.*

This section would deal with new subject matter. Subsection (a) would require an HMO to submit a formal filing in order to offer a POS option. In response to market forces and consumer demand, HMOs have developed benefit plans that provide for greater freedom of choice on the part of consumers. The Department has a responsibility to monitor POSs to ensure access and availability of provider networks to enrollees. The issues that could arise with POS plans would be the same as those that could arise from limited networks. There is the possibility that the primary care provider would perform an inadequate job of gatekeeping, so that enrollees would be forced to choose the higher-out-of-pocket option. This situation would defeat the purpose of managed care, and would raise questions of violations of the HMO Act. In subsection (b), the Department is proposing to set out conditions under which POS options could be offered.

#### *Subchapter H. Availability and Access*

*Section 9.671. Applicability.*

This subchapter would be new, and would be derived mainly from the provisions of Act 68. Some sections would incorporate parts of the Department's current relating to HMOs; however, this subchapter would apply to all managed care plans as defined by Act 68, as well as to IDS arrangements with those managed care plans, for the services provided to enrollees of those plans.

*Section 9.672. Emergency services.*

This section would deal with new subject matter. It would be based on sections 2111(4) and 2116 of Article XXI (40 P. S. §§ 991.2111(4) and 991.2116). Section 2114(g) of Article XXI sets time frames in which emergency services must be provided. Section 2116 of Article XXI eliminates the need for prior authorization for emergency services, and sets out the requirement that the plan pay necessary costs. Subsections (b)—(e) would track these requirements and emphasize the need for the plan to apply the prudent layperson standard to the enrollee's presenting symptoms.

Subsection (f) would be derived from § 9.75(f) of the HMO regulations. Act 68 does not limit coverage for emergency services to participating plan providers. Subsection (f) would require the plan to pay for services provided by a nonparticipating provider at the same rate as it pays to a participating provider, when the services are determined by the plan to be necessary based on the prudent layperson standard.

Emergency services are also referenced in § 9.72 of the HMO regulations. The language included in Act 68 and proposed here would replace and revise the language in this provision.

*Section 9.673. Plan provision of prescription drug benefits to enrollees.*

Act 68 requires a plan to disclose to enrollees upon written request a description of the procedure by which prescribing providers may prescribe certain drugs. Subsection (c) would, among other things, clarify that a plan must have a procedure that allows for coverage of these prescriptions, and not merely a procedure for writing them.

The Department is also proposing, in subsection (b), to require that any refusal to permit an exception to the plan's formulary requirement would be handled by the plan as a grievance under Act 68. The Department is proposing this requirement because any decision not to provide a drug that is not on the formulary would be based on a determination that there is a prescription drug on the formulary that would be appropriate, and, therefore, would come within Act 68's definition of grievance. See 40 P. S. § 991.2102. Subsection (b) would require that a plan respond to an enrollee's written inquiry concerning whether a specific drug is on the formulary within 30 days of the receipt of the inquiry, and that the plan's response be in writing. This would aid the enrollee to prepare and timely file a grievance.

*Section 9.674. Quality assurance standards.*

This section would revise and replace § 9.74 of the HMO regulations (relating to quality assurance systems), and extend it to all plans covered by Act 68. The proposed revisions would more closely match the quality assurance standards of Nationally recognized accrediting bodies than the provisions of § 9.74. The Department is proposing standards for a plan's quality assurance program, which are intended to be a counterweight to the potential for underservice and undertreatment which exists in a managed care system. Managed care restricts access and availability of enrollees to a plan-selected network of health care providers. Financial mechanisms used in managed care (for example, capitation) potentially are incentives for underservice and underutilization resulting in poor quality service. The Department, because of its responsibilities under the HMO Act, Act 68 and the PPO Act, has an obligation to set standards for the mechanism by which the plan is to monitor itself for the effectiveness

and quality of services being provided. Through subsection (b)(10), the Department proposes to monitor the plan's effectiveness in this area by requiring a copy of the plan's annual report of quality assurance activities.

*Section 9.675. Delegation of medical management.*

This section would deal with new subject matter. It would set standards for a plan's delegation of medical management authority. The section would ensure that delegation would occur in a controlled manner that would protect both the enrollee and the participating health care provider. The purpose of this type of delegation is, as previously stated, to allow the plan to delegate certain responsibilities to health care providers and those entities with specialized expertise in particular disease groups or populations. Because of the Department's responsibility to ensure the quality of health care services, cost effectiveness, and access to services, the Department must have the same oversight over a contractor, which is performing a service otherwise performed by the plan, as it would have over the plan.

Subsection (b) would require any contractor performing UR, unless the contractor is a licensed insurer or a plan with a certificate of authority, to be certified in accordance with section 2151 of Article XXI.

*Section 9.676. Standards for enrollee rights and responsibilities.*

This section would replace and revise § 9.77 of the HMO regulations (relating to subscriber rights), and would extend the requirement that an HMO have standards for enrollee rights to all managed care plans. Section 9.77 is a collection of personal rights provided enrollees by statutory and common law and regulation. This new section would require plans to develop procedures to implement enrollee rights and responsibilities. The Department is also proposing that a plan address the disclosure requirements in section 2136 of Article XXI (40 P. S. § 991.2136).

*Section 9.677. Requirements of definitions of medical necessity.*

This section would deal with new subject matter. Based on information provided to the Department by various work groups involved in the examination of the HMO regulations, it became clear that plans use differing definitions of medical necessity in various documents related to operations of the plan. The Department is proposing language requiring that all definitions of "medical necessity" would be the same to ensure uniformity and consistency of decision making concerning coverage and exclusions.

*Section 9.678. Primary care providers.*

This proposed section would be based upon the definitions in Act 68 relating to primary care providers. The Department has a similar requirement in § 9.75(c) of the HMO regulations (relating to assurance of access to care) that an HMO must make a primary care physician who is to supervise and coordinate the health care of the subscriber available to each subscriber. This section would establish minimum criteria for availability of a primary care provider to ensure that the provider would be able to fulfill responsibilities as a gatekeeper for the managed care plan. Failure of a primary care provider to perform adequately could seriously weaken the ability of the managed care plan to ensure access and availability of services.

Subsections (c) and (d) would allow a plan to consider, as a primary care provider, both a physician in a

nonprimary care specialty and a certified registered nurse practitioner, if those individuals meet certain standards, including the plan's certification requirements.

Subsection (f) would require plans to have in place policies and procedures allowing an individual to change a primary care provider.

*Section 9.679. Access requirements in service areas.*

This section would deal with new subject matter. This section would require a plan to have adequate and accessible provider networks by service area before enrollment could be undertaken in those areas. Subsection (c) would require a plan to maintain an adequate number and range of health care providers by specialty and service area to ensure that enrollees would have adequate access to and availability of health care services in each area covered by the plan. Subsection (d) would require a plan to report a change in a service area significant enough to affect a substantial number of enrollees in that area. The Department is proposing it be notified upon an alteration which would affect 10% of enrollees in the service area, 10% being a change significant enough to cause collapse of a delivery system or to stress the delivery system to the point when services are not adequately available. Subsection (e) would require services to be available to enrollees within 20 minutes or 20 miles in urban areas and 30 minutes or 30 miles in rural areas. These times and distances would reflect Federal Health Care Financing Administration (HCFA) requirements for access.

*Section 9.680. Access for persons with disabilities.*

This proposed section would be new, and would be taken directly from section 2111(11) of Article XXI.

*Section 9.681. Health care providers.*

This section would replace and revise § 9.75(b), (c) and (e) of the HMO regulations (relating to assurance of access to care). Subsection (a) would require a plan to have a provider directory and distribute it to enrollees. The Department proposes subsection (b) to ensure that an enrollee would be informed that a plan cannot guarantee continued access to a particular health care provider. Subsection (d), which would require a plan to have written procedures governing the accessibility and availability of the enumerated health care services, would replace § 9.75(e), although the Department proposes to make that requirement applicable to all managed care plans. Subsection (c), which would be a simplification of the requirements in § 9.75(d), would require a plan to provide coverage for health care services provided by nonparticipating health care providers according to the same terms and conditions as participating providers when there are no participating health care providers that are capable of performing the service. This subsection would prevent an enrollee from incurring out-of-pocket costs because the plan does not have an adequate network.

*Section 9.682. Direct access for obstetrical and gynecological care.*

This section would deal with new subject matter, and would be based on section 2111(7) of Article XXI. Subsection (d) would implement the requirements of direct access for obstetrical and gynecological care by requiring the plan's quality assurance committee to approve the terms and conditions under which a directly accessed provider could provide services without prior plan approval. Given the difficulty of defining clinical terms such as, "routine gynecological care" adequately and exhaus-

tively in regulation, the Department proposes to refer the matter to the plan's committee of experts, the quality assurance committee.

*Section 9.683. Standing referrals or specialists as primary care providers.*

This section would deal with new subject matter, and would be based on section 2111(6) of Article XXI. Section 2111(6) of Article XXI allows an enrollee with a life threatening, degenerative or disabling disease or condition to request and receive an evaluation and, if the plan's established standards are met, receive either a standing referral to a specialist with clinical expertise in the area in question, or the designation of a specialist as the primary care provider. As in proposed § 9.682 (relating to direct access for obstetrical and gynecological care), subsection (b)(1) would require the plan to develop policies, procedures and clinical criteria for conducting evaluations and submit them to its quality assurance committee. In this way, the Department would avoid attempting to regulate clinical criteria, which could quickly become obsolete. The Department also proposes subsection (c) to require that the plan assess these standards annually to monitor the effectiveness of the policies and procedures, as well as the quality of the resultant services provided.

Further, the Department proposes to make a denial of the decision to authorize an arrangement a grievance, in accordance with the definition of grievance in Act 68. See 40 P. S. § 991.2102. Therefore, in subsection (b)(6) and (7) the Department would require that the plan issue its decision on the request in writing within 45 days and include information about the right to appeal the matter as a grievance in the decision.

*Section 9.684. Continuity of care.*

This section would deal with new subject matter and be based upon section 2117 of Article XXI (40 P. S. § 991.2117). Section 2117 of Article XXI sets out conditions in three circumstances under which a plan must allow for an enrollee to continue with a provider: (1) when the provider has been terminated by the plan, but has not been terminated by the plan for cause (see 40 P. S. § 991.2117(a)); (2) when the enrollee is entering into a plan in which the provider does not participate (see 40 P. S. § 991.2117(d)); and (3) when the new enrollee is pregnant. Id.

Subsection (a)(3) and (4) would facilitate implementation of section 2117 of Article XXI by requiring the plan to notify the enrollees it is able to identify through available data and, in that notification, provide the enrollee with written notice of how to exercise the option to continue care for a transitional period. These requirements would ensure that the enrollee is aware of the option as required by the act, and that the plan is aware of the enrollee's intention to exercise his option under the act.

Subsection (b) would require a new enrollee to notify the plan of the enrollee's intention to continue with a nonparticipating provider. Since the plan has the option under Act 68 to require nonparticipating providers to meet the same terms and conditions as participating providers, this notification requirement would provide the plan with the opportunity to negotiate terms. In addition, however, subsections (g) and (h) would require the plan to give a nonparticipating provider notice of its terms and conditions at the earliest possible opportunity, and to ascertain a terminated provider's willingness to continue with services prior to termination.

The Department has concerns over the possibility that a plan could continue to negotiate with a provider

throughout the 60-day transition period accorded to the enrollee by Act 68. If this were the case, since Act 68 provides that a plan may require a nonparticipating provider to meet the same terms and conditions as a participating provider, an enrollee continuing on with the ongoing course of treatment could find the plan ending negotiations and, therefore, not required to cover the services. To protect enrollees in this situation, subsection (i) would require that the plan hold the enrollee harmless during the period of negotiations with the nonparticipating provider, until the plan notifies the enrollee that the nonparticipating provider would not agree to its terms.

*Subchapter I. Complaints and Grievances*

*Section 9.701. Applicability.*

This subchapter applies to the review and appeal of complaints and grievances. This subchapter would be based upon the requirements of Act 68 relating to complaints and grievances. See 40 P. S. §§ 2141, 2142, 2161 and 2162. The Department derives its authority to approve the complaint and grievance process from Act 68, the HMO Act and the PPO Act. The HMO Act requires an HMO to have a grievance resolution process acceptable to the Secretary. See 40 P. S. § 1560(e). The PPO Act requires the Department of Insurance to consult with the Department to determine whether arrangements and provisions for a PPO which assumes financial risk which may lead to under-treatment or poor quality care are adequately addressed by a formal grievance system. See 40 P. S. § 764a(e). This subchapter would replace, in its entirety, the requirements in § 9.73 of the HMO regulations (relating to subscriber grievance systems) with new provisions required by Act 68. This section would clarify that.

*Section 9.702. Complaints and grievances.*

This section would deal with new subject matter. Subsection (a) would require a plan to provide copies of its complaint and grievance procedures to the Department for review prior to implementation. Subsection (b) would require the plan to correct noncompliant procedures at the Department's direction. Because the plan is given the ability by Act 68 to classify a matter as either a complaint or grievance, the possibility exists that the plan could classify a matter in such a way as to confer an advantage on itself. Subsection (c) would permit either the Insurance Department or the Department to become involved at the classification stage to prevent this problem from arising.

Subsection (d) would allow a plan to set up its own time frames in which the initial grievance must be filed. The Department is proposing to require a plan to allow an enrollee or a health care provider filing a grievance with the consent of the enrollee to have the same amount of time to file first and second level complaints and grievances as a plan is given by the act to consider them.

*Section 9.703. Health care provider initiated grievances.*

This section would deal with new subject matter. Act 68 allows for provider initiated grievances with the written consent of the enrollee. See 40 P. S. § 991.2161(a). Subsection (b) would protect the enrollee from coercion by not allowing the provider to require consent as a condition of service. Subsection (c) would require that once a provider assumes responsibility for a grievance, the provider must continue to prosecute the grievance through the second level review. Subsection (h) would allow the enrollee to rescind his consent at any time. Through these subsections, the Department would attempt to protect the enrollee from the provider that initially is willing to

grieve the matter, but makes a determination during the process that the matter is no longer cost effective for it to pursue. The grievance issue, however, may still represent significant out-of-pocket expense to the enrollee. The Department is not proposing to allow the enrollee to begin the grievance at the initial review, however. Subsection (h) would allow an enrollee to take over the grievance at the point the provider chose to discontinue it. This provision would protect the interests of both parties, and would not be detrimental to the managed care plan.

The Department is also concerned with billing aspects of the provider grievance. Subsections (c) and (d) would prohibit the provider from billing the enrollee until there is an outcome to the grievance. Allowing the provider to bill the enrollee prior to the outcome could result in a double recovery for the provider, or could cause the enrollee to expend time and money affirmatively seeking a refund from that provider.

Finally, subsection (f) would require the provider to clearly disclose to the enrollee the consequences of the enrollee consenting to the provider filing a grievance, and subsection (g) would require the consent form used by the plan to inform the enrollee of the right to rescind consent.

*Section 9.704. Internal complaint process.*

This section would deal with new subject matter. Its requirements would be similar to those contained in section 2141 of Article XXI (40 P. S. § 991.2141). To ensure the fundamental fairness of the complaint review process, subsection (c)(1)(i) would require that the first level complaint review be made up of persons not involved in the initial decision. In the interests of fundamental fairness, subsection (c)(2)(ii) would require that the plan, during the second level review, provide reasonable flexibility in terms of the enrollee's time and travel distance when scheduling a second level review. The Department is also proposing that the plan provide the enrollee the opportunity to communicate with the review committee if the enrollee cannot attend. Finally, subsection (c)(2)(ii)(A) and (C) would require that the plan identify all persons present at the review for the enrollee. Subsection (c)(2)(iv) would require that the deliberations of the committee, including the enrollee's comments, either be transcribed verbatim or summarized, and forwarded to the Department as part of the complaint record. Subsection (c)(2)(vii) would specify what is to be included in the Act 68 notice to be sent to the enrollee. This information would be necessary for the individual to make a valid appeal to the Department. The Department is proposing that the plan be required to send the notice of the second level decision to the enrollee by a method which would permit the plan to document the enrollee's receipt of the decision. This would enable the Department to fulfill its responsibilities under section 2142 of Article XXI (40 P. S. § 991.2142) by determining whether the enrollee has appealed within 15 days of receipt of the decision.

*Section 9.705. Appeal of a complaint decision.*

This section would deal with new subject matter, and would include substantially the same information as contained in section 2142 of Article XXI. Subsection (b) would require that an enrollee provide to it certain information along with the appeal, for example, the name of the plan and a description of the issue involved.

Because Act 68 provides authority over complaints to both the Insurance Department and the Department, the Department is proposing in subsection (f) that both agencies jointly determine which agency will hear the appeal.



Lastly, it should be noted that the proposed regulations on the complaint appeal would provide for an appeal to the Department. The proposed regulations would not require that the Department provide the enrollee or the plan an administrative hearing. Subsection (g) would provide that, if either department believes that a hearing is necessary to the resolution of the appeal, it would be able to require and conduct a hearing.

*Section 9.706. Enrollee and provider grievance system.*

This section would deal with new subject matter. Its requirements would be similar to those contained in section 2161 of Article XXI (40 P.S. § 991.2161). To ensure the fundamental fairness of the process, subsection (c)(2)(ii) would impose similar requirements on the second level grievance review as it is proposing for the second level complaint review. Act 68 requires that the enrollee be afforded notice of the right to be present in the second level review committee meeting of both the complaint and the grievance process. Compare 40 P.S. § 991.2141(c)(2) with 40 P.S. § 991.2161(c)(2). Subsection (c)(2)(ii)(A)—(C) would require that the plan provide reasonable flexibility in terms of the enrollee's time and travel distance when scheduling the second level review, that it provide the enrollee the opportunity to communicate with the review committee if he cannot attend, and that it identify all persons present at the review for the enrollee. Subsection (c)(2)(iii) would require that the deliberations of the committee, including the enrollee's comments, either be transcribed verbatim or summarized, and forwarded to the CRE as part of the grievance record.

The provisions of Act 68 relating to internal grievances differ from those relating to internal complaints in a significant way, however. Act 68 requires inclusion in the first and second level grievance review of a licensed physician or, where appropriate, an approved licensed psychologist, in a same or similar specialty that typically manages or consults on the health care service in the first and second level grievance review. See 40 P.S. § 991.2161(d). To ensure that a plan would be able to obtain input of specialists most closely matched to the service in question, taking into account the calls on the specialist's time and practice, the Department has not read the term "include" to require the physical presence of the licensed physician or approved licensed psychologist referenced in section 2161(d) of Article XXI. Therefore, subsection (c)(3)(ii) proposes to allow this individual to be included in the review, discussion and decisionmaking by written report, telephone or video conference.

If the licensed physician or approved licensed psychologist would not be physically present, however, the Department is proposing in subsection (c)(3)(iii) to require the plan to provide that individual's report to the enrollee or health care provider in advance of the hearing, if the enrollee or health care provider requests the opinion in writing. The Department feels strongly that, to present the most comprehensive case, that the enrollee or the health care provider should be provided the opinion of the licensed physician or approved licensed psychologist prior to the date of the review. The Department is also proposing in subsection (c)(3)(iii) that the plan notify the enrollee or health care provider in advance of the review date of the fact that the licensed physician or approved licensed psychologist will not be physically present, and that that individual's report may be obtained in advance of the review.

*Section 9.707. External grievance process.*

This section would deal with new subject matter. It would help implement the requirement in Act 68 that a

plan establish an external grievance review process, in which the Department participates by the appointment of a CRE to perform the review. See generally 40 P.S. § 991.2162. Subsection (b)(4) would implement this requirement by requiring the plan to provide the Department with two contacts with whom the Department may communicate. Subsection (b)(5) would require that a request for external review contain a certain set of minimum information to aid in the assignment of the CRE and the oversight of the external grievance.

Subsection (b)(7) would require that the plan provide the enrollee or health care provider with its description of the issue, the remedy it believes the enrollee or health care provider is seeking, and list of documents which it is to forward to the CRE. This information would be provided the enrollee within 15 days of the plan's receipt of the enrollee's or health care provider's request for an external grievance review. The Department proposes to require this exchange of information so that the enrollee or health care provider would know what information the plan has provided to the CRE, and would be able to determine whether additional information is necessary. The Department proposes this section in the interests of a full and fair resolution of the grievance without requiring the CRE to sift through duplicate documentation provided both by the plan and the enrollee or health care provider.

Subsection (g) would allow the parties the ability to challenge the appointment of a CRE based on conflict of interest. The parties would be able to object to the appointment until both parties agree on an acceptable CRE. Objection on the part of a plan to a CRE would not alleviate the proposed requirement that, or alter the time frames within which, the plan would be required to provide information to the enrollee. The Department's objective in proposing to allow objections to the appointment is to ensure that all parties agree that the services have been reviewed in an unbiased manner. The Department sees no benefit to having one party or the other believe a bias existed in the procedure. This would taint the outcome of the review and be more likely to force the matter to litigation.

Subsections (c) and (d) would provide for the Department to provide to the plan the name, address and telephone number of the appointed CRE. The plan would provide this information to the enrollee or health care provider. Subsection (e) allows either party, if they desire additional information, to request from the Department additional information from the CRE application. This would provide both parties with sufficient information with which to determine whether challenge of the appointment is necessary.

Subsection (f) would allow a plan to select a CRE if the Department is unable to do so within 2 business days of its receipt of the request. This would avoid inadvertent delay in the system. The enrollee would still be able to object to the plan's choice.

*Section 9.708. Grievance reviews by CRE.*

This section would deal with new subject matter. It would be based on the requirements for CRE review of an external grievance in section 2162(c)(2)—(5) of Article XXI. Subsections (a) and (b) would set out the time frame for the CRE decision, to whom the decision is to be sent, the basis and clinical rationale for the decision and the standard of review. These two proposed subsections would be based upon language included in section 2162(c)(5) of Article XXI. Subsection (c), which would set out information that the CRE is required to consider, would be based

upon section 2162(c)(2) and (3) of Article XXI. Subsection (d), which would set requirements for who can make the decision on the CRE's behalf, is taken from section 2162(c)(4) of Article XXI.

Subsection (e) would reiterate the applicable definition of "emergency services" which is to be used in reviewing the grievance decision.

*Section 9.709. Expedited review.*

This section would deal with new subject matter. Act 68 creates an expedited process for any enrollee whose life, health or ability to regain maximum function would be placed in jeopardy by the delay occasioned by the normal review process. See 40 P. S. § 991.2161(e). Subsections (a)—(d) would allow an enrollee to have access to an expedited review process at any time these extreme circumstances arise, regardless of whether the appeal would be classified as a complaint or grievance, or whether the review is an internal or external one.

Further, because of the intent to provide a rapid response due to the extreme circumstances, subsection (i) would require the external review agency to issue a rapid response. This would prevent severe and irreparable harm to the enrollee before the decision can be made.

In the interests of expediting the review, the Department is taking steps to ensure that its own processes for appointing CREs do not prohibit the use of an expedited system. Under subsection (f), the Department would make available to the plan methods by which a CRE may be contacted directly by the plan on weekends and State holidays.

*Section 9.710. Approval of plan enrollee complaint and enrollee and provider grievance systems.*

This section would deal with new subject matter. The Department is proposing to review the enrollee complaint and grievance systems to ensure these systems meet the approval of the Secretary.

*Section 9.711. Alternative provider dispute resolution systems.*

This section would deal with new subject matter. Prior to Act 68, issues involving procedural errors and administrative denials involving the level or type of health care services provided were handled strictly between the health care plan and the health care provider. The denials occur daily through the routine operations of the plan. With the passage of Act 68, these denials have been interpreted as grievances by some plans, requiring consent of the enrollee for the provider to challenge the denial. This draws the enrollee into an administrative dispute to which the enrollee had not previously been a party since services would generally already have been provided and the enrollee not billed. The Department is attempting to address these issues by proposing this § 9.711. In this section, the Department is proposing to allow for alternative dispute resolution procedures, subject to the Department's approval, (see 40 P. S. § 991.2162(f)), that create mechanisms for routine procedural errors and denials to be addressed by providers and plans without the need for enrollee consent. However, the provider may still opt to obtain enrollee consent and file a grievance.

*Subchapter J. Health Care Provider Contracts*

*Section 9.721. Applicability.*

This section would explain that Subchapter J applies to contracts between plans and health care providers, between HMOs and IDSs, and between IDSs and health

care providers. The Department is proposing this subchapter, relating to health care provider contracts, under its authority to promulgate regulations relating to contractual relationships between the managed care plan and health care providers under Act 68, the HMO Act and the PPO Act. Section 2111(1) of Article XXI requires a managed care plan to assure availability and access of adequate health care providers to enable enrollees to have access to quality and continuity of care. Section 8(a) of the HMO Act (40 P. S. § 1558(a)) gives the Secretary the authority to require renegotiation of provider contracts when they require excessive payments, fail to include reasonable incentives or contribute to cost escalation.

The PPO Act also requires that the Insurance Department consult with the Department in determining whether arrangements and provisions for a PPO which assumes financial risk which may lead to under-treatment or poor quality care are adequately addressed by quality and utilization controls as well as by a formal grievance system. See 40 P. S. § 764a(e).

The Department's authority to review and approve IDS arrangements comes from these same provisions.

*Section 9.722. Plan and health care provider contracts.*

This section would deal with new subject matter. This section would inform a plan of what minimum requirements are necessary in a provider contract to make it acceptable to the Department, and to obviate the possibility that the plan will be required to renegotiate the document. Subsections (c) and (d) would include a requirement that provisions related to gag clauses are prohibited. Subsection (e) would require certain consumer protection language, for example, subsection (e)(1) would require a contract to include enrollee hold harmless language, before the contract could be approved. Subsection (e)(7) would require language relating to enrollee notice of plan termination of the provider contract, and language relating to reimbursement which would address the financial incentives prohibition of Act 68. See 40 P. S. § 991.2112.

*Section 9.723. IDS.*

*Section 9.724. HMO-IDS provider contract.*

*Section 9.725. IDS provider contracts.*

In 1996, the Department issued a policy statement addressing IDS. This policy statement, entitled, "PHOs, POs, and IDSs—Statement of Policy," (§§ 9.401—9.416), would be replaced by §§ 9.723—9.725 (relating to IDS; HMO-IDS provider contract; and IDS-provider contracts). The Department is proposing to combine certain provisions of that policy statement, and include those provisions in these sections as discussed as follows.

Section 9.723 would require that IDS contracts meet the terms and conditions of provider contracts in proposed § 9.722. Section 9.723 would require the HMO and its contracted IDS to notify the Department of any action occurring which would prevent the IDS's participating providers from ensuring adequate services. This is in keeping with the Department's responsibility to ensure the accessibility and availability of adequate personnel and facilities. See 40 P. S. § 1555.1(b)(1)(i).

Section 9.724(c)(5) would reinforce the fact that the HMO, as the regulated entity, would be responsible at all times for the services it contracts to have provided. Subsection (c)(6) and (7) would require the IDS to agree to be subject to monitoring by both the HMO and the Department.

Further, § 9.724 would protect the enrollee who is subject to a relationship. Subsection (c)(3) would prohibit the delay, reduction, denial or hindrance in any way of the provision of covered services to enrollees because of the contractual relationship between the IDS and the HMO. Subsection (c)(13) would require termination provisions that would be consistent with, and would enable enrollees to obtain the benefits of, the continuity of care requirements of Act 68. See 40 P. S. § 991.2117.

Section 9.725 would ensure that the contracts between the IDS and its providers make clear the chain of responsibility. This section would require language in the HMO—provider contracts that would ensure that all 3 parties, the provider, the IDS and the plan, would agree and concur that the HMO would have the ultimate responsibility. Further, the language would make clear that the Department would have the authority to review all 3 entities as it would the operations of HMO. Section 9.725 would prohibit language in the contract that would prevent the Department or the HMO from carrying out its functions and duties. Finally, paragraph (4) would require the inclusion in the contract of enrollee hold harmless language protecting enrollees from unexpected out-of-pocket costs.

#### *Subchapter K. CREs*

##### *Section 9.741. Applicability.*

This section would explain that this subchapter applies to entities seeking certification to practice as CREs in this Commonwealth. This section also applies to licensed insurers for a limited purpose. Sections 2151 and 2152 of Article XXI give the Department the authority to set standards for and approve certification of CREs.

##### *Section 9.742. CREs.*

This section would deal with new subject matter. It would reflect the requirements of Act 68 regarding the certification of CREs. See 40 P. S. § 991.2151. Subsection (c) would also clarify that licensed insurers and managed care plans with certificates of authority may perform UR in accordance with the requirements of Act 68, but that it need not obtain a certification from the Department to do so.

##### *Section 9.743. Content of an application for certification as a CREs.*

This section would deal with new subject matter. It would establish requirements for the certification application of an entity seeking to perform UR within this Commonwealth. Among other things, subsection (c) would require the applicant to submit information concerning its organization, structure and function, including information concerning location, officers, directors and senior management, and a list of the plans in this Commonwealth for whom the entity currently performs UR. The Department is proposing to have this information provided because the Department will need to communicate with these organizations during external reviews. Also, the Department will need information to prevent conflict of interest situations from arising when it appoints CREs to undertake external reviews.

This section would also require the applicant to describe how it would be able to meet the terms and conditions in section 2152 of Article XXI. For example, subsection (c)(5)(i)—(iv) and (vi) would require the applicant to describe its ability to respond to telephone calls within the period of time set out in the act, its reviewer credentialing process, its ability to arrange for a wide range of health care providers to conduct the reviews, its

procedures for ensuring confidentiality and its capacity for maintaining written records for a 3-year period. Subsection (c)(5)(viii) and (ix) would also require the applicant to provide information relating to its experience, including the length of time it has operated in the Commonwealth, if applicable, and a list of three clients for whom the applicant has performed UR.

The Department wants the application to provide it with sufficient information to ensure the applicant is capable of providing the services in accordance with Act 68.

Further, section 2151(c) of Article XXI permits the Department to adopt the standards for certification of CREs of a Nationally recognized accrediting body to the extent the standards meet and exceed the standards set forth in Act 68. Subsection (c)(5)(vii) would require an entity seeking certification to provide evidence of this accreditation if the applicant has undergone the accreditation.

##### *Section 9.744. CREs participating in internal and external grievance reviews.*

This section would deal with new subject matter. The Department is proposing to set additional requirements for a CRE wishing to participate in external grievance reviews as contemplated by Act 68. See 40 P. S. § 991.2162. Since this entity may have to participate in expedited reviews, subsection (a)(4) would provide additional information relevant to its ability to conduct an external review.

##### *Section 9.745. Responsible applicant.*

This section would deal with new subject matter. This section would require an applicant to be a responsible person. Subsection (a) would define what this term would require. Subsection (b) would require the applicant to be able to utilize the appropriate standard of review in performing reviews, and would further require the applicant to be unbiased in its review.

##### *Section 9.746. Fees for certification and recertification of CREs.*

This section would deal with new subject matter. The Department has the authority to establish fees for certification and recertification applications under section 2151(d) of Article XXI. Subsection (a) would require a fee of \$1,000 for the initial application for an entity seeking to perform internal URs, and an additional \$1,000 for any entity seeking to perform external reviews as well. Subsection (b) would require a fee of \$500 for any recertification application. These fees would be commensurate with the amount of administrative time and resources required to review and verify the information in the application (including site visits) and to periodically monitor compliance with the standards.

##### *Section 9.747. Department review and approval of a certification request.*

This section would deal with new subject matter. This section would clarify the Department's authority to obtain additional information, inspect the books and records of the applicant and to perform site visits as it finds necessary to determine the applicant's compliance with Act 68 and the regulations. In lieu of a site visit by the Department, subsection (b) would permit the applicant to provide evidence of accreditation by a Nationally recognized accrediting body whose standards meet or exceed the standards of Act 68. If the applicant is not accredited, subsection (c) provides the applicant with the option to undergo a site inspection by a Nationally recognized

accrediting body whose standards meet or exceed the standards of Act 68. The cost of a site visit would be borne by the applicant.

*Section 9.748. Maintenance and renewal of CRE certification.*

This section would deal with new subject matter. It would allow the Department to monitor a CRE during the 3-year certification period to ensure compliance with Act 68 and proposed regulations, and for purposes of renewal of certification. Subsection (a) would provide for monitoring in several ways: periodic onsite inspections, proof of the CRE's continuing accreditation by a Nationally recognized accrediting body whose standards meet or exceed the standards of Act 68 or an onsite inspection by an accrediting body.

Subsection (b) would require the CRE to submit a renewal application to the Department 60 days prior to the end of the 3-year certification period. The renewal application would include evidence of the CRE's continued accreditation by a Nationally recognized accrediting body whose standards meet or exceed the standards of Act 68, a certification that the CRE has complied with and will continue to comply with Act 68 and the regulations and an updating of the CRE's originally filed list of conflicts of interest and list of CRE contracts with plans. The Department could perform the onsite inspection, or the CRE could opt to have the onsite inspection done by a Nationally recognized accrediting body.

*Subchapter L. Credentialing*

*Section 9.761. Provider credentialing.*

This section would deal with new subject matter. It would contain standards that would be modeled after standards utilized by a Nationally recognized accrediting body. The proposed standards would create a process by which a plan may critically evaluate credentials of new health care providers, and reevaluate the credentials and performance of currently contracted health care providers. Because managed care plans limit access to plan-selected and credentialed health care providers, these standards would ensure that the plan has an objective process by which it establishes and monitors its health care provider network. This further would ensure the provision of quality health care services to enrollees.

*Affected Parties*

The proposed regulations would affect HMOs certified to do business in this Commonwealth; managed care plans as defined by Act 68; including certified HMOs, and enrollees served by and providers who participate in these managed care plans. The proposed regulations would also affect entities, which conduct or want to conduct internal or external URs, since Act 68 requires these CREs to be certified by the Department. Licensed insurers would also be affected by proposed § 9.742. Licensed insurers and managed care plans with certificates of authority performing UR are required to comply with section 2152 of Article XXI. See 40 P. S. § 991.2151(e). Licensed insurers and managed care plans with certificates of authority are not required to seek certification.

*Cost and Paperwork Estimates*

*A. Cost*

The proposed regulations would have no measurable fiscal impact on local governments or the general public. The members of the general public enrolled in managed care plans governed by the regulations may ultimately

experience some increase in health care costs due to the statutory requirements, and the concurrent increase in monitoring of those plans by the Department and the Department of Insurance.

The replacement and revision of the current regulations in Chapter 9 would create no additional cost to the Commonwealth, since these revisions are intended to reflect the current operations of the Department. There will be no additional cost to the Commonwealth, however, there may be additional monitoring duties placed on the Department by Act 68. Those duties are reflected in provisions of the proposed regulations relating to health care accountability and access, complaints and grievances, provider contracts, accreditation of CREs and credentialing.

The proposed regulations relating to HMOs should not have a significant fiscal impact upon HMOs since comprehensive revision and updating of the HMO regulations should make compliance with those regulations easier. With respect to the requirements of Act 68, which the Department proposes to implement through its proposed regulations, there may be some increased cost to managed care plans. The proposed regulations and Act 68 would require a certain composition of review committees, which may add to the cost of the review. The additional disclosure requirements of Act 68 may also have a fiscal impact upon managed care plans, including HMOs.

The proposed regulations would also create a fiscal impact on entities wishing to be certified as CREs. Act 68 authorizes the Department to adopt an application fee for entities requesting certification. The Department is proposing to do so in its proposed regulations. This certification requirement would not apply either to licensed insurers wishing to perform this function, or managed care entities with certificates of authority.

*B. Paperwork*

There would be changes in paperwork requirements associated with the proposed regulations. While the proposed regulations relating solely to HMOs would not alter paperwork requirements for those entities to obtain and maintain certificates of authority, the proposed regulations intended to implement Article XXI would require submission of documents from entities not previously regulated. These requirements would impact the Department, which would be required to review additional contracts and grievance and complaint procedures submitted by managed care plans, and requests for certification from CREs. The Department would also coordinate the external review procedure in Act 68, which would require the Department to appoint and oversee the operations of the CRE conducting the review.

There may be additional paperwork for managed care plans that are not HMOs, since they would be required for the first time to submit complaint and grievance procedures and data to the Department. HMOs are required by current regulations to make these submissions. Act 68 itself creates additional paperwork, since the plans must comply with the mandated complaint and grievance systems detailed in that act. Depending upon how plans operated their grievance systems prior to Act 68, that act and the Department's proposed regulations could require additional paperwork of the plans. Further, again depending upon how managed care plans operated prior to Act 68, that act's requirement that certain disclosures be made to enrollees could result in an increase in paperwork.

Act 68 also creates additional paperwork for CREs. Under Act 68, CREs are required to obtain certification

from the Department to perform utilization reviews of health care services delivered or proposed to be delivered in this Commonwealth. Prior to the passage of Act 68, this requirement did not exist.

Act 68 and the proposed regulations might also create some different or additional paperwork for those members of the general public who obtain health care through managed care plans covered by Act 68. Depending upon the dispute resolution system established by plans prior to Act 68, there might be alterations in the manner in which an enrollee must utilize these procedures.

#### *Effective Dates/Sunset Date*

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

#### *Statutory Authority*

The Department's authority to promulgate these proposed regulations is based upon three statutes: the HMO Act (40 P. S. §§ 1551—1567); section 630 of The Insurance Company Law of 1921, known as the PPO Act (40 P. S. § 764a(e)); and Act 68.

The Department has authority to promulgate regulations relating to the certification and operations of HMOs under section 14 of the HMO Act (40 P. S. § 1564). Section 5.1(a) of the HMO Act provides the Department with the authority to determine what information to require in a corporation's application for certification as an HMO. Section 5.1(b)(1)(i) of the HMO Act provides the Department with authority to determine whether an HMO has demonstrated potential ability to assure both availability and accessibility of adequate personnel and facilities in manner enhancing availability, accessibility and continuity of services. Section 5.1(b)(1)(ii) of the HMO Act provides the Department with authority to determine whether an HMO has demonstrated it has arrangements for an ongoing quality of health care assurance program. Section 5.1(b)(1)(iii) of the HMO Act provides the Department with authority to determine whether an HMO has appropriate mechanisms to effectively provide or arrange for provision of basic health care services on a prepaid basis. Section 8(a) of the HMO Act (40 P. S. § 1558(a)) allows the Secretary to require renegotiation of provider contracts when those contracts provide for excessive payments, fail to include reasonable incentives or contribute to escalation of costs of health care services to enrollees. Section 8(a) of the HMO Act also permits the Secretary to require renegotiation when determined that the contracts are inconsistent with the purposes of the HMO Act. Section 10(e) of the HMO Act (40 P. S. § 1560(e)) requires that an HMO establish and maintain a grievance resolution system satisfactory to the Secretary. Section 11(c) of the HMO Act (40 P. S. § 1561(c)) provides the Secretary and his agents with free access to all books, records, papers and documents that relate to the nonfinancial business of the HMO. Finally, section 15 of the HMO Act (40 P. S. § 1565) provides the Department with the authority to suspend or revoke an HMO's certificate of authority, or to fine the HMO for violations of the HMO Act.

The Department has authority to promulgate regulations relating to the health care accountability and protection provisions of Act 68 under section 2181(e) of Article XXI (40 P. S. § 991.2181(e)). Act 68 governs managed care plans, which include, by definition, HMOs and gatekeeper PPOs. See the definition of "managed care

plan" in 40 P. S. § 991.2102. Act 68 also regulates CREs operating or wishing to operate in this Commonwealth. See 40 P. S. §§ 991.2151 and 991.2152. The Department has authority to enforce compliance with Article XXI under section 2181(d) of Article XXI (40 P. S. § 991.2181(d)), and to impose fines, obtain injunctions, require plans of correction and ban enrollment under section 2182 of Article XXI (40 P. S. § 991.2182).

Section 2102(g) of The Administrative Code of 1929 (71 P. S. § 532(g)) provides the Department with general authority to promulgate its regulations.

The Department also has authority to review and approve grievance resolution systems and to require quality and utilization controls of certain PPOs under the PPO Act. Section 630 of The Insurance Company Law of 1921 requires that the Insurance Department consult with the Department in determining whether arrangements and provisions for a PPO which assumes financial risk which may lead to undertreatment or poor quality care are adequately addressed by quality and utilization controls as well as by a formal grievance system.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 8, 1999, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Health and Human Services Committee and the Senate Public Health and Welfare Committee. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed rulemaking, it will notify the Department by February 17, 2000. The notifications shall specify the regulatory review criteria, which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulation by the Department, the General Assembly and the Governor, of objections raised.

#### *Contact Person*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed regulations to Stacy Mitchell, Director, Bureau of Managed Care, Pennsylvania Department of Health, P. O. Box 90, Harrisburg, PA 17108-0090 (717) 787-5193, within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Persons with a disability who wish to submit comments, suggestions or objections regarding the proposed rulemaking to Ms. Mitchell may do so in an alternative format (such as, audio tape, Braille) or by using V/TT (717) 783-6514 for speech or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984[TT]. Persons who require an alternative format of this document may contact Ms. Mitchell at the above address or telephone numbers so that necessary arrangements may be made.

ROBERT S. ZIMMERMAN, Jr.,  
*Secretary*

**Fiscal Note:** 10-160. No fiscal impact; (8) recommends adoption.

## Annex A

## TITLE 28. HEALTH AND SAFETY

## PART I. GENERAL HEALTH

## CHAPTER 9. MANAGED CARE ORGANIZATIONS

## Subchapter A. (Reserved)

(Editor's Note: Sections 9.1, 9.2, 9.31, 9.32, 9.51—9.55, 9.71—9.77 and 9.91—9.97 as they appear in 28 Pa. Code pages 9-2 to 9-18, serial pages (248720), (229397) to (229399), (213093) to (213096), (248721) to (248722), (213099) to (213104) and (239541) to (239542) are proposed to be deleted in their entirety.)

§ 9.1. (Reserved).

§ 9.2. (Reserved).

§ 9.31. (Reserved).

§ 9.32. (Reserved).

§§ 9.51—9.55. (Reserved).

§§ 9.71—9.77. (Reserved).

§§ 9.91—9.97. (Reserved).

## Subchapter D. (Reserved)

(Editor's Note: Sections 9.401—9.415 as they appear at 28 Pa. Code pages 9-41 to 9-53, serial pages (213130), (248723) to (248724), (213133) to (213140) and (248725) as proposed to be deleted in their entirety.)

§§ 9.401—9.416. (Reserved).

## Subchapter E. (Reserved)

(Editor's Note: Sections 9.501—9.519 as they appear at 28 Pa. Code pages 9-54 to 9-70, serial pages (248726) to (248742).)

§§ 9.501—9.519. (Reserved).

## Subchapter F. GENERAL

Sec.	
9.601.	Applicability.
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9.603.	Technical advisories.
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## § 9.601. Applicability.

(a) This chapter applies to managed care plans as defined by section 2102 of the act (40 P. S. § 991.2102) unless expressly stated otherwise. Plans are advised to consult the regulations of the Insurance Department on these topics. See 31 Pa. Code Chapters 154 and 301 (relating to quality health care accountability and protection; and health maintenance organizations) to ensure complete compliance with Commonwealth requirements.

(b) An entity, including an IDS, subcontracting with a managed care plan to provide services to enrollees shall meet the requirements of Article XXI of the act and Subchapters H—L for services provided to those enrollees.

(c) Section 9.742 (relating to CREs) applies to licensed insurers and managed care plans with certificates of authority.

(d) This chapter does not apply to ancillary service plans.

## § 9.602. Definitions.

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

*Act*—The Insurance Company Law of 1921 (40 P. S. §§ 361—991.2361).

*Act 68*—The act of June 17, 1998 (P. L. 464, No. 68) (40 P. S. §§ 991.2001—991.2361) which added Articles XX and XXI of the act.

*Ancillary service plan*—

(i) An individual or group health insurance plan, subscriber contract or certificate, that provides exclusive coverage for dental services or vision services.

(ii) The term also includes Medicare Supplement Policies subject to section 1882 of the Social Security Act (42 U.S.C.A. § 1395ss) and the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) supplement.

*Ancillary services*—A health care service that is not directly available to enrollees but is provided as a consequence of another covered health care service, such as radiology, pathology, laboratory and anesthesiology.

*Article XXI*—Sections 2101—2193 of the act (40 P. S. §§ 991.2101—991.2193) relating to health care accountability and protection.

*Basic health services*—The health care services in § 9.651 (relating to HMO provision and coverage of basic health care services to enrollees).

*Certificate of authority*—The document issued jointly by the Secretary and the Commissioner that permits a corporation to establish, maintain and operate an HMO.

*CRE*—Certified utilization review entity. An entity certified under this chapter to perform UR on behalf of a plan.

*Commissioner*—The Insurance Commissioner of the Commonwealth.

*Complaint*—

(i) A dispute or objection by an enrollee regarding a participating health care provider, or the coverage (including contract exclusions and noncovered benefits), operations or management policies of a managed care plan, which has not been resolved by the managed care plan and has been filed with the plan or the Department or the Insurance Department.

(ii) The term does not include a grievance.

*Department*—The Department of Health of the Commonwealth.

*Drug formulary*—A listing of a managed care plan's preferred therapeutic drugs.

*Emergency service*—

(i) A health care service provided to an enrollee after the sudden onset of a medical condition that manifests itself by acute symptoms of sufficient severity or severe pain so that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in one or more of the following:

(A) Placing the health of the enrollee or, with respect to a pregnant woman, the health of the woman or her unborn child in serious jeopardy.

(B) Serious impairment to bodily functions.

(C) Serious dysfunction of any bodily organ or part.

(i) Transportation and related emergency care provided by a licensed ambulance service shall constitute an emergency service if the condition is as described in subparagraph (i).

*Enrollee*—A policyholder, subscriber, covered person, member or other individual who is entitled to receive health care services under a managed care plan.

*External quality assurance assessment*—A review of an HMO's ongoing quality assurance program and operations conducted by a nonplan reviewer such as a Department-approved external quality review organization.

*External quality review organization*—An entity approved by the Department to conduct an external quality assurance assessment of an HMO.

*Foreign HMO*—An HMO incorporated, approved and regulated in a state other than the Commonwealth.

*Gatekeeper*—A health care provider, managed care plan or agent of a managed care plan, from which an enrollee must receive referral or approval for covered health care services as a requirement for payment of the highest level of benefits.

*Gatekeeper PPO*—A PPO requiring enrollee use of a gatekeeper from which an enrollee must receive referral or approval for covered health care services as a requirement for payment of the highest level of benefits.

*Grievance*—

(i) A request by an enrollee, or a health care provider with the written consent of the enrollee, to have a managed care plan or CRE reconsider a decision solely concerning the medical necessity and appropriateness of a health care service. If the managed care plan is unable to resolve the matter, a grievance may be filed regarding the decision that does one of the following:

(A) Disapproves full or partial payment for a requested health service.

(B) Approves the provision of a requested health care service for a lesser scope or duration than requested.

(C) Disapproves payment of the provision of a requested health care service but approves payment for the provision of an alternative health care service.

(ii) The term does not include a complaint.

*HMO—Health maintenance organization*—An organized system that combines the delivery and financing of health care and which provides basic health services to voluntarily enrolled members for a fixed prepaid fee.

*HMO Act*—The Health Maintenance Organization Act (40 P. S. §§ 1551—1568).

*Health care provider*—A licensed hospital or health care facility, medical equipment supplier or person who is licensed, certified or otherwise regulated to provide health care services under the laws of the Commonwealth, including a physician, podiatrist, optometrist, psychologist, physical therapist, certified nurse practitioner, registered nurse, nurse midwife, physician's assistant, chiropractor, dentist, pharmacist or an individual accredited or certified to provide behavioral health services.

*Health care service*—A covered treatment, admission, procedure, medical supply, equipment or other service, including behavioral health, prescribed or otherwise provided or proposed to be provided by a health care provider to an enrollee under a managed care plan contract.

*IDS—Integrated delivery system*—A partnership, association, corporation or other legal entity which does each of the following:

(i) Enters into a contractual arrangement with a plan.

(ii) Employs or contracts with health care providers.

(iii) Agrees under its arrangement with the plan to provide or arrange for the provision of covered health care services to enrollees.

(iv) Assumes under the arrangement with the plan full or partial responsibility for conducting any or all of the following activities: quality assurance, UR, credentialing, provider relations or enrollee services.

*Inpatient services*—Care at a licensed hospital, skilled nursing or rehabilitation facility, including preadmission testing, diagnostic testing performed during an inpatient stay, nursing care, room and board, durable medical equipment, ancillary services, inpatient drugs, meals and special diets, use of operating room and related facilities, use of intensive care and cardiac units and related services.

*Licensed insurer*—An individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurer and other legal entity engaged in the business of insurance; fraternal benefit societies as defined in the Fraternal Benefit Societies Code (40 P. S. §§ 1142-101—1142-701), and PPOs as defined in section 630 of the act (40 P. S. § 764a).

*Managed care plan or plan*—

(i) A health care plan that uses a gatekeeper to:

(A) Manage the utilization of health care services.

(B) Integrate the financing and delivery of health care services to enrollees by arrangements with health care providers selected to participate on the basis of specific standards.

(C) Provide financial incentives for enrollees to use the participating health care providers in accordance with procedures established by the plan.

(ii) A managed care plan includes health care arranged through an entity operating under any of the following:

(A) Section 630 of the act.

(B) The HMO Act.

(C) The Fraternal Benefit Society Code.

(D) 40 Pa.C.S. §§ 6102—6127 which relates to hospital plan corporations.

(E) 40 Pa.C.S. §§ 6301—6334 which relates to professional health services plan corporations.

(iii) The term includes an entity, including a municipality, whether licensed or unlicensed, that contracts with or functions as a managed care plan to provide health care services to enrollees.

(iv) The term does not include ancillary service plans or an indemnity arrangement which is primarily fee for service.

*Medical management*—A function that includes any aspect of UR, quality assurance, case management and disease management and other activities for the purposes of determining, arranging, monitoring or providing effective and efficient health care services.

*Member*—An enrollee.

*Outpatient services*—Outpatient medical and surgical, emergency room and ancillary services including ambula-

tory surgery and all ancillary services pursuant to ambulatory surgery, outpatient laboratory, radiology and diagnostic procedures, emergency room care that does not result in an admission within 24 hours of the delivery of emergency room care and other outpatient services covered by the plan.

*Outpatient setting*—A physician's office, outpatient facility, ambulatory surgical facility or a hospital when a patient is not admitted for inpatient services.

*PCP—Primary care provider*—A health care provider who, within the scope of the provider's practice, supervises, coordinates, prescribes or otherwise provides or proposes to provide health care services to an enrollee; initiates enrollee referral for specialist care; and maintains continuity of enrollee care.

*POS plan—Point-of-service plan*—

(i) A health care plan which requires an enrollee to select and utilize a gatekeeper to obtain the highest level of benefits with the least amount of out-pocket expense for the enrollee.

(ii) A POS plan may be provided by an HMO or by a gatekeeper PPO.

*PPO*—A preferred provider organization.

*Preventive health care services*—

(i) Services provided by the plan to provide for the prevention, early detection and minimization of the ill effects and causes of disease or disability.

(ii) The services include prenatal and well baby care, immunizations and periodic physical examinations.

*Provider network*—The health care providers designated by a plan to provide health care services to enrollees.

*Secretary*—The Secretary of Health of the Commonwealth.

*Service area*—The geographic area in which the plan has received approval to operate from the Department.

*UR—Utilization review*—

(i) A system of prospective, concurrent or retrospective UR, performed by a utilization review entity or health care plan, of the medical necessity and appropriateness of health care services prescribed, provided or proposed to be provided to an enrollee.

(ii) The term does not include any of the following:

(A) Requests for clarification of coverage, eligibility or health care service verification.

(B) A health care provider's internal quality assurance or UR process unless the review results in denial of payment for a health care service.

#### § 9.603. Technical advisories.

The Department may issue technical advisories to assist plans in complying with the HMO Act, Article XXI and this chapter. The technical advisories do not have the force of law or regulation, but will provide guidance on how a plan may maintain compliance with the HMO Act, Article XXI and this chapter.

#### § 9.604. Plan reporting requirements.

(a) *Annual reports.* A plan shall submit to the Department on or before April 30 of each year, a detailed report of its activities during the preceding calendar year. The plan shall submit the report in a format specified by the

Department in advance of the reporting date, and shall include, at a minimum, the following information:

(1) Enrollment and disenrollment data by product line—for example, commercial, Medicare and Medicaid and by county.

(2) Health care services utilization data.

(3) Data relating to complaints and grievances.

(4) A copy of the current enrollee literature, including subscription agreements, enrollee handbooks and any mass communications to enrollees concerning complaint and grievance rights and procedures.

(5) A copy of the plan's current provider directory.

(6) A statement of the number of physicians leaving the plan and of the number of physicians joining the plan.

(7) A listing of all IDS arrangements and enrollment by each IDS.

(8) Copies of the currently utilized generic or standard form health care provider contracts including copies of any deviations from the standard contracts and reimbursement methodologies.

(9) A copy of the quality assurance report submitted to the plan's Board of Directors.

(10) A listing, including contacts, addresses and phone numbers, of the contracted CREs that perform UR on behalf of the plan or a contracted IDS.

(11) Other information which the Department may request, upon advance notice to the plan.

(b) *Quarterly reports.* Four times per year, a plan shall submit to the Department two copies of a brief quarterly report summarizing key utilization, enrollment, and complaint and grievance system data. Each quarterly report shall be filed with the Department within 45 days following the close of the preceding calendar quarter. The plan shall submit each quarterly report in a format specified by the Department for that quarterly report.

#### § 9.605. Department investigations.

(a) The Department may investigate information contained in annual, quarterly or special reports, enrollee complaints relating to quality of care or service, or the deficiencies identified in the course of external quality reviews.

(b) Investigation may include onsite inspection of an HMO's facilities and records, and may include onsite inspection of the facilities and records of any IDS subcontractor.

(c) The Department or its agents shall have free access to all books, records, papers and documents that relate to the business of the HMO, other than financial business.

(d) The Department will have access to medical records of HMO enrollees for the sole purpose of determining the quality of care, investigating complaints or grievances, enforcement, or other activities relating to ensuring compliance with Article XXI, this chapter or other laws of the Commonwealth.

(e) The Department may request submission by the HMO of a special report detailing any aspect of its operations relating to the provision of health care services to enrollees, provider contracting or credentialing, operation of the enrollee complaint and grievance system, or quality assessment.



**§ 9.606. Penalties and sanctions.**

(a) For violations of Article XXI and this chapter, the Department may take one or more of the following actions:

- (1) Impose a civil penalty of up to \$5,000 per violation.
- (2) Maintain an action in the name of the Commonwealth for an injunction to prohibit the activity that violates the provisions.
- (3) Issue an order temporarily prohibiting the plan from enrolling new members.
- (4) Require the plan to develop and adhere to a plan of correction approved by the Department which the plan shall make available to enrollees upon written request. The Department will monitor compliance with the plan of correction.

(b) For violations of the HMO Act and this chapter, the Department may suspend or revoke a certificate of authority or impose a penalty of not more than \$1,000 for each unlawful act committed if the Department finds that one or more of the following conditions exist:

- (1) The HMO is providing inadequate or poor quality care, either directly, through contracted providers or through the operations of the HMO, thereby creating a threat to the health and safety of its enrollees.
- (2) The HMO is unable to fulfill its contractual obligations to its enrollees.
- (3) The HMO has advertised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner either directly or through any person on its behalf.
- (4) The HMO has substantially failed to comply with the HMO Act.

(c) Before the Department may act under subsection (b), the Department will provide the HMO with written notice specifying the nature of the alleged violation and fixing a time and place, at least 10 days thereafter, when a hearing of the matter shall be held. Hearing procedures and appeals shall be conducted in accordance with 2 Pa.C.S. (relating to administrative law and procedure).

(d) A plan may appeal the decision to impose a penalty under subsection (a)(1) or to issue an order under subsection (a)(3) under 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies).

**Subchapter G. HMOS**

**GENERALLY**

- Sec. 9.621. Applicability.
- 9.622. Prohibition against uncertified HMOS.
- 9.623. Preapplication development activities.

**APPLICATION FOR CERTIFICATE OF AUTHORITY**

- 9.631. Content of an application for an HMO certificate of authority.
- 9.632. HMO certificate of authority review by the Department.
- 9.633. HMO board requirements.
- 9.634. Location of HMO activities, staff and materials.
- 9.635. Delegation of HMO operations.
- 9.636. Issuance of a certificate of authority to a foreign HMO.

**OPERATIONAL STANDARDS**

- 9.651. HMO provision and coverage of basic health services to enrollees.
- 9.652. HMO provision of other than basic health services to enrollees.
- 9.653. Use of co-payments and co-insurances in HMOS.
- 9.654. HMO provision of limited networks to select enrollees.
- 9.655. HMO external quality assurance assessment.
- 9.656. Standards for approval of point-of-service options by HMOS.

**GENERALLY**

**§ 9.621. Applicability.**

(a) This subchapter applies to corporations that propose to undertake to establish, maintain and operate an HMO within this Commonwealth, with the exception of an HMO exempted under sections 16 and 17(b) of the HMO Act (40 P. S. §§ 1566 and 1567(b)).

(b) This subchapter is intended to ensure that HMOS certified by the Commonwealth offer increased competition and consumer choice which serve to advance quality assurance, cost effectiveness and access to health care services.

**§ 9.622. Prohibition against uncertified HMOS.**

(a) A corporation may not, within this Commonwealth, solicit enrollment of members, enroll members or deliver prepaid basic health services, by or through an HMO, unless it has received a certificate of authority from the Secretary and Commissioner to operate and maintain the HMO.

(b) A foreign HMO may not, within this Commonwealth, solicit enrollment of members, enroll members or deliver prepaid basic health care services unless it has received a certificate of authority from the Secretary and the Commissioner to operate and maintain an HMO.

**§ 9.623. Preapplication development activities.**

The Department will, upon request, provide technical advice and assistance to persons proposing to develop an HMO, including review of health care services provider contracts to be used to establish and maintain an acceptable health care services provider network. A network is required for approval of a certificate of authority.

**APPLICATION FOR CERTIFICATE OF AUTHORITY**

**§ 9.631. Content of an application for an HMO certificate of authority.**

An application for a certificate of authority under the HMO Act shall include completed application forms as the Secretary and Commissioner may require. An application for a certificate of authority will not be deemed complete unless it includes at least the following information:

(1) Organizational information including a copy of the applicant's articles of incorporation, bylaws that include a description of the manner by which subscribers will be selected and appointed to the board of directors, an organization chart and clear disclosure of the relationship between the applicant and any affiliated entities owned or controlled by the applicant or which directly or indirectly own or control the applicant.

(2) A list of names, addresses and official positions of the board of directors of the applicant, and of persons who are responsible for the affairs of the applicant, including: President/Chief Executive Officer; Medical Director; Chief Financial Officer; Chief Operating Officer; Directors of Quality Assurance, Utilization Review, Provider Relations, Member Services; and the Director of the Enrollee Complaint and Grievance Process if this responsibility does not fall under one of the previous directorships listed. Resumes shall be included for Chairperson of the Board and the positions listed in this paragraph.

(3) The address of the registered office, in this Commonwealth, where the HMO can be served with legal process.

(4) A copy of each proposed standard form health care services provider contract and each IDS contract includ-

ing a detailed description of the types of financial incentives that the HMO may utilize.

(5) A copy of the HMO's proposed contracts with individual enrollees and groups of enrollees describing the health care coverage to be provided to each individual or group.

(6) A description of the proposed plan services area by county, including demographic data of prospective enrollees and location of contracted providers.

(7) A detailed description of the applicant's proposed enrollee complaint and grievance systems.

(8) A detailed description of the applicant's proposed system for ongoing quality assurance.

(9) A detailed description of the applicant's proposed UR system.

(10) A copy of the applicant's proposed confidentiality policy.

(11) A detailed description of the applicant's proposed provider credentialing system, and standards for ongoing recertification activities incorporating quality assurance, UR and enrollee satisfaction measures.

(12) A description of the applicant's capacity to collect and analyze necessary data related to utilization of health care services and to provide the Department with the periodic reports specified in § 9.604 (relating to plan reporting requirements), including a description of the system whereby the records pertaining to the operations of the applicant, including membership and utilization data, are identifiable and distinct from other activities the entity undertakes.

(13) If the applicant intends to delegate any UR functions to a subcontractor, evidence of the subcontractor's certification as a CRE under Subchapter K (relating to CREs) if the certification is required.

(14) A detailed description of the applicant's ability to assure both the availability and accessibility of adequate personnel and facilities to serve enrollees in a manner enhancing access, availability and continuity of covered health care services.

(15) A copy of each contract with an individual or entity for the performance on the HMO's behalf of necessary HMO functions, including marketing, enrollment and administration, and each contract with an insurance company, hospital plan corporation or professional health services corporation for the provision of insurance or indemnity or reimbursement against the cost of health care services provided by the HMO.

(16) A detailed description of the applicant's incentives and mechanisms for cost-control within the structure and function of the applicant.

(17) Other information the applicant may wish to submit for consideration.

(18) Other information the Department requests as necessary to review the applicant's application for compliance with the HMO Act, Act 68 and this chapter.

**§ 9.632. HMO certificate of authority review by the Department.**

(a) The applicant shall submit a complete application to both the Department and the Insurance Department.

(b) Upon receipt of a complete application for a certificate of authority the Department will publish notification of receipt in the *Pennsylvania Bulletin*. The Department will accept public comments, suggestions or objections to

the application for 30 days after publication. The Department may hold a public meeting concerning the application, with appropriate notification to the applicant, and notice to the public through publication of notice in the *Pennsylvania Bulletin*.

(c) Within 45 days of receipt of the application, the Department will notify the applicant of additional information required to complete the application, and of any part of the application which must be corrected by the applicant to demonstrate compliance with the HMO Act or this chapter. A copy of any requests for information sent to the applicant will be sent to the Commissioner.

(d) The Department will review the completed application for compliance with the HMO Act and this chapter. The application will not be considered complete until the required information is provided to the Department in writing, including evidence of a contracted and credentialed provider network of sufficient capacity to serve the proposed number of enrollees.

(e) The Department may visit or inspect the site or proposed site of the applicant's facilities or facilities of the applicant's contractors and its provider network, to ascertain its capability to comply with the HMO Act, Act 68 and this chapter.

(f) The Department will complete its review within 90 days of submission of the completed application.

(g) Within 90 days of receipt of a completed application for a certificate of authority, the Secretary and Commissioner will jointly take action as set forth in paragraph (1) or (2). A disapproval of an application may be appealed in accordance with 2 Pa.C.S. (relating to administrative law and procedure).

(1) Approve the application and issue a certificate of authority.

(2) Disapprove the application and specify in writing the reasons for the disapproval.

**§ 9.633. HMO board requirements.**

(a) A corporation that has received a certificate of authority shall, within 1 year of its receipt of the certificate, establish and maintain a board of directors at least one-third of whom are enrollees of the HMO. The process to select enrollee members of the board shall be structured to prevent undue influence in the selection process by nonenrollee members of the board and to obtain diverse representation of broad segments of the enrollees covered under HMO contracts issued by the corporation.

(b) A member of the board shall execute a conflict of interest statement certifying that the board member will not engage in forms of self-dealing including the sale, exchange, leasing or furnishing of property, goods, services or facilities between the HMO and the board member, the board member's employer or an organization substantially controlled by the board member, in a manner more favorable to the board member or to the HMO than would be provided to the general public.

(c) The board of the HMO shall be responsible for the operations of the HMO, and shall have the ability to take corrective action when deficiencies are noted in any of its functions regardless of where and by whom the function is performed.

(d) The board shall review and approve the quality assurance plan of the HMO on an annual basis.

**§ 9.634. Location of HMO activities, staff and materials.**

To demonstrate its ability to assure both availability and accessibility of adequate personnel and facilities to effectively provide or arrange for the provision of basic health services in a manner enhancing access, availability and continuity of care, the HMO shall meet the following minimum standards:

(1) The HMO shall make available for review at a location within in this Commonwealth, by the Department or an agent of the Department, the books and records of the corporation and the essential documents as the Department may require, including signed provider contracts, credentialing files, complaint and grievance files, committee meeting (quality assurance and credentialing) minutes and hearing transcriptions. Documents need not be permanently maintained in this Commonwealth but shall be made available within this Commonwealth within 48 hours.

(2) The HMO shall ensure that the medical director responsible for overseeing the UR and quality assurance activities regarding coverage and services provided to enrollees who are residents of this Commonwealth is appropriately licensed in this Commonwealth, and qualified to oversee the delivery of health care services in this Commonwealth.

(3) The HMO's quality assurance/improvement committee shall include health care providers licensed in this Commonwealth.

**§ 9.635. Delegation of HMO operations.**

(a) An HMO may contract with any individual, partnership, association, corporation or organization for the performance of HMO operations. A contract for delegation of HMO operations shall be filed with the Commissioner and does not in any way diminish the authority or responsibility of the board of directors of the HMO, or the ability of the Department to monitor quality of care and require prompt corrective action of the HMO when necessary.

(b) An HMO shall delegate medical management authority in accordance with § 9.675 (relating to the delegation of medical management).

**§ 9.636. Issuance of a certificate of authority to a foreign HMO.**

(a) A foreign HMO may be authorized by issuance of a certificate of authority to operate or to do business in this Commonwealth if the Department is satisfied that it is fully and legally organized and approved and regulated under the laws of its state and that it complies with the requirements for HMOs organized within and certified by the Commonwealth.

(b) A foreign HMO shall submit a completed Commonwealth application for a certificate of authority in accordance with §§ 9.631 and 9.632 (relating to content of an application for an HMO certificate of authority; and HMO certificate of authority review by the Department).

(1) In lieu of the Commonwealth application, a foreign HMO may submit to the Department and the Insurance Department a copy of the application submitted and approved for certificate of authority or licensure in another state with cross references to requirements contained in the Commonwealth's application.

(2) The foreign HMO shall provide, along with the out-of-State application, documentation of any change or modification occurring since that certificate of authority or license was approved.

(3) The foreign HMO shall otherwise affirm that the information submitted to the Department remains current and accurate at the time of submission.

(c) The Department may waive or modify its requirements under the HMO Act and this chapter following a written request from the foreign HMO for the modification or waiver and upon determination by the Department that the requirements are not appropriate to the particular foreign HMO, and that the waiver or modification will be consistent with the purposes of the HMO Act, and that it would not result in unfair discrimination in favor of the HMO of another state.

(d) Foreign HMOs are required to comply on the same basis as Commonwealth certified HMOs with all ongoing reporting and operational requirements, including external quality assurance assessments.

**OPERATIONAL STANDARDS**

**§ 9.651. HMO provision and coverage of basic health services to enrollees.**

(a) An HMO shall maintain an adequate network of health care providers through which it provides coverage for basic health services to enrollees as medically necessary and appropriate without unreasonable limitations as to frequency and cost.

(b) An HMO may exclude coverage for the services as are customarily excluded by indemnity insurers, except to the extent that a service is required to be covered by State or Federal law.

(c) An HMO shall provide and cover the following basic health services as the HMO determines to be medically necessary and appropriate according to its definition of medical necessity:

(1) Emergency services on a 24-hour-per-day, 7-day-per-week basis. The plan may not require an enrollee, or a participating health care provider advising the enrollee regarding the existence of an emergency, to utilize a participating health care provider for emergency services, including ambulance services.

(2) Outpatient services.

(3) Inpatient services.

(4) Preventive services.

(d) An HMO shall provide other benefits as may be mandated by State and Federal law.

**§ 9.652. HMO provision of other than basic health services to enrollees.**

An HMO may provide coverage for other than basic health services including dental services, vision care services, prescription drug services, durable medical equipment or other health care services, provided:

(1) The HMO establishes, maintains and operates a network of participating health care providers sufficient to provide reasonable access to and availability of the contracted nonbasic health services to enrollees.

(2) The health care provider contracts it uses to contract with participating providers meets the requirements of § 9.722 (relating to plan and health care provider contracts).

(3) The provision of those health services is subject to the same complaint and grievance procedures applicable to the provision of basic health services.

**§ 9.653. Use of co-payments and co-insurances in HMOs.**

Upon the request of the Insurance Department, the Department will review requests by an HMO to incorporate co-payments and co-insurance in the HMO benefit structure, to determine whether these requests would detract from availability, accessibility or continuity of services and to ensure that the request constructively advances the purposes of quality assurance, cost-effectiveness and access.

**§ 9.654. HMO provision of limited networks to select enrollees.**

(a) An HMO that wants to offer limited subnetworks which include only selected health care providers, shall request approval from the Department to do so.

(b) The Department will approve a request to offer limited subnetworks if the proposal meets the following requirements:

(1) There is adequate disclosure to potential enrollees of the limitations in the number of the HMO's participating providers.

(2) If a covered service is not available within the limited network, the HMO shall provide or arrange for the provision of the service at no additional cost to the enrollee, other than the routine co-payments which would have been applicable if the service had been provided within the limited network.

(3) The limited network has an adequate number and distribution of network providers to provide care which is available and accessible to enrollees within a defined area.

(4) Enrollment is limited to enrollees within a reasonable traveling distance to limited participating network providers.

**§ 9.655. HMO external quality assurance assessment.**

(a) Within 18 months of receipt of a certificate of authority, and every 3 years thereafter unless otherwise required by the Department, an HMO shall have an external quality assessment conducted using an external quality review organization acceptable to the Department. Department personnel may participate in the external quality assurance assessment.

(b) Costs for the required external review shall be paid by the HMO.

(c) An HMO may combine the external quality assurance assessment with an accreditation review offered by an external quality review organization acceptable to the Department, if the review adequately incorporates assessment factors required by the Department, and allows for Department staff to actively participate in the external review process.

(d) The assessment shall study the quality of care being provided to enrollees and the effectiveness of the quality assurance program established by the HMO.

(e) The external quality review organization shall issue a copy of its findings to the HMO's senior management. It is the responsibility of the HMO to ensure that a copy of all interim and final reports regarding the external quality assessment are filed within 15 days with the Department, either directly by the HMO, or by the external quality review organization.

**§ 9.656. Standards for approval of point-of-service options by HMOs.**

(a) An HMO shall submit a formal product filing for a POS product to the Department and the Insurance Department.

(b) An HMO may offer POS options to groups and enrollees, if the HMO:

(1) Has a system for tracking, monitoring and reporting enrollee self-referrals for the following purposes:

(i) Periodically informing an enrollee's primary care provider of enrollee self-referred services.

(ii) Promptly investigating any PCP practice in which enrollees are utilizing substantially higher levels of non-PCP referred care than average, to ensure that enrollee self-referrals are not a reflection of access or quality problems on the part of the PCP practice.

(2) Provides clear disclosure to enrollees of out-of-pocket expenses.

(3) Does not directly or indirectly encourage enrollees to seek care without a PCP referral or from out-of-network providers due to an inadequate network of participating providers in any given specialty.

**Subchapter H. AVAILABILITY AND ACCESS**

Sec.

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**§ 9.671. Applicability.**

This subchapter is applicable to managed care plans, including HMOs and gatekeeper PPOs, and subcontractors of managed care plans, including IDSs, for services provided to enrollees.

**§ 9.672. Emergency services.**

(a) A plan shall utilize the definition of "emergency service" in section 2102 of the act (40 P. S. § 991.2102) in administering benefits, adjudicating claims and processing complaints and grievances.

(b) A plan may not deny any claim for emergency services on the basis that the enrollee did not receive permission, prior approval, or referral from a gatekeeper or the plan itself prior to seeking emergency service.

(c) A plan may apply the prudent layperson standard to the enrollee's presenting symptoms and services provided in adjudicating related claims for emergency services.

(d) Coverage for emergency services shall include emergency transportation and related emergency care provided by a licensed ambulance service. Use of an ambulance as transportation to an emergency facility for a condition that does not satisfy the definition of "emergency service" does not constitute an emergency service and does not require coverage as an emergency service.

(e) A plan may not require an enrollee to utilize any particular emergency transportation services organization

or a participating emergency transportation services organization for emergency care.

(f) A plan shall cover emergency services provided by a nonparticipating health care provider at the same level of benefit as that provided by a participating health care provider when the plan determines the emergency services were necessary based on the prudent layperson standard.

**§ 9.673. Plan provision of prescription drug benefits to enrollees.**

(a) A plan providing prescription drug benefit coverage to enrollees, either as a basic benefit or through the purchase of a rider or additional benefit package, and using a drug formulary which lists the plan's preferred therapeutic drugs, shall clearly disclose in its marketing material and enrollee literature that restrictions in drug availability may result from use of a formulary.

(b) An enrollee or a prospective enrollee may make a written inquiry to a plan asking whether a specific drug is on the plan's formulary. The plan shall respond in writing to the request within 30 days from the date of its receipt of the request.

(c) A plan utilizing a drug formulary shall have a written policy that includes an exception process by which a health care provider may prescribe and obtain coverage for the enrollee for specific drugs, drugs used for an off-label purpose, biologicals and medications not included in the formulary for prescription drugs or biologicals when the formulary's equivalent has been ineffective in the treatment of the enrollee's disease or if the drug causes or is reasonably expected to cause adverse or harmful reactions to the enrollee.

(d) The plan shall distribute its policy and process to each participating health care provider who prescribes.

(e) If the plan does not approve a health care provider's request for an exception, the enrollee or the health care provider with the written consent of the enrollee may file a grievance under Subchapter I (relating to complaints and grievances).

**§ 9.674. Quality assurance standards.**

(a) A plan shall have an ongoing quality assurance program that includes review, analysis and assessment of the access, availability and provision of health care services. The quality assurance program shall provide for a mechanism allowing feedback to be reviewed and used for continuous quality improvement programs and initiatives by the plan.

(b) The quality assurance program shall meet the following standards:

(1) The plan shall maintain a written description of its quality assurance program, documenting studies undertaken, evaluation of results, subsequent actions recommended and implemented, and aggregate data, and shall make this information available to the Department upon request.

(2) The plan shall document all quality assurance activities and quality improvement accomplishments.

(3) The activities of the plan's quality assurance program shall be overseen by a quality assurance committee that includes plan participating physicians in active clinical practice.

(4) The plan's quality assurance structures and processes shall be clearly defined, with responsibility assigned to appropriate individuals.

(5) The plan shall demonstrate dedication of adequate resources, in terms of appropriately trained and experienced personnel, analytic capabilities and data resources for the operation of the quality assurance program.

(6) The plan shall ensure that all participating health care providers maintain current and comprehensive medical records which conform to standard medical practice.

(7) The plan's review of quality shall include consideration of clinical aspects of care, access, availability and continuity of care.

(8) The plan's quality assurance program shall have mechanisms that provide for the sharing of results with health care providers in an educational format to solicit input and promote continuous improvement.

(9) The plan shall provide to the Department a description of the annual quality assurance work plan, or schedule of activities, which includes the objectives, scope and planned projects or activities for the year.

(10) The plan shall present a report of the plan's quality assurance activities annually to the plan's board of directors, and shall provide a copy of the report to the Department.

**§ 9.675. Delegation of medical management.**

(a) A plan may contract with an entity for the performance of medical management relating to the delivery of health care services to enrollees. The plan shall submit the medical management contract to the Department for review and approval prior to implementation.

(b) If the contractor is to perform UR, the contractor shall be certified in accordance with Subchapter K (relating to utilization review entities).

(c) To secure Department approval, a medical management contract shall include the following:

(1) Reimbursement methods being used to reimburse the contractor which complies with section 2152(b) of the act (40 P. S. § 991.2152(b)) which relates to operational standards for CREs compensation.

(2) The standards for the plan's oversight of the contractor.

(d) Acceptable plan oversight shall include:

(1) Written review and approval by the plan of the explicit standards to be utilized by the contractor in conducting quality assurance, UR or related medical management activities.

(2) Reporting by the contractor to the plan regarding the delegated activities on at least a quarterly basis and the impact of the delegated activities on the quality and delivery of health care to the plan's enrollees.

(3) Random sample re-review and validation of the results of delegated responsibilities to ensure that the decisions made and activities undertaken by the contractor meet the agreed-upon standards in the contract.

(4) A written description of the relationship between the plan's medical management staff and the contractor's medical management staff.

(5) A requirement that the contractor submit written reports of activities and accomplishments to the plan's quality assurance committee on at least a quarterly basis.

(e) With respect to medical management arrangements involving an HMO, the medical management contract shall include a statement by the contractor agreeing to submit itself to review as a part of the HMO's external

quality assurance assessment. See § 9.655 (relating to HMO external quality assurance assessment). A contractor may receive a separate review of its operations by an external quality review organization approved by the Department. The Department will consider the results of the review in its overall assessment provided the review satisfies the requirements of § 9.674 (relating to quality assurance standards).

**§ 9.676. Standards for enrollee rights and responsibilities.**

The plan shall adopt policies and procedures to assure implementation of enrollee rights and responsibilities which shall include:

(1) Access to the information required by Act 68 and the Insurance Department regulations pertaining to enrollee disclosures.

(2) Instructions as to how non-English speaking and visually-impaired enrollees may obtain the information in an alternative format.

(3) An affirmation that enrollees have the right to be treated with dignity and respect, that medical records will be maintained in a confidential manner, and that enrollees have the right to information and participation with decisionmakers concerning their health care services regardless of whether or not the services are benefits covered by the plan.

(4) Other rights and responsibilities mandated by State and Federal law.

**§ 9.677. Requirements of definitions of "medical necessity."**

The definition of "medical necessity" shall be the same in the plan's provider contracts, enrollee contracts and other materials used to evaluate appropriateness and to determine coverage of health care services.

**§ 9.678. Primary care providers.**

(a) A plan shall make available to each enrollee a primary care provider to supervise and coordinate the health care of the enrollee.

(b) A primary care provider shall meet the following minimum standards, unless a specialty health care provider is approved by the plan to serve as a designated primary care provider as provided for in § 9.683 (relating to standing referrals or specialists as primary care providers):

(1) Provide office hours of a minimum of 20 hours-per-week.

(2) Be available directly or through on-call arrangements with other qualified plan participating health care providers, 24 hours-per-day, 7 days-per-week for urgent and emergency care and to provide triage and appropriate treatment or referrals for treatment.

(3) Maintain medical records in accordance with plan standards and accepted medical practice.

(4) Maintain hospital admitting privileges or an alternate arrangement for admitting an enrollee, approved by the plan, that provides for timeliness of information and communication to facilitate the admission, treatment, discharge and follow-up care necessary to ensure continuity of services and care to the enrollee.

(5) Possess an unrestricted license to practice in this Commonwealth.

(c) A plan may consider a physician in a nonprimary care specialty as a primary care provider if the physician

meets the plan's credentialing criteria and has been found by the plan's quality assurance committee to demonstrate, through training, education and experience, equivalent expertise in primary care.

(d) A plan may consider a certified registered nurse practitioner (CRNP), practicing in an advanced practice category generally accepted as a primary care area, as a primary care provider, if the CRNP meets the plan's credentialing criteria and practices in accordance with State law.

(e) A plan shall include in its provider directory a clear and adequate disclosure of the applicable referral limitations caused by the choice of a given provider as a primary care provider.

(f) A plan shall establish and maintain a policy and procedure to permit an enrollee to change a designated primary care provider with appropriate advance notice to the plan.

**§ 9.679. Access requirements in service areas.**

(a) A plan shall provide services to enrollees only in those service areas in which it has been approved to operate by the Department.

(b) A plan seeking to expand its service area beyond that which was initially approved shall file with the Department a service area expansion request.

(c) A plan shall demonstrate at all times that it has an adequate number and range of health care providers by specialty and service area to ensure that enrollees have adequate access to and availability of health care services covered by the plan.

(d) A plan shall immediately report to the Department any serious potential change in the plan's ability to provide services in a particular service area through termination, cancellation or nonrenewal of health care provider contracts potentially affecting 10% or more of the plan's enrollees in the service area.

(e) A plan shall ensure that services for hospitalization, primary care and frequently utilized specialty services shall be available to enrollees within 20 minutes or 20 miles in urban areas, and 30 miles or 30 minutes in rural areas, or based on the availability of health care providers, unless otherwise approved by the Department.

**§ 9.680. Access for persons with disabilities.**

(a) A plan shall file with the Department its policies, plans and procedures for ensuring that it has within its provider network participating health care providers that are physically accessible to people with disabilities, in accordance with Title III of the Americans with Disabilities Act of 1990 (42 U.S.C.A. §§ 12181—12188.)

(b) A plan shall file with the Department its policies, plans and procedures for ensuring that it has within its provider network participating health care providers who can communicate with individuals with sensory disabilities, in accordance with Title III of the Americans with Disabilities Act of 1990.

**§ 9.681. Health care providers.**

(a) A plan shall provide to enrollees a provider directory that shall include the name, address and telephone number of each participating health care provider by specialty.

(b) A plan shall include a clear disclaimer in the provider directories it provides to enrollees that the plan cannot guarantee continued access during the term of the enrollee's enrollment to a particular health care provider,

and that if a participating health care provider used by the enrollee ceases participation, the plan will provide access to alternative providers with equivalent training and experience.

(c) A plan that has no participating health care providers available to provide covered health care services shall arrange for and provide coverage for services provided by a nonparticipating health care provider. The plan shall cover the nonnetwork services at the same level of benefit as if a network provider had been available.

(d) A plan shall have written procedures governing the availability and accessibility of frequently utilized health care services, including the following:

- (1) Well-patient examinations and immunizations.
- (2) Emergency telephone consultation on a 24 hour-per-day, 7 day-per-week basis.
- (3) Treatment of acute emergencies.
- (4) Treatment of acute minor illnesses.

**§ 9.682. Direct access for obstetrical and gynecological care.**

(a) The plan shall permit an enrollee direct access to participating health care providers for maternity and gynecological care without referral from a primary care provider.

(b) A plan may not require prior authorization for these services or any aspect of services considered as a routine part of obstetrical and gynecological care including related laboratory or diagnostic procedures.

(c) A plan may require that directly accessed participating health care providers seek prior plan authorization for nonroutine procedures or services and elective inpatient hospitalization.

(d) A plan shall develop policies and procedures that describe the terms and conditions under which a directly accessed health care provider may provide and refer for health care services with and without obtaining prior plan approval. The plan shall have these policies and procedures approved by its quality assurance committee. The plan shall provide these terms and conditions to all health care providers who may be directly accessed for maternity and gynecological care.

**§ 9.683. Standing referrals or specialists as primary care providers.**

(a) A plan shall adopt and maintain procedures whereby an enrollee with a life-threatening, degenerative or disabling disease or condition shall, upon request, receive an evaluation by the plan and, if the plan's established standards are met, the procedures shall allow for the enrollee to receive either a standing referral to a specialist with clinical expertise in treating the disease or condition, or the designation of a specialist to assume responsibility to provide and coordinate the enrollee's primary and specialty care.

(b) The plan's procedures shall:

(1) Ensure the plan has established standards, including policies, procedures and clinical criteria for conducting the evaluation and issuing or denying the request, including a process for reviewing the clinical expertise of the requested specialist. The plan shall have its standards approved by its quality assurance committee.

(2) Provide for evaluation by appropriately trained and qualified personnel.

(3) Be under a treatment plan approved by the plan and provided in writing to the specialist who will be serving as the primary care provider or receiving the standing referral.

(4) Be subject to the plan's utilization management requirements and other established utilization management and quality assurance criteria.

(5) Ensure that a standing referral to, or the designation of a primary care provider as, a specialist will be made to participating specialists when possible. Nonparticipating specialists may be utilized as appropriate.

(6) Ensure the plan issues a written decision regarding the request for a standing referral or designation of a specialist as a primary care provider within a reasonable period of time taking into account the nature of the enrollee's condition, but within 45 days after the plan's receipt of the request.

(7) Ensure the written decision denying the request provides information about the right to appeal the decision through the grievance process.

(c) A plan shall have mechanisms in place to review the effect of this procedure, and shall present the results to its quality improvement committee on an annual basis.

**§ 9.684. Continuity of care.**

(a) Provider terminations initiated by the plan shall be governed as follows:

(1) An enrollee may continue an ongoing course of treatment, at the option of the enrollee, for 60 days from the date the enrollee is notified by the plan of the termination or pending termination of a participating health care provider.

(2) If the terminating provider is a primary care provider, the plan shall provide written notice of the termination to each enrollee assigned to that primary care provider and shall request and facilitate the enrollee's transfer to another primary care provider.

(3) If the terminating provider is not a primary care provider, the plan shall notify the affected enrollees identified through referral and claims data.

(4) Written notice from the plan shall include instructions as to how to exercise the continuity of care option, including qualifying criteria, the procedure for notifying the plan of the enrollee's intention and how the enrollee will be notified that a continuing care arrangement has been agreed to by the provider and the plan.

(b) A new enrollee seeking to continue care with a nonparticipating provider shall notify the plan of the enrollee's request to continue an ongoing course of treatment for the transitional period.

(c) The transitional period for an enrollee who is a woman in the second or third trimester of pregnancy as of the effective date of coverage, if she is a new enrollee, or as of the date the termination notice was provided by the plan, shall extend through the completion of postpartum care.

(d) The transitional period may be extended by the plan if extension is determined to be clinically appropriate. The plan shall consult with the enrollee and the health care provider in making this determination.

(e) A plan shall cover health care services provided under this section under the same terms and conditions as applicable for services provided by participating health care providers.

(f) A plan may require nonparticipating health care providers to meet the same terms and conditions as participating health care providers with the exception that a plan may not require nonparticipating health care providers to under go full credentialing.

(g) A plan shall provide the nonparticipating health care provider with written notice of the terms and conditions to be met at either the earliest possible opportunity following notice of termination to the provider, or immediately upon request from an enrollee to continue services with a nonparticipating health care provider.

(h) A plan shall use best efforts to ascertain the health care provider's willingness to continue to provide health care services for the transitional period prior to the actual termination date.

(i) An enrollee shall be held harmless by the plan for services provided by nonparticipating providers post-termination of a participating provider, during the period of negotiations between the plan and the health care provider under subsection (f) up to the time affected enrollees are notified by the plan in writing that agreement is not possible.

(j) This section does not require a plan to provide health care services that are not covered under the terms and conditions of the plan.

(k) If the plan terminates a participating health care provider for cause, the plan will not be responsible for the health care services provided to the enrollee following the date of termination.

### Subchapter I. COMPLAINTS AND GRIEVANCES

Sec.	
9.701.	Applicability.
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#### § 9.701. Applicability.

This subchapter applies to the review and appeal of complaints and grievances under Act 68.

#### § 9.702. Complaints and grievances.

##### (a) General.

(1) A plan shall have a two-level complaint and a two-level grievance procedure which meets the requirements of sections 2141, 2142, 2161 and 2162 of Article XXI of the act (40 P. S. §§ 991.2141, 991.2142, 991.2161 and 991.2162) and this subchapter and is satisfactory to the Secretary.

(2) The plan may not incorporate administrative requirements, time frames or tactics to directly or indirectly discourage the enrollee from, or disadvantage the enrollee in utilizing the procedures.

(3) A plan shall provide copies of its complaint and grievance procedures to the Department for review and approval. The Department will use the procedures as a reference when assisting enrollees who contact the Department directly.

(b) *Correction of plan.* A plan shall immediately correct any procedure found by the Department to be noncompliant or to create unacceptable administrative burdens on the enrollee.

##### (c) *Complaints versus grievances.*

(1) The plan may not classify the appeal as either a complaint or a grievance with the intent to adversely affect or deny the enrollee's access to the process.

(2) If there is any doubt as to whether the appeal is a complaint or a grievance, the plan shall consult with the Department or the Insurance Department as to the most appropriate classification.

(3) An enrollee may contact the Department or the Insurance Department directly for consideration and intervention with the plan, if the enrollee disagrees with the plan's classification of an appeal.

(4) If the Department determines that a grievance has been improperly classified as a complaint, the Department will notify the plan and the enrollee and the case will be redirected to the appropriate level of grievance review. Filing fees shall be waived by the plan.

(5) If the Department determines that a complaint has been improperly classified as a grievance, the Department will notify the plan and the enrollee, and the case will be redirected to the appropriate level of complaint review.

(6) The Department will monitor plan reporting of complaints and grievances and may conduct audits and surveys to verify compliance with Article XXI and this subchapter.

##### (d) *Time frames.*

(1) A plan may not impose unreasonable time limitations on an enrollee's ability to file an appeal or grievance.

(2) If a plan establishes a time limit for an enrollee to file the initial complaint or grievance, the plan shall allow the enrollee at least 30-calendar days to file the complaint or grievance from the date of the occurrence of the issue being complained about.

(3) If a plan establishes a time frame for an enrollee to file a second level complaint or grievance, the plan shall allow the enrollee at least 45 days to file the second level complaint or grievance from the date of the enrollee's receipt of notice of the plan's decision.

(4) A health care provider seeking to file a grievance with enrollee consent under § 9.703 (relating to health care provider initiated grievances) shall have the same time frames in which to file as an enrollee.

#### § 9.703. Health care provider initiated grievances.

(a) A healthcare provider may, with the consent of the enrollee, file a written grievance with a plan.

(b) A health care provider may not require an enrollee to sign an document authorizing the health care provider to file a grievance as a condition of providing a health care service.

(c) Once a health care provider assumes responsibility for filing a grievance, the health care provider may not refuse to grieve the issue through the second level grievance review.

(d) The health care provider may not bill the enrollee for services provided that are the subject of the grievance until the external grievance review has been completed.



(e) If the health care provider elects to appeal an adverse decision of a CRE, the health care provider may not bill the enrollee for services provided that are the subject of the grievance until it chooses not to appeal an adverse decision to a court of competent jurisdiction.

(f) A health care provider, seeking to obtain written consent from an enrollee to file a grievance on behalf of the enrollee, shall clearly disclose to the enrollee in writing that the consent precludes the enrollee from filing a grievance on the same issue unless the enrollee, during the course of the grievance, rescinds in writing the previous written consent.

(g) The written consent form shall inform the enrollee in writing of the right to rescind a consent at any time during the grievance process.

(h) The enrollee may rescind consent to a health care provider, to file a grievance on behalf of the enrollee, at any time during the grievance process. If the enrollee rescinds consent, the enrollee may continue with the grievance at the point at which consent was rescinded. The enrollee may not file a separate grievance. An enrollee who has filed a grievance may, at any time during the grievance process, choose to provide consent to a health care provider to allow the health care provider to continue with the grievance instead of the enrollee.

**§ 9.704. Internal complaint process.**

(a) A plan shall establish, operate and maintain an internal complaint process which meets the requirements of section 2141 of the act (40 P. S. § 991.2141), and this subchapter, and is acceptable to the Secretary. The process shall address complaints concerning matters including participating health care providers, health plan coverage, plan operations and plan management policies.

(b) A plan shall permit an enrollee to file with it a written or oral complaint.

(c) A plan's internal complaint process shall include the following standards:

(1) *First level review.*

(i) The first level complaint review shall be performed by an initial review committee which shall include one or more employees. The members of the committee may not have been involved in a prior decision to deny the enrollee's complaint.

(ii) A plan shall permit an enrollee to provide written data or other material in support of the complaint. The enrollee may specify the remedy or corrective action being sought.

(iii) The plan shall complete its review and investigation of the complaint within 30 days of receipt of the complaint.

(iv) The plan shall notify the enrollee in writing of the decision of the initial review committee within 5 business days of the committee's decision. The notice shall include the basis for the decision and the procedures and time frame to file a request for a second level review of the decision of the initial review committee.

(2) *Second level review.*

(i) The second level complaint review shall be performed by a second level review committee made up of three or more individuals who did not participate in the first level review. At least one third of the second level review committee may not be employees of the plan. The members of the second level review committee shall have the duty to be unbiased in their review and decision.

(ii) The plan shall notify the enrollee in writing of the right to appear before the second level review committee. The second level review committee shall satisfy the following:

(A) The plan shall provide reasonable flexibility in terms of time and travel distance when scheduling a second level review to facilitate the enrollee's attendance.

(B) If an enrollee cannot appear in person at the second level review, the plan shall provide the enrollee the opportunity to communicate with the review committee by telephone or other appropriate means.

(C) Attendance at the second level review shall be limited to members of the review committee; the enrollee or the enrollee's representatives, or both; the enrollee's provider or applicable witnesses; and appropriate representatives of the plan. Persons attending the second level review and their respective roles at the review shall be identified for the enrollee.

(iii) The decision of the second level review committee shall be binding upon the parties unless appealed by the enrollee.

(iv) The deliberation of the second level review committee, including the enrollee's comments, shall be either by transcribed verbatim or summarized, and maintained as a part of the complaint record to be forwarded to the Department or the Insurance Department upon appeal.

(v) The plan shall complete the second level review within 45 days of the plan's receipt of the enrollee's request for review.

(vi) The plan shall notify the enrollee of the decision of the second level review committee in writing, within 5 business days of the committee's decision.

(vii) The plan shall include in its notice to the enrollee the basis for the decision and the procedures and time frame for the enrollee to file an appeal to the Department or the Insurance Department, including the addresses and telephone numbers of both agencies. The decision shall be sent in a manner so that the plan can document the enrollee's receipt of the decision.

(d) The Department of Health address for purposes of this section is: Bureau of Managed Care, Pennsylvania Department of Health, P. O. Box 90, Harrisburg, PA 17108, (717) 787-5193. The Department may change this address upon prior notification in the *Pennsylvania Bulletin*.

**§ 9.705. Appeal of a complaint decision.**

(a) An enrollee shall have 15 days from receipt of the second level review decision of a complaint to file an appeal of the decision, in writing, with either the Department or the Insurance Department.

(b) The appeal from the enrollee shall include the following:

(1) The enrollee's name, address and telephone number.

(2) Identification of the plan.

(3) The enrollee's plan ID number.

(4) A brief description of the issue being appealed.

(5) Correspondence from the plan concerning the complaint.

(c) Upon receipt of the appeal, the Department will verify with the plan that the appeal was submitted within

15 days of the enrollee's receipt of the notice of the decision by the second level review committee.

(d) The plan shall forward the complaint file within 5 business days of the Department's request. Upon confirmation that the appeal was filed within the appropriate time frame, the Department will request the complaint file from the plan.

(e) The plan and the enrollee may provide additional information for review and consideration as appropriate.

(f) Both the Department and the Insurance Department will determine the appropriate agency for the review.

(g) The Department may decide to hold an administrative hearing on the appeal. The hearing shall be conducted in accordance with the procedures in 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(h) The enrollee may be represented by an attorney or other individual before the Department.

**§ 9.706. Enrollee and provider grievance system.**

(a) A plan shall establish, operate and maintain an internal enrollee grievance system in compliance with sections 2161 and 2162 of the act (40 P. S. §§ 991.2161 and 991.2162) and this subchapter and acceptable to the Secretary, for the purposes of reviewing a denial of coverage for a health care service on the basis of medical necessity and appropriateness.

(b) The enrollee, or a health care provider with written consent of the enrollee, may file a written grievance with the plan.

(c) The plan's grievance process shall include the following standards:

(1) *First level review.*

(i) The first level grievance review shall be performed by an initial review committee which shall include one or more individuals selected by the plan. The members of the committee may not have been involved in any prior decision relating to the grievance.

(ii) The plan shall permit the enrollee or the health care provider to provide written data or other material in support of the grievance. The enrollee or health care provider may specify the remedy or corrective action being sought.

(iii) The investigation and the review of the grievance shall be completed within 30 days of receipt of the grievance.

(iv) The plan shall notify the enrollee or the health care provider of the decision of the internal review committee in writing, within 5 business days of the committee's decision. The notice shall include the basis and clinical rationale for the decision and the procedures and time frame for the enrollee or provider to file a request for a second level review of the decision of the initial review committee.

(2) *Second level review.*

(i) The second level review committee reviewing a grievance appealed to the second level of review shall be made up of 3 or more individuals who did not previously participate in the decision to deny coverage or payment for health care services. The members of the second level review committee have the duty to be unbiased in their review and decision.

(ii) The plan shall notify the enrollee or health care provider in writing of the right to appear before the second level review committee. The second level review committee shall satisfy the following:

(A) The plan shall provide reasonable flexibility in terms of time and travel distance when scheduling a second level review to facilitate the enrollee's attendance.

(B) If an enrollee or health care provider cannot appear in person at the second level review, the plan shall provide the enrollee or the health care provider the opportunity to communicate with the review committee by telephone or other appropriate means.

(C) Attendance at the second level review shall be limited to members of the review committee; the enrollee, or the enrollee's representatives, or both; the health care provider; applicable witnesses; and appropriate representatives of the plan. Persons attending and their respective roles at the review shall be identified for the record.

(iii) The deliberation of the second level review committee, including the enrollee's comments, shall be either transcribed verbatim or summarized, and maintained as a part of the grievance record to be forwarded upon appeal.

(iv) The plan shall complete the second level grievance review within 45 days of receipt of the request for the review.

(v) The plan shall notify the enrollee, or in the case of a grievance filed by a health care provider, the provider, of the decision of the second level review committee in writing within 5 business days of the committee's decision.

(vi) The plans shall include the basis and clinical rationale for the decision, and the procedures and time frames for the enrollee or the health care provider to file a request for an external grievance review in its response to the enrollee or health care provider. The decision shall be sent in a manner so that the plan can document the enrollee's or health care provider's receipt of the decision.

(3) *Same or similar specialty.*

(i) Both the initial and second level grievance review committees shall include a licensed physician or an approved licensed psychologist, in the same or similar specialty as that which would typically manage or consult on the health care service in question.

(ii) The physician or approved licensed psychologist, in the same or similar specialty, need not personally attend at the review, but shall be included in the hearing, discussion and decisionmaking by written report, telephone or videoconference.

(iii) If the licensed physician or approved licensed psychologist, in the same or similar specialty, will not be present or included by telephone or videoconference at the review attended by the enrollee or health care provider, the plan shall notify the enrollee or health care provider of that fact in advance of the review and of the enrollee or health care provider right to request a copy of the report. The plan shall provide the enrollee or the health care provider, upon written request, a copy of the report of the licensed physician or approved licensed psychologist at least 7 days prior to the review date.

**§ 9.707. External grievance process.**

(a) The plan shall establish and maintain an external grievance process by which an enrollee, or a health care provider with the written consent of the enrollee, may

appeal the denial of a second level grievance following receipt of the second level grievance review decision.

(b) The external grievance process shall adhere to the following standards:

(1) An enrollee or health care provider shall have 15 days from receipt of the second level grievance review decision to file an appeal of the decision with the plan.

(2) Within 5 business days of receiving the external grievance request, the plan shall notify the Department, the enrollee or health care provider, and a CRE that conducted the internal grievance review that a request for an external grievance review has been filed.

(3) The plan's notification to the Department shall include a request for assignment of a CRE.

(4) Along with the request, and the information in subsection (k), the plan shall provide the Department with the name, title and phone numbers of both a primary and alternative external grievance coordinator. One of these individuals shall be available to the Department so that expeditious communication may be had regarding the assignment of a CRE both for the purpose of performing external grievance reviews and of tracking the status of the reviews.

(5) The request to the Department shall include the following:

- (i) The enrollee's name, address and telephone number.
- (ii) If the external grievance is being filed by a health care provider, the health care provider shall provide both the name of the enrollee involved, and its own identifying information.
- (iii) The name of the plan.
- (iv) The enrollee's plan ID number.
- (v) A brief description of the issue being appealed.
- (vi) The remedy being sought.
- (vii) Correspondence from the plan relating to the matter in question.
- (viii) Other reasonably necessary supporting documentation.
- (ix) If the external grievance is being requested by a health care provider, verification that the plan and the health care provider have both established escrow accounts in the amount of half the anticipated cost of the review.

(6) Within 15 days of receipt of the external grievance, the plan or the CRE that conducted the internal grievance review shall forward to the CRE the written documentation regarding the denial, including the following:

- (i) The decision.
- (ii) All reasonably necessary supporting information.
- (iii) A summary of applicable issues.
- (iv) The contractual language supporting the denial including the plan's definition of "medical necessity" used in the internal grievance reviews.

(7) Within the same 15-day period as provided by paragraph (6), the plan shall provide the enrollee or the health care provider with its description of the issue, the remedy being sought by the enrollee and the list of documents being forwarded to the CRE for the external review.

(8) The enrollee or the health care provider, within 15 days of receipt of notice of appeal sent by the plan, may

supply additional information for consideration in the external review but shall route it through the plan to the CRE so that the plan has an opportunity to consider the additional information. The plan shall expeditiously provide the enrollee's or health care provider's information to the CRE.

(c) Within 2 business days of receiving a request for an external grievance review, the Department will assign a CRE from its list of CREs on a rotation basis and will provide notice of the assigned CRE to the plan and CRE.

(d) The plan shall notify the enrollee or health care provider with the name, telephone number and address of the CRE assigned within 2 business days of its receipt of that information from the Department.

(e) The Department will make available additional information from the CRE's accreditation application to the plan, the enrollee or health care provider upon request.

(f) If the Department fails to select a CRE within 2 business days of receipt of the external grievance, the plan may designate a CRE to conduct a review from the list of CREs approved by the Department. A CRE affiliated directly or indirectly with the plan may not be selected by the plan to review the external grievance.

(g) Either party may have 3 business days from the date of its receipt of the notice of assignment of the CRE to object to the CRE assigned based on conflict of interest, and may request the assignment of another CRE. If the plan chooses to object to the CRE, this does not eliminate its responsibility to provide the required information to the enrollee or health care provider within the time frames in this section.

(h) If a party objects, the Department will assign a second CRE in accordance with this subsection. The parties may object to the second CRE in accordance with this subsection.

(i) If either party objects to the second CRE assigned, the 60-day time period allowed for the CRE's review will be calculated from the date on which the CRE is accepted by both parties.

(j) The Department will assign a uniform tracking number, which shall be utilized by the plan, CRE, enrollee and health care provider to communicate with or report data to the Department.

(k) The plan shall authorize a health care service and pay a claim determined to be medically necessary and appropriate by the CRE whether or not the plan has appealed the CRE's decision to a court of competent jurisdiction.

(l) If the health care provider that filed the external grievance is not the prevailing party, the health care provider shall pay the fees and costs associated with the external grievance. If the plan is not the prevailing party, the plan shall pay the fees and costs associated with the external grievance review regardless of the identity of the grievant. For purposes of this section, fees do not include attorney's fees.

#### **§ 9.708. Grievance reviews by CRE.**

(a) The assigned CRE shall review and issue a written decision within 60 days of the filing of the request for an external grievance review request. The decision shall be sent to the enrollee, health care provider, plan and the Department. The decision shall include the basis and clinical rationale for the decision.

(b) The assigned CRE shall review the second level grievance review decision based on whether the health care service denied by the internal grievance process is medically necessary and appropriate under the terms of the plan.

(c) The assigned CRE shall review all information considered by the plan in reaching any prior decision to deny coverage for the health care service in question, and information provided under § 9.707 (relating to external grievance process).

(d) The assigned CRE's decision shall be made by either of the following:

(1) One or more physicians certified by a board approved by the American Board of Medical Specialties or the American Board of Osteopathic Specialties, practicing within the same or similar specialty that typically manages or recommends treatment for the health care service being reviewed.

(2) One or more licensed physicians or approved licensed psychologists in active clinical practice or in the same or similar specialty that typically manages or recommends treatment for the health care service being reviewed.

(e) In reviewing a grievance decision relating to emergency services, the CRE shall utilize the emergency service standards of Act 68 and this chapter, and the definition of "medical necessity" and "emergency" in the enrollee's certificate of coverage.

**§ 9.709. Expedited review.**

(a) A plan shall make an expedited review procedure available to an enrollee if the enrollee's life, health or ability to regain maximum function would be placed in jeopardy by delay occasioned by the review process in this subchapter. An enrollee may request from the plan an expedited review at any stage of the plan's review process.

(b) The plan's internal expedited review process shall be bound by the same rules and procedures as the second level grievance review process with the exception of time frames. It is the responsibility of the enrollee or the health care provider to provide information to the plan in an expedited manner to allow the plan to conform to this section.

(c) A plan shall conduct an expedited internal review and issue its decision within 48 hours of the enrollee's request for an expedited review.

(d) The notification to the enrollee shall state the basis for the decision, including any clinical rationale and the procedure for obtaining an expedited external review.

(e) The enrollee has 2 business days from the receipt of the expedited internal review decision to contact the plan to request an expedited external review.

(f) Within 1 business day of the enrollee request, the plan shall submit a request for an expedited external review to the Department by Fax transmission or telephone call. The Department will make information available to the plan to enable the plan to have direct access to a CRE on weekends and State holidays.

(g) The case will be referred to an external review entity and the Department will assign a CRE within 1 business day of receiving the request for an expedited review.

(h) When assigning a CRE, the Department will rely on information provided by the CRE as to any affiliations or contractual relationships with plans to avoid conflicts of interest.

(i) In all cases, the plan will transfer a copy of the case file to the review entity for receipt on the next business day and the CRE has 2 business days to issue a response.

(j) External expedited review decisions may be appealed to a court of competent jurisdiction.

**§ 9.710. Approval of plan enrollee complaint and enrollee and provider grievance systems.**

(a) The Department will review the plan's enrollee complaint and grievance systems under its authority to review the operations of the plan and its quality assurance systems, and complaint and grievance resolution systems, to ensure that they are satisfactory to the Secretary.

(b) If changes are made by the plan in procedure or in the description of the enrollee and provider complaint and grievance systems to ensure continued compliance, the plan shall submit a copy of the proposed changes to the Department for prior review.

(c) Complaint and grievance procedures for special populations, such as Medicaid and Medicare HMO enrollees, shall comply with Act 68 to the extent permitted by Federal law and regulation.

**§ 9.711. Alternative provider dispute resolution systems.**

(a) A plan and a health care provider may agree to an alternative dispute resolution system for the review and resolution of disputes between the health care provider and the plan. These disputes include denials based on procedural errors and administrative denials involving the level or types of health care service provided.

(b) Procedural errors and administrative denials in which the enrollee is held harmless by virtue of the provider contract or when the enrollee has never been advised by the plan in writing that continued health care services would not be covered benefits, will not be automatically viewed as grievances for the purposes of this subchapter and may be addressed by alternate dispute systems.

(c) The alternative dispute resolution procedure shall be included in the health care provider contract with the plan, and shall be enforceable. The contract shall contain a provision that a decision from the alternative dispute resolution system shall be final and binding on both the plan and health care provider.

(d) Nothing in this subchapter precludes a plan and its participating health care providers from creating and maintaining informal dispute resolution systems aimed at expediting the review and determination of problems prior to utilization of the formal grievance procedure.

(e) To be acceptable to the Department, a proposed alternative dispute solution system shall:

(1) Be impartial.

(2) Include specific and reasonable time frames in which to initiate appeals, receive written information, conduct hearings and render decisions.

(3) Provide for final review and determination of provider grievances.

(f) An alternative dispute resolution system may not be utilized for any external grievance filed by an enrollee.

## Subchapter J. HEALTH CARE PROVIDER CONTRACTS

Sec.	
9.721.	Applicability.
9.722.	Plan and health care provider contracts.
9.723.	IDS.
9.724.	HMO-IDS provider contract.
9.725.	IDS-provider contracts.

### § 9.712. Applicability.

This subchapter applies to provider contracts between managed care plans subject to Act 68 and health care providers; HMOs subject to the HMO Act and IDSs; and IDSs and health care providers.

### § 9.722. Plan and health care provider contracts.

(a) A plan shall submit the standard form of each type of health care provider contract to the Department for review and approval prior to implementation.

(b) The plan shall submit any change or amendment to a health care provider contract to the Department 10 days prior to implementation of the change or amendment.

(c) To be approved by the Department, a health care provider contract may not contain provisions permitting the plan to sanction, terminate or fail to renew a health care provider's participation for any of the following reasons:

(1) Advocating for medically necessary and appropriate health care services for an enrollee.

(2) Filing a grievance on behalf of and with the written consent of an enrollee, or helping an enrollee to file a grievance.

(3) Protesting a plan decision, policy or practice the health care provider believes interferes with its ability to provide medically necessary and appropriate health care.

(4) Taking another action specifically permitted by section 2113 the act (40 P. S. § 991.2113).

(d) To be approved by the Department, a health care provider contract may not contain any provision permitting the plan to penalize or restrict a health care provider from discussing any of the information health care providers are permitted to discuss under section 2113 of the act or other information the health care provider reasonably believes is necessary to provide to an enrollee full information concerning the health care of the enrollee.

(e) To be approved by the Department, a health care provider contract shall include the following consumer protection provisions:

(1) Enrollee hold harmless language which survives the termination of the health care provider contract regardless of the reason for termination, and includes the following:

(i) A statement that the hold harmless language is construed for the benefit of the enrollee.

(ii) A statement that the hold harmless language supersedes any written or oral agreement currently in existence, or entered into at a later date, between the health care provider and enrollee, or persons acting in their behalf.

(iii) Language to the following effect:

"In no event including, but not limited to, non-payment by the plan, plan insolvency, or a breach of this contract, shall the provider bill, charge, collect a deposit from, seek compensation or reimbursement from, or have any recourse against the enrollee or

persons other than the plan acting on the behalf of the enrollee for services listed in this agreement. This provision does not prohibit collecting supplemental charges or co-payments in accordance with the terms of the applicable agreement between the plan and the enrollee."

(2) Language stating that enrollee records shall be kept confidential by the plan and the health care provider in accordance with section 2131 of the act (40 P. S. § 991.2131) and applicable State and Federal laws and regulations, which include:

(i) Language permitting the Department, the Insurance Department, and, when necessary, the Department of Public Welfare, access to records for the purpose of quality assurance, investigation of complaints or grievances, enforcement or other activities related to compliance with Article XXI, this chapter and other laws of the Commonwealth.

(ii) Language which states that records are only accessible to Department employes or agents with direct responsibilities under subparagraph (i).

(3) Language requiring the health care provider to participate in and abide by the decisions of the plan's quality assurance, UR and enrollee complaint and grievance systems.

(4) Language addressing any alternative dispute resolution systems.

(5) Language requiring the health provider to adhere to State and Federal laws and regulations, including State reporting requirements concerning communicable and noncommunicable diseases and conditions.

(6) Language concerning prompt payment of claims.

(7) Language requiring that the health care provider give at least 60 days advance written notice to the plan of termination of the provider contract.

(f) To be approved by the Department, a health care provider contract shall satisfy the following:

(1) Include the reimbursement method being used to reimburse a participating provider under the contract. If a provider reimbursement is subject to variability due to economic incentives, including bonus incentive systems, withhold pools or similar systems, the plan shall describe the systems and the factors being employed by the plan to determine reimbursement when the contract is submitted to the Department for review.

(2) Include no incentive reimbursement system for licensed professional health care providers which shall weigh utilization performance as a single component more highly than quality of care, enrollee services and other factors collectively.

(3) Include no financial incentive that compensates a health care provider for providing less than medically necessary and appropriate care to an enrollee.

### § 9.723. IDS.

(a) IDS contracts between the IDS and the HMO and between the IDS and the health care provider shall meet the standards of health care provider contracts in § 9.722 (relating to plan and health care provider contracts).

(b) An HMO and an IDS entering into an arrangement under this subchapter shall notify the Department in writing at least 60 days in advance of any proposed action which would result in the IDS's participating providers being unavailable to provide covered services to enrollees,

including institution of litigation, termination or nonrenewal notice by either party.

**§ 9.724. HMO-IDS provider contract.**

(a) An HMO may contract with an IDS for the provision of care by IDS participating health care providers to HMO enrollees.

(b) To avoid the necessity of renegotiation under section 8(a) of the HMO Act (40 P. S. § 1558(a)), the HMO shall provide a copy of the HMO-IDS contract for review and approval prior to implementation.

(c) Along with the HMO-IDS contract, the HMO shall provide copies of contracts between the IDS and its participating health care providers for the Department's review and approval. For the Department to approve a contract between the HMO and the IDS, the contract shall meet the following standards:

(1) An IDS, assuming financial risk from a HMO, is not required to obtain its own license to assume the risk, provided that the ultimate responsibility for provision of care to enrollees remains, as set forth in the enrollee contract, the responsibility of the HMO, unless the IDS does the following:

(i) Solicits or enrolls members in a plan that will deliver prepaid basic health care services.

(ii) Delivers prepaid basic health care services to those members.

(2) If a person or entity is delivering prepaid basic health care services to enrollees, but not soliciting or enrolling members in a plan, that person or entity is not required to obtain a certificate of authority. If the person or entity is delivering prepaid basic health care services and performing administrative services or other similar functions, but not soliciting or enrolling HMO members, that person or entity is not required to obtain a certificate of authority.

(3) The IDS shall acknowledge and agree that under no circumstance shall provision of covered services to enrollees be delayed, reduced, denied or otherwise hindered because of the financial or contractual relationship between the HMO and the IDS or between the IDS and the participating health care providers.

(4) The IDS shall acknowledge and agree that only those IDS participating health care providers who meet the HMO's credentialing and provider contracting standards may participate and provide services to enrollees and that the ultimate authority to approve or terminate IDS health care providers is retained by the HMO.

(5) The IDS shall acknowledge and agree that the HMO is required to establish, operate and maintain a health care services delivery system, quality assurance system, provider credentialing system, enrollee complaint and grievance system, and other systems meeting Department standards and that the HMO is directly accountable to the Department for compliance with the standards and for provision of high quality, cost-effective care to HMO enrollees. Nothing in the HMO-IDS contract may limit the HMO's authority or responsibility to meet standards or to take prompt corrective action to address a quality of care problem, resolve an enrollee complaint or grievance, or to comply with a regulatory requirement of the Department.

(6) The IDS shall agree to provide the HMO and the Department with access to medical and other records concerning the provision of services to enrollees by the IDS through its participating health care providers. The

IDS shall agree to permit and cooperate with onsite reviews by the Department for purposes of monitoring the effectiveness of the IDS performance of any HMO-delegated functions.

(7) The IDS shall agree that any delegation of authority or responsibility, in part or in full, for provider credentialing and relations, quality assessment, UR and other HMO functions to the IDS shall be subject to performance monitoring by the HMO and Department, and is subject to independent validation by the HMO, the Department, or an independent quality review organization or CRE approved by the Department.

(8) The IDS shall agree to collect and provide the HMO with utilization, financial and other data for the purposes of monitoring and comparative performance analysis.

(9) The IDS shall agree to comply with data reporting requirements, including encounter, utilization and reimbursement methodology required by the Department.

(10) The IDS shall obtain and maintain Department certification as a CRE if performing UR activities in Subchapter F (relating to CREs) and sections 2151 and 2152 of the act (40 P. S. §§ 991.2151 and 991.2152).

(11) The HMO-IDS contract shall contain enrollee financial hold-harmless provisions acceptable to the Department which prevent the IDS and IDS participating health care providers from billing HMO enrollees for covered services (other than authorized co-payments, co-insurance or deductibles) under any circumstances including insolvency of the HMO or the IDS.

(12) The HMO-IDS contract shall safeguard patient access to care and avoid significant disruption of service delivery by adequately providing for continuation of services by IDS participating health care providers to HMO enrollees if the HMO-IDS contractual agreement is in any way jeopardized, suspended, terminated or unexpectedly not renewed. In the event of termination, the HMO shall ensure continuity of care for those affected enrollees, under Act 68 and § 9.684 (relating to continuity of care).

(13) The HMO-IDS contract shall contain a provision allowing either party to terminate without cause upon at least 60 days prior written notice.

(14) Any delegation of medical management shall meet the requirements of § 9.675 (relating to delegation of medical management).

**§ 9.725. IDS-provider contracts.**

In addition to the HMO-IDS contract, the health care provider contracts between the IDS and its participating health care providers shall be submitted for review and approval to the Department. To secure Department approval of a contract between the HMO and the IDS, an IDS-health care provider contract shall meet the following standards:

(1) The health care provider shall acknowledge and agree that nothing in the IDS-provider contract limits the following:

(i) The authority of the HMO to ensure the health care provider's participation in and compliance with the HMO's quality assurance, utilization management, enrollee complaint and grievance systems and procedures or limits.

(ii) The Department's authority to monitor the effectiveness of the HMO's system and procedures or the extent to which the HMO adequately monitors any function delegated to the IDS, or to require the HMO to

take prompt corrective action regarding quality of care or consumer grievances and complaints.

(iii) The HMO's authority to sanction or terminate a health care provider found to be providing inadequate or poor quality care or failing to comply with HMO systems, standards or procedures as agreed to by the IDS.

(2) An IDS health care provider shall acknowledge and agree that any delegation by the HMO to the IDS for performance of quality assurance, utilization management, credentialing, provider relations and other medical management systems shall be subject to the HMO's oversight and monitoring of IDS performance.

(3) An IDS health care provider shall acknowledge and agree that the HMO, upon failure of the IDS to properly implement and administer the systems, or to take prompt corrective action after identifying quality, enrollee satisfaction or other problems, may terminate its contract with IDS, and that as a result of the termination, the health care provider's participation in the HMO may also be terminated.

(4) The IDS provider contract shall contain enrollee financial hold-harmless provisions acceptable to the Department which prevent the IDS and an IDS participating health care provider from billing HMO enrollees for covered services (other than authorized co-payments, co-insurance, or deductibles) under any circumstances including insolvency of the HMO or the IDS.

**Subchapter K. CREs**

Sec.	
9.741.	Applicability.
9.742.	CREs.
9.743.	Content of an application for certification as a CRE.
9.744.	CREs participating in internal and external grievance reviews.
9.745.	Responsible applicant.
9.746.	Fees for certification and recertification of UR entities.
9.747.	Department review and approval of a certification request.
9.748.	Maintenance and renewal of CRE certification.

**§ 9.741. Applicability.**

This subchapter sets standards for the certification of CREs and the maintenance of that certification.

**§ 9.742. CREs.**

(a) To conduct UR activities, including review of health care services delivered or proposed to be delivered in this Commonwealth for or on behalf of a plan, an entity shall be certified as a CRE by the Department.

(b) Certification shall be renewed every 3 years unless otherwise subjected to additional review, suspended or revoked by the Department. The Department may subject a CRE to additional review, suspend or revoke certification if it determines that the CRE is failing to comply with Act 68 and this chapter.

(c) A licensed insurer or a plan with a certificate of authority shall comply with section 2152 of the act (40 P. S. § 991.2152), but is not required to obtain separate certification as a CRE.

**§ 9.743. Content of an application for certification as a CRE.**

(a) A CRE seeking certification shall submit two copies of the Department's application to the Department's Bureau of Managed Care.

(b) The Department may make changes to the application form. The changes shall be published in the *Pennsylvania Bulletin* at least 30 days prior to the effective date of the changes.

(c) The application shall contain the following:

(1) The name, address and telephone number of the entity as it should appear on the Department's official list of certified CREs.

(2) Information relating to its organization, structure and function, including the following:

(i) The location of the principal office handling UR.

(ii) The articles of incorporation and bylaws, or similar documents regulating the internal affairs of the applicant.

(iii) The name of each owner of more than 5% of the shares of the corporation, if the applicant is a public corporation.

(iv) A chart showing the internal organization of the applicant's management and administrative staff.

(3) The names and resumes of each officer, director and senior management.

(4) A listing of each plan in this Commonwealth for which the applicant currently conducts UR.

(5) A description of the applicant's:

(i) Ability to respond to each telephone call received as required by section 2152 of the act (40 P. S. § 991.2152), including toll-free telephone numbers and the applicant's system to provide access during nonbusiness hours.

(ii) Acceptable selection and credentialing procedures and criteria for physician and psychologist clinical peer reviewers.

(iii) Ability to arrange for a wide range of health care providers to conduct reviews. The applicant shall have access to a pool of clinical peer reviewers sufficient to reasonably assure that appropriately qualified reviewers will be available on a timely basis.

(iv) Procedures for protecting the confidentiality of medical records and certification that the applicant will comply with the confidentiality provisions in section 2131 of the act (40 P. S. § 991.2131) and other applicable State and Federal laws and regulations imposing confidentiality requirements.

(v) Procedures to ensure that a health care provider is able to verify that an individual requesting information on behalf of the plan is a representative of the plan.

(vi) Capacity to maintain a written record of UR decisions adverse to enrollees for at least 3 years, including a detailed justification and the required notifications to the health care provider and enrollee.

(vii) Evidence of approval, certification or accreditation received by a Nationally recognized accrediting body in the area of UR, if it has secured the approval, certification or accreditation.

(viii) The length of time the applicant has been operating in this Commonwealth, if applicable.

(ix) A list of three clients for which the applicant has conducted UR including the name, address, position and telephone number of a contact person for each client. The Department may contact these references for an assessment of the applicant's past performance and its ability to meet the timeframes for prospective, concurrent and retrospective UR in section 2152 of the act.

(d) The applicant shall certify that:

(1) Decisions resulting in a denial shall be made by a licensed physician in a same or similar specialty to the health care provider of the service in question.

(2) An approved licensed psychologist in a same or similar specialty to the health care provider of the service

in question, if the review is of behavioral health services within the psychologist's scope of practice, and the psychologist's clinical experience provides sufficient experience to review that specific behavioral health care service. A licensed psychologist may not review the denial of payment for a health care service involving inpatient care or a prescription drug.

(3) Compensation from a plan to a CRE, employee, consultant or other person performing UR on its behalf does not contain incentives, direct or indirect, to approve or deny payment for the delivery of any health care service.

**§ 9.744. CREs participating in internal and external grievance reviews.**

(a) To be certified to review internal and external grievances, the applicant shall supply the following additional information to the Department for review, along with the application:

(1) The name and type of business of each corporation, affiliate or other organization that the applicant controls; the nature and extent of the affiliation or control; and a chart or list clearly identifying the relationship between the applicant and affiliates.

(2) The name, title, address and telephone number of a primary and at least one backup designee with whom the Department may communicate regarding assignment of external grievances and other issues.

(3) A disclosure of any potential conflict of interest which would preclude its review of an external grievance—for example, ownership of or affiliation with a competing plan or other health insurance company.

(4) A description of the applicant's:

(i) Capacity and procedures for notifying the health care provider of additional facts or documents required to complete the UR within 48 hours of receipt of the request for review.

(ii) Systems and procedures, including staffing and resources, to meet the time frames for decisions as specified in section 2152 of the act (40 P. S. § 991.2152). The applicant shall have access to a pool of clinical peer reviewers sufficient to reasonably assure that appropriately qualified reviewers will be available on a timely basis for internal and external grievance reviews.

(iii) Capability and agreement to receive and decide all external grievances, or just behavioral health grievances if so desired, and the process for ensuring that clinical peer reviewers, when making an external appeal determination concerning medical necessity, consider the clinical standards of the health care plan, the information provided concerning the enrollee, the attending physician's recommendation and applicable generally accepted practice guidelines developed by the Federal government, National or professional medical societies, boards and associations.

(iv) The capacity, procedures and agreement to maintain the information obtained in the review of the grievances, including outcomes, for at least 3 years in a manner that is confidential and unavailable to any affiliated entity or person who may be a direct or indirect competitor to the plan being reviewed.

(v) A fee schedule for the conduct of grievance reviews. An applicant will not be certified as CRE unless the proposed fees for external reviews are determined to be reasonable by the Department.

(5) A certification that the following conditions apply:

(i) The CRE is willing and able to participate on a rotational basis in grievance reviews.

(ii) Internal and external grievances and expedited grievances will be reviewed and processed in accordance with Act 68 and Subchapter F (relating to complaints and grievances).

(b) The Department will add the name of each certified CRE to its rotational list of CREs certified to conduct external grievances.

**§ 9.745. Responsible applicant.**

(a) To be certified by the Department, an applicant for certification to perform UR seeking certification shall be a responsible person.

(1) To make this determination, the Department may review and verify the credentials of any officer, director or member of the management staff of the applicant.

(2) The Department may consider whether any of the officers, directors or management personnel have ever:

(i) Filed for bankruptcy.

(ii) Been convicted of a state or Federal offense related to health care.

(iii) Been listed by a state or Federal agency as debarred, excluded or otherwise ineligible for state or Federal program participation.

(iv) Been convicted of a criminal offense which would call in to question the individual's ability to operate a CRE.

(v) Have a history of malpractice or civil suits, penalties or judgments against them.

(b) To be determined a responsible person, an applicant shall demonstrate to the Department that it has the ability to perform URs and grievance reviews based on medical necessity and appropriateness, without bias.

**§ 9.746. Fees for certification and recertification of CREs.**

(a) A CRE applying for certification shall include a fee of \$1,000 payable to the Commonwealth of Pennsylvania with its application. Applicants seeking certification for external grievance reviews shall include an additional \$1,000. By \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this proposal.*) each CRE that is already certified by the Department shall pay the fee to the Department.

(b) The fee for recertification is \$500.

**§ 9.747. Department review and approval of a certification request.**

(a) The Department will review the application for certification as a CRE. If the Department finds deficiencies, it will notify the applicant, identifying the changes required to bring the applicant into compliance.

(b) The Department will have access to the applicant's books, records, staff, facilities and other information it finds necessary to determine an applicant's compliance with Act 68 and this subchapter. In lieu of a site visit and inspection, the Department may accept accreditation of the applicant by a Nationally recognized accrediting body whose standards meet or exceed the standards of Act 68 and this subchapter.

(c) If the applicant is not accredited by a Nationally recognized accrediting body whose standards are acceptable to the Department, the Department may provide the applicant with the option to undergo an onsite inspection



by a Nationally recognized accrediting body whose standards meet or exceed the standards of Act 68 and this subchapter. The cost of the inspection shall be borne by the applicant.

**§ 9.748. Maintenance and renewal of CRE certification.**

(a) *Maintenance.* To determine whether a CRE is complying with Act 68 and this subchapter, and maintaining its certification during the 3-year certification period, the Department may do one or more of the following:

- (1) Perform periodic onsite inspections.
- (2) Require proof of the CRE's continuing accreditation by a Nationally recognized accrediting body whose standards meet or exceed the standards of Act 68 and this subchapter.
- (3) Require an onsite inspection as set forth in § 9.747 (relating to Department review and approval of a certification request).

(b) *Renewal.*

- (1) A CRE shall submit an application for renewal of certification to the Department along with the appropriate renewal fee at least 60 days prior to the expiration of the 3-year certification period.
- (2) The renewal application shall include the following:
  - (i) Evidence of the CRE's continued accreditation by a Nationally recognized accrediting body whose standards meet or exceed the standards of Act 68 and this subchapter.
  - (ii) A certification that the CRE has complied with and will continue to comply with Act 68 and this subchapter.
  - (iii) An updating of the CRE's originally filed list of conflicts of interest and CRE contracts with plans.
  - (iv) A reaffirmation of certifications included in the CRE's original application.
- (3) The Department may perform an onsite inspection at the CRE before approving renewal of certification, or may require an onsite inspection set forth in § 9.747.

**Subchapter L. CREDENTIALING**

Sec.  
9.761. Provider credentialing.

**§ 9.761. Provider credentialing.**

(a) A plan shall establish and maintain a health care provider credentialing system to evaluate and enroll qualified health care providers for the purpose of creating an adequate health care provider network. The credentialing system shall include policies and procedures for the following:

- (1) Initial credentialing.

(2) Recredentialing at least every 2 years.

(3) Including in the initial credentialing and recredentialing process, a plan assessment of the participating health care providers' ability to provide urgent care appointments, routine appointments and routine physical examinations to enrolled patients, and their ability to enroll additional patients in the practice in accordance with standards adopted by the plan.

(4) Inclusion of enrollee satisfaction and quality assurance data in the recredentialing review.

(5) Restrictions or limitations.

(6) Termination of a health care provider's participation.

(7) In cases of denial or nonrenewals, notification to health care providers that includes a clear rationale for the decision.

(8) Evaluating credentials of health care providers who may be directly accessed for obstetrical and gynecological care.

(9) Evaluating credentials for specialists who are being requested to serve as primary care providers, including standing referral situations, to ensure that access to primary health care services remain available throughout the arrangement.

(b) The plan shall submit its credentialing plan to the Department prior to implementation. Changes to the credentialing plan shall also be submitted to the Department prior to implementation.

(c) A plan may meet the requirements of this section by establishing a credentialing system that meets or exceeds standards of a Nationally recognized accrediting body acceptable to the Department. The Department will publish a list of these bodies annually in the *Pennsylvania Bulletin*.

(d) A plan may not require full credentialing of nonparticipating health care providers providing health care services to new enrollees under the continuity of care provision. A plan may require verification of basic credentials such as licensure, malpractice insurance, hospital privileges and malpractice history as basic terms and conditions.

(e) Upon written request, a plan shall disclose relevant credentialing criteria and procedures to health care providers that apply to become participating providers or who are already participating.

(f) A plan shall comply with section 2121 of the act (40 P. S. § 991.2121).

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