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PENNSYLVANIA BULLETIN

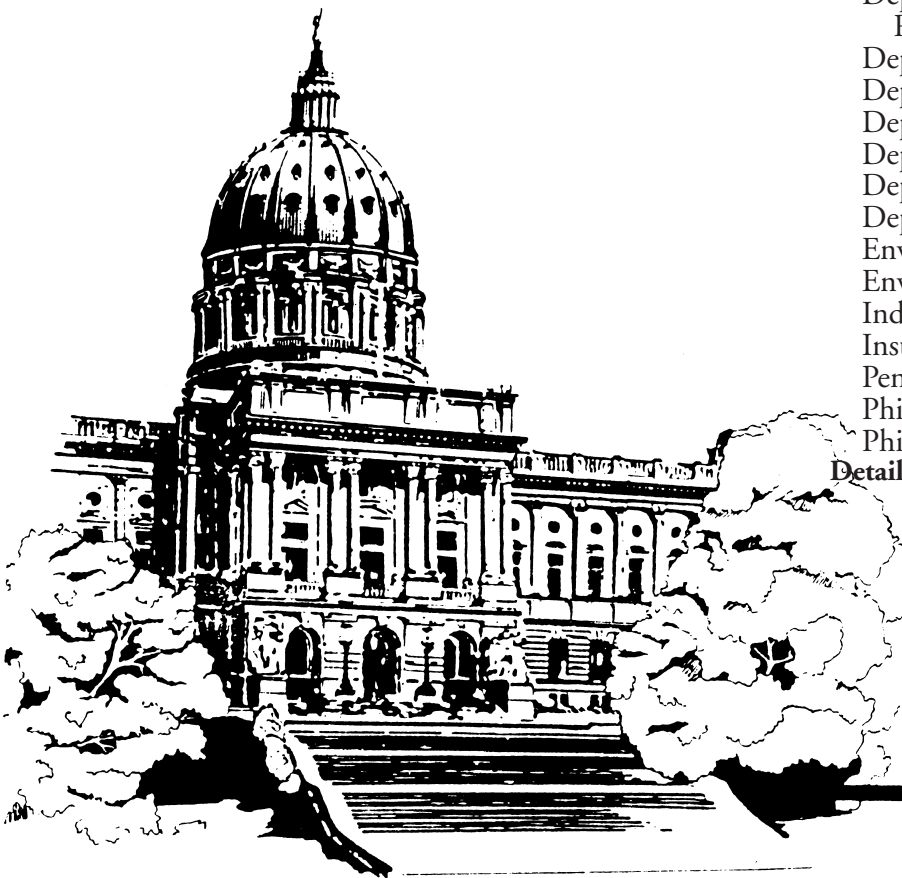
Volume 46
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Number 45
Pages 6957—7150

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Human Services' Home and
Community-Based Supports and Licensing
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**Latest Pennsylvania Code Reporter
(Master Transmittal Sheet):**

No. 504, November 2016

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Pennsylvania Bulletin

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

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

Second, the *Pennsylvania Bulletin* also publishes: Governor's Executive Orders; State Contract Notices; Summaries of Enacted Statutes; Statewide and Local Court Rules; Attorney General Opinions; Motor Carrier Applications before the Pennsylvania 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 when the agency may omit the proposal step; it 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, it must repropose.

Citation to the *Pennsylvania Bulletin*

Cite material in the *Pennsylvania Bulletin* by volume number, a page number and date. Example: Volume 1, *Pennsylvania Bulletin*, page 801, January 9, 1971 (short form: 1 Pa.B. 801 (January 9, 1971)).

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* is available at www.pacode.com.

Source Notes give the history of regulations. 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*.

A chronological table of the history of *Pennsylvania Code* sections may be found at www.legis.state.pa.us/cfdocs/legis/CH/Public/pcde_index.cfm.

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. The *Pennsylvania Bulletin* is available at www.pabulletin.com.

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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 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. A fiscal note provides 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 5 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 5 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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THE COURTS

Title 255—LOCAL COURT RULES

WESTMORELAND COUNTY

Increase in Clerk of Courts' Fees; No. 820 MD 2016

Approval

And Now, This 18th of October, 2016, pursuant to 42 Pa.C.S.A. § 1725.4(a)(2), the Westmoreland County Clerk of Courts' request to increase fees and charges effective November 1st, 2016 is approved at a level not to exceed 2.9%. The amount of this approval is the calculated percentage difference in the consumer price index for Urban Wage Earners and Clerical Workers for the U.S. city average, all items, not seasonally adjusted, for the benchmarks of 2013 through 2015, the immediate three years preceding the last increase,

By the Court

RICHARD E. McCORMICK, Jr.,
President Judge

Fee Increase Notice

In accordance with Act 36 of 2000 that amends Title 42, Section 1725.4 the Westmoreland County Clerk of Courts Fee Schedule will increase 2.9% effective November 1st, 2016.

The 2.9% increase is based upon the U.S. Department of Labor-Bureau of Labor Statistics-Consumer Price Index for Urban Workers (not seasonally adjusted), for the time period of January 2013 through December 2015.

The following are the Clerk of Courts fees adjusted November 1st, 2016.

1. A fee of \$221.30 will be collected for all proceedings in all misdemeanor and felony cases disposed of at any time during or after trial.
2. A fee of \$165.90 will be collected for all proceedings in all misdemeanor and felony cases disposed of before trial.
3. A fee of \$33.10 for all proceedings in summary matters.
4. A fee of \$11.00 for all certifications
5. A fee of \$22.00 for all other matters filed in the office and for all reports prepared by the clerk except that no fee shall be charged for filing township and borough audit reports or transcripts received which indicate a final disposition by the district justice.
6. A fee of \$55.20 for the filing of an appeal from a summary conviction before a district justice.
7. A fee of \$66.30 for an appeal from the court of common pleas to an appellate court.
8. A fee of \$0.065 per dollar for the first \$1,000 and \$0.025 per dollar for each additional \$1,000 or fraction thereof for the handling of money paid into court.

These fees are subject to change every three years based on Act 36 of 2000.

[Pa.B. Doc. No. 16-1897. Filed for public inspection November 4, 2016, 9:00 a.m.]

YORK COUNTY

Amendment of Local Rules of Juvenile Procedure; CP-67-AD-0031-2016

Administrative Order Amending York County Local Rules of Juvenile Procedure

And Now, this 19th day of October, 2016, it is *Ordered* that York County Local Rules of Juvenile Procedure are hereby amended as follows, effective January 1, 2017:

New rules 102, 167, and 1210 are *adopted*.

Existing rules 1124, 1135, 1167, 1331, and 1604 are amended as indicated.

Existing rules 1101, 1102, 1120, and 1200 are rescinded.

The District Court Administrator shall publish this order as may be required.

By the Court

JOSEPH C. ADAMS,
President Judge

York R.J.C.P. 102. Citing the Juvenile Court Procedural Rules.

These Rules shall be known as the York County Rules of Juvenile Court Procedure and may be cited as "York R.J.C.P. ___".

(new rule effective 01/01/2017)

York R.J.C.P. 167. Filings and Service of Court Orders and Notices.

Pursuant to Pa.R.J.C.P. 167(B), the court, court chambers staff, the clerk of courts, the district court administrator, the department of probation services, and the solicitor for the office of children, youth and families are all authorized to perform service of any document upon any party.

(new rule effective 01/01/2017)

[YCDep. 1101. Liberal Construction and Application of Rules.

A. These rules shall be liberally . . .

. . .

C. The court may suspend the . . . that the order is inconsistent.]

(rescinded in its entirety effective 01/01/2017)

[YCDep. 1102. Title and Citation of Rules.

These Rules shall be known . . . may be cited as "YCDep. ___".]

(rescinded in its entirety effective 01/01/2017)

[YCDep. 1120. Definitions.

Unless otherwise expressly stated, as . . . and deputies and employees thereof.]

(rescinded in its entirety effective 01/01/2017)

[YCDep.] York R.J.C.P. 1124. [Service of] Summons.

A summons and any application, including an application for emergency custody, filed on behalf of the Agency may be served by counsel for the Agency, in any manner provided in Pa.R.J.C.P. [1124(B)] 1124(B) or Pa.R.J.C.P. [1331B] 1331(B). An affidavit of service shall be filed with the Clerk of Courts prior to the proceeding.

(amended effective 01/01/2017)

[YCDep.] York R.J.C.P. 1135. Captions[, Form and Filing of Applications, Papers and Affidavits:].

[(A)] (A) All pleadings, applications, documents and affidavits which are not expressly regulated as to form by Act of Assembly or are forms or documents routinely used or prepared by the courts or court-related agencies, shall conform to the Pennsylvania Rules of Juvenile Court [— Dependency], and to these Rules.

[(1)] (1) An application for emergency custody shall have attached to it a cover sheet containing such information and shall be in such form as the first page of the form Dependency Petition recommended by the Administrative Office of Pennsylvania Courts.

(2) A petition for dependency shall contain at least as much information and shall be in such form as the form Dependency Petition recommended by the Administrative Office of Pennsylvania Courts. (Note: See www.aopc.org and select "UJS Forms", then "Dependency Forms".)

(3) (1) The original of all pleadings, applications, documents and affidavits, and any responses thereto, except forms preprinted by the court, to be presented to and filed with the Court, shall be [backed by and] securely fastened in a document cover [using binder clips]. No original document shall be fastened with staples.

[(4)] (4) The use of plastic strips is prohibited.

(5) (2) Exhibit tabs, if any, shall be placed at the bottom of a document.

[(6)] (3) Filings already of record may be referenced in any subsequent document to be filed, but shall not be attached to the original document to be filed.

[(7)] (7) Copies of any documents to be provided to the court and opposing parties shall have staples securely covered with no sharp or protruding edges of any kind.

(8) The first page of any document, other than a petition for dependency and the cover page for an application for emergency custody, to be presented to and filed with the Court shall have a three inch margin at the top of the first page, and each subsequent page shall have at least a two inch margin at the top of the page.]

[(B)] (B) Any document signed by a party for filing shall contain under the signature line the name, address, and telephone number of the party, and the facsimile number, e-mail address, and, if applicable, Pennsylvania or other state bar identification number. When listing the bar identification number, the state's postal abbreviation shall be used as a prefix (e.g., PA 12345; NY 246810).

(C) Any party filing an application or other document which requires the signature of a judge or action by the court, **including an emergency custody application filed in a dependency action or a dependency petition**, shall first file the original document with the clerk of courts.

[(1)] (1) The moving party shall cause a copy of the document requiring action to be delivered to the Court Administrator for assignment to a judge.

(2)] An original proposed order, with a brief title describing the nature of the proposed order (as examples: "Summons", "Order Scheduling Hearing," etc.) shall accompany each document, but shall not be fastened [together] to the other documents. [No proposed orders shall be filed with the Clerk with the original application.

(3) Sufficient copies of the proposed order for conforming, for return to the applicant and for service on all other parties shall accompany each document delivered to the Court Administrator for assignment to a judge.

(4) Once a document is considered by a judge, the original of any resulting summons, order or notice shall be filed by the judge with the Clerk and the judge shall make copies of the summons, order or notice available for return to the moving party for service on all other parties.

D] (D) Documents shall not be sent by facsimile to a judge or to the district court administrator without leave of court.

(amended effective 01/01/2017)

[YCDep. 1167B] York R.J.C.P. 1167. Filings and Service of Court Orders and Notices.

[Notices of hearings or other court proceedings may be served by counsel for the Agency in any manner provided in Pa.R.J.C.P. 1167B(3).] Pursuant to Pa.R.J.C.P. 1167(B), the court, court chambers staff, the clerk of courts, the district court administrator, the department of probation services, and the solicitor for the office of children, youth and families are all authorized to perform service of any document upon any party. An affidavit of service shall be filed with the clerk of courts prior to the proceeding.

(amended effective 01/01/2017)

[YCDep. 1200. Commencing Proceedings.

A. Proceedings commenced by the filing . . .

. . .

D. In the event that an . . . time, by the Court Administrator.]

(rescinded in its entirety effective 01/01/2017)

York R.J.C.P. 1210. Order for Protective Custody.

Counsel for the office of children, youth and families shall file any application for emergency protective custody and a proposed order with the clerk of courts. Unless filed electronically, the application shall be accompanied by a clerk's rush form. If the moving party obtained an oral order, the application of emergency protective custody must be filed prior to 4:00 p.m. the next business day after the order was orally issued.

(new rule effective 01/01/2017)

[YCDep.] York R.J.C.P. 1331. Service of Petition.

A petition filed on behalf of the [Agency] office of children, youth and families may be served by [counsel for the Agency in any manner provided in Pa.R.J.C.P. 1331B. An affidavit of service shall be filed with the Clerk prior to the adjudicatory hearing] that office's solicitor.

(amended effective 01/01/2017)

[YCDep.] York R.J.C.P. 1604. [Service of Foster Parent Reports] Submission of Reports—Designation by President Judge.

[A report required to be served on parties pursuant] Pursuant to Pa.R.J.C.P. [1604 shall be served upon the Clerk of Courts, or the Clerk's designee or such other person that the President Judge may designate from time to time by administrative order] 1604(B), the clerk of courts is designated to receive reports, including resource parent reports.

(amended effective 01/01/2017)

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JUDICIAL CONDUCT BOARD

Statement of Policy Regarding Disqualification Based on Campaign Contributions Under Rule 2.11(A)(4)

The Judicial Conduct Board adopted a Statement of Policy Regarding Disqualification Based on Campaign Contributions Under Rule 2.11(A)(4), effective October 5, 2016.

Judicial Conduct Board Statement of Policy Regarding Disqualification Based on Campaign Contributions under Rule 2.11(A)(4)

The Code of Judicial Conduct (Code) and the Rules Governing Standards of Conduct of Magisterial District Judges (Rules) were adopted by the Supreme Court in 2014. With the 2017 judicial election cycle approaching, the Board thought it appropriate to provide guidance on the topic of campaign contributions and the issue of disqualification as addressed in Rule 2.11(A)(4) of the Code and Rules. Many judicial officers at all levels of Pennsylvania's judiciary have asked questions relating to the operation of this rule and how the Board will interpret and enforce it. For these reasons, the Board has adopted this "Statement of Policy" which sets forth the Board's tentative intention with respect to how it will interpret and enforce this rule in the future. While the Board seeks to provide guidance with the issuance of this Statement of Policy, it is noted that it does not have the force and effect of law and is binding on neither the members of the judiciary nor the Board.

Executive Summary

- When faced with a question of recusal or disqualification under Rule 2.11(A)(4), the nature of the inquiry is an objective one involving the public perception of large contributions and their effect on the judge's ability to be impartial. If the amount of a contribution to a judicial

candidate's campaign raises a reasonable concern about the fairness or impartiality of the judge's consideration of a case involving the contributor, disqualification is required.

- The focus of any inquiry under Rule 2.11(A)(4) is the contributions received by the campaign of the judge whose ability to preside is questioned.

- There is no amount specified in Rule 2.11(A)(4) over which disqualification is required.

- Regardless of proportional relationship to other contributions or the total amount raised, large contributions will raise reasonable concerns about the judge's fairness based on the size alone and will trigger the assessment required under Rule 2.11(a)(4) and the Board will look unfavorably upon a judge's strained views of the public perception of such large contributions.

- Disqualification under Rule 2.11(A)(4) is subject to informed waiver by the parties and their attorneys.

- A contribution of several thousand dollars will almost always require an analysis of whether disqualification is warranted; but such analysis may be avoided if the contribution is disclosed and the parties and their attorneys waive disqualification.

- Judges are not required to review their campaign finance reports to determine if they are disqualified, but that may be the prudent practice as judges may not remain purposely ignorant of campaign contributions in order to avoid compliance with Rule 2.11(A)(4).

- While there is no specific look-back period in Rule 2.11(A)(4), the effect of contributions will generally dissipate over time. The larger the contribution, the longer it will take to dissipate.

- Disqualification is not required under Rule 2.11(A)(4) simply because the amount of a contribution exceeds the amount that must be reported as a gift on the judge's statement of financial interests.

- Contributions from several lawyers from the same law firm must be aggregated when conducting the assessment required by Rule 2.11(A)(4).

General Principles and Observations

Rule 2.11, relating to disqualification, provides, in pertinent part:

(A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances:

* * * * *

(4) The judge knows or learns that a party, a party's lawyer, or the law firm of a party's lawyer has made a direct or indirect contribution(s) to the judge's campaign in an amount that would raise a reasonable concern about the fairness or impartiality of the judge's consideration of a case involving the party, the party's lawyer, or the law firm of the party's lawyer. In doing so, the judge should consider the public perception regarding such contributions and their effect on the judge's ability to be fair and impartial. There shall be a rebuttable presumption that recusal or disqualification is not warranted when a contribution or reimbursement for transportation, lodging, hospitality or other expenses is equal to or less than the amount required to be reported as a gift on a judge's Statement of Financial Interest.

Code of Judicial Conduct, Canon 2, Rule 2.11(A)(4); Rules Governing Standards of Conduct of Magisterial District Judges, Canon 2, Rule 2.11(A)(4).

As drafted, the overriding emphasis of the rule is the appearance that the amount of a campaign contribution might raise a concern about the judge's impartiality. That this is the preeminent concern of the rule is evidenced by the fact that the word "impartiality" or "impartial" appears three times in the rule. As used in the Code and Rules, "impartial" or "impartiality" means "absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a judge." Code of Judicial Conduct, Terminology, Impartial, impartiality, impartially; Rules Governing Standards of Conduct of Magisterial District Judges, Terminology, Impartial, impartiality, impartially.

The rule starts with the imperative that "[a] judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned." Legal commentators have suggested that a simple application of this principle would dictate the proper result in most cases of disqualification occasioned by campaign contributions, noting that whether "impartiality 'might reasonably be questioned' . . . turn[s] on whether [a judge's] participation would create the appearance of partiality in the mind of a reasonable, fully informed, objective observer." Geyh, Alfini, Lubet and Shaman, *Judicial Conduct and Ethics (Fifth Ed.)*, § 4.16 Campaign Contributions, 4-73 (LexisNexis 2013).

The directive that a judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned is then followed by a non-exhaustive list of "circumstances" requiring disqualification, including the circumstance listed in subsection (A)(4) where "[t]he judge knows or learns that a party, a party's lawyer, or the law firm of a party's lawyer has made a direct or indirect contribution(s) to the judge's campaign in an amount that would raise a reasonable concern about the fairness or impartiality of the judge's consideration of a case involving the party, the party's lawyer, or the law firm of the party's lawyer." This specific example where disqualification is required necessitates the judge's attention to campaign contributions from parties, their lawyers and their law firms of which the judge learns or has knowledge and a determination of whether the size of the contribution "would raise a reasonable concern about the fairness or impartiality of the judge's consideration of" a case involving the contributing party, lawyer or law firm. Like the introductory language discussed above, this language emphasizes the objective nature of the inquiry, namely: does the contribution raise a reasonable concern about the judge's impartiality? In making this determination, the rule says that the judge "should consider the public perception regarding such contributions and their effect on the judge's ability to be fair and impartial."

The focus of the inquiry required by this rule is the contributions received by the campaign or made in support of the judge whose ability to preside is questioned. The amount of direct contributions to or indirect expenditures in support of all of the candidates for a particular judgeship is not a factor in the determination of whether a contribution raises a reasonable concern about the fairness or impartiality of a judge's consideration of a case involving a contributor. As originally drafted, the provision that would become Rule 2.11(A)(4) required inquiry into "direct or indirect contribution(s) in relation to an

election in which the judge is a candidate." The drafters of this provision suggested that a judge who was faced with a disqualification decision based on campaign contributions should consider, among other factors, "[t]he level of support or contributions given, directly or indirectly by a litigant in relation both to aggregate support (direct and indirect) for the individual judge's campaign (or opponent) and to the total amount spent by all candidates for that judgeship." Report of the Ad Hoc Committee on the Revisions to the Code of Judicial Conduct, Canon 2, Rule 2.11, Comment [7], p. 26. However, the original language was revised to its current form which directs the inquiry into "direct or indirect contribution(s) to the judge's campaign." Code of Judicial Conduct, Canon 2, Rule 2.11(A)(4); Rules Governing Standards of Conduct of Magisterial District Judges, Canon 2, Rule 2.11(A)(4). This substitution obviates the need for an examination into all the money contributed to or expended on behalf of or in opposition to all of the candidates who stood for election when the judge whose participation is under consideration was elected. The inquiry is simply: does the amount of the direct and indirect contributions to the judge's campaign raise a reasonable concern about the fairness or impartiality of the judge's consideration of a case involving the contributor who is either a party, the party's lawyer, or the law firm of the party's lawyer? If the answer is "yes," the judge is disqualified and may not sit on the case absent an informed waiver. See Code of Judicial Conduct, Canon 2, Rule 2.11(C); Rules Governing Standards of Conduct of Magisterial District Judges, Canon 2, Rule 2.11(C).

The timing of contributions and requests for disqualification have also been the subject of questions. Some have asked if there is a look-back period for campaign contributions. Different from Rule 2.13 which prohibits the appointment of a lawyer by a judge if the judge either knows or learns that the lawyer, or the lawyer's spouse or domestic partner, has contributed as a major donor to the judge's election campaign within the prior two years before the appointment, Rule 2.11(A)(4) omits any temporal limitation. Compare Code of Judicial Conduct, Canon 2, Rule 2.11(A)(4); Rules Governing Standards of Conduct of Magisterial District Judges, Canon 2, Rule 2.11(A)(4), with Code of Judicial Conduct, Canon 2, Rule 2.13(B); Rules Governing Standards of Conduct of Magisterial District Judges, Canon 2, Rule 2.13(B). However, the drafters of Rule 2.11(A)(4) suggested that "[t]he timing of the support or contributions in relation to the case for which recusal or disqualification is sought" is among the factors to consider when addressing questions under this rule. Report of the Ad Hoc Committee on the Revisions to the Code of Judicial Conduct, Canon 2, Rule 2.11, Comment [7], p. 27. Accordingly, for most campaign contributions or independent expenditures, the effects of such contribution or expenditures on a judge's impartiality, just like a judge's prior association with a law firm or governmental entity whose lawyers appear before the judge, must be presumed to dissipate over time.

However, there could be a contribution or expenditure, either directly to a judicial candidate's committee or indirectly for the benefit of the candidate, which is so large and disproportionate to the amount of money otherwise raised by the judge's campaign or the total amount of money raised and spent in the election, that any taint would never truly dissipate. This situation is exemplified by the facts of *Caperton v. Massey Coal Company*, 556 U.S. 868, 129 S.Ct. 2252, 173 L.Ed.2d 1208 (2009). There, the Court found that due process required recusal where the CEO of a coal company which was

involved in an appeal of an adverse \$50 million verdict, spent \$3 million in what would be considered indirect contributions for the benefit of a candidate for the West Virginia Supreme Court where the appeal was pending. In such a case, the judge should never sit in judgment on a case involving that supporter or his company, in the absence of an informed waiver by the parties and their counsel as provided in Rule 2.11(C).

Finally, it must be noted that, in adopting Rule 2.11(A)(4), the Supreme Court rejected the suggestion of the Model Code of Judicial Conduct that the rule establish a definite amount over which disqualification would be required. The Model Code suggests the following language: "A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances: . . . The judge knows or learns by means of a timely motion that a party, a party's lawyer, or the law firm of a party's lawyer has within the previous [insert number] year[s] made aggregate contributions to the judge's campaign in an amount that is greater than \$[insert amount] for an individual or \$[insert amount] for an entity." Relying on this suggestion, the Pennsylvania Bar Association Task Force on the Code of Judicial Conduct proposed the following rule to the Supreme Court: "A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances: . . . The judge knows or learns that a party, a party's lawyer, or the law firm of a party's lawyer has within the previous two years made aggregate contributions in support of or in opposition to the judge's campaign in an amount that is greater than \$2,500 from an individual or \$5,000 for an entity or organization." Pennsylvania Bar Association, *Report of the Task Force on the Code of Judicial Conduct*, Canon 2, Rule 2.11(A)(4), 19 (2013). The Court rejected this language in favor of the language found in the current version of Rule 2.11(A)(4) quoted above.

In light of this history, while the Board has the responsibility to interpret and apply the provisions of the Code in the first instance and in the absence of any definitive decisions of the Court of Judicial Discipline or the Supreme Court, it is not at liberty to adopt an interpretation that would establish a fixed amount which, if exceeded, would require disqualification. While such a rule would be easier to apply (and would be the easiest with which judges could comply), the Supreme Court eschewed any such fixed rule, so the Board must try to establish standards by which to apply the rule as adopted.

Interpretation and Application

Like all of the rules found in the Code of Judicial Conduct and the Rules Governing Standards of Conduct of Magisterial District Judges, Rule 2.11(A)(4) must be given a reasonable interpretation. This premise is dictated by the Code and Rules themselves. As explained in the Preambles to both sets of rules,

[t]he Rules of this Code of Conduct are rules of reason that should be applied consistently with constitutional requirements, statutes, other court rules, and decisional law, and with due regard for all relevant circumstances. The Code is to be construed so as not to impinge on the essential independence of judges in making judicial decisions.

* * * * *

Moreover, it is not intended that disciplinary action would be appropriate for every violation of the Code's

provisions. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable application of the text and should depend on such factors as the seriousness of the violation, the intent of the judge, whether there is a pattern of improper activity, and the effect of the improper activity on others or on the judicial system.

Code of Judicial Conduct, Preamble [5] and [6]; Rules Governing Standards of Conduct of Magisterial District Judges, Preamble [5] and [6]. By adopting these guidelines, the Board hopes to apply Rule 2.11(A)(4) consistently through a reasonable application of its text.

1. Amount of Contribution Requiring Disqualification

As noted above, there is no fixed amount for contributions that will automatically require a judge's disqualification. Nevertheless, there are guidelines which judge's may follow and which will focus any inquiry by the Board when faced with a campaign contribution/disqualification issue.

When a judge knows or learns that a party or the party's lawyer or law firm has contributed to the judge's campaign, the judge must make a reasonable effort to determine the amount of the contribution or contributions (as where both a party and the party's lawyer have made contributions). The judge must also determine if other members of the party's law firm or its political action committee have made contributions.

Once the amount of the contribution or contributions is known, the judge must determine if the total amount would raise a reasonable concern about the fairness or impartiality of the judge's consideration of a case involving the contributor, giving due consideration to the public perception regarding the contribution and the effect on the judge's ability to be fair and impartial. In assessing the "public perception" of the amount of the contribution, the judge should consider the amount of the contribution(s) in relation to the total amount of contributions received by the judge in the election cycle in which the contribution(s) at issue was made and decide if the amount was in line with other amounts contributed by others during the same election cycle. In some instances, the amount will be recognizably large and so disproportionate from other contributions that the size alone will raise a reasonable concern about the judge's fairness and impartiality in presiding over the matter.

In making this assessment, among the factors that the judge should consider are the office being sought when the contribution was made. For example, a judge elected as a magisterial district judge in a rural area of the Commonwealth would not be expected to raise the same amount as a judge elected to and serving on one of the Commonwealth's appellate courts. Contributions of \$2,000 might be commonplace for appellate court candidates but highly unusual in common pleas and magisterial district court campaigns. Contributions of \$1,000 might not be unusual in campaigns for common pleas candidates. Smaller contributions in the several hundred-dollar range might be the norm in contested races for magisterial district judge. The differences in the races would most likely result in a different public perception relating to the size of contributions, it being reasonably understood that a statewide appellate court campaign would attract larger contributions than a race for magisterial district judge. Generally, the Board will view contributions beyond these amounts as triggering the rule's obligations.

Such contributions in the Board's view will require an analysis under the rule by the judge and may require disqualification.

In determining the objective "public perception" of the amount of the contribution, the Board will apply a reasonable person standard and will not be guided by what some might consider reasonable by those regularly involved in political campaigns. A judge's strained view of the public perception of a sizable contribution when faced with a disqualification issue will not be considered favorably by the Board. In the Board's view, regardless of the office held by the judge, a contribution of several thousand dollars will almost always require an analysis of whether disqualification is warranted because of the public perception resulting from such a large contribution and its effect on the judge's ability to be fair and impartial. Under Rule 2.11(C), discussed below, such analysis may be avoided if the contribution is disclosed and the parties and their attorneys waive disqualification.

2. Judge's Knowledge of Contributions

Judges are not necessarily required to review their campaign finance reports from the years in which they were elected, reelected or retained in order to determine if they are disqualified from sitting on cases. Like all candidates for elective office, judicial candidates and their campaign committees are required to file periodic campaign finance reports throughout their campaigns and after the election. Those reports are available to the public, including to lawyers and litigants. The obligation to disqualify is based on what the judge "knows or learns." What a judge "knows" according to the Code and Rules is "[a]ctual knowledge of the fact in question." Code of Judicial Conduct, Terminology; Rules Governing Standards of Conduct of Magisterial District Judges, Terminology. The Code and Rules further provide, however, that "[a] person's knowledge may be inferred from the circumstances." *Id.*

Many judges do not know the identities of the people who contributed to their campaigns or the amounts contributed, having left that responsibility to their campaign committees. While judges may seek to insulate themselves in this regard in order to maintain the appearance of impartiality, they are ultimately responsible for the actions of their committees, including compliance with the Code or Rules and the applicable campaign finance laws. See Canon 4, Rule 4.4(A) and Comment [2]. The Code and Rules encourage judges to instruct their committees "to be especially cautious in connection with . . . contributions [from lawyers and others who might appear before a successful candidate], so that they do not create grounds for disqualification or recusal if the candidate is elected to judicial office. See Rule 2.11." See Canon 4, Rule 4.4, Comment [3].

Judges may not remain purposely ignorant of campaign contributions in order to avoid compliance with Rule 2.11(A)(4). They are required to sign the campaign finance reports listing all of the contributions to their campaign committees and the Board will presume that they know the amounts reported on them when confronted with claims arising under this rule. A judge's professed ignorance of a contribution from a party, the party's lawyer, or the lawyer's firm will not absolve the judge of potential liability for an infraction of this rule, particularly where the contribution or sum of the contributions is in an amount that would clearly trigger the evaluation demanded by the rule. While there is no fixed amount that triggers this obligation, judges should con-

sider the public perception when making this determination. If the amount is large by any standard, the judge must act.

Judges should keep in mind that different from a request for recusal that may be waived if not raised in a timely fashion, issues that arise under the Code and Rules are not subject to strict pleading rules. Even in the absence of a motion to recuse, if a judge sits on a case in which one of the parties or one of the lawyers or law firms involved gave a contribution in an amount that warranted analysis under this rule and that information is brought to the Board's attention after the fact, the judge may face a disciplinary inquiry and possible disciplinary action for not having conducted the proper analysis under the rule and for not having disqualified from the case. The issue at that stage is not the resolution of the case, but the public perception created by the judge sitting on the case at all because of the size of the contribution.

The Comment to Rule 2.11 explains that "[a] judge should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification." Canon 2, Rule 2.11, Comment [5]. Such a disclosure obligation would arise if the judge knows of a contribution "in an amount that would raise a reasonable concern." Any large contribution would raise a reasonable concern and, while the judge is not necessarily required to review his or her campaign finance reports from the years in which he or she was elected, reelected or retained in order to determine if he or she is disqualified from sitting on a case, that may be the better and more prudent practice. The Board will look favorably upon those situations where judges made appropriate disclosures even though the judges ultimately decided that disqualification was not required.

Of course, a party or a party's lawyer may access the judge's campaign finance reports and discover that the party's opponent or the opponent's lawyer or law firm contributed to the judge during the judge's election, reelection or retention campaign. If that information is brought to the judge's attention in a motion for recusal or disqualification or otherwise, the judge must then assess the situation because the judge has "learned" that the lawyer, law firm or party was a contributor. The judge would then be obliged to conduct the analysis discussed above.

A different situation presents itself in relation to contributions made to a sitting judge standing for retention or reelection or election to a higher court. As noted above, campaign contributions are reported periodically during the campaign and after its conclusion. If a judge's committee receives a contribution from a lawyer, law firm or litigant in a proceeding before the judge at a time before the filing of the campaign finance report on which the contribution is required to be listed, the judge may have a disclosure obligation and failure to do so could result in disciplinary action.

3. Look-back Period

As noted above, different from Rule 2.13 relating to administrative appointments which establishes a two-year period after a judge's campaign during which a judge is generally prohibited from appointing a lawyer to a position if the lawyer, the lawyer's spouse or domestic partner, has contributed as a major donor to the judge's election campaign, Rule 2.11(A)(4) contains no specific

time period. However, it is clear that the drafters of Rule 2.11 intended a limited look-back period when a judge is required to determine if he or she is disqualified because of a campaign contribution.

In enforcing this rule, the Board will presume that the effect of a contribution on a judge's impartiality will dissipate over time. However, since the alternative language proposed by the PBA Task Force would have included a two-year look-back period and that language was rejected by the Supreme Court in favor of the current verbiage in Rule 2.11(A)(4), it would be inappropriate for the Board to adopt a strict time limit. Generally speaking, however, the Board will expect judges to conduct the analysis required by this rule whenever a campaign contribution-related disqualification issue is raised in any proceeding within two years of the end of the election in which the campaign contribution was made. In examining complaints under this rule, the Board will look to the amounts of the contributions and the timing of the contributions in relation to when the matter comes before the judge.

The size of the contribution will play a role in any determination under this rule. The larger the contribution, the longer the period in which the judge will be required to consider the issue of disqualification under this rule. Concomitantly, the smaller the contribution, the shorter the period. Some contributions could be so large that the effect of the contribution on public perception will never dissipate and the judge should never sit on that contributor's cases absent an informed waiver under Rule 2.11(C).

4. Contributions in Excess of "Gift" Reporting Requirement

Rule 2.11(A)(4) clearly states that there is a rebuttable presumption that disqualification or recusal is not required if the amount of a contribution is less than the amount that a judge has to report as a gift on the judge's annual Statement of Financial Interests. For 2016, that amount is \$250. This presumption does not equate to an obligation to recuse or disqualify any time the judge knows or learns of a contribution that exceeded the amount triggering the reporting requirement. Nor does it necessarily impose any obligation on the part of the judge to disclose all contributions that exceed that amount or to conduct the analysis required by the rule.

That a judge "should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification," as explained in the Comment to Rule 2.11, does not necessarily require that the judge disclose every contribution in excess of the gift amount. Such an obligation arises only if the information might "reasonably" give rise to a motion for recusal or disqualification. In assessing whether or not disclosure or disqualification is required for a contribution of more than the gift amount requires a determination of whether the size of the contribution "would raise a reasonable concern about the fairness or impartiality of the judge's consideration of" a case involving the contributor. As explained above, this is an objective inquiry into whether the contribution raises a reasonable concern about the judge's impartiality considering the public perception regarding such contributions and their effect on the judge's ability to be fair and impartial. Disqualification is only mandated when the amount of the contribution raises "a reasonable concern about the fairness or impartiality of the judge's consideration of a case involving the party, the

party's lawyer, or the law firm of the party's lawyer." As is explained below, disqualification may be avoided by informed waiver by the parties and their attorneys.

Of course, if the judge's campaign committee only raised a small amount of money, a contribution in an amount less than or equal to the amount that must be reported on a Statement of Financial Interests as a gift might require closer examination by the judge. Like all rules of general application, the particular circumstances might change the equation and the result.

5. Contributions by Several Lawyers from the Same Law Firm

Rule 2.11(A)(4) clearly applies to contributions by the individual lawyer representing the party in court and those by the lawyers in the firm with which the lawyer is affiliated. It is possible that a judge might "know" of contributions by the lawyers in a law firm (even if the judge did not know the specific amounts), if the law firm hosted a fund-raising event for the judge during the judge's candidacy. On the other hand, the judge could "learn" of such law firm-related contributions if a party or lawyer raised the issue in a motion. In either of those circumstances, the judge would have to assess the situation under the standards set forth above, considering the amounts of the contributions from all of the lawyers in the firm. If the firm has multiple offices, the judge will have to determine the contributions from lawyers from all of the firm's offices. This results from the language of Rule 2.11(A)(4) itself and the definition of "aggregate" contained in the "Terminology" section of the New Code and Rules. To the extent possible, the judge must try to determine the total contributions from all of the lawyers in the firm of the lawyer at the time that the issue of disqualification arises. This review must include direct contributions to the judge's campaign committee (including "in-kind" contributions) and indirect contributions where the contribution is not to the judge's campaign committee, but is made with the understanding that it will be used to support the judge's election (which could include money expended to defeat the judge's opponent). In cases involving protracted litigation, the issue of disqualification based on campaign contributions to the judge may arise whenever a new lawyer enters an appearance in the case or whenever a lawyer for a party changes firms.

6. Waivers

Any disqualification under Rule 2.11(A)(4) is subject to a waiver. Rule 2.11(C) provides:

A judge subject to disqualification under this Rule, other than for bias or prejudice under paragraph (A)(1), may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification. If, following the disclosure, the parties and lawyers agree, without participation by the judge or court personnel, that the judge should not be disqualified, the judge may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.

Canon 2, Rule 2.11(C). The rule is virtually identical for magisterial district judges, except for the last sentence which states: "The agreement, in writing and signed by all parties and their lawyers, shall be attached to the record copy of the complaint form."

As noted previously, the Comment to Rule 2.11 explains that "[a] judge should disclose on the record information

that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification,” and the Board will look favorably upon those situations where judges have made appropriate disclosures even though the judges ultimately decided that disqualification was not required. In addressing possible waivers under this provisions, judges must be careful to not to ambush litigants and their lawyers. The judge should make the proper disclosure as soon as the judge becomes aware of a possible problem and must then afford the parties and their lawyers sufficient time, without involvement by the judge or court personnel, to reasonably consider the situation and decide if waiver is appropriate. For judges covered by the Code of Judicial Conduct, any agreement to waive the disqualification must be incorporated into the record of the proceeding. This may be accomplished by stating the agreement on the stenographic or other official record and having the parties and their lawyers express their assent. For those judges bound by the Rules Governing Standards of Conduct of Magisterial District Judges, since theirs are not courts of record, the agreement must be reduced to a writing signed by all the parties and their lawyers and attached to the record copy of the complaint form. If properly done before any court, such a record will ward off any future appellate challenge and will insulate the judge from disciplinary action for an alleged violation of Rule 2.11.

[Pa.B. Doc. No. 16-1899. Filed for public inspection November 4, 2016, 9:00 a.m.]

Statement of Policy Regarding Electronic Communications

The Judicial Conduct Board adopted a Statement of Policy Regarding Electronic Communications, effective October 5, 2016.

Judicial Conduct Board Statement of Policy Regarding Electronic Communications

The Code of Judicial Conduct (Code) and the Rules Governing Standards of Conduct of Magisterial District Judges (Rules) were adopted by the Supreme Court in 2014. With the recent series of misconduct claims against judges regarding their use of electronic communications, the Board thought it appropriate to provide guidance on the topic of a judicial officer’s use of electronic communications technology and its implications under the Code, the Rules, and the Pennsylvania Constitution. Many judicial officers at all levels of Pennsylvania’s judiciary have asked questions relating to the Board’s investigation of alleged judicial misconduct related to the use of electronic communications. For this reason, the Board adopted this “Statement of Policy” which sets forth the Board’s tentative intention with respect to how it will interpret and enforce the Code, the Rules, and the Constitution with respect to allegations of judicial misconduct stemming from the use of electronic communications in the future. While the Board seeks to provide guidance with the issuance of this Statement of Policy, it is noted that the Statement of Policy does not have the force and effect of law and is binding on neither the members of the judiciary nor the Board.

Section I—Definitions

“Board counsel.” Chief Counsel, Deputy Chief Counsel, deputy counsel, assistant counsel, and any special counsel

retained by the Board. The term also encompasses any investigator assigned by counsel to investigate a particular case.

“Electronic Communications.” Messages, their content, and any attached media distributed by electronic means from a person or persons utilizing a privately-owned or government-provided computer or other electronic device to one or more recipients *via* any network. As used by this Policy, the term includes, but is not limited to, emails, social media communications, postings in internet chatrooms, internet forums, and internet message boards, “blogging,” communication by applications or “apps,” text messages, and any other electronic communication disseminated by the use of a computer or other electronic device which, in whole or in part, requires a writing. The term does not include two-way aural communication.

“Illegal.” The term includes all activity prohibited by the criminal or civil laws of the Commonwealth of Pennsylvania or the United States. The term includes, but is not limited to, instances where such conduct has resulted in an investigation of a judicial officer or judicial candidate by another agency, a criminal conviction, a finding of civil liability, or any other adjudication.

“Inappropriate.” Material that is offensive to a viewer of ordinary and reasonable sensibilities. The term includes, but is not limited to, material that constitutes: legal pornography; sexually-suggestive content, including suggestive depictions of nudity short of pornography; stereotypical depictions of gender, including misogynistic material and material that relates to domestic violence, gender identity or expression, religion, sexual orientation, socioeconomic status, race or ethnicity.

“Misconduct perpetrated by electronic communications.” *Prima facie* misconduct that is supported by sufficient evidence such that the Board may conclude that there is probable cause of judicial misconduct committed by a judge through his or her use of electronic communications.

“*Prima facie* misconduct.” Conduct that, if true, would, on its face, constitute a violation of the Pennsylvania Constitution, Code of Judicial Conduct, Rules Governing Standards of Conduct of Magisterial District Judges, or an Order of the Supreme Court. The term includes, but is not limited to, improper *ex parte* communications, illegal conduct, improper partisan political activity, improper judicial comment on pending cases, membership in discriminatory organizations, and manifestations of bias.

Section II—General Overview

A. Investigation Scope and Limitations Period:

1. Generally, the scope of board counsel’s investigation will comply strictly with Judicial Conduct Board Rule of Procedure 15.¹

2. Board counsel will investigate a complaint about a judge’s electronic communications activity if it occurred while the individual was a judge or while the individual was a candidate for judge.

3. If the electronic communications activity pre-dated the individual being a judge or a candidate for judge, board counsel will investigate the complaint only if the

¹ Judicial Conduct Board Rule of Procedure 15, entitled “Time Limitations,” states the following:

Except where the Board determines otherwise for good cause, the Board shall not consider complaints arising from acts or omissions occurring more than four years prior to the date of the complaint, provided however, that when the last episode of an alleged pattern of recurring judicial misconduct arises within the four-year period, the Board may consider all prior acts or omissions related to such an alleged pattern of conduct.

alleged electronic communications activity relates to the honesty, trustworthiness, integrity, or fitness of the individual to serve as a judge.

B. Disposition:

When determining the appropriate disposition for a complaint, the Board will consider the following factors:

1. Whether the *prima facie* misconduct alleged constitutes misconduct perpetrated by electronic communications.

2. Whether the electronic communications constitute illegal conduct.

3. The degree of the judge's knowledge of and participation in electronic communications containing inappropriate or illegal content or misconduct perpetrated by electronic communications, and the judge's response, if any, to receiving such electronic communications. Relevant considerations include, but are not limited to the following:

a. Whether the judge was a sender, forwarder, or had exchanged, *i.e.*, sent and received, and/or forwarded, illegal or inappropriate electronic communications, or misconduct perpetrated by electronic communications;

b. Whether the judge was only a recipient of illegal or inappropriate electronic communications, or misconduct perpetrated by electronic communications;

c. Giving weight to the relevant facts and circumstances in a particular case, whether the judge took any

reasonable steps in response to receiving inappropriate or illegal electronic communications or misconduct perpetrated by electronic communications; and

d. If necessary, whether the judge reported inappropriate or illegal electronic communications or misconduct perpetrated by electronic communications to any appropriate criminal, investigatory, or administrative authority.

4. The frequency of any inappropriate or illegal electronic communications, and the frequency of any misconduct perpetrated by electronic communications.

5. The degree of offensiveness of the electronic communications to a viewer of ordinary and reasonable sensibilities, and its potential effects on the independence, integrity, and impartiality of the judiciary, and the public's confidence in the judiciary.

6. The nature of the illegality of any electronic communications, and its potential effects on the independence, integrity, and impartiality of the judiciary, and the public's confidence in the judiciary.

7. The nature of any misconduct perpetrated by electronic communication, and its potential effects on the independence, integrity, and impartiality of the judiciary, and the public's confidence in the judiciary.

8. Any other factor relevant to the Board's disposition discussed in Board OP 8.01.

[Pa.B. Doc. No. 16-1900. Filed for public inspection November 4, 2016, 9:00 a.m.]

RULES AND REGULATIONS

Title 12—COMMERCE, TRADE AND LOCAL GOVERNMENT

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

[12 PA. CODE CH. 145]

Industrial Housing and Components

The Department of Community and Economic Development (Department), under the authority of section 5 of the Industrialized Housing Act (act) (35 P.S. § 1651.5), amends Chapter 145 (relating to industrial housing and components) to read as set forth in Annex A. The purpose of this final-form rulemaking is to comply with the amendment to the act that expands the Department's role to include monitoring the production of industrialized buildings and clarify certain areas of the current industrialized housing regulations.

The act established uniform State standards and procedures for the identification, inspection and surveillance of the manufacture, assembly, installation and overall quality process required for certification of industrialized housing and components for use in communities in this Commonwealth. As amended, the act extends these standards and procedures to include industrialized buildings and components. The act authorizes the Department to promulgate rules and regulations, to interpret and make specific provisions of the act.

The purpose of this final-form rulemaking is to satisfy the amendments to the act requiring the Department to promulgate regulations to administer a certification program to oversee the production, installation and inspection of new industrialized buildings. Industrialized buildings that are produced under this certification program will be deemed to comply with the Pennsylvania Construction Code Act (35 P.S. §§ 7210.101—7210.1103). This type of certification program mirrors the current program established for industrialized housing.

The term "industrialized building" is used in this final-form rulemaking to capture every type of modular building being produced offsite for placement in this Commonwealth with the exception of those constructed for residential use. The factories that produce these industrialized buildings are located across the United States. Industrialized buildings are categorized in one of nine use and occupancy classifications in the ICC International Building Code: assembly (for example, theaters, restaurants and churches); business (for example, banks, United States Post Offices, certain show rooms and laboratories); educational (for example, classrooms and certain day care facilities); factory (any type of factory that is not high hazard or storage use, for example, bakeries, food processing, furniture production, millwork and machine shops); high hazard (building that house manufacturing, processing or storing materials that constitute a physical or health hazard); institutional (for example, assisted living facilities, nursing homes, certain child care facilities, correctional facilities and hospitals); mercantile (for example, department, drug and retail stores); storage (storage type buildings that are not classified as high hazard); and utility (buildings or struc-

tures accessory to a main structure, such as certain garages and possibly aircraft hangars).

Any of these industrialized buildings could be a single module possibly used as a kiosk or movable office space or a 90-module school building, medical services center or office complex, several floors high. Either of these two extremes falls under the definition of "industrialized building" if the building is produced remote from the job site.

Additionally, the manufacturers that produce these industrialized buildings are just as varied as the buildings themselves. The few industrialized building factories in this Commonwealth currently export the vast majority of their production to other states and this final-form rulemaking does not apply to production destined for other states. This final-form rulemaking only applies to buildings being produced for use in this Commonwealth. Every state in the mid-Atlantic region and New England, except Delaware, Vermont and West Virginia, already have programs in place for industrialized buildings. This final-form rulemaking utilizes the same internal quality assurance, inspection and insignia processes already in place in these facilities. Therefore, it is not expected that these producers will see any increase in costs beyond the insignia fee.

Currently, while the Pennsylvania Construction Code Act establishes the building code for all commercial buildings to be erected in this Commonwealth, the Uniform Construction Code does not make special provisions for pre-fabricated type buildings that do not allow for inspection by the code official without disassembly. This final-form rulemaking establishes a mechanism for local code officials to verify that the required inspections did occur on these buildings. While the cost impact on local government may not be measurable in terms of increased costs or savings, the ability of the municipality to know that buildings are constructed under a quality control program designed to certify code compliance will prove very valuable.

The proposed rulemaking was published at 44 Pa.B. 5026 (July 26, 2014) with a 30-day public comment period that closed on August 25, 2014. A public hearing was held on August 25, 2014. Public comments were received from eight commentators. The Independent Regulatory Review Commission (IRRC) also provided comments. The Department issued an Advanced Notice of Final Rulemaking (ANFR) and draft final-form rulemaking, which were published at 45 Pa.B. 3342 (June 27, 2015). Seven public comments were received. IRRC's first and third comments regarding the proposed rulemaking encompassed the public comments to the proposed rulemaking and the draft final-form rulemaking. Therefore, responses to all comments are included in the following responses to IRRC's comments.

Comments to Proposed and Draft Final-Form Rulemakings

IRRC's first comment to the proposed rulemaking stated that the final version of the proposed rulemaking was not presented to the Industrialized Housing Advisory Commission (IHAC) as required under section 5(a) of the act and section 8 of the act (35 P.S. § 1651.8), which require the Department to consult with and obtain advice from IHAC in the drafting and promulgation of rules and regulations adopted under the act. Section 8 of the act provides for the establishment of IHAC to consist of 15

members appointed by the Governor by and with the advice and consent of 2/3 of the members of the Senate. Section 8 of the act further provides that the term for IHAC members, other than those initially appointed, is to be 3 years. IHAC members do not receive compensation for their service as members, but receive reimbursement for necessary expenses incurred in connection with their member duties. The composition of IHAC is not addressed in the act. The only reference to duties charged to IHAC is in section 8 of the act, which provides that the Department shall consult with and obtain advice from IHAC in the drafting and promulgation of rules and regulations adopted under the act. The act does not address how often IHAC is to meet.

Although IHAC was established in section 8 of the act as originally passed in 1972, IHAC has not been formed and program staff has advised the Department of this with each change of administration. The Department formed the Industrialized Housing Advisory Group (Group) for the purpose of consulting with and obtaining advice from the Group in drafting and promulgating rules and regulations. As with previous rulemakings, the Department consulted with the Group regarding this final-form rulemaking to achieve the regulatory goals required under the act. The Group first met on January 31, 2008, and has met a total of nine times (roughly every year). There are currently 15 members of the Group. The members represent the following segments of the industry: two members from the trade associations representing the industrialized housing industry; one builder (installer) of industrialized housing; six producers of industrialized housing; one producer of industrialized buildings; one producer of industrialized buildings and industrialized housing; one engineer with industry experience; two building code officials; and one independent inspection/evaluation agency that participates in the industrialized housing program.

Additionally, the Pennsylvania Housing Research Center at the Pennsylvania State University is represented as a resource for the Group. Department program staff facilitates the Group.

The Group members were originally chosen by Department program staff based on suggestions from trade associations. Currently, when a member resigns membership, the Group will suggest a replacement. The members are not compensated or reimbursed for expenses incurred as a result of their membership and participation.

The Group was consulted multiple times during the drafting of the proposed rulemaking. The Group met on November 4, 2009, September 21, 2010, September 21, 2011, March 1, 2012, and September 6, 2012. Regional meetings were conducted on June 13, 2013, and June 18, 2013.

When it was determined that the act did not provide the necessary authority to support the amendment of Chapter 145 to include the certification of industrialized buildings and components, the act was amended by the act of May 21, 2013 (P.L. 27, No. 8) (Act 8) to authorize the proposed rulemaking. A public hearing was held on August 25, 2014. Additionally, the proposed rulemaking was e-mailed to the members of the Group on September 4, 2014, for their comments, all of which were favorable. On August 26, 2015, the Group met to discuss the rulemaking and gave their unanimous support.

However, as recommended by IRRC, to provide for the opportunity to build consensus on the language of the regulations prior to submittal of the final-form rule-

making, the Department prepared an ANFR and draft final-form rulemaking for additional public comment. Public and industry comments in response to the ANFR and draft final-form rulemaking are addressed in the following responses to the comments to the proposed rulemaking.

IRRC's first comment to the proposed rulemaking included the concern that the regulations do not address existing buildings and components and, therefore, effectively ban existing inventory without an insignia. IRRC stated that:

The regulation needs to be amended to directly address existing inventories to be consistent with the business protections established by 35 P.S. § 1651.4(d). Some of the commentators cite the language of Section 145.31(a) as the specific problem. However, given the above concern regarding consultation with IHAC, we ask the Department to review the entire regulation in consultation with the regulated community and explain how the final-form regulation complies with 35 P.S. § 1651.4(d).

In the draft final-form rulemaking, § 145.3 (relating to scope) was amended to state that Chapter 145 applies to new industrialized housing, buildings and housing or building components. In addition, § 145.31 (relating to requirement of certification) was amended to provide that Chapter 145 does not apply to industrialized housing, buildings, or housing or building components produced prior to the effective date of the final-form rulemaking. These amendments were in the ANFR and draft final-form rulemaking and thus the Department complied with IRRC's request to review the regulation with the regulated community.

This final-form rulemaking complies with the amendments to section 4(j) of the act (35 P.S. § 1651.4(j)) as amended by Act 8 mandating that the Department promulgate regulations to administer a certification program to oversee the production, installation and inspection of industrialized buildings, as opposed to industrialized housing. Thus, this regulation cannot comply with section 4(d) of the act, as section 4(d) of the act deals only with industrialized housing, not industrialized buildings. As previously stated, §§ 145.3 and 145.31 have been revised to make clear that these sections apply to industrialized housing, buildings, or housing or building components produced after November 6, 2018.

The Department received public comments from seven commentators in response to the ANFR and draft final-form rulemaking. These comments addressed the handling of relocatable, fleet type, industrialized buildings that were constructed prior to implementation of the subject certification program.

The Department has been consistent in the position that the act does not provide legislative authority to include existing relocated industrialized buildings in the regulations and that such buildings are currently addressed in the Uniform Construction Code Act.

After much discussion with the Group and other interested parties, the Modular Building Institute (MBI) offered two amendments to the draft final-form rulemaking that would satisfy their demands: add a sentence to the end of the § 145.33 (relating to manufactured homes excluded) to indicate that the definition of "residential permanent foundation" does not apply to industrialized buildings; and add a sentence to § 145.3 that states "[e]xisting industrialized buildings may continue to be

utilized in the commonwealth subject to approval of the local code official and the provisions of the existing building code.”

The Department and the Department of Labor and Industry object to the phrase “and the provisions of the existing building code” of the suggested amendment to § 145.3 because the phrase exceeds legislative authority and could cause confusion regarding which building code should be applied.

On October 22, 2015, the Department advised MBI and two of its key members that it was prepared to move forward with the final-form rulemaking incorporating its amendments, with the objectionable phrase in § 145.3 omitted. MBI advised on December 8, 2015, that they were satisfied.

Accordingly, the two previously-referenced revisions to the draft final-form rulemaking offered by MBI are made in this final-form rulemaking, with the objectionable phrase in § 145.3 omitted.

In its second comment to the proposed rulemaking, IRRC listed responses to certain questions in the Regulatory Analysis Form (RAF) that it stated should be further explained. IRRC stated that questions 19, 20 and 21 of the RAF ask for “specific estimates of the costs and/or savings.”

This final-form rulemaking has very little impact on the regulated community and no impact on local government that is measurable. The regulated community includes manufacturers of industrialized buildings that are located in North America and abroad. The intent of this final-form rulemaking is not to impact these individual producers, but rather to provide them with a clear benchmark that, when met, will indicate to the municipal code inspectors that the building in question complies with the applicable building code.

Additionally, the physical location of a manufacturing facility in this Commonwealth does not trigger any action under this final-form rulemaking. This final-form rulemaking only addresses the actual buildings produced for installation in this Commonwealth. The building code requirements for these buildings are already established by the Pennsylvania Construction Code Act. This final-form rulemaking only legitimizes the quality assurance program that every manufacturer already has in place for other states to which they ship buildings. Likewise, these manufacturers already utilize the third-party evaluation and inspection agencies that are critical to the success of this program. In essence, this final-form rulemaking utilizes processes and procedures already in place at every legitimate industrialized building production facility. The only added cost would be the very minimal cost of the Insignia of Certification (ranging from \$40 to \$90 per insignia) that will stand as evidence of compliance.

In terms of savings to the regulated community, as the 2,562 local municipalities take varied approaches to issuing buildings permits for industrialized buildings, savings may be realized in many of these municipalities based on the establishment of a uniform procedure. However, to attempt to estimate any savings would be impossible. With regard to State government, through the fees generated from Insignia of Certification, this program continues to generate sufficient revenues to cover all expenses.

The form referenced as attached in response to RAF question 22, which was inadvertently omitted upon submission of the proposed rulemaking, was attached to the RAF for the final-form rulemaking.

RAF question 24 asks for information regarding the impact on small businesses. It is important to note that this certification program will apply to producers of industrialized buildings shipping into this Commonwealth from across the United States. Some manufacturers may only produce a single project while others may routinely ship into this Commonwealth. As far as any adverse impact on small businesses, code compliance is already required for these buildings. This program only requires the manufacturers certify the buildings code compliance through an insignia.

RAF question 26 speaks to alternative provisions that may have been considered. Producers of industrialized buildings currently participate with other states that use the same approach. Also, this is the same approach utilized in the industrialized housing program, which is widely accepted and recognized for its efficient procedures.

RAF question 27 asks if special or less stringent requirements were considered for small businesses. As Chapter 145 speaks to building code compliance and the required reporting is minimal, this question is not applicable.

RAF question 28 inquires if data was the basis for this final-form rulemaking. It was not.

IRRC stated that fees were amended but not mentioned in the RAF. The certification program for industrialized buildings currently does not exist and as a result fees had to be established for this new program. Fees were adjusted for out-of-State manufacturers to cover the additional travel costs of the Department when monitoring these manufacturers. The fees imposed on current Pennsylvania-based industrialized housing manufacturers remains unchanged.

Per IRRC’s recommendation, the Department reviewed the RAF responses and provided more detailed and complete responses when possible to assist IRRC in its determination of whether the final-form rulemaking is in the public interest.

In its third comment to the proposed rulemaking, under the *Pennsylvania Code & Bulletin Style Manual*, IRRC recommended moving the definition of “permanent foundation” to the body of the regulations, since it includes substantive provisions addressing how the foundation shall be constructed. IRRC also listed comments from commentators regarding the requirements for permanent foundations.

The omission of a definition of “permanent foundation” in Chapter 145 has proven problematic for the industry and municipal code enforcers in recent years. The definition was provided by the Modular Building Systems Association and agreed upon by the Group and others involved with industrialized housing. Furthermore, this same definition is utilized by many other states. The comments received by IRRC on this issue are inaccurate. The Uniform Construction Code does not define “permanent foundation” and the definition does not require nor favor one installation approach over another. The definition was simply provided for clarity to allow consumers of industrialized housing to more efficiently obtain a mortgage for their home.

Per IRRC’s recommendation, the definition of “permanent foundation” is deleted from § 145.1 (relating to definitions) and added to § 145.33. This section provides exact language that must appear on certain documents. The definition in this final-form rulemaking was further

revised from the draft final-form rulemaking per MBI's suggestions, without changing the definition substantively.

IRRC's fourth comment to asked for additional information regarding the amendment and addition of fees in § 145.94 (relating to fees).

The \$40 insignia fees for industrialized housing and housing components produced in this Commonwealth are not changed. For clarity and simplicity, in amending § 145.94 to include industrialized buildings and building modules or components, the \$40 insignia fees for industrialized housing and housing components produced in this Commonwealth were moved from § 145.94(c) and (d) to § 145.94(e)(1) and (2), respectively. The industrialized building insignia fee is set at \$60 in § 145.94(e)(3). This is consistent with the fees charged by other states.

The industrialized building components insignia fee is set at \$60 in § 145.94(e)(4). This is consistent with the fees charged by other states. The provision allowing a manufacturer to request relief is unique to this Commonwealth and has the support of the industry.

The fees for industrialized housing and buildings produced outside of this Commonwealth are set at \$60 and \$90, respectively, in § 145.94(f). As out-of-State manufacturers require the same monitoring by the Department as those manufacturers in this Commonwealth, the fees are increased to recover the additional travel costs incurred. In the past, due to budgetary travel restrictions, out-of-State manufacturers were subjected to a lesser level of monitoring as compared to manufacturers in this Commonwealth. The Department is attempting to rectify this inequity.

In § 145.94(g), fees to the Department from manufacturers when the Department is authorized to monitor or inspect manufacturing facilities, or provide evaluation or inspection services regarding products for certification, or both, were revised from those previously in § 145.94(e) for simplification and to reflect the Department's actual costs.

It is impossible to estimate the fees to be generated through the industrialized building insignias and monitoring as this segment of the industry has not been monitored in the past. Repeated requests to the National trade association have not been answered. It is the intent of the Department to closely watch these activities to assure that sufficient funds are generated to cover all costs without causing financial hardship to the manufacturers.

Analysis

Section 145.1 is amended to provide definitions of "industrialized building or industrialized commercial building," "industrialized building component or industrialized commercial building component" and "industrialized building module." The terms "industrialized buildings" and "building components" are incorporated into the definitions of "compliance assurance program," "compliance control program," "insignia of certification," "installation," "manufacturing facility," "Notice of Approval" and "site or building site."

The definitions of "building system" and "building system documentation" are amended for clarity and to be more consistent with programs established in other states. The definition of "module" is deleted and redefined to specifically address industrialized housing or industrialized buildings. The Site Installation Inspection Report Form underwent a title change and will be a part of the

building system documentation or design package which will allow this document to be more easily modified to address changes in the building process.

The proposed definition of "permanent foundation" has been deleted from final-form § 145.1.

Section 145.2 (relating to purpose) is amended to include industrialized buildings and building components.

Section 145.3 is amended to include industrialized buildings and building components. The section was revised from the proposed rulemaking to state that Chapter 145 applies to new industrialized housing, buildings, and housing or building components. In addition, in this final-form rulemaking, this section was revised from the draft final-form rulemaking per the MBI's suggested amendment by adding the provision that existing industrialized buildings may continue to be utilized in this Commonwealth subject to approval of the local code official, without the suggested objectionable phrase as previously discussed.

Section 145.31 is amended to include industrialized buildings and building components in the requirements of certification and to eliminate unnecessary regulation. In the draft final-form rulemaking, this section was revised to provide that Chapter 145 would apply to industrialized housing, buildings, or housing or building components produced after the effective date of the final-form rulemaking. The section was then revised in this final-form rulemaking from the draft final-form rulemaking per the MBI's request by providing that Chapter 145 does not apply to industrialized housing, buildings, or housing or building components produced before November 6, 2018.

Section 145.33 is amended per IRRC's recommendation by adding the definition of "residential permanent foundation" to this section. The definition is further revised from the draft final-form rulemaking per MBI's suggestions, without changing the definition substantively.

Section 145.36 (relating to applicability of locally-enacted codes and ordinances) is amended to clarify how locally enacted codes and ordinances apply to industrialized buildings and building components.

Section 145.41 (relating to adoption of standards) is amended to address the standards to which industrialized buildings and building components would be designed and constructed. This section was also amended to comply with the act of April 25, 2011 (P.L. 1, No. 1) (Act 1) as it applies to code provisions specifically omitted from adoption under Act 1. At this time, those specifically omitted provisions include fire sprinkler systems for one-family and two-family dwellings and the wall bracing requirements provided for in the 2009 International Residential Code.

Section 145.42 (relating to alternate standards) is amended to allow for an alternate energy standard to which industrialized buildings and building components would be designed and constructed.

Section 145.51 (relating to general requirements for certification) is amended to establish the general requirements under which industrialized buildings and building components would be certified.

Section 145.53 (relating to variations) is amended to allow some variation in the building system documentation to which industrialized buildings and building components would be designed and constructed.

Section 145.54 (relating to Building System Approval Report and Summary) is amended to establish control

criteria for building systems documentation for industrialized buildings and building components.

Section 145.57 (relating to approval of compliance assurance program) is amended to establish basic requirements for a compliance control program to be approved by evaluation agencies.

Section 145.58 (relating to basic requirements for a compliance control program) is amended to establish basic requirements for a compliance control program needed for certification of industrialized buildings and building components.

Section 145.60 (relating to insignia of certification) is amended to delete unnecessary text on the insignia of certification and establish a separate insignia for industrialized buildings and building components.

Section 145.61 (relating to insignia of inspection agencies) is amended to address the attachment of the insignia of the inspection agencies for industrialized buildings and building components.

Section 145.62 (relating to data plates) is amended to establish and clarify basic requirements for data plates for industrialized housing and buildings.

Section 145.63 (relating to procedures for requesting, controlling and attaching insignia of certification) is amended to establish criteria for requesting, controlling and attaching insignias of certification for industrialized buildings and building components.

Section 145.64 (relating to modification after certification) is amended to limit modifications to certified industrialized buildings and building components.

Section 145.66 (relating to emergency suspension) is amended to prohibit the certification of industrialized buildings and components while a manufacturer is under an emergency suspension.

Section 145.67 (relating to revocation of certification) is amended to give the Department and the appropriate third-party agency the authority to revoke the certification of industrialized buildings and building components and to establish criteria to provide the manufacturer of industrialized buildings and building components the authority to attach insignias of certification.

Section 145.69 (relating to suspension of certificate of approval of out-of-State manufacturer for lack of activity) is amended to allow for the suspension of an out-of-State manufacturer of industrialized buildings and building components for lack of activity.

Section 145.70 (relating to Departmental evaluation and inspection) is amended to preserve the ability of the Department to perform as an evaluation or inspection agency, or both, in the event that these services may be required.

Section 145.71 (relating to responsibilities of evaluation agencies) is amended to provide responsibilities for evaluation agencies to provide the same oversight in reviewing and approving building system documentation and compliance assurance programs for each manufacturer of industrialized buildings or components.

Section 145.72 (relating to responsibilities of inspection agencies) is amended to provide responsibilities for inspection agencies to provide oversight in monitoring the manufacturers of industrialized buildings or components in the same manner as housing manufacturers are monitored.

Section 145.72a (relating to frequency of inspections) is amended to provide the minimum inspection frequency for inspection agencies providing inspection services to industrialized building manufacturers. This section is also amended by changing the former requirement for manufacturer's certification that required 100% inspection of the first ten homes produced. The amended process will depend on the professional judgment of the third-party agencies in determining the level of inspection needed to certify a manufacturer. The Department retains final approval of the third-party agencies' proposal regarding the minimum frequency needed to adequately certify the facility.

Section 145.73 (relating to criteria for approval of evaluation and inspection agencies) is amended to provide criteria for the approval of evaluation and inspection agencies for industrialized buildings or building components.

Section 145.74a (relating to prohibition on consulting services) is amended to prohibit third-party agencies from performing consulting engineering services for an industrialized building or building component manufacturer while the third party has an implementing contract with that manufacturer.

Section 145.76 (relating to reapprovals of third-party agencies) is amended to provide a reapproval process for industrialized building third-party evaluation and inspection agencies.

Section 145.78 (relating to contractual arrangements) is amended to require implementing contracts between manufacturers of industrialized buildings and approved third-party evaluation and inspection agencies.

Section 145.79 (relating to suspension and revocation of third-party agencies) is amended to allow the Department to take appropriate action in the event that problems occur as a result of suspension or revocation of approval of a particular third-party evaluation or inspection agency.

Sections 145.81—145.83 (relating to local enforcement agencies) are amended to outline the responsibilities of the local enforcement agencies regarding their permitting and inspection process of certified industrialized buildings.

Section 145.91 (relating to reports to the Department) is amended to extend the Department's authority to require reporting from inspection and evaluation agencies and manufacturers of industrialized buildings as well as extending the requirement of the Site Installation Inspection Report to these buildings.

Section 145.92 (relating to reports by the Department) is amended to reduce the frequency of certain reports issued by the Department and to include the Notice of Approval in the list of reports the Department will provide.

Section 145.93 (relating to factory inspections; right of entry) is amended to extend the authorized inspections by the Department to include industrialized buildings, records of such buildings, transport facilities, building sites, and the like.

Section 145.94 is amended to establish a fee structure for industrialized building and building component insignias as well as an approval and reapproval fee for industrialized buildings evaluation and inspection agencies. Additionally, to defray the additional costs incurred to the Department for out-of-State travel, this section is amended to increase the insignia fee for manufacturing

facilities outside of this Commonwealth. This increase in insignia fees for facilities outside of this Commonwealth (\$20 residential and \$30 commercial) is patterned after current programs in New Jersey, Minnesota and Rhode Island. Other fees charged by the Department for engineering and administrative services are increased to reflect the actual costs to the Department. This section is further amended to allow the Department to accept fees electronically.

Section 145.97 (relating to amendments to this chapter) is amended to reflect the current practice of notifying interested parties of proposed amendments to Chapter 145.

Section 145.99 (relating to remedies) is amended to provide remedies to the Department for industrialized buildings or components which have not been manufactured consistent with the act or this chapter.

Sections 145.101—145.105 (relating to interstate acceptability) are amended to establish the procedures needed for the Department to enter into reciprocal agreements with other states to facilitate interstate acceptability of industrialized buildings and building components.

Tolling Letter Analysis

On August 30, 2016, at the suggestion of IRRC, the Department tolled the review period for this final-form rulemaking and resubmitted the regulations to IRRC, the House Commerce Committee and the Senate Community, Economic and Recreational Development Committee with the following changes:

- Section 145.1 was revised to include the definition of “residential permanent foundation” which stated “[t]he structure or assembly provided at the installation site to support and stabilize industrialized housing as described at § 145.33(c).”

- Section 145.3 was revised to clarify that the effective date of this final-form rulemaking is 1 year from publication in the *Pennsylvania Bulletin* and industrialized buildings manufactured before 1 year after the effective date of this final-form rulemaking may continue to be utilized in this Commonwealth subject to approval of the local code official. The clarification was accomplished by:

- o Deleting the sentence that stated “[t]his chapter applies to new industrialized housing, buildings, and housing or building components manufactured in manufacturing facilities located within or outside this Commonwealth.”

- o Adding a sentence to state that “[i]ndustrialized buildings manufactured before _____ (*Editor’s Note*: The blank refers to the date 1 year after the effective date of adoption of this final-form rulemaking.) may continue to be utilized in the Commonwealth subject to approval of the local code official.”

- Section 145.31(c) was revised to clarify that the effective date of this final-form rulemaking is 1 year from publication in the *Pennsylvania Bulletin* and Chapter 145 does not apply to industrialized buildings or building components produced before 1 year after the effective date of this final-form rulemaking. The clarification was accomplished by adding subsection (c), which stated “[t]his chapter shall not apply to industrialized buildings or building components produced before _____. (*Editor’s Note*: The blank refers to the date 1 year after the effective date of adoption of this final-form rulemaking.)”

- Section 145.33(c) was added to address substantive provisions regarding residential permanent foundations.

The first sentence of § 145.33(c) stated “[a] residential permanent foundation must be constructed in accordance with the prescriptive provisions of the adopted building code or, when required, designed by a licensed professional engineer.”

- Section 145.33(c)(4)(i) includes “construction,” which was inadvertently left out of the citation in the proposed definition of “permanent foundation.”

- “MIS” was not included in § 145.33(c)(4)(ii), as the acronym is not used in the industry and not referenced elsewhere in the regulations.

Fiscal Impact

Commonwealth

Through the fees generated from approvals of third-party agencies and insignias applied to industrialized buildings and building components, the Department expects this program to generate sufficient revenues to cover all expenses. Using Maryland as an example, the 1,538 industrialized building insignias assigned in 2008 would result in revenues of over \$92,000. While it is impossible to accurately project insignia usage in this Commonwealth, it is a reasonable expectation that insignia usage in this Commonwealth would match or exceed that of Maryland. Until production levels increase to 2006 levels for industrialized housing, additional staffing is not required to carry out this expansion to the program.

Political subdivisions

There is no fiscal impact upon political subdivisions.

Public

This final-form rulemaking will not have fiscal impact on the public at large, as multimillion dollar projects involving industrialized housing, buildings, and housing and building components generate only a handful of \$60 and \$90 insignia fees. However, with regard to the fiscal impact on the regulated community as part of the public, the insignia fee is \$60 for industrialized buildings and building components produced in this Commonwealth. This is consistent with the fees charged by other states. The insignia fees for industrialized housing and housing components, and industrialized buildings and building components produced outside of this Commonwealth, are \$60 and \$90, respectively. As out-of-State manufacturers require the same monitoring by the Department as those manufacturers in this Commonwealth, the fees are higher for out-of-State manufacturers to recover the additional travel costs incurred. In the past, due to budgetary travel restrictions, out-of-State manufacturers were subjected to a lesser level of monitoring as compared to manufacturers in this Commonwealth. The Department is attempting to rectify this inequity.

Paperwork

Manufacturers of new industrialized buildings and building components are required to complete a Manufacturer’s Application for Insignia of Certification for Industrialized Buildings or Building Components Form and a Pennsylvania Industrialized Building Insignia of Certification Monthly Inventory Control Report Form for insignias applied. These forms will be made available by the Department on the Department’s web site prior to November 6, 2017. These manufacturers currently do this for most of the states that receive their products. Therefore, the impact is very minimal.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 2, 2014, the Department submit-

ted a copy of the notice of proposed rulemaking, published at 44 Pa.B. 5026, to IRRC and the Chairperson of the House Commerce Committee and the Chairperson of the Senate Community, Economic and Recreational Development Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, the Department shall submit to IRRC and the House and Senate Committees copies of comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on September 14, 2016, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on September 15, 2016, and approved the final-form rulemaking.

Effective and Sunset Dates

This final-form rulemaking will become effective November 6, 2017. Chapter 145 will be monitored on an annual basis and updated as needed.

Contact Person

For an explanation of this final-form rulemaking, contact Mark Conte, Chief, Housing Standards Division, Office of Community Development, Department of Community and Economic Development, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120, (717) 720-7416.

Findings

The Department finds that:

(1) Public notice of intention to adopt the regulations has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202).

(2) This final-form rulemaking is necessary and appropriate for the Industrialized Housing and Components Program.

Order

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

(1) The regulations of the Department, 12 Pa. Code Chapter 145, are amended by amending §§ 145.1—145.3, 145.31, 145.33, 145.36, 145.41, 145.42, 145.51, 145.53, 145.54, 145.57, 145.58, 145.60—145.64, 145.66, 145.67, 145.69, 145.70—145.72, 145.72a, 145.73, 145.74a, 145.76, 145.78, 145.79, 145.81—145.83, 145.91—145.94, 145.97, 145.99 and 145.101—145.105 to read as set forth in Annex A.

(Editor's Note: The amendment to § 145.33 was not included in the proposed rulemaking published at 44 Pa.B. 5026.)

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

(3) This order shall take effect November 6, 2017.

DENNIS M. DAVIN,
Secretary

(Editor's Note: See 46 Pa.B. 6195 (October 1, 2016) for IRRC's approval order.)

Fiscal Note: Fiscal Note 4-95 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT

PART V. COMMUNITY AFFAIRS AND DEVELOPMENT

Subpart C. COMMUNITY DEVELOPMENT AND HOUSING

CHAPTER 145. INDUSTRIAL HOUSING AND COMPONENTS

GENERAL PROVISIONS

§ 145.1. Definitions.

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

ANSI—The American National Standards Institute.

ASHRAE—American Society of Heating, Refrigeration and Air Conditioning Engineers.

Act—The Industrialized Housing Act (35 P.S. §§ 1651.1—1651.12).

Approved—Approved by the Department, or agent of the Department, under this chapter.

Building system—The method of constructing a type of industrialized home, building, or housing or building component described by plans, specifications and other documentation which together establish a set of limits meeting the building standards in §§ 145.41 and 145.42 (relating to adoption of standards; and alternate standards), as well as the compliance control program requirements of § 145.58 (relating to basic requirements for a compliance control program), including installation details.

Building system documentation—The plans, specifications, procedures and other documentation, approved by an evaluation agency under § 145.52 (relating to approval of building system documentation), which together describe industrialized home, building, or housing or building components, including any variation, installation detail and instruction consistent with this chapter.

Certification or certified—Conforming to the requirements of this chapter.

Compliance assurance program—The system of policies and procedures implemented by the manufacturer and the inspection agency to assure that industrialized housing, buildings, or housing or building components are manufactured, transported and installed at the site in accordance with the approved building system documentation.

Compliance control program—The system of policies and procedures utilized by the manufacturer to assure that industrialized housing, buildings, or housing or building components, as the case may be, are manufactured, transported and installed at the site in accordance with the approved building system documentation.

Department—The Department of Community and Economic Development of the Commonwealth.

Designated employee—An officer or supervisory employee of a third-party agency who has been so designated by the third-party agency in its application to the Department for approval or in another written communication to the Department.

Dwelling unit or unit—Rooms arranged for the use of an individual for residential occupancy.

Evaluation agency—A private or public agency which is approved by the Department under § 145.73 (relating to criteria for approval of evaluation and inspection agencies) to perform the functions assigned by this chapter to an evaluation agency. If the Department performs the functions of the evaluation agency in accordance with § 145.70 (relating to Departmental evaluation and inspection), the Department will be the evaluation agency for the purpose of this title.

Housing component—A manufactured subsystem or subassembly, designed for use as an integral component part of a structure designed primarily for residential occupancy, which contains concealed parts or processes of manufacture that cannot be inspected at the site without disassembly, damage or destruction and which is identified in § 145.35 (relating to applicability of Fire and Panic Act) as being subject to this chapter.

Housing structure—A structure designed primarily for residential occupancy.

ICC—International Code Council.

Industrialized building or industrialized commercial building—A structure designed for commercial occupancy classified within nonresidential use groups in accordance with the standards in § 145.41. The structure is wholly or in substantial part made, constructed, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on the building site so that concealed parts or processes of manufacture cannot be inspected at the site without disassembly, damage or destruction.

Industrialized building component or industrialized commercial building component—A closed wall subsystem or subassembly designed for use as a structure or a part of a structure which is classified within the nonresidential use groups in accordance with the standards in § 145.41. The closed wall subsystem or subassembly is fabricated in a manufacturing facility to be separately transported to the building site and cannot be inspected at the site without disassembly. Components may be installed with or without a permanent foundation.

Industrialized building module—

(i) A closed wall structure or substantial part of a closed wall structure incorporating or designed to be assembled to form one or more rooms used as habitable, occupiable or mechanical/equipment space which is classified within nonresidential use groups in accordance with the standards in § 145.41. The structure is fabricated in a manufacturing facility to be separately transported to the building site and cannot be inspected at the site without disassembly.

(ii) The term includes industrialized building components that are subsystems or assemblies, or other systems of closed construction designed for use in or as a part of an industrialized building.

Industrialized housing—

(i) A structure designed primarily for residential occupancy or classified within Residential Group R in accordance with the standards adopted under § 145.41 and which is wholly or in substantial part made, constructed, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on the building site so that concealed parts or processes of

manufacture cannot be inspected at the site without disassembly, damage or destruction.

(ii) The term does not include a structure or building classified as an institutional building or manufactured home, as defined by the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C.A. §§ 5401—5426).

Industrialized housing module—Each section of an industrialized housing structure which is fabricated in the manufacturing facility to be separately transported to the building site.

Insignia of certification—The label conforming to the requirements of this chapter which, when attached to industrialized housing, housing components, industrialized building or building components under this chapter, evidences that the industrialized housing, buildings, or industrialized housing or building components have been certified.

Inspection agency—An agency, private or public, which is approved by the Department under § 145.73 to perform the functions assigned by this chapter to an inspection agency. If the Department performs the functions of the inspection agency under § 145.70, the Department will be the inspection agency for the purposes of this title.

Installation—The assembly of industrialized housing or buildings onsite and the process of affixing industrialized housing, housing components, industrialized buildings or components to land, a foundation, footings, utilities or an existing building, and may include the process of affixing housing or building components to or within the structure for which they are designed.

Insulation—An approved material which has a relatively high resistance to heat flow and is used principally to retard the flow of heat.

Local enforcement agency—The agency of local government with authority to make inspections and to enforce the laws, ordinances and regulations enacted by the Commonwealth and by local governments that establish standards and requirements applicable to the construction, installation, alteration or repair of buildings.

Local government—A county, city, borough, incorporated town, township or similar general purpose unit of government which may be created by the General Assembly with authority to establish standards and requirements applicable to construction, installation, alteration and repair of buildings.

Manufacture—The process of making, fabricating, constructing, forming or assembling a product from raw, unfinished or semifinished materials.

Manufactured home—

(i) A structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or when erected onsite, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

(ii) The term includes any structure which meets the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with

the standards established under the National Manufactured Home Construction and Safety Standards Act of 1974.

(iii) The term does not include any self-propelled recreational vehicle.

Manufacturing facility—A place, other than the building site, at which machinery, equipment and other capital goods are assembled and operated for the purpose of making, fabricating, constructing, forming or assembling industrialized housing or housing components, industrialized buildings or building components.

Mobile home—A structure, transportable in one or more sections, which is 8 body feet or more in width and is 32 body feet in length and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and including the plumbing, heating, air conditioning and electrical system combined therein manufactured in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974.

NCSCBS—National Conference of States on Building Codes and Standards.

NFPA—The National Fire Protection Association.

Notice of Approval—A notice issued by the Department to each manufacturer of industrialized housing, housing components, industrialized buildings or building components that indicates the approval of the manufacturer's building systems documentation, compliance assurance program, and the authority to receive and attach insignias of certification to industrialized housing, housing components, industrialized building or building components as applicable.

Person—An individual or organized group of any character, including partnerships; corporations; other forms of associations; and Federal, State and local instrumentalities, political subdivisions or officers, including the Department when indicated by the context.

Residential occupancy—Occupancy of a structure or building, or part thereof, classified as a one-family or two-family dwelling, townhouse or within Residential Group R in accordance with the standards adopted under § 145.41, by families, households or individuals for purposes of shelter and sleeping, without regard to the availability of cooking or dining facilities.

Residential permanent foundation—The structure or assembly provided at the installation site to support and stabilize industrialized housing as described in § 145.33(c) (relating to manufactured homes excluded).

Site or building site—The entire tract, subdivision or parcel of land on which industrialized housing, housing components, industrialized building or industrialized building components are installed.

Site Installation Inspection Checklist—A part of the manufacturers building system documentation or design package that identifies the various aspects of construction that shall be completed onsite, for inspection by the local code official, that when properly completed will result in a conforming home or building.

Thermal resistance ("R" Value)—The accumulative resistance to heat flow through materials or arrangement of materials expressed in Fahrenheit degrees per BTU/(hours) (square foot). For wood frame construction, the effect of normal framing members may be neglected in the determination of R values.

Third-party agency—An evaluation agency or inspection agency approved by the Department.

Unheated space—A space such as a garage or crawl space which is not provided with a heat source sufficient to maintain a minimum temperature of 50°F (10°C).

§ 145.2. Purpose.

This chapter interprets and makes specific the provisions of the act, as provided in section 5 of the act (35 P.S. § 1651.5). This chapter establishes administrative procedures for the implementation of the act which will facilitate the use of industrialized housing, buildings, and housing or building components in this Commonwealth consistent with safeguarding the health, safety and welfare of citizens of this Commonwealth and will carry out the purposes set forth in the legislative findings in section 2 of the act (35 P.S. § 1651.2). More specifically, this chapter is intended primarily to achieve the following objectives:

(1) Establish uniform standards affecting health, safety and welfare for the design, use of materials and methods of construction for industrialized housing, buildings, and housing or building components intended for sale, lease or installation for use in this Commonwealth.

(2) Establish uniform procedures to assure that industrialized housing, buildings, and housing or building components intended for sale, lease or installation for use in this Commonwealth will be manufactured, transported and installed in compliance with the uniform standards adopted by this chapter. In particular, this chapter establishes procedures under which the essential structural, electrical, mechanical and plumbing elements of industrialized housing, buildings, and housing or building components are subjected to compliance assurance procedures, including inspections, in the manufacturing facilities during the manufacturing process, thereby eliminating the need for subsequent inspections at the building site of those elements which are enclosed within the walls which might otherwise be subjected to disassembly, damage or destruction in the course of onsite inspections.

(3) Establish procedures which will facilitate the movement of industrialized housing, buildings, and housing or building components between this Commonwealth and the other states for the mutual benefit of the manufacturers and citizens of this Commonwealth.

(4) Preserve for local governments within this Commonwealth responsibilities and functions specifically reserved to local governments by the act and otherwise not inconsistent with the achievement of the purposes of the act.

§ 145.3. Scope.

Except to the extent otherwise stated in the act and the provisions of this chapter and in other applicable laws of the Commonwealth which are not inconsistent with or superseded by the act and this chapter, this chapter governs the design, manufacture, storage, transportation and installation of industrialized housing, buildings, and housing or building components which are sold, leased or installed, or are intended for sale, lease or installation, for use on a site in this Commonwealth. Industrialized buildings manufactured before November 6, 2018, may continue to be utilized in this Commonwealth subject to approval of the local code official.

SCOPE

§ 145.31. Requirement of certification.

(a) No person may sell, lease or install for use on a site in this Commonwealth industrialized housing, buildings, or housing or building components unless the industrialized housing, building, or housing or building component is certified and bears insignia of certification issued by the Department. The insignia of certification issued by the Department shall be attached to the industrialized housing, building, or housing or building component under this chapter, and they shall be subject to subsequent removal in accordance with this chapter.

(b) Industrialized housing, buildings, and housing or building components of the manufacturer which have never been occupied and which serve for model or demonstration purposes for the manufacturer do not have to bear insignia of certification under this chapter until the time that the industrialized housing, building, or housing or building components are first offered for sale or lease.

(c) This chapter does not apply to industrialized buildings or building components produced before November 6, 2018.

§ 145.33. Manufactured homes excluded.

(a) Manufactured homes which are subject to sections 604 and 625 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C.A. §§ 5403 and 5424) and the regulations issued thereunder by the United States Department of Housing and Urban Development are not subject to this chapter.

(b) The following language must appear in the installation documentation provided with the industrialized home and the data plate:

The manufacturer certifies that the structure (insert serial number) is not a manufactured home subject to the provisions of the National Manufactured Housing Construction and Safety Standards Act and is

- (1) designed only for erection or installation on a site built permanent foundation
- (2) not designed to be moved once so erected or installed
- (3) designed and manufactured to comply with (insert applicable standards)
- (4) to the manufacturer's knowledge not intended to be used other than on a site-built permanent foundation.

(c) A residential permanent foundation shall be constructed in accordance with the prescriptive provisions of the adopted building code or, when required, designed by a licensed professional engineer. A residential permanent foundation must have attachment points to anchor and stabilize the home to transfer all code required loads to the underlying soil or rock. In either case, a residential permanent foundation must:

- (1) Be designed for vertical stability as follows:
 - (i) Footings properly sized to prevent overloading of the soil.
 - (ii) Minimum depth of footings below undisturbed ground surface must be 12 inches or as required by the local code, whichever is greater.
 - (iii) Shallow foundation footings must be constructed of cast-in-place concrete.
 - (iv) Masonry walls and piers must be mortared.

- (2) Be designed for lateral stability as follows:
 - (i) Anchorage capacity to prevent uplift, sliding and overturning or other movement of the structure.
 - (ii) May not utilize tension-only steel straps.
 - (iii) May not utilize screw-in soil anchors.
- (3) Be constructed of durable materials, that is, concrete, mortared masonry or treated wood. This includes precast foundation systems.
- (d) A residential permanent foundation does not include alternative systems or components labeled only for use under one or more of the following standards:
 - (1) 24 CFR Part 3280 (relating to manufactured home construction and safety standards).
 - (2) 24 CFR Part 3286 (relating to manufactured home installation program).
 - (3) NFPA 225 Model Manufactured Home Installation Standard.
 - (4) ANSI A225.1 NFPA 501A Manufactured Home Installations.
 - (5) International Residential Code, Appendix E.
- (e) Industrialized buildings are excluded from this section.

§ 145.36. Applicability of locally-enacted codes and ordinances.

(a) Industrialized housing, housing components, industrialized buildings or building components bearing insignias of certification issued under this chapter will be deemed to comply with the requirements of building and related codes and ordinances enacted by local governments of the Commonwealth which codes and ordinances conform with the following:

- (1) Are applicable to residential or commercial construction, plumbing, heating, electrical and other related codes pertaining to the construction and equipment contained within.
- (2) Would otherwise be applicable to the industrialized housing, housing components, industrialized buildings or building components certified under this chapter as described in their building system documentation.
- (b) (Reserved).

(c) If the building site is within a fire district designated by an ordinance of the local government, the requirements of the codes and standards adopted under §§ 145.41, 145.42 and 145.44 (relating to adoption of standards; alternate standards; and adoption and effective dates—code amendments) for the fire district is applicable to the industrialized housing, housing components, industrialized buildings or building components. If the fire district designated by the ordinance of the local government is different from a fire district described in the applicable codes and standards adopted under §§ 145.41, 145.42 and 145.44 the requirements for that fire district described in the applicable codes and standards which in the judgment of the evaluation agency bears the closest similarity to the description of the applicable fire district under the locally enacted ordinance is applicable.

(d) Industrialized housing and buildings in which industrialized housing or building components have been installed shall comply with codes and ordinances of the local governments with jurisdiction over the building site which apply to the design, installation and maintenance

of waterline connections from the exterior walls of housing to their main source of supply, sewer drainage connections from the exterior walls of housing to main sewers or septic systems, and electrical line connections or other energy supply connections from the exterior walls of housing to their main source of power, notwithstanding the appropriate insignia of certification as provided for in § 145.60 (relating to insignia of certification).

(e) Nothing in the act or this chapter shall be construed as amending, repealing or superseding a local zoning ordinance, subdivision regulation, designation of fire districts or related land development code, regulation or ordinance enacted by a local government of the Commonwealth.

(f) A dispute between a person and a local enforcement agency with respect to the application of this section shall be referred to and decided by the Department under § 145.96 (relating to interpretation of this chapter).

STANDARDS

§ 145.41. Adoption of standards.

(a) The following codes, which relate to the design, materials and method of construction of buildings, are adopted as the standards applicable to the industrialized housing, housing components, industrialized buildings or building components for purposes of this chapter:

- (1) The ICC International Building Code.
- (2) The ICC International Mechanical Code.
- (3) The ICC International Plumbing Code.
- (4) The International Energy Conservation Code.
- (5) The National Electric Code (NFPA No. 70).
- (6) The ICC International Residential Code (for one and two family dwellings and town homes) except:
 - (i) Section R313.2, regarding automatic fire sprinkler systems in one-family and two-family dwellings, of the 2009 International Residential Code. Successor triennial revisions are excluded.
 - (ii) Sections R602.10SR602.12.1.6, regarding wall bracing requirements, are excluded and replaced by §§ R602.10RR602.11.3 of the 2006 International Residential Code.

(b) Except as provided in § 145.43 (relating to amendment policy), the codes must be the latest edition. The effective date of all code changes must be in accordance with §§ 145.44 and 145.122(b) (relating to adoption and effective dates—code amendments; and effective date).

(c) Insulation technique and installation applicable to the floor or foundation wall is not always practical at the manufacturing facility. Builders or contractors of industrialized houses or buildings may supply and install the required floor or foundation wall insulation. If the floor or foundation wall insulation is not installed at the manufacturing facility, the manufacturer shall indicate on the Site Installation Inspection Checklist referenced in § 145.91(e) (relating to reports to the Department) that the insulation shall be installed onsite.

(d) The provisions of the codes in subsection (a) that relate specifically to the interpretation, administration and enforcement of the codes and to matters which are not within the authority conferred on the Department by the act and this chapter are not adopted under this chapter and are not applicable in the administration and enforcement of this chapter. If there is an inconsistency or

conflict between the provisions of a code adopted under this chapter and this chapter, this chapter will prevail.

(e) Only listed and labeled materials listed for use as documented shall be used in all construction.

§ 145.42. Alternate standards.

(a) As an alternative to the primary codes specified in § 145.41 (relating to adoption of standards), a manufacturer may elect to satisfy the requirements of the following alternate standards. Copies of these documents are available through the respective promulgating agencies as defined in § 145.47 (relating to acquisition of adopted codes and amendments):

(1) As an alternate to the ICC International Residential Code, Chapter 11, regarding energy efficiency, the manufacturer may use the applicable edition of one of the following:

(i) The prescriptive methods for residential buildings in the International Energy Conservation Code compliance guide containing state maps, prescriptive energy packages and related software published by the United States Department of Energy, Building Standards and Guidelines Program (REScheck™).

(ii) Pennsylvania's Alternative Residential Energy Provisions developed by the Pennsylvania Housing Research Center at the Pennsylvania State University.

(2) As an alternate to the ICC International Residential Code, Chapter 3, regarding building planning, in regard to stairway construction, the manufacturer may use the following standard:

(i) The maximum riser height must be 8 1/4 inches. There may be no more than 3/8-inch variation in riser height within a flight of stairs. The riser height is to be measured vertically between leading edges of the adjacent treads.

(ii) The minimum tread depth must be 9 inches measured from tread nosing to tread nosing. There may be no more than 3/8-inch variation in tread depth within a flight of stairs.

(iii) Treads may have a uniform projection of not more than 1 1/2 inches when solid risers are used.

(iv) Stairways may not be less than 3 feet in clear width and clear head room of 6 feet 8 inches must be maintained for the entire run of the stairway.

(v) Handrails may project from each side of a stairway a distance of 3 1/2 inches into the required width of the stairway.

(3) As an alternate to the ICC International Building Code, Chapter 13, regarding energy efficiency, the manufacturer may use the applicable edition of prescriptive methods for buildings or structures in the current version of the International Energy Conservation Code compliance guide containing state maps, prescriptive packages and related software published by the United States Department of Energy, Building Standards and Guidelines Program (COMcheck™).

(b) Except as provided in § 145.43 (relating to amendment policy), the codes must be the latest edition. The effective date of code changes must be in accordance with §§ 145.44 and 145.122(b) (relating to adoption and effective dates—code amendments; and effective date).

CERTIFICATION

§ 145.51. General requirements for certification.

Industrialized housing, housing components, industrialized buildings or building components shall be certified if the building system documentation and the compliance assurance program relating to its design, materials, manufacture, transportation and installation have been approved by an evaluation agency under contractual arrangement with the Department as provided in § 145.78(b) (relating to contractual arrangements), and if the industrialized housing, housing components, industrialized buildings or building components have been manufactured under approved building system documentation, inspected and approved by an inspection agency. Certification shall be evidenced by insignia of certification which conform to the requirements of this chapter and which shall be issued for each module of industrialized housing, industrialized building and for each housing or building component or set of components that, upon installation, are incorporated in a dwelling unit or building as applicable.

§ 145.53. Variations.

Building system documentation approved under § 145.52 (relating to approval of building system documentation) may contain variations or a range of variations for one or more elements of the industrialized housing, housing components, industrialized buildings or building components described in the building system documentation, provided that the approved building system documentation conforms to all of the applicable requirements of the applicable codes and standards under each variation or set of variations within the range of variations. Any material deviation from variations contained within the approved building system documentation shall be approved by the evaluation agency, consistent with this chapter, prior to the start of construction.

§ 145.54. Building System Approval Report and Summary.

At the time that an evaluation agency approves a set of building system documentation under § 145.52 (relating to approval of building system documentation) and the related compliance assurance program under § 145.57 (relating to approval of compliance assurance program), it shall prepare a Building System Approval Report (BSAR) and a Building System Approval Summary. The BSAR must contain a list of the identification numbers of each sheet constituting the approved building system documentation, the Compliance Control Manual of the manufacturer, an Index of Code Compliance in the form specified by the Department for industrialized housing or buildings, a statement of the fire districts, if any, in which the industrialized housing or buildings can be installed, and the additional information relating to the building system documentation and the compliance assurance program as the evaluation agency deems necessary or as the Department may require. The Building System Approval Summary shall be prepared on a form furnished by the Department. The evaluation agency shall furnish to the Department and to the manufacturer one copy each of the BSAR and the Building System Approval Summary, clearly stating the date it is effective. The BSAR shall be revised monthly as needed.

§ 145.57. Approval of compliance assurance program.

An evaluation agency shall approve a compliance assurance program for purposes of this chapter if the evaluation agency determines that the manufacturer's compli-

ance control program, described in the compliance control manual, meets the requirements of this chapter and the compliance control program will be monitored by an approved inspection agency. The evaluation agency shall review the manufacturer's building system documentation, the manufacturer's compliance control manual and the manufacturer's proposed implementing contract with an inspection agency, shall inspect each of the manufacturer's manufacturing facilities where the industrialized housing, housing components, industrialized buildings or building components are to be manufactured for installation on sites in this Commonwealth, and shall review the other data and information as the evaluation agency may deem necessary.

§ 145.58. Basic requirements for a compliance control program.

(a) An evaluation agency shall approve a compliance control program if it determines that the implementation of the compliance control program will assure that the industrialized housing, housing components, industrialized buildings or building components, when installed at the site, will conform to the approved building system documentation, the manufacturer possesses the facilities, personnel and organization to implement its compliance control program properly, and the requirements of this section are met. It is the policy of the Department to recognize that the level of sophistication of a compliance control program of a manufacturer will depend on many factors, including the level of sophistication and technological characteristics of the building system and the manufacturing process. It is further the policy of the Department that the maximum respect shall be accorded to a manufacturer's customary business practice consistent with achievement of the purposes of the act and this chapter. It is further the policy of the Department that the approval of a compliance control program under this chapter does not relieve the manufacturer and the inspection agency of responsibility for assuring that industrialized housing, housing components, industrialized buildings or building components manufactured for sale, lease or installation for use on sites in this Commonwealth conform in every material respect to the approved building system documentation.

(b) To facilitate review and approval, the manufacturer's compliance control program shall present an overview of its policies and procedures on the following:

- (1) The placement, storage and handling of construction materials.
- (2) The manufacturing process within the manufacturing facilities, including the jigs and fixtures necessary for production.
- (3) The storage and transportation of industrialized housing, housing components, industrialized buildings or building components to the site, including detailed lifting calculations.
- (4) The installation of industrialized housing, housing components, industrialized buildings or building components at the site, including the Site Installation Inspection Checklist, referenced in § 145.91(e) (relating to reports to the Department), identifying specific functions and techniques that are of critical importance.

(c) For approval, except as modified under subsection (e), the compliance control program must include requirements on the following items:

- (1) Specific assignments of responsibility to designated divisions or employees of the manufacturer for every

significant phase in the production, transportation and installation of the industrialized housing, housing components, industrialized buildings or building components.

(2) Procedures under which employees of the manufacturer inspect and approve each significant process in every significant phase of the manufacture, transportation and installation of the industrialized housing, housing components, industrialized buildings or building components.

(3) Procedures for marking identified deficiencies—such as serialized colored tags that can be attached to the deficiency—and for assuring their correction or the disposal of the deficient item.

(4) Procedures to assure that the fabrication or shop drawings for the industrialized housing, housing components, industrialized buildings or building components conform to the approved building system documentation or to the drawings approved by the third-party agency with whom the manufacturer has an implementing contract.

(5) Procedures to maintain, file and control fabrication or shop drawings and documents constituting the building system.

(6) Procedures to maintain complete and reliable records of the manufacture, transportation and installation of the industrialized housing, housing components, industrialized buildings or building components, each unit of which shall be assigned a manufacturer's serial number to facilitate identification.

(7) Procedures employed by the manufacturer to request, store and attach the insignia of certification issued to it by the Department under § 145.63 (relating to procedures for requesting, controlling and attaching insignia of certification).

(8) Procedures for controlling the storage and transportation of industrialized housing, housing components, industrialized buildings or building components from the manufacturing facilities to the site, identifying specific functions and techniques that are of critical importance.

(9) Procedures for controlling the installation of industrialized housing, housing components, industrialized buildings or industrialized building components at the site.

(10) A brief identification and description of physical testing to be performed at a point during a phase of manufacture, transportation and installation, the frequency of its performance, and the identification and qualifications of the persons performing the testing.

(d) The list of topics set forth in subsection (c) is not exclusive and is not intended to preclude additional items and greater details prior to approving a compliance control program.

(e) If a manufacturer transfers title to and effective control over its industrialized housing, housing components, industrialized buildings or building components to other, unrelated persons at a point prior to its installation at the site, the manufacturer shall be responsible for furnishing to the persons responsible for transportation and installation adequate information, manuals, checklists, Notices of Approval, and the like, relating to the transportation and installation of the industrialized housing, housing components, industrialized buildings or building components, including the relevant portions from its compliance control program referred to in subsections (c)(8)—(10), but the manufacturer may not be responsible for implementation after the transfer of title and effective control.

(f) An evaluation agency's approval of a compliance control program shall be evidenced by the stamp of approval of the evaluation agency affixed to the title page of the compliance control manual and signed and dated by a designated employee of the evaluation agency.

§ 145.60. Insignia of certification.

(a) Certified industrialized housing must bear an insignia of certification for each module. The insignia of certification will be furnished by the Department to the manufacturer under the procedures of § 145.63 (relating to procedures for requesting, controlling and attaching insignia of certification). The manufacturer shall permanently attach the insignia of certification for each module adjacent to the data plate located in a visible location in a cabinet under the kitchen sink, or if this cabinet is not available, the location must be clearly identified on the Site Installation Inspection Checklist referenced in § 145.91(e) (relating to reports to the Department). Insignias may not be attached to doors or other easily removable features of the home. Each insignia of certification must bear an insignia serial number furnished by the Department and contain the following language:

INSIGNIA OF CERTIFICATION FOR INDUSTRIALIZED HOUSING

Serial No.

This insignia certifies that this dwelling unit of industrialized housing has been manufactured from plans, specifications and other related design documents under a compliance assurance program in accordance with the requirements of the Industrialized Housing Act and the regulations issued thereunder by the Department of Community and Economic Development of the Commonwealth of Pennsylvania.

(b) Each certified housing component or components comprising a single unit or added to a single dwelling unit must bear an insignia of certification for housing components. The insignia of certification will be furnished by the Department to the manufacturer under the procedures of § 145.63. The manufacturer shall permanently attach the insignia of certification to the housing component in a visible location identified in the building system documentation and must be clearly identified on the Site Installation Inspection Checklist referenced in § 145.91(e). Each insignia of certification must bear an insignia serial number furnished by the Department and contain the following language:

INSIGNIA OF CERTIFICATION FOR HOUSING COMPONENTS

Serial No.

This insignia certifies that this housing component has been manufactured from plans, specifications and other related design documents under a compliance assurance program in accordance with the requirements of the Industrialized Housing Act and the regulations issued thereunder by the Department of Community and Economic Development of the Commonwealth of Pennsylvania.

(c) Certified industrialized buildings must bear insignia of certification for each module. The insignia of certification will be furnished by the Department to the manufacturer under the procedures of § 145.63. The manufacturer shall permanently attach the insignia of certification for each module in a visible location adjacent to the electrical panel box. If this area is unavailable, the location must be clearly identified on the Site Installation Inspection Checklist referenced in § 145.91(e). The insignia

nia may not be attached to a door or other easily removable feature of the building. Each insignia of certification must bear an insignia serial number furnished by the Department and contain the following language:

INSIGNIA OF CERTIFICATION FOR INDUSTRIALIZED BUILDINGS

Serial No.

This insignia certifies that this industrialized building module has been manufactured from plans, specifications and other related design documents under a compliance assurance program in accordance with the requirements of the Industrialized Housing Act and the regulations issued thereunder by the Department of Community and Economic Development of the Commonwealth of Pennsylvania.

(d) Certified industrialized building components, comprising a single building or unit, must bear insignia of certification for building components. The insignia of certification will be furnished by the Department to the manufacturer under the procedures of § 145.63. The manufacturer shall permanently attach the insignia of certification for each module in a visible location identified in the building system documentation and clearly identified on the Site Installation Inspection Checklist referenced in § 145.91(e). Each insignia of certification must bear an insignia serial number furnished by the Department and contain the following language:

INSIGNIA OF CERTIFICATION FOR INDUSTRIALIZED BUILDING COMPONENTS

Serial No.

This insignia certifies that this industrialized building component has been manufactured from plans, specifications and other related design documents under a compliance assurance program in accordance with the requirements of the Industrialized Housing Act and the regulations issued thereunder by the Department of Community and Economic Development of the Commonwealth of Pennsylvania.

(e) An insignia of certification issued by the Department will be of a size and design and of materials and provide for the methods of attachment as determined by the Department.

§ 145.61. Insignia of inspection agencies.

(a) The inspection agency shall attach its label, seal or other insignia adjacent to the data plate for each industrialized housing or building module.

(b) The inspection agency shall attach its label, seal or other insignia, or other identification for certified housing or building components, or group of components, that are transported separately to the building site.

(c) The label, seal or other insignia of the inspection agency must identify the name of the inspection agency and have a serial number. In other respects, the inspection agency may design its label, seal or other insignia as it wishes, provided that the label, seal or other insignia does not contain statements which the Department determines are inconsistent with the act or this chapter. The label, seal or other insignia may be covered up during the process of assembly and installation at the building site so that it is not permanently visible.

§ 145.62. Data plates.

(a) A dwelling unit of certified industrialized housing must contain a data plate. The data plate shall be furnished by the manufacturer and be permanently at-

tached by the manufacturer in a visible location as specified in § 145.60(a) (relating to insignia of certification). The data plate must contain the following information:

- (1) Name of manufacturer.
- (2) Address of principal office of manufacturer.
- (3) Address of manufacturing facility where the industrialized housing or its principal elements were produced.
- (4) Manufacturer's model name.
- (5) Manufacturer's serial number for dwelling unit and date of manufacture.
- (6) Inspection and evaluation agencies' serial numbers.
- (7) Department insignia of certification numbers.
- (8) Minimum Btu output of furnace needed to maintain average 70°F interior temperature at outside design temperature of ___ F.
- (9) Annual degree days for which the house has been designed.
- (10) Snow loads—maximum.
- (11) Wind loads—maximum.
- (12) Floor loads—maximum, sleeping/nonsleeping.
- (13) Other special environmental factors.
- (14) Tests required and actually conducted.
- (15) Applicable codes, including name of code, edition or year of publication.

(b) Certified housing components shall be provided with a data plate. The data plate shall be furnished by the manufacturer and be permanently attached by the manufacturer in a visible location identified in the Site Installation Inspection Checklist referenced in § 145.91(e) (relating to reports to the Department). If attachment in the factory is not possible, the data plate may be tethered to the certified housing components for attachment at the site. The manufacturer shall provide instructions for attachment along with the data plate. The insignia of certification of the Department may not be attached to the data plate. The data plate must contain the following information relating to the housing components:

- (1) Name of manufacturer.
- (2) Address of principal office of manufacturer.
- (3) Address of manufacturing facility where housing components were produced.
- (4) Manufacturer's model name.
- (5) Manufacturer's serial number and date of manufacture for housing components.
- (6) Inspection and evaluation agencies' serial numbers.
- (7) Department insignia of certification numbers.
- (8) Snow loads—maximum.
- (9) Wind loads—maximum.
- (10) Other special environmental factors, if applicable.
- (11) Tests required and actually conducted.
- (12) Thermal transmittance values.
- (13) Applicable codes, including name of code, edition, year of publication and applicable supplement, if any.

(c) Additional information may be included on the data plate for dwelling units of certified industrialized housing and housing structures containing certified housing com-

ponents if there is no conflict with the requirements of the act or this chapter. If less than the minimum data required in this section is deemed necessary, prior approval shall be obtained from the Department.

(d) To insure that proper installation equipment is utilized for the lifting of industrialized housing units or housing components, a manufacturer shall indicate on the data plate the total shipping weight in tons per component.

(e) Certified industrialized buildings must contain a data plate. The data plate shall be furnished by the manufacturer and be permanently attached by the manufacturer in a visible location as specified in § 145.60(c). The data plate must contain the following information:

- (1) Name of manufacturer.
- (2) Address of principal office of manufacturer.
- (3) Address of manufacturing facility where the industrialized building or its principal elements were produced.
- (4) Manufacturer's model name.
- (5) Manufacturer's serial number and date of manufacture.
- (6) Inspection and evaluation agencies' serial numbers.
- (7) Department insignia of certification numbers.
- (8) Occupancy classification as provided for in § 145.41 (relating to adoption of standards).
- (9) Construction classification.
- (10) Snow loads—maximum.
- (11) Wind loads—maximum.
- (12) Floor loads—maximum.
- (13) Thermal transmittance values.
- (14) Other special environmental factors.
- (15) Tests required and actually conducted.
- (16) Applicable codes, including name of code, edition or year of publication.

(f) Certified industrialized building components must contain a data plate. The data plate shall be furnished by the manufacturer and be permanently attached by the manufacturer in a visible location identified in the Site Installation Inspection Checklist referenced in § 145.91(e). If attachment in the factory is not possible, the data plate may be tethered to the certified building component for attachment at the site. The manufacturer shall provide instructions for attachment along with the data plate. The insignia of certification of the Department may not be attached to the data plate. The data plate must contain the following information:

- (1) Name of manufacturer.
- (2) Address of principal office of manufacturer.
- (3) Address of manufacturing facility where the industrialized housing or its principal elements were produced.
- (4) Manufacturer's model name.
- (5) Manufacturer's serial number for dwelling unit and date of manufacture.
- (6) Inspection and evaluation agencies' serial numbers.
- (7) Department insignia of certification numbers.
- (8) Occupancy classification as provided for in § 145.41.
- (9) Construction classification.

- (10) Snow loads—maximum.
- (11) Wind loads—maximum.
- (12) Floor loads—maximum.
- (13) Thermal transmittance values.
- (14) Other special environmental factors.
- (15) Tests required and actually conducted.
- (16) Applicable codes, including name of code, edition or year of publication.

§ 145.63. Procedures for requesting, controlling and attaching insignia of certification.

(a) A manufacturer with an approved building system documentation and related approved compliance assurance program may request the Department to issue to it insignia of certification in a quantity not less than five and not more than the quantity needed for the manufacturer's reasonably estimated production during a 1-month period. The manufacturer's request shall be made on a Request for Insignia of Certification Form furnished by the Department and shall be accompanied by a check, money order or electronic payment in an amount calculated in accordance with the fee schedule in § 145.94 (relating to fees). If the manufacturer's request is complete and the fee payment is correct and the manufacturer and its third-party agency have fulfilled all of their obligations under this chapter, the Department will promptly issue to the manufacturer the requested number of insignia of certification. Each individual insignia of certification will bear a separate insignia serial number written thereon by the Department. The insignia of certification issued to the manufacturer will be accompanied by an Insignia of Certification Inventory Control List on a form furnished by the Department. The Department will send a copy of the Insignia of Certification Inventory Control List to the appropriate inspection agency.

(b) The manufacturer shall entrust the custody of the insignia of certification received from the Department only to employees designated in the compliance control program as responsible for the custody and control of the insignia of certification. The manufacturer shall attach the insignia only in the circumstances prescribed in the compliance control program and only with the prior specific authorization from the inspection agency. The manufacturer shall attach the insignia of certification in the manner specified by the Department intended to assure that the insignia cannot be removed without destroying the insignia. The manufacturer shall promptly record the attachment of each insignia of certification on the Insignia of Certification Inventory Control List. A copy of the Insignia of Certification Inventory Control List, with all columns filled out by the manufacturer, shall be sent by the manufacturer to the Department and to the inspection agency promptly following the use of all the insignias listed on the list. The manufacturer shall report to the Department and to the inspection agency the status of all insignias issued to them on a monthly basis, utilizing a method approved by the Department.

(c) The manufacturer shall return to the Department unused insignia of certification that have been issued to it within 10 days following the suspension of approval under § 145.66(a) (relating to emergency suspension) of previously approved building system documentation or compliance assurance programs of the manufacturer, or following the suspension under § 145.66(b) of the manufacturer's right to receive or attach insignia of certification, or following recall under § 145.69 (relating to suspension of certificate of approval of out-of-State manu-

facturer for lack of activity) or following the manufacturer's discontinuance of the manufacture of industrialized housing, buildings, or housing or building components for sale, lease or installation for use in this Commonwealth, or following the bankruptcy or dissolution of the manufacturer or the discontinuance of the manufacturer's business for whatever reason, or following the manufacturer's determination that the insignia of certification is no longer needed. The Department will cause the manufacturer to be refunded a portion of the fee already paid for the insignia equal to the product of the number of insignia of certification returned by the manufacturer and the fee per insignia paid by the manufacturer, less \$50 to be retained by the Department for handling expenses. Insignia returned to the Department under § 145.69 will not be subject to the charge for handling expenses.

(d) A manufacturer may not use, transfer, sell or otherwise dispose of insignia of certification issued to it by the Department in any manner not specifically authorized of this chapter.

§ 145.64. Modification after certification.

(a) Certified industrialized housing, buildings, and certified housing or building components bearing the insignia of certification may not be modified after the insignia of certification has been attached, unless the modification is approved in advance by the evaluation agency on the basis that the industrialized housing, building, or housing or building component, as so modified, will still conform to the approved building system documentation. Approvals of modifications which are consistent with the approved building system documentation may be by oral authorization by an officer or employee of the evaluation agency, but in this event each approval shall be subsequently evidenced by a letter from the evaluation agency to the manufacturer within 10 days after the oral authorization. Proposed modifications which are inconsistent with the approved building system documentation shall be treated as proposed amendments to the building system documentation subject to the approval of the evaluation agency under § 145.55 (relating to general requirements for approval of amendments to building system documentation).

(b) Modifications of certified industrialized housing, buildings, or certified housing or building components are not prohibited under the act or this chapter if the modifications are made after the issuance of a certificate of occupancy by the local enforcement agency. The modifications referred to in this subsection are subject to other applicable laws, codes and ordinances of the Commonwealth and of the local government of the jurisdiction in which the industrialized housing or building structure is located.

(c) Nothing in this section shall prevent a manufacturer, on its own motion or at the order of the inspection agency or of the Department, from repairing damage to or remedying a defect found in an industrialized housing component.

§ 145.66. Emergency suspension.

(a) The Department may suspend and an evaluation agency with an implementing contract with a manufacturer may suspend the approval of the manufacturer's building system documentation or the manufacturer's building system documentation or the related compliance assurance program following a determination by the agency causing the suspension that the issuance of the approval was not made in accordance with sound technical judgment or that the approval was based on fraudu-

lent or materially incorrect information or was not made in conformity with the requirements of the act or this chapter in a material respect or that the manufacturer does not have a currently valid and effective implementing contract with an approved evaluation and inspection agency with the result that there is created an imminent and substantial risk to the public health, safety and welfare of the citizens of this Commonwealth.

(b) Notice of emergency suspension under this section must be in writing and shall be delivered by the agency causing the suspension by hand to an officer of the manufacturer or by certified mail to the principal office of the manufacturer. The notice of emergency suspension must set forth the reasons for the suspension. If the suspension is caused by a third-party agency, the third-party agency shall immediately inform the Department by telephone of the suspension and shall promptly send to the Department a copy of the notice of suspension. Copies of the notice of emergency suspension shall be delivered by hand or sent by certified mail by the Department to every other third-party agency with an implementing contract with the manufacturer. The suspension shall be effective on the date the manufacturer receives the notice of suspension. The period of suspension shall be specified in the notice of suspension but may not exceed 45 days. The suspension shall be lifted at the conclusion of the period unless the suspension has been converted to a revocation following a hearing.

(c) Within 30 days following an emergency suspension, the Department will establish a time and place for a hearing to consider whether the suspension shall be lifted or converted to a revocation or what other order, if any, should be issued. The Department will send a written notice of the hearing by hand or by certified mail to the manufacturer and to third-party agencies with implementing contracts. Notice of the hearing may be sent to other interested persons. The hearing will be treated as an appeal, the manufacturer will be considered the appealing person and the provisions on appeals set forth in § 145.112 (relating to procedures for formal appeal proceedings) will be applicable. Without limiting the authority of the Department, the Department is specifically authorized to attach reasonable conditions to an order lifting a suspension including requiring that changes be made in the building system documentation or in the compliance assurance program so that they will conform with the requirements of this title.

(d) No industrialized housing, housing components, industrialized building or building components may be certified and insignia of certification attached thereto while an emergency suspension under this section pertaining to the manufacturer shall remain in effect, unless otherwise permitted by order of the Department.

§ 145.67. Revocation of certification.

(a) The Department or the appropriate third-party agency may send by certified mail a notice of intent to revoke:

(1) The approval of the manufacturer's building system documentation or the related compliance assurance program following a determination by the agency that the issuance of the approval was not made in accordance with sound technical judgment or was based on fraudulent or materially incorrect information or was not made in conformance with the requirements of the act or this title with the result that there could be a risk to the public health, safety and welfare of the citizens of this Commonwealth.

(2) The authority of the manufacturer to receive and to attach insignia of certification to industrialized housing, housing components, industrialized building or building components following a determination by the agency that the manufacturer is possibly failing in any material respect to conform with its approved building system documentation or to meet its responsibilities under the approved compliance assurance program or that the manufacturer is in violation in any material respect of the act or this title.

(b) Notice of intent to revoke must be in writing and shall be delivered by hand to an officer of the manufacturer or by certified mail to the principal office of the manufacturer. The notice must set forth the reasons for the intent to revoke. If the notice of intent is issued by a third-party agency, the third-party agency shall immediately inform the Department by telephone of the notice and shall promptly send to the Department a copy of the notice. Not less than 15 days but not more than 30 days shall be given to a manufacturer to correct the violations in the notice of intent to revoke.

(c) If the manufacturer fails to correct the violations within the time allowed, the Department will schedule a hearing to consider revocation of:

(1) The certification of industrialized housing, housing components, industrialized building or building components.

(2) The authority of the manufacturer to receive or attach an insignia of certification.

(3) Both.

(d) Written notice of the hearing, including the time and place of the hearing and a brief statement of the grounds on which the revocation is considered, will be delivered by hand to an officer of the manufacturer or by certified mail to the principal office of the manufacturer. Copies of the notice will be delivered to every other third-party agency with an implementing contract with the manufacturer. Notice of the hearing may be sent to other interested persons. The hearing will be treated as an appeal, the manufacturer considered the appealing person and the provisions on appeal in § 145.112 (relating to procedures for formal appeal proceedings) is applicable.

(e) Notwithstanding a decision by the Department not to cause a revocation following the hearing required under subsection (c), a third-party agency with an implementing contract with the affected manufacturer shall have an unconditional right to terminate its contract with the manufacturer.

§ 145.69. Suspension of certificate of approval of out-of-State manufacturer for lack of activity.

A manufacturer certified to ship industrialized housing, housing components, industrialized buildings or building components into this Commonwealth and whose plant is located in another state will have its certificate suspended if it fails to manufacture units for installation on a site in this Commonwealth for 2 consecutive years. Written notice of this suspension will be provided to the manufacturer. If the manufacturer desires to ship a unit into this Commonwealth within 1 year of its suspension, approval may be reinstated through a letter submitted by an approved third-party agency to the Department which provides that the manufacturer meet the requirements of the laws and this title, including the submission to the Department of its current approved building system documentation and compliance assurance program if the

previous submissions to the Department have been revised. The Department will review the third-party evaluation and then conduct an inspection of the plant. If a manufacturer has not made shipments into this Commonwealth for 1 year from the date of the suspension of its certificate, the certificate will lapse. To be reapproved, the manufacturer shall comply with this title in the same manner as would another manufacturer applying for initial approval.

THIRD-PARTY AGENCIES

§ 145.70. Departmental evaluation and inspection.

A manufacturer producing industrialized housing, housing components, industrialized buildings or building components for installation in this Commonwealth has the option of electing the Department to evaluate or inspect, or both, its products for certification. The Department will provide the services requested subject to the availability of staff. The following are applicable:

(1) The manufacturer shall enter into an implementing contract with the Department which must include a specific time period for the contract, a mutual termination clause with a minimum of 45 days of notice to terminate period, the services to be provided, and the fees to be charged to the manufacturer for services in accordance with § 145.94(e) (relating to fees).

(2) Evaluation services by the Department will include:

(i) Investigation, evaluation, testing, and, if justified, approval of each set of building system documentation, and each amendment thereto submitted to it by a manufacturer for compliance with all of the applicable requirements of the codes and standards adopted under §§ 145.41—145.43 (relating to adoption of standards; alternate standards; and amendment policy).

(ii) Investigation, evaluation, and, if justified, approval of the compliance assurance program and each amendment thereto—relating to the manufacture, transportation and installation of industrialized housing, industrialized housing components, industrialized buildings or industrialized building components described in each set of building system documentation approved under this section—submitted by the manufacturer for compliance with the requirements of this title.

(iii) Preparation and periodic revisions as necessary of the Building System Approval Report for each set of approved building system documentation and related compliance program.

(3) Inspection services by the Department will include:

(i) Monitoring the manufacturer's compliance control program for the manufacture, transportation and installation of industrialized housing, housing components, industrialized buildings or building components of each manufacturer having an implementing contract.

(ii) Verification that the industrialized housing, housing components, industrialized buildings or building components have been manufactured under approved building documentation and an approved compliance assurance program and authorization to the manufacturer for the attachment of insignia of certification to the industrialized housing, housing components, industrialized buildings or building components.

(4) Procedure for requesting, controlling and attaching insignia of certification shall be the same as detailed in § 145.63 (relating to procedures for requesting, controlling and attaching insignia of certification). Manufacturers shall purchase their insignia of certification at fees

indicated in § 145.94(e) and (f), and the cost of the insignia is not included in their evaluation or inspection, services, or both, provided by the Department under § 145.94(g).

(5) The specification document defining the requirements for submission of drawings, specifications, calculations and related material for Departmental approval will be provided upon request of the manufacturer.

§ 145.71. Responsibilities of evaluation agencies.

Each evaluation agency shall discharge under this chapter the following responsibilities:

(1) Investigation, evaluation, testing and, if justified, approval of each set of building system documentation, and each amendment thereto, submitted to it by a manufacturer with which it has an implementing contract for compliance with the applicable requirements of the codes and standards adopted under §§ 145.41, 145.42 and 145.44 (relating to adoption of standards; alternate standards; and adoption and effective dates—code amendments).

(2) Investigation, evaluation and, if justified, approval of the compliance assurance program, and each amendment thereto, relating to the manufacture, transportation and installation of the industrialized housing, housing components, buildings or building components described in each set of building system documentation approved under subsection (a), submitted to it by a manufacturer with which it has an implementing contract for compliance with the requirements of this chapter.

(3) Preparation and periodic revision as necessary of the Building System Approval Report for each set of approved building system documentation and related compliance assurance program.

(4) Preparation of reports to the Department as are required under this chapter or as may be required by the Department in carrying out its responsibilities under the act and this chapter.

(5) Performance of its obligations under its contract with the Department.

§ 145.72. Responsibilities of inspection agencies.

Each inspection agency shall discharge under this chapter the following responsibilities:

(1) Monitoring the manufacturer's compliance control program for the manufacture, transportation and installation of industrialized housing, housing components, buildings or building components of each manufacturer with which it has an implementing contract.

(2) Verification that industrialized housing, housing components, buildings or building components have been manufactured under approved building system documentation and an approved compliance assurance program and authorization to the manufacturer of the attachment of insignia of certification to the industrialized housing, housing components, buildings or building components.

(3) Preparation of reports to the Department as are required under this chapter or as may be required by the Department in carrying out its responsibilities under the act and this chapter.

(4) Performance of its obligations under its contract with the Department.

§ 145.72a. Frequency of inspections.

(a) In carrying out its monitoring responsibilities under § 145.72 (relating to responsibilities of inspection agen-

cies), an inspection agency shall observe the minimum frequency of inspection requirements in this subsection. During the inspection agency's initial work at the factory or after revocation under § 145.67 (relating to revocation of certification), the inspection agency shall monitor the manufacturer's approved compliance control program by inspecting industrialized housing, buildings, or housing or building components until it can be certified that the manufacturer is producing conforming industrialized housing, buildings, or housing or building components on an ongoing basis. Due to the varied nature and complexities of these products prior to beginning this certification process, the third-party agency shall submit to the Department its recommendation as to the minimum inspection frequency required to certify, and the frequency of inspections for routine inspection surveillance to assure the manufacturer is producing conforming housing or building components on an ongoing basis. The Department will review and determine if the third-party agency's proposal is adequate to grant the manufacturer authority to receive and attach insignias of certification. At any time during the certification process, the inspection agency may modify the proposal and submit the revised proposal to the Department for further review.

(b) An inspection agency's monitoring responsibilities under § 145.72(1) include, at a minimum, the monthly inspection of the storage and transportation methods and facilities employed by or on behalf of the manufacturer for as long as the manufacturer retains title to or effective control over the units to insure that the units are not altered from the manner in which they were approved.

(c) In carrying out its monitoring responsibilities under § 145.72(1), an inspection agency shall inspect industrialized housing and buildings at the site after installation is complete in a manner and frequency, consistent with factors set forth in subsection (d), necessary to confirm that the manufacturer's approved compliance control program is effective in assuring installation consistent with the manufacturer's approved building system documentation. Documentation of the onsite inspections must be on file in each manufacturing facility and be provided to the Department within 30 days of the Department's request for the documentation.

(d) The minimum frequency of inspection requirements in this section are not intended to substitute for the professional judgment of an inspection agency in determining whether a greater frequency of inspections is necessary to discharge its responsibilities properly. Factors that should be considered in establishing an appropriate frequency of inspection level for any manufacturer are the production volume of the factory, the design complexity of the units, the qualifications of the manufacturer's compliance control personnel and the experience record of the manufacturer.

§ 145.73. Criteria for approval of evaluation and inspection agencies.

(a) The Department will accept a written application from the designated employee of an agency who wishes to become an evaluation agency or an inspection agency for industrialized housing or industrialized buildings, or both. If the Department determines, on the basis of the inquiry as the Department deems necessary and appropriate, that the agency possesses the capacity of discharging reliably, objectively and without bias the responsibilities assigned by this chapter to an evaluation agency or to an inspection agency, as the case may be, the Depart-

ment will approve the application. In making the determination, the Department will consider that:

(1) There is a sufficient breadth of interest or activities so that the loss or award of a specific contract to an agency determining compliance of a product with this chapter would not be a substantial factor in the financial well-being of the agency performing the required functions.

(2) Employment security of personnel is free of influence or control by any manufacturer, supplier or vendor.

(3) The agency is not engaged in the promotion of products that they shall determine to be in compliance with this chapter.

(b) The Department will evaluate information on the following factors that relate to the ability of the applying agency to discharge the responsibilities that would be assigned to it as an approved evaluation agency or an approved inspection agency, as the case may be:

(1) The legal character and good standing of the applying agency.

(2) The financial strength of the applying agency.

(3) The current qualifications of the management and technical personnel of the applying agency. A list of the required qualifications will be published in the *Pennsylvania Bulletin* annually.

(4) The range of salaries and other compensation of the technical personnel, including inspectors of the applying agency, excluding principals, principal officers and directors of the applying agency.

(5) The policies and procedures of the applying agency for the hiring, training and supervision of technical personnel, including education and training following changes in the codes and standards applicable under this chapter.

(6) The extent, if any, to which the applying agency will engage independent consultants and the functions the independent consultants will perform; in general, the Department will not approve an applying agency who utilizes as key technical or supervisory personnel anyone who is an independent consultant. Also, the Department will not permit the use, by an inspection agency, of part-time inspectors unless the inspection agency's present volume of business in designated geographic areas does not justify full-time personnel or unless there are other compelling justifications.

(7) The prior experience and level of performance of the applying agency in performing similar or related functions.

(8) The capability, if any, of the applying agency to perform testing, including the nature of the testing and the facilities and personnel to perform it, and the identity, facilities, experience and key personnel of an independent testing agency with which arrangements have been made for testing services and the nature of the testing services.

(9) The extent, if any, to which the applying agency is affiliated with or influenced or controlled by a producer, manufacturer, supplier or vendor of products, supplies or equipment used in industrialized housing or industrialized buildings.

(10) The procedures to be used by the applying agency in discharging the responsibilities under this chapter of an evaluation agency or inspection agency, as the case may be. An applying agency seeking approval as an inspection agency shall furnish the complete procedures

for monitoring the manufacturer's compliance control program it would use for each type of construction for which it seeks approval, and state its policy with respect to the frequency at which it will conduct inspections of each phase of the manufacture, transportation and installation of industrialized housing, housing components, industrialized buildings or building components.

(c) The Department may consider information with respect to other factors that it may deem relevant to its determination of approval or disapproval. In approving an evaluation or inspection agency, the Department may limit the scope of the agency's approved activities to particular types of industrialized housing, buildings, or housing or building components, geographic area or the number of manufacturers the Department determines an agency can effectively evaluate or inspect, or both.

§ 145.74a. Prohibition on consulting services.

A third-party agency may not perform consulting engineering services relating to industrialized housing, housing components, industrialized buildings or building components for a manufacturer for as long as the third-party agency has an implementing contract with the manufacturer or related manufacturer under § 145.78(c) (relating to contractual arrangements).

§ 145.76. Reapprovals of third-party agencies.

(a) An evaluation agency or inspection agency approved by the Department under § 145.75 (relating to procedures for obtaining approvals of evaluation and inspection agencies) may apply to the Department for reapproval. The application for reapproval may be filed with the Department within 60 days prior to the scheduled expiration of the current approval from the Department. The applying third-party agency seeking reapproval shall completely and accurately furnish pertinent information necessary to make current the information previously submitted to the Department as part of its original application for approval and subsequent applications for reapproval. The applying third-party agency shall provide additional information that the Department may request. The application for reapproval shall utilize forms that the Department may require. The application for reapproval will become a permanent record of the Department. The application will be accompanied by the fee established under § 145.94 (relating to fees). The Department may conduct additional investigations of the applying third-party agency that it deems necessary.

(b) Within 30 days following the receipt by the Department of an application for reapproval, the Department will make its determination whether the applying third-party agency continues to meet the requirements of this chapter for an industrialized housing evaluation agency or industrialized building evaluation agency, or both, or an industrialized housing inspection agency or industrialized building inspection agency, or both. In the event of a disapproval, the Department will provide the applying third-party agency with a brief written explanation of the reasons for the disapproval. In the event of a reapproval, the Department will provide the applying third-party agency with a brief written letter of reapproval. A reapproval will expire on the date of the next anniversary of the date of the scheduled expiration of the current approval from the Department.

(c) The Department may, on its own motion or at the request of an evaluation agency or inspection agency, grant a temporary reapproval of an evaluation agency or inspection agency for a period not to exceed 60 days. The applying third-party agency seeking reapproval shall be

subject to procedures that satisfy the Department of its ability to perform its functions. The procedures shall require annual interviews of third-party agency personnel at their headquarters or by teleconference to assess the desired performance.

§ 145.78. Contractual arrangements.

(a) No evaluation agency or inspection agency may discharge a responsibility under this chapter unless under valid contracts with the Department and with manufacturers contemplated by this section.

(b) As soon as practical but not later than 30 days after the Department approves an evaluation agency or an inspection agency under § 145.75 (relating to procedures for obtaining approvals of evaluation and inspection agencies), the Department and the third-party agency shall enter into a contract which will set forth the rights and obligations of the Department and the third-party agency. The contracts must contain representations by the third-party agencies with respect to their fees to be paid by manufacturers for the discharge of their responsibilities under this chapter; the establishment of the fees may not be subject to negotiation with the Department. In all other respects, except for the limitations scope and the special conditions contained therein, contracts with evaluation agencies must be uniform for evaluation agencies and contracts with inspection agencies must be uniform for inspection agencies. Each contract must also contain a provision under which the Department may require an evaluation agency or an inspection agency to enter into and implement an implementing contract under subsection (c), whether on a temporary or permanent basis, with a manufacturer that is unable to comply with this chapter because third-party agencies are unwilling voluntarily to enter into an implementing contract with the manufacturer or because the manufacturer is otherwise without a currently valid implementing contract with an evaluation agency or an inspection agency because the approval of the third-party agency was suspended or revoked under the provisions of this chapter. Each contract must also contain provisions which are required by law for contracts of which the Department is a party, including, without limitation, provisions for equal employment opportunity.

(c) A manufacturer seeking certification of industrialized housing, housing components, industrialized buildings or building components that it manufactures shall enter into implementing contracts with an evaluation agency and an inspection agency with contracts with the Department under subsection (b). Each third-party agency shall send a copy of each implementing contract to the Department.

(d) A manufacturer of industrialized housing, housing components, industrialized buildings or building components approved under this title shall have a current implementing contract with an approved evaluation agency and an approved inspection agency or have alternate arrangement for evaluation or inspection, or both, of its products with the Department under § 145.70 (relating to Departmental evaluation and inspection).

(e) A manufacturer of industrialized housing, housing components, industrialized buildings or building components operating under an implementing contract with an approved evaluation agency and an approved inspection agency, who wishes to enter into an implementing contract with a different evaluation or inspection agency, shall provide justification and receive approval from the Department prior to entering into the new contract,

except as provided for in § 145.79(e) (relating to suspension and revocation of third-party agencies).

§ 145.79. Suspension and revocation of third-party agencies.

(a) The Department may suspend or revoke its approval of an evaluation agency or inspection agency if the Department determines that the approval or a reapproval was based on fraudulent or materially inaccurate information, or that the approval or reapproval was issued in violation of this chapter, or that a change of facts or circumstances make it unlikely that the third-party agency can continue to discharge its responsibilities under this chapter in a satisfactory manner, or that the third-party agency had failed to discharge its responsibilities under this chapter in a satisfactory manner or had violated this chapter or its contract with the Department in any material respect. During the period of suspension or revocation, the affected third-party agency may not be authorized to discharge its responsibilities under this chapter or under its contract with the Department, unless otherwise specified in the notice of suspension referred to in subsection (b) or by order of the Department.

(b) A written notice of a suspension under subsection (a) will be delivered by the Department by hand to an officer of the affected third-party agency or by registered mail to the principal office of the affected third-party agency. The written notice will include a brief statement of the reasons for the suspension. Copies of the notice of suspension will be delivered by the Department to manufacturers with implementing contracts with the affected third-party agency either by hand to officers of the manufacturers or by registered mail to the principal offices of the manufacturers. The suspension will be effective on the date the affected third-party agency receives the notice of suspension or on a later date that may be designated in the notice of suspension. The period of suspension will be specified in the notice of suspension, but it may not continue beyond a date 15 days after the date the hearing provided for in subsection (c) is held.

(c) Promptly following a suspension under subsection (a), the Department will establish a time and place for a hearing to consider whether the suspension should be lifted or converted to a revocation or what other order, if any, should be issued. The Department will send a written notice of the hearing by hand or by registered mail to the affected third-party agency and to manufacturers with implementing contracts with the affected third-party agency. Notice of the hearing may be sent to other interested persons. The hearing will be treated as an appeal, the affected third-party agency will be considered the appealing person and § 145.112 (relating to procedures for formal appeal proceedings) is applicable.

(d) The Department may revoke its approval of an evaluation agency or inspection agency without previously suspending its approval. The Department will send a written notice to the affected third-party agency of its intention to consider revocation of its approval, stating the grounds therefor and establishing a time and a place for a hearing on the question. The notice will be sent by hand or by registered mail to the affected third-party agency and to manufacturers with implementing contracts with the affected third-party agency. The notice may be sent to other interested persons. The hearing will be treated as an appeal, the affected third-party agency will be considered the appealing person, and § 145.112 is applicable.

(e) Upon the suspension or revocation of approval of an evaluation agency or inspection agency under this section,

a manufacturer with an implementing contract with the affected third-party agency shall have an unconditional right to terminate its contract with the third-party agency and to enter into an implementing contract with another third-party agency.

(f) If the Department determines that there is a substantial threat to the health, safety or welfare of the occupants of industrialized housing or housing structures containing housing components or industrialized buildings or structures containing industrialized building components, because they were manufactured in accordance with building system documentation and related compliance assurance program approved by an evaluation agency whose approval has been suspended or revoked by the Department under this section or were certified by an inspection agency whose approval has been suspended or revoked by the Department under this section, the Department may require the manufacturer to take the actions with respect to the industrialized housing or housing components, industrialized buildings or building components as may be necessary to eliminate substantially the threat to the health, safety or welfare of the occupants.

(g) Upon the suspension or revocation of an evaluation agency or inspection agency under this section, the Department will, upon the request of a manufacturer with an implementing contract with the suspended or revoked third-party agency, consult with the manufacturer to establish a temporary arrangement by which the manufacturer can continue to manufacture, sell, lease and install industrialized housing, housing components, industrialized buildings or building components in conformity with the act and this chapter until the suspension or revocation is lifted or an implementing contract entered into with another third-party agency. For these purposes, the Department may in its sole discretion discharge some or all of the responsibilities of a third-party agency. The Department may also approve another temporary arrangement which the Department determines would best promote the purposes of the act and this chapter under the circumstances.

LOCAL ENFORCEMENT AGENCIES

§ 145.81. Responsibilities of local enforcement agencies.

(a) Local enforcement agencies, building code and construction code officials can make an important contribution to the effective administration of the act and this chapter. In addition to discharging the responsibility under local law for the enforcement of applicable locally-enacted codes and ordinances governing site preparation work and water, sewer, electrical and other energy supply connections as described more particularly in § 145.36 (relating to applicability of locally-enacted codes and ordinances), and in view of the responsibilities of local enforcement agencies under State and local law and of the responsibilities of local governments to cooperate with agencies of the Commonwealth to protect the health, safety and welfare of the citizens of this Commonwealth, local enforcement agencies shall assist the Department in enforcing the act and this chapter for industrialized housing, housing components, industrialized buildings or building components at the time of installation in the jurisdiction of their local government in the following respects:

(1) Site inspections of industrialized housing, housing components, industrialized buildings or building components, upon arrival at the site, for apparent damage

occurring during transportation from the manufacturing facilities to the site and other apparent nonconformity with the approved building system documentation.

(2) Site inspections of the installation of the industrialized housing, housing components, industrialized buildings or building components consistent with those elements of installation addressed in the Site Installation Inspection Checklist required under § 145.91(e) (relating to reports to the Department) and the installation instructions in the Building System Approval Report.

(3) Notifications to the Department and the manufacturer of damage and nonconforming elements found in the industrialized housing, housing components, industrialized buildings or building components as a result of the site inspections, as well as additional site inspections of efforts made to remedy or repair the damage and nonconforming elements shall be channeled through the Department.

(4) Notification to the Department of violations of the act and this chapter by the manufacturer, inspection agency or other person, including instances in which industrialized housing, housing components, industrialized buildings or building components are installed or are intended for installation without bearing the required insignia of certification.

(5) Cooperation with the Department in efforts to take action to remedy the violations and prevent future occurrences.

(b) Site inspections of industrialized housing and housing components which a local enforcement agency performs under this chapter shall include, and be limited to, any type of visual exterior inspection and monitoring of tests performed by other persons during installation in accordance with the installation requirements in the Building System Approval Report. Destructive disassembly of the industrialized housing, housing components, industrialized buildings or building components may not be performed, and nondestructive disassembly may not be performed in the course of an inspection except to the extent of opening access panels and cover plates.

§ 145.82. Issuance of building permits.

(a) A person seeking a building permit from a local enforcement agency for industrialized housing or a housing structure in which will be installed housing components, industrialized buildings or structures containing industrialized building components shall furnish installation documentation required under § 145.58(b)(4) (relating to basic requirements for a compliance control program) and a current Notice of Approval under § 145.92(a)(5) (relating to reports by the Department) and a statement signed by the person seeking the building permit or, if a corporation, by an officer or authorized representative of the corporation, that the work to be performed under the building permit will include the installation of certified industrialized housing, housing components, industrialized buildings or building components bearing the appropriate insignia of certification issued by the Department under the act and this chapter.

(b) The local enforcement agency may not withhold the issuance of a building permit for certified industrialized housing or a housing structure in which will be installed certified housing components, industrialized buildings or structures containing industrialized building components if the applicant submits the documents required by this section, and the application for a building permit complies

with applicable locally-enacted codes and ordinances with regard to set-up and site details, and land use.

§ 145.83. Issuance of certificates of occupancy.

The local enforcement agency may not withhold the issuance of a certificate of occupancy or other similar permit for certified industrialized housing or a housing structure in which has been installed certified housing components, industrialized buildings or structures containing building components if the properly completed Site Installation Inspection Checklist required under § 145.91 (relating to reports to the Department) is submitted and the structure was constructed and installed on the site under a validly issued building permit and in other respects complies with applicable locally-enacted codes and ordinances not pre-empted by the act and this chapter.

ADMINISTRATIVE PROVISIONS

§ 145.91. Reports to the Department.

(a) The Department is authorized to require that evaluation agencies, inspection agencies and manufacturers with approved building system documentation shall prepare and submit to the Department regular periodic reports regarding their activities relating to industrialized housing and housing components falling within the scope of the act and this chapter. These reports shall be promptly filed with the Department on forms and at times the Department may specify.

(b) The Department is authorized to require that evaluation agencies, inspection agencies and manufacturers with approved building system documentation shall promptly furnish to the Department the special reports and other information as the Department may require which relate in any way to the administration and enforcement of the act and this chapter.

(c) Evaluation agencies and inspection agencies are required to notify the Department of the following:

(1) A change of facts which would render inaccurate in material respect their application for approval submitted to the Department under § 145.75 (relating to procedures for obtaining approvals of evaluation and inspection agencies), as updated by the latest application for reapproval submitted to the Department under § 145.76 (relating to reapprovals of third-party agencies), as provided more particularly in § 145.75(e).

(2) A fact or circumstance of which the third-party agency has actual knowledge which could lead a reasonable person to believe that a manufacturer, third-party agency or other person in violating the act or this chapter, the notification to be promptly given to the Department.

(d) Manufacturers with approved building system documentation are required promptly to notify the Department of any fact or circumstance of which the manufacturer has actual knowledge which could lead a reasonable person to believe that a third-party agency or other person is violating a provision of the act or of this chapter.

(e) A person installing industrialized housing, housing components, industrialized buildings or building components for use on a site in a jurisdiction in this Commonwealth shall complete and return to the manufacturer and provide a copy to the local building code official a Site Installation Inspection Checklist on a form furnished by the manufacturer. The manufacturer is responsible for furnishing to the person performing the installation a

copy of the Site Installation Inspection Checklist Form and instructions as to its intended use.

§ 145.92. Reports by the Department.

(a) The Department will send reports to third-party agencies and manufacturers with approved building system documentation which will include all of the following:

(1) Decisions of the Department under § 145.46 (relating to applicability and interpretation of code provisions) since the last report regarding the availability or interpretation of a provision of a code adopted under §§ 145.41, 145.42 and 145.44 (relating to adoption of standards; alternate standards; and adoption and effective dates—code amendments).

(2) Decisions of the Department of general applicability under § 145.96 (relating to interpretation of this chapter) since the last report interpreting this chapter.

(3) Decisions of the Department of general applicability under § 145.112 (relating to procedures for formal appeal proceedings) since the last report rendered at the conclusion of a formal appeal proceeding.

(4) A current list of the names and addresses of currently approved third-party agencies.

(5) A Notice of Approval to each manufacturer that is approved as provided for in § 145.72a (relating to frequency of inspections).

(b) Each report may contain additional information relating to the administration of this chapter.

(c) Nothing in this section shall be construed as relieving the Department of another reporting requirement as may be specifically required in other provisions of this chapter.

§ 145.93. Factory inspections; right of entry.

(a) *Authorized inspections by Department.*

(1) The Department is authorized to inspect:

(i) A manufacturing facility of a manufacturer with approved building system documentation or to whom insignia of certification has been issued under § 145.103 (relating to issuance of insignia of certification).

(ii) The transportation facilities utilized for the transport of certified industrialized housing, housing components, industrialized buildings or industrialized building components.

(iii) The building sites on which certified industrialized housing, housing components, industrialized buildings or industrialized building components have been or are intended to be installed.

(iv) The books and records—wherever maintained—of a manufacturer with approved building system documentation or to whom insignia of certification has been issued under § 145.103 which relate to the manufacture, sale, lease or installation of industrialized housing, housing components, industrialized buildings or industrialized building components for use on a site in this Commonwealth.

(v) The facilities and the books and records of a third-party agency which relate to the discharge of its responsibilities under this chapter.

(2) A manufacturer with approved building system documentation or to whom insignia of certification has been issued under § 145.103 and every approved evaluation agency and approved inspection agency shall grant to authorized representatives of the Department the right of

entry on its property at reasonable times during normal business hours for the purpose of conducting the inspections and examinations as authorized under this section.

(3) Persons selling, acquiring or leasing the industrialized housing, housing components, industrialized buildings or building components, and persons engaged in its transportation to and installation at the building site, shall grant to authorized representatives of the Department the same right of entry on their property as the manufacturer is required to grant under this chapter.

(b) *Yearly inspections.* A factory or manufacturing facility with approved building system documentation will be inspected at least once each year by the Department. The inspections are to verify the effectiveness of the sponsor's quality program and compliance with approved building systems documentation.

(c) *Inspection upon complaints or suspected violations.* A manufacturer with approved building system documentation shall grant to authorized representatives of an evaluation and inspection agency with which it has an implementing contract the right of entry on its property at least twice per year during normal business hours and at other times upon complaint or a reasonable belief that violations of this chapter may exist, for the purpose of conducting inspections and examination as the evaluation or inspection agency deems necessary to discharge its responsibilities under this chapter and under its contract with the manufacturer. Persons selling, acquiring or leasing the industrialized housing, housing components, industrialized buildings or building components, and persons engaged in its transportation to and installation on the building site, shall grant to an evaluation and inspection agency with an implementing contract with the manufacturer the same right of entry on their property as the manufacturer is required to grant under this chapter.

(d) *Inspection restrictions.* Upon entry onto a manufacturer's property or other property for the purpose of conducting an inspection under this section, the Department's employee or representative will state the scope of the intended inspection and that the inspection will be conducted under the act.

§ 145.94. Fees.

(a) A person submitting an application to the Department under § 145.75(a) (relating to procedures for obtaining approvals of evaluation and inspection agencies) for approval as an industrialized housing evaluation agency or inspection agency shall pay a fee of \$1,000. If the person seeks approval as both an industrialized housing evaluation agency and an inspection agency, the combined fee is \$2,000.

(b) A third-party agency submitting an application to the Department under § 145.76 (relating to reapprovals of third-party agencies) for reapproval as an industrialized housing evaluation agency or inspection agency shall pay a fee of \$500. If the person seeks reapproval as both an industrialized housing evaluation agency and an inspection agency, the combined fee is \$1,000.

(c) A person submitting an application to the Department under § 145.75(a) for approval as an industrialized buildings evaluation agency or inspection agency shall pay a fee of \$1,000. If the person seeks approval as both an evaluation agency and an inspection agency, the combined fee is \$2,000.

(d) A third-party agency submitting an application to the Department under § 145.76 for reapproval as an industrialized buildings evaluation agency or inspection

agency shall pay a fee of \$500. If the person seeks reapproval as both an industrialized buildings evaluation agency and an inspection agency, the combined fee is \$1,000.

(e) For manufacturing facilities in this Commonwealth, the insignia of certification fee is:

(1) \$40 per insignia for each module of an industrialized housing.

(2) \$40 per insignia for each industrialized housing component. The fee payable under this paragraph for industrialized housing components installed in or on a single dwelling unit may not exceed \$40.

(3) \$60 per insignia for each transportable section of an industrialized building.

(4) \$60 per insignia for each industrialized building module or component. A manufacturer may request special consideration from the Department in the event the manufacturer believes that insignia placement on individual modules or components is unreasonable due to the unique scope of a particular project.

(f) For manufacturing facilities outside of this Commonwealth, the insignia of certification fee is:

(1) \$60 per insignia for each module of an industrialized housing unit.

(2) \$60 per insignia for each industrialized housing component. The fee payable under this paragraph for industrialized housing components installed in or on a single unit may not exceed \$60.

(3) \$90 per insignia for each transportable section of an industrialized building.

(4) \$90 per insignia for each industrialized building module or component. A manufacturer may request special consideration from the Department in the event the manufacturer believes that insignia placement on individual modules or components is unreasonable due to the unique scope of a particular project.

(g) When the Department is authorized to monitor or inspect under § 145.93 (relating to factory inspections; right of entry) or otherwise, or provide evaluation or inspection services, or both, under § 145.70 (relating to Departmental evaluation and inspection), the manufacturer shall pay to the Department the following fees:

(1) Engineering services—\$75 per hour.

(2) Administrative services—\$40 per hour.

(3) Travel and per diem expenses—current Commonwealth travel and per diem expenses.

(h) The Department may establish reasonable handling and other administrative fees as indicated elsewhere in this chapter, subject to the stated limitations in amount.

(i) Fees paid to the Department under this chapter are nonrefundable except as otherwise specifically set forth in this chapter. Fees shall be paid electronically (as determined by the Department), by check or money order.

§ 145.97. Amendments to this chapter.

The Department may propose amendments to this chapter. The Department will publish each proposed amendment in the *Pennsylvania Bulletin* and provide notice of the amendment to third-party agencies and to manufacturers with approved building system documentation. The Department will hold public hearings on proposed amendments to this chapter. A proposed amendment shall become effective upon compliance with the

applicable requirements of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1102, 1201—1208 and 1602) and 45 Pa.C.S. Part II (relating to publication and effectiveness of Commonwealth documents).

§ 145.99. Remedies.

The Department may seek an order from a court of applicable jurisdiction in this Commonwealth for the enforcement of the act or this chapter, including without limitation an order for injunctive relief to enjoin the sale, lease, delivery or installation of industrialized housing, housing components, buildings or building components which have not been manufactured, transported or installed in conformity with the requirements of the act or this chapter, or for the refusal of a party to comply with the act or this chapter.

INTERSTATE ACCEPTABILITY

§ 145.101. General authority.

The Department is authorized under section 6 of the act (35 P.S. § 1651.6) to issue insignia of certification to approved manufacturers under this program for their industrialized housing, housing components, industrialized buildings or building components which have been certified by any competent authority within a state of the United States following a finding by the Department that the certifications have been granted on the basis of standards substantially equivalent to this chapter. Sections 145.102 and 145.103 (relating to determinations of acceptability of certifications of a competent state authority; and issuance of insignia of certification) set forth more detailed criteria to support a finding by the Department that the standards are substantially equivalent to this chapter and establish additional procedures necessary to safeguard the health, safety and welfare of the citizens of this Commonwealth from noncomplying industrialized housing, housing components, industrialized buildings or building components certified by a competent state authority.

§ 145.102. Determinations of acceptability of certifications of a competent state authority.

(a) The Department may, on the basis of its review of the applicable statutes, regulations and administrative practices and experience and the other information as it may consider necessary for an informed finding, find that the standards of a competent authority of a state of the United States under which industrialized housing, housing components, industrialized buildings or building components are certified are substantially equivalent to the provisions of this chapter. The finding by the Department will be based on the following subsidiary findings:

(1) An agency, authority or division of the government of a state of the United States has established and is actively administering under valid legislative authority a program for the certification of industrialized housing, housing components, industrialized buildings or building components or type of industrialized housing, housing components, industrialized buildings or building components similar in its purposes to the program authorized by the act.

(2) The codes and standards utilized by the competent authority of the other state governing the design, materials and method of construction are substantially equivalent to the codes and standards adopted by the Department under §§ 145.41, 145.42 and 145.44 (relating to adoption of standards; alternate standards; and adoption and effective dates—code amendments). The determination of substantial equivalency will be based on a finding

that the degree of protection to the health, safety and welfare of the citizens of this Commonwealth would not be materially less under other codes and standards than under the codes and standards adopted by the Department under §§ 145.41, 145.42 and 145.44. It is not intended that findings of substantial equivalency be limited to codes adopted by other jurisdictions which are identical or substantially identical with the codes adopted under §§ 145.41, 145.42 and 145.44. In addition, a finding of substantial equivalency may be limited to designated types of buildings or methods of construction for buildings.

(3) The competent state authority will not certify industrialized housing, housing components, industrialized buildings or building components unless there has been a finding that the manufacturer is administering an acceptable compliance control program or, if third-party agencies are utilized, there is an acceptable compliance assurance program.

(4) The evaluation of the building system documentation of manufacturers for conformity with the adopted codes and standards and of the related compliance control program or compliance assurance program, as the case may be, is performed by personnel possessing satisfactory qualifications to assure determinations that are reliable, objective and without bias.

(5) The procedures adopted by the competent state authority are satisfactory to assure effective enforcement of the regulations and standards adopted by that jurisdiction.

(b) If the Department makes a finding of substantial equivalency under subsection (a), it will further determine whether there are procedures adopted by the competent state authority with respect to which the finding of substantial equivalency is made under which the Department would be promptly notified in the event of the suspension or revocation of approval of any manufacturer or third-party agency or of any other approval issued by the competent state authority relating to the enforcement of its applicable regulations. If there are no procedures for prompt notification to the Department, the Department may seek agreement from the competent state authority for the establishment of notification procedures.

(c) Promptly after the Department makes a finding of substantial equivalency under subsection (a) with respect to the standards adopted by a competent state authority under which industrialized housing, housing components, industrialized buildings or building components are certified by the authority, and further determines that the competent state authority has adopted the notification procedures prescribed in subsection (b), the Department will notify third-party agencies and manufacturers with approved building system documentation that, on compliance with the requirements of § 145.103 (relating to issuance of insignia of certification), the Department will issue to a manufacturer insignia of certification for attachment to industrialized housing, housing components, industrialized buildings or building components certified by the competent state authority with respect to which the findings have been made.

§ 145.103. Issuance of insignia of certification.

(a) A manufacturer, regardless of whether its building system documentation and related compliance assurance program have been approved under this chapter, may request that the Department issue to it insignia of certification for attachment to industrialized housing, housing components, industrialized buildings or building

components which have been or will be certified by a competent state authority with respect to which the Department has made the requisite findings required under § 145.102 (relating to determinations of acceptability of certifications of a competent state authority). In addition to meeting all of the requirements of § 145.63 (relating to procedures for requesting, controlling and attaching insignia of certification), the manufacturer's request must contain the following additional information:

(1) A list of the building system documentation which was approved by the competent state authority for the industrialized housing, housing components, industrialized buildings or building components to which the insignia of certification are to be attached.

(2) Evidence that building system documentation and related compliance assurance program or compliance control program, as the case may be, was approved under the policies and procedures of the competent state authority as conforming to the standards with respect to which the Department's determination of substantial equivalency was made.

(3) The name and address of an inspection agency, approved by the Department, which will participate in the compliance assurance program and authorize the attachment of the insignia of certification to the industrialized housing, housing components, industrialized buildings or building components to be sold, leased or installed for use on a site in this Commonwealth.

(b) If the competent state authority uses its own personnel for monitoring a manufacturer's compliance control program and inspecting industrialized housing or housing components, the manufacturer seeking the issuance of insignia of certification under subsection (a) may eliminate the requirement of subsection (a)(3) for utilizing an inspection agency to monitor its compliance control program and authorize the attachment of insignia of certification, provided that the Department and the competent state authority have entered into an agreement under which the competent state authority will institute procedures, acceptable to the Department, for authorizing the attachment of the insignia of certification for industrialized housing, housing components, industrialized buildings or building components intended for sale, lease or installation for use on sites in this Commonwealth. The Department will enter into an agreement only if it determines that the procedures for controlling the use of the insignia of certification contain adequate safeguards and that the competent state authority has the satisfactory organization and personnel to discharge its obligations under the agreement and will not charge the approval or reapproval fees as outlined in § 145.94(a) and (b) (relating to fees).

§ 145.104. Reciprocal agreements.

(a) The Department is authorized to enter into agreements with the United States Department of Housing and Urban Development or with a competent authority within a state of the United States which has established under valid legislative authority a program for the certification of industrialized housing, housing components, industrialized buildings or building components under which each party to an agreement will recognize the certification issued under the laws, regulations and administrative procedures of the other party. An agreement must establish procedures additional to those set forth in this chapter and shall in respects be consistent with the act.

(b) The reciprocal agreement may also establish that acceptability of the competent state authority insignia of

certification for industrialized housing units, components, industrialized buildings or building components shall be recognized by the Department instead of the provisions in §§ 145.102 and 145.103 (relating to determinations of acceptability of certifications of a competent state authority; and issuance of insignia of certification).

(c) The inspection and evaluation agency fees outlined in § 145.94(a) and (b) (relating to fees) will not be charged to a competent state authority entering into a reciprocal agreement, as outlined in this chapter, using its own personnel for monitoring a manufacturer's compliance control program and inspecting industrialized housing, housing components, industrialized buildings or building components.

§ 145.105. Suspension and revocation.

(a) The Department, on the basis of its review of the applicable statutes, regulations and administrative practices and experience and other information that it may consider necessary for an informed finding, determine that its finding that the standards of a competent state authority, previously found by the Department to be substantially equivalent to this chapter, is no longer justified under the criteria in § 145.102(a) (relating to determinations of acceptability of certifications of a competent state authority) or the procedures for notification in § 145.102(b) are no longer effective. The Department will promptly notify third-party agencies and manufacturers with approved building system documentation or possessing insignia of certification issued to them under § 145.103 (relating to issuance of insignia of certification) of its finding. If requested by the Department, manufacturers possessing insignia of certification issued under § 145.103 shall promptly return the insignia to the Department and, upon receipt by the Department of the returned insignia, the fee paid by the manufacturer for the insignia will be refunded in full. No additional insignia of certification will be issued by the Department under § 145.103 with respect to industrialized housing or housing components certified by the competent state authority with respect to which the finding by the Department was made. In addition, the Department will be authorized to remove, or cause the removal of, insignia of certification theretofore attached to industrialized housing, housing components, industrialized buildings or building components certified by the competent state authority, if the Department determines that there is a substantial threat to the health, safety or welfare of the occupants of the industrialized housing or housing structures containing the housing components, industrialized buildings or structures containing building components unless brought into compliance with this chapter.

(b) The suspension or revocation of the certification of a manufacturer or third-party agency or of an industrialized housing, housing components, industrialized buildings or building components by a competent state authority shall automatically suspend the right of a manufacturer affected in a material respect by the suspension or revocation to utilize an insignia of certification issued to it under § 145.103. The manufacturer may thereafter request the Department to determine in writing those circumstances in which it may continue to use the insignia of certification.

(c) Nothing in this section shall be construed to limit or restrict the rights of suspension and revocation of the Department under this chapter.

[Pa.B. Doc. No. 16-1901. Filed for public inspection November 4, 2016, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Referendum Order on Continuation of the Pennsylvania Wine Marketing and Research Program

I. The Pennsylvania Wine Marketing and Research Program was established under the provisions of the Agricultural Commodities Marketing Act. The Act requires that the Secretary of Agriculture call a referendum of affected producers every five years to determine whether or not a majority of those voting still desire the program. The program was last subjected to a review referendum conducted in 2011. It is now time for another review referendum to determine whether a majority of the wine producers desire the program to continue.

II. *Referendum Period:* The referendum period shall be from November 14, 2016 until 4 p.m. on November 30, 2016. Completed ballots shall be mailed or hand-delivered to the Pennsylvania Department of Agriculture, Bureau of Market Development, Room 310, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408. Hand-delivered ballots must be received by 4 p.m. on November 30, 2016. Ballots that are mailed must be postmarked no later than November 30, 2016, and received no later than December 5, 2016.

III. *Notice of Referendum:* This referendum order and an official ballot shall be mailed no later than November 7, 2016, to all affected producers whose names appear on the list of Pennsylvania wine producers maintained in the Office of the Secretary of Agriculture. Additional copies of the same materials shall be made available at the Office of the Secretary of Agriculture.

IV. *Eligible Voters:* The rules governing the eligibility of a producer for voting are as follows: The record date for determination of whether a producer is eligible to vote is November 7, 2016. Names of affected eligible producers shall be taken from the commodity wine list of producers/sellers maintained in the Office of the Secretary of Agriculture. These names are supplied to the Secretary from the Pennsylvania Liquor Control Board. Voting producers must have a Limited Winery License. Producers who hold a Limited Winery License but do not produce wine in Pennsylvania are not eligible to vote.

V. *Counting of Ballots:* The ballots will be canvassed and counted by a Teller Committee appointed by the Secretary of Agriculture. The counting of the ballots will begin at 10 a.m., Wednesday, December 7, 2016 at the Pennsylvania Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110. The Secretary will announce the results of the referendum within 30 days following the completion of the referendum period. The results will be published in the *Pennsylvania Bulletin* and the Harrisburg *Patriot-News*, and disseminated to the news media.

VI. *Reporting Irregularities:* Any irregularities or disputes concerning the referendum procedures must be reported in written form to the Secretary of Agriculture no later than seven (7) calendar days from the end of the referendum period.

VII. *Publication:* This referendum order shall be published in the *Pennsylvania Bulletin* and the Harrisburg *Patriot-News*.

VIII. *Effective Date:* The foregoing order shall be effective immediately.

RUSSELL C. REDDING,
Secretary

[Pa.B. Doc. No. 16-1902. Filed for public inspection November 4, 2016, 9:00 a.m.]

Temporary Order Designating Dangerous Transmissible Diseases

The Department of Agriculture (Department) issues a temporary order designating Chronic Wasting Disease (CWD), Spring Viremia of Carp (SVC), Viral Hemorrhagic Septicemia (VHS), the neurologic form of Equine Rhinopneumonitis or Equine Herpes Virus (EHV-1), and *Brucella canis* as “dangerous transmissible diseases.” These designations are made under the authority of 3 Pa.C.S. §§ 2301—2389 (relating to Domestic Animal Law).

This temporary order is the successor to a previous temporary order. The previous temporary order will expire as of January 1, 2017 and will be replaced by this temporary order.

Under 3 Pa.C.S. § 2327(a) (relating to disease surveillance and detection), the Department has authority to monitor the domestic animal population of this Commonwealth to determine the prevalence, incidence and location of transmissible diseases of animals. Under 3 Pa.C.S. § 2321(d) (relating to dangerous transmissible diseases), the Department has authority to declare a disease that has not been specifically identified in that statute as a “dangerous transmissible disease” to be a dangerous transmissible disease through issuance of a temporary order making that designation.

1. CWD

CWD is a disease of whitetail deer, elk and other cervids and is a member of the group of diseases known as transmissible spongiform encephalopathies (TSEs). Other more well-known TSEs are scrapie and bovine spongiform encephalopathy (BSE) or “mad cow” disease. All are thought to be caused by a protein that has converted to an abnormal infectious form known as a “prion.” There is some evidence, in the case of BSE, that humans may become infected through consumption of meat products containing central nervous system tissues, thus there is a significant public health interest concerning all TSEs.

A number of states have, in recent years, instituted import regulations requiring that cervids entering those states: (1) originate from herds that are participating in a surveillance program; and (2) originate from states that have authority to take action in the event that CWD is diagnosed. CWD has been identified in both captive and wild deer in this Commonwealth. The designation of CWD as a “dangerous transmissible disease” allowed the Department to facilitate the development and oversight of a surveillance program and quarantine orders that allowed for detection, tracing and containment of the CWD outbreak and allowed the Department to react and take action necessary to carry out its statutory duty under the Domestic Animal Law.

2. SVC

SVC is caused by a ribonucleic acid virus known as *Rhabdovirus carpio* and is considered an emerging disease in the United States. SVC poses a threat to both domestic fish health and wild fish health in this Commonwealth and has the potential to create a significant adverse economic impact on this Commonwealth's aquaculture industry.

The SVC virus readily infects species of the *Cyprinidae* family (carp and minnows) and spreads through direct contact with infected fish and through shared infected water sources. Symptoms typically appear in the spring time as water temperatures increase. Symptoms in infected fish range from undetectable through mild disease to sudden massive die-off.

There is no specific treatment for fish infected with SVC and no vaccine to prevent the disease. Once natural water resources become infected, SVC may be impossible to eradicate and may pose a permanent threat to aquaculture facilities utilizing those water sources.

3. VHS

VHS virus is a serious pathogen of fresh and saltwater fish that is causing a disease in the Great Lakes region of the United States and Canada. VHS virus is a rhabdovirus (rod shaped virus) that affects fish of all size and age ranges. It does not pose any threat to human health. VHS can cause hemorrhaging of fish tissue, including internal organs, and can cause the death of infected fish. Once a fish is infected with VHS, there is no known cure. Not all infected fish develop the disease, but they can carry and spread the disease to other fish. The World Organization of Animal Health has categorized VHS as a transmissible disease with the potential for profound socio-economic consequences.

4. Neurologic Form of EHV-1

EHV-1 is a highly contagious virus that is ubiquitous in horse populations worldwide. The age, seasonal and geographic distributions vary and are likely determined by immune status and concentration of horses. Infection with EHV-1 most commonly causes respiratory illness, characterized by fever, rhinopharyngitis and tracheobronchitis. Infection may also cause abortions in pregnant mares, following clinical or subclinical infection, and can be fatal to newborn foals. A further, infrequent clinical resultant effect of EHV-1 infection is the development of neurologic disease. Depending upon the location and extent of the lesions, signs of neurologic disease may vary from mild in coordination and posterior paresis to severe posterior paralysis with recumbency, loss of bladder and tail function, and loss of sensation to the skin in the perineal and inguinal areas, and even the hindlimbs. In exceptional cases, the paralysis may be progressive and culminate in quadriplegia and death.

Transmission of EHV-1 occurs by direct or indirect contact with infective nasal discharges, aborted fetuses, placentas or placental fluids. Transmission can occur by means of coughing or sneezing over a distance of up to 35 feet, as well as by direct contact with infected horses, feed and equipment.

There is currently no known method to reliably prevent the neurologic form of EHV-1 infection. Sound management practices, including isolation, are important to reduce the risk of infection with EHV-1. Maintaining appropriate vaccination protocols may also be prudent in an attempt to reduce the incidence of the respiratory form of EHV-1 infection, which may reduce the incidence of the neurologic form.

5. Canine Brucellosis (*Brucella canis*)

Canine brucellosis is an infectious disease of dogs caused by the *Brucella canis* (*B. canis*) bacteria. *B. canis* infection in breeding dogs is an important cause of reproductive failure, particularly in kennels. *B. canis* infection can result in abortions, stillbirths, epididymitis, orchitis and sperm abnormalities in breeding dogs. Infected dogs that have been spayed or neutered may develop other conditions such as ocular disease and discospondylitis.

Transmission of *B. canis* occurs through exposure to secretions during estrus or mating or by contact with infected tissues during birth or following abortion. In addition, infected dogs may spread the bacteria in blood, milk, urine, saliva, nasal and ocular secretions, and feces. Puppies can become infected in utero, during birth, through nursing, and by contact with contaminated surfaces. The bacteria can also be transmitted by fomites.

B. canis is considered to be a zoonotic organism, although its importance as a cause of human illness is still unknown. People in very close contact with infected dogs are thought to be more at risk of infection, including those who work in a breeding kennel, and veterinarians. Laboratory personnel handling the organism are also considered to have a higher risk of infection. The symptoms of this disease in humans are nonspecific and cases may not be reported. The 2012 National Association of State Public Health Veterinarians (NASPHV) document "Public Health Implications of *B. canis* Infections in Humans" reports that there are documented cases of infection with *B. canis* leading to serious health problem. Those with compromised immune systems may be at higher risk of serious illness. Treatment with antibiotics may be effective.

Although infection in dogs can be treated with antibiotics, *B. canis* can persist in an animal even after treatment. Prevention is key, and all dogs entering a breeding kennel or used for breeding should first be test-negative or come from a brucella-negative source. Ongoing and regular testing is recommended, even in closed breeding facilities, and this is an essential component of recognition and prevention. Proper biosecurity and sanitation of breeding facilities is also recommended to prevent disease transmission. Infected puppies or dogs should not be purchased or adopted.

Order

The Department hereby designates CWD, SVC, VHS, EHV-1, and *Brucella canis* "dangerous transmissible diseases" under 3 Pa.C.S. § 2321(d). This order supplants any previous temporary order making a designation.

This order shall take effect as of January 1, 2017 and shall remain in effect until no later than January 1, 2018. This Department may: (1) reissue this temporary order to extend the designation beyond January 1, 2018, (2) allow this temporary order to expire on January 1, 2018, (3) supplant this temporary order with a formal regulation; or (4) modify this temporary order.

Questions regarding this temporary order may be directed to David Wolfgang, VMD, Director, Bureau of Animal Health and Diagnostic Services, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 772-2852.

RUSSELL C. REDDING,
Secretary

[Pa.B. Doc. No. 16-1903. Filed for public inspection November 4, 2016, 9:00 a.m.]

DEPARTMENT OF BANKING AND SECURITIES

Actions on Applications

The Department of Banking and Securities (Department), 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 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 October 25, 2016.

Under section 503.E of the Department of Banking and Securities Code (71 P.S. § 733-503.E), any person wishing to comment on the following applications, with the exception of branch applications, may file their comments in writing with the Department of Banking and Securities, Corporate Applications Division, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290. Comments must be received no later than 30 days from the date notice regarding receipt of the application is published in the *Pennsylvania Bulletin*. The nonconfidential portions of the applications are on file at the Department and are available for public inspection, by appointment only, during regular business hours. To schedule an appointment, contact the Corporate Applications Division at (717) 783-2253. Photocopies of the nonconfidential portions of the applications may be requested consistent with the Department's Right-to-Know Law Records Request policy.

BANKING INSTITUTIONS

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
10-20-2016	Indiana First Savings Bank Indiana Indiana County	100 Kentucky Avenue Punxsutawney Jefferson County	Approved
10-20-2016	The Muncy Bank & Trust Company Muncy Lycoming County	2 West Central Avenue Avis Clinton County	Approved
10-20-2016	VIST Bank Wyomissing Berks County	101 East Philadelphia Avenue Boyertown Berks County	Approved
10-24-2016	PeoplesBank, A Codorus Valley Company York York County	1001 East Oregon Pike Lititz Lancaster County	Filed
10-24-2016	Riverview Bank Marysville Perry County	4930 North Fifth Street Highway Temple Berks County	Filed

CREDIT UNIONS

No activity.

The Department's web site at www.dobs.pa.gov includes public notices for more recently filed applications.

ROBIN L. WIESSMANN,
Secretary

[Pa.B. Doc. No. 16-1904. Filed for public inspection November 4, 2016, 9:00 a.m.]

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

2017 Annual Action Plan; Regional Housing Advisory Committee Meetings

The Department of Community and Economic Development (Department) is preparing the Commonwealth's 2017 Action Plan (Plan). As part of the Plan process, the Department conducts meetings across this Commonwealth to discuss regional issues for housing, homelessness and community development programs that may affect the method of distribution of the Federal programs it administers with Fiscal Year 2017 funding. The United States Housing and Urban Development funding pro-

grams covered by the Plan and administered by the Department are the Community Development Block Grant (CDBG), the HOME Investment Partnerships, the Emergency Solutions Grant, CDBG Disaster Recovery and Neighborhood Stabilization programs. The Department of Health administers the Housing Opportunities for Persons with AIDS program and the Housing Finance Agency administers the National Housing Trust Fund. Both of these programs are covered with the Plan.

Regional Housing Advisory Committee (RHAC) Meetings

The RHAC meetings are open to the public and will take place electronically by a webinar or onsite at the Department of Community and Economic Development, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120-0225 on the specified dates and times:

Area: Lehigh Valley
 Date: Tuesday, November 15, 2016
 Time: 10 a.m.

To register for this meeting go to <https://copa.webex.com/copa/k2/j.php?MTID=tdee0fbc48033050a3fe6e300c51edc09> and register. Once approved by the host, a confirmation e-mail will be sent with instructions for joining the session. To view in other time zones or languages, click on <https://copa.webex.com/copa/k2/j.php?MTID=t8597bdc3fcb7a3c281b358fe6aa6df23>.

Area: Southwest
 Date: Tuesday, November 15, 2016
 Time: 1:30 p.m.

To register for this meeting go to <https://copa.webex.com/copa/k2/j.php?MTID=tda2d5be4eb60b00acdedc9100f852ad3> and register. Once approved by the host, a confirmation e-mail will be sent with instructions for joining the session. To view in other time zones or languages, click on <https://copa.webex.com/copa/k2/j.php?MTID=t9d64c4520d08c642a3e17c3bb99dd6bd>.

Area: Southeast
 Date: Wednesday, November 16, 2016
 Time: 10 a.m.

To register for this meeting go to <https://copa.webex.com/copa/k2/j.php?MTID=ta985e89bbd54a40c2eb8092cb8642be7> and register. Once approved by the host, a confirmation e-mail will be sent with instructions for joining the session. To view in other time zones or languages, click on <https://copa.webex.com/copa/k2/j.php?MTID=te7222e300dd93cc59385c50cd99d1c1d>.

Area: Northwest
 Date: Wednesday, November 16, 2016
 Time: 1:30 p.m.

To register for this meeting go to <https://copa.webex.com/copa/k2/j.php?MTID=t1257dfab7378efbf25eb8bd5418fc68f> and register. Once approved by the host, a confirmation e-mail will be sent with instructions for joining the session. To view in other time zones or languages, click on <https://copa.webex.com/copa/k2/j.php?MTID=t261105221948583417d5f8eb8fac3d44>.

Area: Northeast
 Date: Tuesday, November 22, 2016
 Time: 10 a.m.

To register for this meeting go to <https://copa.webex.com/copa/k2/j.php?MTID=tb56ea803b9ac2afedaf84ea0c3b85c68> and register. Once approved by the host, a confirmation e-mail will be sent with instructions for joining the session. To view in other time zones or languages, click on <https://copa.webex.com/copa/k2/j.php?MTID=t9ad5e20a1c0eb82b8a06e210b1098630>.

Area: Central
 Date: Tuesday, November 22, 2016
 Time: 1:30 p.m.

To register for this meeting go to <https://copa.webex.com/copa/k2/j.php?MTID=t99e7d92be0ccc0aafe7a89d98e519b53> and register. Once approved by the host, a confirmation e-mail will be sent with instructions for joining the session. To view in other time zones or languages, click on <https://copa.webex.com/copa/k2/j.php?MTID=t24e4acb94f38e95a74e39f5688ff5283>. For assistance, contact Jon Cherry at jcherry@pa.gov.

Comments will be accepted about topics related to the needs of this Commonwealth in the following areas: community development; housing; homelessness; economic development; and changes to the method of distribution of the existing Federal programs, including pos-

sible targeting of specific programs with competitive funding. The Commonwealth encourages public participation in this process.

Persons who have a disability and wish to participate in the meeting should contact Megan Snyder, Department of Community and Economic Development, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120-0225, (717) 720-7404 or TDD (717) 346-0308 at a minimum of 72 hours prior to a hearing to discuss how the Department can accommodate their needs.

DENNIS M. DAVIN,
 Secretary

[Pa.B. Doc. No. 16-1905. Filed for public inspection November 4, 2016, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Conservation and Natural Resources Advisory Council Meeting

The Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources (Department) will hold a meeting on Wednesday, November 16, 2016, at 10 a.m. in Room 105, Lobby Level, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting or agenda items can be directed to Gretchen Leslie at (717) 772-9084. Persons who wish to participate during the public comment section are encouraged to submit their comments in writing to Gretchen Leslie, Advisor, Conservation and Natural Resources Advisory Council, 400 Market Street, Harrisburg, PA 17101.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Katie Woodbury directly at (717) 783-5878 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

CINDY ADAMS DUNN,
 Secretary

[Pa.B. Doc. No. 16-1906. Filed for public inspection November 4, 2016, 9:00 a.m.]

Snowmobile and ATV Advisory Committee Meeting

A meeting of the Snowmobile and ATV Advisory Committee to the Department of Conservation and Natural Resources (Department) will be held on Thursday, November 10, 2016. The meeting will be held at 10 a.m. at the Bald Eagle State Forest District Office, 18865 Old Turnpike Road, Millmont, PA 17845.

Questions concerning this meeting or agenda items can be directed to Jennie Shade at (717) 787-9306. Those wishing to participate during the public comment section are encouraged to submit comments in writing to Jennie Shade, Advisor, Snowmobile and ATV Advisory Committee, 400 Market Street, Harrisburg, PA 17101.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Barb Goodling directly at (717) 787-9306 or through

the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

CINDY ADAMS DUNN,
Secretary

[Pa.B. Doc. No. 16-1907. Filed for public inspection November 4, 2016, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

APPLICATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a General Permit. The applications concern, but are not limited to, discharges regarding industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFO). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or Amendment
Section III	WQM	Industrial, Sewage or Animal Waste; Discharge into Groundwater
Section IV	NPDES	MS4 Individual Permit
Section V	NPDES	MS4 Permit Waiver
Section VI	NPDES	Individual Permit Stormwater Construction
Section VII	NPDES	NOI for Coverage under NPDES General Permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 Individual Permits and Individual Stormwater Construction Permits in Sections IV and VI, the Department, based upon preliminary reviews, has made tentative determinations of proposed effluent limitations and other terms and conditions for the permit applications. In accordance with 25 Pa. Code § 92a.32(d), the proposed discharge of stormwater associated with construction activities will be managed in accordance with the requirements of 25 Pa. Code Chapter 102. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the United States Environmental Protection Agency (EPA) Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on NPDES applications are invited to submit statements to the contact office noted before the application within 30 days from the date of this public notice. Persons wishing to comment on WQM permit applications are invited to submit statements to the office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. A comment submittal should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for public hearings on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

I. NPDES Renewal Applications

Southwest Regional Office: Regional Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Phone: 412.442.4000.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0216208 (Sewage)	Superior MHP 319 Anderson Hozak Road Clinton, PA 15026	Beaver County Raccoon Township	Unnamed Tributary to Service Creek (20-D)	Yes

This Amendment is the Department of Environmental Protection's final action to settle Environmental Hearing Board appeal 2016-114-B. The settlement is in a September 30, 2016, Consent Order and Agreement entered into by the Department and John F. Kotun. In settlement, the permittee, John F. Kotun, will be required to monitor Total Residual Chlorine and pH three times per week at the Facility.

Copies of the full agreement may be reviewed by an interested person on request during normal business hours of the Department, and are in the possession of Matthew A. Kessler, Assistant Counsel, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4262.

Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PAS203503 (SW)	Mueller Water Products (Beck Manufacturing—Greencastle) 330 East Ninth Street PO Box 510 Waynesboro, PA 17268	Franklin County/ Antrim Township	UNT Muddy Run—HQ (13-C)	Y

Northcentral Regional Office: Clean Water Program Manager, 208 W Third Street, Suite 101, Williamsport, PA 17701-6448. Phone: 570.327.3636.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0043583 (Sewage)	Hartley Township Municipal Authority Wastewater Treatment Plant PO Box 175 Laurelton, PA 17835-0175	Union County Hartley Township	Laurel Run (6-A)	Yes

Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0104272 (Sewage)	North East Access & Marina 450 Robinson Lane Bellefonte, PA 16823-9620	Erie County North East Township	Unnamed Tributary to Lake Erie (15-A)	Yes

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Non-Waived Permit Applications

Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.

PA0007552, Industrial, SIC Code 2015, **Empire Kosher Poultry Inc.**, 247 Empire Drive, Mifflintown, PA 17059-7746. Facility Name: Empire Kosher Poultry. This existing facility is located in Walker Township, **Juniata County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Industrial Waste.

The receiving stream(s), Juniata River, is located in State Water Plan watershed 12-A and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 2.2 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Dissolved Oxygen	XXX	XXX	5.0	XXX	Max XXX	XXX

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	Report	Report	XXX	16.8	27.4	42
Total Suspended Solids	Report	Report	XXX	21.1	31.6	52
Total Dissolved Solids	Report	XXX	XXX	Report	Report	XXX
Oil and Grease	Report	Report	XXX	9.5	16.7	24
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	811	XXX	XXX
May 1 - Sep 30	XXX	XXX	XXX	Geo Mean 200 Geo Mean	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	204	407	XXX	11.1	22.2	27.75
May 1 - Oct 31	116.0	233.0	XXX	6.34	12.68	16
Total Phosphorus	Report	XXX	XXX	Report	XXX	5
Sulfate, Total	Report	XXX	XXX	Report	Report	XXX
Ultraviolet light dosage (mWsec/cm ²)	XXX	XXX	Report	XXX	XXX	XXX
Chloride	Report	XXX	XXX	Report	Report	XXX
Bromide	Report	XXX	XXX	Report	Report	XXX

The following monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001:

<i>Parameter</i>	<i>Mass Units (lbs.)</i>		<i>Effluent Limitations</i>		
	<i>Monthly</i>	<i>Annual</i>	<i>Monthly</i>	<i>Concentrations (mg/L)</i>	
				<i>Average</i>	<i>Instant. Maximum</i>
Ammonia—N	Report	Report	XXX	Report	XXX
Kjeldahl—N	Report	XXX	XXX	Report	XXX
Nitrate-Nitrite as N	Report	XXX	XXX	Report	XXX
Total Nitrogen	Report	Report	XXX	103	147
Total Phosphorus	Report	Report	XXX	Report	XXX
Net Total Nitrogen	Report	21,928.0	XXX	XXX	XXX
Net Total Phosphorus	Report	740	XXX	XXX	XXX

The proposed effluent limits for Outfall 002 are based on a design flow of 0 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Nitrate-Nitrite as N	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 003 are based on a design flow of 0 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Nitrate-Nitrite as N	XXX	XXX	XXX	XXX	Report	XXX

In addition, the permit contains the following major special conditions:

- Chesapeake Bay Nutrients Requirements
- Chemical additives
- Implementation of new PAG03 requirements

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

The EPA Waiver is not in effect.

PA0053091, Industrial, SIC Code 2033, **Giorgio Foods Inc.**, PO Box 96, Temple, PA 19560-0096. Facility Name: Giorgio Foods Mushroom Proc Plant. This existing facility is located in Maidencreek Township, **Berks County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Industrial Waste.

The receiving stream(s), Willow Creek, is located in State Water Plan watershed 3-B and is classified for Cold Water Fishes, aquatic life, water supply and recreation. The discharge location is upstream of an existing use designation of High Quality. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.5 MGD.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instant. Maximum
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.17	XXX	0.55
Ultraviolet Intensity (uW/cm ²)	XXX	XXX	Report	XXX	XXX	XXX
Color (Pt-Co Units)	XXX	XXX	XXX	XXX	100	XXX
Temperature (deg F) (°F)						
Jan 1 - 15	XXX	XXX	XXX	42	42	XXX
Jan 16 - 31	XXX	XXX	XXX	Daily Avg 40	40	XXX
Mar 1 - 31	XXX	XXX	XXX	Daily Avg 46	46	XXX
Feb 1 - 15	XXX	XXX	XXX	Daily Avg 40	40	XXX
Feb 16 - 29	XXX	XXX	XXX	Daily Avg 42	42	XXX
Jul 1 - 31	XXX	XXX	XXX	Daily Avg 87	87	XXX
Aug 1 - 31	XXX	XXX	XXX	Daily Avg 87	87	XXX
Apr 1 - 15	XXX	XXX	XXX	Daily Avg 52	52	XXX
Apr 16 - 30	XXX	XXX	XXX	Daily Avg 58	58	XXX
May 16 - 31	XXX	XXX	XXX	Daily Avg 72	72	XXX
May 1 - 15	XXX	XXX	XXX	Daily Avg 64	64	XXX
Jun 16 - 30	XXX	XXX	XXX	Daily Avg 84	84	XXX
Jun 1 - 15	XXX	XXX	XXX	Daily Avg 80	80	XXX
Sep 16 - 30	XXX	XXX	XXX	Daily Avg 78	78	XXX
Sep 1 - 15	XXX	XXX	XXX	Daily Avg 84	84	XXX
Oct 16 - 31	XXX	XXX	XXX	Daily Avg 66	66	XXX
Oct 1 - 15	XXX	XXX	XXX	Daily Avg 72	72	XXX
Nov 16 - 30	XXX	XXX	XXX	Daily Avg 55	55	XXX
Nov 1 - 15	XXX	XXX	XXX	Daily Avg 58	58	XXX
Dec 1 - 15	XXX	XXX	XXX	Daily Avg 51	51	XXX
Dec 16 - 31	XXX	XXX	XXX	Daily Avg 47	47	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)						
Nov 1 - Apr 30	83	167	XXX	20.0	40.0	50
May 1 - Oct 31	42	83	XXX	10.0	20.0	25
Total Suspended Solids	42	83	XXX	10.0	20.0	25
Total Dissolved Solids	4,170	8,340	XXX	1,000	2,000	2,500

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Daily Maximum		Average Monthly	Daily Maximum	
Fecal Coliform (CFU/100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	17.5	33.8	XXX	4.2	8.1	10.5
May 1 - Oct 31	5.8	11.3	XXX	1.4	2.7	3.5
Total Phosphorus	8.3	16.7	XXX	2.0	4.0	5

The proposed monitoring requirements for stormwater—only Outfall 002 are based on a design flow of 0 MGD.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Daily Maximum	
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	XXX	Report	XXX
Nitrate-Nitrite as N	XXX	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX

In addition, the permit contains the following major special conditions:

- A 316(a) thermal variance request was received. A previous thermal variance grant was extended allowing for the thermal component of the discharge to meet the temperature limits shown above rather than stricter temperature limits based on water quality criteria, their discharge flow, and a conservative low-flow of zero in the stream. The above temperature limits were developed from past in-stream temperature monitoring as part of a 316(a) demonstration study.
- A requirement to conduct an updated in-stream study to demonstrate that the discharge will assure the protection and propagation of a balanced indigenous community of aquatic life and wildlife in and on the stream [40 CFR 125.73].
- A requirement to use DEP-approved chemical additives and to notify DEP of chemical additive usage rates.
- Best Management Practices and a PPC Plan to prevent pollutants from discharging in the stormwater.

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

The EPA Waiver is in effect.

III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law

Southwest Regional Office: Regional Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Phone: 412.442.4000.

WQM Permit No. WQG02021602, Sewage, **Findlay Township Municipal Authority**, PO Box 409, Clinton, PA 15026.

This proposed facility is located in Findlay Township, **Allegheny County**.

Description of Proposed Action/Activity: Sewer system extension and pump station to serve Camp Meeting Road Area.
Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. 2516411, Sewage, **David J Martin**, 8711 Dougan Road, North East, PA 16428.

This proposed facility is located in Greene Township, **Erie County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

WQM Permit No. 2516412, Sewage, **Michael L Stempka**, 10224 Oliver Road, McKean, PA 16426.

This proposed facility is located in McKean Township, **Erie County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

WQM Permit No. 2516413, Sewage, **Jeffrey Ricketts**, 10851 Sidehill Road, North East, PA 16428.

This proposed facility is located in North East Township, **Erie County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

WQM Permit No. 6216409, Sewage, **Frederick Nuhfer**, 1240 East 5th Avenue, Warren, PA 16365-8406.

This proposed facility is located in Glade Township, **Warren County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

WQM Permit No. 2489202 A-8, Industrial Waste, **Advanced Disposal Service Greentree Landfill LLC**, 635 Toby Road, Kersey, PA 15846-1033.

This existing facility is located in Fox Township, **Elk County**.

Description of Proposed Action/Activity: Addition of chemical addition mix tanks and inclined plate clarifier to process train.

VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

Southeast Region: Waterways & Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401. Telephone 484-250-5160.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD510003	United States of America 4th Naval District 4921 South Broad Street Building 1 Philadelphia, PA 19112	Philadelphia	City of Philadelphia	Delaware River WWF-MF

Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Lehigh County Conservation District, Lehigh Ag Center, Suite 102, 4184 Dorney Park Rd., Allentown, PA 18104.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD390002	Mary Anne Wright Northwestern Lehigh School District 6493 Route 309 New Tripoli, PA 18066	Lehigh	Heidelberg Township and Lynn Township	UNT to School Creek (EV, MF)
PAI023916023	Pete Russell SDR Development, Inc. 1800 Second St, Suite 717 Sarasota, FL 34236-5966	Lehigh	Lower Macungie Township	Little Lehigh Creek (HQ-CWF, MF)
PAI023916021	Jeffrey Jones Wedgewood Golf Course, Inc. 4875 Limeport Pike Coopersburg, PA 18036	Lehigh	Upper Saucon Township	UNT to Saucon Creek (CWF, MF) (EV Wetlands)

Monroe County Conservation District, 8050 Running Valley Rd., Stroudsburg, PA 18360-0917.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024516008	CB H20, LP P.O. Box 168 Tannersville, PA 18372	Monroe	Pocono Township	UNT to Pocono Creek (HQ-CWF, MF)

Schuylkill County Conservation District, 1206 Ag Center Dr., Pottsville, PA 17901.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD540001	Pusti Margiya Vaishna Samaj (aka VRAJ) c/o Pravin Desai, Senior Trustee VRAJ Temple 51 Manor Road Schuylkill Haven, PA 17972	Schuylkill	Wayne Township	UNT to Lower Little Swatara Creek (CWF, MF)

Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, Nathan Crawford, Section Chief, 717.705.4802.

<i>Permit #</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD360001	206 Rohrerstown Road 2450 Marietta Avenue Lancaster, PA 17601	Lancaster	East Hempfield Township	Brubaker Run (WWF, MF)
PAD360004	Clark Crest Cairy 7545 Solanco Road Quarryville, PA 17566	Lancaster	East Drumore Township	Stewart Run (HQ-CWF) McFarlands Run (HQ-CWF)

Individual Permit Type—PAD

Cambria District: Environmental Program Manager, 286 Industrial Park Road, Ebensburg, PA 15931-4119.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD680001	Attention: Patrick M. Webb Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 814-472-1800	Clinton County	East Keating Township	Camp Run, HQ-CWF, Rock Run, HQ-CWF

STATE CONSERVATION COMMISSION

PROPOSED NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NPDES PERMITS FOR CAFOs

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under 3 Pa.C.S. Chapter 5 and that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent (NOIs) for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Based upon preliminary reviews, the State Conservation Commission (SCC) or County Conservation Districts (CCD) working under a delegation agreement with the SCC have completed an administrative review of NMPs described. These NMPs are published as proposed plans for comment prior to taking final actions. The NMPs are available for review at the CCD office for the county where the agricultural operation is located. A list of CCD office locations is available at <http://www.nacdnet.org/about/districts/directory/pa.phtml> or can be obtained from the SCC at the office address listed or by calling (717) 787-8821.

Persons wishing to comment on an NMP are invited to submit a statement outlining their comments on the plan to the CCD, with a copy to the SCC for each NMP, within 30 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the NMPs. Comments should include the name, address and telephone number of the writer and a concise statement to inform the SCC of the exact basis of the comments and the relevant facts upon which they are based. Comments should be sent to the SCC, Agriculture Building, Room 310, 2301 North Cameron Street, Harrisburg, PA 17110.

Persons with a disability who require an auxiliary aid, service, including TDD users or other accommodations to seek additional information should contact the SCC through the Pennsylvania AT&T Relay Service at (800) 654-5984.

APPLICATIONS

NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET

<i>Agricultural Operation (Name and Address)</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units (AEUs)</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>New or Renewal</i>
Jaindl Farms, LLC 3150 Coffeetown Rd. Orefield, PA 18069	Lehigh, Berks, Northampton and Schuylkill	9,067.6	4,687.05	Turkey	HQ	Renewal
Hillandale Gettysburg, LP Bailey Farms 2820 Daron Road Spring Glenn, PA 17362	York	282.1	4,083.9	Layers	None	Renewal
Christopher Barry Barry Farms 259 Obie Road Newmanstown, PA 17073	Lebanon	4,547.2	915.29	Swine & Beef Cattle	NA	Renewal

PUBLIC WATER SUPPLY (PWS) PERMITS

Under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17), the following parties have applied for PWS permits to construct or substantially modify public water systems.

Persons wishing to comment on permit applications are invited to submit statements to the office listed before the application within 30 days of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding an application. A comment should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

The permit application and related documents are on file at the office listed before the application and available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability that require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received Under the Pennsylvania Safe Drinking Water Act

Northeast Region: Safe Drinking Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Application No. 4016513, Public Water Supply.

Applicant	Mooretown Properties, LLC T/A Evergreen Estates Mobile Home Park 396 SR 415 Noxen, PA 18636
Municipality	Lake Township
County	Luzerne
Responsible Official	Darrell Evans, Owner Evergreen Estates Mobile Home Park
Type of Facility	PWS
Consulting Engineer	Martin J. Gilligan, P.E. Martin J. Gilligan, LLC 52 Westminster Drive Dallas, PA 18612
Application Received Date	October 13, 2016

Description of Action	This application proposes modifications to the existing system which utilizes two wells as sources. Modifications include pre-filtration, arsenic removal/reduction by anion exchange, and general corrosion control.
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Application No. 4516509, Public Water Supply.

Applicant	Aqua PA, Inc. 1 Aqua Way White Haven, PA 18661
[Township or Borough]	Hamilton Township Monroe County
Responsible Official	Patrick R. Burke, PE Aqua PA, Inc. 204 E. Sunbury Street Shamokin, PA 17872
Type of Facility	PWS
Consulting Engineer	Peter J. Lusardi, PE GHD 1240 North Mountain Road Harrisburg, PA 17112 (717) 541-0622

Application Received Date	10/17/2016
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Description of Action	Construction of a new well station, addition of corrosion system and chlorine contact pipe.
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Southcentral Region: Safe Drinking Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 061512, Public Water Supply.

Applicant	Reading Area Water Authority
Municipality	Ontelaunee Township
County	Berks
Responsible Official	William Murray, Interim Executive Director 1801 Kutztown Road Reading, PA 19604
Type of Facility	Public Water Supply
Consulting Engineer	Thomas L. Weld Jr, P.E. BCM Engineers 920 Germantown Pike Plymouth, PA 19462
Application Received:	10/11/2016
Description of Action	Rehabilitation of the existing filters.

Northcentral Region: Safe Drinking Water Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

Application No. 5916502—Construction Public Water Supply.

Applicant	Upper Tioga River Regional Authority
Township/Borough	Blossburg Boro.
County	Tioga

Responsible Official George Lloyd
Borough Manager
245 Main Street
Blossburg, PA 16912

Type of Facility Public Water Supply

Consulting Engineer Michael D. O'Connell, P.E.
Larson Design Group
1 West Market Street, Suite 301
Corning, NY 14830

Application Received October 21, 2016

Description of Action Provide potable water service in the region along the Business 15 corridor in Tioga County between the northern border of Blossburg Boro. and approx. 4,500 ft. north of the boundary between Covington and Richmond Townships.

Southwest Region: Safe Drinking Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Application No. 0416506, Public Water Supply.

Applicant **UMH Properties, Inc.**
335 US Route 30
Clinton, PA 15026

[Township or Borough] Independence Township

Responsible Official Jeffrey V. Yorick, VP for Engineering
UMH Properties, Inc.
335 US Route 30
Clinton, PA 15026

Type of Facility Independence Park

Consulting Engineer Jeffrey V. Yorick
UMH Properties, Inc.
150 Clay Street, Suite 450
Morgantown, WV 26501

Application Received Date October 12, 2016

Description of Action Change existing pumps and add contact loop for 4-log disinfection.

Application No. 0216537, Public Water Supply.

Applicant **Pennsylvania American Water Company**
800 West Hersheypark Drive
Hershey, PA 17033

[Township or Borough] North Strabane Township

Responsible Official David R. Kaufman, P.E.
Vice President-Engineering
Pennsylvania American Water Company
800 West Hersheypark Drive
Hershey, PA 17033

Type of Facility Water system

Consulting Engineer Lennon, Smith, Souleret Engineering, Inc.
846 Fourth Avenue
Coraopolis, PA 15108

Application Received Date October 19, 2016

Description of Action Installation of the Fox Ridge Booster Station.

Application No. 6516511, Public Water Supply.

Applicant **Municipal Authority of Westmoreland County**
124 Park & Pool Road
New Stanton, PA 15672

[Township or Borough] Plum Borough

Responsible Official William Castelli, Distribution Facility Superintendent
Municipal Authority of Westmoreland County
124 Park & Pool Road
New Stanton, PA 15672

Type of Facility Water system

Consulting Engineer Gibson-Thomas Engineering Co., Inc.
PO Box 853
Latrobe, PA 15650

Application Received Date October 24, 2016

Description of Action Installation of a mixing system in the Hankey Farms water storage tank.

MINOR AMENDMENT

Applications Received Under the Pennsylvania Safe Drinking Water Act

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Application No. 6516510GWR, Minor Amendment.

Applicant **Hillview Estates, Inc.**
135 Bailey Road
Greensburg, PA 15601

[Township or Borough] Salem Township

Responsible Official Daniel Musgrove
Hillview Estates, Inc.
135 Bailey Road
Greensburg, PA 15601

Type of Facility Hillview Estates

Consulting Engineer

Application Received Date September 30, 2016

Description of Action Demonstration of 4-log treatment for groundwater sources

Application No. 0416505GWR, Minor Amendment.

Applicant **UMH Properties, Inc.**
335 US Route 30
Clinton, PA 15026

[Township or Borough] Independence Township

Responsible Official Jeffrey V. Yorick, VP for Engineering
UMH Properties, Inc.
335 US Route 30
Clinton, PA 15026

Type of Facility Independence Park

Consulting Engineer

Application Received Date October 12, 2016

Description of Action Demonstration of 4-log treatment for groundwater sources

Application No. 3016511MA, Minor Amendment.

Applicant **Southwestern Pennsylvania Water Authority**
1442 Jefferson Road
PO Box 187
Jefferson, PA 15344

[Township or Borough] Wayne Township

Responsible Official John W. Golding, Manager

Type of Facility Water system

Consulting Engineer Bankson Engineers, Inc.
267 Blue Run Road
Suite 200
Cheswick, PA 15024

Application Received Date October 11, 2016

Description of Action Installation of approximately 3,875 feet of 8-inch diameter waterline (Kingwood Road and Maple Run Road waterline project).

Northwest Region: Safe Drinking Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Application No. 1612504-MA1, Minor Amendment.

Applicant **Hawthorn Redbank Municipal Authority**

Township or Borough Redbank Township
Clarion County

Responsible Official Dave Thomas
President
Hawthorn Redbank Municipal Authority
P.O. Box 241
Hawthorn, PA 16230

Type of Facility Public Water Supply

Consulting Engineer Michael C. Malak, P.E.
Senate Engineering Company
U-PARC
420 William Pitt Way
Pittsburgh, PA 16230

Application Received Date October 5, 2016

Description of Action Change treatment chemical from ferric chloride to polyaluminum chloride.

WATER ALLOCATIONS

Applications received under the Act of June 24, 1939 (P.L. 842, No. 365) (35 P.S. § 631—641) relating to the Acquisition of Rights to Divert Waters of the Commonwealth

Northcentral Region: Safe Drinking Water Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

WA-59-1016, Water Allocations. Upper Tioga River Regional Authority. Blossburg Borough, Covington Township, Putnam Township and Richmond Township, **Tioga County.** Application for a new subsidiary allocation

from the new water system to obtain 70,050 gallons per day from the Blossburg Municipal Authority.

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—6026.907)

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) (35 P.S. §§ 6026.302—6026.305) require the Department to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of 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. A person intending to use the background standard, Statewide health standard, the site-specific standard or intend to remediate a site as a special industrial area shall file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of cleanup standards or 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 contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the following site, 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 as follows. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office listed before the notice. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.

York Technical Institute/Former Emtrol Inc., 3050 Hempland Road, Lancaster, PA 17601, East Hempfield Township, **Lancaster County**. ARM Group, Inc., 1129 W. Governor Road, P.O. Box 797, Hershey, PA 17033, on behalf of York Tech Associates, 120 N. Pointe Blvd, Suite 301, Lancaster, PA 17601 submitted a Notice of Intent to Remediate site groundwater contaminated with chlorinated solvents. The site will be remediated to the Non-Residential Statewide Standard. Future use of the site is to continue using it for training purposes. The Notice of Intent to Remediate was published in the *NLP* on September 12, 2016.

Former Yorktowne Cabinets, 100 Redco Avenue, Red Lion Borough/Windsor Township, **York County**. Buchart Horn, Inc., 445 W. Philadelphia Street, York, PA 17401, on behalf of Tri Boro Construction, 465 Locust Street, P.O. Box 8, Dallastown, PA 17313, submitted a Notice of Intent to Remediate site soil and groundwater contaminated with VOCs and Chlorinated Solvents. The site will be remediated to the Residential Statewide Health and Site Specific Standards. Future use of the site is to be used for commercial and light industrial. The Notice of Intent to Remediate was published in the *York Dispatch / York Sunday News and York Daily Record* on September 15, 2016.

Northwest Region: Environmental Cleanup & Brownfields Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Coal Fines & Ash (Tank 400/401 Secondary Containment), 77 North Kendall Avenue, City of Bradford, **McKean County**. AMEC Foster Wheeler, 800 North Bell Avenue, Suite 200, Pittsburgh, PA 15106, on behalf of American Refining Group, Inc., 77 North Kendall Avenue, Bradford, PA 16701, submitted a Notice of Intent to Remediate. After removing vegetation from Tank 400/401 secondary containment, a black granular material was discovered beneath the soil cover. Based on visual inspection, the material was identified as coal fines and ash. Arsenic and lead were detected in leachate of samples. The selected remediation standard is Statewide Health. The proposed future use of the property will be non-residential, industrial use. The Notice of Intent to Remediate is expected to be published in *The Bradford Era* during the week of September 24–30, 2016.

Southwest Region: Environmental Cleanup & Brownfield Development Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Phillips Parcels Property, 500 & 506 Brushton Avenue, City of Pittsburgh, **Allegheny County**. KU Resources, Inc., 22 South Linden Street, Duquesne, PA 15110 on behalf of North Side Industrial Development Company, 700 River Avenue, Pittsburgh, PA 15212 has submitted a Notice of Intent to Remediate to meet the Site Specific standard concerning site soils contaminated with volatile & semi-volatile organic compounds (VOSs & SVOCs), and groundwater contaminated with VOCs and metals. Intended future use of the property is non-residential. Notice of the NIR was published in the *Tribune-Review* on August 28, 2016.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

The 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 general public. This approach allows the owner or operator of a facility to submit permitting documents relevant to its application for all sources related to a facility or a proposed project, affords an opportunity for public input, and provides for a decision on the issuance of the necessary permits.

The Department received applications for Plan Approvals or Operating Permits from the following facilities.

Copies of the application, the Department’s analysis, all pertinent documents used in the evaluation of the application and subsequently prepared proposed plan approvals/operating permits are available for public review during normal business hours at the appropriate Department Regional Office. Appointments for scheduling a review must be made by calling the appropriate Department Regional Office. The address and phone number of the Regional Office is listed before the application notices.

Persons wishing to file a written protest or provide comments or additional information, which they believe should be considered prior to the issuance of a permit, may submit the information to the Department’s Regional Office. A 30-day comment period from the date of this publication will exist for the submission of comments, protests and information. Each submission must contain the name, address and telephone number of the person submitting the comments, identification of the proposed Plan Approval/Operating Permit including the permit number and a concise statement regarding the relevancy of the information or objections to issuance of the permit.

A person wishing to request a hearing may do so during the 30-day comment period. A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper, the *Pennsylvania Bulletin* or by telephone, when the Department determines this type of notification is sufficient. Requests for a public hearing and any relevant information should be directed to the appropriate Department Regional Office.

Permits issued to the owners or operators of sources subject to 25 Pa. Code Chapter 127, Subchapter D or E, or located within a Title V facility or subject to 25 Pa. Code § 129.51(a) or permits issued for sources with limitations on their potential to emit used to avoid otherwise applicable Federal requirements may be submitted to the United States Environmental Protection Agency for review and approval as a revision to the State Implementation Plan. Final Plan Approvals and Operating Permits will contain terms and conditions to ensure that the sources are constructed and operating in compliance with applicable requirements in the Air Pollution Control Act (35 P.S. §§ 4001–4015), 25 Pa. Code Chapters 121–145, the Federal Clean Air Act (42 U.S.C.A. §§ 7401–7671q) and regulations adopted under the Federal Clean Air Act.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

07-05045A: Curry Rail Service Inc. (1477 DeGol Industrial Drive, Hollidaysburg, PA 16648) for the construction of four coating booths (3 already installed and one new) and a plasma table (already installed) at the railroad car repair and fabrication facility located in Hollidaysburg Borough, **Blair County**. The expected increases in facility emissions as a result of the changes proposed are 42.02 tons per year of VOCs, 8.42 tons per year of combined HAPs, 2.7 tons per year of PM₁₀ and 2.67 tons per year of NO_x. The facility is a State Only facility. DEP's review of the information submitted by the applicant indicates that the air contamination sources as constructed or modified will comply with all regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirement (BAT) of 25 Pa. Code §§ 127.1 and 127.12, and 25 Pa. Code § 129.52. Based on these findings, the Department proposes to issue a plan approval for the proposed construction. If, after the project has been implemented, the Department determines that the sources are constructed and operated in compliance with the plan approval conditions and the specification of the application for plan approval, the requirements established in the plan approval may be incorporated into an Operating Permit pursuant to the provisions of 25 Pa. Code Chapter 127.

36-03204A: Miller Fiberglass (590 Gibbons Road, Bird-in-Hand, PA 17505-9786) to authorize an existing gel coat spray booth and an existing hand-applied resin coating area for their custom fiberglass and plastic products manufacturing operation located in Upper Leacock Township, **Lancaster County**. HAP emissions are estimated to be 1.56 ton per year, VOC emissions are estimated to be 1.84 ton per year and particulate emissions are considered negligible. The facility is a State Only facility. DEP's review of the information submitted by the applicant indicates that the air contamination sources as constructed or modified will comply with all regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirement (BAT) of 25 Pa. Code §§ 127.1 and 127.12. Based on these findings, the Department proposes to issue a plan approval for the proposed construction. If, after the project has been implemented, the Department determines that the sources are constructed and operated in compliance with the plan approval conditions and the specification of the application for plan approval, the requirements established in the plan approval may be incorporated into an Operating Permit pursuant to the provisions of 25 Pa. Code Chapter 127.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104.

Contact: Edward Wiener, Chief—Telephone: 215-685-9426.

AMS 15147: Eastern Crematory Inc. (2215 West Hunting Park Ave, Philadelphia, PA 19140) to install a human crematory unit in the City of Philadelphia, **Philadelphia County**. The process will consist of a cremation unit that fires natural gas. An opacity monitor will be installed to ensure compliance with opacity emissions limits. Emissions limits for Carbon Monoxide, Sulfur Dioxide, Particulate Matter, and Hydrogen Chloride from the facility included in the plan approval are based on the plan approval application. The plan approval will contain operating, testing, monitoring, recordkeeping, and reporting requirements to ensure operation within all applicable requirements.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507.

48-00071: Green Knight Economic Development Corporation, (2147 Pen Argyl Road, Pen Argyl, PA 18702). The Department intends to issue a renewal of the Title V Operating Permit for an electric generating plant in Plainfield Township, **Northampton County**. As a major source, the facility is subject to the Title V permitting requirements of the Clean Air Act Amendments as adopted by the Commonwealth under 25 Pa. Code Chapter 127, Subchapter G.

The main sources at this facility are three (3) combustion turbines that are fueled by LFG from the Grand Central Sanitary Landfill and which produce electricity to a local grid. These sources have the potential to emit major quantities of regulated pollutants above Title V emission thresholds. The proposed Title V Operating Permit shall include emission restrictions, work practice standards and testing, monitoring, recordkeeping, and reporting requirements to ensure compliance with all applicable Federal and State air quality regulations.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

31-05014: Huntingdon Holdings LLC (1200 Susquehanna Avenue, Huntingdon, PA 16652) to issue a Title V Operating Permit for a fiberglass manufacturing operation in Huntingdon Borough, **Huntingdon County**. The 2015 emissions were 3.5 tons of carbon monoxide, 4.1 tons of nitrogen oxide, 0.08 ton of particulate matter, 0.02 ton of sulfur dioxide, 10.3 tons of volatile organic compounds, and 6.3 tons of total HAPs. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 40 CFR Part 63, Subpart ZZZZ—National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.

42-00158: Georgia Pacific Mt Jewett MDF (149 Temple Drive, Kane, PA 16735) intends to issue a Title V Operating Permit to Georgia Pacific Panel Products LLC for its Mt. Jewett MDF facility located in Sergeant Township, **McKean County**. Georgia Pacific's representative to contact concerning this application is Ms. Heather Reiter, Facility Environmental Manager, 149 Temple Drive, Kane, PA 16735. Her phone number is (814) 778-2616.

Georgia Pacific's facility is primarily used for the production of reconstituted wood products. The facility's air emission sources include wood fuel combustion devices, natural gas fuel combustion devices, wood chip/fiber drying devices, forming and pressing equipment, raw material storage, and various other support equipment. The facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments due to the facility's potential to emit of NO_x, particulate matter, VOC, and HAP emissions. The facility is therefore subject to the Title V Operating Permit requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The actual emissions reported by the facility for 2015 were 84.1 TPY CO, 53.2 TPY NO_x, 19.8 TPY PM₁₀, 17.0 TPY PM_{2.5}, 0.31 TPY SO_x, and 18.8 TPY VOC.

The permit contains the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Stationary Reciprocating Internal Combustion Engines (40 CFR 63, Subpart ZZZZ) and the Plywood and Composite Wood Products (40 CFR 63, Subpart DDDD). The permit contains the applicable Federal and State requirements to ensure compliance with the Air Pollution Control Act.

Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401.

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

46-00154: Eye Designs, LLC (220 West 5th Street, Colledgeville, PA 19426) for renewal of a State Only Operating Permit to operate three spray booths at a wood office furniture manufacturing facility in Trappe Borough, **Montgomery County**. The facility has taken a restriction to remain a synthetic minor for VOC emissions. This Operating Permit renewal includes emission restrictions, monitoring, and recordkeeping requirements designed to ensure this facility complies with all applicable air quality regulations.

15-00045: Sealed Air Corporation (450 Riverfront Drive, Reading, PA 19602), for an initial State Only Operating Permit (Synthetic Minor) in Modena Borough, **Chester County**. Sealed Air Corporation operates a paper mill, which takes recycled cardboard to produce packing material for the packaging industry. The primary source at the facility is a dual-fired, natural gas and No. 2 fuel oil fired steam boiler. Sealed Air Corporation has elected to take a restriction on the use of No. 2 fuel oil on this source in order to restrict facility-wide nitrogen oxide (NO_x) emissions to 24.9 tons per year or less, based on a 12-month rolling sum. Other sources at this facility include an emergency diesel-fired electric generator and

an emergency diesel-fired fire pump. Monitoring, record keeping and reporting requirements have been added to the permit to address applicable limitations.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507.

40-00065: SVC Manufacturing, Inc. (750 Oak Hill Rd, Mountaintop, PA 18707) The Department intends to issue a State-Only (Synthetic Minor) Operating Permit renewal for operation of a bottled and canned soft drinks manufacturing operation in Wright Township, **Luzerne County**. Sources include boilers, a bioreactor, a CHP generator, and sugar handling processes. Control devices include a flare, scrubber, oxidation catalyst, and baghouse. The Operating Permit will include applicable emission limits and work practice standards along with applicable monitoring, recordkeeping and reporting requirements to ensure the facility complies with air quality regulations.

45-00034: Gower Funeral Home & Crematory Inc. (1426 Route 209, Gilbert, PA 18331) The Department intends to issue a State-Only Operating Permit for operation of a funeral services and crematories operation in Chestnuthill Township, **Monroe County**. The facility operates one incinerator. The Operating Permit will include applicable emission limits and work practice standards along with applicable monitoring, recordkeeping and reporting requirements to ensure the facility complies with air quality regulations.

48-00056: Northampton Farm Bureau Cooperative Association (300 Bushkill St., Tatamy, PA 18085) The Department intends to issue a State-Only Operating Permit renewal for operation of a petroleum bulk stations and terminals wholesale operation in Chestnuthill Township, **Monroe County**. The facility operates a bulk gasoline plant with a vapor balance system. The Operating Permit will include applicable emission limits and work practice standards along with applicable monitoring, recordkeeping and reporting requirements to ensure the facility complies with air quality regulations.

Southcentral Region: Air Quality Program, 909 Elmer-ton Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

67-05138: Leisters Furniture Inc., (433 Ridge Avenue, Hanover, PA 17331) to issue a State Only Operating Permit for their wood furniture manufacturing operation in Hanover Borough, **York County**. The actual 2015 emissions were 0.25 ton of PM, 0.2 ton of CO, 0.2 ton of NO_x, 0.002 ton of SO_x, 5.5 tons of VOC, and 1.6 ton of total HAPs. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 25 Pa. Code §§ 129.52 and 129.101—129.107.

21-05066: Talen Energy Martins Creek, LLC/West Shore CTG Site (2 North 9th Street, Allentown, PA 18101) to issue a State Only Operating Permit for operation of a combustion turbines facility in Lower Allen Township, **Cumberland County**. The potential emissions are 0.6 ton of CO, 99.9 tons of NO_x, 0.8 ton of PM,

5.9 tons of SO₂, and 0.07 ton of VOC. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

06-03170: Sealed Air Corporation (450 Riverfront Drive, Reading, PA 19602) to issue a State Only Operating Permit for the Reading plant located in Reading City, **Berks County**. The plant currently operates under Title V Permit 06-05071 but Sealed Air Corporation has changed from using No. 6 fuel oil as a backup fuel to using No. 2 fuel oil as a backup fuel. The change resulted in a facility potential to emit less than the Title V emission thresholds. The facility requested to change to a natural minor permit. The actual emissions from the facility in 2015 were 8.8 tons of NO_x, 7.4 tons of CO and 2.7 tons of VOC. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 40 CFR Part 60 Subpart Dc and 40 CFR 60 Subpart JJJJ.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.

19-00032: Benton Area School District (Benton Area School District, 600 Green Acres Road, Benton, PA 17814) to issue a State-Only Operating Permit renewal for their elementary and high school buildings located in Benton Borough, **Columbia County**. The facility is currently operating under operating permit 19-00032. The facility's main sources include a 7.50 MMBtu/hr, biomass boiler and a multi-clone collector, several small No. 2 fuel oil fired boilers and two small emergency generators. This facility has the potential to emit 8.06 tons of carbon monoxide, 18.04 tons of nitrogen oxides, 7.74 tons of particulate matter (including particulate matter less than 10 microns), 4.57 tons of sulfur oxides, 0.29 ton of volatile organic compounds, 0.40 ton of hazardous air pollutants. The boilers are subject to Subpart JJJJJ of the Federal National Emission Standards for Hazardous Air Pollutants for Source Categories (Industrial, Commercial, and Institutional Boilers Area Sources), 40 CFR 63.11193—63.11237. The emergency generators are subject to 40 CFR Part 63 Subpart ZZZZ National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. The emission limits, throughput limitations and work practice standards along with testing, monitoring, record keeping and reporting requirements have been included in the operating permit to ensure the facility complies with all applicable Federal and State air quality regulations. These operating permit conditions have been derived from the applicable requirements of 25 Pa. Code Chapters 121—145 as well as 40 CFR Part 63. All pertinent documents used in the evaluation of the application are available for public review during normal business hours at the Department's Northcentral Regional office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review must be made by calling 570-327-0550.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19a); 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); and The Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.20a). 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. A copy of the application is available for inspection at the district mining office indicated before each application. Notices of requests for 401 Water Quality Certifications are included in individual application notices, as noted.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application and request for Section 401 water quality certification application 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 address of the district mining office indicated before each application 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—77.123 and 86.31—86.34.

Written comments or objections regarding a mining permit application 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.

A request for an informal conference or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code § 77.123 or § 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

When an NPDES number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. A separate notice will be provided after the draft NPDES permit is prepared.

Coal Applications Received

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

Permit No. 56060108 and NPDES No. PA0249921. **Rosebud Mining Co.**, 301 Market Street, Kittanning, PA 16201, permit renewal for reclamation only of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 98.3 acres. Receiving streams: unnamed tributaries to/and Millers Run classified for the following use: cold water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: October 14, 2016.

Permit No. 32050106 and NPDES No. PA0249823. **Beth Contracting, Inc.**, 815 Rock Run Road, Glen Campbell, PA 15742, renewal for reclamation only of a bituminous surface mine in Glen Campbell Borough, **Indiana County**, affecting 56.1 acres. Receiving streams: Brady Run and unnamed tributaries to Cush Creek

classified for the following use: cold water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: August 11, 2016.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

17110103 and NPDES PA0257605. RES Coal LLC (224 Grange Hall Road, P.O. Box 228, Armagh, PA 15920). Transfer of an existing bituminous surface and auger coal mine from Rosebud Mining Company located in Girard Township, **Clearfield County** affecting 257.0 acres. Receiving stream(s): Unnamed Tributaries to Bald Hill Run and Bald Hill Run classified for the following use(s): CWF, MF. There are no potable water supply intakes within 10 miles downstream. Application received: October 13, 2016.

17110105 and NPDES PA0257630. RES Coal LLC (224 Grange Hall Road, P.O. Box 228, Armagh, PA 15920). Transfer of an existing bituminous surface and auger coal mine from Rosebud Mining Company located in Girard Township, **Clearfield County** affecting 233.9 acres. Receiving stream(s): Unnamed Tributaries to Bald Hill Run and Bald Hill Run classified for the following use(s): CWF, MF. There are no potable water supply intakes within 10 miles downstream. Application received: October 13, 2016.

17070114 and NPDES PA0256480. RES Coal LLC (224 Grange Hall Road, P.O. Box 228, Armagh, PA 15920). Transfer of an existing bituminous surface coal mine from Rosebud Mining Company located in Girard Township, **Clearfield County** affecting 119.4 acres. Receiving stream(s): Unnamed Tributaries to Bald Hill Run and Bald Hill Run classified for the following use(s): CWF, MF. There are no potable water supply intakes within 10 miles downstream. Application received: October 13, 2016.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 54850207R6. Rausch Creek Land, LP, (978 Gap Street, Valley View, PA 17983), renewal for reclamation activities only of an existing anthracite coal refuse reprocessing operation in Hegins Township, **Schuylkill County** affecting 39.08 acres, receiving stream: East Branch Rausch Creek, classified for the following use: cold water fishes. Application received: September 15, 2016.

Noncoal Applications Received

Effluent Limits—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Parameter	Table 2		
	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

Permit No. 34162803. Robert S. Darrow, 128 Cedar-row Lane, Honey Grove, PA 17035, commencement, operation, and restoration of a small noncoal (industrial minerals) operation in Tuscarora Township, **Juniata County**, affecting 2 acres. Receiving stream: unnamed tributary to McKinley Run to Tuscarora Creek. Permit received: October 3, 2016.

Knox District Mining Office: P.O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

37150302 and NPDES Permit No. PA0259683. Amerikohl Aggregates, Inc. (202 Sunset Drive, Butler, PA 16001) Commencement, operation and restoration of a large industrial minerals mine in Shenango Township, **Lawrence County**, affecting 233.8 acres. Receiving streams: Unnamed tributaries to McKee Run and McKee Run, classified for the following uses: WWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: September 28, 2016.

22807-37150302-E-1. Amerikohl Aggregates, Inc. (202 Sunset Drive, Butler, PA 16001) Application for a stream encroachment to conduct mining and support

activities within 100 feet of unnamed tributary No. 3 to McKee Run in Shenango Township, **Lawrence County**. Receiving streams: Unnamed tributaries to McKee Run and McKee Run, classified for the following uses: WWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: September 28, 2016.

22807-37150302-E-2. Amerikohl Aggregates, Inc. (202 Sunset Drive, Butler, PA 16001) Application for a stream encroachment to install and maintain a stream crossing over unnamed tributary No. 3 to McKee Run in Shenango Township, **Lawrence County**. Receiving streams: Unnamed tributaries to McKee Run and McKee Run, classified for the following uses: WWF. There are no potable surface water supply intakes within 10 miles downstream. Application also includes a request for a Section 401 Water Quality Certification. Application received: September 28, 2016.

37150302. Amerikohl Aggregates, Inc. (202 Sunset Drive, Butler, PA 16001) Application for a wetlands encroachment to affect 0.48 acre of wetlands in Shenango Township, **Lawrence County**. As replacement for the wetland impacts, 0.48 acre of wetlands will be created in accordance with the Module 14 mitigation plan. Receiving streams: Unnamed tributaries to McKee Run and McKee Run, classified for the following uses: WWF. There are no potable surface water supply intakes within 10 miles downstream. Application also includes a request for a Section 401 Water Quality Certification. Application received: September 28, 2016.

16150302 and NPDES Permit No. PA0259691. Amerikohl Aggregates, Inc. (202 Sunset Drive, Butler, PA 16001) Commencement, operation and restoration of a large industrial minerals mine in Richland Township, **Clarion County**, affecting 232.5 acres. Receiving streams: Three unnamed tributaries to Turkey Run, classified for the following uses: HQ-CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: October 5, 2016.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

4775SM10 and NPDES PA0596639. Hanson Aggregates Pennsylvania LLC (7660 Imperial Way, Allentown, PA 18195). Permit revision to increase the permitted depth by 200 feet to 760-feet mean sea level on an existing large noncoal surface mine in College Township, **Centre County**, affecting 331.0 acres. Receiving streams: Spring Creek to Bald Eagle Creek classified for the following use(s): HQ-CWF, MF. There are no potable water supply intakes within 10 miles downstream. Application received: October 7, 2016.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 58050829. Paul A. Kelly, (558 Chenango Street, Montrose, PA 18801), Stage I & II bond release of a quarry operation in Bridgewater Township, **Susquehanna County** affecting 3.0 acres on property owned by Diane Kane. Application received: October 17, 2016.

Permit No. 58960810. Jade Brewer, (713 Williams Road, Montrose, PA 18801), Stage I & II bond release of a quarry operation in Bridgewater Township, **Susquehanna County** affecting 3.0 acres on property owned by Leonard Norville. Application received: October 21, 2016.

MINING ACTIVITY NPDES DRAFT PERMITS

This notice provides information about applications for a new, amended or renewed NPDES permits associated with mining activity (coal or noncoal) permits. The applications concern industrial waste (mining) discharges to surface water and discharges of stormwater associated with mining activities. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

The Department of Environmental Protection (Department) has prepared a draft NPDES permit and made a tentative determination to issue the NPDES permit in conjunction with the associated mining activity permit.

Effluent Limits for Coal Mining Activities

For coal mining activities, NPDES permits, when issued, will contain effluent limits that are the more stringent of technology-based (BAT) effluent limitations or Water Quality Based Effluent Limits (WQBEL).

The BAT limits for coal mining activities, as provided in 40 CFR Part 434 and 25 Pa. Code Chapters 87—90 are as follows:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (Total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (Total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	

Alkalinity greater than acidity*

*The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applies to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; mined areas backfilled and revegetated; and all other discharges and drainage (resulting from a precipitation event of greater than 1-year 24-hour to less than or equal to a 10-year 24-hour event) from coal refuse disposal piles. Similarly, modified BAT limits apply to iron, manganese and suspended solids in surface runoff, discharges and drainage resulting from these precipitation events and those of greater magnitude in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

Exceptions to BAT effluent limits may be applicable in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

Effluent Limits for Noncoal Mining Activities

The limits for noncoal mining activities as provided in 25 Pa. Code Chapter 77 are pH 6 to 9 and other parameters the Department may require.

Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional water quality based effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description specifies the parameters.

In addition to BAT or WQBEL limits, coal and noncoal NPDES permits establish effluent limitations in the form of implemented Best Management Practices (BMPs) identified in the associated Erosion and Sedimentation Plan, the Reclamation Plan and the NPDES permit application. These BMPs restrict the rates and quantities of associated pollutants from being discharged into surface waters in this Commonwealth.

More restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining that may occur are incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 563-2112-115, Developing National Pollutant Discharge Elimination System (NPDES) Permits for Mining Activities. Other specific factors to be considered include public comments and Total Maximum Daily Load(s). Additional discharge limitations may apply in the event that unexpected discharges occur.

Discharge rates for surface mining activities are precipitation driven. Discharge rates for proposed discharges associated with underground mining are noted in the permit description.

Persons wishing to comment on an NPDES draft permit should submit a written statement to the Department at the address of the district mining office indicated before each draft permit within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92a.82(d). The request or petition for a public hearing shall be filed within 30 days of this public notice and contain the name, address, telephone number and the interest of the party filing the request, and state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. When a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal NPDES Draft Permits

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

NPDES No. PA0598640 (Mining Permit No. 32890109), Consol Mining Company, LLC, CNX Center, 1000 Consol Energy Drive, Cannonsburg, PA 15317-6506, renewal of an NPDES permit for reclamation only coal surface mine site treating a post-mining discharge in Black Lick Township, **Indiana County**, affecting 18.4 acres. Receiving stream: Aultmans Run classified for the following use: cold water fishes. This receiving stream is included in the Kiskiminetas-Conemaugh River TMDL. Application received: July 8, 2016.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in hits permit are the BAT limits described above for coal mining activities.

The outfall listed below discharges to Aultmans Run:

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
001—Post Mining Discharge Treatment Facility	N

The proposed effluent limits for the above listed outfall are as follows:

<i>Outfall: Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Iron (mg/l)	1.5	3.0	3.5
Manganese (mg/l)	1.0	2.0	2.5
Aluminum (mg/l)	0.75	1.5	1.8
Total Suspended Solids (mg/l)	35.0	70.0	90.0
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times			
Alkalinity must exceed acidity at all times			

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

NPDES PA0257257 (Mining permit no. 17090107), RES Coal LLC, 224 Grange Hall Road, P.O. Box 228, Armagh, PA 15920, renewal of an NPDES permit for surface coal mining in Goshen Township, **Clearfield County**, affecting 442.1 acres. Receiving streams: Unnamed Tributary B to West Branch Susquehanna River, Chubb Run, and Surveyor Run classified for the following use(s): CWF. West Branch Susquehanna River TMDL. Application received: May 27, 2016.

The outfall(s) listed below require a non-discharge alternative:

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
012	N
013	N
014	N
015	N

There is no proposed surface discharge from the above listed facilities to the receiving stream due to the implementation of Best Management Practices.

New Stanton District Office: 131 Broadview Road, New Stanton, PA 15672, 724-925-5500.

NPDES No. PA0251950 (Mining permit no. 30100101), Border Energy, LLC, 103 Corporate Drive, Suite 102, renewal NPDES permit for a bituminous surface mine in Monongahela Township, **Greene County**, affecting 188.5 acres. Receiving streams: UNTs to Whiteley Creek, classified for the following use: WWF. Application received: March 25, 2016.

The treated wastewater outfall(s) listed below discharge to UNTs to Whiteley Creek:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>	<i>Type</i>
006, 007, 008, 009	N	Mine Drainage Treatment

The proposed effluent limits for the above listed outfall(s) are as follows:

<i>Outfalls: Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Iron (mg/l)	1.5	3.0	3.8
Manganese (mg/l)	1.0	2.0	2.5
Aluminum (mg/l)	0.75	1.5	1.8
Sulfates (mg/l)	250	500	750
Total Suspended Solids (mg/l)	35	70	90
Osmotic Pressure (mOsm/kg)	50	50	50
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times			
Alkalinity must exceed acidity at all times			

The stormwater outfall(s) listed below discharge to UNTs to Whiteley Creek:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>	<i>Type</i>
001, 002, 003, 004, 005	N	Sedimentation

The proposed effluent limits for the above listed outfall(s) are as follows:

<i>Outfalls: Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Iron (mg/l)	1.5	3.0	3.8
Manganese (mg/l)	1.0	2.0	2.5
Aluminum (mg/l)	0.75	1.5	1.8
Sulfates (mg/l)	250	500	750
Total Suspended Solids (mg/l)	35	70	90
Osmotic Pressure (mOsm/kg)	50	50	50
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times			
Alkalinity must exceed acidity at all times			

Noncoal NPDES Draft Permits

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

NPDES No. PA0599174 (Mining Permit No. 4274SM26), New Enterprise Stone & Lime Company, Inc., P.O. Box 77, New Enterprise, PA 16664-0077, renewal of an NPDES permit for a large noncoal surface mine in Cromwell Township, Huntingdon County, affecting 78.1 acres. Receiving stream: Shade Creek, classified for the following use: trout stocked fishes. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received: February 17, 2016.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for noncoal mining activities.

The outfalls listed below discharge to Shade Creek and are located on LNC No. 4274SM26 and will be used by the adjacent LNC No. 31000301 permit.

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
001	N
002	N
003	N

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Total Suspended Solids (mg/l)	35.0	70.0	90.0
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times			
Alkalinity must exceed acidity at all times			

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

NPDES No. PA0257087 (Mining Permit No. 14090301), Hanson Aggregates Pennsylvania LLC, 7660 Imperial Way, Allentown, PA 18195, renewal of an NPDES permit for a noncoal surface mine in Marion and Spring Townships, Centre County, affecting 60.4 acres. Receiving stream(s): Nittany Creek classified for the following use(s): CWF, MF. Application received: September 16, 2016.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for noncoal mining activities.

The outfall(s) listed below discharge to Nittany Creek:

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
001	No
002	No
003	No
004	No
005	No

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department. Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the Commonwealth to certify that the involved projects will not violate the sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA, the issuance of a Dam Permit or Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment shall submit comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted before an application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Each individual will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on working days at the office noted before 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(a) of the FWPCA.

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ed Muzic, Section Chief, 717.705.4802.

E07-462: Altoona Water Authority, 900 Chestnut Avenue, Altoona, PA 16601, in Allegheny Township, **Blair County**, U.S. Army Corps of Engineers Baltimore District.

To construct and maintain a permanent stockpile site for soil from construction activities adjacent to an existing permanent stockpile in in the floodplain of the Beaverdam Branch of the Juniata River (WWF, MF) and a UNT to Beaverdam Branch of the Juniata River (WWF, MF). The project is located south of the treatment plant S.R. 764 and between the railroad tracks and Interstate 99 (Hollidaysburg, PA Quadrangle, Latitude: 40.453373", Longitude: -78.423163") in Allegheny Township, Blair County. No wetlands are impacted.

E06-703: Plenary Walsh Keystone Partners, 2000 Cliff Mine Road, Pittsburgh, PA 15275-1008 in Cumru Township, **Berks County**, U.S. Army Corps of Engineers Philadelphia District. To remove the existing structure

and to (1) construct and maintain a 74.2 foot long, 26.0 foot wide concrete box culvert depressed 1.0 foot with baffles and place R-8 riprap scour protection choked with native stream bed material in Wyomissing Creek (HQ-CWF, MF) and its associated floodway and floodplain and (2) temporarily impact 7 linear feet of a UNT to Wyomissing Creek (HQ, CWF) for construction activities (Latitude 40° 16' 55.6", Longitude -75° 59' 31.2") for the purpose of replacing a structurally deficient bridge as part of the Public Private Partnership (P3) Rapid Bridge Replacement Program. The project is located along S.R. 3009 (Wyomissing Road) in Cumru Township, Berks County.

E06-705: Plenary Walsh Keystone Partners, 2000 Cliff Mine Road, Pittsburgh, PA 15275-1008 in Cumru Township, **Berks County**, U.S. Army Corps of Engineers Philadelphia District.

To remove the existing bridge structure and to construct and maintain a 50.1 foot long, 26.0 foot wide concrete box culvert with baffles, depressed below the exiting stream bed elevation, and place R-6 riprap scour protection, depressed to match the existing stream bed elevation and choked with native stream bed material, in Angelica Creek (CWF, MF) and its associated floodway and floodplain and temporarily impact 0.03 acre of Exceptional Value Palustrine Forested wetland (Latitude 40°17'27", Longitude -75°56'48") for the purpose of replacing a structurally deficient bridge as part of the Public Private Partnership (P3) Rapid Bridge Replacement Program. The project is located along S.R. 0625 (New Holland Road) in Cumru Township, Berks County.

Southwest Region: Waterways & Wetlands Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E63-695, Plenary Walsh Keystone Partners, 2000 Cliff Mine Rd., Park West Two, 3rd Fl., Pittsburgh, PA 15275, Amwell Township, **Washington County**, Pittsburgh ACOE District.

The applicant is proposing to:

1. Remove an existing steel I-beam bridge (Span 20.8 feet, Length 27.71 feet, Under-clearance 3.74 feet), and
2. Construct and maintain a replacement concrete box culvert (Span 22 feet, Length 41.1 feet, Under-clearance 4.0 feet).

The project also proposes to relocate one small tributary (UNT to Horne Run). This relocation is directly related to incidental activities immediately adjacent to the upstream waterway opening of bridges that is necessary to support the structure. Because of this, the UNT to Horne Run, which is located immediately adjacent to the upstream opening, is being realigned.

For the purposes of replacing the existing S.R. 2007 Segment 0020 (Banetown Rd) bridge, a structurally deficient structure over Horne Run (TSF) on the existing alignment, which is located at the end of Banetown Road in Amwell Township (Amity, PA USGS topographic quadrangle; Latitude: 40° 2' 21.699", Longitude: -80° 13' 20.6688"; Sub-basin: 19B; Pittsburgh Corps District) in Amwell Township, Washington County.

E63-697, Primrose School Franchising Company, 3660 Cedarcrest Road, Acworth, GA 30101, Peters Township, **Washington County**, Pittsburgh ACOE District.

The applicant is proposing to:

Place and maintain fill within approximately 0.12 acre of PEM wetlands and construct, operate, and maintain a sanitary sewer line that will impact 0.046 acre of PEM wetland for the purpose of constructing a school building with associated parking, driveways and infrastructure. A 0.13 acre PEM/PSS mitigation wetland will be created, on-site, to compensate for the permanently impacted wetlands at a 1:1 ratio. The proposed school will be located at the intersection of Waterdam Road and Galley Road (Canonsburg, PA USGS topographic quadrangle; Latitude: 40° 15' 35"; Longitude: -80° 7' 59"; Sub-basin: 20F; ACOE: Pittsburgh District), in Peters Township, Washington County.

DAM SAFETY

Central Office: Bureau of Waterways Engineering and Wetlands, Rachel Carson State Office Building, Floor 2, 400 Market Street, P.O. Box 8460, Harrisburg, PA 17105-8460.

D50-063. S. Dean Stephens, P.E., 183 Riverview Road, Liverpool, PA 17045. To modify, operate and maintain Lake Heron Dam across a tributary to the Susquehanna River, for the purpose of complying with Department regulations. (Millersburg, PA Quadrangle N: 20.625 inches; W: 3.625 inches) in Liverpool Township, **Perry County**.

ACTIONS

THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

FINAL ACTIONS TAKEN FOR NPDES PERMITS AND WQM PERMITS

The Department has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and NOIs for coverage under General Permits. This notice of final action is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1—691.101) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or Amendment
Section III	WQM	Industrial, Sewage or Animal Wastes; Discharges to Groundwater
Section IV	NPDES	MS4 Individual Permit
Section V	NPDES	MS4 Permit Waiver
Section VI	NPDES	Individual Permit Stormwater Construction
Section VII	NPDES	NOI for Coverage under NPDES General Permits

Sections I—VI contain actions regarding industrial, animal or sewage wastes discharges, discharges to groundwater, and discharges associated with MS4, stormwater associated with construction activities and CAFOs. Section VII contains notices for parties who have submitted NOIs for Coverage under General NPDES Permits. The approval for coverage under these General NPDES Permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions in each General Permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions in the respective permit. The permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) 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 Administrative Agency Law). The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should contact a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

Southwest Regional Office: Regional Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Phone: 412.442.4000.

NOTICES

7025

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0253081 (Sewage)	Universal Electric Corp 168 Georgetown Road Canonsburg, PA 15317	Washington County Cecil Township	Chartiers Creek (20-F)	Yes
PAG046101 (Sewage)	Moyer SRSTP 231 Walnut Road McDonald, PA 15057	Washington County Mount Pleasant Township	Unnamed Tributary of Raccoon Creek (20-D)	Yes

Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401. Phone: 484.250.5970.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0058378 (Sewage)	Upper Uwchlan Township Municipal Authority 140 Pottstown Pike Chester Springs, PA 19425-9516	Chester County Upper Uwchlan Township	Black Horse Creek 3-H	N

Northeast Regional Office: Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915. Phone: 570.826.2511.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0061051 (Sewage)	Farda Realty Land Development STP (FKA Outback Lodge & Water Park STP) PO Box 130 Route 715 Tannersville, PA 18372-0130	Monroe County Pocono Township	Unnamed Tributary to Pocono Creek (1-E)	Yes
PA0037052 (Sewage)	Pen Argyl Municipal Authority WWTP 11 North Robinson Avenue P.O. Box 128 Pen Argyl, PA 18072	Northampton County Pen Argyl Borough	Waltz Creek (01F)	Yes

Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0029106— SEW	Greenfield Township Municipal Authority PO Box 372 Claysburg, PA 16625-0372	Blair County/ Greenfield Township	Frankstown Branch Juniata River/11-A	Y

Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0239615 (Sewage)	Hidden Acres Walnut Square & Wilsons Ridge STP 8037 Rowan Road Cranberry Twp, PA 16066-3615	Butler County Forward Township	Unnamed Tributary of Connoquenessing Creek (20-C)	Yes
PA0221856 (Sewage)	Scott E Harrington SRSTP 4919 Follett Run Road Warren, PA 16365-8559	Warren County Conewango Township	Morse Run (16-B)	Yes

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

Southwest Regional Office: Regional Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Phone: 412.442.4000.

NPDES Permit No. PA0000566, Industrial, SIC Code 3351, **Libertas Copper, LLC**, 100 Washington Street, Leetsdale, PA 15056-1000.

This existing facility is located in Leetsdale Borough, **Allegheny County**.

Description of Existing Action/Activity: Issuance of an NPDES Permit for an existing discharge of treated industrial waste.

III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law

Southwest Regional Office: Regional Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Phone: 412.442.4000.

WQM Permit No. 0274219 A-3, T-1 Industrial, SIC Code 3351, **Libertas Copper, LLC**, 100 Washington Street, Leetsdale, PA 15056-1000.

This existing facility is located in Leetsdale Borough, **Allegheny County**.

Description of Proposed Action/Activity: Installation of a MYCELX filter unit as an upgrade to the existing wastewater treatment plant. Note: On October 1, 2016, the Department posted notice of receipt of this application in the *Pennsylvania Bulletin*. That notice however was published under the wrong permit number (WQM 0216201). There were no comments received in response to that notification. The permit is being finalized under the correct permit number WQM 0274219 A-3.

WQM Permit No. 2616400, Sewage, SIC Code 4952, **Laurel Highlands Council—Boy Scouts of America**, Flag Plaza Scout Center, 1275 Bedford Avenue, Pittsburgh, PA 15219.

This proposed facility is located in Wharton Township, **Fayette County**.

Description of Proposed Action/Activity: The applicant proposed to install an Ultraviolet Disinfection System to replace the existing Chlorine Disinfection System at the Laurel Highlands Council Boy Scouts of America's Heritage Reservation STP.

Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401, 484.250.5900.

WQM Permit No. WQG02151605, Sewage, **New Garden Township Sewer Authority**, 299 Starr Road, Landenberg, PA 19350.

This proposed facility is located in New Garden Township, **Chester County**.

Description of Action/Activity: Upgrades to the existing pump station and extension of force main.

WQM Permit No. 1599415, Sewage, Renewal, **John M. Stoltzfus**, P.O. Box 375, Gap, PA 17527.

This proposed facility is located in West Caln Township, **Chester County**.

Description of Action/Activity: Approval for renewal of WQM Permit Part II to continue to operate a sewage treatment plant with discharge to ground water via LVOLD system.

WQM Permit No. 1595411, Sewage, Renewal, **University of Pennsylvania**, 382 West Street Road, Kennett Square, PA 19348.

This proposed facility is located in East Marlborough Township, **Chester County**.

Description of Action/Activity: Approval for renewal of WQM Permit Part II to continue to operate a sewage treatment plant with spray irrigation.

WQM Permit No. 2316403, Sewage, **Newtown Township Municipal Authority**, 209 Bishop Hollow Road, Newtown Square, PA 19073.

This proposed facility is located in Newtown Township, **Delaware County**.

Description of Action/Activity: Construction and operation of a wastewater pump station.

WQM Permit No. 1500414, Sewage, Renewal, **Aqua Pennsylvania Wastewater Inc.**, 762 W. Lancaster Avenue, Bryn Mawr, PA 19010-3402.

This proposed facility is located in East Bradford Township, **Chester County**.

Description of Action/Activity: Approval for renewal of WQM Permit Part II to continue to operate the wastewater treatment plant known as the Brandywine River Estates.

WQM Permit No. WQG010056, Sewage, **Pensco Trust Company**, 2 Fiaba Court, Doylestown, PA 18901.

This proposed facility is located in Hilltown Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a single residence small flow treatment facility.

WQM Permit No. 0987448, Sewage, Transfer # 3, **Blue Street Properties, LLC**, 1712 Hancock Lane, Burlington, NJ 08016.

This proposed facility is located Wrightstown Township, **Bucks County**.

Description of Action/Activity: Permit transfer from Princeton Research Lands Inc., to Blue Street Properties.

Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.

WQM Permit No. 0598404, Amendment No. 2, Sewerage, **Everett Borough Area Municipal Authority**, 100 Mechanic Street, Everett, PA 15537-1177.

This proposed facility is located in Everett Township, **Bedford County**.

Description of Proposed Action/Activity: Permit approval for the upgrades/expansion to the existing treatment plant.

WQM Permit No. 0616401, Sewerage, **Muhlenberg Township Authority**, 2840 Kutztown Road, Hyde Park, Reading, PA 19605.

This proposed facility is located in Muhlenberg Township, **Berks County**.

Description of Proposed Action/Activity: Permit approval for the replacement of the existing Fairbanks Morse grinder at the South Temple Pumping Station with a JWC Muffin Monster rated at 740 gpm.

Southwest Regional Office: Regional Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Phone: 412.442.4000.

WQM Permit No. 0416201, Industrial, SIC Code 4941, **Center Township Municipal Water Authority Beaver County**, 224 Center Grange Road, Aliquippa, PA 15501.

This proposed facility is located in Center Township, **Beaver County**.

Description of Proposed Action/Activity: Construction of the permanent backwash wastewater treatment facility.

Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. WQG01251607, Sewage, **Brian Tobin**, 2811 Sunset Trail, Waterford, PA 16441-5503.

This proposed facility is located in Harborcreek Township, **Erie County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

WQM Permit No. 3773204 A-1, Industrial, **PA American Water Co.**, 2736 Ellwood Road, New Castle, PA 16101.

This existing facility is located in Wayne Township, **Lawrence County**.

Description of Proposed Action/Activity: Add dechlorination facilities for permitted activities associated with NPDES Permit No. PA0000329.

WQM Permit No. 1092405 A-1, Sewage, SIC Code 4952, **Wick Auto Sales Inc.**, Carol M. & Thomas E. Kaufman D/B/A Franklin Village A Manufactured housing, 423 Dogwood Drive, Butler, PA 16001-0225.

This existing facility is located in Franklin Township, **Butler County**.

Description of Proposed Action/Activity: Removal of a comminutor and addition of an influent trash basket.

WQM Permit No. 1016407, Sewage, **Breakneck Creek Region Authority**, PO Box 1180, Mars, PA 16046-1180.

This proposed facility is located in Adams Township, **Butler County**.

Description of Proposed Action/Activity: Sewer extension for a proposed residential development owned by Traditions of America (TOA) Adams Land, L.P.

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

Southeast Region: Waterways & Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401. Telephone 484-250-5160.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI015116002	Isaac Newton Foundation 1800 East Byberry Road Philadelphia, PA 19116	Philadelphia	City of Philadelphia	Delaware River WWF-MF
PAI011515032	28 Industrial Boulevard, LLC 2701 Renaissance Boulevard Fourth Floor King of Prussia, PA 19406	Chester	Willistown Township and Tredyffrin Township	Little Valley Creek EV

Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024513001(5)	Kalahari Resorts, LLC 1305 Kalahari Drive P.O. Box 590 Wisconsin Dells, WI 53965	Monroe	Tobyhanna Township Pocono Township	Swiftwater Creek (EV, MF) Tributaries to Swiftwater Creek (EV, MF)
	Pocono Manor Investors, PT-L1 P.O. Box 38 The Inn at Pocono Maner Pocono Manor, PA 18349			Indian Run Creek (EV, MF) Tributaries to Indian Run Creek (EV, MF)

Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Nathan Crawford, Section Chief, Telephone 717.705.4802.

<i>Permit #</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033114001 Permit Denied	Helena Chemical Company 225 Schilling Boulevard Collierville, TN 38017	Huntingdon	Warriors Mark Township	UNT Logan Spring Run (WWF, MF) UNT Warriors Mark Run (HQ-CWF, MF)

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges from Small Flow Treatment Facilities
PAG-5	General Permit for Discharges from Petroleum Product Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Non-Exceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharges from Hydrostatic Testing of Tanks and Pipelines
PAG-11	General Permit for Discharges from Aquatic Animal Production Facilities
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)
PAG-14	(To Be Announced)
PAG-15	General Permit for Discharges from the Application of Pesticides

General Permit Type—PAG-02

Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Taylor Borough Lackawanna County	PAG02003515010(1)	NEPA Partnership 114 South Main Street Taylor, PA 18517	Keyser Creek (CWF, MF) UNT to Lackawanna River (CWF, MF)	Lackawanna County Conservation District 570-392-3086
City of Allentown Lehigh County	PAG02003912015(4)	J.B. Reilly Two City Center, OP, LP/City Center Investment Corp. 645 Hamilton St. Suite 600 Allentown, PA 18101	Jordan Creek (TSF, MF)	Lehigh County Conservation District 610-391-9583
City of Allentown Lehigh County	PAG02003915020(1)	J.B. Reilly City Center Investment Corporation 645 Hamilton St. Suite 600 Allentown, PA 18101	Jordan Creek (TSF, MF)	Lehigh County Conservation District 610-391-9583
Wilkes-Barre City Luzerne County	PAG02004016004	Children's Service Center of Wyoming Valley, Inc. 335 South Franklin St. Wilkes-Barre, PA 18701	Susquehanna River (WWF, MF)	Luzerne Conservation District 570-674-7991

NOTICES

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Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Ferguson Twp Centre Cnty	PAC140002	State College AL Investors, LLC 4423 Pheasant Ridge Rd. S.W. Suite 301 Roanoke, VA 24014	UNT to Spring Creek CWF	Centre County Conservation District 414 Holmes Ave Ste 4 Bellefonte, PA 16823 (814) 355-6817
City of Shamokin Northumberland Cnty	PAC490003 Formerly PAG02004916004	Market St—Shamokin Watermain Replacement & Walnut St. Extension Aqua Pennsylvania, Inc 204 E. Sunbury St. Shamokin, PA 17872	UNT to Shamokin Ck. (WWF, MF) & Carbon Run (CWF, MF)	Northumberland County Conservation District 441 Plum Creek Rd Sunbury, PA 17801 (570) 286-7114 ext. 4
Monroe Twp Snyder Cnty	PAC550001	Brett J. Dahlman 1100 Jorie Boulevard Oak Brook, IL 60523-4623	Susquehanna River WWF, MF	Snyder County Conservation District 403 W Market St Middleburg, PA 17842 (570) 837-3000 X110
Cranberry Township Butler County	PAG02001016002	# 1 Cochran Collision Center 4520 William Penn Highway Monroeville, PA 15146	UNT Brush Creek WWF	Butler County Conservation District 724-284-5270
Cranberry Township Butler County	PAG02001016019	Real Estate Development Associates 550 Washington Avenue Carnegie, PA 15106-2848	Wolfe Run WWF; UNT Brush Creek WWF Likens Run WWF	Butler County Conservation District 724-284-5270
Jackson Township Butler County	PAG02001016026	The Buncher Company, Inc. c/o Mr. Jerry J. Lieb 1300 Penn Avenue Suite 300 Pittsburgh, PA 15222-4211	Trib Glade Run WWF Trib Likens Run WWF	Butler County Conservation District 724-284-5270

General Permit Type—PAC

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Murrysville Borough Westmoreland County	PAC680001	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Turtle Creek (TSF)	Attention: Patrick M. Webb PA DEP Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 814-472-1800

General Permit Type—PAG-3

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Bristol Township Bucks County	PAG030051	C-P Flexible Packaging 181 Rittenhouse Circle Bristol, PA 19007	Unnamed Tributary to Neshaminy Creek	DEP Southeast Regional Office Clean Water Program 2 E. Main Street Norristown, PA 19401 484.250.5970

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Bensalem Township Bucks County	PAG030054	QualaWash Holdings LLC 181 Rittenhouse Circle Bristol, PA 19007	Unnamed Tributary to Neshaminy Creek	DEP Southeast Regional Office Clean Water Program 2 E. Main Street Norristown, PA 19401 484.250.5970
East Norriton Township Montgomery County	PAG030040	Advanced Disposal Services Inc. 2955 Felton Road Norristown, PA 19401	Stony Creek	DEP Southeast Regional Office Clean Water Program 2 E. Main Street Norristown, PA 19401 484.250.5970
City of Philadelphia Philadelphia County	PAR230045 A-1	AdvanSix Resins & Chemicals LLC 2501 Margaret Street Philadelphia, PA 19137	Unnamed Tributary to Delaware River 3-J	DEP Southeast Regional Office Clean Water Program 2 E. Main Street Norristown, PA 19401 484.250.5970
Evans City Borough Butler County	PAG038326	Dubrook Inc. PO Box 376 Falls Crek, PA 15840-0376	Breakneck Creek—20-C	DEP Northwest Regional Office Clean Water Program 230 Chestnut Street Meadville, PA 16335-3481 814.332.6942
Butler City Butler County	PAG038327	Dubrook Inc. PO Box 376 Falls Creek, PA 15840-0376	Sullivan Run—20-C	DEP Northwest Regional Office Clean Water Program 230 Chestnut Street Meadville, PA 16335-3481 814.332.6942
Erie City Erie County	PAG038329	CSX Transportion Inc. 500 Water Street # J275 Jacksonville, FL 32202-4445	Unnamed Stream—15-A	DEP Northwest Regional Office Clean Water Program 230 Chestnut Street Meadville, PA 16335-3481 814.332.6942
Henderson Township Jefferson County	PAG038342	Hickory Hill Hardwoods LLC 247 Bear Lane Punxsutawney, PA 15767	Unnamed Tributary to Stump Creek—17-D	DEP Northwest Regional Office Clean Water Program 230 Chestnut Street Meadville, PA 16335-3481 814.332.6942
New Castle City Lawrence County	PAG038330	Ben Weitsman & Son of New Castle LLC 15 Main Street Oswego, NY 13827	Mahoning River—20-B	DEP Northwest Regional Office Clean Water Program 230 Chestnut Street Meadville, PA 16335-3481 814.332.6942
Lafayette Township McKean County	PAG038336	IA Construction Corporation PO Box 568 24 Gibb Road Franklin, PA 16323-0568	Unnamed Tributary to Wintergreen Run—16-B	DEP Northwest Regional Office Clean Water Program 230 Chestnut Street Meadville, PA 16335-3481 814.332.6942

General Permit Type—PAG-4

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Harborcreek Township Erie County	PAG041213	Brian Tobin 2811 Sunset Trail Waterford, PA 16441-5503	Unnamed Tributary of Sixmile Creek—15-A	DEP Northwest Regional Office Clean Water Program 230 Chestnut Street Meadville, PA 16335-3481 814.332.6942

STATE CONSERVATION COMMISSION

NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NPDES PERMITS FOR CAFOs

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under 3 Pa.C.S. Chapter 5, for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits or NOIs for coverage under a general permit for CAFOs under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Persons aggrieved by an action may appeal under 3 Pa.C.S. § 517, section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704 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 should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. 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 of the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge actions, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

**NUTRIENT MANAGEMENT PLAN
PUBLIC NOTICE SPREADSHEET—ACTIONS**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>AEU's</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
Melvin Bricker East Dutch Corner Road McConnellsburg, PA 17233	Fulton	160.4	346.82	Poultry/ Turkey	N/A	Approved

PUBLIC WATER SUPPLY PERMITS

The Department has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form

and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this document to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 4616514, Public Water Supply.
 Applicant **Upper Dublin School District**
 1580 Fort Washington Avenue
 Maple Glen, PA 19002
 Township Upper Dublin
 County **Montgomery**
 Type of Facility PWS
 Consulting Engineer Keystone Consulting Engineers
 433 East Broad Street
 Bethlehem, PA 18018
 Permit to Construct Issued October 25, 2016

Permit No. 4616515, Public Water Supply.
 Applicant **Upper Dublin School District**
 1580 Fort Washington Avenue
 Maple Glen, PA 19002
 Township Upper Dublin
 County **Montgomery**
 Type of Facility PWS
 Consulting Engineer Keystone Consulting Engineers
 433 East Broad Street
 Bethlehem, PA 18018
 Permit to Construct Issued October 25, 2016

Northeast Region: Safe Drinking Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Permit No. 2450065, Transfer of Operation Permit, Public Water Supply.

Applicant **Community Utilities of Pennsylvania, Inc.**
 (formerly Penn Estates Utilities, Inc.)
 P.O. Box 379
 Dunkirk, MD 20754
 Municipality Stroud and Pocono Townships
 County **Monroe**
 Type of Facility PWS
 Consulting Engineer N/A
 Permit to Operate Issued October 25, 2016

Southcentral Region: Safe Drinking Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 2216506, Public Water Supply.

Applicant **Topstar, Inc.**
 Municipality Londonderry Township
 County **Dauphin**
 Responsible Official Joseph Stark, President
 2826 East Harrisburg Pike
 Middletown, PA 17057-4011
 Type of Facility The system is requesting the installation of GAC Treatment, UV disinfection and cartridge filtration for turbidity removal.
 Consulting Engineer Robert J. May, P.E.
 Synergy Environmental, Inc.
 155 Railroad Plaza
 Royersford, PA 19468

Permit to Construct Issued 10/25/2016

Northcentral Region: Safe Drinking Water Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

Permit No. 1716504MA—Construction and Operation—Public Water Supply.

Applicant **Irvona Municipal Authority**
 Township/Borough Chest Township
 County **Clearfield**
 Responsible Official Mr. Ken Caldwell
 Irvona Municipal Authority
 230 Hemlock Road
 Irvona, PA 16656
 Type of Facility Public Water Supply
 Consulting Engineer Leo Drass, P.E.
 Gwin Dobson and Foreman
 3121 Fairway Drive
 Altoona, PA 16602
 Permit Issued October 20, 2016
 Description of Action Authorizes the use of sodium or potassium permanganate oxidation at Wellhouse No. 2 and the discontinuance of phosphate sequestration at Wellhouse No. 2.

Permit No. 5516501MA—Construction and Operation—Public Water Supply.

Applicant **Selinsgrove Center**
 Township/Borough Penn Township
 County **Snyder**
 Responsible Official Anthony Kern, Chief Financial Officer
 Selinsgrove Center
 1000 Route 522
 Selinsgrove, PA 17870
 Type of Facility Public Water Supply
 Consulting Engineer Michael J. Peleschak
 Alfred Benesch & Company
 400 One Norwegian Plaza
 Pottsville, PA 17901
 Permit Issued October 25, 2016
 Description of Action Refurbishing the inside and outside of Water Towers A, C and D and demolition of Water Tower B in accordance with the plans and specifications in the public water supply permit application dated August 2016 (PA DGS Project No. 553-43 Phase 1).

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit No. 6316512, Public Water Supply.

Applicant **Authority of the Borough of Charleroi**
 3 McKean Avenue
 Charleroi, PA 15022
 [Borough or Township] Charleroi Borough

County **Washington**
 Type of Facility Water system
 Consulting Engineer Chester Engineers
 501 McKean Avenue
 Third Floor
 Charleroi, PA 15022
 Permit to Construct Issued October 20, 2016

Operations Permit issued to: **Municipal Authority of the Borough of Portage**, 606 Cambria Street, Portage, PA 15946, (PWSID # 4110027) Portage Township, **Cambria County** on October 19, 2016 for the operation of facilities approved under Construction Permit # 1114514MA.

Operations Permit issued to: **Highland Sewer and Water Authority**, 120 Tank Drive, Johnstown, PA 15904, (PWSID # 4110017) Richland Township, **Cambria County** on October 20, 2016 for the operation of facilities approved under Construction Permit # 1115502MA.

Operations Permit issued to: **Highland Sewer and Water Authority**, 120 Tank Drive, Johnstown, PA 15904, (PWSID # 4110017) Richland Township, **Cambria County** on October 20, 2016 for the operation of facilities approved under Construction Permit # 1115503MA.

Operations Permit issued to: **Authority of the Borough of Charleroi**, 3 McKean Avenue, Charleroi, PA 15022, (PWSID # 5630039) Twilight Borough, **Washington County** on October 20, 2016 for the operation of facilities approved under Construction Permit # 6316503.

Operations Permit issued to: **Authority of the Borough of Charleroi**, 3 McKean Avenue, Charleroi, PA 15022, (PWSID # 5630039) Fallowfield Township, **Washington County** on October 20, 2016 for the operation of facilities approved under Construction Permit # 6316504.

Permit No. 3216503MA, Minor Amendment. Public Water Supply.

Applicant **Central Indiana County Water Authority**
 30 East Wiley Street
 Homer City, PA 15748
 [Borough or Township] Center Township and Homer City Borough
 County **Indiana**
 Type of Facility Juniper Street, St. Clair Street,
 Six Flat Road and Yankeetown
 Avenue waterline
 Consulting Engineer Bankson Engineers, Inc.
 Suite 200
 267 Blue Run Road
 Cheswick, PA 15024
 Permit to Operate Issued October 25, 2016

Permit No. 0416502WMP, Minor Amendment. Public Water Supply.

Applicant **Borough of Ambridge Water Authority**
 PO Box 257
 600 Eleventh Street
 Ambridge, PA 15003
 [Borough or Township] Ambridge and Economy
 Boroughs

County **Beaver**
 Type of Facility Three metered bulk load-out
 hydrants
 Consulting Engineer NIRA Consulting Engineers, Inc.
 950 Fifth Avenue
 Coraopolis, PA 15108
 Permit to Operate Issued October 20, 2016

Northwest Region: Safe Drinking Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Transfer of Operation Permit issued to **G.B. Cummings, LLC, PWSID No. 6370026**, Scott Township, **Lawrence County** on October 25, 2016. Action is for change in ownership; the potable water supplier will do business as Scottview Terrace MHP. The new permit number is 3709503-T1.

WATER ALLOCATIONS

Actions taken on applications received under the act of June 24, 1939 (P.L. 842, No. 365) (35 P.S. §§ 631—641) relating to the acquisition of rights to divert waters of the Commonwealth.

Southcentral Region: Safe Drinking Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

WA WA 36-799A, Water Allocations. The Borough of Arkon (PWS ID No. 7360128), Lancaster County. Modification Order request for Water Allocation WA 36-799B the right to purchase from the Ephrata Area Joint Authority up to 50,000 gallons per day (gpd) and the right to purchase up to 200,000 gpd on an emergency basis. Permittee Contact: Daniel Guers, Borough Manager, 117 South Seventh Street, P O Box 130, Akron, PA 17501-0130. Permit Issued: 10/18/2016.

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

WA4-1006, Water Allocations. Borough of Shippingport, PO Box 76, Shippingport, PA 15077, Beaver County. The right to purchase up to 25,000 gallons of water per day (peak month) from the Municipal Authority of the Borough of Midland.

A4-1011, Water Allocations. Ohioville Borough Municipal Authority, 6268 Tuscarawaras Road, Industry, PA 15052, Beaver County. The right to purchase up to 250,000 gallons of water per day from the Brighton Township Municipal Authority.

Northwest Region: Safe Drinking Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WA 37-213B, Water Allocations. Pennsylvania American Water Company, 800 West Hershey Park Drive, Hershey, PA 17033, Wayne Township, Lawrence County. Grants Pennsylvania American Water Company the right to withdraw 5,500,000 gallons per day as a peak daily flow rate from Slippery Rock Creek.

Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401.

WA-09-1009, Water Allocations. Warminster Municipal Authority, 415 Gibson Avenue, Warminster, PA 18974, Warminster Township, Bucks County. For the right to purchase 3.0 million gallons per day of water, based on a 30-day average, from the North Wales Water Authority, in Bucks County.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted Under the Pennsylvania Sewage Facilities Act (35 P.S. § 750.5)

Southwest Regional Office, Regional Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Telephone 412-442-4000.

Plan Location: Single Residence Small Flow Treatment Facility at 2920 US Route 30, Georgetown, PA 15043

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Greene Township	262 Pittsburgh Grade Rd Hookstown, PA 15050	Beaver

Plan Description: The approved plan provides for the installation of a Wastewater Treatment Plant to be located at 2920 US Route 30, Greene Township, Beaver County. The facility is intended to treat 400 gallons per day of sanitary waste from a single residence. The proposed discharge is to an unnamed tributary of Mill Creek designated under Chapter 93 as a Trout Stock Fisheries. This approval was granted in part based on the Department's Water Quality Antidegradation Implementation Guidance policy. The approved sewage facility plan, evaluated all non-discharge alternatives and determined no environmentally sound and cost effective non-discharge alternative is available under subsection (b)(1)(i)(A).

The Department's review of the sewage facility plan has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of William T. Reed.

HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988

Notice of Prompt Interim Response HOFF VC HSCA Site New Hanover Township, Montgomery County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P.S. §§ 6020.101—6020.1305), has initiated a prompt interim response at the Hoff VC HSCA Site (Site). This response has been initiated pursuant to sections 501(a) and 505(b) of the HSCA (35 P.S. §§ 6020.501(a) and 6020.505(b)). The site is located at 334 Layfield Road, New Hanover Township, Montgomery County.

The Site consists of a former oil distributor at 334 Layfield and a resulting downgradient groundwater contaminant plume. The contaminant of concerns include Volatile Organic Compounds, Semivolatile Organic Compounds, 1,4-Dioxane, Polycyclic Aromatic Hydrocarbons, and Pesticides.

On July 13, 2016, the Department located a concrete pit at the Site containing wastes from truck washing activities that had not been remediated. Subsequent sampling identified Volatile Organic Compounds, Polycyclic Aromatic Hydrocarbons, Pesticides, and Lead in the waste, and Volatile Organic Compound contamination in soil adjacent to the concrete pit. The prompt interim response was initiated in order to address risks associated with direct contact with waste in the concrete pit and to prevent exacerbation of the existing groundwater contamination. The Department mobilized to removal the

waste from the concrete pit for offsite disposal. The actions at the Site include removal, offsite disposal of the waste and the in-situ treatment and/or disposal of contaminated soils adjacent to the concrete pit.

The Department has determined that these actions are protective of human health and the environment, comply with Applicable, Relevant and Appropriate Requirements (ARARs), are feasible and cost-effective. Other possible alternatives considered included No Action. The Department plans to complete these activities by January 2017.

This notice is being provided pursuant to Section 506(b) of HSCA, 35 P.S. § 6020.506(b). The administrative record which contains the information that forms the basis and documents the selection of this response action is available for public review and comment. The administrative record is located at Department's office at 2 East Main Street, Norristown, PA 19401 and is available for review Monday through Friday from 8:00 am until 4:00 pm. Additional copies of the Administrative Record are available for review at the New Hanover Municipal Building, located at 2943 North Charlotte Street, Gilbertsville, PA 19525.

The administrative record will be open for comment from November 5, 2016 until February 3, 2017. Persons may submit written comments into the record during this time only, by sending them to Colin Wade at the Pennsylvania Department of Environmental Protection, 2 East Main Street, Norristown, PA 19401, by email at cowade@pa.gov, or by delivering them to this office in person.

In addition, persons may present oral comments, for inclusion in the administrative record, at a public hearing. The Department has scheduled the hearing on December 6, 2016 at 7 pm at the Boyertown Junior High East School at 2020 Big Road, Gilbertsville, PA 19525. Persons wishing to present comments must register with Virginia Cain, at 484.250.5808.

Persons with a disability who wish to attend the hearing and require auxiliary aid, service or other accommodations to participate in the proceedings, should call Virginia Cain, at 484.250.5808 or through the Pennsylvania AT&T Relay Service at 1-800-654-5984 (TDD) to discuss how the Department may accommodate their needs.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995 PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.907).

Provisions of Sections 301—308 of the Land Recycling and Environmental Remediation Standards Act (act) (35 P.S. §§ 6026.301—6026.308) require the Department to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act'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 summa-

ries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, will also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. 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. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the environmental cleanup program manager in the Department regional office under which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.

Volume Transportation/RML Warehouse, 350 Wiconisco Street, Millersburg, PA 17061, Millersburg Borough and Upper Paxton Township, **Dauphin County**. EP&S of Vermont, Inc., 1539 Bobali Drive, Harrisburg, PA 17104, on behalf of Volume Transportation, 2261 Plunket Road, Conyers, GA 30012, and RML Warehouse, 350 Wiconisco Street, Millersburg, PA 17061 submitted a Final Report concerning remediation of site soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Covic Transport LLC, Worth Township, **Centre County**. Northridge Group, Inc., P O Box 31, Northumberland, PA 17857, on behalf of Covic Transport LLC, 226 Passier Ct, Fort Wayne, IN 46825, has submitted a Final Report concerning remediation of site soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Northwest Region: Environmental Cleanup & Brownfields Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Gustafson 6H Well Pad, 606 Granville Road, Snyder Township, **Jefferson County**. EnviroTrac, Ltd., 176 Thorn Hill Road, Warrendale, PA 15086, on behalf of EXCO Resources (PA), LLC, 260 Executive Drive, Suite 100, Cranberry Township, PA 16066, submitted a Remedial Investigation/Final Report concerning the remediation of site soils contaminated with aluminum, barium, boron, iron, lithium, manganese, selenium, zinc, vanadium, ammonia as N, chloride, and strontium. 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 Remediation Standards Act (35 P.S. §§ 6026.101—6026.907).

Section 250.8 of 25 Pa. Code and administration of the Land Recycling and Environmental Remediation Standards Act (act) require the Department to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by 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. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the environmental cleanup program manager in the Department regional office under which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Northeast Region: Eric Supey, Environmental Cleanup & Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

CCI Heavy Duty Parts, LLC, 504-510 Race Street, City of Scranton, **Lackawanna County**. AMEC E&I, 502 W. Germantown Pike, Suite 850, Plymouth Meeting, PA 19462 on behalf of CCI Heavy Duty Parts, Inc., 3600 W. Lake Avenue, Glenview, IL 60026 submitted a Final

Report concerning the remediation of site soil and groundwater contaminated with volatile organic compounds and polyaromatic hydrocarbons. The Final Report did not demonstrate attainment of the Statewide Health Standard, and was disapproved by the Department on October 17, 2016.

Moravian House II, 701 Main Street, City of Bethlehem, **Northampton County**. Brickhouse Environmental, 515 South Franklin Street, West Chester, PA 19382, on behalf of Moravian Development, 561 Market Street, Suite 1, Bethlehem, PA 18018, submitted a Final Report concerning the remediation of site soils contaminated with Benzene, Ethylbenzene, MTBE, Isopropylbenzene, Naphtalene, 1,3,5-TMB, 1,2,4-TMB, and Toluene. The Final Report demonstrated attainment of the Site-Specific Standard, and was approved by the Department on October 17, 2016.

Former Wenz Company Inc., 1928 & 1950 Hamilton Street, City of Allentown, **Lehigh County**. Moonstone Environmental, LLC, 1150 Glenlivet Drive, Suite A23, Allentown, PA 18106 on behalf of Posh Properties No. 37 Lafayette Family LP, submitted a Final Report concerning the remediation of site soils contaminated with lead, benzo(a) pyrene, arsenic, and cadmium. The Final Report demonstrated attainment of the Statewide Health Standard, and was approved by the Department on October 19, 2016.

St. Vincent de Paul Church, 260 North 2nd Street, Girardville Borough, **Schuylkill County**. Element Environmental Solutions, Inc., 61 Willow Street, PO Box 921, Adamstown, PA 19501, on behalf of St. Charles Borromeo Church, 1115 Walnut Street, Ashland, PA 17921, submitted a Final Report concerning the remediation of site soils contaminated with Benzene, Naphthalene, 1,2,4-Trimethylbenzene, and 1,3,5-Trimethylbenzene. The Final Report demonstrated attainment of the Statewide Health Standard, and was approved by the Department on October 25, 2016.

Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.

VF Outlet Center—Parcels 1—6 and 8, 801 Hill Avenue, Wyomissing, PA 19610, Boroughs of Wyomissing and West Reading, **Berks County**. Environmental Standards, 1140 Valley Forge Road, P.O. Box 801, Valley Forge, PA 19482, on behalf of Cherry Drive Operating, LLC, 301 Oxford Valley Road, Suite 1203A, Yardley, PA 19067, and VF Corporation, VF Outlet, Inc., 801 Hill Avenue, Wyomissing, PA 19610, submitted a Final Report concerning remediation of site soil contaminated with Inorganics, VOCs, SVOCs and PCBs. The Final Report demonstrated attainment of the Non-Residential Statewide Health Standard, and was approved by the Department on October 13, 2016.

Caner Transport Diesel Fuel Spill, 1631 West Philadelphia Avenue, Boyertown, PA 19519, Earl Township, **Berks County**. Taylor GeoServices, 38 Bishop Hollow Road, Suite 200, Newtown Square, PA 19073, on behalf of Caner Transport, 104 Crider Avenue, Mt. Laurel, NJ 08057; and Jill and Dennis Stanisewski, 1343 Stag Drive, Auburn, PA 17922 submitted a Final Report concerning remediation of site soils contaminated with diesel fuel from a vehicular accident. The Final Report demonstrated attainment of the Residential Statewide Standard, and was approved by the Department on October 20, 2016.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Renovo Rail Industries, LLC, Renovo Rail Yard, Renovo Borough, **Clinton County**. Letterle & Associates, Inc., 2859 Oxford Boulevard, Suite 110, Allison Park, PA 15101 on behalf of Renovo Rail Industries LLC, 504 Erie Avenue, Renovo, PA 17764, submitted a Final Report concerning remediation of groundwater and soil contaminated with VOCs, SVOCs, and heavy metals. The Final Report demonstrated attainment of the Site Specific Standard and was approved by the Department on October 21, 2016.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, PO Box 69170, Harrisburg, PA 17106-9170.

Hazardous Waste Transporter License Issued

Innovative Recycling Technologies, Inc., 690 North Queens Avenue, Lindenhurst, NY 11757. License No. PA-AH 0849. Effective Oct 20, 2016.

Hazardous Waste Transporter License Reissued

Cousins Waste Control, LLC, 1701 East Matzinger Road, Toledo, OH 43612. License No. PA-AH 0344. Effective Oct 19, 2016.

Renewal Applications Received

Envirite of Ohio, Inc., 2050 Central Avenue SE, Canton, OH 44707. License No. PA-AH 0548. Effective Oct. 17, 2016.

MUNICIPAL WASTE GENERAL PERMITS

Permit Issued under the Solid Waste Management Act; the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and the Beneficial Use of Municipal Waste.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Application No. WMGM027NE002. Renewable Fuel, Inc., 6 Horwith Drive, Northampton, PA 18067. General Permit No. WMGR027NE002 authorizes: processing, storage and beneficial use of organic, nonorganic residuals with a BTU value of at least 5,000/lb for use as alternative fuels. The permit was reissued by Central Office on October 20, 2016.

Persons interested in reviewing a general permit should be directed to Scott E. Walters at 717-787-7381, Chief, Permits Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit Application No. WMGM027. Zwicky Processing & Recycling, Inc., 220 Buena Vista Road, Fleetwood, PA 19522. General Permit No. WMGR027 authorizes: (1) processing (that is, shredding, grinding, screening, mixing, decomposition and storage) and beneficial use of wood waste (clean and uncontaminated land clearing, grubbing and excavation waste, yard

waste and residual and municipal wood scrap) to produce mulch for landscaping purposes; (2) processing (that is, shredding, grinding, screening, mixing and storage prior to beneficial use) and beneficial use of leaf and yard waste, food processing residuals and spent mushroom substrate to produce compost; (3) processing, storage and beneficial use of organic, nonorganic residuals with a Btu value of at least 5,000/lb for use as alternative fuels; (4) processing (that is, shredding, grinding, screening and storage prior to beneficial use) and beneficial use of compost, drinking water treatment plant sludge, biomass fuel ash, waste gypsum, foundry sand and SMS with nonwaste soils to produce topsoil for landscaping purposes; and (5) processing (that is, crushing, grinding, screening, mixing and storage) and beneficial use of clean, uncontaminated rock, stone, gravel, brick, block, concrete and used asphalt for use as a construction material solely by Zwicky. The permit was reissued by Central Office on September 27, 2016.

Persons interested in reviewing a general permit should be directed to Scott E. Walters at 717-787-7381, Chief, Permits Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit Application No. WMGM027SC001. Royal Green, LLC, 30 West Huller Lane, Temple, PA 19560. General Permit No. WMGR027SC001 authorizes: processing, storage and beneficial use of organic, nonorganic residuals with a BTU value of at least 5,000/lb for use as alternative fuels. The permit was reissued by Central Office on October 13, 2016.

Persons interested in reviewing a general permit should be directed to Scott E. Walters at 717-787-7381, Chief, Permits Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit Application No. WMGM027SC002. Evergreen Community Power, LLC, 802 South Street, Reading, PA 19602. General Permit No. WMGR027SC002 authorizes: processing, storage and beneficial use of organic, nonorganic residuals with a BTU value of at least 5,000/lb for use as alternative fuels. The permit was reissued by Central Office on September 28, 2016.

Persons interested in reviewing a general permit should be directed to Scott E. Walters at 717-787-7381, Chief, Permits Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

RESIDUAL WASTE GENERAL PERMITS

Permit Issued under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit No. WMGR079D004A. IA Construction Corporation, 158 Lindsay Road, Zeleno, PA 15748. General Permit No. WMGR079D004A is for a processing facility located in Paint Township, **Clarion County**, for processing and beneficial use of waste asphalt shingles generated in the manufacturing of new asphalt shingles for use as an ingredient or a component in the production of hot mix asphalt-paving material and as a sub-base for road and driveway construction. This permit was reissued by Central Office on October 4, 2016.

Persons interested in reviewing a general permit should be directed to Scott E. Walters at 717-787-7381, Chief, Permits Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit Application No. WMGR099SC001. Kline's Services, LLC, 5 Holland Street, Salunga, PA 17538. Residual Waste General Permit No. WMGR099SC001 from Kline's Services, Inc. to Kline's Services, LLC for processing of combined domestic sewage and industrial wastewater treatment residual, generated at a pre-treatment facility for beneficial use as a soil additive or effective fertilizer for utilization by (i) land application upon agricultural, agronomic, horticultural and silvicultural lands and (ii) land application on disturbed lands to facilitate re-vegetation for land reclamation purposes. This permit was reissued by Central Office on September 30, 2016.

Persons interested in reviewing a general permit should be directed to Scott E. Walters at 717-787-7381, Chief, Permits Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

Application(s) Approved Under the Solid Waste Management Act; the Municipal Waste Planning, Recycling and Waste Reduction Act; and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

General Permit Application No. WMGR038, Program I.D. WMGR038-NE006, Earth First Recycling, LLC, 400 Island Park Road, Easton, PA 18042. A renewal application for the continued coverage under the WMGR038 General Permit for the processing of waste tires into a beneficial fuel or use in construction projects at the Island Park Tire Recycling site in Glendon Borough, **Northampton County**. The renewal application was approved by the Regional Office on October 18, 2016.

Persons interested in obtaining more information about the general permit may contact Roger Bellas, Environmental Program Manager, Waste Management Program, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790 at 570-826-2511. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Determination of Applicability for General Permit Issued Under the Solid Waste Management Act; the Municipal Waste Planning, Recycling and Waste Reduction Act; and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

General Permit No. WMGR031SC001. CRS Reprocessing, LLC, 569 Industrial Drive, Lewisberry, PA 17339. This permit is for the processing and beneficial use of metallic grinding swarfs, metallic turnings, metal grindings, metal cuttings, metal stampings, metal plate, metal wire, metal powders, metal sludges, tungsten carbide, spent catalysts, Raney Nickel catalysts, precious metals catalysts and metallic filter cakes ("metal-bearing waste") through retorting, static bed open drying, belt furnace thermal processing, rotary furnace oxidation, magnetic separation, washing, filtering, centrifugation, mechanical separation, carbon dioxide separation and passive oil/water separation. The permittee is authorized to blend processed metal-bearing wastes for the purpose of achieving larger homogeneous lot sizes for shipping and handling convenience of the intended end-user. The Department issued the determination of applicability on October 20, 2016.

Persons interested in reviewing the general permit may contact John Oren, P.E., Permits Section Chief, Southcentral Regional Office, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 717-705-4706. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2531.

GP3-45-009: Blakeslee Asphalt Supply, LLC (859 Willow Grove Street, Hacketstown, PA 07840) on October 14, 2016 for the installation and operation of a portable crushing operation with water sprays at the Tarheel Quarry site located in Tobyhanna Twp., **Monroe County**.

GP11-45-009: Blakeslee Asphalt Supply, LLC (859 Willow Grove Street, Hacketstown, PA 07840) on October 14, 2016 for the installation and operation of an IC engine at the Tarheel Quarry site located in Tobyhanna Twp., **Monroe County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

GP1-22-03088: Harrisburg School District (2291 North 7th Street, Harrisburg, PA 17110) on October 20, 2016, for two (2) existing natural gas-fired boilers, each rated at 10 MMBtu, under GP1, at the John Harris High School located in the City of Harrisburg, **Dauphin County**. The general permit authorization was renewed.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Program Manager, 570-327-3648.

GP5-14-330A: Anadarko Marcellus Midstream, LLC (1201 Lake Robbins Drive, The Woodlands, TX 77380) on October 14, 2016, authorize the operation of one (1) 690 bhp Caterpillar model G3508TA-ULB four-stroke, lean-burn natural-gas-fired compressor engine equipped with an Emit Technologies model ELH-3050Z-1010F-21X20-24 oxidation catalyst, one (1) J.W. Williams 30 MMscf/day dehydration unit with 0.65 MMBtu/hr reboiler and two (2) storage tanks pursuant to the General Plan Approval and/or General Operating Permit for Natural Gas Compression and/or Processing Facilities (BAQ-GPA/GP5) at the COP Tract 231 Compressor Station located in Boggs Township, **Centre County**.

GP3-08-329E: Johnson Quarries, Inc. (PO Box 136 Orange Street, LeRaysville, PA 18829) on October 18, 2016, to authorize the construction and operation of a 2008 vintage Tesab 1012T portable crushing plant, a 2003 vintage Terex Pegson 26 × 44 portable crushing plant, a 2015 vintage McCloskey J50C portable crushing plant, a 2008 vintage Powerscreen Chiefton 1400 portable screening plant, a 2006 vintage Extac E7 portable screening plant, a 2010 vintage McCloskey S190 portable screening plant and a Tesab 80 × 42 portable stacker conveyor pursuant to the General Plan Approval and/or General Operating Permit For Portable Nonmetallic Mineral Processing Plants (BAQ-GPA/GP-3) at their Cobbs Corners Quarry located in Stevens Township, **Bradford County**.

GP11-08-329E: Johnson Quarries, Inc. (PO Box 136 Orange Street, LeRaysville, PA 18829) on October 18, 2016 to authorize the construction and operation of a 2008 vintage 440 horsepower Caterpillar C13 diesel engine, a 2003 vintage 300 horsepower Caterpillar C9 diesel engine, a 2015 vintage 350 horsepower Caterpillar C9 diesel engine, a 2008 vintage 100 horsepower Deutz diesel engine, a 2006 vintage 100 horsepower Deutz diesel engine and a 2010 vintage 129.4 brake-horsepower Caterpillar C4.4 ACERT™ diesel engine pursuant to the General Plan Approval and General Operating Permit for Diesel or No. 2 Fuel-Fired Internal Combustion Engines (BAQ-GPA/GP-9) at their Cobbs Corners Quarry located in Stevens Township, **Bradford County**.

GP3-08-313E: Johnson Quarries, Inc. (PO Box 136 Orange Street, LeRaysville, PA 18829) on October 18, 2016, to authorize the relocation and operation of a 2008 vintage Tesab 1012T portable crushing plant, a 2003 vintage Terex Pegson 26 × 44 portable crushing plant, a 2015 vintage McCloskey J50C portable crushing plant, a 2008 vintage Powerscreen Chiefton 1400 portable screening plant, a 2006 vintage Extac E7 portable screening plant, a 2010 vintage McCloskey S190 portable screening plant and a Tesab 80 × 42 portable stacker conveyor pursuant to the General Plan Approval and/or General Operating Permit For Portable Nonmetallic Mineral Processing Plants (BAQ-GPA/GP-3) at their Rocky Forrest Quarry located in Wilmont Township, **Bradford County**.

GP11-08-313E: Johnson Quarries, Inc. (PO Box 136 Orange Street, LeRaysville, PA 18829) on October 18,

2016 to authorize the relocation and operation of a 2008 vintage 440 horsepower Caterpillar C13 diesel engine, a 2003 vintage 300 horsepower Caterpillar C9 diesel engine, a 2015 vintage 350 horsepower Caterpillar C9 diesel engine, a 2008 vintage 100 horsepower Deutz diesel engine, a 2006 vintage 100 horsepower Deutz diesel engine and a 2010 vintage 129.4 brake-horsepower Caterpillar C4.4 ACERT™ diesel engine pursuant to the General Plan Approval and General Operating Permit for Diesel or No. 2 Fuel-Fired Internal Combustion Engines (BAQ-GPA/GP-9) at their Rocky Forrest Quarry located in Wilmont Township, **Bradford County**.

GP3-08-333E: Johnson Quarries, Inc. (PO Box 136 Orange Street, LeRaysville, PA 18829) on October 18, 2016, to authorize the relocation and operation of a 2008 vintage Tesab 1012T portable crushing plant, a 2003 vintage Terex Pegson 26 × 44 portable crushing plant, a 2015 vintage McCloskey J50C portable crushing plant, a 2008 vintage Powerscreen Chiefton 1400 portable screening plant, a 2006 vintage Extec E7 portable screening plant, a 2010 vintage McCloskey S190 portable screening plant and a Tesab 80 × 42 portable stacker conveyor pursuant to the General Plan Approval and/or General Operating Permit For Portable Nonmetallic Mineral Processing Plants (BAQ-GPA/GP-3) at their Dewing Quarry located in Warren Township, **Bradford County**.

GP11-08-333E: Johnson Quarries, Inc. (PO Box 136 Orange Street, LeRaysville, PA 18829) on October 18, 2016 to authorize the relocation and operation of a 2008 vintage 440 horsepower Caterpillar C13 diesel engine, a 2003 vintage 300 horsepower Caterpillar C9 diesel engine, a 2015 vintage 350 horsepower Caterpillar C9 diesel engine, a 2008 vintage 100 horsepower Deutz diesel engine, a 2006 vintage 100 horsepower Deutz diesel engine and a 2010 vintage 129.4 brake-horsepower Caterpillar C4.4 ACERT™ diesel engine pursuant to the General Plan Approval and General Operating Permit for Diesel or No. 2 Fuel-Fired Internal Combustion Engines (BAQ-GPA/GP-9) at their Dewing Quarry located in Warren Township, **Bradford County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.

GP14-33-186B: Harmony Cremation Services, LLC (1532 Young Road, Punxsutawney, PA 15767) on October 20, 2016, for the authority to operate a human crematory consisting of a B&L Cremation Systems model N-20AA (BAQ-GPS/GP14) located at their facility in Punxsutawney Borough, **Jefferson County**.

Plan Approvals Issued under the Air Pollution Control Act and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401.

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

09-0090C: Praxair Distribution, Inc. (One Steel Road East, Morrisville, PA 19067) On October 21, 2016 for the reactivation of their previously permitted Guardian System which was installed in 1992, deactivated on January 14, 2011, and for which no maintenance plan was submitted to DEP for their facility located in Falls Township, **Bucks County**.

46-0026I: Global Packaging, Inc., (209 Brower Avenue, Oaks, PA 19456), On October 21, 2016, for a modification to include revisions from comments submitted by the company during the evaluation period of the plan approval application that were inadvertently omitted from the final plan approval issued on September 8, 2016. This facility is located in Upper Providence Township, **Montgomery County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.

62-176B: New England Wood Pellet LLC (PO Box 532, Jaffrey, NH 03452) on October 13, 2016 issued a Plan Approval to modify an existing rotary dryer (Source ID 101) with replacement of the existing 22 MMBtu/hr capacity wood-fired burner with a 45 MMBtu/hr capacity wood-fired burner, and the replacement of the existing multi-cyclone control device with a new multi-cyclone control device in Brokenstraw Township, **Warren County**. This is a State Only facility.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401.

Contact: James A. Beach, New Source Review Chief—Telephone: 484-250-5920.

46-0289: Scott Bldg Corp (2939 Felton Road, Norristown, PA 19401-1359) On October 21, 2016 for the installation of a portable non-metallic processing plant to be located in East Norriton Township, **Montgomery County**.

15-0009C AGC Chemicals American (255 S. Bailey Road, Downingtown, PA 19335-2003) On October 21, 2016 for the modification of the polytetrafluoroethylene (PTFE) free flow process to retain four ovens along with the fluid bed dryer and to install a cartridge filter in line between cyclone and the scrubber for their facility located in Caln township, **Chester County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.

47-00001E: Montour LLC (PO Box 128, Washingtonville, PA 17884) on October 19, 2016, to extend the authorization to operate the sources pursuant to the plan approval an additional 180 days from October 24, 2016 to April 22, 2017, at their Montour SES facility located in Derry Township, **Montour County**. The plan approval has been extended.

14-00003F: Pennsylvania State University (101P Physical Plant Bldg, University Park, PA 16802) on October 19, 2016, to extend the authorization to operate the sources pursuant to the plan approval an additional 180 days from November 3, 2016 to May 2, 2017, at their University Park Campus located in College Township and State College Borough, **Centre County**. The plan approval has been extended.

41-00078C: Regency NEPA Gas Gathering, LLC (101 West Third Street, Williamsport, PA 17701) on October 21, 2016, to extend the authorization for the construction of four natural-gas fired compressor engines

(Source IDs P107-P110) each equipped with oxidation catalysts (C107-C110). The plan approval also incorporates two existing natural-gas fired compressor engines (Source IDs P105 and P106), each equipped with oxidation catalysts (C105 and C106), two existing glycol dehydrators (Source IDs P201 and P202) and three existing natural-gas fired compressor engines (Source IDs P101-P103) each equipped with oxidation catalysts (C101-C103) at the Barto Compressor Station located in Penn Township, **Lycoming County** to April 20, 2017. The plan approval has been extended.

Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Thomas Joseph, P.E., Facilities Permitting Chief—Telephone: 412-442-4336.

04-00043: Centria (500 Perth Drive, Ambridge, PA 15108) On October 24, 2016, for a facility-wide Synthetic Minor Operating Permit renewal for the operation of a coil coating plant, known as Centria Coil Coating Services, located in Ambridge Borough, **Beaver County**.

The facility contains air contamination sources consisting of a single coil coating line as the primary source. The facility also has a paint mix station. Emissions are controlled by a thermal oxidizer. The facility is limited to a maximum opacity from any processing equipment of 20%. The facility is subject to the applicable requirements of 25 Pa. Code Chapters 121—145. The permit includes emission limitations, operational requirements, monitoring requirements, and recordkeeping requirements for the facility.

No emission or equipment changes have been approved by this action. The emission restriction, testing, monitoring, recordkeeping, reporting and work practice conditions of the SOOP have been derived from the applicable requirements of 25 Pa. Code Article III, Chapters 121—145.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507.

45-00015: Tarheel Quarry LLC. (PO Box 900 Caughbaugh Road, Blakeslee, PA 18610) The Department has issued on 10/26/16 a State-Only Operating Permit renewal for operation of a quarry operation in Tobyhanna Township, **Monroe County**. The source includes crushing and screening operations. The plants emissions are controlled by a water spray system. The proposed operating permit includes emission limits, work practice standards, testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within applicable air quality requirements.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

67-05117: York Building Products Co., Inc. (PO Box 1708, York, PA 17405-1708) on October 18, 2016, for the sand processing facility located in Jackson Township, **York County**. The State-only permit was renewed.

21-05055: The Frog, Switch & Manufacturing Co. (600 East High Street, Carlisle, PA 17013-2608) on October 18, 2016, for the steel foundry facility located in Carlisle Borough, **Cumberland County**. The State-only permit was renewed.

05-05023: New Enterprise Stone & Lime Co., Inc. (PO Box 77, New Enterprise, PA 16664-0077) on October 18, 2016, for the batch asphalt plant at the Ashcom quarry located in Snake Spring Township, **Bedford County**. The State-only permit was renewed.

36-03203: Bench Dogs (10 Industrial Way, Denver, PA 17512) on October 19, 2016, for the screen printing, laminating and spray booth operations at the facility located in East Cocalico Township, **Lancaster County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: Matt Williams, Facilities Permitting Chief at Telephone: 814-332-6940.

10-00346: Scrap Salvage & Surplus Butler Plant (690 Glenwood Way, Butler, PA 16001-8422), on October 18, 2016 issued the renewal State Only Operating Permit for the scrap and waste material facility located in Center Township, **Butler County**. The facility is a Natural Minor. The primary sources at the facility include scrap cutting under a metal hood exhausted to a control device, a diesel generator, a portable torch cutting enclosure controlled by a baghouse, scrap cutting in the yard, and fugitive emissions from the roadways. The diesel generator is subject to the requirements of 40 CFR 60 Subpart IIII. The renewal permit also contains emission restrictions, recordkeeping, work practice, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

24-00150: Horizon Wood Products (PO Box 471, Ridgway, PA 15853). On October 18, 2016, the Department renewed a State Only Operating Permit for the facility located in Fox Township, **Elk County**. The facility is a Natural Minor. The primary sources at the facility are a Biomass Wood Boiler and a Natural-Gas Boiler. Potential emissions from the boilers are as follows: 4.35 tpy NO_x; 2.36 tpy CO; 2.41 tpy PM; 0.08 tpy SO₂; 0.34 tpy VOC. The wood fueled boiler is subject to 40 CFR Part 63 Subpart JJJJJJ, the NESHAP for Area Source Boilers. The permit contains emission restrictions, recordkeeping, and work practice requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

62-00174: Paws Along the River Humane Society (212 Elm Street, Warren, PA 16365). On October 18, 2016, the Department renewed a State Only Operating Permit for the humane society facility located in the City of Warren, **Warren County**. The facility is a Natural Minor. The primary source at the facility is a small animal crematory. Potential emissions are as follows: 0.08 tpy NO_x; 0.00975 tpy CO; 0.016 tpy PM; 0.06 tpy SO₂; 0.0057 tpy VOC. The renewal permit contains emission restrictions, recordkeeping, and work practice requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.

18-00005: Dominion Transmission, Inc. (925 White Oakes Blvd, Bridgeport, WV 26330) on October 21, 2016, for the significant modification to the Title V operating permit TVOP 18-00005 for a Notice of Violation (NOV) dated December 17, 2015, that was sent to DTI for not equipping the compressor turbine engine (Source P110) of Title V operating permit (TVOP) 18-00005 with the Cold Ambient Fuel Control Logic. The significant modification is for the increase in nitrogen oxide (NO_x, expressed as NO₂) and volatile organic compounds (VOC) because Dominion Transmission, Inc. did not install the Cold Ambient Fuel Control Logic on Source P110 at the Finnefrock Compressor Station located in Leidy Township, **Clinton County**. The revised Title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Thomas Joseph, P.E., Facilities Permitting Chief—Telephone: 412-442-4336.

TVOP-04-00235 First Energy Generation, LLC (76 South Main Street, Akron, OH 44308) Minor Permit Modification, to incorporate the process equipment for mercury emission control into the current TVOP. Emissions from this tank are 0.02 ton of PM₁₀ and 0.004 ton of PM_{2.5} per year. Also, this change incorporates the requirements of RACT II (25 Pa. Code §§ 129.96—129.100), which caused a decrease in NO_x emissions of 38,670 tons per year from the facility, into this permit. Therefore, facility emissions have changed by these amounts. Actual emissions from the facility during 2015 were 16,015 tons of SO₂, 11,700 tons of NO_x, 1,481 tons of CO, 1,044 tons of PM₁₀, 766 tons of PM_{2.5}, 174 tons of VOC, 178 tons of all HAPs combined, including 135 tons of hydrochloric acid and 14 tons of hydrofluoric acid, and 14,029,528 tons of CO_{2e} per year. The Bruce Mansfield Plant is located in Shippingport Borough, **Beaver County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.

10-00267: Kawneer Commercial Windows LLC (71 Progress Avenue, Cranberry Township, PA 16066-3511). On October 24, 2016 issued an administrative amendment to the Title V Operating Permit to change the name for the facility from Alcoa Commercial Windows LLC to Kawneer Commercial Windows LLC. The facility is located in Cranberry Township, **Butler County**.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, 717-705-4862, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

36-05002: Armstrong Flooring, Inc. (P.O. Box 3001, Lancaster, PA 17604) Pursuant to 25 Pa. Code § 127.449(i), this *PA Bulletin* Notice is for the de minimis emissions increase of 0.59 tpy PM₁₀, resulting from the proposed installation of a second granulator controlled by a 12,500 cfm baghouse downstream of LVT operations in East Donegal Township, **Lancaster County**. This is the first de minimis emissions increase at the facility during the term of the current operating permit.

Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act and 25 Pa. Code §§ 127.431 and 127.461.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Thomas Joseph, P.E., Facilities Permitting Chief—Telephone: 412-442-4336.

04-00446: AES Beaver Valley, LLC (246 Frankfort Road, Monaca, PA 15061) On October 11, 2016, the Department inactivated the Title V Operating Permit for the operation of the Beaver Valley Cogen Plant, in accordance with 25 Pa. Code § 127.446(a). At the same time, an application for a Significant Modification to change the name of the Designated Representative on the Acid Rain Permit, within this TVOP, was withdrawn. This facility, which was located in Potter Borough, **Beaver County**, is now permanently out of service.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); The Clean Streams Law; the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.20a). The final action on each application also constitutes action on the NPDES permit application and, if noted, the request for a Section 401 Water Quality Certification. Mining activity permits issued in response to applications will also address the application permitting requirements of the following statutes: the Air Quality Pollution Act (35 P.S. §§ 4001—4014); the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1002).

Coal Permits Issued

California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.

63091301 and NPDES No. PA0236004. Tunnel Ridge, LLC, (2596 Battle Run Road, Triadelphia, WV 26059). To revise the permit for the Tunnel Ridge Mine in Donegal and West Finley Townships, **Washington County** and related NPDES permit to add acreage for the Phase II Expansion. Underground Acres Proposed 3,128.65, Subsidence Control Plan Acres Proposed 3,128.65. No additional discharges. The application was considered administratively complete on October 28, 2015. Application received August 5, 2015. Permit issued October 18, 2016.

63091301 and NPDES No. PA0236004. Tunnel Ridge, LLC, (2596 Battle Run Road, Triadelphia, WV 26059). To renew the permit for the Tunnel Ridge Mine in Donegal and West Finley Townships, **Washington County** and related NPDES permit. No discharges. The application was considered administratively complete on February 25, 2016. Application received October 22, 2015. Permit issued October 18, 2016.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

Permit No. 32110103 and NPDES No. PA0263371, Bedrock Mines, LP, 111 Freeport Road, Pittsburgh, PA 15215, permit renewal for reclamation only of a bituminous surface mine in Washington Township, **Indiana County**, affecting 9.3 acres. Receiving streams: unnamed tributaries to and South Branch Plum Creek classified for the following use: cold water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: August 29, 2016. Permit issued: October 18, 2016.

Permit No. 11960202 and NPDES No. PA0234311, Ebensburg Power Co., 2840 New Germany Road, Ebensburg, PA 15931, permit renewal for reclamation only of a bituminous surface coal refuse reprocessing mine in Cambria Township, **Cambria County**, affecting 29.8 acres. Receiving stream: South Branch Blacklick Creek classified for the following use: cold water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: August 29, 2016. Permit issued: October 20, 2016.

Knox District Mining Office: P.O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

16060107. Ancient Sun, Inc. (P.O. Box 129, Shippenville, PA 16254) Renewal of an existing bituminous surface mine in Ashland Township, **Clarion County**, affecting 62.0 acres. Receiving streams: One unnamed tributary to Little East Sandy Creek and one unnamed tributary to Canoe Creek. This renewal is issued for reclamation only. Application received: August 15, 2016. Permit Issued: October 19, 2016.

33140102 and NPDES Permit No. PA0259586. P. and N. Coal Company, Inc. (P.O. Box 332, Punxsutawney, PA 15767) Commencement, operation and restoration of a bituminous surface and auger mine in Porter Township, **Jefferson County**, affecting 512.2 acres. Receiving streams: unnamed tributaries to Foundry Run, unnamed tributaries to Mahoning Creek. Application received: February 17, 2015. Permit Issued: October 21, 2016.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. PAM116045. Earth Conservancy, (101 South Main Street, Ashley, PA 18706), General NPDES Stormwater Permit for stormwater discharges associated with mining activities on Laurel Run Corp. Surface Mining Permit No. 40920101 in Wilkes-Barre Township, **Luzerne County**, receiving stream: Laurel Run. Application received: September 16, 2016. Permit issued: October 18, 2016.

Noncoal Permits Issued

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

PAM 416009-GP104. TMS International, LLC, 1155 Business Center Drive, Horsham, PA, 19044-3454. General NPDES Permit for stormwater discharges associated

with mining activities on Non-Coal Permit No. LNC 11950301 located in East Taylor and Conemaugh Townships, **Cambria County**. Receiving stream: little Conemaugh River, classified for the following use: cold water fishes. There are no potable water supply intakes within 10 miles downstream. Notice of coverage received: September 19, 2016. Coverage approved: October 17, 2016.

Permit No. 01740401 and NPDES No. PA0613045, New Enterprise Stone & Lime Co., Inc., dba Valley Quarries, Inc., P.O. Box 2009, Chambersburg, PA 17201, renewal of NPDES Permit, Hamiltonban Township, **Franklin County**. Receiving stream: Muddy Run classified for the following use: cold water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: August 19, 2016. Permit issued: October 19, 2016.

Knox District Mining Office: P.O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191.

10010309. Annandale Sandstone (219 Goff Station Road, Boyers, PA 16020) Renewal of existing NPDES Permit No. PA0241938 in Venango Township, **Butler County**. Receiving streams: Unnamed tributary to Seaton Creek. Application received: July 26, 2016. Permit Issued: October 17, 2016.

PAM611009. Coolspring Sand & Gravel Company, Inc. (P.O. Box 243, DuBois, PA 15801) General NPDES Permit for stormwater discharges associated with mining activities on Surface Mining Permit No.33980308 in Oliver Township, **Jefferson County**. Receiving streams: Unnamed tributary to Lick Run. Application received: September 15, 2016. Permit Issued: October 20, 2016.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

59140801. Steve Hanes (P.O. Box 158, Westfield, PA 16950). Final bond release for a small industrial minerals surface mine located in Westfield Township, **Tioga County**. Restoration of 1.0 acre completed. Receiving stream(s): Broughton Stream. Application received: September 9, 2016. Final bond release approved: October 18, 2016.

17140803. Lee Coal Contracting, Inc. (1395 German Road, P.O. Box 147, Drifting, PA 16834). Final bond release for a small industrial minerals surface mine located in Cooper Township, **Clearfield County**. Restoration of 11.4 acres completed. Receiving stream(s): Basin Run. Application received: September 12, 2016. Final bond release approved: October 18, 2016.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 58150816. James Barbour, (1250 Barbour Hill Road, Hallstead, PA 18822), commencement, operation and restoration of a quarry operation in Liberty Township, **Susquehanna County** affecting 5.0 acres, receiving stream: unnamed tributary to Snake Creek Watershed. Application received: September 25, 2015. Permit issued: October 18, 2016.

Permit No. PAM115033. James Barbour, (1250 Barbour Hill Road, Hallstead, PA 18822), General NPDES Stormwater Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 58150816 in Liberty Township, **Susquehanna County**, receiving stream: unnamed tributary to Snake Creek Watershed. Application received: September 25, 2016. Permit issued: October 18, 2016.

Permit No. PAM111092R. American Asphalt Paving Co., (500 Chase Road, Shavertown, PA 18708), renewal of General NPDES Stormwater Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 5176SM6 in Falls Township, **Wyoming County**, receiving stream: unnamed tributary to Schuylkill River. Application received: September 1, 2016. Renewal issued: October 18, 2016.

Permit No. 58162511. Doolittle Stone, LLC, (UPS Store—PMB 161, 1143 Northern Boulevard, Clarks Summit, PA 18411), commencement, operation and restoration of a quarry operation in Harmony Township, **Susquehanna County** affecting 10.0 acres, receiving stream: Cascade Creek and Susquehanna River Watersheds. Application received: August 3, 2016. Permit issued: October 19, 2016.

Permit No. PAM116041. Doolittle Stone, LLC, (UPS Store—PMB 161, 1143 Northern Boulevard, Clarks Summit, PA 18411), General NPDES Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 58162511 in Harmony Township, **Susquehanna County**, receiving stream: Cascade Creek and Susquehanna River Watersheds. Application received: August 3, 2016. Permit issued: October 19, 2016.

Permit No. 58162501. Warner Quarries, LLC, (2293 Babcock Road, Montrose, PA 18801), commencement, operation and restoration of a quarry operation in Jessup Township, **Susquehanna County** affecting 10.0 acres, receiving stream: unnamed tributary to South Branch Wyalusing Creek. Application received: December 28, 2015. Permit issued: October 21, 2016.

Permit No. PAM115044. Warner Quarries, LLC, (2293 Babcock Road, Montrose, PA 18801), General NPDES Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 58162501 in Jessup Township, **Susquehanna County**, receiving stream: unnamed tributary to South Branch Wyalusing Creek. Application received: December 28, 2015. Permit issued: October 21, 2016.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Issued

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

57164102. D. W. Drilling & Blasting LLC (2042-B South Brentwood Blvd, Ste 115, Springfield, MO 65804). Blasting for residential development located in Dushore Borough, **Sullivan County** with an expiration date of October 18, 2017. Permit issued: October 21, 2016.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 36164165. Maine Drilling & Blasting, Inc., (P.O. Box 1140, Gardiner, ME 04345), construction blasting for Masonic Village in West Donegal Township, **Lancaster County** with an expiration date of October 13, 2017. Permit issued: October 19, 2016.

Permit No. 36164166. Maine Drilling & Blasting, Inc., (P.O. Box 1140, Gardiner, ME 04345), construction

blasting for Featherton Crossing in Mt. Joy Township, **Lancaster County** with an expiration date of October 17, 2017. Permit issued: October 19, 2016.

Permit No. 67164108. Abel Construction Co., Inc., (PO Box 476, Mountville, PA 17554), construction blasting for Laurel Vista in Windsor Township, **York County** with an expiration date of October 13, 2017. Permit issued: October 19, 2016.

Permit No. 38164115. Keystone Blasting Service, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Maynard Wise Barn in West Cornwall Township, **Lebanon County** with an expiration date of November 30, 2016. Permit issued: October 20, 2016.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law and Notice of Final Action for Certification under section 401 of the FWPCA.

Permits, Environmental Assessments and 401 Water Quality Certifications Issued:

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ed Muzic, Section Chief, 717.705.4802.

E22-623: Plenary Walsh Keystone Partners, 2000 Cliff Mine Road, Park West Two, 3rd Floor, Pittsburgh, PA 15275 in Lykens Township, **Dauphin County**, U.S. Army Corps of Engineers Baltimore District.

To remove an existing structure and to construct and maintain a 19.0-foot long by 9.0-foot high by 28-foot 6.5 inch wide pre cast concrete box culvert uniformly depressed 1.0-foot in and across Deep Creek (WWF, MF), for the purpose of replacing a structurally deficient bridge as part of the Public Private Partnership (P3) Rapid Bridge Replacement Program. The project is located along Valley Road (Pillow, PA Quadrangle; Latitude 40°37'41"N, Longitude 76°46'39.5"W) in Lykens Township, Dauphin County. No wetlands will be impacted by this project.

E36-955: Plenary Walsh Keystone Partners, 2000 Cliff Mine Road, Park West Two, 3rd Floor, Pittsburgh, Pennsylvania 15275 in Leacock & Upper Leacock Townships, **Lancaster County**, U.S. Army Corps of Engineers, Baltimore District.

To remove the existing structure and to install and maintain a 72 foot long, 32.4 foot wide concrete box beam bridge having an under clearance of 4.90 feet over Mill Creek (WWF, MF) (Latitude 40°3'18.73", Longitude -76°10'13.27") for the purpose of improving safety standards. No wetlands will be impacted by the activity.

E36-953: Lancaster County, 150 North Queen St., Suite 612, Lancaster, PA 17603 in Paradise and Leacock Townships, **Lancaster County**, U.S. Army Corps of Engineers, Baltimore District.

To remove existing bridge and to install and maintain a 90 foot x 28-foot bridge over Pequea Creek (WWF, MF) with R-7 rip-rap scour protection for the purpose of improving transportation safety and roadway standards. The project proposed to permanently impact 40 linear feet and temporarily impact 113 linear feet of Pequea Creek.

E34-135: Jeff Rosenberry, 10283 Blacklog Road, Honey Grove, PA 17035 in Turbett Township, **Juniata County**, U.S. Army Corps of Engineers Baltimore District.

To construct and maintain a 50-foot long by 14-foot wide steel and concrete bridge with stone approaches over Hunters Creek (CWF, MF) (Latitude 40°31'04", Longitude -77°23'25") in Turbett Township, Juniata County, permanently impacting approximately 405 square feet of PFO wetlands. The wetland impacts are considered de minimus and replacement is not required.

Northcentral Region: Waterways & Wetlands Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.

E53-449. Plenary Walsh Keystone Partners, 2000 Cliff Mine Road, Park West Two, 3rd Floor, Pittsburgh PA 15275. SR 0449, Section A01, Bridge to Box Culvert Replacement Project, Ulysses Township, **Potter County**. USACOE Baltimore District (Galeton, PA Quadrangle Latitude: 41° 48' 46.00"; Longitude: 77° 47' 17.00").

The applicant is seeking authorization to remove an existing single span bridge and construct, operate and maintain single cell box culvert to carry SR 0449, Section A01, across Buckseller run. Chapter 93 Rules and Regula-

tions designate Buckseller Run as High Quality Cold—Water Fishery, Migratory Fish. Wetlands identified within the project along Buckseller Run are given Exceptional Value protection through Chapter 105, § 105.17(1)(iii). The proposed box culvert will be pre-cast concrete minimally having a clear span of 14-feet and underclearance of 3-feet with 1-foot culvert depression. As proposed, SR 0449, Section A01, Bridge to Box Culvert Replacement Project will incur maximum 107-feet of temporary stream impact and 97-feet of permanent stream impact, whereas 0.08-acre of temporary wetland impact and 0.01-acre of permanent wetland impact will be incurred. The project is located along the eastern and western right-of-ways of SR 049 approximately 1.3-mile south of SR 1001 and SR 0449 intersection in Ulysses Township, Potter County. The Department has deemed 0.01-acre of reported Exceptional Value wetland impacts as de minus, for which replacement wetlands shall not be required for mitigation.

E18-496. Doug Nicholas, Nicholas Meats LLC, 508 East Valley Road, PO Box 95, Loganton, PA 17747. Nicholas Meats LLC Stream Impacts, in Green Township, **Clinton County**, ACOE Baltimore District (Loganton, PA Quadrangle N: 41°02'10.7"; W: 77°17' 12.4").

To construct and maintain an intermittent stream in a 335 foot long 36-inch diameter HDPE pipe 100-year storm event safe enclosure with the associated clean-fill cover to fill-in an area west of the Nicholas Meat Plant to create more relatively flat work area. This project proposes to permanently impact 350 linear feet of an unnamed tributary of Fishing Creek, which are classified as a High Quality—Natural Trout Reproduction Fishery and 0.00528 acre of wetland, which are classified as Exceptional Value—Natural Trout Reproduction Fishery wetlands.

Southwest Region: Waterways and Wetlands Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E04-355, PennDOT District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017, North Sewickley Township, Koppel Borough, **Beaver County**, Pittsburgh ACOE District.

Has been given consent to:

Remove the existing SR 351, two lane, 30.75 ft total width, 12 span, steel bridge having a total length of 1,206 ft, and having a navigational channel normal pool elevation clearance of approximately 26 ft; and to construct and maintain adjacent to and downstream and to the south of the existing bridge a 4 span, two lane, 44.5 ft width replacement bridge having a total length of 1,240 ft, and having a navigational channel normal pool elevation clearance of approximately 26 ft over the Beaver River (WWF) with a drainage area of 3,113 square miles. In addition the project includes 550 ft of temporary stream encroachments for construction and demolition that includes causeways, and encroachments associated with modification or replacement of stormwater facilities from the road alignment adjustment and new bridge. The PennDOT improvement and relocation project extends between Koppel Borough to the west and North Sewickley Township to the east (Beaver Falls Quadrangle, Latitude: 40° 31' 37" and Longitude: -79° 50' 46") in Beaver County.

Northwest Region: Waterways and Wetlands Program Manager, 230 Chestnut Street, Meadville, 16335.

E25-777, Mukina Realty Corporation, 5401 Gibson Hill Road, Edinboro PA 16412 in Washington Township, **Erie County**. Pittsburgh District ACOE.

To permanently impact a total of 0.388 acre of 6 wetlands for the construction, operation, and maintenance of a 26 lot residential development known as Highland Estates including grading, roadways, utilities, and stormwater management facilities; and to mitigate for these impacts by creating a 0.44 acre wetland on-site. (Edinboro North, PA Quadrangle N:41°55'00.3"; W:80°06'43.9")

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering and Wetlands, Rachel Carson State Office Building, Floor 2, 400 Market Street, P.O. Box 8460, Harrisburg, PA 17105-8460.

D45-318EA. Kate Ebel, Environmental Scientist, Wildlands Conservancy, 3701 Orchid Place, Emmaus, PA 18049-1637, Tunkhannock Township, **Monroe County**, USACOE Philadelphia District.

Project proposes to remove the Maple Tract Preserve Dam for the purpose of eliminating a threat to public safety and to restoring approximately 300 feet of stream channel to a free-flowing condition. The proposed restoration project includes construction of habitat enhancement structures in the stream channel through the former reservoir. The project is located across Tunkhannock Creek (HQ-CWF, MF) (Blakeslee, PA Quadrangle, Latitude: 41.0656; Longitude: -75.5214).

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control permits have been issued.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Southwestern District: Oil & Gas Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222.

ESCGP-2 # ESG16-059-0023
Applicant Name Vantage Energy Appalachia II LLC
Contact Person John Moran
Address 480 Johnson Rd, Suite 100
City, State, Zip Washington, PA 15301
County Greene
Township(s) Center
Receiving Stream(s) and Classification(s) UNTs to South Fork Tenmile Ck (HQ-WWF); South Fork Tenmile Ck (HQ-WWF)
Secondary—South Fork Tenmile Ck (HQ-WWF); Tenmile Ck (WWF)

ESCGP-2 # ESX16-005-0003
Applicant Name Snyder Brothers Inc
Contact Person Carl Rose
Address 90 Glade Dr
City, State, Zip Kittanning, PA 16201
County Armstrong
Township(s) Boggs
Receiving Stream(s) and Classification(s) UNT to Scrubgrass Ck (CWF)
Secondary—Scrubgrass Ck

ESCGP-2 # ESX11-125-0055
Applicant Name CNX Gas Company LLC
Contact Person Erika Whetstone
Address 200 Evergreene Dr
City, State, Zip Waynesburg, PA 15370
County Washington
Township(s) South Franklin
Receiving Stream(s) and Classification(s) UNT to Tenmile Ck (TSF)
Secondary—Tenmile Ck

Northwest Region: Oil and Gas Program Manager, 230 Chestnut St., Meadville, PA 16335.

ESCGP-2 # ESG16-019-0022—Shuler to Bergbigler Temporary Waterline
Applicant XTO Energy Inc
Contact Ms. Melissa Breitenbach
Address 190 Thorn Hill Road
City Warrendale State PA Zip Code 15086
County Summit and Clearfield Township(s) Butler
Receiving Stream(s) and Classification(s) UNTs to Bonnie Brook (WWF), UNTs to Little Buffalo Run (HQ-CWF)/Connoquenessing Creek, Buffalo Creek

Eastern Region: Oil & Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

ESCGP-2 # ESG29-015-16-0021
Applicant Name Appalachia Midstream Svcs LLC
Contact Person Josh Brown
Address 400 IST Center, Suite 404
City, State, Zip Horseheads, NY 14845
County Bradford and Sullivan
Township(s) Canton, Leroy Fox
Receiving Stream(s) and Classification(s) Williams Ck (CWF, MF); Lye Run (EV, MF); UNT to Lye Run (EV, MF); Schrader Ck (EV, MF); UNT to Schrader Ck (EV, MF)
Secondary—Beech Flats Ck; Schrader Ck and Towanda Ck

STORAGE TANKS SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P.S. §§ 6021.304, 6021.504, 6021.1101—6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Environmental Cleanup and Brownfields, Director, PO Box 8763, Harrisburg, PA 17105-8763.

SSIP Permit No.	Applicant Name & Address	County	Municipality	Tank Type	Tank Capacity
16-55-001	Panda Hummel Station, LLC 5001 Spring Valley Rd. Suite 1150 West Dallas, TX 75244 Attn: Josh York	Snyder	Shamokin Dam Borough and Monroe Township	9 ASTs storing hazardous substances	77,800 gallons total

SPECIAL NOTICES

Air Quality; Alternative Compliance Schedule Petition

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.

*Contact: Raymond Kempa, New Source Review Chief—
Telephone: 570-826-2531.*

48-00003: Talen Energy (6605 Foul Rift Rd, Bangor, PA 18013) on September 22, 2016 submitted to the Department an alternative compliance schedule petition for Unit 3 and Unit 4. Talen Energy is proposing an interim emission limit of 0.25 lb. NO_x/MMBTU burning Natural Gas and 0.31 lb. NO_x/MMBTU burning oil until installation of Separated Over Fired Air and Flue Gas Recirculation. Unit 3 operation of the control equipment will commence by June 2018 and operation of control equipment on Unit 4 will commence by June 2019. This interim limit and extension is authorized under 25 Pa. Code Section 129.97(k)—(m) for their facility in Lower Mount Bethel Township, **Northampton County**.

Notice of Request for Proposals for Municipal Solid Waste Capacity

The following notice(s) is placed through the Department of Environmental Protection as required by Section 502(d) of Act 101 of 1988: the Municipal Waste Planning, Recycling and Waste Reduction Act.

In accordance with 25 Pa. Code Chapter 272 Municipal Waste Planning, Recycling and Waste Reduction, as amended, and the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act, Act 101 of July 28, 1988, P.L. 556 No. 101, 53 P.S. § 4000.101 et seq. (“Act 101”) the Jefferson County Solid Waste Authority is hereby soliciting proposals for Integrated Municipal Solid Waste Management Services which includes waste disposal capacity for municipal solid waste (MSW), including construction and demolition (C&D) and municipal sewage sludge (Sludge) generated within Jefferson County for a minimum of five (5) years with an option to renew said contract for an additional five (5) years to begin on or about April 1, 2017.

Sealed proposals will be received by the Jefferson County Solid Waste Authority (Authority), 351 Aviation Way, Suite 105, Reynoldsville, PA 15851 until 4:00 p.m. prevailing time on Wednesday, December 14, 2016. Proposals will not be accepted electronically. All proposals will be publicly opened by the Authority at 5:30 p.m. on Wednesday, December 14, 2016 at the Jefferson County Solid Waste Authority board meeting. Printed copies of

the Request for Proposals (RFP) may be requested on or after Friday, October 28, 2016 only from the Authority at 351 Aviation Way, Suite 105, Reynoldsville, PA 15851 (814) 328-5361.

All proposals must be made on the Proposal Forms and be in accordance with the instructions contained in the RFP. The Proposer is required to submit one (1) original and three (3) copies of the Proposal to the Authority at the address listed below. Envelopes containing the proposals must be sealed and clearly labeled to show the name and address of the proposer, the statement “Proposal for Integrated Municipal Solid Waste Management Services” and be addressed to the Jefferson County Solid Waste Authority, 351 Aviation Way, Suite 105, Reynoldsville, PA 15851, Attn: Donna Cooper, Director.

Proposers may withdraw their proposal at any time prior to the scheduled closing time for receipt of proposals.

The Authority reserves the right to reject any or all proposals, to waive any irregularities and/or informalities in any proposal and to make an award in any manner, consistent with applicable laws, which is deemed to be in the best interest of the Authority and the County.

[Pa.B. Doc. No. 16-1908. Filed for public inspection November 4, 2016, 9:00 a.m.]

Oil and Gas Technical Advisory Board Meeting

The Oil and Gas Technical Advisory Board will meet on November 22, 2016, from 10 a.m. to 2:30 p.m. at the Rachel Carson State Office Building, Room 105, 400 Market Street, Harrisburg, PA 17105. Individuals interested in participating in the meeting by conference call should visit the following web site for additional instructions.

The agenda, meeting materials and webinar registration instructions are available through the Public Participation tab on the Department of Environmental Protection’s (Department) web site at www.dep.pa.gov (select “Public Participation,” then “Advisory Committees,” then “Oil and Gas Advisory Committees,” then “Oil and Gas Technical Advisory Board (TAB)”). Questions concerning the meeting can be directed to Todd M. Wallace at (717) 783-9438 or twallace@pa.gov

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Todd M. Wallace at (717) 783-9438 or through the

Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

PATRICK McDONNELL,
Acting Secretary

[Pa.B. Doc. No. 16-1909. Filed for public inspection November 4, 2016, 9:00 a.m.]

Request for Applications for Watershed Protection and Restoration Grants and Surface Mining Conservation and Reclamation Act Grants through the Growing Greener Plus Program

As part of the 2016 Department of Environmental Protection's (Department) Growing Greener Plus Program (Growing Greener), applications are now being accepted for watershed protection and restoration grants. Under 27 Pa.C.S. §§ 6101—6119 (relating to Environmental Stewardship and Watershed Protection Act), the Department is authorized to allocate these grants to a variety of eligible applicants including: counties, authorities and other municipalities; county conservation districts; watershed organizations recognized by the Department who promote local watershed conservation efforts; councils of governments; and other authorized organizations involved in the restoration and protection of the environment in this Commonwealth.

For the upcoming grant round, the Department is placing a particular focus upon reducing nonpoint source pollution within the Chesapeake Bay Watershed. The Commonwealth is committed to reducing nitrogen, phosphorus and sediment pollution from agriculture and stormwater runoff. The Department is particularly interested in projects that implement effective best management practices (BMP) that reduce or eliminate stream impairments, leading to local water quality improvements that contribute to the Chesapeake Bay restoration goals. Beyond the Chesapeake Bay restoration goals, the Department has identified a number of other priorities, including: projects located in regional "priority" watersheds that reduce the source of impairment; "priority" type activities that lead to water quality restoration or protection; and projects that support the installation of priority BMPs to address priority nonpoint source pollution sources.

Examples of eligible projects include high priority BMPs such as riparian forest buffers, streambank fencing, erosion/sedimentation and nutrient control practices on cropland, and animal waste storage systems. Additionally, projects that will reduce nonpoint source pollution in watersheds where streams are impaired, projects that will help reduce Total Maximum Daily Load pollutants, and integrating stormwater management into watershed management and water conservation strategies are eligible.

Through the same application process, applicants can also apply for funding through the Department's Surface Mining Conservation and Reclamation Act (SMCRA) Grant Programs and Section 319 Nonpoint Source Grant Program. SMCRA grants are available to various entities including municipalities, municipal authorities and non-profit organizations for projects meeting SMCRA Set Aside or Bond Forfeiture grant requirements. Section 319

grants focus on funding similar projects to Growing Greener but with special emphasis within targeted watersheds.

The deadline for submitting applications to the Department's Growing Greener Grants Center (Center) is January 13, 2017. Applications must be postmarked no later than Friday, January 13, 2017. If hand delivered, the package must be received by the Center by 4 p.m. on Friday, January 13, 2017, at the following address. Late submissions will not be considered.

To request or download an application or obtain more information concerning Growing Greener, visit the Growing Greener web site at www.dep.pa.gov (DEP Keyword: Growing Greener). Persons can send e-mails to GrowingGreener@pa.gov or contact the Center at (717) 705-5400. Written requests should be addressed to the Department of Environmental Protection Grants Center, 15th Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8776, Harrisburg, PA 17105-8776.

PATRICK McDONNELL,
Acting Secretary

[Pa.B. Doc. No. 16-1910. Filed for public inspection November 4, 2016, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES

Lease Office Space to the Commonwealth Lackawanna County or Luzerne County

Proposers are invited to submit proposals to the Department of General Services to provide the Department of State with 3,592 usable square feet of office space in Lackawanna County or Luzerne County. Downtown locations will be considered. For more information on SFP No. 94845, which is due on December 19, 2016, visit www.dgs.pa.gov or contact Erica Dreher, Bureau of Real Estate, (717) 317-5315, edreher@pa.gov.

CURTIS M. TOPPER,
Secretary

[Pa.B. Doc. No. 16-1911. Filed for public inspection November 4, 2016, 9:00 a.m.]

Lease Office Space to the Commonwealth Potter County

Proposals are invited to provide the Department of General Services with 8,246 usable square feet of office space for the State Police in Potter County. For more information on SFP No. 94844, which is due on Friday, December 16, 2016, visit www.dgs.pa.gov or contact David Weyandt, (717) 525-5255, daweyandt@pa.gov.

CURTIS M. TOPPER,
Secretary

[Pa.B. Doc. No. 16-1912. Filed for public inspection November 4, 2016, 9:00 a.m.]

DEPARTMENT OF HEALTH

Approval of Drugs Which May Be Used by Certain Optometrists

Under the Optometric Practice and Licensure Act (act) (63 P.S. §§ 244.1—244.12), as amended by the act of December 16, 2002 (P.L. 1950, No. 225) (Act 225), the Secretary of Health (Secretary) has the authority to approve drugs for use in the “practice of optometry” as defined in Act 225. The State Board of Optometry, through the Secretary of State, sent the Secretary a letter on August 22, 2016, and requested that the Secretary approve the use of the following drug. Act 225 requires that the Secretary, within 90 days of the receipt of the list of drugs, approve or disapprove for good cause each drug. The Secretary has found good cause to approve the use of the following drug in the practice of optometry:

Lifitegrast (Xiidra®) ophthalmic solution

The approval of the use of this drug is effective upon publication of this notice in the *Pennsylvania Bulletin*.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape or Braille) should contact Susan Coble, Director, Bureau of Community Program Licensure and Certification, 132 Kline Plaza, Suite A, Harrisburg, PA 17104, (717) 783-8665 for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

KAREN M. MURPHY, PhD, RN,
Secretary

[Pa.B. Doc. No. 16-1913. Filed for public inspection November 4, 2016, 9:00 a.m.]

Long-Term Care Nursing Facilities; Requests for Exception

The following long-term care nursing facilities are seeking exceptions to 28 Pa. Code § 211.9(g) (relating to pharmacy services):

Golden LivingCenter—Stenton
7310 Stenton Avenue
Philadelphia, PA 19150
FAC ID # 193802

ManorCare Health Services—Huntingdon Valley
3430 Huntingdon Pike
Huntingdon Valley, PA 19006
FAC ID # 053802

Rehab at Shannondell
5000 Shannondell Drive
Audubon, PA 19403
FAC ID # 17580201

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.10(d) (relating to doors):

Cliveden Nursing and Rehabilitation Center
6400 Greene Street
Philadelphia, PA 19119
FAC ID # 330402

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the

Department of Health, Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@pa.gov.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the address or phone number listed previously, or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service (800) 654-5984 (TT).

KAREN M. MURPHY, PhD, RN,
Secretary

[Pa.B. Doc. No. 16-1914. Filed for public inspection November 4, 2016, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Millionaire Raffle XXV Raffle Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 874.4 (relating to notice of raffle lottery game rules), the Secretary of Revenue hereby provides public notice of the rules for the following raffle lottery game:

1. *Name:* The name of the raffle game is Pennsylvania Millionaire Raffle XXV.

2. *Price:* The price of one Pennsylvania Millionaire Raffle XXV lottery game ticket is \$20.

3. *Ticket Sales and Drawing Date:* Pennsylvania Millionaire Raffle XXV lottery game ticket sales will commence on or after November 8, 2016, and will continue until all 500,000 tickets have been sold, or 8:00 p.m. on January 7, 2017, whichever occurs earlier.

4. *Ticket Characteristics:* Each Pennsylvania Millionaire Raffle XXV lottery game ticket will contain one unique computer-generated eight-digit number between 00000001 and 00500000, the drawing date, amount bet, and validation data.

5. *Prizes:* The prizes that can be won in this game are \$100, \$1,000, \$100,000 and \$1,000,000.

6. *Maximum Number of Tickets Printed and Sold for the Game:* There will be no more than 500,000 tickets printed and sold for the Pennsylvania Millionaire Raffle XXV lottery game. The chances will be sequentially issued on a statewide basis from the range of individual unique numbers representing the chances available for the game.

7. *Early Bird Bonus Drawings:*

(a) *Conduct of Early Bird Bonus Drawings.* The Lottery will conduct six (6) Early Bird Bonus Drawings, each of which will award three (3) prizes of \$50,000, for a total of 18 prizes.

(1) Each ticket purchased during the entry period for each Early Bird Bonus Drawing will be automatically entered into that week's Early Bird Bonus Drawing, as described in section 7(b) (relating to Early Bird Bonus Drawing entry periods), as well as the Millionaire Raffle Drawing on January 7, 2017, as described in section 8 (relating to conduct of Millionaire Raffle Drawing).

(2) A computer-generated randomizer will be used to conduct each Early Bird Bonus Drawing. Three (3) unique eight-digit numbers will be drawn from the range of numbers representing the chances sold during each Early Bird Bonus Drawing entry period. The first three unique eight-digit numbers drawn will be winning numbers.

(3) The winning ticket numbers for each Early Bird Bonus Drawing will be posted to the Pennsylvania Lottery's publicly accessible website.

(b) *Early Bird Bonus Drawing Entry Periods:*

(1) All tickets sold between November 8, 2016 at 12:00:00 a.m. and November 14, 2016 at 11:59:59 p.m. will be entered into Early Bird Bonus Drawing 1, held between November 15, 2016 and November 17, 2016, with winners announced on November 17, 2016.

(2) All tickets sold between November 15, 2016 at 12:00:00 a.m. and November 21, 2016 at 11:59:59 p.m. will be entered into Early Bird Bonus Drawing 2, held between November 22, 2016 and November 28, 2016, with winners announced on November 28, 2016.

(3) All tickets sold between November 22, 2016 at 12:00:00 a.m. and November 28, 2016 at 11:59:59 p.m. will be entered into Early Bird Bonus Drawing 3, held between November 29, 2016 and December 1, 2016, with winners announced on December 1, 2016.

(4) All tickets sold between November 29, 2016 at 12:00:00 a.m. and December 5, 2016 at 11:59:59 p.m. will be entered into Early Bird Bonus Drawing 4, held between December 6, 2016 and December 8, 2016, with winners announced on December 8, 2016.

(5) All tickets sold between December 6, 2016 at 12:00:00 a.m. and December 12, 2016 at 11:59:59 p.m. will be entered into Early Bird Bonus Drawing 5, held between December 13, 2016 and December 15, 2016, with winners announced on December 15, 2016.

(6) All tickets sold between December 13, 2016 at 12:00:00 a.m. and December 19, 2016 at 11:59:59 p.m. will be entered into Early Bird Bonus Drawing 6, held between December 20, 2016 and December 22, 2016, with winners announced on December 22, 2016.

(7) All tickets sold after December 19, 2016 at 11:59:59 p.m. will only be eligible for the Millionaire Raffle drawing.

(c) *Determination of Early Bird Bonus Drawing Prize Winners.*

(1) The first through the third unique eight-digit number drawn from among the tickets automatically entered into each of the Early Bird Bonus Drawings will be winning numbers and the holders of the tickets that match those winning numbers shall each be entitled to a prize of \$50,000.

(2) The tickets bearing the winning numbers from each Early Bird Bonus Drawing shall be ineligible to win a prize in the same, or any subsequent, Early Bird Bonus Drawing, but shall be entered into the Millionaire Raffle Drawing, as described in section 8 (relating to conduct of Millionaire Raffle Drawing), and shall be eligible to win a prize described in section 9 (relating to determination of Millionaire Raffle Drawing winners).

(d) If the Raffle sells out prior to all of the Early Bird Bonus Drawings being conducted, all non-winning tickets from the prior Early Bird Bonus Drawings will be eligible to be entered into the remaining Early Bird Bonus Drawings. A winning ticket selected in any Early Bird Bonus Drawing will be ineligible to win in any subsequent Early Bird Bonus Drawings conducted under this paragraph.

(e) The odds of an entry being selected in each Early Bird Bonus Drawing depend upon the number of tickets sold during the entry period for each Early Bird Bonus Drawing.

(f) The entry periods for the Early Bird Bonus Drawings will be posted to the Pennsylvania Lottery's publicly accessible website.

8. *Conduct of Millionaire Raffle Drawing:* The results of the Pennsylvania Millionaire Raffle XXV lottery game will be posted to the Lottery's publicly accessible website on January 7, 2017, after 10:00 p.m. A computer-generated randomizer will be used to conduct the drawing. Six-thousand (6,000) unique eight-digit numbers will be drawn from the range of numbers representing the chances sold. The first four unique eight-digit numbers drawn will be the first-prize-tier winning numbers. The fifth through eighth unique eight-digit numbers drawn will be the second-prize-tier winning numbers. The ninth through 108th unique eight-digit numbers drawn will be the third-prize-tier winning numbers. The 109th through 6,000th unique eight-digit numbers drawn will be the fourth-prize-tier winning numbers. A player may only win one time on each ticket or chance for the Millionaire Raffle Drawing.

9. *Determination of Millionaire Raffle Drawing Prize Winners:*

(a) Holders of tickets upon which the unique eight-digit number exactly matches one of the first-prize-tier numbers selected by the Lottery shall be entitled to a prize of \$1,000,000.

(b) Holders of tickets upon which the unique eight-digit number exactly matches one of the second-prize-tier numbers selected by the Lottery shall be entitled to a prize of \$100,000.

(c) Holders of tickets upon which the unique eight-digit number exactly matches one of the third-prize-tier numbers selected by the Lottery shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which the unique eight-digit number exactly matches one of the fourth-prize-tier numbers selected by the Lottery shall be entitled to a prize of \$100.

10. *Number and Description of Prizes and Approximate Odds:* The Pennsylvania Millionaire Raffle XXV lottery game prizes and determination of winners are as follows:

*Ticket Matching Exactly the Unique
Eight-digit Number Drawn:*

	<i>Win Prize Of:</i>
First-Prize-Tier	\$1,000,000
Second-Prize-Tier	\$100,000
Third-Prize-Tier	\$1,000
Fourth-Prize-Tier	\$100

*Maximum Odds Of
Winning Are 1 In:*

125,000
125,000
5,000
84.86

*Number Of
Winners*

4
4
100
5,892

The odds of winning are based on selling all 500,000 tickets. If all 500,000 tickets are not sold, the odds of winning will depend on the total number of tickets sold. All Pennsylvania Millionaire Raffle XXV lottery game prize payments, including first-prize-tier prizes, will be made as one-time, lump-sum cash payments. Federal income tax withholding will be automatically deducted from the lump-sum cash payment for all first-prize-tier and second-prize-tier prizes.

11. *Consumer Promotional Programs:* The Lottery may conduct promotional activities to promote the sale of Pennsylvania Millionaire Raffle XXV lottery game tickets, including offering tickets at a discounted price. Details of any such offering will be disseminated through media used to advertise or promote the Pennsylvania Millionaire Raffle XXV lottery game or through normal communication methods.

12. *Retailer Bonus:* The Lottery in its sole discretion may offer a retailer bonus in connection with the sale of Pennsylvania Millionaire Raffle XXV lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. A Lottery retailer is entitled only to the largest bonus for which he qualifies on a winning ticket. A bonus will be initiated for payment after the winning ticket is claimed and validated or approximately 30 days after the date of the drawing in which the winning ticket was entered, provided that Lottery security can and has verified the sales transaction as valid. A bonus will not be awarded to a Lottery retailer that sells a Pennsylvania Lottery Millionaire Raffle XXV ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize in that second-chance drawing or promotion.

13. *Promotional Drawings:* The Pennsylvania Lottery may conduct promotional drawings associated with the Pennsylvania Millionaire Raffle XXV lottery game. If the Lottery does conduct such a promotional drawing, Pennsylvania Millionaire Raffle XXV lottery game tickets will be imprinted with a unique code to be used by players to enter the promotional drawings. The promotional drawings may be held independently of or in conjunction with the regular Pennsylvania Millionaire Raffle XXV drawings. The Secretary will announce the existence of the promotional drawings. Winners of promotional drawings will be randomly selected from the group of qualified entries. A description of the available prize(s) and the specific rules and other information necessary for the conduct of the promotional drawings will be posted to the

Lottery's publicly accessible website. A copy of the same will also be kept on file with the Lottery and will be available upon request.

14. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Millionaire Raffle XXV lottery game tickets. The conduct of the Program will be governed by 61 Pa. Code § 811.41 (relating to promotional prizes).

15. *Unclaimed Prize Money:* Unclaimed prize money on winning Pennsylvania Millionaire Raffle XXV lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto for 1 year from the announced close of the Pennsylvania Millionaire Raffle XXV lottery game. If no claim is made within 1 year of the announced close of the Pennsylvania Millionaire Raffle XXV lottery game conducted by the State Lottery, the right of a ticket holder to claim the prize represented by that ticket, if any, expires and the prize money will be paid into the State Lottery Fund and used for purposes otherwise provided for by statute.

16. *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), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

EILEEN H. McNULTY,
Secretary

[Pa.B. Doc. No. 16-1915. Filed for public inspection November 4, 2016, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Multimodal Transportation Fund; Invitation to Submit Applications

The Department of Transportation (Department) is providing notice to eligible applicants that it began accepting Multimodal Transportation Fund (Fund) applications for grants provided under 74 Pa.C.S. § 2104(a)(2) (relating to use of money in fund) on October 17, 2016. The deadline for application submittal is December 16, 2016.

Additional information, guidelines and frequently asked questions about the Fund program can be obtained on the Department's web site at www.pennndot.gov (select "Projects & Programs," then "Multimodal Program").

Applications should be submitted electronically through the Department's SharePoint site at <https://spportal.dot.pa.gov/Planning/AppReg/Pages/default.aspx>.

Questions related to the Fund Program may be directed to the Department of Transportation, Office of Multi-

modal Transportation, 400 North Street, 8th Floor, Harrisburg, PA 17120, RA-PDMultimodalFund@pa.gov.

LESLIE S. RICHARDS,
Secretary

[Pa.B. Doc. No. 16-1916. Filed for public inspection November 4, 2016, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Buckeye Terminals, LLC v. DEP; EHB Doc. No. 2016-143-B

Buckeye Terminals, LLC has appealed the issuance by the Department of Environmental Protection of an NPDES permit to Buckeye Terminals, LLC for a facility located in Coraopolis Borough, Allegheny County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the Pennsylvania AT&T Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,
Chairperson

[Pa.B. Doc. No. 16-1917. Filed for public inspection November 4, 2016, 9:00 a.m.]

CNX Gas Company, LLC v. DEP; EHB Doc. No. 2016-139-R

CNX Gas Company, LLC has appealed the issuance by the Department of Environmental Protection of an NPDES permit to CNX Gas Company, LLC for a facility located in South Bend Township, Armstrong County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the Pennsylvania AT&T Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code

§ 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,
Chairperson

[Pa.B. Doc. No. 16-1918. Filed for public inspection November 4, 2016, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Meeting Cancellation

The November 15, 2016, meeting of the Environmental Quality Board (Board) is cancelled. The next regular meeting of the Board is scheduled for Tuesday, December 20, 2016, at 9 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

The agenda and meeting materials for the December 20, 2016, meeting will be available on the Department of Environmental Protection's (Department) web site at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board (EQB)," then "2016 Meetings"). Questions concerning the Board's next scheduled meeting may be directed to Laura Edinger at (717) 783-8727 or ledinger@pa.gov.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Laura Edinger at (717) 783-8727 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

PATRICK McDONNELL,
Acting Chairperson

[Pa.B. Doc. No. 16-1919. Filed for public inspection November 4, 2016, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10 a.m., Thursday, October 20, 2016, and announced the following:

Regulation Deemed Approved Pursuant to Section 5(g) of the Regulatory Review Act—Effective October 19, 2016

Pennsylvania Gaming Control Board # 125-196: Saigon 5 Card; Table Game Rules of Play (amends 58 Pa. Code by adding Chapter 680a)

Pennsylvania Gaming Control Board # 125-198: 21 Baccarat; Table Game Rules of Play (amends 58 Pa. Code by adding Chapter 681a)

State Board of Examiners of Nursing Home Administrators # 16A-6217; Notice Requirements (amends 49 Pa. Code by adding §§ 39.92 and 39.93)

Action Taken—Regulation Approved:

Bureau of Professional and Occupational Affairs # 16A-723; Schedule of Civil Penalties—Massage Therapists (deletes 49 Pa. Code Section 43b.23 and adds 49 Pa. Code Section 43b.23a)

Pennsylvania Gaming Control Board # 125-192: Heads-Up Hold 'Em and High Card Flush; Table Game Rules of Play (amends 58 Pa. Code by adding Chapter 677a and 678a)

Pennsylvania Gaming Control Board # 125-195: Three Card Prime; Table Game Rules of Play (amends 58 Pa. Code by adding Chapter 679a)

State Board of Private Licensed Schools # 6-334: Fees (amends 22 Pa. Code Chapter 73)

Department of Health # 10-197: School Immunizations (amends 28 Pa. Code §§ 23.82, 23.83, 23.85 and 23.86)

Approval Order

Public Meeting Held
October 20, 2016

Commissioners Voting: George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; W. Russell Faber; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*Bureau of Professional and Occupational Affairs
Schedule of Civil Penalties—Massage Therapists
Regulation No. 16A-723 (# 3069)*

On August 5, 2014, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Bureau of Professional and Occupational Affairs (Bureau). This rulemaking deletes 49 Pa. Code Section 43b.23 and adds 49 Pa. Code Section 43b.23a. The proposed regulation was published in the August 16, 2014 *Pennsylvania Bulletin* with a public comment period ending September 15, 2014. The final-form regulation was submitted to the Commission on August 29, 2016.

This regulation addresses violations and civil penalties relating to the practice of massage therapy.

We have determined this regulation is consistent with the statutory authority of the Bureau (63 P.S. § 2205(a)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting Held
October 20, 2016

Commissioners Voting: George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; W. Russell Faber; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*Pennsylvania Gaming Control Board
Heads-Up Hold 'Em and High Card Flush;
Table Game Rules of Play
Regulation No. 125-192 (# 3114)*

On August 4, 2015, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking amends 58 Pa. Code by adding Chapter 677a and 678a. The proposed regulation was

published in the August 15, 2015 *Pennsylvania Bulletin* with public comment period ending on September 14, 2015. The final-form regulation was submitted to the Commission on August 24, 2016.

This final-form rulemaking establishes rules of play for the table games of World Poker Tour Heads Up Hold 'Em and High Card Flush.

We have determined this regulation is consistent with the statutory authority of the Board (4 P.S. §§ 1202(b)(3) and 13A02(1) and (2)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting Held
October 20, 2016

Commissioners Voting: George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; W. Russell Faber; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*Pennsylvania Gaming Control Board
Three Card Prime; Table Game Rules of Play
Regulation No. 125-195 (# 3124)*

On November 23, 2015, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking amends 58 Pa. Code by adding Chapter 679a. The proposed regulation was published in the December 12, 2015 *Pennsylvania Bulletin* with a public comment period ending on January 11, 2016. The final-form regulation was submitted to the Commission on August 24, 2016.

The rulemaking adds a new table game, Three Card Prime, to the complement of games available for patron play in the Commonwealth.

We have determined this regulation is consistent with the statutory authority of the Board (4 Pa.C.S. §§ 1202(b)(30) and 13A02(1) and (2)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting Held
October 20, 2016

Commissioners Voting: George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; W. Russell Faber; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*State Board of Private Licensed Schools
Fees
Regulation No. 6-334 (# 3145)*

On March 14, 2016, the Independent Regulatory Review Commission (Commission) received this proposed

regulation from the State Board of Private Licensed Schools (Board). This rulemaking amends 22 Pa. Code Chapter 73. The proposed regulation was published in the March 26, 2016 *Pennsylvania Bulletin* with a public comment period ending on April 25, 2016. The final-form regulation was submitted to the Commission on September 7, 2016.

This regulation revises the fee structure for biennial licensure or registration renewal fees for private licensed schools and admission representatives. It also increases original school licensure fees, renewal fees and user fees for services provided by the Board.

We have determined this regulation is consistent with the statutory authority of the Board (24 P.S. § 6504(a) and 6510(a)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting Held
October 20, 2016

Commissioners Voting: George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; W. Russell Faber; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*Department of Health
School Immunizations
Regulation No. 10-197 (# 3147)*

On March 29, 2016, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Health (Department). This rulemaking amends 28 Pa. Code §§ 23.82, 23.83, 23.85 and 23.86. The proposed regulation was published in the April 9, 2016 *Pennsylvania Bulletin* with a public comment period ending May 9, 2016. The final-form regulation was submitted to the Commission on September 16, 2016.

This final-form regulation amends school immunization regulations to ensure that children attending school in the Commonwealth are adequately protected against potential outbreaks of vaccine-preventable diseases.

We have determined this regulation is consistent with the statutory authority of the Department (35 P.S. §§ 521.16(a) and (b)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

GEORGE D. BEDWICK,
Chairperson

[Pa.B. Doc. No. 16-1920. Filed for public inspection November 4, 2016, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Approval to Acquire Control of Professional Casualty Association, Physicians' Insurance Program Exchange and Positive Physicians Insurance Exchange

Enstar Group Limited (Enstar), a publicly-traded Bermuda exempted company, and Enstar Holdings (US), Inc., an indirect subsidiary of Enstar, have filed an application to acquire control of three Pennsylvania domiciled reciprocal interinsurance exchanges—Professional Casualty Association, Physicians' Insurance Program Exchange and Positive Physicians Insurance Exchange. The filing was received on October 24, 2016, and was made under the requirements of Article XIV of The Insurance Company Law of 1921 (40 P.S. §§ 991.1401—991.1413).

Persons wishing to comment on this acquisition are invited to submit a written statement to the Insurance Department (Department) within 7 days from the date of publication of this notice in the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Cressinda Bybee, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, cbybee@pa.gov. Comments received will be part of the public record regarding the filing and will be forwarded to the applicant for appropriate response.

TERESA D. MILLER,
Insurance Commissioner

[Pa.B. Doc. No. 16-1921. Filed for public inspection November 4, 2016, 9:00 a.m.]

Health Maintenance Organization Certificate of Authority Application Filed by Pennsylvania Health & Wellness, Inc.

On November 5, 2015, Pennsylvania Health & Wellness, Inc. filed an application with the Department of Health and the Insurance Department for a certificate of authority to establish, operate and maintain a health maintenance organization (HMO) under the Health Maintenance Organization Act (40 P.S. §§ 1551—1567), Department of Health HMO regulations (28 Pa. Code §§ 9.631—9.654) and the Insurance Department HMO regulations (31 Pa. Code §§ 301.1—301.204).

The proposed service areas of the applicant are all 67 counties in this Commonwealth.

A copy of the application is available for public inspection, by appointment only, at the following locations:

Department of Health
Bureau of Managed Care
Room 912, Health and Welfare Building
Harrisburg, PA 17109-0900
(717) 787-5193

Insurance Department
Company Licensing Division
1345 Strawberry Square
Harrisburg, PA 17120
(717) 787-2735

Interested parties are invited to submit written comments to William Wiegmann, Department of Health or Cressinda Bybee, Insurance Department at the previously listed addresses. Persons who wish to submit written comments regarding the application may do so within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Persons with disabilities may submit information and comments through alternative formats, such as audio tape, Braille or using the Department of Health TDD, (717) 783-6514. Persons with a disability requesting alternative forms may contact William Wiegmann to make the necessary arrangements.

TERESA D. MILLER,
Insurance Commissioner

[Pa.B. Doc. No. 16-1922. Filed for public inspection November 4, 2016, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application for Findings; Prehearing Conference

A-2016-2571918. PPL Electric Utilities Corporation. Application of PPL Electric Utilities Corporation for a finding and determination that the service to be furnished by the applicant through its proposed exercise of the power of eminent domain to acquire right-of-way and easement over a certain portion of the lands of the Heirs of Davis Dean in West Abington, Lackawanna County is necessary or proper for the service, accommodation, convenience or safety of the public.

A-2016-2571923. PPL Electric Utilities Corporation. Application of PPL Electric Utilities Corporation for the finding and determination that the service to be furnished by the applicant through its proposed exercise of the power of eminent domain to acquire right-of-way and easement over a certain portion of the lands of Dalton Equity, Inc. in West Abington, Lackawanna County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before December 5, 2016. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120, with a copy served on the applicant. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, at the Pennsylvania Public Utility Commission's (Commission) web site at www.puc.pa.gov and at the applicant's business address.

Applicant: PPL Electric Utilities Corporation

Through and By Counsel: Christopher T. Wright, David B. MacGregor, Post & Schell, PC, 17 North Second Street, 12th Floor, Harrisburg, PA 17101; and Kimberly A. Klock, PPL Services Corporation, Two North Ninth Street, Allentown, PA 18101

Prehearing Conference

An initial prehearing conference on the previously-captioned case will be held as follows:

Date: Tuesday, December 13, 2016

Time: 10 a.m.

Location: Hearing Room 4
Plaza Level
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Presiding: Administrative Law Judge Elizabeth H. Barnes
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-1399
Fax: (717) 787-0481

Persons with a disability who wish to attend the prehearing may be able to make arrangements for special needs. To make arrangements for any special needs, call the Scheduling Office at the Commission at least 5 business days prior to the conference.

For persons who require an interpreter to participate in the hearing, the Commission will make every reasonable effort to have an interpreter present. Call the Scheduling Office at the Commission at least 10 business days prior to the hearing to submit a request.

- Scheduling Office: (717) 787-1399
- Pennsylvania AT&T Relay Service number for persons who are deaf or hearing-impaired: (800) 654-5988

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 16-1923. Filed for public inspection November 4, 2016, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by November 21, 2016. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.

A-2016-2567661. Terry W. Schmidt (101 Mount Pleasant Road, Honey Brook, Chester County, PA 19344) for the right to begin to transport, as a common carrier, by motor vehicle, persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, between points in the Counties of Chester and Lancaster.

A-2016-2571914. Miroslav Korac (5347 Spring Valley Drive, Pittsburgh, Allegheny County, PA 15236) persons in limousine service, from points in Allegheny County, to points in Pennsylvania, and return; excluding areas under the jurisdiction of the Philadelphia Parking Authority.

A-2016-2571924. Almir Rovcanin (41 Marlin Drive East, Pittsburgh, Allegheny County, PA 15216) in limousine service, between points in Allegheny County.

A-2016-2572182. T&M Productions Limited Liability Company (27 South Crescent Street, Tremont, Schuylkill County, PA 17981) for the right to transport as a common carrier, by motor vehicle, persons in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in Schuylkill County, to points in Pennsylvania, and return; excluding service that is under the jurisdiction of the Philadelphia Parking Authority.

A-2016-2572358. Jackie Wleh and Johnette Wleh, Co-Partners, t/a J & J Car Services (14-2 Valley Road, Drexel Hill, Delaware County, PA 19026) in limousine service, between points in Pennsylvania, excluding areas under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* Dean F. Owens, 1835 Market Street, Suite 2820, Philadelphia, PA 19103.

A-2016-2572712. Tina Limo, LLC (1626 South Broad Street, Philadelphia, PA 19145) in limousine service, from points in Delaware County, to points in Pennsylvania, and return; excluding areas under the jurisdiction of the Philadelphia Parking Authority.

Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods as described under each application.

A-2016-2570920. BLL Charles, Inc., d/b/a BLL Charles, Inc. d/b/a College Hunks Hauling Junk and Moving (3812 William Flynn Highway Building 14, Allison Park, Allegheny County, PA 15101) for the right to begin to transport, as a common carrier, by motor vehicle, household goods in use, from points in the Counties of Allegheny and Butler, to points in Pennsylvania.

A-2016-2571398. Baldwin Fine Art & Residential, LLC (2454 Tulip Street, Philadelphia, PA 19125) household goods in use, between points in Pennsylvania.

Application of the following for the approval of the transfer of stock as described under the application.

A-2016-2572704. Transdev Group—a French joint venture, owned equally (50%/50%) by La Caisse Des Dépôts et Consignations (CDC) and Veolia Environnement (Veolia)—owns and controls the Airline Acquisition Company, Inc., Airport Limousine Service, Inc., Pittsburgh Transportation Group Charter Services, Inc., Pittsburgh Cab Company, Inc., Ray Cab Company, LLC and Yellow Cab Company of Pittsburgh, and has applied for the approval of a change of control in which Veolia will transfer 20% of its ownership to CDC, resulting in CDC possessing 70% voting interest and Veolia possessing 30% voting interest. *Attorney:* Thomas Niesen, 212 Locust Street, Suite 600, Harrisburg, PA 17101.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 16-1924. Filed for public inspection November 4, 2016, 9:00 a.m.]

Service of Notice of Motor Carrier Formal Complaints

Formal Complaints have been issued by the Pennsylvania Public Utility Commission. Answers must be filed in accordance with 52 Pa. Code (relating to public utilities). Answers are due November 21, 2016, and must be made with the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy to the First Deputy Chief Prosecutor, Pennsylvania Public Utility Commission.

Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. Burgos Delivery Service, LLC; Docket No. C-2016-2569566

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Investigation and Enforcement and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Investigation and Enforcement hereby represents as follows:

1. That all authority issued to Burgos Delivery Service, LLC, (respondent) is under suspension effective August 21, 2016 for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at 4165 Paul St., Philadelphia, PA 19124.
3. That respondent was issued a Certificate of Public Convenience by this Commission on October 19, 2015, at A-2015-2504833.
4. That respondent has failed to maintain evidence of Cargo and Liability insurance on file with this Commission. The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is \$500 and cancellation of the Certificate of Public Convenience.
5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$500 or files an answer in compliance with the attached notice and/or causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at A-2015-2504833 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of five hundred dollars (\$500.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,
David W. Loucks, Chief
Motor Carrier Enforcement
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, David W. Loucks, Chief, Motor Carrier Enforcement, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 10/5/2016

David W. Loucks, Chief
Motor Carrier Enforcement
Bureau of Investigation and Enforcement

NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Letter. See 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Or, you may eFile your Answer using the Commission's website at www.puc.pa.gov. The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

Or, emailed to Mr. Swindler at: RA-PCCmplntResp@pa.gov

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in this Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint. Accord certificates of insurance and faxed form Es and Hs are unacceptable as evidence of insurance.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Technical Utility
Services
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Payment of the fine must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of the evidence of insurance from your insurer, and upon receipt of your payment, the Complaint proceeding shall be closed.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714. Do not call this number if you have questions as to why you received this complaint. For those questions you may call 717-783-3847.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 16-1925. Filed for public inspection November 4, 2016, 9:00 a.m.]

Telecommunications

A-2016-2572825. Verizon North, LLC and Onvoy, LLC. Joint petition of Verizon North, LLC and Onvoy, LLC for approval of Amendment No. 1 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North, LLC and Onvoy, LLC, by their counsel, filed on October 25, 2016, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of Amendment No. 1 to the 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, 400 North Street, 2nd Floor, Harrisburg, PA 17120. Comments are due on or before 10 days after the date of publication of this notice. The documents filed in support of the Verizon North, LLC and Onvoy, LLC joint petition are available for inspection and copying at the Office of the Secretary between 8 a.m. and

4:30 p.m., Monday through Friday, at the Commission's web site at www.puc.pa.gov and at the applicant's business address.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 16-1926. Filed for public inspection November 4, 2016, 9:00 a.m.]

Telecommunications

A-2016-2572294. Verizon Pennsylvania, LLC and Global Crossing Local Services, Inc. Joint petition of Verizon Pennsylvania, LLC and Global Crossing Local Services, Inc. for approval of Amendment No. 4 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, LLC and Global Crossing Local Services, Inc., by their counsel, filed on October 20, 2016, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of Amendment No. 4 to the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. The documents filed in support of Verizon Pennsylvania, LLC and Global Crossing Local Services, Inc. joint petition are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, at the Commission's web site at www.puc.pa.gov and at the applicant's business address.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 16-1927. Filed for public inspection November 4, 2016, 9:00 a.m.]

Telecommunications

A-2016-2572820. Verizon Pennsylvania, LLC and Onvoy, LLC. Joint petition of Verizon Pennsylvania, LLC and Onvoy, LLC for approval of Amendment No. 1 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, LLC and Onvoy, LLC, by their counsel, filed on October 25, 2016, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an Amendment No. 1 to interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. The documents filed in support of the petition are available for inspection and

copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, at the Commission's web site at www.puc.pa.gov and at the applicant's business address. Copies of the Verizon Pennsylvania, LLC and Onvoy, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 16-1928. Filed for public inspection November 4, 2016, 9:00 a.m.]

PHILADELPHIA PARKING AUTHORITY

Notice of Rescheduling of Sales of Wheelchair Accessible Taxicab Medallions

The Philadelphia Parking Authority's Board Order No. 16-001 (Authority Order), published at 46 Pa.B. 3776 (July 9, 2016), directing the Taxicab and Limousine Division (TLD) to administer the sale of 41 Philadelphia taxicab medallions, each of which are designated as wheelchair accessible vehicle taxicab medallions. This notice included the date, time and location of the bid openings for each of these medallions.

However, under the Authority Order under Paragraph No. 10, TLD Director Michael Casey exercised his discretion to remove certain medallions from the scheduled bid opening dates as follows: October 5, 2015; October 12, 2016; October 19, 2016; October 26, 2016; and November 19, 2016. The TLD Director has rescheduled those sales under Paragraph Nos. 12 and 13. Therefore, an updated schedule is as follows:

<i>Scheduled Sale Date</i>	<i>Medallion Nos.</i>
November 2, 2016	WP-1657, WP-1658, WP-1659, WP-1660 and WP-1661
November 10, 2016	WP-1662, WP-1663, WP-1664, WP-1665, WP-1666 and WP-1667
November 30, 2016	WP-1622, WP-1623, WP-1626, WP-1628, WP-1632, WP-1633, WP-1634, WP-1635, WP-1636, WP-1637, WP-1638, WP-1639, WP-1640, WP-1641, WP-1642, WP-1643, WP-1644, WP-1647, WP-1648, WP-1649, WP-1651, WP-1652, WP-1653, WP-1654, WP-1655 and WP-1656
December 7, 2016	WP-1668, WP-1669, WP-1670 and WP-1671

Refer to the Authority Order published at 46 Pa.B. 3776 for all instructions for submitting bids and other information concerning the sales of these medallions. See also 52 Pa. Code §§ 1013.31—1013.37 (relating to medallion sales by the Authority).

CLARENA TOLSON,
Executive Director

[Pa.B. Doc. No. 16-1929. Filed for public inspection November 4, 2016, 9:00 a.m.]

Request for Proposals

The Philadelphia Parking Authority will accept proposals for RFQ No. 16-30, Executive Search Firm, until 2 p.m. on Friday, December 2, 2016. Information can be obtained from the web site www.philapark.org or by calling Mary Wheeler at (215) 683-9665.

CLARENA TOLSON,
Executive Director

[Pa.B. Doc. No. 16-1930. Filed for public inspection November 4, 2016, 9:00 a.m.]

Request for Proposals

The Philadelphia Parking Authority will accept proposals for RFQ No. 16-31, Human Resources Consulting Services, until 2 p.m. on Friday, December 2, 2016. Information can be obtained from the web site www.philapark.org or by calling Mary Wheeler at (215) 683-9665.

CLARENA TOLSON,
Executive Director

[Pa.B. Doc. No. 16-1931. Filed for public inspection November 4, 2016, 9:00 a.m.]

Service of Notice of Motor Carrier Application in the City of Philadelphia

The following permanent authority application to render service as a common carrier in the City of Philadelphia has been filed with the Philadelphia Parking Authority (PPA) Taxicab and Limousine Division (TLD). Formal protests must be filed in accordance with 52 Pa. Code Part II (relating to Philadelphia Parking Authority) with the TLD's Office of the Clerk, 2415 South Swanson

Street, Philadelphia, PA 19148 no later than November 21, 2016. The nonrefundable protest filing fee is \$5,000 payable to the PPA by certified check or money order. The applications are available for inspection at the TLD with Administrative Counsel between 9 a.m. and 4 p.m., Monday through Friday (contact Christine Kirlin, Esq. at (215) 683-9653 to make an appointment) or may be inspected at the business address of the respective applicant.

Doc. No. A-16-10-01. Papa Trans., Inc. (1039 Kerlin Street, 2nd Floor, Chester, PA 19023): An application for a medallion taxicab certificate of public convenience to transport persons in taxicab service between points within the City of Philadelphia and from points in the City of Philadelphia to points in Pennsylvania, and return. *Attorney:* Danielle Friedman, Esq., 2301 Church Street, Philadelphia, PA 19124.

CLARENA TOLSON,
Executive Director

[Pa.B. Doc. No. 16-1932. Filed for public inspection November 4, 2016, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority will accept sealed bids for Project No. 16-126.1, Pier 84 Outshore Refurbishment, until 2 p.m. on Tuesday, December 20, 2016. Information (including mandatory prebid information) can be obtained from www.philaport.com under "Our Port," then "Procurement" or call (215) 426-2600.

JEFF THEOBALD,
Executive Director

[Pa.B. Doc. No. 16-1933. Filed for public inspection November 4, 2016, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF HUMAN SERVICES

[55 PA. CODE CHS. 51, 2380, 2390, 6100,
6200, 6400 AND 6500]

Home and Community-Based Supports and Licensing

The Department of Human Services (Department), under the authority of sections 201(2), 403(b), 403.1(a) and (b), 911 and 1021 of the Human Services Code (62 P.S. §§ 201(2), 403(b), 403.1(a) and (b), 911 and 1021) and section 201(2) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4201(2)), proposes to rescind Chapters 51 and 6200 (relating to Office of Developmental Programs home and community-based services; and room and board charges), amend Chapters 2380, 2390, 6400 and 6500 and adopt Chapter 6100 (relating to support for individuals with an intellectual disability or autism) to read as set forth in Annex A.

Purpose of Proposed Rulemaking

The purpose of this proposed rulemaking is to support individuals with an intellectual disability or autism to live in and participate fully in the life of their community, to achieve greater independence and to have the full range of opportunities enjoyed by all citizens of this Commonwealth. This proposed rulemaking strengthens community supports to promote person-centered approaches, community integration, personal choice, quality in support delivery, equity, accountability in the utilization of resources and innovation in service design.

This proposed rulemaking governs the program, operational and fiscal aspects of the following: (a) home and community-based supports (HCBS) provided through the adult autism, consolidated and person/family directed support 1915(c) waiver programs; (b) Medicaid State plan HCBS for individuals with an intellectual disability or autism, such as targeted support management; and (c) services funded exclusively by grants to counties under the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4101—4704) or Article XIV-B of the Human Services Code (62 P.S. §§ 1401-B—1410-B). This proposed rulemaking amends licensing regulations in Chapters 2380, 2390, 6400 and 6500 to eliminate duplication and conflict in the areas of training, rights, person-centered support plans (PSP), incident management, positive intervention and medication administration. This proposed rulemaking also rescinds and replaces Chapters 51 and 6200.

This proposed rulemaking is needed to continue the Commonwealth's eligibility for Federal financial participation in the HCBS waiver programs. See 42 CFR Part 441 (relating to services: requirements and limits applicable to specific services). This proposed rulemaking protects the health, safety and well-being of the individuals receiving supports in individual-directed, family-based, community residential and day programs funded through the HCBS waivers, the Commonwealth's Title XIX State plan and State-funds-only allocations.

This proposed rulemaking eliminates unnecessary language, streamlines processes and reduces the volume of regulation. This proposed rulemaking incorporates consistent and best practice terms, language and principles throughout the regulations.

Background

Chapter 51 was published at 42 Pa.B. 3230 (June 9, 2012) under the authority of the act of June 30, 2011 (P.L. 89, No. 22) that permitted the Department of Public Welfare to promulgate certain assistance and eligibility regulations as final rulemakings through an abbreviated regulatory process. (The Department of Public Welfare was renamed the Department of Human Services by the act of September 24, 2014 (P.L. 2458, No. 132).) In response to numerous concerns about Chapter 51 from individuals who receive support, families, advocates, providers and county programs, in January 2015, the Department initiated a comprehensive revision of Chapter 51, applying a widely representative and interactive community participation process that encourages and values external stakeholder participation throughout the regulatory development, proposed rulemaking and final promulgation regulatory processes.

Requirements

Proposed Chapter 6100 encompasses the program, operational and fiscal aspects of the following: three Office of Developmental Programs HCBS Federally-funded waiver programs including the consolidated waiver, the adult autism waiver and the person/family directed support waiver; Medicaid State plan HCBS for individuals with an intellectual disability or autism, such as targeted support management; and services funded exclusively by grants to counties under the Mental Health and Intellectual Disability Act of 1966 or Article XIV-B of the Human Services Code.

This proposed rulemaking encompasses health, safety and well-being protections for individuals with a disability or autism who receive support in a licensed adult training facility, vocational facility, community home for individuals with an intellectual disability or family living home.

Summary of Major Revisions, Additions and Deletions

Chapter 6100. Support for individuals with an intellectual disability or autism

Inclusion of base-funding. Chapter 6100 replaces Chapter 51. Chapter 6100 enlarges the scope of the chapter to incorporate program and operational provisions for services funded exclusively by grants to counties under the Mental Health and Intellectual Disability Act of 1966 or Article XIV-B of the Human Services Code. The inclusion of these services in the scope of this proposed rulemaking is intended to provide protection and support for individuals who are not served in an HCBS waiver program, but who receive similar supports and services through State-funds-only allocations. Only certain program and operational sections of this proposed rulemaking apply to these services. Specifically, the fiscal operations of the programs continue to be regulated under Chapter 4300 (relating to county mental health and intellectual disability fiscal manual).

Provisions for individuals with autism. This proposed rulemaking incorporates provisions for the regulation of HCBS adult autism supports. Under Chapter 51, many regulatory exemptions were specified for the adult autism waiver, thereby creating a system of inconsistent opportunities for individuals with an intellectual disability versus individuals with autism. In response to concerns from individuals with autism and disability advocates, the Department proposes to thoroughly incorporate the adult autism waiver program into this proposed rulemaking. In

some cases, best practice program concepts from the adult autism waiver are proposed for inclusion across the intellectual disability program; in other cases, similar health, safety and well-being protections afforded to individuals with an intellectual disability are proposed to apply to the adult autism program. The goal of the more comprehensive inclusion of the adult autism waiver in Chapter 6100 is to provide similar safeguards and opportunities for both individuals with autism and individuals with an intellectual disability.

This proposed rulemaking expands the scope of Chapters 6400 and 6500 (relating to community homes for individuals with an intellectual disability or autism; and life sharing homes) to include individuals with autism. This proposed rulemaking codifies existing practice whereby community homes and family living homes that support individuals with autism are inspected and licensed under the same licensing regulations that govern homes serving individuals with intellectual disabilities. Chapters 2380 and 2390 (relating to adult training facilities; and vocational facilities) currently include individuals with autism.

Improved flow and format. To aid in overall readability, rather than disperse regulatory exemptions and special program requirements throughout the chapter, the special program provisions and exemptions are listed at the end of the chapter. The special program sections include the adult autism waiver, agency with choice, support coordination and targeted support management services, organized health care delivery and vendor goods and services. This proposed format improves the flow and readability for the mainstream of programs affected by this proposed rulemaking and shortens the overall length of the regulations.

Plain English and definitions. This proposed rulemaking uses plain English and consistent terminology. In addition, acronyms are kept to a minimum to aid in readability. Further, unnecessary language is proposed to be deleted making the regulations shorter and easier to read.

Chapter 6200 rescission. Chapter 6200 is proposed to be rescinded. Chapter 6200 applies to non-HCBS supports, while Chapter 51 applies to HCBS supports; however, the provisions of the two chapters are unnecessarily different and require duplicative administrative systems. This proposed rulemaking includes the same updated room and board provisions for both HCBS and State-funds-only programs, providing application across the community system. The proposed rescission of regulations reduces the administrative burden for providers, the county programs and the Department.

Federal compliance. The Commonwealth must demonstrate full compliance with the Federal requirements in 42 CFR Part 441 by March 17, 2019. This proposed rulemaking addresses the key components of 42 CFR Part 441.

Reduction of licensing duplication. Four existing chapters of licensing regulations govern many of the same facilities that are also funded through the HCBS waivers, the Commonwealth's Title XIX State plan and State-funds-only allocations. To provide consistency among the HCBS provisions and the four licensing chapters, this proposed rulemaking includes revisions to the four licensing chapters to promulgate the same requirements for six major program and operational areas including staff training, rights, incident management, PSPs, positive interventions and medication administration. See the "Chapters 2380, 2390, 6400 and 6500—licensing regula-

tions" portion of this proposed rulemaking for a detailed description of the proposed amendments to these chapters.

Background check clarity. Changes are proposed to cast a wider net on the categories of persons who shall complete background checks. Household members, volunteers, life sharers and interns who provide a support and staff persons will require a criminal history check.

Staff training overhaul. Traditionally, the licensing regulations have dictated the specific training courses that each staff person shall complete upon initial hire and on an annual basis. This proposed rulemaking takes a new approach whereby only four core courses are required, with much of the training program designed by the provider based on the needs of the individuals.

As suggested by the external stakeholder regulation work group, latitude is provided for the provider to design its own training plan to meet its administrative needs for each staff position, while encompassing specifications of the individuals' PSP. Four core courses are required for all persons who provide HCBS: person-centeredness; rights; abuse prevention and reporting; and incident prevention and reporting. In sync with the community home licensing regulations, training in positive interventions is required if an individual served may have a dangerous behavior. Also consistent with licensing regulations, training in medications administration is required if the person will administer medications. The licensing regulations continue to require facility-based courses, such as fire safety, cardiopulmonary resuscitation and first aid.

The proposed number of 24 annual training hours matches the number of hours currently required in Chapters 2380, 2390, 6400 and 6500. Only 12 training hours are required annually for management and other nondirect support staff persons, 8 hours of which are required in the four key areas (person-centeredness, rights, abuse and incidents), as these are core value and protection areas that everyone who works for the provider, including maintenance and office workers, shall understand and embrace.

To provide truly integrated, person-centered and value-based supports, all members of the organization shall understand the core values and protection areas. This includes a maintenance worker, office worker or volunteer who may greet and interact with an individual, observe a reportable incident or have knowledge of an allegation of abuse.

Expansion of individual rights. This proposed rulemaking encompasses a broad array of individual rights. Several of the rights are Federal requirements. Most of the rights are already enumerated under Chapter 6400, which are applicable for community homes. These rights shall be protected equally for an individual who receives support in the individual's own home, a family home, through nonfacility based supports, as well as in facility-based programs.

Modification of the PSP. The individual support plan provisions have been streamlined to address the Federal requirements. "Individual support plan (ISP)" is proposed to be updated to "PSP" to align with the Federal language of "person-centered" plan. As requested by the external stakeholder regulation work group, clarification of the required documentation of support delivery for purposes of eligibility for Federal financial participation was also added.

Use of positive interventions. This proposed rulemaking proposes to propel this Commonwealth forward as a

leader of humane treatment of individuals with disabilities by prohibiting the use of chemical restraints, mechanical restraints, exclusion and many manual restraints. The use of a physical protective restraint is permitted by trained staff, in an emergency situation, to protect the life safety of the individual or others. A rights team shall review the use of a restraint and all rights violations. Several organizations, such as the Disability Rights Pennsylvania and The Arc, have encouraged and applauded the elimination of restraints.

Facility characteristics. A proposed section addresses the Federal requirements for facility size and community location to promote integration into the community. See 42 CFR Part 441. This proposed rulemaking sets a maximum program capacity size of 4 individuals for residential facilities and 15 individuals at any one time for day facilities, with the caveat that with the Department's approval, existing residential facilities may be able to retain their current size limit of 8.

In addition to the size restriction, facilities may not be located adjacent to or in close proximity to another day or residential human service facility, with an exception for existing programs, subject to the Department's approval.

Array of payment options. This proposed rulemaking allows an array of payment options including fee-based, cost-based, managed care and other methodologies. This array of payment options is intended to allow the continued research, design and implementation of payment mechanisms to address the evolving needs of individuals with intellectual disabilities and autism over the coming decade. The Department and some providers agree that the current system of cost-based reimbursement for residential habilitation is costly and inefficient. The Department agrees that providers, advocates and self-advocates should be included in discussions to transition from the cost-based system to a more viable payment system.

Refresh of the data used to establish fee schedule rates. This proposed rulemaking requires the refresh of data every 3 years. In addition, the Department will request public comment on the market-based factors prior to establishing new fee schedule rates.

Fee-schedule criteria expanded. The factors considered to establish fees through the market-based approach have been expanded including individual needs, a review of the HCBS service definitions as provided in the Federally-approved waivers and waiver amendments and the associated costs, as well as the fiscal impact of compliance with Federal and Commonwealth laws and regulations and local ordinances. The Department may also consider other criteria that impact costs, such as the cost of living in a particular geographic area, if the criteria significantly affects staffing costs.

Reduced requirement for reporting donations. In response to concerns from the external stakeholder regulation work group, and in particular nonprofit providers, this proposed rulemaking proposes to eliminate the reporting of an unrestricted donation that is not used for an allowable HCBS cost, a restricted donation used for a purpose other than an HCBS and for a noncash donation of \$1,000 or less.

Chapters 2380, 2390, 6400 and 6500—Licensing regulations

The Department proposes to amend Chapters 2380, 2390, 6400 and 6500 to mirror proposed Chapter 6100 in the areas of training, rights, person-centered support planning, incident reporting, positive intervention and medication administration. This proposed rulemaking significantly reduces duplication and conflict across proposed

Chapter 6100 and the four chapters of licensing regulations. The proposal to reduce regulatory duplication by amending five chapters of regulations at the same time is precedent setting, requiring the cooperation and coordination of multiple Departmental program offices and functions. The Department supports the reduction of recordkeeping for providers, county programs and the Department. These reductions include: reduced compliance paperwork; reduced time spent on compliance monitoring by the designated managing entities and the Department; lessened compliance management functions required at the provider level; and the opportunity for reduced oversight, without reduced protections for the individuals.

Chapter 2380. Adult training facilities

Staff training. Chapter 2380 requires 24 hours of annual training for the chief executive officer (CEO), full-time program specialists and direct support staff persons in the areas of human services, fire safety, first aid, Heimlich and cardiopulmonary resuscitation. This proposed rulemaking requires 24 hours of training for full-time and part-time direct support staff, but only 12 hours of training for management and other nondirect support staff, including the CEO. This proposed rulemaking reduces the number of annual training hours from 24 hours to 12 hours for the CEO. The proposed training sections are consistent with proposed Chapter 6100, making it administratively less complex to manage a comprehensive staff development program and easier to transfer staff persons from one program to another within a large, multifunction provider agency.

Rights. The proposed adult training facilities regulation includes a more robust section on individual rights based on more current lists of rights in other licensing regulations. The proposed sections on individual rights are consistent with proposed Chapter 6100, making it easier to approach training on rights from a systemic perspective, manage regulatory compliance across a multiservice agency and assure the continuity of supports for the individual.

PSP. This proposed rulemaking simplifies the PSP process, addresses the Federal requirements and most importantly matches the PSP requirements across the entire support system for the individual. Without the proposed amendments, the multiple chapters of regulations could: 1) require two support plans with two sets of procedures and content areas; 2) cause confusion as to which plan applies; 3) result in the poor coordination of supports for the individual; or 4) create management oversight challenges for the provider.

Incident reporting. The requirements in Chapter 2380 to file a separate death report, create incident policies and maintain incident records for seizures, noninpatient hospitalization or emergency room visits are proposed to be deleted. Reporting timelines, however, remain unchanged. The types of incidents to be reported and the timelines for reporting are streamlined and in sync across the intellectual disability and autism programs. Further, the incident investigation procedure and reporting requirements codify current incident management practices.

Positive intervention. This proposed rulemaking creates a system-wide approach to behavior management to avoid the conflict of applying differing methods of behavior management across varied service locations, treats individuals with dignity and respect, and uses positive interventions as a means to affect behavior.

The broad definition of a "restrictive procedure," the requirement to create restrictive procedure policies and

the design of a detailed and free-standing restrictive procedure plan are reduced. Certain types of restraints such as chemical restraints, mechanical restraints, exclusion and many manual restraints are proposed to be no longer permitted. This proposed rulemaking creates a seamless and uniform system of positive interventions, restraint prohibitions and emergency protective restraint procedures. This proposed rulemaking incorporates positive intervention planning into the PSP process as opposed to developing a separate behavior plan.

Medication administration. The section on medications clarifies the special training required for the administration of epinephrine for allergies, as well as for the administration of insulin injections.

Chapter 2390. Vocational facilities

Staff training. Chapter 2390 requires 24 hours of annual training for the CEO, the program specialist, the production manager and floor supervisors (direct support workers) in the areas of human services, vocational services, fire safety, first aid, Heimlich and cardiopulmonary resuscitation. This proposed rulemaking requires 24 hours of training for direct support staff including program specialist, the production manager and the floor supervisors, but only 12 hours of annual training for management and other nondirect support staff. This proposed rulemaking reduces the number of annual training hours from 24 hours to 12 hours for the CEO. The proposed sections on training are consistent with proposed Chapter 6100, making it administratively less complex to manage a comprehensive staff development program and easier to transfer staff from one program to another within a large, multifunction provider agency.

Rights. Proposed amendments to the vocational facilities regulation include the addition of a more robust section on individual rights. The proposed sections on individual rights are consistent with proposed Chapter 6100, making it easier to manage regulatory compliance across a multiservice agency and to assure continuity of supports for the individual.

PSP. This proposed rulemaking simplifies the PSP process, addresses the Federal requirements and most importantly matches the PSP requirement across the entire support system for the individual. Without the proposed amendments, the multiple chapters of regulations could: 1) require two support plans with two sets of procedures and content areas; 2) cause confusion as to which plan applies; 3) result in poor coordination of supports for the individual; or 4) create management oversight challenges for the provider.

Incident reporting. This proposed rulemaking clarifies the types of reportable incidents to coincide with the requirements in other licensing regulations, such as Chapters 2380 and 6400. Reporting timelines, however, remain unchanged. The types of incidents to be reported and the timelines for reporting are streamlined and in sync across the intellectual disability and autism programs. Further, the incident investigation procedures and reporting requirements codify current incident management practices.

Positive intervention. Neither positive intervention nor the prohibition of restraints are currently addressed in Chapter 2390. This proposed rulemaking creates a system-wide approach to behavior management that avoids conflict of applying differing methods of behavior management across varied service locations, treats individuals with dignity and respect, and uses positive interventions as a means to affect behavior. This proposed rulemaking aligns the positive intervention requirements

uniformly across all intellectual disability and autism programs. This proposed rulemaking creates a seamless and uniform system of positive intervention, restraint prohibitions and emergency protective hold procedures.

Medications administration. A proposed section on medication administration is added to permit trained, nonmedically licensed staff persons to administer prescription medications, epinephrine injections for allergies and insulin injections.

Chapter 6400. Community homes for individuals with an intellectual disability or autism

Scope. This proposed rulemaking expands the scope of Chapter 6400 to include individuals with autism. This proposed rulemaking codifies existing practice whereby community homes that support individuals with autism are inspected and licensed under the same licensing regulations that govern homes serving individuals with intellectual disabilities.

Staff training. Chapter 6400 requires 24 hours of annual training for the CEO, full-time program specialists and direct support staff persons in the areas of human services, fire safety, first aid, Heimlich and cardiopulmonary resuscitation. This proposed rulemaking requires 24 hours of training for both full-time and part-time direct support staff, but only 12 hours of training for management and other nondirect support staff, including the CEO. This proposed rulemaking reduces the number of mandated training hours from 24 hours to 12 hours annually for the CEO. The proposed sections on training are consistent with proposed Chapter 6100, making it administratively less complex to manage the staff development program and easier to transfer staff from one program to another within a large, multifunction provider agency.

Rights. Chapter 6400 addresses specific residential care rights such as privacy, communication, participation in planning and abuse protection. The proposed sections on individual rights are clarified and consistent with proposed Chapter 6100, making it easier to manage regulatory compliance across a multiservice agency and to assure continuity of supports for the individual.

PSP. This proposed rulemaking simplifies the PSP process, addresses the Federal requirements and most importantly matches the PSP requirement across the entire support system for the individual. Without the proposed amendments, the multiple chapters of regulations could: 1) require two support plans with two sets of procedures and content areas; 2) cause confusion as to which plan applies; 3) result in the poor coordination of supports for the individual; or 4) create management oversight challenges for the provider.

Incident reporting. The requirements in Chapter 6400 to file a separate death report, create incident policies and maintain incident records for seizures, noninpatient hospitalization or emergency room visits are proposed to be deleted. Reporting timelines, however, remain unchanged. The types of incidents to be reported and the timelines for reporting are streamlined and consistent across the intellectual disability and autism program. The incident investigation procedures and reporting requirements codify current incident management practices.

Positive intervention. This proposed rulemaking creates a system-wide approach to behavior management that avoids conflict of applying differing methods of behavior management across varied service locations, treats individuals with dignity and respect, and uses positive interventions as a means to affect behavior. The broad definition of a "restrictive procedure," the requirement to create

written restrictive procedure policies and the design of a detailed and free-standing restrictive procedure plan are reduced. Certain types of restraints such as chemical restraints, mechanical restraints, exclusion and many manual restraints are proposed to be no longer permitted. This proposed rulemaking creates a seamless and uniform system of positive interventions, restraint prohibitions and emergency protective hold procedures. This proposed rulemaking incorporates positive intervention planning into the PSP process as opposed to developing a separate behavior plan.

Medication administration. The section on medications clarifies the special training required for the administration of epinephrine for allergies.

Chapter 6500. Life sharing homes

Scope. This proposed rulemaking expands the scope of Chapter 6500 to include individuals with autism. This proposed rulemaking codifies existing practice whereby family living homes that support individuals with autism are inspected and licensed under the same licensing regulations that govern homes serving individuals with intellectual disabilities.

Terminology. “Family living” is proposed to be changed to “life sharing” to reflect the current terms used to describe the living arrangement.

Staff training. Chapter 6500 requires 24 hours of annual training for the primary caregiver and full-time life sharing specialists in the areas of human services, fire safety, first aid, Heimlich and cardiopulmonary resuscitation. This proposed rulemaking requires 24 hours of training for the primary caregiver and life sharing specialists, with 8 hours of those hours in the areas of person-centeredness, abuse prevention and reporting, incident reporting and positive interventions if the individual served has a dangerous behavior. Training in fire safety and first aid, Heimlich and cardiopulmonary resuscitation continue to be required as part of the 24 hours. The proposed sections on training are consistent with proposed Chapter 6100, making it administratively less complex to manage a comprehensive staff development program and easier to transfer staff from one program to another within a large, multifunction provider agency.

Rights. Chapter 6500 addresses civil rights, as well as specific residential care rights such as privacy, communication, participation in planning and abuse protection. The proposed sections on individual rights are clarified and consistent with proposed Chapter 6100, making it easier to manage regulatory compliance across a multiservice agency and to assure continuity of supports for the individual.

PSP. This proposed rulemaking simplifies the PSP process, addresses the Federal requirements and most importantly matches the PSP requirement across the entire support system for the individual. Without the proposed amendments, the multiple chapters of regulations could: 1) require two support plans with two sets of procedures and content areas; 2) cause confusion as to which plan applied under what circumstances; 3) result in the poor coordination of supports for the individual; or 4) create unmanageable management oversight challenges for the provider.

Incident reporting. The requirements in Chapter 6500 to file a separate death report and maintain incident records for seizures, noninpatient hospitalization or emergency room visits are proposed to be deleted. Reporting timelines, however, remain unchanged. The types of incidents to be reported and the timelines for reporting are streamlined and consistent across the intellectual

disability service system. The incident investigation procedures and reporting requirements codify current incident management practices.

Positive intervention. This proposed rulemaking creates a system-wide approach to behavior management that avoids conflict of applying differing methods of dangerous behavior management across varied service locations, treats individuals with dignity and respect, and uses positive interventions as a means to affect behavior. The broad definition of a “restrictive procedure,” the requirement to create written restrictive procedure policies and the design of a detailed and free-standing restrictive procedure plan are proposed to be deleted. Certain types of restraints such as chemical restraints, mechanical restraints, exclusion and many manual restraints are proposed to be no longer permitted. This proposed rulemaking creates a seamless and uniform system of positive interventions, restraint prohibitions and emergency protective hold procedures. This proposed rulemaking incorporates positive intervention planning into the PSP process as opposed to developing a separate behavior plan.

Medications administration. The section on medications clarifies the special training required for the administration of epinephrine for allergies. Life sharing caregivers who administer medications would be required to take and pass the Department’s medication administration training course, as opposed to receiving training from the individual’s health care practitioner. The Department’s medication administration training course is well-developed and has been refined continually since its inception in 1982, making it effective, meaningful and accessible for life sharing caregivers.

Affected Individuals and Organizations

Proposed Chapter 6100 applies to a broad scope of programs receiving Commonwealth and Federal funds. This proposed rulemaking applies to approximately 944 HCBS and base-funded providers providing support to more than 50,000 individuals with an intellectual disability or autism.

The proposed amendments to Chapters 2380, 2390, 6400 and 6500 apply to approximately 4,900 community homes serving 15,000 individuals, 1,700 family living homes serving 2,200 individuals, 370 adult training facilities serving 13,900 individuals and 170 vocational facilities serving 11,400 individuals.

The Department supports and is committed to managing an active and open community participating process throughout the development of this proposed rulemaking. The public process included the following.

From February through August 2015, the Department held 9 days of external stakeholder regulation work group meetings with a diverse group of stakeholders. A total of 43 persons were selected to represent the broad range of interests, experiences and ideas including self-advocates, advocates, county programs, providers, universities and provider organizations. The purpose of the work group was for the Department to listen to the concerns and suggestions from interested parties and to cultivate constructive dialogue and promote an understanding of the views of others.

Each of the major sections of the draft rulemaking were reviewed and discussed by the work group on three occasions: first, a review of any requested changes to Chapter 51; second, a review and comment on the Department’s draft regulatory language; and third, a comprehensive review of each section of the draft rulemaking. Work group notes and a revised draft rulemaking were shared with the work group immediately following

each meeting. The work group was encouraged to comment at the meetings and to submit written comments following each meeting. Many work group members shared the draft proposed rulemaking with other interested parties outside the work group. Nonwork group members were encouraged to attend the regulation meetings as observers and submit written comments. More than 80 written public comments were received and carefully reviewed and considered in drafting this proposed rulemaking. Numerous edits were made to the draft rulemaking from February through September 2015 in response to public comment.

The Department commends and greatly appreciates the expertise, time and attention contributed by the work group, as well as the productive and forward-thinking comments provided by the work group and others who contributed written comments.

In addition to the regulation work group meetings, 22 meetings with Statewide and regional advocacy, provider and county organizations, and representatives were held to discuss specific areas of this proposed rulemaking. These discussions focused on the constituent issues that are important to particular affected parties. The Department appreciates the constructive and helpful advice and suggestions provided during these meetings.

At the request of the work group, the Secretary of the Department of Human Services convened a fiscal sub-work group to review and consider the future payment system direction of the Commonwealth's HCBS program. In December 2015, the sub-work group presented its report to the Secretary of Human Services. While the formal recommendations of the sub-work group did not require regulatory amendments, several regulation edits were made in response to comments from the sub-work group.

The Department will reconvene the external stakeholder regulation work group following publication of this proposed rulemaking to review and consider edits to this proposed rulemaking based on the analysis of the formal public comments received.

Accomplishments and Benefits

This proposed rulemaking supports individuals with an intellectual disability or autism to achieve greater independence, choice and opportunity in their lives. This proposed rulemaking strengthens community supports by promoting equity, innovation, person-centered approaches and community participation.

Benefits for self-advocates, families and advocates include strengthened individual rights, assistance to locate and sustain employment, strict discharge conditions and procedures, minimum notice required for transition to a new provider, prohibition of restraints except for an emergency protective physical hold, a rights team to review potential rights violations, improved protections for individuals with autism and medication administration by trained, nonmedically licensed persons.

Benefits for providers include the reduced administrative burden by coordinating multiple chapters of Departmental regulations, the inclusion of autism programs in the core standards to alleviate the administrative burden of managing dual processes, the ability to submit innovation projects, a flexible staff training plan designed by the provider, the reduction in the conflict of interest requirements, clarification of the documentation required to support a claim, flexible payment options to support potential changes to the payment methodologies, more frequent updates of the market-based data for fee-based rates and the reduction of the donation reporting requirements.

Benefits for county intellectual disability programs include clarity of roles for the support coordinators and targeted support managers, deletion of conflicting PSP time frames between the Federal waivers and the multiple chapters of regulations, acknowledgement of county human rights committees and the regulation of services funded exclusively by grants to counties. These proposed amendments provide consistent program requirements on a Statewide basis to support the ease of county-to-county transitions, as well as transitions from services and supports funded through State-funds-only allocations to HCBS Federal funding.

Additional benefits include compliance with the Federal requirements to support continued Federal HCBS funding, the reduced volume of regulations with improved coordination efforts across multiple chapters of regulations providing an opportunity for streamlined compliance monitoring, consistent program requirements for the individuals across multiple funding sources, aligning intellectual disability and autism standards to the benefit of both programs and establishing a baseline of core values across multiple programs.

Fiscal Impact

The provider's regulatory compliance management and associated self-monitoring costs will be reduced. By simplifying and shortening the length of the regulations, and by coordinating the program and operational requirements across multiple chapters of licensing regulations as well as across multiple funding streams, the complexity of regulatory compliance management is significantly simplified. The cost impact for a provider will vary based on the pay scale and number of management positions devoted to regulatory compliance.

Some new costs may be associated with this proposed rulemaking regarding background checks and staff training since a wider net has been cast as to who shall submit a background check and receive training in areas such as rights, abuse and incidents. Under this proposed rulemaking, all persons who provide supports should submit a background check to identify any history of abuse, assault, theft or other crimes that may impact the well-being of an individual. This provision is supported by many self-advocates and advocates. In addition, it is critical that persons who provide reimbursed supports have the minimum training necessary to identify and know what to do if they observe abuse, an incident or a violation of rights. This includes a volunteer, a student and a consultant who provides supports and will be alone with an individual. This does not include the individual's friends or family who do not provide a reimbursed support.

The fee for the completion of a Pennsylvania State Police background check is \$8. The fee for the completion of a child abuse history certification is \$8. The cost for the completion of a background check and a child abuse history certification may be absorbed by the job applicant or by the employer. The overall cost impact relating to background checks and training will vary, as some providers already require background checks on all persons and some provide training for a broader scope than is currently required by regulation, thus negating or minimizing a cost impact.

The Department convened a fiscal sub-work group of the external stakeholder regulation work group to study alternatives to the current fee-based and cost-based payment systems. This sub-work group met for multiple months through 2015, and continues to meet to research and recommend long-term payment system initiatives and solutions. This proposed rulemaking provides an

array of payment mechanisms including fee-based, cost-based, managed care and other rate-setting methodologies so that payment alternatives may be further examined. This full array of payment options is proposed to allow the Department, in consultation with stakeholders, to continue to research, design and implement payment mechanisms to address the evolving needs of individuals with intellectual disabilities and autism over the coming decade. The fiscal impact of a change to the Department's payment system cannot be estimated until new payment options are determined, an effective date is established and updated budget figures are available.

Paperwork Requirements

Increased paperwork will result from the expansion of the scope of the persons for which background checks and training is required.

Decreased paperwork for the provider will result in the reduction of the provider's regulatory compliance efforts as a result of the coordination of multiple chapters of regulations and the reduction in the number of regulations. An opportunity is provided for the Department and the county programs to better coordinate and reduce duplicative monitoring efforts between licensing and waiver compliance management; this monitoring reduction will reduce paperwork for the provider, the county program and the Department.

Decreased provider paperwork will result from the elimination of duplicate and conflicting incident reporting requirements for licensing and waiver compliance. Also eliminated is the provider paperwork required by licensing regulations to maintain a record of incidences that are not reportable, such as minor illnesses. While many providers will choose to retain this documentation as best practice, the Department will no longer review this documentation for regulatory compliance.

The PSP is simplified and the process is streamlined, thus reducing paperwork. One comprehensive and coordinated PSP is required across all programs and funding streams. This will reduce the paperwork for the provider, the county program and the Department.

Decreased provider paperwork will result from the reduction in the conflict of interest and the donation reporting requirements.

Effective Date

This proposed rulemaking will be effective upon final form publication in the *Pennsylvania Bulletin*. The Department, however, will consider establishing varied effective dates for certain regulations to coincide with a Commonwealth fiscal year.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Julie Mochon, Human Service Program Specialist Supervisor, Office of Developmental Programs, Room 502, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120, jmochon@pa.gov within 45 calendar days after the date of publication of this proposed rulemaking. Reference Regulation No. 14-540 when submitting comments.

Persons with a disability who require an auxiliary aid or service may submit comments by using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 25, 2016, the Department

submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Human Services and the Senate Committee on Public Health and Welfare. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review prior to final publication of the rulemaking by the Department, the General Assembly and the Governor.

THEODORE DALLAS,
Secretary

Fiscal Note: 14-540. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 55. HUMAN SERVICES

PART I. DEPARTMENT OF HUMAN SERVICES

Subpart E. HOME AND COMMUNITY-BASED SERVICES

CHAPTER 51. [OFFICE OF DEVELOPMENTAL PROGRAMS HOME AND COMMUNITY-BASED SERVICES] (Reserved)

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to rescind Chapter 51 which appears in 55 Pa. Code pages 51-1—51-66, serial pages (381205), (381206), (375509), (375510), (361273), (361274), (365585), (365586), (361277)—(361280), (365587), (365588), (361283), (361284), (365589), (365590), (361287)—(361292), (365591), (365592), (361295)—(361312), (365593), (365594), (361315)—(361322), (365595), (365596) and (361325)—(361334).)

§§ 51.1—51.4. (Reserved).

§§ 51.11—51.17. (Reserved).

§ 51.17a. (Reserved).

§§ 51.18—51.34. (Reserved).

§§ 51.41—51.48. (Reserved).

§§ 51.51—51.53. (Reserved).

§ 51.61. (Reserved).

§ 51.62. (Reserved).

§§ 51.71—51.75. (Reserved).

§§ 51.81—51.103. (Reserved).

§ 51.111. (Reserved).

§§ 51.121—51.128. (Reserved).

§ 51.131. (Reserved).

§ 51.141. (Reserved).

§§ 51.151—51.157. (Reserved).

PART IV. ADULT SERVICES MANUAL

Subpart D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICES

CHAPTER 2380. ADULT TRAINING FACILITIES GENERAL PROVISIONS

§ 2380.3. Definitions.

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

Adult—A person 18 years of age or older.

Adult training facility or facility—A building or portion of a building in which services are provided to four or more individuals, who are 59 years of age or younger and who do not have a dementia-related disease as a primary diagnosis, for part of a 24-hour day, excluding care provided by relatives. Services include the provision of functional activities, assistance in meeting personal needs and assistance in performing basic daily activities.

[**Content discrepancy**—A difference between what was determined at the ISP meeting by the plan team and what is documented in the written ISP.]

Department—The Department of Human Services of the Commonwealth.

Direct service worker—A person whose primary job function is to provide services to an individual who attends the provider's facility.

[**Documentation**—Written statements that accurately record details, substantiate a claim or provide evidence of an event.]

Fire safety expert—A local fire department, fire protection engineer, State certified fire protection instructor, college instructor in fire science, county or State fire school, volunteer fire person trained by a county or State fire school or an insurance company loss control representative.

[**ISP—Individual Support Plan**—The comprehensive document that identifies services and expected outcomes for an individual.]

Individual—An adult with disabilities who receives care in an adult training facility and who has developmental needs that require assistance to meet personal needs and to perform basic daily activities. Examples of adults with disabilities include adults who exhibit one or more of the following:

- (i) A physical disability such as blindness, visual impairment, deafness, hearing impairment, speech or language impairment, or a physical handicap.
- (ii) A mental illness.
- (iii) A neurological disability such as cerebral palsy, autism or epilepsy.
- (iv) An intellectual disability.
- (v) A traumatic brain injury.

[**Outcomes**—Goals the individual and individual's plan team choose for the individual to acquire, maintain or improve.

Plan lead—The program specialist or family living specialist, as applicable, when the individual is not receiving services through an SCO.

Plan team—The group that develops the ISP.]

PSP—Person-centered support plan.

Provider—An entity or person that enters into an agreement with the Department to deliver a service to an individual.

Restraint—A physical, chemical or mechanical intervention used to control acute, episodic behavior that restricts the movement or function of the individual or a portion of the individual's body, including an intervention approved as part of the PSP or used on an emergency basis.

SC—Supports coordinator—An SCO employee whose primary job functions are to locate, coordinate and monitor services provided to an individual when the individual is receiving services from an SCO.

SCO—Supports coordination organization—A provider that delivers the services of locating, coordinating and monitoring services provided to an individual.

Services—Actions or assistance provided to the individual to support the achievement of an outcome.

GENERAL REQUIREMENTS

§ 2380.17. [**Reporting of unusual incidents.**] Incident report and investigation.

[(a) An unusual incident is:

- (1) Abuse or suspected abuse of an individual.
 - (2) Injury, trauma or illness requiring inpatient hospitalization, that occurs while the individual is at the facility or under the supervision of the facility.
 - (3) A suicide attempt by an individual.
 - (4) A violation or alleged violation of an individual's rights.
 - (5) An individual whose absence is unaccounted for, and is therefore presumed to be at risk.
 - (6) The misuse or alleged misuse of an individual's funds or property.
 - (7) An outbreak of a serious communicable disease, as defined in 28 Pa. Code § 27.2 (relating to specific identified reportable diseases, infections and conditions) to the extent that confidentiality laws permit reporting.
 - (8) An incident requiring the services of a fire department or law enforcement agency.
 - (9) A condition, except for snow or ice conditions, that results in closure of the facility for more than 1 scheduled day of operation.
- (b) Written policies and procedures on the prevention, reporting, investigation and management of unusual incidents shall be developed and kept at the facility.
- (c) The facility shall orally notify, within 24 hours after abuse or suspected abuse of an individual or an incident requiring the services of a fire department or law enforcement agency occurs:

(1) The county mental health and intellectual disability program of the county in which the facility is located if the individual involved in the unusual incident has mental illness or an intellectual disability.

(2) The funding agency.

(3) The appropriate regional office of the Department.

(d) The facility shall initiate an investigation of the unusual incident and complete and send copies of an unusual incident report on a form specified by the Department, within 72 hours after an unusual incident occurs, to:

(1) The county mental health and intellectual disability program of the county in which the facility is located if the individual involved in the unusual incident has mental illness or an intellectual disability.

- (2) The funding agency.
- (3) The appropriate regional office of the Department.

(e) At the conclusion of the investigation the facility shall send a copy of the final unusual incident report to:

(1) The county mental health and intellectual disability program of the county in which the facility is located if the individual involved in the unusual incident has mental illness or an intellectual disability.

(2) The funding agency.

(3) The appropriate regional office of the Department.

(f) A copy of unusual incident reports relating to an individual shall be kept in the individual's record.

(g) A copy of unusual incident reports relating to the facility itself, such as those requiring the services of a fire department, shall be kept.

(h) The individual's family, if appropriate, and the residential services provider, if applicable, shall be immediately notified in the event of an unusual incident relating to the individual.]

(a) The facility shall report the following incidents, alleged incidents and suspected incidents in the Department's information management system or on a form specified by the Department within 24 hours of discovery by a staff person:

- (1) Death.
- (2) Suicide attempt.
- (3) Inpatient admission to a hospital.
- (4) Visit to an emergency room.
- (5) Abuse.
- (6) Neglect.
- (7) Exploitation.
- (8) An individual who is missing for more than 24 hours or who could be in jeopardy if missing at all.
- (9) Law enforcement activity.
- (10) Injury requiring treatment beyond first aid.
- (11) Fire requiring the services of the fire department.
- (12) Emergency closure.
- (13) Use of a restraint.
- (14) Theft or misuse of individual funds.
- (15) A violation of individual rights.

(b) The individual and the persons designated by the individual shall be notified immediately upon discovery of an incident relating to the individual.

(c) The facility shall keep documentation of the notification in subsection (b).

(d) The incident report, redacted to exclude information about another individual and the reporter, unless the reporter is the individual who receives the report, shall be available to the individual and persons designated by the individual, upon request.

(e) The facility shall take immediate action to protect the health, safety and well-being of the individual following the initial knowledge or notice of an incident, alleged incident and suspected incident.

(f) The facility shall initiate an investigation of an incident within 24 hours of discovery by a staff person.

(g) A Department-certified incident investigator shall conduct the incident investigation of the incident listed in subsection (a).

(h) The facility shall finalize the incident report in the Department's information management system or on a form specified by the Department within 30 days of discovery of the incident by a staff person.

(i) The facility shall provide the following information to the Department as part of the final incident report:

- (1) Additional detail about the incident.
- (2) The results of the incident investigation.
- (3) A description of the corrective action taken in response to an incident.
- (4) Action taken to protect the health, safety and well-being of the individual.
- (5) The person responsible for implementing the corrective action.
- (6) The date the corrective action was implemented or is to be implemented.

§ 2380.18. [Reporting of deaths.] Incident procedures to protect the individual.

[(a) The facility shall complete and send copies of a death report on a form specified by the Department, within 24 hours after a death of an individual that occurs at the facility or while under the supervision of the facility, to:

(1) The county mental health and intellectual disability program of the county in which the facility is located if the individual had mental illness or an intellectual disability.

(2) The funding agency.

(3) The regional office of the Department.

(b) The facility shall investigate and orally notify, within 24 hours after an unusual or unexpected death occurs:

(1) The county mental health and intellectual disability program of the county in which the facility is located if the individual had mental illness or an intellectual disability.

(2) The funding agency.

(3) The regional office of the Department.

(c) A copy of death reports shall be kept in the individual's record.

(d) The individual's family, and the residential service provider, if applicable, shall be immediately notified in the event of a death of an individual.]

(a) In investigating an incident, the facility shall review and consider the following needs of the affected individual:

- (1) Potential risks.
- (2) Health care information.
- (3) Medication history and current medication.
- (4) Behavioral health history.
- (5) Incident history.
- (6) Social needs.
- (7) Environmental needs.
- (8) Personal safety.

(b) The facility shall monitor an individual's risk for recurring incidents and implement corrective action, as appropriate.

(c) The facility shall work cooperatively with the PSP team to revise the PSP if indicated by the incident investigation.

§ 2380.19. [Record of incidents.] Incident analysis.

[The facility shall maintain a record of an individual's illnesses, traumas and injuries requiring medical treatment but not inpatient hospitalization, and seizures that occur at the facility or while under the supervision of the facility.]

(a) The facility shall complete the following for each confirmed incident:

(1) Analysis to determine the root cause of the incident.

(2) Corrective action.

(3) A strategy to address the potential risks to the affected individual.

(b) The facility shall review and analyze incidents and conduct a trend analysis at least every 3 months.

(c) The facility shall identify and implement preventive measures to reduce:

(1) The number of incidents.

(2) The severity of the risks associated with the incident.

(3) The likelihood of an incident recurring.

(d) The facility shall educate staff persons and the individual based on the circumstances of the incident.

(e) The facility shall analyze incident data continuously and take actions to mitigate and manage risks.

§ 2380.21. [Civil] Individual rights.

[(a) An individual may not be discriminated against because of race, color, religious creed, disability, handicap, ancestry, national origin, age or sex.

(b) The facility shall develop and implement civil rights policies and procedures. Civil rights policies and procedures shall include the following:

(1) Nondiscrimination in the provision of services, admissions, placements, facility usage, referrals and communications with individuals who are nonverbal or non-English speaking.

(2) Physical accessibility and accommodation for individuals with physical disabilities.

(3) The opportunity to lodge civil rights complaints.

(4) Informing individuals on their right to register civil rights complaints.]

(a) An individual may not be deprived of rights as provided under subsections (b)—(s).

(b) An individual shall be continually supported to exercise the individual's rights.

(c) An individual shall be provided the support and accommodation necessary to be able to understand and actively exercise the individual's rights.

(d) An individual may not be reprimanded, punished or retaliated against for exercising the individual's rights.

(e) A court's written order that restricts an individual's rights shall be followed.

(f) A court-appointed legal guardian may exercise rights and make decisions on behalf of an individual in accordance with a court order.

(g) An individual who has a court-appointed legal guardian, or who has a court order restricting the individual's rights, shall be involved in decision making in accordance with the court order.

(h) An individual has the right to designate persons to assist in decision making on behalf of the individual.

(i) An individual may not be discriminated against because of race, color, creed, disability, religious affiliation, ancestry, gender, gender identity, sexual orientation, national origin or age.

(j) An individual has the right to civil and legal rights afforded by law, including the right to vote, speak freely, and practice the religion of his choice or to practice no religion.

(k) An individual may not be abused, neglected, mistreated, exploited, abandoned or subjected to corporal punishment.

(l) An individual shall be treated with dignity and respect.

(m) An individual has the right to make choices and accept risks.

(n) An individual has the right to refuse to participate in activities and supports.

(o) An individual has the right to privacy of person and possessions.

(p) An individual has the right of access to and security of the individual's possessions.

(q) An individual has the right to voice concerns about the supports the individual receives.

(r) An individual has the right to participate in the development and implementation of the PSP.

(s) An individual's rights shall be exercised so that another individual's rights are not violated.

(t) Choices shall be negotiated by the affected individuals in accordance with the facility's procedures for the individuals to resolve differences and make choices.

(u) The facility shall inform and explain individual rights to the individual, and persons designated by the individual, upon admission to the facility and annually thereafter.

(v) The facility shall keep a copy of the statement signed by the individual or the individual's court-appointed legal guardian, acknowledging receipt of the information on individual rights.

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 2380.26. Applicable laws and regulations.

The facility shall comply with applicable Federal, State and local laws, regulations and ordinances.

STAFFING

§ 2380.33. Program specialist.

(a) At least [one] 1 program specialist shall be assigned for every 30 individuals, regardless of whether they meet the definition of individual in § 2380.3 (relating to definitions).

(b) The program specialist shall be responsible for the following:

- [(1) Coordinating and completing assessments.
- (2) Providing the assessment as required under § 2380.181(f) (relating to assessment).
- (3) Participating in the development of the ISP, including annual updates and revisions of the ISP.
- (4) Attending the ISP meetings.
- (5) Fulfilling the role of plan lead, as applicable, under §§ 2380.182 and 2380.186(f) and (g) (relating to development, annual update and revision of the ISP; and ISP review and revision).
- (6) Reviewing the ISP, annual updates and revisions under § 2380.186 for content accuracy.
- (7) Reporting content discrepancy to the SC or plan lead, as applicable, and plan team members.
- (8) Implementing the ISP as written.
- (9) Supervising, monitoring and evaluating services provided to the individual.
- (10) Reviewing, signing and dating the monthly documentation of an individual's participation and progress toward outcomes.
- (11) Reporting a change related to the individual's needs to the SC or plan lead, as applicable, and plan team members.
- (12) Reviewing the ISP with the individual as required under § 2380.186.
- (13) Documenting the review of the ISP as required under § 2380.186.
- (14) Providing the documentation of the ISP review to the SC or plan lead, as applicable, and plan team members as required under § 2380.186(d).
- (15) Informing plan team members of the option to decline the ISP Review documentation as required under § 2380.186(e).
- (16) Recommending a revision to a service or outcome in the ISP as provided under § 2380.186(c)(4).
- (17) Coordinating the services provided to an individual.

(18) Coordinating the training of direct service workers in the content of health and safety needs relevant to each individual.

(19) Developing and implementing provider services as required under § 2380.188 (relating to provider services).]

(1) Coordinating the completion of assessments.

(2) Participating in the PSP process, PSP development, PSP team reviews and the implementation of the PSP in accordance with this chapter.

(3) Providing and supervising activities for the individuals in accordance with the PSPs.

(4) Supporting the integration of individuals in the community.

(5) Supporting individual communication and involvement with families and friends.

(c) A program specialist shall have one of the following groups of qualifications:

(1) A master's degree or above from an accredited college or university and 1 year of work experience working directly with persons with disabilities.

(2) A bachelor's degree from an accredited college or university and 2 years of work experience working directly with persons with disabilities.

(3) An associate's degree or 60 credit hours from an accredited college or university and 4 years of work experience working directly with persons with disabilities.

§ 2380.35. Staffing.

(a) A minimum of one direct service worker for every six individuals shall be physically present with the individuals at all times individuals are present at the facility, except while staff persons are attending meetings or training at the facility.

(b) While staff persons are attending meetings or training at the facility, a minimum of one staff person for every ten individuals shall be physically present with the individuals at all times individuals are present at the facility.

(c) A minimum of two staff persons shall be present with the individuals at all times.

(d) An individual may be left unsupervised for specified periods of time if the absence of direct supervision is consistent with the individual's assessment and is part of the individual's [ISP] PSP, as an outcome which requires the achievement of a higher level of independence.

(e) The staff qualifications and staff ratio as specified in the [ISP] PSP shall be implemented as written, including when the staff ratio is greater than required under subsections (a), (b) and (c).

(f) An individual may not be left unsupervised solely for the convenience of the facility or the direct service worker.

§ 2380.36. [Staff] Emergency training.

[(a) The facility shall provide orientation for staff persons relevant to their responsibilities, the daily operation of the facility and policies and procedures of the facility before working with individuals or in their appointed positions.

(b) The chief executive officer shall have at least 24 hours of training relevant to human services or administration annually.

(c) Program specialists and direct service workers who are employed for more than 40 hours per

month shall have at least 24 hours of training relevant to human services annually.

(d) Program specialists and direct service workers shall have training in the areas of services for people with disabilities and program planning and implementation, within 30 calendar days after the day of initial employment or within 12 months prior to initial employment.

(e) (a) Program specialists and direct service workers shall be trained before working with individuals in general firesafety, evacuation procedures, responsibilities during fire drills, the designated meeting place outside the building or within the fire safe area in the event of an actual fire, smoking safety procedures if individuals or staff persons smoke at the facility, the use of fire extinguishers, smoke detectors and fire alarms, and notification of the local fire department as soon as possible after a fire is discovered.

(f) (b) Program specialists and direct service workers shall be trained annually by a firesafety expert in the training areas specified in subsection (f) (a).

(g) (c) There shall be at least [one] 1 staff person for every 18 individuals, with a minimum of [two] 2 staff persons present at the facility at all times who have been trained by an individual certified as a trainer by a hospital or other recognized health care organization, in first aid, Heimlich techniques and cardio-pulmonary resuscitation within the past year. If a staff person has formal certification from a hospital or other recognized health care organization that is valid for more than 1 year, the training is acceptable for the length of time on the certification.

(h) Records of orientation and training, including the training source, content, dates, length of training, copies of certificates received and staff persons attending, shall be kept.]

(Editor's Note: Sections 2380.37—2380.39 are new and printed in regular type to enhance readability.)

§ 2380.37. Annual training plan.

(a) The facility shall design an annual training plan based on the needs of the individuals as specified in the individuals' PSPs, other data and analysis indicating staff person training needs and as required under § 2380.39 (relating to annual training).

(b) The annual training plan must include the orientation program as specified in § 2380.38 (relating to orientation program).

(c) The annual training plan must include training aimed at improving the knowledge, skills and core competencies of the staff persons to be trained.

(d) The annual training plan must include the following:

- (1) The title of the position to be trained.
- (2) The required training courses, including training course hours, for each position.

§ 2380.38. Orientation program.

(a) Prior to working alone with individuals, and within 30 days after hire, the following shall complete the orientation program as described in subsection (b):

(1) Management, program, administrative and fiscal staff persons.

(2) Dietary, housekeeping, maintenance and ancillary staff persons.

(3) Direct service workers, including full-time and part-time staff persons.

(4) Volunteers who will work alone with individuals.

(5) Paid and unpaid interns who will work alone with individuals.

(6) Consultants who will work alone with individuals.

(b) The orientation program must encompass the following areas:

(1) The application of person-centered practices, including respecting rights, facilitating community integration, honoring choice and supporting individuals in maintaining relationships.

(2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with sections 701—708 of the Older Adults Protective Services Act (35 P.S. §§ 10225.701—10225.708), 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law), the Adult Protective Services Act (35 P.S. §§ 10210.101—10210.704) and applicable protective services regulations.

(3) Individual rights.

(4) Recognizing and reporting incidents.

(5) Job-related knowledge and skills.

§ 2380.39. Annual training.

(a) The following staff persons shall complete 24 hours of training each year:

(1) Direct service workers, including full-time and part-time staff persons.

(2) Direct supervisors of direct service workers.

(3) Positions required by this chapter.

(b) The following staff persons shall complete 12 hours of training each year:

(1) Management, program, administrative and fiscal staff persons.

(2) Dietary, housekeeping, maintenance and ancillary staff persons.

(3) Consultants who work alone with individuals.

(4) Volunteers who work alone with individuals.

(5) Paid and unpaid interns who work alone with individuals.

(c) A minimum of 8 hours of the annual training hours specified in subsections (a) and (b) must encompass the following areas:

(1) The application of person-centered practices, including respecting rights, facilitating community integration, honoring choice and supporting individuals in maintaining relationships.

(2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with sections 701—708 of the Older Adults Protective Services Act (35 P.S. §§ 10225.701—10225.708), 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law), the Adult Protective Services Act (35 P.S. §§ 10210.101—10210.704) and applicable protective services regulations.

(3) Individual rights.

(4) Recognizing and reporting incidents.

(5) The safe and appropriate use of positive interventions if the staff person will provide a support to an individual with a dangerous behavior.

(d) The balance of the annual training hours must be in areas identified by the facility in the facility's annual training plan as required under § 2380.37 (relating to annual training plan).

(e) All training, including those training courses identified in subsections (c) and (d), must be included in the provider's annual training plan.

(f) Records of orientation and training, including the training source, content, dates, length of training, copies of certificates received and persons attending, shall be kept.

(g) A training record for each person trained shall be kept.

MEDICATIONS

§ 2380.121. [Storage of medications.] Self-administration.

[(a) Prescription and nonprescription medications shall be kept in their original containers, except for medications of individuals who self-administer medications and keep their medications in personal daily or weekly dispensing containers.

(b) Prescription and nonprescription medications shall be kept in an area or container that is locked.

(c) Prescription medications stored in a refrigerator shall be kept in a separate locked container.

(d) Prescription and nonprescription medications shall be stored under proper conditions of sanitation, temperature, moisture and light.

(e) Discontinued prescription medications shall be returned to the individual's family or residential program for proper disposal.]

(a) The facility shall provide an individual who has a prescribed medication with assistance, as needed, for the individual's self-administration of the medication.

(b) Assistance in the self-administration of medication includes helping the individual to remember the schedule for taking the medication, offering the individual the medication at the prescribed times, opening a medication container and storing the medication in a secure place.

(c) The facility shall provide or arrange for assistive technology to support the individual's self-administration of medications.

(d) The PSP must identify if the individual is unable to self-administer medications.

(e) To be considered able to self-administer medications, an individual shall do all of the following:

(1) Recognize and distinguish the individual's medication.

(2) Know how much medication is to be taken.

(3) Know when the medication is to be taken. This knowledge may include reminders of the schedule and offering the medication at the prescribed times as specified in subsection (b).

(4) Take or apply the individual's own medication with or without the use of assistive technology.

§ 2380.122. [Labeling of medications.] Medication administration.

[(a) The original container for prescription medications shall be labeled with a pharmaceutical label that includes the individual's name, the name of the medication, the date the prescription was issued, the prescribed dose and the name of the prescribing physician.

(b) Nonprescription medications, except for medications of individuals who self-administer medications, shall be labeled with the original label.]

(a) A facility whose staff persons are qualified to administer medications as specified in subsection (b) may provide medication administration for an individual who is unable to self-administer his prescribed medication.

(b) A prescription medication that is not self-administered shall be administered by one of the following:

(1) A licensed physician, licensed dentist, licensed physician's assistant, registered nurse, certified registered nurse practitioner, licensed practical nurse or licensed paramedic.

(2) A person who has completed the medication administration training as specified in § 2380.129 (relating to medication administration training) for the medication administration of the following:

(i) Oral medications.

(ii) Topical medications.

(iii) Eye, nose and ear drop medications.

(iv) Insulin injections.

(v) Epinephrine injections for insect bites or other allergies.

(c) Medication administration includes the following activities, based on the needs of the individual:

(1) Identify the correct individual.

(2) Remove the medication from the original container.

(3) Crush or split the medication as ordered by the prescriber.

(4) Place the medication in a medication cup or other appropriate container, or into the individual's hand, mouth or other route as ordered by the prescriber.

(5) If indicated by the prescriber's order, measure vital signs and administer medications according to the prescriber's order.

(6) Injection of insulin or epinephrine in accordance with this chapter.

§ 2380.123. [Use of prescription medications.] Storage and disposal of medications.

[(a) Prescription medications shall only be used by the individual for whom the medication was prescribed.

(b) If a medication is prescribed to treat symptoms of a diagnosed psychiatric illness, there shall be a written protocol as part of the ISP to address

the social, emotional and environmental needs of the individual related to the symptoms of the psychiatric illness.]

(a) Prescription and nonprescription medications shall be kept in their original labeled containers.

(b) A prescription medication may not be removed from its original labeled container more than 2 hours in advance of the scheduled administration.

(c) If insulin or epinephrine is not packaged in an individual dose container, assistance with or the administration of the injection shall be provided immediately upon removal of the medication from its original labeled container.

(d) Prescription medications and syringes, with the exception of epinephrine and epinephrine auto-injectors, shall be kept in an area or container that is locked.

(e) Epinephrine and epinephrine auto-injectors shall be stored safely and kept easily accessible at all times. The epinephrine and epinephrine auto-injectors shall be easily accessible to the individual if the epinephrine is self-administered or to the staff person who is with the individual if a staff person will administer the epinephrine.

(f) Prescription medications stored in a refrigerator shall be kept in an area or container that is locked.

(g) Prescription medications shall be stored in an organized manner under proper conditions of sanitation, temperature, moisture and light and in accordance with the manufacturer's instructions.

(h) Prescription medications that are discontinued or expired shall be destroyed in a safe manner according to the Department of Environmental Protection and applicable Federal and State regulations.

(i) Subsections (a)—(d) and (f) do not apply for an individual who self-administers medication and stores the medication on his person or in the individual's private property, such as a purse or backpack.

§ 2380.124. [Medication log.] Labeling of medications.

[(a) A medication log listing the medications prescribed, dosage, time and date that prescription medications, including insulin, were administered, and the name of the person who administered the prescription medication or insulin shall be kept for each individual who does not self-administer medication.

(b) The information specified in subsection (a) shall be logged immediately after each individual's dose of medication.

(c) A list of prescription medications, the prescribed dosage, special instructions and the name of the prescribing physician shall be kept for each individual who self-administers medication.]

The original container for prescription medications must be labeled with a pharmacy label that includes the following:

- (1) The individual's name.
- (2) The name of the medication.
- (3) The date the prescription was issued.
- (4) The prescribed dosage and instructions for administration.
- (5) The name and title of the prescriber.

§ 2380.125. [Medication errors.] Prescription medications.

[Documentation of medication errors and follow-up action taken shall be kept.]

(a) A prescription medication shall be prescribed in writing by an authorized prescriber.

(b) A prescription order shall be kept current.

(c) A prescription medication shall be administered as prescribed.

(d) A prescription medication shall be used only by the individual for whom the prescription was prescribed.

(e) Changes in medication may only be made in writing by the prescriber or, in the case of an emergency, an alternate prescriber, except for circumstances in which oral orders may be accepted by a registered nurse in accordance with regulations of the Department of State. The individual's medication record shall be updated as soon as a written notice of the change is received.

§ 2380.126. [Adverse reaction.] Medication record.

[If an individual has a suspected adverse reaction to a medication, the facility shall notify the prescribing physician and the family or residential program immediately. Documentation of adverse reactions shall be kept.]

(a) A medication record shall be kept, including the following for each individual for whom a prescription medication is administered:

- (1) Individual's name.
- (2) Name and title of the prescriber.
- (3) Drug allergies.
- (4) Name of medication.
- (5) Strength of medication.
- (6) Dosage form.
- (7) Dose of medication.
- (8) Route of administration.
- (9) Frequency of administration.
- (10) Administration times.
- (11) Diagnosis or purpose for the medication, including pro re nata.
- (12) Date and time of medication administration.
- (13) Name and initials of the person administering the medication.
- (14) Duration of treatment, if applicable.
- (15) Special precautions, if applicable.
- (16) Side effects of the medication, if applicable.

(b) The information in subsection (a)(12) and (13) shall be recorded in the medication record at the time the medication is administered.

(c) If an individual refuses to take a prescribed medication, the refusal shall be documented on the medication record. The refusal shall be reported to the prescriber within 24 hours, unless otherwise instructed by the prescriber. Subsequent refusals to take a prescribed medication shall be reported as required by the prescriber.

(d) The directions of the prescriber shall be followed.

§ 2380.127. [Administration of medications.] Medication errors.

[(a) Prescription medications and injections of a substance not self-administered by individuals shall be administered by one of the following:

(1) A licensed physician, licensed dentist, certified physician's assistant, registered nurse or licensed practical nurse.

(2) A graduate of an approved nursing program functioning under the direct supervision of a professional nurse who is present in the facility.

(3) A student nurse of an approved nursing program functioning under the direct supervision of a member of the nursing school faculty who is present in the facility.

(4) A staff person who meets the criteria in § 2380.128 (relating to medication administration training), for the administration of oral, topical and eye and ear drop prescription medications and insulin injections.

(b) Prescription medications and injections shall be administered according to the directions specified on the prescription.]

(a) Medication errors include the following:

(1) Failure to administer a medication.

(2) Administration of the wrong medication.

(3) Administration of the wrong amount of medication.

(4) Failure to administer a medication at the prescribed time, which exceeds more than 1 hour before or after the prescribed time.

(5) Administration to the wrong person.

(6) Administration through the wrong route.

(b) Documentation of medication errors, follow-up action taken and the prescriber's response shall be kept in the individual's record.

§ 2380.128. [Medication administration training.] Adverse reaction.

[(a) A staff person who has completed and passed the Department's Medications Administration Course is permitted to administer oral, topical and eye and ear drop prescription medications.

(b) A staff person who has completed and passed the Department's Medications Administration Course and who has completed and passed a diabetes patient education program within the past 12 months that meets the National Standards for Diabetes Patient Education Programs of the National Diabetes Advisory Board, 7550 Wisconsin Avenue, Bethesda, Maryland 20205, is permitted to adminis-

ter insulin injections to an individual who is under the care of a licensed physician who is monitoring the diabetes.

(c) Medications administration training of staff persons shall be conducted by an instructor who has completed and passed the Medications Administration Course for trainers and is certified by the Department to train staff persons.

(d) A staff person who administers prescription medications or insulin injections to individuals shall complete the Medications Administration Course Practicum annually.

(e) Documentation of the dates and locations of medications administration training for trainers and staff persons and the annual practicum for staff persons shall be kept.]

(a) If an individual has a suspected adverse reaction to a medication, the facility shall immediately consult a health care practitioner or seek emergency medical treatment.

(b) An adverse reaction to a medication, the health care practitioner's response to the adverse reaction and the action taken shall be documented.

§ 2380.129. [Self-administration of medications.] Medication administration training.

[(a) To be considered capable of self-administration of medications, an individual shall:

(1) Be able to recognize and distinguish the individual's own medication.

(2) Know how much medication is to be taken.

(3) Know when the medication is to be taken.

(b) Insulin that is self-administered by an individual shall be measured by the individual or by licensed or certified medical personnel.]

(a) A staff person who has successfully completed a Department-approved medications administration course, including the course renewal requirements, may administer the following:

(1) Oral medications.

(2) Topical medications.

(3) Eye, nose and ear drop medications.

(b) A staff person may administer insulin injections following successful completion of both:

(1) The course specified in subsection (a).

(2) A Department-approved diabetes patient education program within the past 12 months.

(c) A staff person may administer an epinephrine injection by means of an auto-injection device in response to anaphylaxis or another serious allergic reaction following successful completion of both:

(1) The course specified in subsection (a).

(2) Training relating to the use of an auto-injection epinephrine injection device provided by a licensed, registered or certified health care professional within the past 12 months.

(d) A record of the training shall be kept including the person trained, the date, source, name of trainer and documentation that the course was successfully completed.

[RESTRICTIVE PROCEDURES] POSITIVE INTERVENTION

§ 2380.151. [Definition of restrictive procedures.]
Use of a positive intervention.

[A restrictive procedure is a practice that does one or more of the following:

(1) Limits an individual's movement, activity or function.

(2) Interferes with an individual's ability to acquire positive reinforcement.

(3) Results in the loss of objects or activities that an individual values.

(4) Requires an individual to engage in a behavior that the individual would not engage in given freedom of choice.]

(a) A positive intervention shall be used to prevent, modify and eliminate a dangerous behavior when the behavior is anticipated or occurring.

(b) The least intrusive method shall be applied when addressing a dangerous behavior. For each incidence of a dangerous behavior, every attempt shall be made to modify and eliminate the behavior.

(c) As used in this section, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

Dangerous behavior—An action with a high likelihood of resulting in harm to the individual or others.

Positive intervention—An action or activity intended to prevent, modify and eliminate a dangerous behavior. This includes improved communications, reinforcing appropriate behavior, an environmental change, recognizing and treating physical and behavioral health symptoms, voluntary physical exercise and other wellness practices, redirection, praise, modeling, conflict resolution and de-escalation.

§ 2380.152. [Written policy.] PSP.

[A written policy that defines the prohibition or use of specific types of restrictive procedures, describes the circumstances in which restrictive procedures may be used, the persons who may authorize the use of restrictive procedures, a mechanism to monitor and control the use of restrictive procedures and a process for the individual and family to review the use of restrictive procedures shall be kept at the facility.]

If the individual has a dangerous behavior as identified in the PSP, the PSP must include the following:

(1) The specific dangerous behavior to be addressed.

(2) A functional analysis of the dangerous behavior and the plan to address the reason for the behavior.

(3) The outcome desired.

(4) A description of the positive intervention aimed at preventing, modifying or eliminating the dangerous behavior and the circumstances under which the intervention is to be used.

(5) A target date to achieve the outcome.

(6) Health conditions that require special attention.

§ 2380.153. [Appropriate use of restrictive procedures.] Prohibition of restraints.

[(a) A restrictive procedure may not be used as retribution, for the convenience of staff persons, as a substitute for a program or in a way that interferes with the individual's developmental program.

(b) For each incident requiring a restrictive procedure:

(1) Every attempt shall be made to anticipate and de-escalate the behavior using methods of intervention less intrusive than a restrictive procedure.

(2) A restrictive procedure may not be used unless less restrictive techniques and resources appropriate to the behavior have been tried but have failed.]

The following procedures are prohibited:

(1) Seclusion, defined as involuntary confinement of an individual in a room or area from which the individual is physically prevented or verbally directed from leaving.

(2) Aversive conditioning, defined as the application of startling, painful or noxious stimuli.

(3) Pressure point techniques, defined as the application of pain for the purpose of achieving compliance.

(4) A chemical restraint, defined as use of drugs or chemicals for the specific and exclusive purpose of controlling acute or episodic aggressive behavior. A chemical restraint does not include a drug ordered by a health care practitioner or dentist to treat the symptoms of a specific mental, emotional or behavioral condition, or as pretreatment prior to a medical or dental examination or treatment.

(5) A mechanical restraint, defined as a device that restricts the movement or function of an individual or portion of an individual's body. Mechanical restraints include a geriatric chair, handcuffs, anklets, wristlets, camisole, helmet with fasteners, muffs and mitts with fasteners, restraint vest, waist strap, head strap, papoose board, restraining sheet, chest restraint and other locked restraints.

(i) The term does not include a device prescribed by a health care practitioner that is used to provide post-surgical care, proper balance or support for the achievement of functional body position.

(ii) The term does not include a device prescribed by a health care practitioner to protect the individual in the event of a seizure, as long as the individual can easily remove the device.

(6) A manual restraint, defined as a hands-on physical method that restricts, immobilizes or reduces an individual's ability to move his arms, legs, head or other body parts freely, on a nonemergency basis, or for more than 15 minutes within a 2-hour period. A manual restraint does not include physically prompting, escorting or guiding an individual to provide a support as specified in the individual's PSP.

(7) A prone position manual restraint.

(8) A manual restraint that inhibits digestion or respiration, inflicts pain, causes embarrassment or humiliation, causes hyperextension of joints, applies pressure on the chest or joints, or allows for a free fall to the floor.

§ 2380.154. [Restrictive procedure review committee.] Permitted interventions.

[(a) If a restrictive procedure is used, there shall be a restrictive procedure review committee.

(b) The restrictive procedure review committee shall include a majority of persons who do not provide direct services to the individual.

(c) The restrictive procedure review committee shall establish a time frame for review and revision of the restrictive procedure plan, not to exceed 6 months between reviews.

(d) A written record of the meetings and activities of the restrictive procedure review committee shall be kept.]

(a) Voluntary exclusion, defined as an individual voluntarily removing himself from his immediate environment and placing himself alone to a room or area, is permitted in accordance with the individual's PSP.

(b) A physical protective restraint may be used only in accordance with § 2380.153(6)—(8) (relating to prohibition of restraints).

(c) A physical protective restraint may not be used until §§ 2380.39(c)(5) and 2380.185(9) (relating to annual training; and content of the PSP) are met.

(d) A physical protective restraint may only be used in the case of an emergency to prevent an individual from injuring the individual's self or others.

(e) A physical protective restraint may not be used as a behavioral intervention, consequence, retribution, punishment, for the convenience of staff persons or as a substitution for individual support.

(f) A physical protective restraint may not be used for more than 15 minutes within a 2-hour period.

(g) A physical protective restraint may only be used by a staff person who is trained as specified in § 2380.39.

(h) As used in this section, a "physical protective restraint" is a hands-on hold of an individual.

§ 2380.155. [Restrictive procedure plan.] Access to or the use of an individual's personal property.

[(a) For each individual for whom restrictive procedures may be used, a restrictive procedure plan shall be written prior to the use of restrictive procedures.

(b) The restrictive procedure plan shall be developed and revised with the participation of the program specialist, the individual's direct care staff, the interdisciplinary team, as appropriate, and other professionals, as appropriate.

(c) The restrictive procedure plan shall be reviewed, and revised if necessary, according to the time frame established by the restrictive procedure review committee, not to exceed 6 months.

(d) The restrictive procedure plan shall be reviewed, approved, signed and dated by the chairperson of the restrictive procedure review committee and the program specialist, prior to the use of a restrictive procedure, whenever the restrictive procedure plan is revised and at least every 6 months.

(e) The restrictive procedure plan shall include:

(1) The specific behavior to be addressed and the suspected antecedent or reason for the behavior.

(2) The single behavioral outcome desired, stated in measurable terms.

(3) Methods for modifying or eliminating the behavior, such as changes in the individual's physical and social environment, changes in the individual's routine, improving communications, teaching skills and reinforcing appropriate behavior.

(4) Types of restrictive procedures that may be used and the circumstances under which the procedures may be used.

(5) A target date for achieving the outcome.

(6) The amount of time the restrictive procedure may be applied, not to exceed the maximum time periods specified in this chapter.

(7) Physical problems that require special attention during the use of the restrictive procedure.

(8) The name of the staff person or staff position responsible for monitoring and documenting progress with the plan.

(f) The restrictive procedure plan shall be implemented as written.

(g) Copies of the restrictive procedure plan shall be kept in the individual's record.]

(a) Access to or the use of an individual's personal funds or property may not be used as a reward or punishment.

(b) An individual's personal funds or property may not be used as payment for damages unless the individual consents to make restitution for the damages as follows:

(1) A separate written consent by the individual is required for each incidence of restitution.

(2) Consent shall be obtained in the presence of the individual, a person designated by the individual and in the presence of and with the support of the support coordinator or targeted support manager.

(3) There may not be coercion in obtaining the consent of an individual.

(4) The facility shall keep a copy of the individual's written consent.

§ 2380.156. [Staff training.] Rights team.

[(a) If a restrictive procedure is used, at least one staff person shall be available when the restrictive procedure is used who has completed training within the past 12 months in the use of and ethics of using restrictive procedures including the use of alternate positive approaches.

(b) A staff person responsible for developing, implementing or managing a restrictive procedure plan shall be trained in the use of the specific techniques or procedures that are used.

(c) If manual restraint or exclusion is used, the staff person responsible for developing, implementing or managing a restrictive procedure plan shall have experienced the use of the specific techniques or procedures directly on themselves.

(d) Documentation of the training program provided, including the staff persons trained, dates of the training, description of the training and the training source, shall be kept.]

(a) The facility shall have a rights team. The facility may use a county mental health and intellectual disability program rights team that meets the requirements of this section.

(b) The role of the rights team is to:

(1) Review each incident, alleged incident and suspected incident of a violation of individual rights as specified in § 2380.21 (relating to individual rights).

(2) Review each incidence of the use of a restraint to:

(i) Analyze systemic concerns.

(ii) Design positive supports as an alternative to the use of a restraint.

(iii) Discover and resolve the reason for an individual's behavior.

(c) Members of the rights team shall include the affected individual, persons designated by the individual, a family member or an advocate if the individual is unable to speak for himself, the individual's support coordinator, a representative from the funding agency if applicable and a facility representative.

(d) Members of the rights team shall be comprised of a majority who do not provide direct support to the individual.

(e) If a restraint was used, the individual's health care practitioner shall be consulted.

(f) The rights team shall meet at least once every 3 months.

(g) The rights team shall report its recommendations to the individual's PSP team.

(h) The facility shall keep documentation of the rights team meetings and the decisions made at the meetings.

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to rescind §§ 2380.157—2380.165 which appear in 55 Pa. Code pages 2380-37—2380-40, serial pages (352107)—(352110).)

§§ 2380.157—2380.165. (Reserved).

RECORDS

§ 2380.173. Content of records.

Each individual's record must include the following information:

(1) Personal information including:

(i) The name, sex, admission date, birthdate and [social security] Social Security number.

(ii) The race, height, weight, color of hair, color of eyes and identifying marks.

(iii) The language or means of communication spoken or understood by the individual and the primary language used in the individual's natural home, if other than English.

(iv) Religious affiliation.

(v) A current, dated photograph.

(2) [Unusual incident] Incident reports related to the individual.

(3) Physical examinations.

(4) Assessments as required under § 2380.181 (relating to assessment).

[(5) A copy of the invitation to:

(i) The initial ISP meeting.

(ii) The annual update meeting.

(iii) The ISP revision meeting.

(6) A copy of the signature sheet for:

(i) The initial ISP meeting.

(ii) The annual update meeting.

(iii) The ISP revision meeting.

(7) A copy of the current ISP.

(8) Documentation of ISP reviews and revisions under § 2380.186 (relating to ISP review and revision), including the following:

(i) ISP review signature sheets.

(ii) Recommendations to revise the ISP.

(iii) ISP revisions.

(iv) Notices that the plan team member may decline the ISP review documentation.

(v) Requests from plan team members to not receive the ISP review documentation.

(9) Content discrepancies in the ISP, the annual update or revision under § 2380.186.]

(5) PSP documents as required by this chapter.

[(10) Restrictive procedure protocols and] (6) Positive intervention records related to the individual.

[(11)] (7) Copies of psychological evaluations, if applicable.

PROGRAM

§ 2380.181. Assessment.

* * * * *

(b) If the program specialist is making a recommendation to revise a service or outcome in the [ISP as provided under § 2380.186(c)(4) (relating to ISP review and revision)] PSP, the individual shall have an assessment completed as required under this section.

* * * * *

(f) The program specialist shall provide the assessment to the SC [or plan lead], as applicable, and [plan] PSP team members at least 30 calendar days prior to [an ISP meeting for the development, annual update and revision of the ISP under §§ 2380.182,

2390.152, 6400.182 and 6500.152 (relating to development, annual update and revision of the ISP)] a PSP meeting.

§ 2380.182. Development[, annual update and revision of the ISP] of the PSP.

[(a) An individual shall have one ISP.

(b) When an individual is not receiving services through an SCO and does not reside in a home licensed under Chapter 6400 or 6500 (relating to community homes for individuals with an intellectual disability; and family living homes), the adult training facility program specialist shall be the plan lead when one of the following applies:

(1) The individual attends a facility licensed under this chapter.

(2) The individual attends a facility licensed under this chapter and a facility licensed under Chapter 2390 (relating to vocational facilities).

(c) The plan lead shall be responsible for developing and implementing the ISP, including annual updates and revisions.

(d) The plan lead shall develop, update and revise the ISP according to the following:

(1) The ISP shall be initially developed, updated annually and revised based upon the individual's current assessment as required under §§ 2380.181, 2390.151, 6400.181 and 6500.151 (relating to assessment).

(2) The initial ISP shall be developed within 90 calendar days after the individual's admission date to the facility.

(3) The ISP, annual updates and revisions shall be documented on the Department-designated form located in the Home and Community Services Information System (HCSIS) and also on the Department's web site.

(4) An invitation shall be sent to plan team members at least 30 calendar days prior to an ISP meeting.

(5) Copies of the ISP, including annual updates and revisions under § 2380.186 (relating to ISP review and revision), shall be provided as required under § 2380.187 (relating to copies).]

(a) An individual shall have one approved and authorized PSP at a given time.

(b) An individual's service implementation plan must be consistent with the PSP in subsection (a).

(c) The support coordinator, targeted support manager or program specialist shall coordinate the development of the PSP, including revisions, in cooperation with the individual and the individual's PSP team.

(d) The initial PSP shall be developed based on the individual assessment within 60 days of the individual's date of admission to the facility.

(e) The PSP shall be initially developed, revised annually and revised when an individual's needs change based upon a current assessment.

(f) The individual, and persons designated by the individual, shall be involved in and supported in the development and revisions of the PSP.

(g) The PSP, including revisions, shall be documented on a form specified by the Department.

§ 2380.183. [Content of the ISP.] The PSP team.

[The ISP, including annual updates and revisions under § 2380.186 (relating to ISP review and revision), must include the following:

(1) Services provided to the individual and expected outcomes chosen by the individual and individual's plan team.

(2) Services provided to the individual to increase community involvement, including work opportunities as required under § 2380.188 (relating to provider services).

(3) Current status in relation to an outcome and method of evaluation used to determine progress toward that expected outcome.

(4) A protocol and schedule outlining specified periods of time for the individual to be without direct supervision, if the individual's current assessment states the individual may be without direct supervision and if the individual's ISP includes an expected outcome which requires the achievement of a higher level of independence. The protocol must include the current level of independence and the method of evaluation used to determine progress toward the expected outcome to achieve the higher level of independence.

(5) A protocol to address the social, emotional and environmental needs of the individual, if medication has been prescribed to treat symptoms of a diagnosed psychiatric illness.

(6) A protocol to eliminate the use of restrictive procedures, if restrictive procedures are utilized, and to address the underlying causes of the behavior which led to the use of restrictive procedures including the following:

(i) An assessment to determine the causes or antecedents of the behavior.

(ii) A protocol for addressing the underlying causes or antecedents of the behavior.

(iii) The method and timeline for eliminating the use of restrictive procedures.

(iv) A protocol for intervention or redirection without utilizing restrictive procedures.

(7) Assessment of the individual's potential to advance in the following:

(i) Vocational programming.

(ii) Community involvement.

(iii) Competitive community-integrated employment.]

(a) The PSP shall be developed by an interdisciplinary team including the following:

(1) The individual.

(2) Persons designated by the individual.

(3) The individual's direct care staff persons.

(4) The program specialist.

(5) The program specialist for the individual's residential program, if applicable.

(6) Other specialists such as health care, behavior management, speech, occupational and physical therapy as appropriate for the individual needs.

(b) At least three members of the PSP team, in addition to the individual and persons designated by the individual, shall be present at a PSP meeting at which the PSP is developed or revised.

(c) Members of the PSP team who attend the meeting shall sign and date the PSP.

§ 2380.184. [Plan team participation.] The PSP process.

[(a) The plan team shall participate in the development of the ISP, including the annual updates and revisions under § 2380.186 (relating to ISP review and revision).

(1) A plan team must include as its members the following:

(i) The individual.

(ii) A program specialist or family living specialist, as applicable, from each provider delivering a service to the individual.

(iii) A direct service worker who works with the individual from each provider delivering a service to the individual.

(iv) Any other person the individual chooses to invite.

(2) If the following have a role in the individual's life, the plan team may also include as its members, as applicable, the following:

(i) Medical, nursing, behavior management, speech, occupational or physical therapy specialists.

(ii) Additional direct service workers who work with the individual from each provider delivering services to the individual.

(iii) The individual's parent, guardian or advocate.

(b) At least three plan team members, in addition to the individual, if the individual chooses to attend, shall be present for an ISP, annual update and ISP revision meeting.

(c) A plan team member who attends a meeting under subsection (b) shall sign and date the signature sheet.]

The PSP process shall:

(1) Provide necessary information and support to ensure that the individual directs the PSP process to the maximum extent possible.

(2) Enable the individual to make informed choices and decisions.

(3) Be conducted to reflect what is important to the individual to ensure that supports are delivered in a manner reflecting individual preferences and ensuring the individual's health, safety and well-being.

(4) Be timely in relation to the needs of the individual and occur at intervals, times and locations of choice and convenience to the individual and to persons designated by the individual.

(5) Be communicated in clear and understandable language.

(6) Reflect cultural considerations of the individual.

(7) Include guidelines for solving disagreements among the PSP team members.

(8) Include a method for the individual to request updates to the PSP.

§ 2380.185. [Implementation of the ISP.] Content of the PSP.

[(a) The ISP shall be implemented by the ISP'S start date.

(b) The ISP shall be implemented as written.]

The PSP, including revisions, must include the following:

(1) The individual's strengths and functional abilities.

(2) The individual's individualized clinical and support needs.

(3) The individual's goals and preferences related to relationships, community participation, employment, income and savings, health care, wellness and education.

(4) Individually identified, person-centered desired outcomes.

(5) Supports to assist the individual to achieve desired outcomes.

(6) The type, amount, duration and frequency for the support specified in a manner that reflects the assessed needs and choices of the individual. The schedule of support delivery shall be determined by the PSP team.

(7) Communication mode, abilities and needs.

(8) Opportunities for new or continued community participation.

(9) Risk factors, dangerous behaviors and risk mitigation strategies, if applicable.

(10) Modification of individual rights as necessary to mitigate risks, if applicable.

(11) Health care information, including a health care history.

(12) Financial information including how the individual chooses to use personal funds.

(13) The person responsible for monitoring the implementation of the PSP.

§ 2380.186. [ISP review and revision.] Implementation of the PSP.

[(a) The program specialist shall complete an ISP review of the services and expected outcomes in the ISP specific to the facility licensed under this chapter with the individual every 3 months or more frequently if the individual's needs change which impact the services as specified in the current ISP.

(b) The program specialist and individual shall sign and date the ISP review signature sheet upon review of the ISP.

(c) The ISP review must include the following:

(1) A review of the monthly documentation of an individual's participation and progress during the

prior 3 months toward ISP outcomes supported by services provided by the facility licensed under this chapter.

(2) A review of each section of the ISP specific to the facility licensed under this chapter.

(3) The program specialist shall document a change in the individual's needs, if applicable.

(4) The program specialist shall make a recommendation regarding the following, if applicable:

(i) The deletion of an outcome or service to support the achievement of an outcome which is no longer appropriate or has been completed.

(ii) The addition of an outcome or service to support the achievement of an outcome.

(iii) The modification of an outcome or service to support the achievement of an outcome in which no progress has been made.

(5) If making a recommendation to revise a service or outcome in the ISP, the program specialist shall complete a revised assessment as required under § 2380.181(b) (relating to assessment).

(d) The program specialist shall provide the ISP review documentation, including recommendations, if applicable, to the SC or plan lead, as applicable, and plan team members within 30 calendar days after the ISP review meeting.

(e) The program specialist shall notify the plan team members of the option to decline the ISP review documentation.

(f) If a recommendation for a revision to a service or outcome in the ISP is made, the plan lead as applicable, under §§ 2380.182(b) and (c), 2390.152(b) and (c), 6400.182(b) and (c), 6500.152(b) and (c) (relating to development, annual update and revision of the ISP), shall send an invitation for an ISP revision meeting to the plan team members within 30 calendar days of receipt of the recommendation.

(g) A revised service or outcome in the ISP shall be implemented by the start date in the ISP as written.]

The facility shall implement the PSP, including revisions.

§ 2380.187. [Copies.] (Reserved).

[A copy of the ISP, including the signature sheet, shall be provided to plan team members within 30 calendar days after the ISP annual update and ISP revision meetings.]

§ 2380.188. [Provider services.] (Reserved).

[(a) The facility shall provide services including assistance, training and support for the acquisition, maintenance or improvement of functional skills, personal needs, communication and personal adjustment.

(b) The facility shall provide opportunities and support to the individual for participation in community life, including work opportunities.

(c) The facility shall provide services to the individual as specified in the individual's ISP.

(d) The facility shall provide services that are age and functionally appropriate to the individual.]

CHAPTER 2390. VOCATIONAL FACILITIES GENERAL PROVISIONS

§ 2390.5. Definitions.

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

Abusive act—An act or omission of an act that willfully deprives a client of rights or which may cause or causes actual physical injury or emotional harm to a client.

Certificate of compliance—A document issued to a legal entity permitting it to operate a vocational facility at a given location, for a specific period of time, according to appropriate regulations of the Commonwealth.

Chief executive officer—The staff person responsible for the general management of the facility. Other terms such as “program director” or “administrator” may be used as long as the qualifications specified in § 2390.32 (relating to chief executive officer) are met.

Client—A disabled adult receiving services in a vocational facility.

Competitive employment—A job in a regular work setting with an employee-employer relationship, in which a disabled adult is hired to do a job that other nondisabled employees also do.

[*Content discrepancy*—A difference between what was determined at the ISP meeting by the plan team and what is documented in the written ISP.]

Criminal abuse—Crimes against the person such as assault and crimes against the property of the client such as theft or embezzlement.

Department—The Department of Human Services of the Commonwealth.

Direct service worker—A person whose primary job function is to provide services to a client who attends the provider's facility.

Disabled adult—

(i) A person who because of a disability requires special help or special services on a regular basis to function vocationally.

(ii) The term includes persons who exhibit any of the following characteristics:

(A) A physical disability, such as visual impairment, hearing impairment, speech or language impairment, or other physical handicap.

(B) Social or emotional maladjustment.

(C) A neurologically based condition such as cerebral palsy, autism or epilepsy.

(D) An intellectual disability.

[*Documentation*—Written statements that accurately record details, substantiate a claim or provide evidence of an event.]

Handicapped employment—A vocational program in which the individual client does not require rehabilitation, habilitation or ongoing training to work at the facility.

[*ISP—Individual Support Plan*—The comprehensive document that identifies services and expected outcomes for a client.

Interdisciplinary team—A group of persons representing one or more service areas relevant to identifying a client's needs, including at a minimum the county case manager if the client is funded through the county mental health and intellectual disability program, the client and the program specialist.

Outcomes—Goals the client and client's plan team choose for the client to acquire, maintain or improve.

Plan lead—The program specialist or family living specialist, as applicable, when the client is not receiving services through an SCO.

Plan team—The group that develops the ISP.]

PSP—Person-centered support plan.

Provider—An entity or person that enters into an agreement with the Department to deliver a service to a client.

[**Restrictive procedure**—A practice that limits a client's movement, activity or function; interferes with a client's ability to acquire positive reinforcement; results in the loss of objects or activities that a client values; or requires a client to engage in a behavior that the client would not engage in given freedom of choice.]

Restraint—A physical, chemical or mechanical intervention used to control acute, episodic behavior that restricts the movement or function of the individual or a portion of the individual's body, including an intervention approved as part of the PSP or used on an emergency basis.

SC—Supports coordinator—An SCO employee whose primary job functions are to locate, coordinate and monitor services provided to a client when the client is receiving services from an SCO.

* * * * *

GENERAL REQUIREMENTS

§ 2390.18. [Unusual incident report.] Incident report and investigation.

[(a) An unusual incident report shall be completed by the facility on a form specified by the Department for a serious event, including death of a client, injury or illness of a client requiring inpatient hospitalization, or a fire requiring the services of a fire department. The facility shall send copies of the report to the regional office of the Department and the funding agency within 24 hours after the event occurs. A copy of unusual incident reports shall be kept on file by the facility.

(b) If an unusual incident occurs during a weekend, the regional office of the Department and the funding agency shall be notified within 24 hours after the event occurs and the unusual incident report shall be sent on the first business day following the event.]

(a) The facility shall report the following incidents, alleged incidents and suspected incidents in the Department's information management system or on a form specified by the Department within 24 hours of discovery by a staff person:

- (1) Death.
- (2) Suicide attempt.
- (3) Inpatient admission to a hospital.

- (4) Visit to an emergency room.
- (5) Abuse.
- (6) Neglect.
- (7) Exploitation.
- (8) An individual who is missing for more than 24 hours or who could be in jeopardy if missing at all.
- (9) Law enforcement activity.
- (10) Injury requiring treatment beyond first aid.
- (11) Fire requiring the services of the fire department.
- (12) Emergency closure.
- (13) Use of a restraint.
- (14) Theft or misuse of individual funds.
- (15) A violation of individual rights.

(b) The individual and the persons designated by the individual shall be notified immediately upon discovery of an incident relating to the individual.

(c) The facility shall keep documentation of the notification in subsection (b).

(d) The incident report, redacted to exclude information about another individual and the reporter, unless the reporter is the individual who receives the report, shall be available to the individual and persons designated by the individual, upon request.

(e) The facility shall take immediate action to protect the health, safety and well-being of the individual following the initial knowledge or notice of an incident, alleged incident and suspected incident.

(f) The facility shall initiate an investigation of an incident within 24 hours of discovery by a staff person.

(g) A Department-certified incident investigator shall conduct the incident investigation of the incident listed in subsection (a).

(h) The facility shall finalize the incident report in the Department's information management system or on a form specified by the Department within 30 days of discovery of the incident by a staff person.

(i) The facility shall provide the following information to the Department as part of the final incident report:

- (1) Additional detail about the incident.
- (2) The results of the incident investigation.
- (3) A description of the corrective action taken in response to an incident.
- (4) Action taken to protect the health, safety and well-being of the individual.
- (5) The person responsible for implementing the corrective action.
- (6) The date the corrective action was implemented or is to be implemented.

§ 2390.19. [Abuse.] Incident procedures to protect the individual.

[(a) Abusive acts against clients are prohibited.

(b) Staff or clients witnessing or having knowledge of an abusive act to a client shall report it to the chief executive officer or designee within 24 hours.

(c) The chief executive officer or designee shall investigate reports of abuse and prepare and send a report to the regional office of the Department and the funding agency within 24 hours of the initial report. If the initial report occurs during a weekend, the regional office of the Department and the funding agency shall be notified within 24 hours after the initial report and the abuse investigation report shall be sent on the first business day following the initial report. The report shall either support or deny the allegation and make recommendations for appropriate action. The chief executive officer or designee shall implement changes immediately to prevent abuse in the future.

(d) Incidents of criminal abuse shall be reported immediately to law enforcement authorities.]

(a) In investigating an incident, the facility shall review and consider the following needs of the affected individual:

- (1) Potential risks.
- (2) Health care information.
- (3) Medication history and current medication.
- (4) Behavioral health history.
- (5) Incident history.
- (6) Social needs.
- (7) Environmental needs.
- (8) Personal safety.

(b) The facility shall monitor an individual's risk for recurring incidents and implement corrective action, as appropriate.

(c) The facility shall work cooperatively with the PSP team to revise the PSP if indicated by the incident investigation.

(d) The facility shall complete the following for each confirmed incident:

- (1) Analysis to determine the root cause of the incident.
- (2) Corrective action.
- (3) A strategy to address the potential risks to the affected individual.

(e) The facility shall review and analyze incidents and conduct a trend analysis at least every 3 months.

(f) The facility shall identify and implement preventive measures to reduce:

- (1) The number of incidents.
- (2) The severity of the risks associated with the incident.
- (3) The likelihood of an incident recurring.

(g) The facility shall educate staff persons and the individual based on the circumstances of the incident.

(h) The facility shall analyze incident data continuously and take actions to mitigate and manage risks.

§ 2390.21. [Civil] Individual rights.

[(a) A client may not be discriminated against because of race, color, religious creed, disability, handicap, ancestry, national origin, age or sex, nor be deprived of civil or legal rights.

(b) A facility shall develop and implement civil rights policies and procedures. Civil rights policies and procedures include the following:

(1) Nondiscrimination in the provision of services, admissions, placement, facility usage, referrals and communication with non-English speaking clients.

(2) Program accessibility and accommodation for disabled clients.

(3) The opportunity to lodge civil rights complaints.

(4) Orientation for clients on their rights to register civil rights complaints.]

(a) An individual may not be deprived of rights as provided under subsections (b)—(s).

(b) An individual shall be continually supported to exercise the individual's rights.

(c) An individual shall be provided the support and accommodation necessary to be able to understand and actively exercise the individual's rights.

(d) An individual may not be reprimanded, punished or retaliated against for exercising the individual's rights.

(e) A court's written order that restricts an individual's rights shall be followed.

(f) A court-appointed legal guardian may exercise rights and make decisions on behalf of an individual in accordance with a court order.

(g) An individual who has a court-appointed legal guardian, or who has a court order restricting the individual's rights, shall be involved in decision making in accordance with the court order.

(h) An individual has the right to designate persons to assist in decision making on behalf of the individual.

(i) An individual may not be discriminated against because of race, color, creed, disability, religious affiliation, ancestry, gender, gender identity, sexual orientation, national origin or age.

(j) An individual has the right to civil and legal rights afforded by law, including the right to vote, speak freely, and practice the religion of his choice or to practice no religion.

(k) An individual may not be abused, neglected, mistreated, exploited, abandoned or subjected to corporal punishment.

(l) An individual shall be treated with dignity and respect.

(m) An individual has the right to make choices and accept risks.

(n) An individual has the right to refuse to participate in activities and supports.

(o) An individual has the right to privacy of person and possessions.

(p) An individual has the right of access to and security of the individual's possessions.

(q) An individual has the right to voice concerns about the supports the individual receives.

(r) An individual has the right to participate in the development and implementation of the PSP.

(s) An individual's rights shall be exercised so that another individual's rights are not violated.

(t) Choices shall be negotiated by the affected individuals in accordance with the facility's procedures for the individuals to resolve differences and make choices.

(u) The facility shall inform and explain individual rights to the individual, and persons designated by the individual, upon admission to the facility and annually thereafter.

(v) The facility shall keep a copy of the statement signed by the individual, or the individual's court-appointed legal guardian, acknowledging receipt of the information on individual rights.

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 2390.24. Applicable laws and regulations.

The facility shall comply with applicable Federal, State and local laws, regulations and ordinances.

STAFFING

§ 2390.33. Program specialist.

(a) A minimum of [**one**] **1** program specialist for every 45 clients shall be available when clients are present at the facility.

(b) The program specialist shall be responsible for the following:

- [(1) Coordinating and completing assessments.
- (2) Providing the assessment as required under § 2390.151(f) (relating to assessment).
- (3) Participating in the development of the ISP, including annual updates and revisions of the ISP.
- (4) Attending the ISP meetings.
- (5) Fulfilling the role of plan lead, as applicable, under §§ 2390.152 and 2390.156(f) and (g) (relating to development, annual update and revision to the ISP; and ISP review and revision).
- (6) Reviewing the ISP, annual updates and revisions for content accuracy.
- (7) Reporting content discrepancy to the SC or plan lead, as applicable, and plan team members.
- (8) Implementing the ISP as written.
- (9) Supervising, monitoring and evaluating services provided to the client.
- (10) Reviewing, signing and dating the monthly documentation of a client's participation and progress toward outcomes.
- (11) Reporting a change related to the client's needs to the SC or plan lead, as applicable, and plan team members.
- (12) Reviewing the ISP with the client as required under § 2390.156.
- (13) Documenting the review of the ISP as required under § 2390.156.

(14) Providing documentation of the ISP review to the SC or plan lead, as applicable, and plan team members as required under § 2390.156(d).

(15) Informing plan team members of the option to decline the ISP review documentation as required under § 2390.156(e).

(16) Recommending a revision to a service or outcome in the ISP as provided under § 2390.156(c)(4).

(17) Coordinating the services provided to a client.

(18) Coordinating the training of direct service workers in the content of health and safety needs relevant to each client.

(19) Developing and implementing provider services as required under § 2390.158 (relating to provider services).]

- (1) Coordinating the completion of assessments.
- (2) Participating in the PSP process, PSP development, PSP team reviews and the implementation of the PSP in accordance with this chapter.
- (3) Providing and supervising activities for the individuals in accordance with the PSPs.
- (4) Supporting the integration of individuals in the community.
- (5) Supporting individual communication and involvement with families and friends.

(c) A program specialist shall meet one of the following groups of qualifications:

- (1) Possess a master's degree or above from an accredited college or university in Special Education, Psychology, Public Health, Rehabilitation, Social Work, Speech Pathology, Audiology, Occupational Therapy, Therapeutic Recreation or other human services field.
- (2) Possess a bachelor's degree from an accredited college or university in Special Education, Psychology, Public Health, Rehabilitation, Social Work, Speech Pathology, Audiology, Occupational Therapy, Therapeutic Recreation or other human services field; and 1 year experience working directly with disabled persons.
- (3) Possess an associate's degree or completion of a [**2 year**] **2-year** program from an accredited college or university in Special Education, Psychology, Public Health, Rehabilitation, Social Work, Speech Pathology, Audiology, Occupational Therapy, Therapeutic Recreation or other human services field; and 3 years experience working directly with disabled persons.
- (4) Possess a license or certification by the State Board of Nurse Examiners, the State Board of Physical Therapists Examiners, or the Committee on Rehabilitation Counselor Certification or be a licensed psychologist or registered occupational therapist; and 1 year experience working directly with disabled persons.

§ 2390.39. Staffing.

§ 2390.39. Staffing.

(a) A minimum of two staff shall be present at the facility when [**10**] **ten** or more clients are present at the facility.

(b) A minimum of one staff shall be present at the facility when fewer than [**10**] **ten** clients are present at the facility.

(c) If 20 or more clients are present at the facility, there shall be at least [**one**] **1** staff present at the facility who meets the qualifications of program specialist.

(d) A client may be left unsupervised for specified periods of time if the absence of direct supervision is consistent with the client's assessment and is part of the client's [**ISP**] **PSP**, as an outcome which requires the achievement of a higher level of independence.

(e) The staff qualifications and staff ratio as specified in the [ISP] PSP shall be implemented as written, including when the staff ratio is greater than required under subsections (a), (b) and (c).

(f) A client may not be left unsupervised solely for the convenience of the facility or the direct service worker.

§ 2390.40. **[Staff training.] Annual training plan.**

[(a) A facility shall provide orientation for staff relevant to their appointed positions. Staff shall be instructed in the daily operation of the facility and policies and procedures of the agency.]

(b) Staff in positions required by this chapter shall have at least 24 hours of training relevant to vocational or human services annually.

(c) Records of orientation and training, including dates held and staff attending, shall be kept on file.]

(a) The facility shall design an annual training plan based on the needs of the individuals as specified in the individuals' PSPs, other data and analysis indicating staff person training needs and as required under § 2390.49 (relating to annual training).

(b) The annual training plan must include the orientation program as specified in § 2390.48 (relating to orientation program).

(c) The annual training plan must include training aimed at improving the knowledge, skills and core competencies of the staff persons to be trained.

(d) The annual training plan must include the following:

(1) The title of the position to be trained.

(2) The required training courses, including training course hours, for each position.

(Editor's Note: Sections 2390.48 and 2390.49 are new and printed in regular type to enhance readability.)

§ 2390.48. **Orientation program.**

(a) Prior to working alone with individuals, and within 30 days after hire, the following shall complete the orientation program as described in subsection (b):

(1) Management, program, administrative and fiscal staff persons.

(2) Dietary, housekeeping, maintenance and ancillary staff persons.

(3) Direct service workers, including full-time and part-time staff persons.

(4) Volunteers who will work alone with individuals.

(5) Paid and unpaid interns who will work alone with individuals.

(6) Consultants who will work alone with individuals.

(b) The orientation program must encompass the following areas:

(1) The application of person-centered practices, including respecting rights, facilitating community integration, honoring choice and supporting individuals in maintaining relationships.

(2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with

sections 701—708 of the Older Adults Protective Services Act (35 P.S. §§ 10225.701—10225.708), 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law), the Adult Protective Services Act (35 P.S. §§ 10210.101—10210.704) and applicable protective services regulations.

(3) Individual rights.

(4) Recognizing and reporting incidents.

(5) Job-related knowledge and skills.

§ 2390.49. **Annual training.**

(a) The following staff persons, including full-time and part-time staff persons, shall complete 24 hours of training each year:

(1) Floor supervisors.

(2) Direct supervisors of floor supervisors.

(3) Positions required by this chapter.

(b) The following staff persons shall complete 12 hours of training each year:

(1) Management, program, administrative and fiscal staff persons.

(2) Dietary, housekeeping, maintenance and ancillary staff persons.

(3) Consultants who work alone with individuals.

(4) Volunteers who work alone with individuals.

(5) Paid and unpaid interns who work alone with individuals.

(c) A minimum of 8 hours of the annual training hours specified in subsections (a) and (b) must encompass the following areas:

(1) The application of person-centered practices, including respecting rights, facilitating community integration, honoring choice and supporting individuals in maintaining relationships.

(2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with sections 701—708 of the Older Adults Protective Services Act (35 P.S. §§ 10225.701—10225.708), 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law), the Adult Protective Services Act (35 P.S. §§ 10210.101—10210.704) and applicable protective services regulations.

(3) Individual rights.

(4) Recognizing and reporting incidents.

(5) The safe and appropriate use of positive interventions if the staff person will provide a support to an individual with a dangerous behavior.

(d) The balance of the annual training hours must be in areas identified by the facility in the facility's annual training plan as required under § 2390.40 (relating to annual training plan).

(e) All training, including those training courses identified in subsections (c) and (d), must be included in the provider's annual training plan.

(f) Records of orientation and training, including the training source, content, dates, length of training, copies of certificates received and persons attending, shall be kept.

(g) A training record for each person trained shall be kept.

CLIENT RECORDS

§ 2390.124. Content of records.

Each client's record must include the following information:

(1) The name, sex, admission date, birthdate and place, [**social security**] **Social Security** number and dates of entry, transfer and discharge.

(2) The name, address and telephone number of parents, legal guardian and a designated person to be contacted in case of an emergency.

(3) The name and telephone number of a physician or source of health care.

(4) Written consent from the client, parent or guardian for emergency medical treatment.

(5) Physical examinations.

(6) Assessments as required under § 2390.151 (relating to assessment).

(7) A copy of the vocational evaluations, if applicable.

[(8) A copy of the invitation to:

(i) The initial ISP meeting.

(ii) The annual update meeting.

(iii) The ISP revision meeting.

(9) A copy of the signature sheet for:

(i) The initial ISP meeting.

(ii) The annual update meeting.

(iii) The ISP revision meeting.

(10) A copy of the current ISP.

(11) Documentation of ISP reviews and ISP revisions under § 2390.156 (relating to ISP review and revision), including the following:

(i) ISP Review signature sheets.

(ii) Recommendations to revise the ISP.

(iii) ISP revisions.

(iv) Notices that the plan team member may decline the ISP review documentation.

(v) Requests from plan team members to not receive the ISP review documentation.

(12) Content discrepancy in the ISP, the annual update or revision under § 2390.156.]

(8) PSP documents as required by this chapter.

[(13) Restrictive procedure protocols and]
(9) Positive intervention records related to the client.

[(14) Unusual incident] (10) Incident reports related to the client.

[(15)] (11) Copies of psychological evaluations, if applicable.

[(16)] (12) Vocational evaluations as required under § 2390.159 (relating to vocational evaluation).

PROGRAM

§ 2390.151. Assessment.

* * * * *

(b) If the program specialist is making a recommendation to revise a service or outcome in the [**ISP** as provided under § 2390.156(c)(4) (relating to ISP re-

view and revision)] **PSP**, the client shall have an assessment completed as required under this section.

* * * * *

(f) The program specialist shall provide the assessment to the SC or plan lead, as applicable, and plan team members at least 30 calendar days prior to [**an ISP**] a **PSP** meeting for the development, annual update and revision of the [**ISP**] **PSP** under §§ 2380.182, 2390.152, 6400.182 and 6500.152 (relating to development[, **annual update and revision of the ISP**] of the **PSP**).

§ 2390.152. Development[, **annual update and revision of the ISP**] of the **PSP**.

[(a) A client shall have one **ISP**.

(b) When a client is not receiving services through an **SCO** and is not receiving services in a facility or home licensed under Chapters 2380, 6400 or 6500 (relating to adult training facilities; community homes for individuals with an intellectual disability; and family living homes), the vocational facility program specialist shall be the plan lead.

(c) The plan lead shall be responsible for developing and implementing the **ISP**, including annual updates and revisions.

(d) The plan lead shall develop, update and revise the **ISP** according to the following:

(1) The **ISP** shall be initially developed, updated annually and revised based upon the client's current assessment as required under §§ 2380.181, 2390.151, 6400.181 and 6500.151 (relating to assessment).

(2) The initial **ISP** shall be developed within 90 calendar days after the client's admission date to the facility.

(3) The **ISP**, annual updates and revisions shall be documented on the Department-designated form located in the Home and Community Services Information System (**HCSIS**) and also on the Department's web site.

(4) An invitation shall be sent to plan team members at least 30 calendar days prior to an **ISP** meeting.

(5) Copies of the **ISP**, including annual updates and revisions under § 2390.156 (relating to **ISP** review and revision), shall be provided as required under § 2390.157 (relating to copies).]

(a) An individual shall have one approved and authorized **PSP** at a given time.

(b) An individual's service implementation plan must be consistent with the **PSP** in subsection (a).

(c) The support coordinator, targeted support manager or program specialist shall coordinate the development of the **PSP**, including revisions, in cooperation with the individual and the individual's **PSP** team.

(d) The initial **PSP** shall be developed based on the individual assessment within 60 days of the individual's date of admission to the facility.

(e) The **PSP** shall be initially developed, revised annually and revised when an individual's needs change based upon a current assessment.

(f) The individual and persons designated by the individual shall be involved in and supported in the development and revisions of the PSP.

(g) The PSP, including revisions, shall be documented on a form specified by the Department.

§ 2390.153. [Content of the ISP.] The PSP team.

[The ISP, including annual updates and revisions under § 2390.156 (relating to ISP review and revision) must include the following:

(1) Services provided to the client and expected outcomes chosen by the client and client's plan team.

(2) Services provided to the client to develop the skills necessary for promotion into a higher level of vocational programming or into competitive community-integrated employment as required under § 2390.158 (relating to provider services).

(3) Current status in relation to an outcome and method of evaluation used to determine progress toward that expected outcome.

(4) A protocol and schedule outlining specified periods of time for the client to be without direct supervision, if the client's current assessment states the client may be without direct supervision and if the client's ISP includes an expected outcome which requires the achievement of a higher level of independence. The protocol must include the current level of independence and the method of evaluation used to determine progress toward the expected outcome to achieve a higher level of independence.

(5) A protocol to address the social, emotional and environmental needs of the client, if medication has been prescribed to treat symptoms of a diagnosed psychiatric illness.

(6) A protocol to eliminate the use of restrictive procedures, if restrictive procedures are utilized, and to address the underlying causes of the behavior which led to the use of restrictive procedures including the following:

(i) An assessment to determine the causes or antecedents of the behavior.

(ii) A protocol for addressing the underlying causes or antecedents of the behavior.

(iii) The method and timeline for eliminating the use of restrictive procedures.

(iv) A protocol for intervention or redirection without utilizing restrictive procedures.

(7) Assessment of the client's potential to advance in the following:

(i) Vocational programming.

(ii) Competitive community-integrated employment.]

(a) The PSP shall be developed by an interdisciplinary team including the following:

(1) The individual.

(2) Persons designated by the individual.

(3) The individual's direct care staff persons.

(4) The program specialist.

(5) The program specialist for the individual's residential program, if applicable.

(6) Other specialists such as health care, behavior management, speech, occupational and physical therapy as appropriate for the individual needs.

(b) At least three members of the PSP team, in addition to the individual and persons designated by the individual, shall be present at a PSP meeting at which the PSP is developed or revised.

(c) Members of the PSP team who attend the meeting shall sign and date the PSP.

§ 2390.154. [Plan team participation.] The PSP process.

[(a) The plan team shall participate in the development of the ISP, including the annual updates and revisions under § 2390.156 (relating to ISP review and revision).

(1) A plan team must include as its members the following:

(i) The client.

(ii) A program specialist or family living specialist, as applicable, from each provider delivering a service to the client.

(iii) A direct service worker who works with the client from each provider delivering a service to the client.

(iv) Any other person the client chooses to invite.

(2) If the following have a role in the client's life, the plan team may also include as its members, as applicable, the following:

(i) Medical, nursing, behavior management, speech, occupational or physical therapy specialists.

(ii) Additional direct service workers who work with the client from each provider delivering services to the client.

(iii) The client's parent, guardian or advocate.

(b) At least three plan team members, in addition to the client, if the client chooses to attend, shall be present for the ISP, annual update and ISP revision meetings.

(c) A plan team member who attends an ISP meeting under subsection (b) shall sign and date the signature sheet.]

The PSP process shall:

(1) Provide necessary information and support to ensure that the individual directs the PSP process to the maximum extent possible.

(2) Enable the individual to make informed choices and decisions.

(3) Be conducted to reflect what is important to the individual to ensure that supports are delivered in a manner reflecting individual preferences and ensuring the individual's health, safety and well-being.

(4) Be timely and occur at intervals, times and locations of choice and convenience to the individual and to persons designated by the individual.

(5) Be communicated in clear and understandable language.

(6) Reflect cultural considerations of the individual.

(7) Include guidelines for solving disagreements among the PSP team members.

(8) Include a method for the individual to request updates to the PSP.

§ 2390.155. [Implementation of the ISP.] Content of the PSP.

[(a) The ISP shall be implemented by the ISP's start date.

(b) The ISP shall be implemented as written.]

The PSP, including revisions, must include the following:

(1) The individual's strengths and functional abilities.

(2) The individual's individualized clinical and support needs.

(3) The individual's goals and preferences related to relationships, community participation, employment, income and savings, health care, wellness and education.

(4) Individually identified, person-centered desired outcomes.

(5) Supports to assist the individual to achieve desired outcomes.

(6) The type, amount, duration and frequency for the support specified in a manner that reflects the assessed needs and choices of the individual. The schedule of support delivery shall be determined by the PSP team.

(7) Communication mode, abilities and needs.

(8) Opportunities for new or continued community participation.

(9) Risk factors, dangerous behaviors and risk mitigation strategies, if applicable.

(10) Modification of individual rights as necessary to mitigate risks, if applicable.

(11) Health care information, including a health care history.

(12) Financial information including how the individual chooses to use personal funds.

(13) The person responsible for monitoring the implementation of the PSP.

§ 2390.156. [ISP review and revision.] Implementation of the PSP.

[(a) The program specialist shall complete an ISP review of the services and expected outcomes in the ISP specific to the facility licensed under this chapter with the client every 3 months or more frequently if the client's needs change which impacts the services as specified in the current ISP.

(b) The program specialist and client shall sign and date the ISP review signature sheet upon review of the ISP.

(c) The ISP review must include the following:

(1) A review of the monthly documentation of a client's participation and progress during the prior

3 months toward ISP outcomes supported by services provide by the facility licensed under this chapter.

(2) A review of each section of the ISP specific to the facility licensed under this chapter.

(3) The program specialist shall document a change in the client's needs, if applicable.

(4) The program specialist shall make a recommendation regarding the following, if applicable:

(i) The deletion of an outcome or service to support the achievement of an outcome which is no longer appropriate or has been completed.

(ii) The addition of an outcome or service to support the achievement of an outcome.

(iii) The modification of an outcome or service to support the achievement of an outcome in which no progress has been made.

(5) If making a recommendation to revise a service or outcome in the ISP, the program specialist shall complete a revised assessment as required under § 2390.151(b) (relating to assessment).

(d) The program specialist shall provide the ISP review documentation, including recommendations if applicable, to the SC or plan lead, as applicable, and plan team members within 30 calendar days after the ISP review meeting.

(e) The program specialist shall notify the plan team members of the option to decline the ISP review documentation.

(f) If a recommendation for a revision to a service or outcome in the ISP is made, the plan lead, as applicable, under §§ 2380.182(b) and (c), 2390.152(b) and (c), 6400.182(b) and (c), 6500.152(b) and (c) (relating to development, annual update and revision of the ISP), shall send an invitation for an ISP revision meeting to the plan team members within 30 calendar days of receipt of the recommendation.

(g) A revised service or outcome in the ISP shall be implemented by the start date in the ISP as written.]

The facility shall implement the PSP, including revisions.

§ 2390.157. [Copies.] (Reserved).

[A copy of the ISP, ISP annual update and ISP revision, including the signature sheet, shall be provided to plan team members within 30 calendar days after the ISP, ISP annual update and ISP revision meetings.]

§ 2390.158. [Provider services.] (Reserved).

[(a) The facility shall provide services including work experience and other developmentally oriented, vocational training designed to develop the skills necessary for promotion into a higher level of vocational programming or competitive community-integrated employment.

(b) The facility shall provide opportunities and support to the client for participation in community life, including competitive community-integrated employment.

(c) The facility shall provide services to the client as specified in the client's ISP.

(d) The facility shall provide services that are age and functionally appropriate to the client.]

(Editor's Note: Sections 2390.171—2390.176 and 2390.191—2930.199 are new and printed in regular type to enhance readability.)

POSITIVE INTERVENTION

§ 2390.171. Use of a positive intervention.

(a) A positive intervention shall be used to prevent, modify and eliminate a dangerous behavior when the behavior is anticipated or occurring.

(b) The least intrusive method shall be applied when addressing a dangerous behavior. For each incidence of a dangerous behavior, every attempt shall be made to modify and eliminate the behavior.

(c) As used in this section, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

Dangerous behavior—An action with a high likelihood of resulting in harm to the individual or others.

Positive intervention—An action or activity intended to prevent, modify and eliminate a dangerous behavior. This includes improved communications, reinforcing appropriate behavior, an environmental change, recognizing and treating physical and behavioral health symptoms, voluntary physical exercise and other wellness practices, redirection, praise, modeling, conflict resolution and de-escalation.

§ 2390.172. PSP.

If the individual has a dangerous behavior as identified in the PSP, the PSP must include the following:

- (1) The specific dangerous behavior to be addressed.
- (2) A functional analysis of the dangerous behavior and the plan to address the reason for the behavior.
- (3) The outcome desired.
- (4) A description of the positive intervention aimed at preventing, modifying or eliminating the dangerous behavior and the circumstances under which the intervention is to be used.
- (5) A target date to achieve the outcome.
- (6) Health conditions that require special attention.

§ 2390.173. Prohibition of restraints.

The following procedures are prohibited:

- (1) Seclusion, defined as involuntary confinement of an individual in a room or area from which the individual is physically prevented or verbally directed from leaving.
- (2) Aversive conditioning, defined as the application of startling, painful or noxious stimuli.
- (3) Pressure point techniques, defined as the application of pain for the purpose of achieving compliance.
- (4) A chemical restraint, defined as use of drugs or chemicals for the specific and exclusive purpose of controlling acute or episodic aggressive behavior. A chemical restraint does not include a drug ordered by a health care practitioner or dentist to treat the symptoms of a specific mental, emotional or behavioral condition, or as pretreatment prior to a medical or dental examination or treatment.
- (5) A mechanical restraint, defined as a device that restricts the movement or function of an individual or portion of an individual's body. Mechanical restraints

include a geriatric chair, handcuffs, anklets, wristlets, camisole, helmet with fasteners, muffs and mitts with fasteners, restraint vest, waist strap, head strap, papoose board, restraining sheet, chest restraint and other locked restraints.

(i) The term does not include a device prescribed by a health care practitioner that is used to provide post-surgical care, proper balance or support for the achievement of functional body position.

(ii) The term does not include a device prescribed by a health care practitioner to protect the individual in the event of a seizure, as long as the individual can easily remove the device.

(6) A manual restraint, defined as a hands-on physical method that restricts, immobilizes or reduces an individual's ability to move his arms, legs, head or other body parts freely, on a nonemergency basis, or for more than 15 minutes within a 2-hour period. A manual restraint does not include physically prompting, escorting or guiding an individual to provide a support as specified in the individual's PSP.

(7) A prone position manual restraint.

(8) A manual restraint that inhibits digestion or respiration, inflicts pain, causes embarrassment or humiliation, causes hyperextension of joints, applies pressure on the chest or joints, or allows for a free fall to the floor.

§ 2390.174. Permitted interventions.

(a) Voluntary exclusion, defined as an individual voluntarily removing himself from his immediate environment and placing himself alone to a room or area, is permitted in accordance with the individual's PSP.

(b) A physical protective restraint may be used only in accordance with § 2390.173(6)—(8) (relating to prohibition of restraints).

(c) A physical protective restraint may not be used until §§ 2390.49(c)(5) and 2390.155(9) (relating to annual training; and content of the PSP) are met.

(d) A physical protective restraint may only be used in the case of an emergency to prevent an individual from injuring the individual's self or others.

(e) A physical protective restraint may not be used as a behavioral intervention, consequence, retribution, punishment, for the convenience of staff persons or as a substitution for individual support.

(f) A physical protective restraint may not be used for more than 15 minutes within a 2-hour period.

(g) A physical protective restraint may only be used by a staff person who is trained as specified in § 2390.49.

(h) As used in this section, a "physical protective restraint" is a hands-on hold of an individual.

§ 2390.175. Access to or the use of an individual's personal property.

(a) Access to or the use of an individual's personal funds or property may not be used as a reward or punishment.

(b) An individual's personal funds or property may not be used as payment for damages unless the individual consents to make restitution for the damages as follows:

- (1) A separate written consent by the individual is required for each incidence of restitution.
- (2) Consent shall be obtained in the presence of the individual, a person designated by the individual and in

the presence of and with the support of the support coordinator or targeted support manager.

(3) There may not be coercion in obtaining the consent of an individual.

(4) The facility shall keep a copy of the individual's written consent.

§ 2390.176. Rights team.

(a) The facility shall have a rights team. The facility may use a county mental health and intellectual disability program rights team that meets the requirements of this section.

(b) The role of the rights team is to:

(1) Review each incident, alleged incident and suspected incident of a violation of individual rights as specified in § 2390.21 (relating to individual rights).

(2) Review each incidence of the use of a restraint as specified in §§ 2390.171—2390.174 to:

(i) Analyze systemic concerns.

(ii) Design positive supports as an alternative to the use of a restraint.

(iii) Discover and resolve the reason for an individual's behavior.

(c) Members of the rights team shall include the affected individual, persons designated by the individual, a family member or an advocate if the individual is unable to speak for himself, the individual's support coordinator, a representative from the funding agency, if applicable, and a facility representative.

(d) Members of the rights team shall be comprised of a majority who do not provide direct support to the individual.

(e) If a restraint was used, the individual's health care practitioner shall be consulted.

(f) The rights team shall meet at least once every 3 months.

(g) The rights team shall report its recommendations to the affected PSP.

(h) The facility shall keep documentation of the rights team meetings and the decisions made at the meetings.

MEDICATION ADMINISTRATION

§ 2390.191. Self-administration.

(a) The facility shall provide an individual who has a prescribed medication with assistance, as needed, for the individual's self-administration of the medication.

(b) Assistance in the self-administration of medication includes helping the individual to remember the schedule for taking the medication, offering the individual the medication at the prescribed times, opening a medication container and storing the medication in a secure place.

(c) The facility shall provide or arrange for assistive technology to support the individual's self-administration of medications.

(d) The PSP must identify if the individual is unable to self-administer medications.

(e) To be considered able to self-administer medications, an individual shall do all of the following:

(1) Recognize and distinguish the individual's medication.

(2) Know how much medication is to be taken.

(3) Know when the medication is to be taken. This knowledge may include reminders of the schedule and offering the medication at the prescribed times as specified in subsection (b).

(4) Take or apply the individual's own medication with or without the use of assistive technology.

§ 2390.192. Medication administration.

(a) A facility whose staff persons are qualified to administer medications as specified in subsection (b) may provide medication administration for an individual who is unable to self-administer his prescribed medication.

(b) A prescription medication that is not self-administered shall be administered by one of the following:

(1) A licensed physician, licensed dentist, licensed physician's assistant, registered nurse, certified registered nurse practitioner, licensed practical nurse or licensed paramedic.

(2) A person who has completed the medication administration training as specified in § 2390.199 (relating to medication administration training) for the medication administration of the following:

(i) Oral medications.

(ii) Topical medications.

(iii) Eye, nose and ear drop medications.

(iv) Insulin injections.

(v) Epinephrine injections for insect bites or other allergies.

(c) Medication administration includes the following activities, based on the needs of the individual:

(1) Identify the correct individual.

(2) Remove the medication from the original container.

(3) Crush or split the medication as ordered by the prescriber.

(4) Place the medication in a medication cup or other appropriate container, or into the individual's hand, mouth or other route as ordered by the prescriber.

(5) If indicated by the prescriber's order, measure vital signs and administer medications according to the prescriber's order.

(6) Injection of insulin or epinephrine in accordance with this chapter.

§ 2390.193. Storage and disposal of medications.

(a) Prescription and nonprescription medications shall be kept in their original labeled containers.

(b) A prescription medication may not be removed from its original labeled container more than 2 hours in advance of the scheduled administration.

(c) If insulin or epinephrine is not packaged in an individual dose container, assistance with or the administration of the injection shall be provided immediately upon removal of the medication from its original labeled container.

(d) Prescription medications and syringes, with the exception of epinephrine and epinephrine auto-injectors, shall be kept in an area or container that is locked.

(e) Epinephrine and epinephrine auto-injectors shall be stored safely and kept easily accessible at all times. The epinephrine and epinephrine auto-injectors shall be easily accessible to the individual if the epinephrine is self-

administered or to the staff person who is with the individual if a staff person will administer the epinephrine.

(f) Prescription medications stored in a refrigerator shall be kept in an area or container that is locked.

(g) Prescription medications shall be stored in an organized manner under proper conditions of sanitation, temperature, moisture and light and in accordance with the manufacturer's instructions.

(h) Prescription medications that are discontinued or expired shall be destroyed in a safe manner according to the Department of Environmental Protection and applicable Federal and State regulations.

(i) Subsections (a)—(d) and (f) do not apply for an individual who self-administers medication and stores the medication on his person or in the individual's private property, such as a purse or backpack.

§ 2390.194. Labeling of medications.

The original container for prescription medications must be labeled with a pharmacy label that includes the following:

- (1) The individual's name.
- (2) The name of the medication.
- (3) The date the prescription was issued.
- (4) The prescribed dosage and instructions for administration.
- (5) The name and title of the prescriber.

§ 2390.195. Prescription medications.

(a) A prescription medication shall be prescribed in writing by an authorized prescriber.

(b) A prescription order shall be kept current.

(c) A prescription medication shall be administered as prescribed.

(d) A prescription medication shall be used only by the individual for whom the prescription was prescribed.

(e) Changes in medication may only be made in writing by the prescriber or, in the case of an emergency, an alternate prescriber, except for circumstances in which oral orders may be accepted by a registered nurse in accordance with regulations of the Department of State. The individual's medication record shall be updated as soon as a written notice of the change is received.

§ 2390.196. Medication record.

(a) A medication record shall be kept including the following for each individual for whom a prescription medication is administered:

- (1) Individual's name.
- (2) Name and title of the prescriber.
- (3) Drug allergies.
- (4) Name of medication.
- (5) Strength of medication.
- (6) Dosage form.
- (7) Dose of medication.
- (8) Route of administration.
- (9) Frequency of administration.
- (10) Administration times.

(11) Diagnosis or purpose for the medication, including pro re nata.

(12) Date and time of medication administration.

(13) Name and initials of the person administering the medication.

(14) Duration of treatment, if applicable.

(15) Special precautions, if applicable.

(16) Side effects of the medication, if applicable.

(b) The information in subsection (a)(12) and (13) shall be recorded in the medication record at the time the medication is administered.

(c) If an individual refuses to take a prescribed medication, the refusal shall be documented on the medication record. The refusal shall be reported to the prescriber within 24 hours, unless otherwise instructed by the prescriber. Subsequent refusals to take a prescribed medication shall be reported as required by the prescriber.

(d) The directions of the prescriber shall be followed.

§ 2390.197. Medication errors.

(a) Medication errors include the following:

- (1) Failure to administer a medication.
- (2) Administration of the wrong medication.
- (3) Administration of the wrong amount of medication.
- (4) Failure to administer a medication at the prescribed time, which exceeds more than 1 hour before or after the prescribed time.
- (5) Administration to the wrong person.
- (6) Administration through the wrong route.

(b) Documentation of medication errors, follow-up action taken and the prescriber's response shall be kept in the individual's record.

§ 2390.198. Adverse reaction.

(a) If an individual has a suspected adverse reaction to a medication, the facility shall immediately consult a health care practitioner or seek emergency medical treatment.

(b) An adverse reaction to a medication, the health care practitioner's response to the adverse reaction and the action taken shall be documented.

§ 2390.199. Medication administration training.

(a) A staff person who has successfully completed a Department-approved medications administration course, including the course renewal requirements, may administer the following:

- (1) Oral medications.
- (2) Topical medications.
- (3) Eye, nose and ear drop medications.

(b) A staff person may administer insulin injections following successful completion of both:

- (1) The course specified in subsection (a).
- (2) A Department-approved diabetes patient education program within the past 12 months.

(c) A staff person may administer an epinephrine injection by means of an auto-injection device in response to anaphylaxis or another serious allergic reaction following successful completion of both:

(1) The course specified in subsection (a).

(2) Training relating to the use of an auto-injection epinephrine injection device provided by a licensed, registered or certified health care professional within the past 12 months.

(d) A record of the training shall be kept including the person trained, the date, source, name of trainer and documentation that the course was successfully completed.

PART VIII. INTELLECTUAL DISABILITY AND AUTISM MANUAL

Subpart C. ADMINISTRATION AND FISCAL MANAGEMENT

(Editor's Note: The following chapter is new and printed in regular type to enhance readability.)

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GENERAL PROVISIONS

§ 6100.1. Purpose.

(a) The purpose of this chapter is to specify the program and operational requirements for applicants and providers of HCBS and supports to individuals provided through base-funding.

(b) This chapter supports individuals with an intellectual disability or autism to achieve greater independence, choice and opportunity in their lives through the effective and efficient delivery of HCBS and supports to individuals provided through base-funding.

§ 6100.2. Applicability.

(a) This chapter applies to HCBS provided through waiver programs under section 1915(c) of the Social Security Act (42 U.S.C.A. § 1396n(c)) for individuals with an intellectual disability or autism.

(b) This chapter applies to State plan HCBS for individuals with an intellectual disability or autism.

(c) This chapter applies to intellectual disability programs, staffing and individual supports that are funded exclusively by grants to counties under the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4101—4704) or Article XIV-B of the Human Services Code (62 P.S. §§ 1401-B—1410-B).

(d) This chapter does not apply to the following:

(1) Intermediate care facilities licensed in accordance with Chapter 6600 (relating to intermediate care facilities for individuals with an intellectual disability), except as provided under § 6100.447(d) (relating to facility characteristics relating to location of facility).

(2) Hospitals licensed in accordance with 28 Pa. Code Chapters 101—158 (relating to general and special hospitals).

(3) Nursing facilities licensed in accordance with 28 Pa. Code Chapters 201—211 (relating to long-term care facilities).

(4) Personal care homes licensed in accordance with Chapter 2600 (relating to personal care homes).

(5) Assisted living residences licensed in accordance with Chapter 2800 (relating to assisted living residences).

(6) Mental health facilities licensed in accordance with Chapters 5200, 5210, 5221, 5230, 5300 and 5320.

(7) Privately-funded programs, supports and placements.

(8) Placements by other states into this Commonwealth.

(9) A vendor fiscal employer agent model for an individual-directed financial management service.

(10) The adult community autism program that is funded and provided in accordance with the Federally-approved 1915(a) waiver program.

§ 6100.3. Definitions.

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

Allowable cost—Expenses considered reasonable, necessary and related to the support provided.

Applicant—An entity that is in the process of enrolling in the Medical Assistance program as a provider of HCBS.

Base-funded support—A support funded exclusively by a grant to a county under the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4101—4704) or Article XIV-B of the Human Services Code (62 P.S. §§ 1401-B—1410-B).

Corrective action plan—A document that specifies the following:

(i) Action steps to be taken to achieve and sustain compliance.

(ii) The time frame by which corrections will be made.

(iii) The person responsible for taking the action step.

(iv) The person responsible for monitoring compliance with the corrective action plan.

Department—The Department of Human Services of the Commonwealth.

Designated managing entity—An entity that enters into an agreement with the Department to perform administrative functions delegated by the Department, as the Department's designee. For base-funding, this includes the county mental health and intellectual disability program.

Eligible cost—Expenses related to the specific procedure codes for which the Department receives Federal funding.

Family—A natural person that the individual considers to be part of his core family unit.

Fixed asset—A major item, excluding real estate, which is expected to have a useful life of more than 1 year or that can be used repeatedly without materially changing or impairing its physical condition through normal repairs, maintenance or replacement of components.

HCBS—Home and community-based support—An activity, service, assistance or product provided to an indi-

vidual that is funded through a Federally-approved waiver program or the State plan.

Individual—A woman, man or child who receives a home and community-based intellectual disability or autism support or base-funded support.

Natural support—An activity or assistance that is provided voluntarily to the individual instead of a reimbursed support.

OVR—The Department of Labor and Industry's Office of Vocational Rehabilitation.

PSP—Person-centered support plan.

Provider—The person, entity or agency that is contracted or authorized to deliver the support to the individual.

Restraint—A physical, chemical or mechanical intervention used to control acute, episodic behavior that restricts the movement or function of the individual or a portion of the individual's body, including an intervention approved as part of the PSP or used on an emergency basis.

SSI—Supplemental security income.

State plan—The Commonwealth's approved Title XIX State Plan.

Support—An activity, service, assistance or product provided to an individual that is provided through a Federally-approved waiver program, the State plan or base-funding. A support includes an HCBS, support coordination, TSM, agency with choice, organized health care delivery system, vendor goods and services, and base-funding support, unless specifically exempted in this chapter.

Vacancy factor—An adjustment to the full capacity rate to account for days when the residential habilitation provider cannot bill due to an individual not receiving supports.

GENERAL REQUIREMENTS

§ 6100.41. Appeals.

Appeals related to this chapter shall be made in accordance with Chapter 41 (relating to Medical Assistance provider appeal procedures).

§ 6100.42. Monitoring compliance.

(a) The Department and the designated managing entity may monitor compliance with this chapter at any time through an audit, provider monitoring or other monitoring method.

(b) The provider's policies, procedures, records and invoices may be reviewed, and the provider may be required to provide an explanation of its policies, procedures, records and invoices, related to compliance with this chapter or applicable Federal or State statutes and regulations, during an audit, provider monitoring or other monitoring method.

(c) The provider shall cooperate with the Department and the designated managing entity and provide the requested compliance documentation in the format required by the Department prior to, during and following an audit, provider monitoring or other monitoring method.

(d) The provider shall cooperate with authorized Federal and State regulatory agencies and provide the requested compliance documentation in the format required by the regulatory agencies.

(e) The provider shall complete a corrective action plan for a violation or an alleged violation of this chapter in the time frame required by the Department.

(f) The provider shall complete the corrective action plan on a form specified by the Department.

(g) The Department or the designated managing entity may issue a directed corrective action plan to direct the provider to complete a specified course of action to correct a violation or alleged violation of this chapter.

(h) The directed corrective action plan in subsection (g) may include the following:

(1) The acquisition and completion of an educational program, in addition to that required under §§ 6100.141—6100.144 (relating to training).

(2) Technical consultation.

(3) Monitoring.

(4) Audit.

(5) Oversight by an appropriate agency.

(6) Another appropriate course of action to correct the violation.

(i) The directed corrective action plan shall be completed by the provider at the provider's expense and is not eligible for reimbursement from the Department.

(j) The provider shall comply with the corrective action plan and directed corrective action plan as approved by the Department or the designated managing entity.

(k) The provider shall keep documentation relating to an audit, provider monitoring or other monitoring method, including supporting compliance documents.

§ 6100.43. Regulatory waiver.

(a) A provider may submit a request for a waiver of a section, subsection, paragraph or subparagraph of this chapter, except for the following:

(1) Sections 6100.1—6100.3 (relating to general provisions).

(2) Sections 6100.41—6100.55 (relating to general requirements).

(3) Sections 6100.181—6100.186 (relating to individual rights).

(4) Sections 6100.341—6100.345 (relating to positive intervention).

(b) The waiver shall be submitted on a form specified by the Department.

(c) The Secretary of the Department or the Secretary's designee may grant a waiver if the following conditions are met:

(1) There is no jeopardy to an individual's health, safety and well-being.

(2) An individual or group of individuals benefit from the granting of the waiver through increased person-centeredness, integration, independence, choice or community opportunities for individuals.

(3) There is not a violation of the Department's Federally-approved waivers and waiver amendments, or the State plan, as applicable.

(4) Additional conditions deemed appropriate by the Department.

(d) The Department will specify an effective date and an expiration date for a waiver that is granted.

(e) At least 45 days prior to the submission of a request for a waiver the provider shall provide a written copy of the waiver request to the affected individuals, and to persons designated by the individuals, allowing at least 20 days for review and comment to the provider, the designated managing entity and the Department.

(f) If the request for a waiver involves the immediate protection of an individual's health and safety, the provider shall provide a written copy of the waiver request to the affected individuals, and to persons designated by the individuals, at least 24 hours prior to the submission of the request for a waiver, allowing at least 20 hours for review and comment to the provider, the designated managing entity and the Department.

(g) The provider shall discuss and explain the request for a waiver with the affected individuals, and with persons designated by the individuals.

(h) The request for a waiver submitted to the Department must include copies of comments received by the individuals and by persons designated by the individuals.

(i) The provider shall notify the affected individuals, and persons designated by the individuals, of the Department's waiver decision.

(j) The provider shall submit a request for the renewal of a waiver at least 60 days prior to the expiration of the waiver.

(k) A request for the renewal of a waiver shall follow the procedures in subsections (a)—(j).

(l) The provider shall notify an individual not previously notified under this section of an existing waiver that affects the individual.

§ 6100.44. Innovation project.

(a) A provider may submit a proposal to the Department to demonstrate an innovative project on a temporary basis.

(b) The innovation project proposal must include the following:

(1) A comprehensive description of how the innovation encourages best practice and promotes the mission, vision and values of person-centeredness, integration, independence, choice and community opportunities for individuals.

(2) A description of the positive impact on the quality of life including the impact on individual choice, independence and person-centeredness.

(3) A discussion of alternate health and safety protections, if applicable.

(4) The number of individuals included in the innovation project.

(5) The geographic location of the innovation project.

(6) The proposed beginning and end date for the innovation project.

(7) The name, title and qualifications of the manager who will oversee and monitor the innovation project.

(8) A description of the advisory committee who will advise the innovation project.

(9) A description of how individuals will be involved in designing and evaluating the success of the innovation project.

(10) The community partners who will be involved in implementing the innovation project.

(11) A request for a waiver form as specified in § 6100.43 (relating to regulatory waiver), if applicable.

(12) Proposed changes to supports.

(13) A detailed budget for the innovation project.

(14) A description of who will have access to information on the innovation project.

(15) The impact on living wage initiatives for direct support professionals, if applicable.

(c) The innovation project must comply with the Department's Federally-approved waivers and waiver amendments, or the State plan, as applicable.

(d) The Deputy Secretary for the Office of Developmental Programs of the Department will review a proposal for an innovation project in accordance with the following criteria:

(1) The effect on an individual's health, safety and well-being.

(2) The benefit from the innovation project to an individual or group of individuals by providing increased person-centeredness, integration, independence, choice and community opportunities for individuals.

(3) Compliance with the Department's Federally-approved waivers and waiver amendments, or the State plan, as applicable.

(4) The soundness and viability of the proposed budget.

(5) Additional criteria the Department deems relevant to its review, funding or oversight of the specific innovation project proposal.

(e) If the innovation project proposal is approved by the Deputy, the provider shall be subject to the fiscal procedures, reporting, monitoring and oversight as directed by the Department.

(f) The provider shall submit a comprehensive annual report to the Department, to be made available to the public, at the Department's discretion.

(g) The annual report must include the following:

(1) The impact on the quality of life outcomes for individuals.

(2) Budget.

(3) Costs.

(4) Cost benefit analysis.

(5) Other relevant data, evaluation and analysis.

(h) The Department may expand, renew or continue an innovation project, or a portion of the project, at its discretion.

§ 6100.45. Quality management.

(a) The provider shall develop and implement a quality management plan on a form specified by the Department.

(b) The provider shall conduct a review of performance data in the following areas to evaluate progress and identify areas for performance improvement:

(1) Progress in meeting the desired outcomes of the PSP.

(2) Incident management, to encompass a trend analysis of the incident data including the reporting, investigation, suspected causes and corrective action taken in response to incidents.

(3) Performance in accordance with 42 CFR 441.302 (relating to state assurances).

(4) Grievances, to encompass a trend analysis of the grievance data.

(5) Individual and family satisfaction survey results and informal comments by individuals, families and others.

(6) An analysis of the successful learning and application of training in relation to established core competencies.

(7) Staff satisfaction survey results and suggestions for improvement.

(8) Turnover rates by position and suspected causes.

(9) Licensing and monitoring reports.

(c) The quality management plan must identify the plans for systemic improvement and measures to evaluate the success of the plan.

(d) The provider shall review and document progress on the quality management plan quarterly.

(e) The provider shall analyze and revise the quality management plan every 2 years.

§ 6100.46. Protective services.

(a) Abuse, suspected abuse and alleged abuse of an individual, regardless of the alleged location or alleged perpetrator of the abuse, shall be reported and managed in accordance with the following:

(1) The Adult Protective Services Act (35 P.S. §§ 10210.101—10210.704) and applicable regulations.

(2) 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law) and applicable regulations.

(3) The Older Adults Protective Services Act (35 P.S. §§ 10225.101—10225.5102) and applicable regulations.

(b) If there is an incident of abuse, suspected abuse or alleged abuse of an individual involving a staff person, consultant, intern or volunteer, the staff person, consultant, intern or volunteer may not have direct contact with an individual until the abuse investigation is concluded and the investigating agency has confirmed that no abuse occurred.

(c) In addition to the reporting required under subsection (a), the provider shall immediately report the abuse, suspected abuse or alleged abuse to the following:

(1) The individual.

(2) Persons designated by the individual.

(3) The Department.

(4) The designated managing entity.

(5) The county government office responsible for the intellectual disability program.

§ 6100.47. Criminal history checks.

(a) Criminal history checks shall be completed for the following:

(1) Full-time and part-time staff persons in any staff position.

(2) Support coordinators, targeted support managers and base-funding support managers.

(b) Criminal history checks shall be completed for the following persons who provide a support included in the PSP:

(1) Household members who have direct contact with an individual.

(2) Life sharers.

(3) Consultants.

(4) Paid or unpaid interns.

(5) Volunteers.

(c) Criminal history checks as specified in subsections (a) and (b) shall be completed in accordance with the following:

(1) The Older Adults Protective Services Act (35 P.S. §§ 10225.101—10225.5102) and applicable regulations.

(2) 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law) and applicable regulations.

(d) This section does not apply to natural supports.

§ 6100.48. Funding, hiring, retention and utilization.

(a) Funding, hiring, retention and utilization of persons who provide reimbursed support shall be in accordance with the applicable provisions of the Older Adults Protective Services Act (35 P.S. §§ 10225.101—10225.5102), 6 Pa. Code Chapter 15 (relating to protective services for older adults), 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law) and Chapter 3490 (relating to protective services). This subsection applies to the following:

(1) Household members who have direct contact with an individual.

(2) Full-time and part-time staff persons in any staff position.

(3) Life sharers.

(4) Consultants.

(5) Paid or unpaid interns.

(6) Volunteers.

(7) Support coordinators, targeted support managers and base-funding support coordinators.

(b) Subsection (a) does not apply to natural supports.

§ 6100.49. Child abuse history certification.

A child abuse history certification shall be completed in accordance with 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law) and applicable regulations.

§ 6100.50. Communication.

(a) Written, oral and other forms of communication with the individual, and persons designated by the individual, shall occur in a language and means of communication understood by the individual or a person designated by the individual.

(b) The individual shall be provided with the assistive technology necessary to effectively communicate.

§ 6100.51. Grievances.

(a) The provider shall develop procedures to receive, document and manage grievances.

(b) The provider shall inform the individual, and persons designated by the individual, upon initial entry into the provider's program and annually thereafter of the right to file a grievance and the procedure for filing a grievance.

(c) The provider shall permit and respond to oral and written grievances from any source, including an anonymous source, regarding the delivery of a support.

(d) The provider shall assure that there is no retaliation or threat of intimidation relating to the filing or investigation of grievances.

(e) If an individual indicates the desire to file a grievance in writing, the provider shall offer and provide assistance to the individual to prepare and submit the written grievance.

(f) The providers shall document and manage grievances, including repeated grievances.

(g) The provider shall document the following information for each grievance, including oral, written and anonymous grievances, from any source:

(1) The name, position, telephone, e-mail address and mailing address of the initiator of the grievance, if known.

(2) The date and time the grievance was received.

(3) The date of the occurrence, if applicable.

(4) The nature of the grievance.

(5) The provider's investigation process and findings relating to the grievance.

(6) The provider's actions to investigate and resolve the grievance, if applicable.

(7) The date the grievance was resolved.

(h) The grievance shall be resolved within 21 days from the date the grievance was received.

(i) The initiator of the grievance shall be provided a written notice of the resolution or findings within 30 days from the date the grievance was received.

§ 6100.52. Rights team.

(a) The provider shall have a rights team. The provider may use a county mental health and intellectual disability program rights team that meets the requirements of this section.

(b) The role of the rights team is to:

(1) Review each incident, alleged incident and suspected incident of a violation of individual rights as specified in §§ 6100.181—6100.186 (relating to individual rights).

(2) Review each use of a restraint as defined in §§ 6100.341—6100.345 (relating to positive intervention) to:

(i) Analyze systemic concerns.

(ii) Design positive supports as an alternative to the use of a restraint.

(iii) Discover and resolve the reason for an individual's behavior.

(c) Members of the rights team shall include the affected individual, persons designated by the individual, a family member or an advocate appointed by the designated managing entity if the individual is unable to speak for himself, the individual's support coordinator or targeted support manager, a representative from the designated managing entity and a provider representative.

(d) Members of the rights team shall be comprised of a majority who do not provide direct support to the individual.

(e) If a restraint was used, the individual's health care practitioner shall be consulted.

(f) The rights team shall meet at least once every 3 months.

(g) The rights team shall report its recommendations to the affected PSP team.

(h) The provider shall document the rights team meetings and the decisions made at the meetings.

§ 6100.53. Conflict of interest.

(a) The provider shall develop a conflict of interest policy that is reviewed and approved by the provider's full governing board.

(b) The provider shall comply with the provider's conflict of interest policy.

(c) An individual or a friend or family member of an individual may serve on the governing board.

§ 6100.54. Recordkeeping.

(a) The provider shall keep individual records confidential and in a secure location.

(b) The provider may not make individual records accessible to anyone other than the Department, the designated managing entity, and the support coordinator, targeted support manager or base-funded support coordinator without the written consent of the individual, or persons designated by the individual.

(c) Records, documents, information and financial books as required under this chapter shall be kept by the provider in accordance with the following:

(1) For at least 4 years from the Commonwealth's fiscal year-end or 4 years from the provider's fiscal year-end, whichever is later.

(2) Until any audit or litigation is resolved.

(3) In accordance with Federal and State statutes and regulations.

(d) If a program is completely or partially terminated, the records relating to the terminated program shall be kept for at least 5 years from the date of termination.

§ 6100.55. Reserved capacity.

An individual has the right to return to the individual's residential habilitation location following hospital or therapeutic leave in accordance with reserved capacity timelines specified in the Department's Federally-approved waivers and waiver amendments.

ENROLLMENT

§ 6100.81. HCBS provider requirements.

(a) The provider shall be qualified by the Department for each HCBS the provider intends to provide, prior to providing the HCBS.

(b) Prior to enrolling as a provider of HCBS, and on an ongoing basis following provider enrollment, the applicant or provider shall comply with the following:

(1) Chapter 1101 (relating to general provisions).

(2) The Department's monitoring documentation requirements as specified in § 6100.42 (relating to monitoring compliance).

(3) The Department's pre-enrollment provider training.

(4) Applicable licensure regulations, including Chapters 2380, 2390, 3800, 5310, 6400, 6500 and 6600, Department of Health licensure regulations in 28 Pa. Code Chapters 51, 601 and 611 (relating to general information; home

health care agencies; and home care agencies and home care registries) and any other applicable licensure regulations.

(c) Evidence of compliance with applicable licensure regulations in subsection (b)(4) is the possession of a valid regular license issued by the Department or the Department of Health.

(1) If the applicant possesses a provisional license for the specific HCBS for which the applicant is applying, the applicant is prohibited from enrolling in the HCBS program for that specific HCBS.

(2) This subsection does not prohibit a provider that possesses a provisional license from continuing participation in the HCBS program once a provider is enrolled.

(d) An applicant may not be enrolled as a provider of HCBS if the Department issued a sanction in accordance with §§ 6100.741—6100.744 (relating to enforcement).

§ 6100.82. HCBS documentation.

An applicant who wishes to operate an HCBS in accordance with this chapter shall complete and submit the following completed documents to the Department:

(1) A provider enrollment application on a form specified by the Department.

(2) An HCBS waiver provider agreement on a form specified by the Department.

(3) Copies of current licenses as specified in § 6100.81(b)(4) (relating to HCBS provider requirements).

(4) Verification of compliance with § 6100.47 (relating to criminal history checks).

(5) Verification of completion of the Department's monitoring documentation.

(6) Verification of completion of the Department's pre-enrollment provider training.

(7) Documents required in accordance with the Patient Protection and Affordable Care Act (Pub.L. No. 111-148).

§ 6100.83. Submission of HCBS qualification documentation.

The provider of HCBS shall submit written qualification documentation to the designated managing entity or to the Department at least 60 days prior to the expiration of its current qualification.

§ 6100.84. Provision, update and verification of information.

The provider of HCBS shall provide, update and verify information within the Department's system as part of the initial and ongoing qualification processes.

§ 6100.85. Ongoing HCBS provider qualifications.

(a) The provider shall comply with the Department's Federally-approved waivers and waiver amendments, or the State plan, as applicable.

(b) The provider's qualifications to continue providing HCBS will be verified at intervals specified in the Federally-approved waiver, including applicable Federally-approved waiver amendments, or the State plan, as applicable.

(c) The Department may require a provider's qualifications to be verified for continued eligibility at an interval more frequent than the Federally-approved waiver, in-

cluding applicable Federally-approved waiver amendments, or the Medical Assistance State plan, due to one of the following:

(1) Noncompliance with this chapter as determined by monitoring as specified in § 6100.42 (relating to monitoring compliance).

(2) Noncompliance with a corrective action plan, or a directed correction action plan, as issued or approved by the designated managing entity or the Department.

(3) The issuance of a provisional license by the Department.

(4) Improper enrollment in the HCBS program.

(d) Neither a provider nor its staff persons who may come into contact with an individual may be listed on the Federal or State lists of excludable persons such as the following:

(1) System for award management.

(2) List of excludable persons, individuals and entities.

(3) Medichex list.

§ 6100.86. Delivery of HCBS.

(a) The provider shall deliver only the HCBS for which the provider is determined to be qualified by the designated managing entity or the Department.

(b) The provider shall deliver the HCBS in accordance with the Federally-approved waiver, including applicable Federally-approved waiver amendments, and the Medical Assistance State plan, as applicable.

(c) The provider shall deliver only the HCBS to an individual who is authorized to receive that HCBS.

(d) The provider shall deliver the support in accordance with the individual's PSP.

TRAINING

§ 6100.141. Annual training plan.

(a) The provider shall design an annual training plan based on the needs of the individuals as specified in the individuals' PSPs, the provider's quality management plan and other data and analysis indicating training needs.

(b) The annual training plan must include the provider's orientation program as specified in § 6100.142 (relating to orientation program).

(c) The annual training plan must include training aimed at improving the knowledge, skills and core competencies of the staff persons and others to be trained.

(d) The annual training plan must include the following:

(1) The title of the position to be trained.

(2) The required training courses, including training course hours, for each position.

(e) Records of orientation and training, including the training source, content, dates, length of training, copies of certificates received and persons attending, shall be kept.

(f) The provider shall keep a training record for each person trained.

§ 6100.142. Orientation program.

(a) Prior to working alone with individuals, and within 30 days after hire or starting to provide support to an

individual, the following shall complete the orientation program as described in subsection (b):

(1) Management, program, administrative and fiscal staff persons.

(2) Dietary, housekeeping, maintenance and ancillary staff persons.

(3) Direct support staff persons, including full-time and part-time staff persons.

(4) Household members who will provide a reimbursed support to the individual.

(5) Life sharers.

(6) Volunteers who will work alone with individuals.

(7) Paid and unpaid interns who will work alone with individuals.

(8) Consultants who will work alone with individuals.

(b) The orientation program must encompass the following areas:

(1) The application of person-centered practices, including respecting rights, facilitating community integration, honoring choice and supporting individuals in maintaining relationships.

(2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with the Older Adults Protective Services Act (35 P.S. §§ 10225.101—10225.5102), 6 Pa. Code Chapter 15 (relating to protective services for older adults), 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law), the Adult Protective Services Act (35 P.S. §§ 10210.101—10210.704) and applicable protective services regulations.

(3) Individual rights.

(4) Recognizing and reporting incidents.

(5) Job-related knowledge and skills.

§ 6100.143. Annual training.

(a) The following persons shall complete 24 hours of training each year:

(1) Direct support staff persons, including household members and life sharers who provide a reimbursed support to the individual.

(2) Direct supervisors of direct support staff persons.

(b) The following staff persons and others shall complete 12 hours of training each year:

(1) Management, program, administrative, fiscal, dietary, housekeeping, maintenance and ancillary staff persons.

(2) Consultants who provide reimbursed supports to an individual and who work alone with individuals.

(3) Volunteers who provide reimbursed supports to an individual and who work alone with individuals.

(4) Paid and unpaid interns who provide reimbursed supports to an individual and who work alone with individuals.

(c) A minimum of 8 hours of the annual training hours specified in subsections (a) and (b) must encompass the following areas:

(1) The application of person-centered practices, including respecting rights, facilitating community integration, honoring choice and supporting individuals in maintaining relationships.

(2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with the Older Adults Protective Services Act (35 P.S. §§ 10225.101—10225.5102), 6 Pa. Code Chapter 15 (relating to protective services for older adults), 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law), the Adult Protective Services Act (35 P.S. §§ 10210.101—10210.704) and applicable protective services regulations.

(3) Individual rights.

(4) Recognizing and reporting incidents.

(5) The safe and appropriate use of positive interventions if the person will provide a support to an individual with a dangerous behavior.

(d) The balance of the annual training hours must be in areas identified by the provider in the provider's annual training plan in § 6100.141 (relating to annual training plan).

(e) All training, including the training courses identified in subsections (c) and (d), must be included in the provider's annual training plan.

§ 6100.144. Natural supports.

Sections 6100.141—6100.143 (relating to annual training plan; orientation program; and annual training) do not apply to natural supports.

INDIVIDUAL RIGHTS

§ 6100.181. Exercise of rights.

(a) An individual may not be deprived of rights as provided under §§ 6100.182 and 6100.183 (relating to rights of the individual; and additional rights of the individual in a residential facility).

(b) An individual shall be continually supported to exercise the individual's rights.

(c) An individual shall be provided the support and accommodation necessary to be able to understand and actively exercise the individual's rights.

(d) An individual may not be reprimanded, punished or retaliated against for exercising the individual's rights.

(e) A court's written order that restricts an individual's rights shall be followed.

(f) A court-appointed legal guardian may exercise rights and make decisions on behalf of an individual in accordance with a court order.

(g) An individual who has a court-appointed legal guardian, or who has a court order restricting the individual's rights, shall be involved in decision making in accordance with the court order.

(h) An individual has the right to designate persons to assist in decision making on behalf of the individual.

§ 6100.182. Rights of the individual.

(a) An individual may not be discriminated against because of race, color, creed, disability, religious affiliation, ancestry, gender, gender identity, sexual orientation, national origin or age.

(b) An individual has the right to civil and legal rights afforded by law, including the right to vote, speak freely, and practice the religion of his choice or to practice no religion.

(c) An individual may not be abused, neglected, mistreated, exploited, abandoned or subjected to corporal punishment.

(d) An individual shall be treated with dignity and respect.

(e) An individual has the right to make choices and accept risks.

(f) An individual has the right to refuse to participate in activities and supports.

(g) An individual has the right to control the individual's own schedule and activities.

(h) An individual has the right to privacy of person and possessions.

(i) An individual has the right of access to and security of the individual's possessions.

(j) An individual has the right to choose a willing and qualified provider.

(k) An individual has the right to choose where, when and how to receive needed supports.

(l) An individual has the right to voice concerns about the supports the individual receives.

(m) An individual has the right to assistive devices and support to enable communication at all times.

(n) An individual has the right to participate in the development and implementation of the PSP.

§ 6100.183. Additional rights of the individual in a residential facility.

(a) An individual has the right to receive scheduled and unscheduled visitors, and to communicate and meet privately with persons of the individual's choice, at any time.

(b) An individual has the right to unrestricted access to send and receive mail and other forms of communications, unopened and unread by others.

(c) An individual has the right to unrestricted and private access to telecommunications.

(d) An individual has the right to manage and access the individual's own finances.

(e) An individual has the right to choose persons with whom to share a bedroom.

(f) An individual has the right to furnish and decorate the individual's bedroom and the common areas of the home in accordance with §§ 6100.184 and 6100.444(b) (relating to negotiation of choices; and lease or ownership).

(g) An individual has the right to lock the individual's bedroom door.

(h) An individual has the right to access food at any time.

(i) An individual has the right to make informed health care decisions.

§ 6100.184. Negotiation of choices.

(a) An individual's rights shall be exercised so that another individual's rights are not violated.

(b) Choices shall be negotiated by the affected individuals in accordance with the provider's procedures for the individuals to resolve differences and make choices.

§ 6100.185. Informing of rights.

(a) The provider shall inform and explain individual rights to the individual, and persons designated by the individual, upon entry into the program and annually thereafter.

(b) The provider shall keep a statement signed by the individual, or the individual's court-appointed legal guardian, acknowledging receipt of the information on individual rights.

§ 6100.186. Role of family and friends.

(a) The provider shall facilitate and make the accommodations necessary to support an individual's visits with family, friends and others, at the direction of the individual.

(b) The provider shall facilitate and make the accommodations necessary to involve the individual's family, friends and others in decision making, planning and other activities, at the direction of the individual.

PERSON-CENTERED SUPPORT PLAN

§ 6100.221. Development of the PSP.

(a) An individual shall have one approved and authorized PSP that identifies the need for supports, the supports to be provided and the expected outcomes.

(b) An individual's service implementation plan must be consistent with the PSP in subsection (a).

(c) The support coordinator or targeted support manager shall be responsible for the development of the PSP, including revisions, in cooperation with the individual and the individual's PSP team.

(d) The initial PSP shall be developed prior to the individual receiving a reimbursed support.

(e) The PSP shall be revised when an individual's needs or support system changes and upon the request of an individual.

(f) The initial PSP and PSP revisions must be based upon a current assessment.

(g) The individual and persons designated by the individual shall be involved in and supported in the initial development and revisions of the PSP.

(h) The initial PSP and PSP revisions shall be documented on a form specified by the Department.

§ 6100.222. The PSP process.

(a) The PSP process shall be directed by the individual.

(b) The PSP process shall:

(1) Invite and include persons designated by the individual.

(2) Provide accommodation and facilitation to enable the individual's family, friends and others to attend the PSP meeting, at the direction of the individual.

(3) Be conducted to reflect what is important to the individual to ensure that supports are delivered in a manner reflecting individual preferences and ensuring the individual's health, safety and well-being.

(4) Provide necessary information and support to ensure that the individual directs the PSP process to the maximum extent possible.

(5) Enable the individual to make informed choices and decisions.

(6) Be timely in relation to the needs of the individual and occur at intervals, times and locations of choice and convenience to the individual and to persons designated by the individual.

(7) Be communicated in clear and understandable language.

(8) Reflect cultural considerations of the individual.

(9) Specify and follow guidelines for solving disagreements among the PSP team members.

(10) Establish a method for the individual to request updates to the PSP.

(11) Record the alternative supports that were considered by the individual.

§ 6100.223. Content of the PSP.

The PSP must include the following:

(1) The individual's strengths and functional abilities.

(2) The individual's assessed clinical and support needs.

(3) The individual's goals and preferences related to relationships, community participation, employment, income and savings, health care, wellness and education.

(4) Individually identified, person-centered desired outcomes.

(5) Support necessary to assist the individual to achieve desired outcomes.

(6) The provider of the support.

(7) Natural supports.

(8) The type, amount, duration and frequency for the support specified in a manner that reflects the assessed needs and choices of the individual. The schedule of support delivery shall be determined by the PSP team and provide sufficient flexibility to provide choice by the individual.

(9) The individual's communication mode, abilities and needs.

(10) Opportunities for new or continued community participation.

(11) Active pursuit of competitive, integrated employment as a first priority, before other activities or supports are considered.

(12) Education and learning history and goals.

(13) The level of needed support, risk factors, dangerous behaviors and risk mitigation strategies, if applicable.

(14) Modification of individual rights as necessary to mitigate risks, if applicable.

(15) Health care information, including a health care history.

(16) The individual's choice of the provider and setting in which to receive supports.

(17) Excluded, unnecessary or inappropriate supports.

(18) Financial information, including how the individual chooses to use personal funds.

(19) A back-up plan to identify a needed support as identified by the PSP team if the absence of the designated support person would place the individual at a health and safety risk.

(20) The person responsible for monitoring the implementation of the PSP.

(21) Signatures of the PSP team members and the date signed.

§ 6100.224. Implementation of the PSP.

The provider identified in the PSP shall implement the PSP, including revisions.

§ 6100.225. Support coordination and TSM.

(a) A support coordinator or targeted support manager shall assure the completion of the following activities when developing an initial PSP and the annual review of the PSP:

(1) Coordination of information gathering and assessment activity, which includes the results from assessments prior to the initial and annual PSP meeting.

(2) Collaboration with the individual and persons designated by the individual to coordinate a date, time and location for initial and annual PSP meetings.

(3) Distribution of invitations to PSP team members.

(4) Facilitation of the PSP meeting, or the provision of support for an individual who chooses to facilitate his own meeting.

(5) Documentation of agreement with the PSP from the individual, persons designated by the individual and other team members.

(6) Documentation and submission of the PSP reviews, and revisions to the PSP, to the Department and the designated managing entity for approval and authorization.

(7) If the PSP is returned for revision, resubmission of the amended PSP for approval and authorization.

(8) Distribution of the PSP to the PSP team members who do not have access to the Department's information management system.

(9) Revision of the PSP when there is a change in an individual's needs.

(b) A support coordinator or targeted support manager shall monitor the implementation of the PSP, as well as the health, safety and well-being of the individual, using the Department's monitoring tool.

§ 6100.226. Documentation of support delivery.

(a) Documentation of support delivery related to the individual shall be prepared by the provider for the purposes of substantiating a claim.

(b) Documentation of support delivery must relate to the implementation of the PSP rather than the individual's service implementation plan as specified in § 6100.221(b) (relating to development of the PSP).

(c) The provider shall document support delivery each time a support is delivered.

(d) Documentation of support delivery may be made on the same form if multiple supports are provided to the same individual, by the same provider and at the same location.

(e) Documentation of support delivery must include the following:

(1) The name of the individual.

(2) The name of the provider.

(3) The date, name, title and signature of the person completing the documentation.

(4) A summary documenting what support was delivered, who delivered the support, when the support was delivered and where the support was delivered.

(5) The amount, frequency and duration of the support as specified in the PSP.

(6) The outcome of the support delivery.

(7) A record of the time worked, or the time that a support was delivered, to support the claim.

(f) The provider, in cooperation with the support coordinator or the targeted support manager and the individual, shall complete a review of the documentation of support delivery for each individual, every 3 months, and document the progress made to achieving the desired outcome of the supports provided.

(g) The provider shall keep documentation of support delivery.

EMPLOYMENT, EDUCATION AND COMMUNITY PARTICIPATION

§ 6100.261. Access to the community.

(a) The provider shall provide the individual with the support necessary to access the community in accordance with the individual's PSP.

(b) The individual shall be provided ongoing opportunities and support necessary to participate in community activities of the individual's choice.

(c) The individual shall be afforded the same degree of community access and choice as an individual who is similarly situated in the community, who does not have a disability and who does not receive an HCBS.

§ 6100.262. Employment.

(a) The individual shall have active and ongoing opportunities and the supports necessary to seek and retain employment and work in competitive, integrated settings.

(b) Authorization for a new prevocational support for an individual who is under 25 years of age shall be permitted only after a referral is made to the OVR and the OVR either determines that the individual is ineligible or closes the case.

(c) At the annual PSP revision, the individual shall be offered appropriate opportunities related to the individual's skills and interests, and encouraged to seek competitive, integrated employment.

(d) The support coordinator or targeted support manager shall provide education and information to the individual about competitive, integrated employment and the OVR services.

§ 6100.263. Education.

If identified in the individual's PSP as necessary to support the individual's pursuit of a competitive, integrated employment outcome or identified in the individual's PSP for employment approved by the OVR, an individual shall have access to a full range of options that support participation in the following post-secondary education:

- (1) Technical education.
- (2) College and university programs.
- (3) Lifelong learning.
- (4) Career development.

TRANSITION

§ 6100.301. Individual choice.

(a) Influence may not be exerted by a provider when the individual is considering a transition to a new provider.

(b) An individual shall be supported by the support coordinator or the targeted support manager in exercising choice in transitioning to a new provider.

(c) An individual's choice to transition to a new provider shall be accomplished in the time frame desired by the individual, to the extent possible and in accordance with this chapter.

§ 6100.302. Transition to a new provider.

(a) When an individual transitions to a new provider, the current provider and new provider shall cooperate with the Department, the designated managing entity and the support coordinator or the targeted support manager during the transition between providers.

(b) The current provider shall:

(1) Participate in transition planning to aid in the successful transition to the new provider.

(2) Arrange for transportation of the individual to visit the new provider, if transportation is included in the support.

(3) Close pending incidents in the Department's information management system.

§ 6100.303. Reasons for a transfer or a change in a provider.

(a) The following are the only grounds for a change in a provider or a transfer of an individual against the individual's wishes:

(1) The individual is a danger to the individual's self or others, at the particular support location, even with the provision of supplemental supports.

(2) The individual's needs have changed, advanced or declined so that the individual's needs cannot be met by the provider, even with the provision of supplemental supports.

(3) Meeting the individual's needs would require a significant alteration of the provider's program or building.

(b) The provider may not change a support provider or transfer an individual against the individual's wishes in response to an individual's exercise of rights, voicing choices or concerns or in retaliation to filing a grievance.

§ 6100.304. Written notice.

(a) If the individual chooses another provider, the PSP team shall provide written notice to the following at least 30 days prior to the transition to a new provider:

- (1) The provider.
- (2) The individual.
- (3) Persons designated by the individual.
- (4) The PSP team members.
- (5) The designated managing entity.
- (6) The support coordinator or targeted support manager.

(b) If the provider is no longer able or willing to provide a support for an individual in accordance with § 6100.303 (relating to reasons for a transfer or a change in a provider), the provider shall provide written notice to the following at least 45 days prior to the date of the proposed change in support provider or transfer:

- (1) The individual.
- (2) Persons designated by the individual.

- (3) The PSP team members.
- (4) The designated managing entity.
- (5) The support coordinator or targeted support manager.
- (6) The Department.
- (c) The provider's written notice specified in subsection (b) must include the following:
 - (1) The individual's name and master client index number.
 - (2) The current provider's name, address and master provider index number.
 - (3) The support that the provider is unable or unwilling to provide or for which the individual chooses another provider.
 - (4) The location where the support is currently provided.
 - (5) The reason the provider is no longer able or willing to provide the support as specified in § 6100.303.
 - (6) A description of the efforts made to address or resolve the issue that has led to the provider becoming unable or unwilling to provide the support or for which the individual chooses another provider.
 - (7) Suggested time frames for transitioning the delivery of the support to the new provider.

§ 6100.305. Continuation of support.

The provider shall continue to provide the authorized support during the transition period to ensure continuity of care until a new provider is approved by the Department and the new support is in place, unless otherwise directed by the Department or the designated managing entity.

§ 6100.306. Transition planning.

The support coordinator or targeted support manager shall coordinate the transition planning activities, including scheduling and participating in all transition planning meetings during the transition period.

§ 6100.307. Transfer of records.

- (a) The provider shall transfer a copy of the individual record to the new provider prior to the day of the transfer.
- (b) The previous provider shall maintain the original individual record in accordance with § 6100.54 (relating to recordkeeping).

POSITIVE INTERVENTION

§ 6100.341. Use of a positive intervention.

- (a) A positive intervention shall be used to prevent, modify and eliminate a dangerous behavior when the behavior is anticipated or occurring.
- (b) The least intrusive method shall be applied when addressing a dangerous behavior. For each incidence of a dangerous behavior, every attempt shall be made to modify and eliminate the behavior.
- (c) As used in this section, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

Dangerous behavior—An action with a high likelihood of resulting in harm to the individual or others.

Positive intervention—An action or activity intended to prevent, modify and eliminate a dangerous behavior. This includes improved communication, reinforcing appropriate

behavior, an environmental change, recognizing and treating physical and behavioral health symptoms, voluntary physical exercise, wellness practice, redirection, praise, modeling, conflict resolution and de-escalation.

§ 6100.342. PSP.

If the individual has a dangerous behavior as identified in the PSP, the PSP must include the following:

- (1) The specific dangerous behavior to be addressed.
- (2) A functional analysis of the dangerous behavior and the plan to address the reason for the behavior.
- (3) The outcome desired.
- (4) A description of the positive intervention aimed at preventing, modifying or eliminating the dangerous behavior and the circumstances under which the intervention is to be used.
- (5) A target date to achieve the outcome.
- (6) Communication needs.
- (7) Health conditions that require special attention.

§ 6100.343. Prohibition of restraints.

The following procedures are prohibited:

- (1) Seclusion, defined as involuntary confinement of an individual in a room or area from which the individual is physically prevented or verbally directed from leaving.
- (2) Aversive conditioning, defined as the application of startling, painful or noxious stimuli.
- (3) Pressure point techniques, defined as the application of pain for the purpose of achieving compliance.
- (4) A chemical restraint, defined as use of drugs or chemicals for the specific and exclusive purpose of controlling acute or episodic aggressive behavior. A chemical restraint does not include a drug ordered by a health care practitioner or dentist to treat the symptoms of a specific mental, emotional or behavioral condition, or as pretreatment prior to a medical or dental examination or treatment.
- (5) A mechanical restraint, defined as a device that restricts the movement or function of an individual or portion of an individual's body. Mechanical restraints include a geriatric chair, handcuffs, anklets, wristlets, camisole, helmet with fasteners, muffs and mitts with fasteners, restraint vest, waist strap, head strap, papoose board, restraining sheet, chest restraint and other locked restraints.

(i) The term does not include a device prescribed by a health care practitioner that is used to provide post-surgical care, proper balance or support for the achievement of functional body position.

(ii) The term does not include a device prescribed by a health care practitioner to protect the individual in the event of a seizure, as long as the individual can easily remove the device.

(6) A manual restraint, defined as a hands-on physical method that restricts, immobilizes or reduces an individual's ability to move his arms, legs, head or other body parts freely, on a nonemergency basis, or for more than 15 minutes within a 2-hour period. A manual restraint does not include physically prompting, escorting or guiding an individual to a support as specified in the individual's PSP.

(7) A prone position manual restraint.

(8) A manual restraint that inhibits digestion or respiration, inflicts pain, causes embarrassment or humiliation, causes hyperextension of joints, applies pressure on the chest or joints, or allows for a free fall to the floor.

§ 6100.344. Permitted interventions.

(a) Voluntary exclusion, defined as an individual voluntarily removing himself from his immediate environment and placing himself alone to a room or area, is permitted in accordance with the individual's PSP.

(b) A physical protective restraint may be used only in accordance with § 6100.343(6)—(8) (relating to prohibition of restraints).

(c) A physical protective restraint may not be used until §§ 6100.143(c)(5) and 6100.223(13) (relating to annual training; and content of the PSP) are met.

(d) A physical protective restraint may only be used in the case of an emergency to prevent an individual from injuring the individual's self or others.

(e) A physical protective restraint may not be used as a behavioral intervention, consequence, retribution, punishment, for the convenience of staff persons or as a substitution for individual support.

(f) A physical protective restraint may not be used for more than 15 minutes within a 2-hour period.

(g) A physical protective restraint may only be used by a person who is trained as specified in § 6100.143(c)(5).

(h) As used in this section, a "physical protective restraint" is a hands-on hold of an individual.

§ 6100.345. Access to or the use of an individual's personal property.

(a) Access to or the use of an individual's personal funds or property may not be used as a reward or punishment.

(b) An individual's personal funds or property may not be used as payment for damages unless the individual consents to make restitution for the damages as follows:

(1) A separate written consent is required for each incidence of restitution.

(2) Consent shall be obtained in the presence of the individual, a person designated by the individual and in the presence of and with the support of the support coordinator or targeted support manager.

(3) There may not be coercion in obtaining the consent of an individual.

INCIDENT MANAGEMENT

§ 6100.401. Types of incidents and timelines for reporting.

(a) The provider shall report the following incidents, alleged incidents and suspected incidents through the Department's information management system within 24 hours of discovery by a staff person:

- (1) Death.
- (2) Suicide attempt.
- (3) Inpatient admission to a hospital.
- (4) Emergency room visit.
- (5) Abuse.
- (6) Neglect.
- (7) Exploitation.

(8) Missing individual.

(9) Law enforcement activity.

(10) Injury requiring treatment beyond first aid.

(11) Fire requiring the services of the fire department.

(12) Emergency closure.

(13) Use of a restraint.

(14) Theft or misuse of individual funds.

(15) A violation of individual rights.

(16) A medication administration error, including prescription and over the counter medication administration errors.

(17) A critical health and safety event that requires immediate intervention such a significant behavioral event or trauma.

(b) The individual, and persons designated by the individual, shall be notified immediately upon discovery of an incident relating to the individual.

(c) The provider shall keep documentation of the notification in subsection (b).

(d) The incident report, redacted to exclude information about another individual and the reporter, unless the reporter is the individual who receives the report, shall be available to the individual, and persons designated by the individual, upon request.

§ 6100.402. Incident investigation.

(a) The provider shall take immediate action to protect the health, safety and well-being of the individual following the initial knowledge or notice of an incident, alleged incident and suspected incident.

(b) The provider shall initiate an investigation of an incident within 24 hours of discovery by a staff person.

(c) A Department-certified incident investigator shall conduct the investigation of the incident listed in § 6100.401(a) (relating to types of incidents and timelines for reporting).

§ 6100.403. Individual needs.

(a) In investigating an incident, the provider shall review and consider the following needs of the affected individual:

- (1) Potential risks.
- (2) Health care information.
- (3) Medication history and current medication.
- (4) Behavioral health history.
- (5) Incident history.
- (6) Social needs.
- (7) Environmental needs.
- (8) Personal safety.

(b) The provider shall monitor an individual's risk for recurring incidents and implement corrective action, as appropriate.

(c) The provider shall work cooperatively with the support coordinator or targeted support manager and the PSP team to revise the individual's PSP if indicated by the incident.

§ 6100.404. Final incident report.

(a) The provider shall finalize the incident report in the Department's information management system within 30 days of discovery of the incident by a staff person.

(b) The provider shall provide the following information to the Department as part of the final incident report:

- (1) Additional detail about the incident.
- (2) The results of the incident investigation.
- (3) A description of the corrective action taken in response to an incident.
- (4) Action taken to protect the health, safety and well-being of the individual.
- (5) The person responsible for implementing the corrective action.
- (6) The date the corrective action was implemented or is to be implemented.

§ 6100.405. Incident analysis.

(a) The provider shall complete the following for each confirmed incident:

- (1) Analysis to determine the root cause of the incident.
- (2) Corrective action.
- (3) A strategy to address the potential risks to the individual.
- (b) The provider shall review and analyze incidents and conduct a trend analysis at least every 3 months.
- (c) The provider shall identify and implement preventive measures to reduce:
 - (1) The number of incidents.
 - (2) The severity of the risks associated with the incident.
 - (3) The likelihood of an incident recurring.
- (d) The provider shall educate staff persons, others and the individual based on the circumstances of the incident.
- (e) The provider shall analyze incident data continuously and take actions to mitigate and manage risks.

PHYSICAL ENVIRONMENT**§ 6100.441. Request for and approval of changes.**

(a) A residential provider shall submit a written request to the Department on a form specified by the Department and receive written approval from the Department prior to increasing or decreasing the Department-approved program capacity of a residential facility.

(b) To receive written approval from the Department as specified in subsection (a), the provider shall submit a description of the following:

- (1) The circumstances surrounding the change.
- (2) How the change will meet the setting size, staffing patterns, assessed needs and outcomes for the individuals.
- (c) If a facility is licensed as a community home for individuals with an intellectual disability or autism, the program capacity, as specified in writing by the Department, may not be exceeded. Additional individuals funded through any funding source, including private-pay, may not live in the home to exceed the Department-approved program capacity.

(d) A copy of the written request specified in subsections (a) and (b) shall be provided to the affected individuals, and persons designated by the individuals, prior to the submission to the Department.

(e) A copy of the Department's response to the written request specified in subsections (a) and (b) shall be provided to the affected individuals, and persons designated by the individuals, within 7 days following the receipt of the Department's response.

§ 6100.442. Physical accessibility.

(a) The provider shall provide for or arrange for physical site accommodations and assistive equipment to meet the health, safety and mobility needs of the individual.

(b) Mobility equipment and other assistive equipment shall be maintained in working order, clean, in good repair and free from hazards.

§ 6100.443. Access to the bedroom and the home.

(a) In a residential facility, an individual shall have a lock with a key, access card, keypad code or other entry mechanism to unlock and lock the individual's bedroom door and the entrance of the home.

(b) Assistive technology, as needed, shall be used to allow the individual to open and lock the door without assistance.

(c) The locking mechanism shall allow easy and immediate access in the event of an emergency.

(d) Appropriate persons shall have the key and entry device to lock and unlock the doors to the bedroom and the home.

(e) Only authorized persons shall access the individual's bedroom.

(f) Access to an individual's bedroom shall be provided only in a life-safety emergency or with the express permission of the individual for each incidence of access.

§ 6100.444. Lease or ownership.

(a) In residential habilitation, the individual shall have a legally enforceable agreement such as the lease or residency agreement for the physical space, or ownership of the physical space, that offers the same responsibilities and protections from eviction that tenants have under The Landlord and Tenant Act of 1951 (68 P.S. §§ 250.101—250.602).

(b) Landlords may establish reasonable limits for the furnishing and decorating of leased space as long as the limits are not discriminatory and do not otherwise deny rights granted to tenants under applicable laws and regulations.

§ 6100.445. Integration.

A setting in which a support is provided shall be integrated in the community and the individual shall have the same degree of community access and choice as an individual who is similarly situated in the community who does not have a disability and who does not receive an HCBS.

§ 6100.446. Facility characteristics relating to size of facility.

(a) A residential facility that serves primarily persons with a disability, which was funded in accordance with Chapter 51 prior to _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*), may not exceed a program capacity of eight.

(1) A duplex, two bilevel units and two side-by-side apartments are permitted as long as the total in both units does not exceed a program capacity of eight.

(2) With the Department's written approval, a residential facility with a program capacity of eight may move to a new location and retain the program capacity of eight.

(b) A residential facility that serves primarily persons with a disability, which is newly funded in accordance with this chapter on or after _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*), may not exceed a program capacity of four.

(1) A duplex, two bilevel units and two side-by-side apartments are permitted as long as the total in both units does not exceed a program capacity of four.

(2) With the Department's written approval, an intermediate care facility for individuals with an intellectual disability licensed in accordance with Chapter 6600 (relating to intermediate care facilities for individuals with an intellectual disability) with a licensed capacity of five, six, seven or eight individuals may convert to a residential facility funded in accordance with this chapter exceeding the program capacity of four.

(c) A day facility that serves primarily persons with a disability, which is newly-funded in accordance with this chapter on or after March 17, 2019, including an adult training facility licensed in accordance with Chapter 2380 (relating to adult training facilities) and a vocational facility licensed in accordance with Chapter 2390 (relating to vocational facilities), may not exceed a program capacity of 15 at any one time.

(1) The program capacity includes all individuals served by the facility including individuals funded through any funding source such as private-pay.

(2) Additional individuals funded through any funding source, including private pay, may not be served in the day facility to exceed the program capacity of 15 individuals at any one time.

§ 6100.447. Facility characteristics relating to location of facility.

(a) A residential or day facility, which is newly-funded in accordance with this chapter on or after _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*), may not be located adjacent or in close proximity to the following:

- (1) Another human service residential facility.
- (2) Another human service day facility serving primarily persons with a disability.
- (3) A hospital.
- (4) A nursing facility.
- (5) A health or human service public or private institution.

(b) No more than 10% of the units in an apartment, condominium or townhouse development may be funded in accordance with this chapter.

(c) With the Department's written approval, a residential or day facility that is licensed in accordance with Chapter 2380, 2390, 6400 or 6500 prior to _____ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*), and funded in accordance with Chapter 51 prior to _____ (*Editor's Note: The blank refers to the effective*

date of adoption of this proposed rulemaking.), may continue to be eligible for HCBS participation.

(d) With the Department's written approval, an intermediate care facility for individuals with an intellectual disability licensed in accordance with Chapter 6600 (relating to intermediate care facilities for individuals with an intellectual disability) with a licensed capacity of eight or less individuals may be eligible for HCBS participation.

MEDICATION ADMINISTRATION

§ 6100.461. Self-administration.

(a) The provider shall provide an individual who has a prescribed medication with assistance, as needed, for the individual's self-administration of the medication.

(b) Assistance in the self-administration of medication includes helping the individual to remember the schedule for taking the medication, offering the individual the medication at the prescribed times, opening a medication container and storing the medication in a secure place.

(c) The provider shall provide or arrange for assistive technology to support the individual's self-administration of medications.

(d) The PSP must identify if the individual is unable to self-administer medications.

(e) To be considered able to self-administer medications, an individual shall do all of the following:

- (1) Recognize and distinguish the individual's medication.
- (2) Know how much medication is to be taken.
- (3) Know when the medication is to be taken. This knowledge may include reminders of the schedule and offering the medication at the prescribed times as specified in subsection (b).

(4) Take or apply the individual's medication with or without the use of assistive technology.

§ 6100.462. Medication administration.

(a) A provider whose staff persons or others are qualified to administer medications as specified in subsection (b) may provide medication administration for an individual who is unable to self-administer the individual's prescribed medication.

(b) A prescription medication that is not self-administered shall be administered by one of the following:

(1) A licensed physician, licensed dentist, licensed physician's assistant, registered nurse, certified registered nurse practitioner, licensed practical nurse or licensed paramedic.

(2) A person who has completed the medication administration training as specified in § 6100.469 (relating to medication administration training) for the medication administration of the following:

- (i) Oral medications.
- (ii) Topical medications.
- (iii) Eye, nose and ear drop medications.
- (iv) Insulin injections.
- (v) Epinephrine injections for insect bites or other allergies.

(c) Medication administration includes the following activities, based on the needs of the individual:

- (1) Identify the correct individual.
- (2) Remove the medication from the original container.
- (3) Crush or split the medication as ordered by the prescriber.
- (4) Place the medication in a medication cup or other appropriate container, or into the individual's hand, mouth or other route as ordered by the prescriber.
- (5) If indicated by the prescriber's 00.163.163 order, measure vital signs and administer medications according to the prescriber's order.

(6) Injection of insulin or epinephrine in accordance with this chapter.

§ 6100.463. Storage and disposal of medications.

(a) Prescription and nonprescription medications shall be kept in their original labeled containers.

(b) A prescription medication may not be removed from its original labeled container more than 2 hours in advance of the scheduled administration.

(c) If insulin or epinephrine is not packaged in an individual dose container, assistance with or the administration of the injection shall be provided immediately upon removal of the medication from its original labeled container.

(d) Prescription medications and syringes, with the exception of epinephrine and epinephrine auto-injectors, shall be kept in an area or container that is locked.

(e) Epinephrine and epinephrine auto-injectors shall be stored safely and kept easily accessible at all times. The epinephrine and epinephrine auto-injectors shall be easily accessible to the individual if the epinephrine is self-administered or to the staff person who is with the individual if a staff person will administer the epinephrine.

(f) Prescription medications stored in a refrigerator shall be kept in an area or container that is locked.

(g) Prescription medications shall be stored in an organized manner under proper conditions of sanitation, temperature, moisture and light and in accordance with the manufacturer's instructions.

(h) Prescription medications that are discontinued or expired shall be destroyed in a safe manner according to the Department of Environmental Protection and applicable Federal and State regulations.

(i) Subsections (a)—(d) and (f) do not apply for an individual who self-administers medication and stores the medication in the individual's private bedroom.

§ 6100.464. Labeling of medications.

The original container for prescription medications must be labeled with a pharmacy label that includes the following:

- (1) The individual's name.
- (2) The name of the medication.
- (3) The date the prescription was issued.
- (4) The prescribed dosage and instructions for administration.
- (5) The name and title of the prescriber.

§ 6100.465. Prescription medications.

(a) A prescription medication shall be prescribed in writing by an authorized prescriber.

(b) A prescription order shall be kept current.

(c) A prescription medication shall be administered as prescribed.

(d) A prescription medication shall be used only by the individual for whom the prescription was prescribed.

(e) Changes in medication may only be made in writing by the prescriber or, in the case of an emergency, an alternate prescriber, except for circumstances in which oral orders may be accepted by a registered nurse in accordance with regulations of the Department of State. The individual's medication record shall be updated as soon as a written notice of the change is received.

§ 6100.466. Medication records.

(a) A medication record shall be kept, including the following for each individual for whom a prescription medication is administered:

- (1) Individual's name.
- (2) Name and title of the prescriber.
- (3) Drug allergies.
- (4) Name of medication.
- (5) Strength of medication.
- (6) Dosage form.
- (7) Dose of medication.
- (8) Route of administration.
- (9) Frequency of administration.
- (10) Administration times.
- (11) Diagnosis or purpose for the medication, including *pro re nata*.
- (12) Date and time of medication administration.
- (13) Name and initials of the person administering the medication.
- (14) Duration of treatment, if applicable.
- (15) Special precautions, if applicable.
- (16) Side effects of the medication, if applicable.

(b) The information in subsection (a)(12) and (13) shall be recorded in the medication record at the time the medication is administered.

(c) If an individual refuses to take a prescribed medication, the refusal shall be documented on the medication record. The refusal shall be reported to the prescriber within 24 hours, unless otherwise instructed by the prescriber. Subsequent refusals to take a prescribed medication shall be reported as required by the prescriber.

(d) The directions of the prescriber shall be followed.

§ 6100.467. Medication errors.

- (a) Medication errors include the following:
- (1) Failure to administer a medication.
 - (2) Administration of the wrong medication.
 - (3) Administration of the wrong amount of medication.
 - (4) Failure to administer a medication at the prescribed time, which exceeds more than 1 hour before or after the prescribed time.
 - (5) Administration to the wrong person.
 - (6) Administration through the wrong route.

(b) A medication error shall be immediately reported as an incident as specified in § 6100.401 (relating to types of incidents and timelines for reporting) and to the prescriber.

(c) Documentation of medication errors and the prescriber's response shall be kept in the individual's record.

§ 6100.468. Adverse reaction.

(a) If an individual has a suspected adverse reaction to a medication, the provider shall immediately consult a health care practitioner or seek emergency medical treatment.

(b) An adverse reaction to a medication, the health care practitioner's response to the adverse reaction and the action taken shall be documented.

§ 6100.469. Medication administration training.

(a) A person who has successfully completed a Department-approved medications administration course, including the course renewal requirements, may administer the following:

- (1) Oral medications.
- (2) Topical medications.
- (3) Eye, nose and ear drop medications.

(b) A person may administer insulin injections following successful completion of both:

- (1) The course specified in subsection (a).

(2) A Department-approved diabetes patient education program within the past 12 months.

(c) A person may administer an epinephrine injection by means of an auto-injection device in response to anaphylaxis or another serious allergic reaction following successful completion of both:

- (1) The course specified in subsection (a).

(2) Training relating to the use of an auto-injection epinephrine injection device provided by a licensed, registered or certified health care professional within the past 12 months.

(d) A record of the training shall be kept including the person trained, the date, source, name of trainer and documentation that the course was successfully completed.

§ 6100.470. Exception for family members.

Sections 6100.461—6100.463 and 6100.466—6100.469 do not apply to an adult relative of the individual who provides medication administration. An adult relative of the individual may administer medications to an individual without the completion of the Department-approved medications administration course.

GENERAL PAYMENT PROVISIONS

§ 6100.481. Departmental rates and classifications.

(a) An HCBS will be paid based on one of the following:

- (1) Fee schedule rates.
- (2) Cost-based rates.
- (3) Department-established fees for the ineligible portion of residential habilitation.
- (4) Managed care or other capitated payment methods.
- (5) Vendor goods and services.

(6) A method established in accordance with a Federally-approved waiver, including a Federally-approved waiver amendment.

(b) The Department will establish a fee per unit of HCBS as a Department-established fee by publishing a notice in the *Pennsylvania Bulletin*.

(c) The fee is the maximum amount the Department will pay.

(d) The fee applies to a specific location and to a specific HCBS.

(e) The provider may not negotiate a different fee or rate with a county mental health and intellectual disability program if there is a fee or rate for the same HCBS at the specific HCBS location.

§ 6100.482. Payment.

(a) The Department will only pay for an HCBS in accordance with this chapter, Chapters 1101 and 1150 (relating to general provisions; and MA Program payment policies), the Department's Federally-approved waivers and waiver amendments, and the State plan.

(b) When a provision in Chapter 1101 or 1150 is inconsistent with this chapter, this chapter applies.

(c) The Department will only pay for a reimbursable HCBS up to the maximum amount, duration and frequency as specified in the individual's approved PSP and as delivered by the provider.

(d) If an HCBS is payable under a third-party medical resource, the provider shall bill the third-party medical resource in accordance with § 1101.64 (relating to third-party medical resources (TPR)) before billing a Federal or State-funded program.

(e) If the HCBS is eligible under the State plan, the provider shall bill the program under the State plan before billing the HCBS waiver or State-funded programs.

(f) The provider shall document a third-party medical resource claim submission and denial for an HCBS under the State plan or a third-party medical resource agency.

(g) Medicaid payment, once accepted by the provider, constitutes payment in full.

(h) A provider who receives a supplemental payment for a support that is included as a support in the PSP, or that is eligible as an HCBS, shall return the supplemental payment to the payer. If the payment is for an activity that is beyond the supports specified in the PSP and for an activity that is not eligible as an HCBS, the private payment from the individual or another person is permitted.

(i) The Department will recoup payments that are not made in accordance with this chapter and the Department's Federally-approved waivers and waiver amendments.

§ 6100.483. Title of a residential building.

The title of a debt-free residential building owned by an enrolled provider shall remain with the enrolled provider.

§ 6100.484. Provider billing.

(a) The provider shall submit claims in accordance with § 1101.68 (relating to invoicing for services).

(b) The provider shall use the Department's information system, and forms specified by the Department, to submit claims.

(c) The provider shall only submit claims that are substantiated by documentation as specified in § 6100.226 (relating to documentation of support delivery).

(d) The provider may not submit a claim for a support that is inconsistent with this chapter, inappropriate to an individual's needs or inconsistent with the individual's PSP.

§ 6100.485. Audits.

(a) The provider shall comply with the following audit requirements:

(1) 2 CFR Part 200 (relating to uniform administrative requirements, cost principles, and audit requirements for Federal awards).

(2) The Single Audit Act of 1984 (31 U.S.C.A. §§ 7501—7507).

(3) Applicable Office of Management and Budget Circulars and related applicable guidance issued by the United States Office of Management and Budget.

(4) Applicable Federal and State statutes, regulations and audit requirements.

(b) A provider that is required to have a single audit or financial-related audit, as defined in Generally Accepted Government Auditing Standards, in accordance with 45 CFR 75.501(i) (relating to audit requirements) shall comply with the Federal audit requirements.

(c) The Department or the designated managing entity may require the provider to have the provider's auditor perform an attestation engagement in accordance with any of the following:

(1) Government Auditing Standards issued by the Comptroller General of the United States, known as Generally Accepted Government Auditing Standards.

(2) Standards issued by the Auditing Standards Board.

(3) Standards issued by the American Institute of Certified Public Accountants.

(4) Standards issued by the International Auditing and Assurance Standards Board.

(5) Standards issued by the Public Company Accounting Oversight Board.

(6) Standards of a successor organization to the organizations in paragraphs (1)—(5).

(d) The Department or the designated managing entity may perform an attestation engagement in accordance with subsection (c).

(e) A Federal or State agency may request the provider to have the provider's auditor perform an attestation engagement in accordance with subsection (c).

(f) The Department or the designated managing entity may perform nonaudit services such as technical assistance or consulting engagements.

(g) The Department or the designated managing entity may conduct a performance audit in accordance with the standards in subsection (c).

(h) The Department, a designated managing entity, an authorized Federal agency or an authorized State agency may direct the provider to have a performance audit conducted in accordance with the standards in subsection (c).

(i) A provider that is not required to have a single audit during the Commonwealth fiscal year shall keep records in accordance with subsection (c).

(j) The Department or the designated managing entity may perform a fiscal review of a provider.

§ 6100.486. Bidding.

(a) For a supply or equipment over \$10,000, the provider shall obtain the supply or equipment using a process of competitive bidding or written estimates.

(b) The cost must be the best price made by a prudent buyer.

(c) If a sole source purchase is necessary, the provider shall keep records supporting the justification for the sole source purchase.

(d) As used in this section, a "sole source purchase" is one for which only one bid is obtained.

§ 6100.487. Loss or damage to property.

If an individual's personal property is lost or damaged during the provision of an HCBS, the provider shall replace the lost or damaged property, or pay the individual the replacement value for the lost or damaged property, unless the damage or loss was the result of the individual's actions.

FEE SCHEDULE

§ 6100.571. Fee schedule rates.

(a) Fee schedule rates will be established by the Department using a market-based approach based on current data and independent data sources.

(b) The Department will refresh the market-based data used in subsection (a) to establish fee schedule rates at least every 3 years.

(c) The market-based approach specified in subsection (a) will review and consider the following factors:

(1) The support needs of the individuals.

(2) Staff wages.

(3) Staff-related expenses.

(4) Productivity.

(5) Occupancy.

(6) Program expenses and administration-related expenses.

(7) Geographic costs.

(8) A review of Federally-approved HCBS definitions in the waiver and determinations made about cost components that reflect costs necessary and related to the delivery of each HCBS.

(9) A review of the cost of implementing Federal, State and local statutes, regulations and ordinances.

(10) Other criteria that impact costs.

(d) The Department will publish as a notice in the *Pennsylvania Bulletin* the factors in subsection (c) used to establish the rates and the fee schedule rates for public review and comment.

(e) The Department will pay for fee schedule supports at the fee schedule rate determined by the Department.

COST-BASED RATES AND ALLOWABLE COSTS

§ 6100.641. Cost-based rate.

(a) Sections 6100.642—6100.672 apply to cost-based rates.

(b) An HCBS eligible for reimbursement in accordance with §§ 6100.642—6100.672 includes residential habilitation and transportation.

§ 6100.642. Assignment of rate.

(a) The provider will be assigned a cost-based rate for an existing HCBS at the location where the HCBS is delivered, with an approved cost report and audit, as necessary.

(b) If the provider seeks to provide a new HCBS, the provider will be assigned the area adjusted average rate of approved provider cost-based rates.

(c) A new provider with no historical experience will be assigned the area adjusted average rate of approved provider cost-based rates.

(d) If the provider fails to comply with the cost reporting requirements specified in this chapter after consultation with the Department, the provider will be assigned the lowest rate calculated Statewide based on all provider cost-based rates for an HCBS.

(e) Compliance with cost reporting requirements will be verified by the Department through a designated managing agency review or an audit, as necessary.

§ 6100.643. Submission of cost report.

(a) A cost report is a data collection tool issued by the Department to collect expense and utilization information from a provider that may include supplemental schedules or addenda as requested by the Department.

(b) The provider shall submit a cost report on a form specified by and in accordance with the instructions provided by the Department.

(c) Unless a written extension is granted by the Department, the cost report or the cost report addenda shall be submitted to the Department on or before the last Thursday in October for residential habilitation and on or before the last business day in the third week of February for transportation.

(d) A provider with one master provider index number shall submit one cost report for the master provider index number.

(e) A provider with multiple master provider index numbers may submit one cost report for all of its master provider index numbers or separate cost reports for each master provider index number.

(f) The provider shall submit a revised cost report if the provider's audited financial statement is materially different from a provider's cost report by more than 1%.

§ 6100.644. Cost report.

(a) The provider shall complete the cost report to reflect the actual cost and the allowable administrative cost of the HCBS provided.

(b) The cost report must contain information for the development of a cost-based rate as specified on the Department's form.

(c) A provider of a cost-based service shall allocate eligible and ineligible allowable costs in accordance with the applicable Office of Management and Budget Circulars and related applicable guidance as issued by the United States Office of Management and Budget.

§ 6100.645. Rate setting.

(a) The Department will use the cost-based rate setting methodology to establish a rate for cost-based services for each provider with a Department-approved cost report.

(b) The approved cost report will be used as the initial factor in the rate setting methodology to develop the allowable costs for cost-based services.

(c) The provider shall complete the cost report in accordance with this chapter.

(d) The cost data submitted by the provider on the approved cost report will be used to set the rates.

(e) The Department will adjust the cost report form and instructions based on changes in the support definitions in the Federally-approved waivers and waiver amendments from the prior cost reporting period.

(f) Prior to the effective date of the rates, the Department will publish as a notice in the *Pennsylvania Bulletin* the cost-based rate setting methodology, including the cost report review, outlier analysis, vacancy factor and rate assignment processes.

§ 6100.646. Cost-based rates for residential habilitation.

(a) The Department will review unit costs reported on a cost report.

(b) The Department will identify a unit cost as an outlier when that unit cost is at least one standard deviation outside the average unit cost as compared to other cost reports submitted.

(c) The Department will apply a vacancy factor to residential habilitation rates.

(d) A provider may request additional staffing costs above what is included in the Department-approved cost report rate for current staffing if there is a new individual entering the program who has above-average staffing needs or if an individual's needs have changed significantly as specified in the individual's PSP.

§ 6100.647. Allowable costs.

(a) A cost must be the best price made by a prudent buyer.

(b) A cost must relate to the administration or provision of the HCBS.

(c) A cost must be allocated and distributed to various HCBS or other lines of business among cost categories in a reasonable and fair manner and in proportion with the benefits provided to the HCBS or other lines of business among cost categories.

(d) Allowable costs must include costs specified in this chapter and costs that are in accordance with the Department's Federally-approved waivers and waiver amendments.

(e) To be an allowable cost, the cost must be documented and comply with the following:

(1) Applicable Federal and State statutes, regulations and policies.

(2) Generally Accepted Government Auditing Standards and applicable Departmental procedures.

(f) A cost used to meet cost sharing or matching requirements of another Federally-funded program in either the current or a prior period adjustment is not allowable.

(g) Transactions involving allowable costs between related parties shall be disclosed on the cost report.

§ 6100.648. Donations.

(a) A provider may not report a donation that is restricted for a purpose other than for an allowable HCBS cost, and a donation that is unrestricted, but not used for an allowable HCBS cost.

(b) If an unrestricted donation is used for an allowable HCBS cost, the provider shall claim an expense and offsetting revenue for the donation.

(c) The provider shall report unrestricted donations used for an HCBS in accordance with the following:

(1) List the cash donation that benefits the direct or indirect expenditures on the cost report as income.

(2) Reduce gross eligible expenditures in calculating the amount eligible for Departmental participation by the amount of the donation.

(3) Fully disclose a noncash donation that exceeds \$1,000, either individually or in the aggregate, including the estimated value and intended use of the donated item.

(4) If a donated item is sold, treat the proceeds from the sale as an unrestricted cash donation.

§ 6100.649. Management fees.

A cost included in the provider's management fees must meet the standards in § 6100.647 (relating to allowable costs).

§ 6100.650. Consultants.

(a) The cost of an independent consultant necessary for the administration or provision of an HCBS is an allowable cost.

(b) The provider shall have a written agreement with a consultant. The written agreement must include the following:

(1) The administration or provision of the HCBS to be provided.

(2) The rate of payment.

(3) The method of payment.

(c) The provider may not include benefits as an allowable cost for a consultant.

§ 6100.651. Governing board.

(a) Compensation for governing board member duties is not an allowable cost.

(b) Allowable costs for a governing board member include the following:

(1) Meals, lodging and transportation while participating in a board meeting or function.

(2) Liability insurance coverage for a claim against a board member that was a result of the governing board member performing official governing board duties.

(3) Training related to the delivery of an HCBS.

(c) Allowable expenses for governing board meals, lodging and transportation, paid through HCBS funding, are limited to the Commonwealth-established reimbursement limits applicable for Commonwealth employees.

(1) Nothing in this subsection restricts the amount supplemented by the provider.

(2) Nothing in this subsection applies Commonwealth-established policies and practices beyond the reimbursement limits for meals, lodging and transportation.

§ 6100.652. Compensation.

(a) Compensation for staff persons, including pension, health care and accrued leave benefits, is an allowable cost.

(b) A bonus or severance payment, that is part of a separation package, is not an allowable cost.

(c) Internal Revenue Service statutes and regulations and applicable Office of Management and Budget Circulars and related applicable guidance as issued by the United States Office of Management and Budget apply regarding compensation, benefits, bonuses and severance payments.

§ 6100.653. Training.

The cost of training related to the delivery of an HCBS is an allowable cost.

§ 6100.654. Staff recruitment.

The cost relating to staff recruitment is an allowable cost.

§ 6100.655. Travel.

(a) A travel cost, including meals, lodging and transportation, is allowable.

(b) Allowable expenses for meals, lodging and transportation, paid through HCBS funding, are limited to the Commonwealth-established reimbursement limits applicable for Commonwealth employees.

(1) Nothing in this subsection restricts the amount supplemented by the provider.

(2) Nothing in this subsection applies Commonwealth-established policies and practices beyond the reimbursement limits for meals, lodging and transportation.

§ 6100.656. Supplies.

The purchase of a supply is an allowable cost if the supply is used in the normal course of business and purchased in accordance with applicable Office of Management and Budget Circulars and related applicable guidance as issued by the United States Office of Management and Budget.

§ 6100.657. Rental equipment and furnishing.

Rental of equipment or furnishing is an allowable cost if the rental is more cost-efficient than purchasing.

§ 6100.658. Communication.

The following communication costs that support the administration or provision of an HCBS are allowable costs:

(1) Telephone.

(2) Internet connectivity.

(3) Digital imaging.

(4) Postage.

(5) Stationary.

(6) Printing.

§ 6100.659. Rental of administrative space.

(a) The cost of rental of an administrative space, from a related or unrelated party for a programmatic purpose for an HCBS, is allowable, subject to the following:

(1) A new lease with an unrelated party must contain a provision that the cost of rent may not exceed the rental charge for similar space in that geographical area.

(2) The cost of rent under a lease with a related party is limited to the lessor's actual allowable costs as provided in § 6100.663 (relating to fixed assets of administrative buildings).

(3) The rental cost under a sale-leaseback transaction, as described in Financial Accounting Standards Board Accounting Standards Codification Section 840-40, as

amended, is allowable up to the amount that would have been allowed had the provider continued to own the property.

(b) The allowable cost amount may include an expense for the following:

(1) Maintenance.

(2) Real estate taxes as limited by § 6100.660 (relating to occupancy expenses for administrative buildings).

(c) The provider shall only include expenses related to the minimum amount of space necessary for the provision of the HCBS.

(d) A rental cost under a lease which is required to be treated as a capital lease under the Financial Accounting Standards Board Accounting Standards Codification Section 840-10-25-1, as amended, is allowable up to the amount that would have been allowed had the provider purchased the property on the date the lease agreement was executed.

(e) An unallowable cost includes the following:

(1) Profit.

(2) Management fee.

(3) A tax not incurred had the provider purchased the space.

§ 6100.660. Occupancy expenses for administrative buildings.

(a) The following costs are allowable costs for administrative buildings:

(1) The cost of a required occupancy-related tax and payment made instead of a tax.

(2) An associated occupancy cost charged to a specified service location. The associated occupancy cost shall be prorated in direct relation to the amount of space utilized by the service location.

(3) The cost of an occupancy-related tax or payment made instead of a tax, if it is stipulated in a lease agreement.

(4) The cost of a certificate of occupancy.

(b) The provider shall keep documentation that a utility charge is at fair market value.

(c) The cost of real estate taxes, net of available rebates and discounts, whether the rebate or discount is taken, is an allowable cost.

(d) The cost of a penalty resulting from a delinquent tax payment, including a legal fee, is not an allowable cost.

§ 6100.661. Fixed assets.

(a) A fixed asset cost is an allowable cost.

(b) The provider shall determine whether an allowable fixed asset shall be capitalized, depreciated or expensed in accordance with the following conditions:

(1) The maximum allowable fixed asset threshold as defined in applicable Office of Management and Budget Circulars and related applicable guidance as issued by the United States Office of Management and Budget.

(2) Purchases below the maximum allowable fixed asset threshold shall be expensed.

(c) The provider shall select the method used to determine the amount of depreciation charged in that year for the year of acquisition.

(d) The provider shall include depreciation based on the number of months or quarters the asset is in service or a half-year or full-year of depreciation expense.

(e) The provider may not change the method or procedure, including the estimated useful life and the convention used for an acquisition, for computing depreciation without prior written approval from the Department.

(f) The provider acquiring a new asset shall have the asset capitalized and depreciated in accordance with the Generally Accepted Government Auditing Standards. The provider shall continue using the depreciation method previously utilized by the provider for assets purchased prior to July 1, 2011.

(g) The provider shall keep the following:

(1) The title to any fixed assets that are depreciated.

(2) The title to any fixed assets that are expensed or loans amortized using Department funding.

(h) The provider shall use income received when disposing of fixed assets to reduce gross eligible expenditures in determining the amount eligible for Departmental participation as determined by the cost report.

(i) A provider in possession of a fixed asset shall do the following:

(1) Maintain a fixed asset ledger or equivalent document.

(2) Utilize reimbursement for loss, destruction or damage of a fixed asset by using the proceeds towards eligible waiver program expenditures.

(3) Perform an annual physical inventory at the end of the funding period or Commonwealth fiscal year. An annual physical inventory is performed by conducting a physical verification of the inventory listings.

(4) Document discrepancies between physical inventories or fixed asset ledgers.

(5) Maintain inventory reports and other documents in accordance with this chapter.

(6) Offset the provider's total depreciation expense in the period in which the asset was sold or retired from service by the gains on the sale of assets.

(j) The cost basis for depreciable assets must be determined and computed as follows:

(1) The purchase price if the sale was between unrelated parties.

(2) The seller's net book value at the date of transfer for assets transferred between related parties.

(3) The cost basis for assets of an agency acquired through stock purchase will remain unchanged from the cost basis of the previous owner.

(k) Participation allowance is permitted up to 2% of the original acquisition cost for fully depreciated fixed assets.

(1) Participation allowances shall only be taken for as long as the asset is in use.

(2) Participation amounts shall be used for maintaining assets, reinvestment in the program or restoring the program due to an unforeseen circumstance.

(3) Depreciation and participation allowance may not be expensed at the same time for the same asset.

§ 6100.662. Motor vehicles.

The cost of the purchase or lease of motor vehicles and the operating costs of the vehicles is an allowable cost in accordance with the following:

(1) The cost of motor vehicles through depreciation, expensing or amortization of loans for the purchase of a vehicle is an allowable expense. Depreciation and lease payments are limited in accordance with the annual limits established under section 280F of the Internal Revenue Code (26 U.S.C.A. § 280F).

(2) The provider shall keep a daily log detailing the use, maintenance and services activities of vehicles.

(3) The provider shall analyze the cost differences between leasing and purchase of vehicles and the most practicable economic alternative shall be selected.

(4) The provider shall keep documentation of the cost analysis.

(5) The personal use of the provider's motor vehicles is prohibited unless a procedure for payback is established and the staff person reimburses the program for the personal use of the motor vehicle.

§ 6100.663. Fixed assets of administrative buildings.

(a) An administrative building acquired prior to June 30, 2009, that is in use for which the provider has an outstanding original loan with a term of 15 years or more is an allowable cost for the provider to continue to claim principal and interest payments for the administrative or nonresidential building over the term of the loan.

(b) The provider shall ensure a down payment made as part of the asset purchase shall be considered part of the cost of the administrative building or capital improvement and depreciated over the useful life of the administrative building or capital improvement.

(c) The provider shall receive prior written approval from the Department for a planned major renovation of an administrative building with a cost above 25% of the original cost of the administrative building being renovated.

(d) The provider shall use the depreciation methodology in accordance with § 6100.661 (relating to fixed assets).

(e) The provider may not claim a depreciation allowance on an administrative building that is donated.

(f) If an administrative building is sold or the provider no longer utilizes the administrative building for an HCBS, the Department shall recoup the funded equity either directly or through rate setting. As used in this subsection, "funded equity" is the value of property over the liability on the property.

(1) The provider shall be responsible for calculating the amounts reimbursed and the amounts shall be verified by an independent auditor.

(2) As an alternative to recoupment, with Department approval, the provider may reinvest the reimbursement amounts from the sale of the administrative or nonresidential building into any capital asset used in the program.

(g) The title of any administrative building acquired and depreciated shall remain with the enrolled provider.

§ 6100.664. Residential habilitation vacancy.

(a) The Department will establish a vacancy factor for residential habilitation that is included in the cost-based rate setting methodology.

(b) The vacancy factor for residential habilitation shall be calculated based on all the provider's residential habilitation locations.

(c) The provider may not limit the individual's leave days.

(d) The grounds for a change in a provider or a transfer of an individual against the individual's wishes under § 6100.303 (relating to reasons for a transfer or a change in a provider) do not apply to a transfer under subsection (e).

(e) The provider may not transfer an individual due to the individual's absence until after the provider has received written approval from the Department.

§ 6100.665. Indirect costs.

(a) An indirect cost is an allowable cost if the following criteria are met:

(1) The provider shall have a cost allocation plan.

(2) Costs are authorized in accordance with applicable Office of Management and Budget Circulars and related applicable guidance as issued by the United States Office of Management and Budget and § 6100.647 (relating to allowable costs).

(b) The provider shall consider the reason the cost is an indirect cost, as opposed to a direct cost, to determine the appropriate cost allocation based on the benefit to the HCBS.

(c) If a cost is identified as an indirect cost, the cost will remain an indirect cost as long as circumstances remain unchanged.

(d) The provider shall select an allocation method to assign an indirect cost in accordance with the following:

(1) The method is best suited for assigning a cost with a benefit derived.

(2) The method has a traceable cause and effect relationship.

(3) The cost cannot be directly attributed to an HCBS.

(e) The provider shall allocate a general expense in a cost group that is more general in nature to produce a result that is equitable to both the Department and the provider.

§ 6100.666. Moving expenses.

(a) The actual cost associated with the relocation of a waiver support location is allowable.

(b) Moving expenses for an individual is allowable if the provider receives approval from the Department or the designated managing entity prior to the move.

§ 6100.667. Interest expense.

(a) Short-term borrowing is a debt incurred by a provider that is due within 1 year.

(b) Interest cost of short-term borrowing from an unrelated party to meet actual cash flow requirements for the administration or provision of an HCBS is an allowable cost.

§ 6100.668. Insurance.

The cost for an insurance premium is allowable if it is limited to the minimum amount needed to cover the loss or provide for replacement value, including the following:

(1) General liability.

(2) Casualty.

(3) Property.

(4) Theft.

(5) Burglary insurance.

- (6) Fidelity bonds.
- (7) Rental insurance.
- (8) Flood insurance, if required.
- (9) Errors and omissions.

§ 6100.669. Other allowable costs.

(a) The following costs are allowable if they are related to the administration of HCBS:

- (1) Legal fees with the exception of those listed in subsection (b).
- (2) Accounting fees, including audit fees.
- (3) Information technology costs.
- (4) Professional membership dues for the provider, excluding dues or contributions paid to lobbying groups.
- (5) Self-advocacy or advocacy organization dues for an individual, excluding dues or contributions paid to lobbying groups. This does not include dues paid to an organization that has as its members, or is affiliated with an organization that represents, individuals or entities that are not self-advocates or advocates.

(b) Legal fees for prosecution of claims against the Commonwealth and expenses incurred for claims against the Commonwealth are not allowable unless the provider prevails at the hearing.

§ 6100.670. Start-up cost.

(a) A start-up cost shall be utilized only for a one-time activity related to one of the following:

- (1) Opening a new location.
- (2) Introducing a new product or support.
- (3) Conducting business in a new geographic area.
- (4) Initiating a new process.
- (5) Starting a new operation.

(b) Within the approved waiver appropriation, a start-up cost may be approved and authorized by the Department in accordance with the Department's Federally-approved waivers and waiver amendments.

(c) A start-up cost shall be authorized in accordance with Standard Operating Procedure 98-5 issued by the American Institute of Certified Public Accountants (SOP 98-5), as amended.

§ 6100.671. Reporting of start-up cost.

(a) A start-up cost that has been reimbursed by the Department shall be reported as income.

(b) A start-up cost within the scope of Standard Operating Procedure 98-5 shall be expensed as the costs are incurred, rather than capitalized.

§ 6100.672. Cap on start-up cost.

(a) A cap on start-up cost will be established by the Department.

(b) A request for a waiver in accordance with § 6100.43 (relating to regulatory waiver) may be requested if the waiver conditions in § 6100.43 and one of the following conditions are met:

- (1) The start-up cost provides greater independence and access to the community.
- (2) The start-up cost is necessary to meet life safety code standards.
- (3) The cost of the start-up activity is more cost effective than an alternative approach.

ROOM AND BOARD

§ 6100.681. Room and board applicability.

Sections 6100.682—6100.694 apply for the room and board rate charged to the individual for residential habilitation.

§ 6100.682. Support to the individual.

(a) If an individual is not currently receiving SSI benefits, the provider shall provide support to the individual to contact the appropriate county assistance office.

(b) If an individual is denied SSI benefits, the provider shall assist the individual in filing an appeal, if desired by the individual.

(c) The provider shall assist the individual to secure information regarding the continued eligibility of SSI for the individual.

§ 6100.683. No delegation permitted.

The provider shall collect the room and board from the individual or the person designated by the individual directly and may not delegate that responsibility.

§ 6100.684. Actual provider room and board cost.

(a) The total amount charged for the individual's share of room and board may not exceed the actual documented value of room and board provided to the individual, minus the benefits received as specified in § 6100.685 (relating to benefits).

(b) The provider shall compute and document actual provider room and board costs each time an individual signs a new room and board residency agreement.

(c) The provider shall keep documentation of actual provider room and board costs.

§ 6100.685. Benefits.

(a) The provider shall assist an individual in applying for energy assistance, rent rebates, food stamps and similar benefits.

(b) If energy assistance, rent rebates, food stamps or similar benefits are received, the provider shall deduct the value of these benefits from the documented actual provider room and board cost as specified in § 6100.684 (relating to actual provider room and board cost) before deductions are made to the individual's share of room and board costs.

(c) An individual's energy assistance, rent rebates, food stamps or similar benefits may not be considered as part of an individual's income or resources.

(d) The provider may not use the value of energy assistance, rent rebates, food stamps or similar benefits to increase the individual's share of room and board costs beyond actual room and board costs as specified in § 6100.684.

§ 6100.686. Room and board rate.

(a) If the actual provider room and board cost as specified in § 6100.684 (relating to actual provider room and board cost), less any benefits as specified in § 6100.685 (relating to benefits), is more than 72% of the SSI maximum rate, the following criteria shall be used to establish the room and board rate:

(1) An individual's share of room and board may not exceed 72% of the SSI maximum rate.

(2) The proration of board costs shall occur after an individual is on leave from the residence for a consecutive period of 8 days or more. This proration may occur

monthly, quarterly or semiannually as long as there is a record of the board costs that were returned to the individual.

(b) If an individual has earned wages, personal income from inheritance, Social Security or other types of income, the provider may not assess the room and board cost for the individual in excess of 72% of the SSI maximum rate.

(c) If available income for an individual is less than the SSI maximum rate, the provider shall charge 72% of the individual's available monthly income as the individual's monthly obligation for room and board.

(d) An individual shall receive at least the monthly amount as established by the Commonwealth and the Social Security Administration for the individual's personal needs allowance.

§ 6100.687. Documentation.

If the actual provider room and board cost charged to an individual as specified in § 6100.684 (relating to actual provider room and board cost) is less than 72% of the SSI maximum rate, the provider shall keep the following documentation:

(1) The actual value of the room and board is less than 72% of the current maximum SSI monthly benefit.

(2) The Social Security Administration's initial denial of the individual's initial application for SSI benefits and the upholding of the initial denial through at least one level of appeal.

§ 6100.688. Completing and signing the room and board residency agreement.

(a) The provider shall ensure that a room and board residency agreement, on a form specified by the Department, is completed and signed by the individual annually.

(b) If an individual is adjudicated incompetent to handle finances, the individual's court-appointed legal guardian shall sign the room and board residency agreement.

(c) If an individual is 18 years of age or older and has a designated person for the individual's benefits, the designated person and the individual shall sign the room and board residency agreement.

(d) The room and board residency agreement shall be completed and signed in accordance with one of the following:

(1) Prior to an individual's admission to residential habilitation.

(2) Prior to an individual's transfer from one residential habilitation location or provider to another residential habilitation location or provider.

(3) Within 15 days after an emergency residential habilitation placement.

§ 6100.689. Modifications to the room and board residency agreement.

(a) If an individual pays rent directly to a landlord, and food is supplied through a provider, the room provisions shall be deleted from the room and board residency agreement and the following shall apply:

(1) The individual shall pay 32% of the SSI maximum rate for board.

(2) If an individual's income is less than the SSI maximum rate, 32% of the available income shall be charged to fulfill the individual's monthly obligations for board.

(b) If an individual pays rent to a provider, but the individual purchases the individual's own food, the board provisions shall be deleted from the room and board residency agreement and the following shall apply:

(1) The individual shall pay 40% of the SSI maximum rate for room.

(2) If an individual's income is less than the SSI maximum rate, 40% of the available income shall be charged to fulfill the individual's monthly obligations for room.

§ 6100.690. Copy of room and board residency agreement.

(a) A copy of the completed and signed room and board residency agreement shall be given to the individual, the individual's designated person and the individual's court-appointed legal guardian, if applicable.

(b) A copy of the completed and signed room and board residency agreement shall be kept in the individual's record.

§ 6100.691. Respite care.

There may not be a charge for room and board to the individual for respite care if respite care is provided for 30 days or less in a Commonwealth fiscal year.

§ 6100.692. Hospitalization.

There may not be a charge for room and board to the individual after 30 consecutive days of being in a hospital or rehabilitation facility and the individual is placed in reserved capacity.

§ 6100.693. Exception.

There may not be a charge for board to the individual if the individual does not take food by mouth.

§ 6100.694. Delay in an individual's income.

If a portion or all of the individual's income is delayed for 1 month or longer, the following apply:

(1) The provider shall inform the individual, the individual's designated person or the individual's court-appointed legal guardian in writing that payment is not required or that only a small amount of room and board payments is required until the individual's income is received.

(2) Room and board shall be charged to make up the accumulated difference between room and board paid and room and board charged according to the room and board residency agreement.

DEPARTMENT-ESTABLISHED FEE FOR INELIGIBLE PORTION

§ 6100.711. Fee for the ineligible portion of residential habilitation.

(a) The Department will establish a fee for the ineligible portion of payment for residential habilitation services.

(b) The Department-established fee will be established using a market-based approach based on current data and independent data sources.

(c) The Department will refresh the market-based data used in subsection (a) to establish Department-established fees at least every 3 years.

(d) The market-based approach specified in subsection (c) will review and consider the following factors:

- (1) The support needs of the individuals.
 - (2) Staff wages.
 - (3) Staff-related expenses.
 - (4) Productivity.
 - (5) Occupancy.
 - (6) Custodial and maintenance expenses.
 - (7) Geographic costs.
 - (8) A review of approved HCBS definitions and determinations made about cost components that reflect costs necessary and related to the delivery of each HCBS.
 - (9) A review of the cost of implementing Federal, State and local statutes, regulations and ordinances.
 - (10) Other criteria that impact costs.
- (e) The Department will publish as a notice in the *Pennsylvania Bulletin* the factors in subsection (d) used to establish the rates and the fee schedule rates for public review and comment.
- (f) The Department will pay for Department-established fee supports at the fees determined by the Department.

ENFORCEMENT

§ 6100.741. Sanctions.

- (a) The Department has the authority to enforce compliance with this chapter through an array of sanctions.
- (b) A sanction may be implemented by the Department for the following:
- (1) One or more regulatory violations of this chapter.
 - (2) Failure to submit an acceptable corrective action plan in accordance with the time frame specified by the Department and as specified in § 6100.42(e) (relating to monitoring compliance).
 - (3) Failure to implement a corrective action plan or a directed corrective action plan, including the compliance steps and the timelines in the plan.
 - (4) Fraud, deceit or falsification of documents or information related to this chapter.
 - (5) Failure to provide free and full access to the Department, the designated managing entity, or other authorized Federal or State officials.
 - (6) Failure to provide documents or other information in a timely manner upon the request of the Department, the designated managing entity, or an authorized Federal or State agency.

§ 6100.742. Array of sanctions.

The Department may implement the following sanctions:

- (1) Recouping, suspending or disallowing payment.
- (2) Terminating a provider agreement for participation in an HCBS waiver program.
- (3) Prohibiting the delivery of supports to a new individual.
- (4) Prohibiting the provision of specified supports at a specified location.
- (5) Prohibiting the enrollment of a new support location.
- (6) Ordering the appointment of a master as approved by the Department, at the provider's expense and not

eligible for reimbursement from the Department, to manage and direct the provider's operational, program and fiscal functions.

- (7) Removing an individual from a premise.

§ 6100.743. Consideration as to type of sanction utilized.

(a) The Department has full discretion to determine and implement the type of sanction it deems appropriate in each circumstance specified in § 6100.741(b) (relating to sanctions).

(b) The Department has the authority to implement a single sanction or a combination of sanctions.

(c) The Department may consider the following variables when determining and implementing a sanction or combination of sanctions:

- (1) The seriousness of the condition specified in § 6100.741(b).
- (2) The continued nature of the condition specified in § 6100.741(b).
- (3) The repeated nature of the condition specified in § 6100.741(b).
- (4) A combination of the conditions specified in § 6100.741(b).
- (5) The history of provisional licenses issued by the Department.
- (6) The history of compliance with this chapter, Departmental regulations such as licensure regulations and applicable regulations of other State and Federal agencies.

§ 6100.744. Additional conditions and sanctions.

In addition to sanctions and sanction conditions specified in this chapter, the provider is subject to the following:

- (1) Sections 1101.74, 1101.75, 1101.76 and 1101.77.
- (2) Other Departmental sanctions as provided by applicable law.

SPECIAL PROGRAMS

§ 6100.801. Adult autism waiver.

(a) The adult autism waiver is an HCBS Federal waiver program under section 1915(c) of the Social Security Act (42 U.S.C.A. § 1396n(c)) designed to provide community-based supports to meet the specific needs of adults with autism spectrum disorders.

(b) The following requirements of this chapter do not apply to the adult autism waiver program:

- (1) Section 6100.441 (relating to request for and approval of changes) does not apply to the adult autism waiver program.
- (2) Section 6100.481(d) (relating to Departmental rates and classifications).
- (3) Section 6100.571(c)(5) (relating to fee schedule rates).
- (4) Sections 6100.641—6100.672 (relating to cost-based rates and allowable costs).
- (5) Section 6100.711(d)(7) (relating to fee for the ineligible portion of residential habilitation).

§ 6100.802. Agency with choice.

(a) Agency with choice (AWC) is a type of individual-directed, financial management service in which the agency is the common law employer and the individual or his representative is the managing employer.

(b) The requirements in this chapter do not apply to an AWC, with the exception of the following provisions:

(1) General provisions as specified in §§ 6100.1—6100.3 (relating to general provisions).

(2) General requirements as specified in §§ 6100.41—6100.44 and 6100.46—6100.55.

(3) Training as specified in §§ 6100.141—6100.144 (relating to training).

(4) Individual rights as specified in §§ 6100.181—6100.186 (relating to individual rights).

(5) PSP as specified in §§ 6100.221—6100.224.

(6) Positive interventions as specified in §§ 6100.341—6100.345 (relating to positive intervention).

(7) Incident management as specified in §§ 6100.401—6100.405 (relating to incident management).

(c) The AWC shall ensure that the managing employer complies with the requirements of the managing employer agreement.

(d) The AWC shall fulfill unmet responsibilities of the managing employer.

(e) The AWC shall identify and implement corrective action for managing employer performance in accordance with the managing employer agreement.

(f) The AWC shall develop and implement procedures to ensure that the managing employer reports incidents in accordance with this chapter.

(g) The AWC shall process and provide vendor goods and services authorized by the Department or the designated managing entity covered by the monthly per individual administrative fee.

(h) The AWC shall distribute a customer satisfaction survey to individuals who receive the financial management services, collect and analyze survey responses, and act to improve services.

(i) If an AWC intends to close, a written notice shall be provided to the Department at least 60 days prior to the planned closure date. The written notice must include the following:

(1) The effective date of closure.

(2) A transition plan for each individual that affords choice.

(j) If an AWC intends to close, the provider shall complete the following duties:

(1) Provide suggested time frames for transitioning the individual to a new provider.

(2) Continue to provide financial management services to individuals in accordance with this chapter and the managing employer agreement until the date of the closure or until the Department directs otherwise.

(3) Notify each individual in writing of the closure.

(4) Prepare individual records for transfer to the selected provider within 14 days of the selected provider's accepting the transfer.

(5) Maintain data and records in accordance with this chapter until the date of the transfer.

§ 6100.803. Support coordination, targeted support management and base-funded support coordination.

(a) Support coordination is an HCBS Federal waiver program under section 1915(c) of the Social Security Act (42 U.S.C.A. § 1396n(c)) designed to provide community-based support to locate, coordinate and monitor needed HCBS and other support for individuals.

(b) Targeted support management (TSM) is a service under the State plan that is designed to provide community-based support to locate, coordinate and monitor needed support for an individual. TSM is not an HCBS.

(c) Base-funded support coordination is a program designed to provide community-based support to locate, coordinate and monitor needed support for individuals who receive support through base-funding.

(d) The following requirements of this chapter do not apply to support coordination, TSM or base-funded support coordination.

(1) Section 6100.81(b)(4) (relating to HCBS provider requirements).

(2) Section 6100.226(d)(6) (relating to documentation of support delivery).

(3) Section 6100.441 (relating to request for and approval of changes).

(4) Sections 6100.461—6100.470 (relating to medication administration).

(5) Sections 6100.641—6100.672, 6100.681—6100.694 and 6100.711 (relating to cost-based rates and allowable costs; room and board; and fee for the ineligible portion of residential habilitation).

(6) Section 6100.806 (relating to vendor goods and services).

(e) In addition to this chapter, the following requirements apply for support coordination, TSM and base-funded support coordination.

(1) In addition to the training and orientation required under §§ 6100.141—6100.143 (relating to annual training plan; orientation program; and annual training), a support coordinator, targeted support manager, support coordinator supervisor and targeted support manager supervisor shall complete the following training within the first year of employment:

(i) Facilitation of person-centered planning.

(ii) Conflict resolution.

(iii) Human development over the lifespan.

(iv) Family dynamics.

(v) Cultural diversity.

(2) A support coordinator, targeted support manager, support coordinator supervisor and targeted support manager supervisor shall report incidents, alleged incidents and suspected incidents as specified in §§ 6100.401—6100.403 (relating to types of incidents and timelines for reporting; incident investigation; and individual needs), that the coordinator, manager or supervisor observes directly.

(3) If an individual is authorized for residential habilitation, the support coordinator or targeted support manager shall review and document if the individual continues to need the authorized level of residential habilitation every 6 months.

(4) If an individual is authorized for residential habilitation and a request for enhanced staffing is received, the support coordinator or targeted support manager shall review and document the following:

(i) The individual's need, and any change in need, including how the change affects the individual's health, safety and well-being.

(ii) Assessments used to support the need for enhanced staffing.

(iii) The specific enhanced staffing that will be provided to address the individual's needs.

(iv) The plan to reduce the enhanced staffing based on specific outcomes of the individual.

(v) The time frame and the staff person responsible for monitoring progress on the plan to reduce enhanced staffing.

(vi) The results of meetings held to re-evaluate the need for continued enhanced staffing.

(5) If a support coordination or TSM provider intends to close, a written notice shall be provided to the Department at least 90 days prior to the planned closure date. The written notice must include the following:

(i) The effective date of closure.

(ii) The intent to terminate the Medical Assistance provider agreement and the Medical Assistance waiver provider agreement.

(iii) A transition plan for each individual that affords individual choice.

(iv) A transition plan to transfer the provider's functions.

(6) If a support coordination or TSM provider intends to close, the provider shall complete the following duties:

(i) Continue to provide support coordination, TSM or base-funded support coordination to individuals in accordance with this chapter until the date of the transfer or until the Department directs otherwise.

(ii) Transfer an individual to the selected provider only after the Department or the designated managing entity approves the individual's transition plan.

(iii) Prepare individual records for transfer to the selected provider within 14 days of the selected provider's accepting the transfer.

(iv) Maintain data and records in accordance with this chapter until the date of the transfer.

§ 6100.804. Organized health care delivery system.

(a) An OHCDs is an arrangement in which a provider that renders an HCBS chooses to offer a different vendor of an HCBS through a subcontract to facilitate the delivery of vendor goods or services to an individual.

(b) The following requirements of this chapter do not apply to an OHCDs:

(1) Section 6100.571 (relating to fee schedule rates).

(2) Sections 6100.641—6100.672, 6100.681—6100.694 and 6100.7111 (relating to cost-based rates and allowable costs; room and board; and fee for the ineligible portion of residential habilitation).

(3) Section 6100.806 (relating to vendor goods and services).

(c) In addition to this chapter, the following requirements apply for OHCDs.

(1) The OHCDs shall:

(i) Be an enrolled Medical Assistance waiver provider.

(ii) Be enrolled in the MMIS.

(iii) Provide at least one Medical Assistance service.

(iv) Agree to provide the identified vendor goods or services to individuals.

(v) Bill the MMIS for the amount of the vendor goods or services.

(vi) Pay the vendor that provided the vendor goods or services the amount billed for in the MMIS.

(2) An OHCDs may bill a separate administrative fee under the following:

(i) The administrative fee may not exceed the limit set by Federal requirements.

(ii) The administrative activities must be required to deliver the vendor good or HCBS to an individual and must be documented to support the separate administrative fee.

(3) The OHCDs shall ensure that each vendor with which it contracts meets the applicable provisions of this chapter and in accordance with the requirements specified in the Department's Federally-approved waivers and waiver amendments, and the State plan, as applicable.

(4) Only vendor goods and services may be subcontracted through the OHCDs. A provider who subcontracts shall have written agreements specifying the duties, responsibilities and compensation of the subcontractor.

(5) An OHCDs shall provide the Department with an attestation that the cost of the good or service is the same or less as the cost charged to the general public.

(d) As used in this section:

(1) OHCDs is an organized health care delivery system.

(2) MMIS is the Department's Medicaid management information statistics.

§ 6100.805. Base-funded support.

(a) A base-funding only support is a State-only funded, county program support provided through the county program to either an individual who is not eligible for an HCBS or for a support that is not eligible as an HCBS.

(b) The requirements in this chapter do not apply to base-funding only supports, with the exception of the following provisions that do apply.

(1) General provisions as specified in §§ 6100.1—6100.3 (relating to general provisions).

(2) General requirements as specified in §§ 6100.41—6100.55 (relating to general requirements).

(3) Training as specified in §§ 6100.141—6100.144 (relating to training).

(4) Individual rights as specified in §§ 6100.181—6100.186 (relating to individual rights).

(5) PSP as specified in §§ 6100.221—6100.225 (relating to person-centered support plan).

(6) Positive interventions as specified in §§ 6100.341—6100.345 (relating to positive intervention).

(7) Incident management as specified in §§ 6100.401—6100.405 (relating to incident management).

(8) Medications administration as specified in §§ 6100.461—6100.470 (relating to medication administration).

(9) Room and board as specified in §§ 6100.681—6100.694 (relating to room and board).

§ 6100.806. Vendor goods and services.

(a) A vendor is a directly-enrolled provider that sells goods or services to the general public, as well as to an HCBS program.

(b) The requirements in this chapter do not apply to vendor goods and services, with the exception of the following provisions that do apply.

(1) General provisions as specified in §§ 6100.1—6100.3 (relating to general provisions).

(2) General requirements as specified in §§ 6100.41—6100.44, 6100.46—6100.51 and 6100.53—6100.55.

(3) Enrollment as specified in §§ 6100.81—6100.86 (relating to enrollment).

(4) PSP as specified in § 6100.226 (relating to documentation of support delivery).

(5) Training as specified in §§ 6100.141—6100.144 (relating to training).

(6) Individual rights as specified in §§ 6100.181—6100.186 (relating to individual rights) for respite camps serving 25% or more people with disabilities.

(7) PSP as specified in §§ 6100.221—6100.226 (relating to person-centered support plan) for respite camps serving 25% or more people with disabilities.

(8) Positive interventions as specified in §§ 6100.341—6100.345 (relating to positive intervention) for respite camps serving 25% or more people with disabilities.

(9) Incident management as specified in §§ 6100.401—6100.405 (relating to incident management) for respite camps serving 25% or more people with disabilities.

(10) Medications administration as specified in §§ 6100.461—6100.470 (relating to medication administration) for respite camps serving 25% or more people with disabilities.

(11) General payment provisions as specified in §§ 6100.481—6100.487 (relating to general payment provisions).

(12) Enforcement as specified in §§ 6100.741—6100.744 (relating to enforcement).

(c) Payment for vendor goods and services will only be made after a good or service is delivered.

(d) The vendor may charge an administrative fee either as a separate invoice or as part of the total general invoice.

(e) The administrative fee specified in subsection (d) may not exceed the limit set by Federal requirements.

(f) A vendor shall charge the same fee for an HCBS as the vendor charges to the general public for the same good or service.

(g) A vendor shall document the fee for the good or service charged to the general public and to the HCBS.

(h) A vendor shall ensure that a subcontractor provides the vendor good or service in accordance with this chapter, the Department's Federally-approved waiver and waiver amendments, and the State plan, as applicable.

**CHAPTER 6200. [ROOM AND BOARD CHARGES]
(Reserved)**

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to rescind Chapter 6200 which appears in 55 Pa. Code pages 6200-1—6200-9, serial pages (381811)—(381819).)

§§ 6200.1—6200.3. (Reserved).

§ 6200.3a. (Reserved).

§§ 6200.11—6200.20. (Reserved).

§§ 6200.31—6200.35. (Reserved).

**Subpart E. RESIDENTIAL
AGENCIES/FACILITIES/SERVICES
ARTICLE I. LICENSING/APPROVAL**

**CHAPTER 6400. COMMUNITY HOMES FOR
INDIVIDUALS WITH AN INTELLECTUAL DISABILITY
OR AUTISM**

GENERAL PROVISIONS

§ 6400.1. Introduction.

This chapter is based on the principle of integration and the right of the individual with an intellectual disability **or autism** to live a life which is as close as possible in all aspects to the life which any member of the community might choose. For the individual with an intellectual disability **or autism** who requires a residential service, the design of the service shall be made with the individual's unique needs in mind so that the service will facilitate the person's ongoing growth and development.

§ 6400.2. Purpose.

The purpose of this chapter is to protect the health, safety and well-being of individuals with an intellectual disability **or autism**, through the formulation, implementation and enforcement of minimum requirements for the operation of community homes for individuals with an intellectual disability **or autism**.

§ 6400.3. Applicability.

(a) This chapter applies to community homes for individuals with an intellectual disability **or autism**, except as provided in subsection (f).

(b) This chapter contains the minimum requirements that shall be met to obtain a certificate of compliance. A certificate of compliance shall be obtained prior to operation of a community home for individuals with an intellectual disability **or autism**.

(c) This chapter applies to profit, nonprofit, publicly funded and privately funded homes.

(d) Each home serving nine or more individuals shall be inspected by the Department each year and shall have an individual certificate of compliance specific for each building.

(e) Each agency operating one or more homes serving eight or fewer individuals shall have at least a sample of its homes inspected by the Department each year. The certificate of compliance issued to an agency shall specify the location and maximum capacity of each home the agency is permitted to operate.

(f) This chapter does not apply to the following:

(1) Private homes of persons providing care to a relative with an intellectual disability **or autism**.

(2) Residential facilities operated by the Department.

(3) Intermediate care facilities for individuals with an intellectual disability licensed by the Department in accordance with Chapter 6600 (relating to intermediate care facilities for individuals with an intellectual disability) **or intermediate care facilities for individuals with other related conditions**.

(4) Foster family care homes licensed by the Office of Children, Youth and Families of the Department that serve only foster care children.

(5) Summer camps.

(6) Facilities serving exclusively personal care home, drug and alcohol, mental health or domiciliary care residents.

(7) Residential homes for three or fewer people with an intellectual disability **or autism** who are 18 years of age or older and who need a yearly average of 30 hours or less direct staff contact per week per home.

(8) Child residential facilities which serve exclusively children, which are regulated under Chapter 3800 (relating to child residential and day treatment facilities).

(g) This chapter does not measure or assure compliance with other applicable Federal, State and local statutes, regulations, codes and ordinances. It is the responsibility of the home to comply with other applicable laws, regulations, codes and ordinances.

§ 6400.4. Definitions.

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

Agency—A person or legally constituted organization operating one or more community homes for people with an intellectual disability **or autism** serving eight or fewer individuals.

Autism—A developmental disorder defined by the edition of the *Diagnostic and Statistical Manual of Mental Disorders*, or its successor, in effect at the time the diagnosis is made. The term includes autistic disorder, Asperger's disorder and autism spectrum disorder.

Community home for individuals with an intellectual disability or autism (home)—A building or separate dwelling unit in which residential care is provided to one or more individuals with an intellectual disability **or autism**, except as provided in § 6400.3(f) (relating to applicability). Each apartment unit within an apartment building is considered a separate home. Each part of a duplex, if there is physical separation between the living areas, is considered a separate home.

[**Content discrepancy**—A difference between what was determined at the ISP meeting by the plan team and what is documented in the written ISP.]

Department—The Department of Human Services of the Commonwealth.

Direct service worker—A person whose primary job function is to provide services to an individual who resides in the provider's residential home.

[**Documentation**—Written statements that accurately record details, substantiate a claim or provide evidence of an event.]

Fire safety expert—A local fire department, fire protection engineer, State certified fire protection instructor, college instructor in fire science, county or State fire school, volunteer fire person trained by a county or State fire school or an insurance company loss control representative.

[**ISP—Individual Support Plan**—The comprehensive document that identifies services and expected outcomes for an individual.]

Individual—An individual with an intellectual disability **or autism** who resides, or receives residential respite care, in a home and who is not a relative of the owner of the home.

Intellectual disability—Subaverage general intellectual functioning which originates during the developmental period and is associated with impairment of one or more of the following:

- (i) Maturation.
- (ii) Learning.
- (iii) Social adjustment.

[**Outcomes**—Goals the individual and individual's plan team choose for the individual to acquire, maintain or improve.

Plan lead—The program specialist, when the individual is not receiving services through an SCO.

Plan team—The group that develops the ISP.]

PSP—Person-centered support plan.

Provider—An entity or person that enters into an agreement with the Department to deliver a service to an individual.

Relative—A parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half brother, half sister, aunt, uncle, niece or nephew.

Restraint—A physical, chemical or mechanical intervention used to control acute, episodic behavior that restricts the movement or function of the individual or a portion of the individual's body, including an intervention approved as part of the PSP or used on an emergency basis.

SC—Supports coordinator—An SCO employee whose primary job functions are to locate, coordinate and monitor services provided to an individual when the individual is receiving services from an SCO.

SCO—Supports coordination organization—A provider that delivers the services of locating, coordinating and monitoring services provided to an individual.

Services—Actions or assistance provided to the individual to support the achievement of an outcome.

GENERAL REQUIREMENTS

§ 6400.15. Self-assessment of homes.

(a) The agency shall complete a self-assessment of each home the agency operates serving eight or fewer individuals, within 3 to 6 months prior to the expiration date of the agency's certificate of compliance, to measure and record compliance with this chapter.

(b) The agency shall use the Department's licensing inspection instrument for the community homes for individuals with an intellectual disability **or autism** regulations to measure and record compliance.

(c) A copy of the agency's self-assessment results and a written summary of corrections made shall be kept by the agency for at least 1 year.

§ 6400.18. [Reporting of unusual incidents.] Incident report and investigation.

[(a) An unusual incident is abuse or suspected abuse of an individual; injury, trauma or illness of an individual requiring inpatient hospitalization; suicide attempt by an individual; violation or alleged violation of an individual's rights; an indi-

vidual who is missing for more than 24 hours or who could be in jeopardy if missing at all; alleged misuse or misuse of individual funds or property; outbreak of a serious communicable disease as defined in 28 Pa. Code § 27.2 (relating to specific identified reportable diseases, infections and conditions); an incident requiring the services of a fire department or law enforcement agency; and any condition that results in closure of the home for more than 1 day.

(b) Written policies and procedures on the prevention, reporting, investigation and management of unusual incidents shall be developed and kept at the home.

(c) The home shall orally notify the county intellectual disability program of the county in which the home is located, the funding agency and the appropriate regional office of the Department, within 24 hours after abuse or suspected abuse of an individual or an incident requiring the services of a fire department or law enforcement agency occurs.

(d) The home shall initiate an investigation of the unusual incident and complete and send copies of an unusual incident report on a form specified by the Department to the county intellectual disability program of the county in which the home is located, the funding agency and the appropriate regional office of the Department, within 72 hours after an unusual incident occurs.

(e) The home shall send a copy of the final unusual incident report to the county intellectual disability program of the county in which the home is located, the funding agency and the appropriate regional office of the Department at the conclusion of the investigation.

(f) A copy of unusual incident reports relating to an individual shall be kept in the individual's record.

(g) A copy of unusual incident reports relating to the home itself, such as those requiring the services of a fire department, shall be kept.

(h) The individual's family or guardian shall be immediately notified in the event of an unusual incident relating to the individual, if appropriate.]

(a) The home shall report the following incidents, alleged incidents and suspected incidents in the Department's information management system or on a form specified by the Department within 24 hours of discovery by a staff person:

- (1) Death.
- (2) Suicide attempt.
- (3) Inpatient admission to a hospital.
- (4) Visit to an emergency room.
- (5) Abuse.
- (6) Neglect.
- (7) Exploitation.
- (8) An individual who is missing for more than 24 hours or who could be in jeopardy if missing at all.
- (9) Law enforcement activity.
- (10) Injury requiring treatment beyond first aid.

(11) Fire requiring the services of the fire department.

(12) Emergency closure.

(13) Use of a restraint.

(14) Theft or misuse of individual funds.

(15) A violation of individual rights.

(b) The individual and the persons designated by the individual shall be notified immediately upon discovery of an incident relating to the individual.

(c) The home shall keep documentation of the notification in subsection (a).

(d) The incident report, redacted to exclude information about another individual and the reporter, unless the reporter is the individual who receives the report, shall be available to the individual, and persons designated by the individual, upon request.

(e) The home shall take immediate action to protect the health, safety and well-being of the individual following the initial knowledge or notice of an incident, alleged incident and suspected incident.

(f) The home shall initiate an investigation of an incident within 24 hours of discovery by a staff person.

(g) A Department-certified incident investigator shall conduct the investigation of the incident listed in subsection (a).

(h) The home shall finalize the incident report in the Department's information management system or on a form specified by the Department within 30 days of discovery of the incident by a staff person.

(i) The home shall provide the following information to the Department as part of the final incident report:

(1) Additional detail about the incident.

(2) The results of the incident investigation.

(3) A description of the corrective action taken in response to an incident.

(4) Action taken to protect the health, safety and well-being of the individual.

(5) The person responsible for implementing the corrective action.

(6) The date the corrective action was implemented or is to be implemented.

§ 6400.19. [Reporting of deaths.] Incident procedures to protect the individual.

[(a) The home shall complete and send copies of a death report on a form specified by the Department to the county intellectual disability program of the county in which the home is located, the funding agency and the regional office of the Department, within 24 hours after a death of an individual occurs.

(b) The home shall investigate and orally notify the county intellectual disability program of the county in which the home is located, the funding agency and the appropriate regional office of the Department within 24 hours after an unusual or unexpected death occurs.

(c) A copy of death reports shall be kept in the individual's record.

(d) The individual's family or guardian shall be immediately notified in the event of a death of an individual.]

(a) In investigating an incident, the home shall review and consider the following needs of the affected individual:

- (1) Potential risks.
- (2) Health care information.
- (3) Medication history and current medication.
- (4) Behavioral health history.
- (5) Incident history.
- (6) Social needs.
- (7) Environmental needs.
- (8) Personal safety.

(b) The home shall monitor an individual's risk for recurring incidents and implement corrective action, as appropriate.

(c) The home shall work cooperatively with the PSP team to revise the PSP if indicated by the incident investigation.

§ 6400.20. [Record of incidents.] Incident analysis.

[The home shall maintain a record of individual illnesses, seizures, acute emotional traumas and accidents requiring medical attention but not inpatient hospitalization, that occur at the home.]

(a) The home shall complete the following for each confirmed incident:

- (1) Analysis to determine the root cause of the incident.
- (2) Corrective action.
- (3) A strategy to address the potential risks to the affected individual.

(b) The home shall review and analyze incidents and conduct a trend analysis at least every 3 months.

(c) The home shall identify and implement preventive measures to reduce:

- (1) The number of incidents.
- (2) The severity of the risks associated with the incident.
- (3) The likelihood of an incident recurring.

(d) The home shall educate staff persons and the individual based on the circumstances of the incident.

(e) The home shall analyze incident data continuously and take actions to mitigate and manage risks.

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 6400.24. **Applicable laws and regulations.**

The home shall comply with applicable Federal, State and local laws, regulations and ordinances.

INDIVIDUAL RIGHTS

§ 6400.31. [Informing and encouraging exercise] Exercise of rights.

[(a) Each individual, or the individual's parent, guardian or advocate, if appropriate, shall be informed of the individual's rights upon admission and annually thereafter.

(b) Statements signed and dated by the individual, or the individual's parent, guardian or advocate, if appropriate, acknowledging receipt of the information on rights upon admission and annually thereafter, shall be kept.

(c) Each individual shall be encouraged to exercise his rights.]

(a) An individual may not be deprived of rights as provided under § 6400.32 (relating to rights of the individual).

(b) An individual shall be continually supported to exercise the individual's rights.

(c) An individual shall be provided the support and accommodation necessary to be able to understand and actively exercise the individual's rights.

(d) An individual may not be reprimanded, punished or retaliated against for exercising the individual's rights.

(e) A court's written order that restricts an individual's rights shall be followed.

(f) A court-appointed legal guardian may exercise rights and make decisions on behalf of an individual in accordance with a court order.

(g) An individual who has a court-appointed legal guardian, or who has a court order restricting the individual's rights, shall be involved in decision making in accordance with the court order.

(h) An individual has the right to designate persons to assist in decision making on behalf of the individual.

§ 6400.32. **Rights of the individual.**

[An individual may not be deprived of rights.]

(a) An individual may not be discriminated against because of race, color, creed, disability, religious affiliation, ancestry, gender, gender identity, sexual orientation, national origin or age.

(b) An individual has the right to civil and legal rights afforded by law, including the right to vote, speak freely, and practice the religion of his choice or to practice no religion.

(c) An individual may not be abused, neglected, mistreated, exploited, abandoned or subjected to corporal punishment.

(d) An individual shall be treated with dignity and respect.

(e) An individual has the right to make choices and accept risks.

(f) An individual has the right to refuse to participate in activities and supports.

(g) An individual has the right to control the individual's own schedule.

(h) An individual has the right to privacy of person and possessions.

(i) An individual has the right of access to and security of the individual's possessions.

(j) An individual has the right to voice concerns about the supports the individual receives.

(k) An individual has the right to participate in the development and implementation of the PSP.

(l) An individual has the right to receive scheduled and unscheduled visitors, and to communicate and meet privately with persons of the individual's choice, at any time.

(m) An individual has the right to unrestricted access to send and receive mail and other forms of communications, unopened and unread by others.

(n) An individual has the right to unrestricted and private access to telecommunications.

(o) An individual has the right to manage and access his own finances.

(p) An individual has the right to choose persons with whom to share a bedroom.

(q) An individual has the right to furnish and decorate the individual's bedroom and the common areas of the home.

(r) An individual has the right to lock the individual's bedroom door.

(s) An individual has the right to access food at any time.

(t) An individual has the right to make informed health care decisions.

§ 6400.33. [Rights of the individual.] Negotiation of choices.

[(a) An individual may not be neglected, abused, mistreated or subjected to corporal punishment.

(b) An individual may not be required to participate in research projects.

(c) An individual has the right to manage personal financial affairs.

(d) An individual has the right to participate in program planning that affects the individual.

(e) An individual has the right to privacy in bedrooms, bathrooms and during personal care.

(f) An individual has the right to receive, purchase, have and use personal property.

(g) An individual has the right to receive scheduled and unscheduled visitors, communicate, associate and meet privately with family and persons of the individual's own choice.

(h) An individual has the right to reasonable access to a telephone and the opportunity to receive and make private calls, with assistance when necessary.

(i) An individual has the right to unrestricted mailing privileges.

(j) An individual who is of voting age shall be informed of the right to vote and shall be assisted to register and vote in elections.

(k) An individual has the right to practice the religion or faith of the individual's choice.

(l) An individual has the right to be free from excessive medication.

(m) An individual may not be required to work at the home, except for the upkeep of the individual's personal living areas and the upkeep of common living areas and grounds.]

(a) An individual's rights shall be exercised so that another individual's rights are not violated.

(b) Choices shall be negotiated by the affected individuals in accordance with the home's procedures for the individuals to resolve differences and make choices.

§ 6400.34. [Civil] Informing of rights.

[(a) An individual may not be discriminated against because of race, color, religious creed, disability, handicap, ancestry, national origin, age or sex.

(b) The home shall develop and implement civil rights policies and procedures. Civil rights policies and procedures shall include the following:

(1) Nondiscrimination in the provision of services, admissions, placement, use of the home, referrals and communication with non-English speaking and nonverbal individuals.

(2) Physical accessibility and accommodations for individuals with physical disabilities.

(3) The opportunity to lodge civil rights complaints.

(4) Informing individuals of their right to register civil rights complaints.]

(a) The home shall inform and explain individual rights to the individual, and persons designated by the individual, upon admission to the home and annually thereafter.

(b) The home shall keep a copy of the statement signed by the individual, or the individual's court-appointed legal guardian, acknowledging receipt of the information on individual rights.

STAFFING

§ 6400.44. Program specialist.

(a) A minimum of [one] 1 program specialist shall be assigned for every 30 individuals. A program specialist shall be responsible for a maximum of 30 people, including people served in other types of services.

(b) The program specialist shall be responsible for the following:

[(1) Coordinating and completing assessments.

(2) Providing the assessment as required under § 6400.181(f) (relating to assessment).

(3) Participating in the development of the ISP, ISP annual update and ISP revision.

(4) Attending the ISP meetings.

(5) Fulfilling the role of plan lead, as applicable, under §§ 6400.182 and 6400.186(f) and (g) (relating to development, annual update and revision of the ISP; and ISP review and revision).

(6) Reviewing the ISP, annual updates and revisions under § 6400.186 for content accuracy.

(7) Reporting content discrepancy to the SC, as applicable, and plan team members.

(8) Implementing the ISP as written.

(9) Supervising, monitoring and evaluating services provided to the individual.

(10) Reviewing, signing and dating the monthly documentation of an individual's participation and progress toward outcomes.

(11) Reporting a change related to the individual's needs to the SC, as applicable, and plan team members.

(12) Reviewing the ISP with the individual as required under § 6400.186.

(13) Documenting the review of the ISP as required under § 6400.186.

(14) Providing the documentation of the ISP review to the SC, as applicable, and plan team members as required under § 6400.186(d).

(15) Informing plan team members of the option to decline the ISP review documentation as required under § 6400.186(e).

(16) Recommending a revision to a service or outcome in the ISP as provided under § 6400.186(c)(4).

(17) Coordinating the services provided to an individual.

(18) Coordinating the training of direct service workers in the content of health and safety needs relevant to each individual.

(19) Developing and implementing provider services as required under § 6400.188 (relating to provider services).]

(1) Coordinating the completion of assessments.

(2) Participating in the PSP process, PSP development, PSP team reviews and the implementation of the PSP in accordance with this chapter.

(3) Providing and supervising activities for the individuals in accordance with the PSPs.

(4) Supporting the integration of individuals in the community.

(5) Supporting individual communication and involvement with families and friends.

(c) A program specialist shall have one of the following groups of qualifications:

(1) A master's degree or above from an accredited college or university and 1 year of work experience working directly with individuals with an intellectual disability or autism.

(2) A bachelor's degree from an accredited college or university and 2 years of work experience working directly with individuals with an intellectual disability or autism.

(3) An associate's degree or 60 credit hours from an accredited college or university and 4 years of work experience working directly with individuals with an intellectual disability or autism.

§ 6400.45. Staffing.

(a) A minimum of one staff person for every eight individuals shall be awake and physically present at the home when individuals are awake at the home.

(b) A minimum of [one] 1 staff person for every 16 individuals shall be physically present at the home when individuals are sleeping at the home.

(c) An individual may be left unsupervised for specified periods of time if the absence of direct supervision is consistent with the individual's assessment and is part of the individual's [ISP] PSP, as an outcome which requires the achievement of a higher level of independence.

(d) The staff qualifications and staff ratio as specified in the [ISP] PSP shall be implemented as written, including when the staff ratio is greater than required under subsections (a), (b) and (c).

(e) An individual may not be left unsupervised solely for the convenience of the residential home or the direct service worker.

§ 6400.46. [Staff] Emergency training.

[(a) The home shall provide orientation for staff persons relevant to their responsibilities, the daily operation of the home and policies and procedures of the home before working with individuals or in their appointed positions.

(b) The home shall have a training syllabus describing the orientation specified in subsection (a).

(c) The chief executive officer shall have at least 24 hours of training relevant to human services or administration annually.

(d) Program specialists and direct service workers who are employed for more than 40 hours per month shall have at least 24 hours of training relevant to human services annually.

(e) Program specialists and direct service workers shall have training in the areas of intellectual disability, the principles of integration, rights and program planning and implementation, within 30 calendar days after the day of initial employment or within 12 months prior to initial employment.

[(f)] (a) Program specialists and direct service workers shall be trained before working with individuals in general fire safety, evacuation procedures, responsibilities during fire drills, the designated meeting place outside the building or within the fire safe area in the event of an actual fire, smoking safety procedures if individuals or staff persons smoke at the home, the use of fire extinguishers, smoke detectors and fire alarms, and notification of the local fire department as soon as possible after a fire is discovered.

[(g)] (b) Program specialists and direct service workers shall be trained annually by a fire safety expert in the training areas specified in subsection [(f)] (a).

[(h)] (c) Program specialists and direct service workers and at least one person in a vehicle while individuals are being transported by the home[,] shall be trained before working with individuals in first aid techniques.

[(i)] (d) Program specialists, direct service workers and drivers of and aides in vehicles shall be trained within 6 months after the day of initial employment and annually thereafter, by an individual certified as a trainer by a hospital or other recognized health care organization, in first aid, Heimlich techniques and cardiopulmonary resuscitation.

[(j) Records of orientation and training, including the training source, content, dates, length of training, copies of certificates received and staff persons attending, shall be kept.]

(Editor's Note: Sections 6400.50—6400.52 are new and printed in regular type to enhance readability.)

§ 6400.50. Annual training plan.

(a) The home shall design an annual training plan based on the needs of the individuals as specified in the

individuals' PSPs, other data and analysis indicating staff person training needs and as required under §§ 6400.46 and 6400.52 (relating to emergency training; and annual training).

(b) The annual training plan must include the orientation program as specified in § 6400.51 (relating to orientation program).

(c) The annual training plan must include training aimed at improving the knowledge, skills and core competencies of the staff persons to be trained.

(d) The annual training plan must include the following:

- (1) The title of the position to be trained.
- (2) The required training courses, including training course hours, for each position.

§ 6400.51. Orientation program.

(a) Prior to working alone with individuals, and within 30 days after hire, the following shall complete the orientation program as described in subsection (b):

- (1) Management, program, administrative and fiscal staff persons.
- (2) Dietary, housekeeping, maintenance and ancillary staff persons.
- (3) Direct service workers, including full-time and part-time staff persons.
- (4) Volunteers who will work alone with individuals.
- (5) Paid and unpaid interns who will work alone with individuals.
- (6) Consultants who will work alone with individuals.

(b) The orientation program must encompass the following areas:

- (1) The application of person-centered practices, including respecting rights, facilitating community integration, honoring choice and supporting individuals in maintaining relationships.
- (2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with sections 701—708 of the Older Adults Protective Services Act (35 P.S. §§ 10225.701—10225.708), 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law), the Adult Protective Services Act (35 P.S. §§ 10210.101—10210.704) and applicable protective services regulations.
- (3) Individual rights.
- (4) Recognizing and reporting incidents.
- (5) Job-related knowledge and skills.

§ 6400.52. Annual training.

(a) The following staff persons shall complete 24 hours of training each year:

- (1) Direct service workers.
- (2) Direct supervisors of direct service workers.
- (3) Program specialists.

(b) The following staff persons shall complete 12 hours of training each year:

- (1) Management, program, administrative and fiscal staff persons.
- (2) Dietary, housekeeping, maintenance and ancillary staff persons.

- (3) Consultants who work alone with individuals.
- (4) Volunteers who work alone with individuals.
- (5) Paid and unpaid interns who work alone with individuals.

(c) A minimum of 8 hours of the annual training hours specified in subsections (a) and (b) must encompass the following areas:

- (1) The application of person-centered practices, including respecting rights, facilitating community integration, honoring choice and supporting individuals in maintaining relationships.
- (2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with sections 701—708 of the Older Adults Protective Services Act (35 P.S. §§ 10225.701—10225.708), 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law), the Adult Protective Services Act (35 P.S. §§ 10210.101—10210.704) and applicable adult protective services regulations.
- (3) Individual rights.
- (4) Recognizing and reporting incidents.
- (5) The safe and appropriate use of positive interventions if the staff person will provide a support to an individual with a dangerous behavior.

(d) The balance of the annual training hours must be in areas identified by the home in the home's annual training plan in § 6400.50 (relating to annual training plan).

(e) All training, including those training courses identified in subsections (c) and (d), must be included in the provider's annual training plan.

(f) Records of orientation and training, including the training source, content, dates, length of training, copies of certificates received and staff persons attending, shall be kept.

(g) A training record for each person trained shall be kept.

MEDICATIONS

§ 6400.161. [Storage of medications.] Self-administration.

[(a) Prescription and nonprescription medications shall be kept in their original containers, except for medications of individuals who self-administer medications and keep the medications in personal daily or weekly dispensing containers.

(b) Prescription and potentially toxic nonprescription medications shall be kept in an area or container that is locked, unless it is documented in each individual's assessment that each individual in the home can safely use or avoid toxic materials.

(c) Prescription and potentially toxic nonprescription medications stored in a refrigerator shall be kept in a separate locked container, unless it is documented in each individual's assessment that each individual in the home can safely use or avoid toxic materials.

(d) Prescription and nonprescription medications shall be stored under proper conditions of sanitation, temperature, moisture and light.

(e) Discontinued prescription medications shall be disposed of in a safe manner.]

(a) A home shall provide an individual who has a prescribed medication with assistance, as needed, for the individual's self-administration of the medication.

(b) Assistance in the self-administration of medication includes helping the individual to remember the schedule for taking the medication, offering the individual the medication at the prescribed times, opening a medication container and storing the medication in a secure place.

(c) The provider shall provide or arrange for assistive technology to support the individual's self-administration of medications.

(d) The PSP must identify if the individual is unable to self-administer medications.

(e) To be considered able to self-administer medications, an individual shall do all of the following:

(1) Recognize and distinguish the individual's medication.

(2) Know how much medication is to be taken.

(3) Know when the medication is to be taken. This knowledge may include reminders of the schedule and offering the medication at the prescribed times as specified in subsection (b).

(4) Take or apply his own medication with or without the use of assistive technology.

§ 6400.162. [Labeling of medications.] Medication administration.

[(a) The original container for prescription medications shall be labeled with a pharmaceutical label that includes the individual's name, the name of the medication, the date the prescription was issued, the prescribed dose and the name of the prescribing physician.

(b) Nonprescription medications shall be labeled with the original label.]

(a) A home whose staff persons or others are qualified to administer medications as specified in subsection (b) may provide medication administration for an individual who is unable to self-administer the individual's prescribed medication.

(b) A prescription medication that is not self-administered shall be administered by one of the following:

(1) A licensed physician, licensed dentist, licensed physician's assistant, registered nurse, certified registered nurse practitioner, licensed practical nurse or licensed paramedic.

(2) A person who has completed the medication administration training as specified in § 6400.169 (relating to medication administration training) for the medication administration of the following:

(i) Oral medications.

(ii) Topical medications.

(iii) Eye, nose and ear drop medications.

(iv) Insulin injections.

(v) Epinephrine injections for insect bites or other allergies.

(c) Medication administration includes the following activities, based on the needs of the individual:

(1) Identify the correct individual.

(2) Remove the medication from the original container.

(3) Crush or split the medication as ordered by the prescriber.

(4) Place the medication in a medication cup or other appropriate container, or in the individual's hand, mouth or other route as ordered by the prescriber.

(5) If indicated by the prescriber's order, measure vital signs and administer medications according to the prescriber's order.

(6) Injection of insulin or epinephrine in accordance with this chapter.

§ 6400.163. [Use of prescription] Storage and disposal of medications.

[(a) Prescription medications shall only be used by the individual for whom the medication was prescribed.

(b) If a medication is prescribed to treat symptoms of a diagnosed psychiatric illness, there shall be a written protocol as part of the ISP to address the social, emotional and environmental needs of the individual related to the symptoms of the diagnosed psychiatric illness.

(c) If a medication is prescribed to treat symptoms of a diagnosed psychiatric illness, there shall be a review with documentation by a licensed physician at least every 3 months that includes the reason for prescribing the medication, the need to continue the medication and the necessary dosage.]

(a) Prescription and nonprescription medications shall be kept in their original labeled containers.

(b) A prescription medication may not be removed from its original labeled container more than 2 hours in advance of the scheduled administration.

(c) If insulin or epinephrine is not packaged in an individual dose container, assistance with or the administration of the injection shall be provided immediately upon removal of the medication from its original labeled container.

(d) Prescription medications and syringes, with the exception of epinephrine and epinephrine auto-injectors, shall be kept in an area or container that is locked.

(e) Epinephrine and epinephrine auto-injectors shall be stored safely and kept easily accessible at all times. The epinephrine and epinephrine auto-injectors shall be easily accessible to the individual if the epinephrine is self-administered or to the staff person who is with the individual if a staff person will administer the epinephrine.

(f) Prescription medications stored in a refrigerator shall be kept in an area or container that is locked.

(g) Prescription medications shall be stored in an organized manner under proper conditions of sanitation, temperature, moisture and light and in accordance with the manufacturer's instructions.

(h) Prescription medications that are discontinued or expired shall be destroyed in a safe manner according to the Department of Environmental Protection and applicable Federal and State regulations.

(i) Subsections (a)—(d) and (f) do not apply for an individual who self-administers medication and stores the medication in the individual's private bedroom.

§ 6400.164. [Medication log.] Labeling of medications.

[(a) A medication log listing the medications prescribed, dosage, time and date that prescription medications, including insulin, were administered and the name of the person who administered the prescription medication or insulin shall be kept for each individual who does not self-administer medication.

(b) The information specified in subsection (a) shall be logged immediately after each individual's dose of medication.

(c) A list of prescription medications, the prescribed dosage and the name of the prescribing physician shall be kept for each individual who self-administers medication.]

The original container for prescription medications must be labeled with a pharmacy label that includes the following:

- (1) The individual's name.
- (2) The name of the medication.
- (3) The date the prescription was issued.
- (4) The prescribed dosage and instructions for administration.
- (5) The name and title of the prescriber.

§ 6400.165. [Medication errors.] Prescription medications.

[Documentation of medication errors and follow-up action taken shall be kept.]

(a) A prescription medication shall be prescribed in writing by an authorized prescriber.

(b) A prescription order shall be kept current.

(c) A prescription medication shall be administered as prescribed.

(d) A prescription medication shall be used only by the individual for whom the prescription was prescribed.

(e) Changes in medication may only be made in writing by the prescriber or, in the case of an emergency, an alternate prescriber, except for circumstances in which oral orders may be accepted by a registered nurse in accordance with regulations of the Department of State. The individual's medication record shall be updated as soon as a written notice of the change is received.

§ 6400.166. [Adverse reaction.] Medication record.

[If an individual has a suspected adverse reaction to a medication, the home shall notify the prescribing physician immediately. Documentation of adverse reactions shall be kept.]

(a) A medication record shall be kept, including the following for each individual for whom a prescription medication is administered:

- (1) Individual's name.
- (2) Name and title of the prescriber.
- (3) Drug allergies.
- (4) Name of medication.
- (5) Strength of medication.
- (6) Dosage form.
- (7) Dose of medication.
- (8) Route of administration.
- (9) Frequency of administration.
- (10) Administration times.
- (11) Diagnosis or purpose for the medication, including pro re nata.
- (12) Date and time of medication administration.
- (13) Name and initials of the person administering the medication.
- (14) Duration of treatment, if applicable.
- (15) Special precautions, if applicable.
- (16) Side effects of the medication, if applicable.

(b) The information in subsection (a)(12) and (13) shall be recorded at the time the medication is administered.

(c) If an individual refuses to take a prescribed medication, the refusal shall be documented on the medication record. The refusal shall be reported to the prescriber within 24 hours, unless otherwise instructed by the prescriber. Subsequent refusals to take a prescribed medication shall be reported as required by the prescriber.

(d) The directions of the prescriber shall be followed.

§ 6400.167. [Administration of prescription medications and injections.] Medication errors.

[(a) Prescription medications and injections of a substance not self-administered by individuals shall be administered by one of the following:

(1) A licensed physician, licensed dentist, licensed physician's assistant, registered nurse or licensed practical nurse.

(2) A graduate of an approved nursing program functioning under the direct supervision of a professional nurse who is present in the home.

(3) A student nurse of an approved nursing program functioning under the direct supervision of a member of the nursing school faculty who is present in the home.

(4) A staff person who meets the criteria specified in § 6400.168 (relating to medications administration training) for the administration of oral, topical and eye and ear drop prescriptions and insulin injections.

(b) Prescription medications and injections shall be administered according to the directions specified by a licensed physician, certified nurse practitioner or licensed physician's assistant.]

(a) Medication errors include the following:

- (1) Failure to administer a medication.
 - (2) Administration of the wrong medication.
 - (3) Administration of the wrong amount of medication.
 - (4) Failure to administer a medication at the prescribed time, which exceeds more than 1 hour before or after the prescribed time.
 - (5) Administration to the wrong person.
 - (6) Administration through the wrong route.
- (b) Documentation of medication errors, follow-up action taken and the prescriber's response shall be kept in the individual's record.

§ 6400.168. [Medications administration training.]
Adverse reaction.

[(a) In a home serving eight or fewer individuals, a staff person who has completed and passed the Department's Medications Administration Course is permitted to administer oral, topical and eye and ear drop prescription medications.

(b) In a home serving eight or fewer individuals, a staff person who has completed and passed the Department's Medications Administration Course and who has completed and passed a diabetes patient education program within the past 12 months that meets the National Standards for Diabetes Patient Education Programs of the National Diabetes Advisory Board, 7550 Wisconsin Avenue, Bethesda, Maryland 20205, is permitted to administer insulin injections to an individual who is under the care of a licensed physician who is monitoring the diabetes, if insulin is premeasured by licensed or certified medical personnel.

(c) Medications administration training of a staff person shall be conducted by an instructor who has completed the Department's Medications Administration Course for trainers and is certified by the Department to train staff.

(d) A staff person who administers prescription medications and insulin injections to an individual shall complete and pass the Medications Administration Course Practicum annually.

(e) Documentation of the dates and locations of medications administration training for trainers and staff persons and the annual practicum for staff persons shall be kept.]

(a) If an individual has a suspected adverse reaction to a medication, the home shall immediately consult a health care practitioner or seek emergency medical treatment.

(b) An adverse reaction to a medication, the health care practitioner's response to the adverse reaction and the action taken shall be documented.

§ 6400.169. [Self-administration of medications.]
Medication administration training.

[(a) To be considered capable of self-administration of medications an individual shall:

- (1) Be able to recognize and distinguish the individual's medication.
- (2) Know how much medication is to be taken.
- (3) Know when medication is to be taken.

(b) Insulin that is self-administered by an individual shall be measured by the individual or by licensed or certified medical personnel.]

(a) A staff person who has successfully completed a Department-approved medications administration course, including the course renewal requirements, may administer the following:

- (1) Oral medications.
- (2) Topical medications.
- (3) Eye, nose and ear drop medications.

(b) A staff person may administer insulin injections following successful completion of both:

- (1) The course specified in subsection (a).

(2) A Department-approved diabetes patient education program within the past 12 months.

(c) A staff person may administer an epinephrine injection by means of an auto-injection device in response to anaphylaxis or another serious allergic reaction following successful completion of both:

- (1) The course specified in subsection (a).

(2) Training relating to the use of an auto-injection epinephrine injection device provided by a licensed, registered or certified health care professional within the past 12 months.

(d) A record of the training shall be kept including the person trained, the date, source, name of trainer and documentation that the course was successfully completed.

PROGRAM

§ 6400.181. Assessment.

* * * * *

(b) If the program specialist is making a recommendation to revise a service or outcome in the [ISP as provided under § 6400.186(c)(4) (relating to ISP review and revision)] PSP, the individual shall have an assessment completed as required under this section.

* * * * *

(f) The program specialist shall provide the assessment to the SC, as applicable, and [plan] PSP team members at least 30 calendar days prior to [an ISP meeting for the development, annual update and revision of the ISP under §§ 2380.182, 2390.152, 6400.182 and 6500.152 (relating to development, annual update and revision of the ISP)] a PSP meeting.

§ 6400.182. Development[, annual update and revision of the ISP] of the PSP.

[(a) An individual shall have one ISP.

(b) When an individual is not receiving services through an SCO, the residential program specialist shall be the plan lead when one of the following applies:

(1) The individual resides at a residential home licensed under this chapter.

(2) The individual resides at a residential home licensed under this chapter and attends a facility licensed under Chapter 2380 or 2390 (relating to adult training facilities; and vocational facilities).

(c) The plan lead shall be responsible for developing and implementing the ISP, including annual updates and revisions.

(d) The plan lead shall develop, update and revise the ISP according to the following:

(1) The ISP shall be initially developed, updated annually and revised based upon the individual's current assessment as required under §§ 2380.181, 2390.151, 6400.181 and 6500.151 (relating to assessment).

(2) The initial ISP shall be developed within 90 calendar days after the individual's admission date to the facility.

(3) The ISP, annual updates and revisions shall be documented on the Department-designated form located in the Home and Community Services Information System (HCSIS) and also on the Department's web site.

(4) An invitation shall be sent to plan team members at least 30 calendar days prior to an ISP meeting.

(5) Copies of the ISP, including annual updates and revisions under § 6400.186 (relating to ISP review and revision), shall be provided as required under § 6400.187 (relating to copies).]

(a) An individual shall have one approved and authorized PSP at a given time.

(b) An individual's service implementation plan must be consistent with the PSP in subsection (a).

(c) The support coordinator, targeted support manager or program specialist shall coordinate the development of the PSP, including revisions, in cooperation with the individual and the individual's PSP team.

(d) The initial PSP shall be developed based on the individual assessment within 60 days of the individual's date of admission to the home.

(e) The PSP shall be initially developed, revised annually and revised when an individual's needs change based upon a current assessment.

(f) The individual and persons designated by the individual shall be involved in and supported in the development and revisions of the PSP.

(g) The PSP, including revisions, shall be documented on a form specified by the Department.

§ 6400.183. [Content of the ISP.] The PSP team.

[The ISP, including annual updates and revisions under § 6400.186 (relating to ISP review and revision), must include the following:

(1) Services provided to the individual and expected outcomes chosen by the individual and individual's plan team.

(2) Services provided to the individual to increase community involvement, including volunteer or civic-minded opportunities and membership in National or local organizations as required under § 6400.188 (relating to provider services).

(3) Current status in relation to an outcome and method of evaluation used to determine progress toward that expected outcome.

(4) A protocol and schedule outlining specified periods of time for the individual to be without direct supervision, if the individual's current assessment states the individual may be without direct supervision and if the individual's ISP includes an expected outcome which requires the achievement of a higher level of independence. The protocol must include the current level of independence and the method of evaluation used to determine progress toward the expected outcome to achieve the higher level of independence.

(5) A protocol to address the social, emotional and environmental needs of the individual, if medication has been prescribed to treat symptoms of a diagnosed psychiatric illness.

(6) A protocol to eliminate the use of restrictive procedures, if restrictive procedures are utilized, and to address the underlying causes of the behavior which led to the use of restrictive procedures including the following:

(i) An assessment to determine the causes or antecedents of the behavior.

(ii) A protocol for addressing the underlying causes or antecedents of the behavior.

(iii) The method and timeline for eliminating the use of restrictive procedures.

(iv) A protocol for intervention or redirection without utilizing restrictive procedures.

(7) Assessment of the individual's potential to advance in the following:

(i) Residential independence.

(ii) Community involvement.

(iii) Vocational programming.

(iv) Competitive community-integrated employment.]

(a) The PSP shall be developed by an interdisciplinary team including the following:

(1) The individual.

(2) Persons designated by the individual.

(3) The individual's direct care staff persons.

(4) The program specialist.

(5) The support coordinator, targeted support manager or a program representative from the funding source, if applicable.

(6) The program specialist for the individual's day program, if applicable.

(7) Other specialists such as health care, behavior management, speech, occupational and physical therapy as appropriate for the individual needs.

(b) At least three members of the PSP team, in addition to the individual and persons designated by the individual, shall be present at a PSP meeting at which the PSP is developed or revised.

(c) Members of the PSP team who attend the meeting shall sign and date the PSP.

§ 6400.184. [Plan team participation.] The PSP process.

[(a) The plan team shall participate in the development of the ISP, including the annual updates and revisions under § 6400.186 (relating to ISP review and revision).

(1) A plan team must include as its members the following:

(i) The individual.

(ii) A program specialist or family living specialist, as applicable, from each provider delivering a service to the individual.

(iii) A direct service worker who works with the individual from each provider delivering services to the individual.

(iv) Any other person the individual chooses to invite.

(2) If the following have a role in the individual's life, the plan team may also include as its members, as applicable, the following:

(i) Medical, nursing, behavior management, speech, occupational or physical therapy specialists.

(ii) Additional direct service workers who work with the individual from each provider delivering services to the individual.

(iii) The individual's parent, guardian or advocate.

(b) At least three plan team members, in addition to the individual, if the individual chooses to attend, shall be present for an ISP, annual update and ISP revision meeting.

(c) A plan team member who attends a meeting under subsection (b) shall sign and date the signature sheet.]

The PSP process shall:

(1) Provide necessary information and support to ensure that the individual directs the PSP process to the maximum extent possible.

(2) Enable the individual to make informed choices and decisions.

(3) Be conducted to reflect what is important to the individual to ensure that supports are delivered in a manner reflecting individual preferences and ensuring the individual's health, safety and well-being.

(4) Be timely in relation to the needs of the individual and occur at intervals, times and locations of choice and convenience to the individual and to persons designated by the individual.

(5) Be communicated in clear and understandable language.

(6) Reflect cultural considerations of the individual.

(7) Include guidelines for solving disagreements among the PSP team members.

(8) Include a method for the individual to request updates to the PSP.

§ 6400.185. [Implementation of the ISP.] Content of the PSP.

[(a) The ISP shall be implemented by the ISP's start date.

(b) The ISP shall be implemented as written.]

The PSP, including revisions, must include the following:

(1) The individual's strengths and functional abilities.

(2) The individual's individualized clinical and support needs.

(3) The individual's goals and preferences related to relationships, community participation, employment, income and savings, health care, wellness and education.

(4) Individually identified, person-centered desired outcomes.

(5) Supports to assist the individual to achieve desired outcomes.

(6) The type, amount, duration and frequency for the support specified in a manner that reflects the assessed needs and choices of the individual. The schedule of support delivery shall be determined by the PSP team.

(7) Communication mode, abilities and needs.

(8) Opportunities for new or continued community participation.

(9) Risk factors, dangerous behaviors and risk mitigation strategies, if applicable.

(10) Modification of individual rights as necessary to mitigate risks, if applicable.

(11) Health care information, including a health care history.

(12) Financial information including how the individual chooses to use personal funds.

(13) The person responsible for monitoring the implementation of the PSP.

§ 6400.186. [ISP review and revision.] Implementation of the PSP.

[(a) The program specialist shall complete an ISP review of the services and expected outcomes in the ISP specific to the residential home licensed under this chapter with the individual every 3 months or more frequently if the individual's needs change which impacts the services as specified in the current ISP.

(b) The program specialist and individual shall sign and date the ISP review signature sheet upon review of the ISP.

(c) The ISP review must include the following:

(1) A review of the monthly documentation of an individual's participation and progress during the prior 3 months toward ISP outcomes supported by services provided by the residential home licensed under this chapter.

(2) A review of each section of the ISP specific to the residential home licensed under this chapter.

(3) The program specialist shall document a change in the individual's needs, if applicable.

(4) The program specialist shall make a recommendation regarding the following, if applicable:

(i) The deletion of an outcome or service to support the achievement of an outcome which is no longer appropriate or has been completed.

(ii) The addition of an outcome or service to support the achievement of an outcome.

(iii) The modification of an outcome or service to support the achievement of an outcome in which no progress has been made.

(5) If making a recommendation to revise a service or outcome in the ISP, the program specialist shall complete a revised assessment as required under § 6400.181(b) (relating to assessments).

(d) The program specialist shall provide the ISP review documentation, including recommendations, if applicable, to the SC, as applicable, and plan team members within 30 calendar days after the ISP review meeting.

(e) The program specialist shall notify the plan team members of the option to decline the ISP review documentation.

(f) If a recommendation for a revision to a service or outcome in the ISP is made, the plan lead as applicable, under §§ 2380.182(b) and (c), 2390.152(b) and (c), 6400.182(b) and (c), 6500.152(b) and (c) (relating to development, annual update and revision of the ISP), shall send an invitation for an ISP revision meeting to the plan team members within 30 calendar days of receipt of the recommendation.

(g) A revised service or outcome in the ISP shall be implemented by the start date in the ISP as written.]

The home shall implement the PSP, including revisions.

§ 6400.187. [Copies.] (Reserved).

[A copy of the ISP, including the signature sheet, shall be provided to plan team members within 30 calendar days after the ISP, annual update and ISP revision meetings.]

§ 6400.188. [Provider services.] (Reserved).

[(a) The residential home shall provide services including assistance, training and support for the acquisition, maintenance or improvement of functional skills, personal needs, communication and personal adjustment.

(b) The residential home shall provide opportunities and support to the individual for participation in community life, including volunteer or civic-minded opportunities and membership in National or local organizations.

(c) The residential home shall provide services to the individual as specified in the individual's ISP.

(d) The residential home shall provide services that are age and functionally appropriate to the individual.]

[RESTRICTIVE PROCEDURES] POSITIVE INTERVENTION

§ 6400.191. [Definition of restrictive procedures.] Use of a positive intervention.

[A restrictive procedure is a practice that limits an individual's movement, activity or function; interferes with an individual's ability to acquire positive reinforcement; results in the loss of objects or activities that an individual values; or requires an individual to engage in a behavior that the individual would not engage in given freedom of choice.]

(a) A positive intervention shall be used to prevent, modify and eliminate a dangerous behavior when the behavior is anticipated or occurring.

(b) The least intrusive method shall be applied when addressing a dangerous behavior. For each incidence of a dangerous behavior, every attempt shall be made to modify and eliminate the behavior.

(c) As used in this section, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

Dangerous behavior—An action with a high likelihood of resulting in harm to the individual or others.

Positive intervention—An action or activity intended to prevent, modify and eliminate a dangerous behavior. This includes improved communications, reinforcing appropriate behavior, an environmental change, recognizing and treating physical and behavioral health symptoms, voluntary physical exercise and other wellness practices, redirection, praise, modeling, conflict resolution and de-escalation.

§ 6400.192. [Written policy.] PSP.

[A written policy that defines the prohibition or use of specific types of restrictive procedures, describes the circumstances in which restrictive procedures may be used, the persons who may authorize the use of restrictive procedures, a mechanism to monitor and control the use of restrictive procedures and a process for the individual and family to review the use of restrictive procedures shall be kept at the home.]

If the individual has a dangerous behavior as identified in the PSP, the PSP must include the following:

(1) The specific dangerous behavior to be addressed.

(2) A functional analysis of the dangerous behavior and the plan to address the reason for the behavior.

(3) The outcome desired.

(4) A description of the positive intervention aimed at preventing, modifying or eliminating the dangerous behavior and the circumstances under which the intervention is to be used.

(5) A target date to achieve the outcome.

(6) Health conditions that require special attention.

§ 6400.193. [Appropriate use of restrictive procedures.] Prohibition of restraints.

[(a) A restrictive procedure may not be used as retribution, for the convenience of staff persons, as a substitute for the program or in a way that interferes with the individual's developmental program.

(b) For each incident requiring restrictive procedures:

(1) Every attempt shall be made to anticipate and de-escalate the behavior using methods of intervention less intrusive than restrictive procedures.

(2) A restrictive procedure may not be used unless less restrictive techniques and resources appropriate to the behavior have been tried but have failed.]

The following procedures are prohibited:

(1) Seclusion, defined as involuntary confinement of an individual in a room or area from which the individual is physically prevented or verbally directed from leaving.

(2) Aversive conditioning, defined as the application of startling, painful or noxious stimuli.

(3) Pressure point techniques, defined as the application of pain for the purpose of achieving compliance.

(4) A chemical restraint, defined as use of drugs or chemicals for the specific and exclusive purpose of controlling acute or episodic aggressive behavior. A chemical restraint does not include a drug ordered by a health care practitioner or dentist to treat the symptoms of a specific mental, emotional or behavioral condition, or as pretreatment prior to a medical or dental examination or treatment.

(5) A mechanical restraint, defined as a device that restricts the movement or function of an individual or portion of an individual's body. Mechanical restraints include a geriatric chair, handcuffs, anklets, wristlets, camisole, helmet with fasteners, muffs and mitts with fasteners, restraint vest, waist strap, head strap, papoose board, restraining sheet, chest restraint and other locked restraints.

(i) The term does not include a device prescribed by a health care practitioner that is used to provide post-surgical care, proper balance or support for the achievement of functional body position.

(ii) The term does not include a device prescribed by a health care practitioner to protect the individual in the event of a seizure, as long as the individual can easily remove the device.

(6) A manual restraint, defined as a hands-on physical method that restricts, immobilizes or reduces an individual's ability to move his arms, legs, head or other body parts freely, on a nonemergency basis, or for more than 15 minutes within a 2-hour period. A manual restraint does not include physically prompting, escorting or guiding an individual to provide a support as specified in the individual's PSP.

(7) A prone position manual restraint.

(8) A manual restraint that inhibits digestion or respiration, inflicts pain, causes embarrassment or humiliation, causes hyperextension of joints, applies pressure on the chest or joints, or allows for a free fall to the floor.

§ 6400.194. [Restrictive procedure review committee.] Permitted interventions.

[(a) If a restrictive procedure is used, there shall be a restrictive procedure review committee.

(b) The restrictive procedure review committee shall include a majority of persons who do not provide direct services to the individual.

(c) The restrictive procedure review committee shall establish a time frame for review and revision of the restrictive procedure plan, not to exceed 6 months between reviews.

(d) A written record of the meetings and activities of the restrictive procedure review committee shall be kept.]

(a) Voluntary exclusion, defined as an individual voluntarily removing himself from his immediate environment and placing himself alone to a room or area, is permitted in accordance with the individual's PSP.

(b) A physical protective restraint may be used only in accordance with § 6400.193(6)—(8) (relating to prohibition of restraints).

(c) A physical protective restraint may not be used until §§ 6400.52(c)(5) and 6400.185(9) (relating to annual training; and content of the PSP) are met.

(d) A physical protective restraint may only be used in the case of an emergency to prevent an individual from injuring the individual's self or others.

(e) A physical protective restraint may not be used as a behavioral intervention, consequence, retribution, punishment, for the convenience of staff persons or as a substitution for individual support.

(f) A physical protective restraint may not be used for more than 15 minutes within a 2-hour period.

(g) A physical protective restraint may only be used by a staff person who is trained as specified in § 6400.52.

(h) As used in this section, a "physical protective restraint" is a hands-on hold of an individual.

§ 6400.195. [Restrictive procedure plan.] Access to or the use of an individual's personal property.

[(a) For each individual for whom restrictive procedures may be used, a restrictive procedure plan shall be written prior to use of restrictive procedures.

(b) The restrictive procedure plan shall be developed and revised with the participation of the program specialist, the individual's direct care staff, the interdisciplinary team as appropriate and other professionals as appropriate.

(c) The restrictive procedure plan shall be reviewed, and revised, if necessary, according to the time frame established by the restrictive procedure review committee, not to exceed 6 months.

(d) The restrictive procedure plan shall be reviewed, approved, signed and dated by the chairperson of the restrictive procedure review committee and the program specialist, prior to the use of a restrictive procedure, whenever the restrictive procedure plan is revised and at least every 6 months.

(e) The restrictive procedure plan shall include:

(1) The specific behavior to be addressed and the suspected antecedent or reason for the behavior.

(2) The single behavioral outcome desired stated in measurable terms.

(3) Methods for modifying or eliminating the behavior, such as changes in the individual's physical and social environment, changes in the individual's routine, improving communications, teaching skills and reinforcing appropriate behavior.

(4) Types of restrictive procedures that may be used and the circumstances under which the procedures may be used.

(5) A target date for achieving the outcome.

(6) The amount of time the restrictive procedure may be applied, not to exceed the maximum time periods specified in this chapter.

(7) Physical problems that require special attention during the use of restrictive procedures.

(8) The name of the staff person responsible for monitoring and documenting progress with the plan.

(f) The restrictive procedure plan shall be implemented as written.

(g) Copies of the restrictive procedure plan shall be kept in the individual's record.]

(a) Access to or the use of an individual's personal funds or property may not be used as a reward or punishment.

(b) An individual's personal funds or property may not be used as payment for damages unless the individual consents to make restitution for the damages as follows:

(1) A separate written consent by the individual is required for each incidence of restitution.

(2) Consent shall be obtained in the presence of the individual, a person designated by the individual and in the presence of and with the support of the support coordinator or targeted support manager.

(3) There may not be coercion in obtaining the consent of an individual.

(4) The home shall keep a copy of the individual's written consent.

§ 6400.196. [Staff training.] Rights team.

[(a) If restrictive procedures are used, there shall be at least one staff person available when restrictive procedures are used who has completed training within the past 12 months in the use of and ethics of using restrictive procedures including the use of alternate positive approaches.

(b) A staff person responsible for developing, implementing or managing a restrictive procedure plan shall be trained in the use of the specific techniques or procedures that are used.

(c) If manual restraint or exclusion is used, a staff person responsible for developing, implementing or managing a restrictive procedure plan shall have experienced use of the specific techniques or procedures directly on themselves.

(d) Documentation of the training program provided, including the staff persons trained, dates of training, description of training and training source shall be kept.]

(a) The home shall have a rights team. The home may use a county mental health and intellectual disability program rights team that meets the requirements of this section.

(b) The role of the rights team is to:

(1) Review each incident, alleged incident and suspected incident of a violation of individual rights as specified in §§ 6400.31—6400.34 (relating to individual rights).

(2) Review each incidence of the use of a restraint as specified in §§ 6400.191—6400.194 to:

(i) Analyze systemic concerns.

(ii) Design positive supports as an alternative to the use of a restraint.

(iii) Discover and resolve the reason for an individual's behavior.

(c) Members of the rights team shall include the affected individual, persons designated by the individual, a family member or an advocate if the individual is unable to speak for himself, the individual's support coordinator, a representative from the funding agency and a home representative.

(d) Members of the rights team shall be comprised of a majority who do not provide direct support to the individual.

(e) If a restraint was used, the individual's health care practitioner shall be consulted.

(f) The rights team shall meet at least once every 3 months.

(g) The rights team shall report its recommendations to the individual's PSP team.

(h) The home shall keep documentation of the rights team meetings and the decisions made at the meetings.

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to rescind §§ 6400.197—6400.206 which appear in 55 Pa. Code pages 6400-61—6400-65, serial pages (381985)—(381989).)

§§ 6400.197—6400.206. (Reserved).

INDIVIDUAL RECORDS

§ 6400.213. Content of records.

Each individual's record must include the following information:

(1) Personal information including:

(i) The name, sex, admission date, birthdate and [**social security**] **Social Security** number.

(ii) The race, height, weight, color of hair, color of eyes and identifying marks.

(iii) The language or means of communication spoken or understood by the individual and the primary language used in the individual's natural home, if other than English.

(iv) The religious affiliation.

(v) The next of kin.

(vi) A current, dated photograph.

(2) [**Unusual incident**] **Incident** reports relating to the individual.

(3) Physical examinations.

(4) Dental examinations.

(5) Dental hygiene plans.

(6) Assessments as required under § 6400.181 (relating to assessment).

- [(7) A copy of the invitation to:
- (i) The initial ISP meeting.
 - (ii) The annual update meeting.
 - (iii) The ISP revision meeting.
- (8) A copy of the signature sheets for:
- (i) The initial ISP meeting.
 - (ii) The annual update meeting.
 - (iii) The ISP revision meeting.
- (9) A copy of the current ISP.
- (10) Documentation of ISP reviews and revisions under § 6400.186 (relating to ISP review and revision), including the following:
- (i) ISP review signature sheets.
 - (ii) Recommendations to revise the ISP.
 - (iii) ISP revisions.
 - (iv) Notices that the plan team member may decline the ISP review documentation.
 - (v) Requests from plan team members to not receive the ISP review documentation.
- (11) Content discrepancy in the ISP, The annual update or revision under § 6400.186.]
- (7) PSP documents as required by this chapter.
- [(12) Restrictive procedure protocols and] (8) Positive intervention records related to the individual.
- [(13)] (9) Copies of psychological evaluations, if applicable.
- [(14)] (10) Recreational and social activities provided to the individual.

CHAPTER 6500. [FAMILY LIVING] LIFE SHARING HOMES

GENERAL PROVISIONS

§ 6500.1. Introduction.

[**Family living**] **Life sharing** is based on the importance of enduring and permanent relationships as the foundation for learning life skills, developing self-esteem and learning to exist in interdependence with others; the opportunity for each individual with an intellectual disability **or autism** to grow and develop to their fullest potential; the provision of individualized attention based on the needs of the individual with an intellectual disability **or autism**; and the participation of the individual with an intellectual disability **or autism** in everyday community activities. [**Family living**] **Life sharing** offers an opportunity for an individual with an intellectual disability **or autism** and a family to share their lives together.

§ 6500.2. Purpose.

The purpose of this chapter is to protect the health, safety and well-being of individuals with an intellectual disability **or autism**, through the formulation, implementation and enforcement of minimum requirements for [**family living homes**] **life sharing**.

§ 6500.3. Applicability.

(a) This chapter applies to [**family living**] **life sharing** homes, except as provided in subsection (f).

(b) This chapter contains the minimum requirements that shall be met to obtain a certificate of compliance. A certificate of compliance shall be obtained prior to an individual with an intellectual disability **or autism** living or receiving respite care in a [**family living**] **life sharing** home.

(c) This chapter applies to profit, nonprofit, publicly funded and privately funded [**family living**] **life sharing** homes.

(d) Each agency administering one or more [**family living**] **life sharing** homes shall have at least a sample of their homes inspected by the Department each year. Each new [**family living**] **life sharing** home administered by an agency shall be inspected by the Department prior to an individual with an intellectual disability **or autism** living or receiving respite care in the home. The certificate of compliance issued to an agency shall specify the location and maximum capacity of each [**family living**] **life sharing** home.

(e) A [**family living**] **life sharing** home that is not administered by an agency will be inspected by the Department each year.

(f) This chapter does not apply to the following:

(1) Private homes of persons providing care to a relative with an intellectual disability **or autism**.

(2) A community home for individuals with an intellectual disability **or autism** licensed by the Department in accordance with Chapter 6400 (relating to community homes for individuals with an intellectual disability **or autism**).

(3) A foster family care home licensed by the Office of Children, Youth and Families of the Department that serves only foster care children.

(4) A home serving exclusively personal care home, drug and alcohol, mental health or domiciliary care residents.

(5) A home providing room and board for one or two people with an intellectual disability **or autism** who are 18 years of age or older and who need a yearly average of 30 hours or less direct training and assistance per week per home, from the agency, the county intellectual disability program or the family.

(6) A home providing 90 or fewer calendar days of respite care per calendar year.

§ 6500.4. Definitions.

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

Agency—A person or legally constituted organization administering one or more [**family living**] **life sharing** homes.

[*Content discrepancy*—A difference between what was determined at the ISP meeting by the plan team and what is documented in the written ISP.]

Autism—A developmental disorder defined by the edition of the *Diagnostic and Statistical Manual of Mental Disorders*, or its successor, in effect at the time the diagnosis is made. The term includes autistic disorder, Asperger's disorder and autism spectrum disorder.

Department—The Department of Human Services of the Commonwealth.

Direct service worker—A person whose primary job function is to provide services to an individual who resides in the provider's [**family living**] **life sharing** home.

[**Documentation**—Written statements that accurately record details, substantiate a claim or provide evidence of an event.

Family living home or home—

(i) The private home of an individual or a family in which residential care is provided to one or two individuals with an intellectual disability, except as provided in § 6500.3(f) (relating to applicability).

(ii) The term does not include a home if there are more than two individuals, including respite care individuals, living in the home at any one time who are not family members or relatives of the family members.

(iii) If relatives of the individual live in the home, the total number of people living in the home at any one time who are not family members or relatives of the family members may not exceed four.

ISP—Individual Support Plan—The comprehensive document that identifies services and expected outcomes for an individual.]

Individual—

(i) A person with an intellectual disability or autism who resides, or receives residential respite care, in a [**family living**] **life sharing** home and who is not a relative of the owner of the family members.

(ii) The term does not include family members.

Intellectual disability—Subaverage general intellectual functioning which originates during the developmental period and is associated with impairment of one or more of the following:

- (i) Maturation.
- (ii) Learning.
- (iii) Social adjustment.

[**Outcomes**—Goals the individual and individual's plan team choose for the individual to acquire, maintain or improve.

Plan lead—The family living specialist, when the individual is not receiving services through an SCO.

Plan team—The group that develops the ISP.]

Life sharing home or home—

(i) The private home of an individual or a family in which residential care is provided to one or two individuals with an intellectual disability or autism, except as provided in § 6500.3(f) (relating to applicability).

(ii) The term does not include a home if there are more than two individuals, including respite care individuals, living in the home at any one time who are not family members or relatives of the family members.

(iii) If relatives of the individual live in the home, the total number of people living in the home at

any one time who are not family members or relatives of the family members may not exceed four.

PSP—Person-centered support plan.

Provider—An entity or person that enters into an agreement with the Department to deliver a service to an individual.

Relative—A parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half brother, half sister, aunt, uncle, niece or nephew.

Respite care—Temporary [**family living**] care not to exceed 31 calendar days for an individual in a calendar year.

Restraint—A physical, chemical or mechanical intervention used to control acute, episodic behavior that restricts the movement or function of the individual or a portion of the individual's body, including an intervention approved as part of the PSP or used on an emergency basis.

SC—Supports coordinator—An SCO employee whose primary job functions are to locate, coordinate and monitor services provided to an individual when the individual is receiving services from an SCO.

SCO—Supports coordination organization—A provider that delivers the services of locating, coordinating and monitoring services provided to an individual.

Services—Actions or assistance provided to the individual to support the achievement of an outcome.

GENERAL REQUIREMENTS

§ 6500.15. Responsibility for compliance.

(a) If an agency is the legal entity administering the [**family living**] home, the agency is responsible for compliance with this chapter.

(b) If the [**family living**] **life sharing** home is the legal entity, the [**family living**] home is responsible for compliance with this chapter.

§ 6500.17. Self-assessment of homes.

(a) If an agency is the legal entity for the [**family living**] home, the agency shall complete a self-assessment of each home the agency is licensed to operate within 3 to 6 months prior to the expiration date of the agency's certificate of compliance, to measure and record compliance with this chapter.

(b) The agency shall use the Department's licensing inspection instrument for this chapter to measure and record compliance.

(c) A copy of the agency's self-assessment results and a written summary of corrections made shall be kept for at least 1 year.

§ 6500.20. [Reporting of unusual incidents.] Incident report and investigation.

[(a) An unusual incident is abuse or suspected abuse of an individual; injury, trauma or illness of an individual requiring inpatient hospitalization; suicide attempt by an individual; violation or alleged violation of an individual's rights; an individual who is missing for more than 24 hours or could be in jeopardy if missing at all; misuse or alleged misuse of individual funds or property; outbreak of a serious communicable disease as defined in 28 Pa. Code § 27.2 (relating to specific identified reportable diseases, infections and condi-

tions); or an incident requiring the services of a fire department or law enforcement agency.

(b) Written policies and procedures on the prevention, reporting, investigation and management of unusual incidents shall be kept.

(c) Oral notification of the county intellectual disability program of the county in which the home is located, the funding agency if applicable, and the appropriate regional office of the Department shall be given within 24 hours after abuse or suspected abuse of an individual or an incident requiring the services of a fire department or law enforcement agency occurs.

(d) An investigation of the unusual incident shall be initiated and an unusual incident report shall be completed on a form specified by the Department. Copies of the unusual incident report shall be sent to the county intellectual disability program of the county in which the home is located, the funding agency if applicable, and the appropriate regional office of the Department, within 72 hours after an unusual incident occurs.

(e) A copy of the final unusual incident report shall be sent to the county intellectual disability program of the county in which the home is located, the funding agency if applicable, and the appropriate regional office of the Department at the conclusion of the investigation.

(f) A copy of unusual incident reports relating to an individual shall be kept in the individual's record.

(g) A copy of unusual incident reports relating to the home itself, such as those requiring the services of a fire department, shall be kept.

(h) The individual's family or guardian shall be immediately notified in the event of an unusual incident relating to the individual, if appropriate.]

(i) The agency and the home shall report the following incidents, alleged incidents and suspected incidents in the Department's information management system or on a form specified by the Department within 24 hours of discovery by a staff person:

- (1) Death.
- (2) Suicide attempt.
- (3) Inpatient admission to a hospital.
- (4) Visit to an emergency room.
- (5) Abuse.
- (6) Neglect.
- (7) Exploitation.
- (8) An individual who is missing for more than 24 hours or who could be in jeopardy if missing at all.
- (9) Law enforcement activity.
- (10) Injury requiring treatment beyond first aid.
- (11) Fire requiring the services of the fire department.
- (12) Emergency closure.
- (13) Use of a restraint.
- (14) Theft or misuse of individual funds.
- (15) A violation of individual rights.

(b) The individual and the persons designated by the individual shall be notified immediately upon discovery of an incident relating to the individual.

(c) The agency and the home shall keep documentation of the notification in subsection (b).

(d) The incident report, redacted to exclude information about another individual and the reporter, unless the reporter is the individual who receives the report, shall be available to the individual and persons designated by the individual, upon request.

(e) The agency shall take immediate action to protect the health, safety and well-being of the individual following the initial knowledge or notice of an incident, alleged incident and suspected incident.

(f) The home shall initiate an investigation of an incident within 24 hours of discovery by a staff person.

(g) A Department-certified incident investigator shall conduct the incident investigation of the incident listed in subsection (a).

(h) The agency shall finalize the incident report in the Department's information management system or on a form specified by the Department within 30 days of discovery of the incident by a staff person.

(i) The agency shall provide the following information to the Department as part of the final incident report:

- (1) Additional detail about the incident.
- (2) The results of the incident investigation.
- (3) A description of the corrective action taken in response to an incident.
- (4) Action taken to protect the health, safety and well-being of the individual.
- (5) The person responsible for implementing the corrective action.
- (6) The date the corrective action was implemented or is to be implemented.

§ 6500.21. [Reporting of deaths.] Incident procedures to protect the individual.

[(a) A death report shall be completed on a form specified by the Department and sent to the county intellectual disability program of the county in which the home is located, the funding agency and the regional office of the Department, within 24 hours after a death of an individual occurs.

(b) An investigation shall be initiated and oral notification of the county intellectual disability program of the county in which the facility is located, the funding agency and the appropriate regional office of the Department shall be given within 24 hours after an unusual or unexpected death occurs.

(c) A copy of death reports shall be kept.

(d) The individual's family or guardian shall be immediately notified of the death of an individual.]

(a) In investigating an incident, the agency shall review and consider the following needs of the affected individual:

- (1) Potential risks.
- (2) Health care information.
- (3) Medication history and current medication.
- (4) Behavioral health history.
- (5) Incident history.
- (6) Social needs.
- (7) Environmental needs.
- (8) Personal safety.

(b) The agency shall monitor an individual's risk for recurring incidents and implement corrective action, as appropriate.

(c) The agency shall work cooperatively with the PSP team to revise the PSP if indicated by the incident investigation.

§ 6500.22. Incident [record] analysis.

[A record shall be kept of individual illnesses, seizures, acute emotional traumas and accidents requiring medical attention but not inpatient hospitalization, that occur at the home.]

(a) The agency shall complete the following for each confirmed incident:

- (1) Analysis to determine the root cause of the incident.
- (2) Corrective action.
- (3) A strategy to address the potential risks to the affected individual.
- (b) The agency shall review and analyze incidents and conduct a trend analysis at least every 3 months.
- (c) The agency shall identify and implement preventive measures to reduce:
 - (1) The number of incidents.
 - (2) The severity of the risks associated with the incident.
 - (3) The likelihood of an incident recurring.
- (d) The agency shall educate staff persons and the individual based on the circumstances of the incident.
- (e) The agency shall analyze incident data continuously and take actions to mitigate and manage risks.

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 6500.25. Applicable laws and regulations.

The home and agency shall comply with applicable Federal, State and local laws, regulations and ordinances.

INDIVIDUAL RIGHTS

§ 6500.31. [Informing and encouraging exercise] Exercise of rights.

[(a) Each individual, or the individual's parent, guardian or advocate if appropriate, shall be informed of the individual's rights upon admission and annually thereafter.

(b) A statement signed and dated by the individual, or the individual's parent, guardian or advocate if appropriate, acknowledging receipt of the

information on individual rights upon admission and annually thereafter, shall be kept.

(c) Each individual shall be encouraged to exercise the individual's rights.]

(a) An individual may not be deprived of rights as provided under § 6500.32 (relating to rights of the individual).

(b) An individual shall be continually supported to exercise the individual's rights.

(c) An individual shall be provided the support and accommodation necessary to be able to understand and actively exercise the individual's rights.

(d) An individual may not be reprimanded, punished or retaliated against for exercising the individual's rights.

(e) A court's written order that restricts an individual's rights shall be followed.

(f) A court-appointed legal guardian may exercise rights and make decisions on behalf of an individual in accordance with a court order.

(g) An individual who has a court-appointed legal guardian, or who has a court order restricting the individual's rights, shall be involved in decision making in accordance with the court order.

(h) An individual has the right to designate persons to assist in decision making on behalf of the individual.

§ 6500.32. Rights of the individual.

[An individual may not be deprived of rights.]

(a) An individual may not be discriminated against because of race, color, creed, disability, religious affiliation, ancestry, gender, gender identity, sexual orientation, national origin or age.

(b) An individual has the right to civil and legal rights afforded by law, including the right to vote, speak freely, and practice the religion of his choice or to practice no religion.

(c) An individual may not be abused, neglected, mistreated, exploited, abandoned or subjected to corporal punishment.

(d) An individual shall be treated with dignity and respect.

(e) An individual has the right to make choices and accept risks.

(f) An individual has the right to refuse to participate in activities and supports.

(g) An individual has the right to control the individual's own schedule.

(h) An individual has the right to privacy of person and possessions.

(i) An individual has the right of access to and security of the individual's possessions.

(j) An individual has the right to voice concerns about the supports the individual receives.

(k) An individual has the right to participate in the development and implementation of the PSP.

(l) An individual has the right to receive scheduled and unscheduled visitors, and to communicate and meet privately with persons of the individual's choice, at any time.

(m) An individual has the right to unrestricted access to send and receive mail and other forms of communications, unopened and unread by others.

(n) An individual has the right to unrestricted and private access to telecommunications.

(o) An individual has the right to manage and access the individual's own finances.

(p) An individual has the right to choose persons with whom to share a bedroom.

(q) An individual has the right to furnish and decorate the individual's bedroom and the common areas of the home.

(r) An individual has the right to lock the individual's bedroom door.

(s) An individual has the right to access food at any time.

(t) An individual has the right to make informed health care decisions.

§ 6500.33. [Rights of the individual.] Negotiation of choices.

[(a) An individual may not be neglected, abused, mistreated or subjected to corporal punishment.

(b) An individual may not be required to participate in research projects.

(c) An individual has the right to manage the individual's personal financial affairs.

(d) An individual has the right to participate in program planning that affects the individual.

(e) An individual has the right to privacy in bedrooms, bathrooms and during personal care.

(f) An individual has the right to receive, purchase, have and use personal property.

(g) An individual has the right to receive scheduled and unscheduled visitors, communicate, associate and meet privately with the individual's family and persons of the individual's own choice.

(h) An individual has the right to reasonable access to a telephone and the opportunity to receive and make private calls, with assistance when necessary.

(i) An individual has the right to unrestricted mailing privileges.

(j) An individual who is of voting age shall be informed of the right to vote and shall be assisted to register and vote in elections.

(k) An individual has the right to practice the religion or faith of the individual's choice.

(l) An individual has the right to be free from excessive medication.

(m) An individual may not be required to work at the home except for the upkeep of the individual's bedrooms and in the upkeep of family areas and yard.]

(a) An individual's rights shall be exercised so that another individual's rights are not violated.

(b) Choices shall be negotiated by the affected individuals in accordance with the home's procedures for the individuals to resolve differences and make choices.

§ 6500.34. [Civil] Informing of rights.

[(a) An individual may not be discriminated against because of race, color, religious creed, disability, handicap, ancestry, national origin, age or sex.

(b) Civil rights policies and procedures shall be developed and implemented. Civil rights policies and procedures shall include the following:

(1) Nondiscrimination in the provision of services, admissions, placement, referrals and communication with non-English speaking and nonverbal individuals.

(2) Physical accessibility and accommodation for individuals with physical disabilities.

(3) The opportunity to lodge civil rights complaints.

(4) Informing individuals of their right to register civil rights complaints.]

(a) The agency shall inform and explain individual rights to the individual, and persons designated by the individual, upon admission to the home and annually thereafter.

(b) The home shall keep a copy of the statement signed by the individual, or the individual's court-appointed legal guardian, acknowledging receipt of the information on individual rights.

STAFFING

§ 6500.41. Effective date of staff qualifications.

(a) Sections 6500.42(c) and 6500.43(c) (relating to chief executive officer; and [family living] life sharing specialist) apply to chief executive officers and [family living] life sharing specialists hired or promoted after November 8, 1991.

(b) [Sections] Section 6400.43(c) and § 6400.44(c) (relating to program specialist) as published as Chapter 9054 at 12 Pa.B. 384 (January 23, 1982) and which appeared in this title of the *Pennsylvania Code* at serial pages (133677) to (133678) apply to chief executive officers and [family living] life sharing specialists hired or promoted prior to November 8, 1991.

§ 6500.42. Chief executive officer.

(a) If an agency is the legal entity administering the home, there shall be one chief executive officer responsible for the [family living] life sharing program or agency.

* * * * *

§ 6500.43. [Family living] Life sharing specialist.

(a) There shall be a [family living] life sharing specialist for each individual.

(b) A [family living] life sharing specialist shall be assigned to no more than [8] eight homes.

(c) A [family living] life sharing specialist shall be responsible for a maximum of 16 people, including people served in other types of services.

(d) The [family living] life sharing specialist shall be responsible for the following:

[(1) Coordinating and completing assessments.

(2) Providing the assessment as required under § 6500.151(f) (relating to assessment).]

(3) Participating in the development of the ISP, including annual updates and revisions of the ISP.

(4) Attending the ISP meetings.

(5) Fulfilling the role of plan lead, as applicable, under §§ 6500.152 and 6500.156(f) and (g) (relating to development, annual update and revision of the ISP; and ISP review and revision).

(6) Reviewing the ISP, annual updates and revisions for content accuracy.

(7) Reporting content discrepancy to the SC, as applicable, and plan team members.

(8) Implementing the ISP as written.

(9) Supervising, monitoring and evaluating services provided to the individual.

(10) Reviewing, signing and dating the monthly documentation of an individual's participation and progress toward outcomes.

(11) Reporting a change related to the individual's needs to the SC, as applicable, and plan team members.

(12) Reviewing the ISP with the individual as required under § 6500.156.

(13) Documenting the review of the ISP as required under § 6500.156.

(14) Providing the documentation of the ISP review to the SC, as applicable, and plan team members as required under § 6500.156(d).

(15) Informing plan team members of the option to decline the ISP review documentation as required under § 6500.156(e).

(16) Recommending a revision to a service or outcome in the ISP as provided under § 6500.156(c)(4).

(17) Coordinating the services provided to an individual.

(18) Coordinating the support services for the family.

(19) Coordinating the training of direct service workers and the family in the content of health and safety needs relevant to each individual.

(20) Developing and implementing provider services as required under § 6500.158 (relating to provider services).]

(1) Coordinating the completion of assessments.

(2) Participating in the PSP process, PSP development, PSP team reviews and the implementation of the PSP in accordance with this chapter.

(3) Providing and supervising activities for the individuals in accordance with the PSPs.

(4) Supporting the integration of individuals in the community.

(5) Supporting individual communication and involvement with families and friends.

(e) A [family living] life sharing specialist shall have one of the following groups of qualifications:

(1) A master's degree or above from an accredited college or university and 1 year of work experience working directly with persons with an intellectual disability or autism.

(2) A bachelor's degree from an accredited college or university and 2 years of work experience working directly with persons with an intellectual disability or autism.

(3) An associate's degree or 60 credit hours from an accredited college or university and 4 years of work experience working directly with persons with an intellectual disability or autism.

(4) A high school diploma or general education development certificate and 6 years of work experience working directly with persons with an intellectual disability or autism.

§ 6500.44. Supervision.

(a) An individual may be left unsupervised for specified periods of time if the absence of direct supervision is consistent with the individual's assessment and is part of the individual's [ISP] PSP, as an outcome which requires the achievement of a higher level of independence.

(b) An individual requiring direct supervision may not be left under the supervision of a person under [the age of] 18 years of age.

(c) There shall be a [family living] life sharing specialist or designee accessible when the individual is in the home.

(d) Supervision as specified in the [ISP] PSP shall be implemented as written when the supervision specified in the [ISP] PSP is greater than required under subsections (a), (b) and (c).

(e) The staff qualifications and staff ratio as specified in the [ISP] PSP shall be implemented as written, including when the staff ratio is greater than required under subsections (a), (b) and (c).

(f) An individual may not be left unsupervised solely for the convenience of the family or direct service worker.

§ 6500.45. [Training.] CPR, first aid and Heimlich maneuver training.

[(a) The adult family member who will have primary responsibility for caring for and providing services to the individual shall have at least 24 hours of training related to intellectual disability, family dynamics, community participation, individual service planning and delivery, relationship building and the requirements specified in this chapter, prior to an individual living in the home.

(b)] (a) The primary caregiver shall be trained by an individual certified as a trainer by a hospital or other recognized health care organization, in first aid and Heimlich techniques prior to an individual living in the home and annually thereafter.

[(c)] (b) The primary caregiver shall be trained and certified by an individual certified as a trainer by a hospital or other recognized health care organization, in cardiopulmonary resuscitation, if indicated by the medical needs of the individual, prior to the individual living in the home and annually thereafter.

§ 6500.46. Annual training plan.

[(a) The adult family member who will have primary responsibility for caring for and providing services to the individual shall have at least 24 hours of training in the human services field annually.

(b) A family living specialist who is employed by an agency for more than 40 hours per month shall have at least 24 hours of training related to intellectual disability and the requirements specified in this chapter annually.]

(a) The agency shall design an annual training plan based on the needs of the individuals as specified in the individuals' PSPs, other data and analysis indicating person's training needs and as required under §§ 6500.45 and 6500.48 (relating to CPR, first aid and Heimlich maneuver training; and annual training).

(b) The annual training plan must include the orientation program as specified in § 6500.47 (relating to orientation program).

(c) The annual training plan must include training aimed at improving the knowledge, skills and core competencies of the person to be trained.

§ 6500.47. [Record of training.] Orientation program.

[Records of preservice and annual training, including the training source, content, dates, length of training, copies of certificates received and persons attending shall be kept.]

(a) Prior to an individual living in the home, the primary caregiver and the life sharing specialist shall complete the orientation program as described in subsection (b).

(b) The orientation program must encompass the following areas:

(1) The application of person-centered practices, including respecting rights, facilitating community integration, honoring choice and supporting individuals in maintaining relationships.

(2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with sections 701—708 of the Older Adults Protective Services Act (35 P.S. §§ 10225.701—10225.708), 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law), the Adult Protective Services Act (35 P.S. §§ 10210.101—10210.704) and applicable protective services regulations.

(3) Individual rights.

(4) Recognizing and reporting incidents.

(5) Job-related knowledge and skills.

(Editor's Note: Sections 6500.48 and 6500.49 are new and printed in regular type to enhance readability.)

§ 6500.48. Annual training.

(a) The primary caregiver and the life sharing specialist shall complete 24 hours of training each year.

(b) A minimum of 8 hours of the annual training hours specified in subsection (a) must encompass the following areas:

(1) The application of person-centered practices, including respecting rights, facilitating community integration, honoring choice and supporting individuals in maintaining relationships.

(2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with sections 701—708 of the Older Adults Protective Services Act (35 P.S. §§ 10225.701—10225.708), 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services

Law), the Adult Protective Services Act (35 P.S. §§ 10210.101—10210.704) and applicable protective services regulations.

(3) Individual rights.

(4) Recognizing and reporting incidents.

(5) The safe and appropriate use of positive interventions if the primary caregiver will provide a support to an individual with a dangerous behavior.

(c) The balance of the annual training hours must be in areas identified by the agency in the agency's annual training plan in § 6500.46 (relating to annual training plan).

(d) All training, including those training courses identified in subsections (b) and (c), must be included in the agency's annual training plan.

§ 6500.49. Training records.

(a) Records of orientation and training, including the training source, content, dates, length of training, copies of certificates received and persons attending, shall be kept.

(b) A training record for each person trained shall be kept.

PHYSICAL SITE

§ 6500.69. Indoor temperature.

(a) The indoor temperature in individual bedrooms and [family living] life sharing areas may not be less than 62°F during nonsleeping hours while individuals are present in the home.

(b) The indoor temperature in individual bedrooms and [family living] life sharing areas may not be less than 55°F during sleeping hours.

(c) When the indoor temperature in individual bedrooms or [family living] life sharing areas exceeds 85°F, mechanical ventilation such as fans shall be used.

(d) If an individual's medical needs indicate an indoor temperature that is different from that required under subsections (a)—(c), the medical recommendations for temperature shall be met.

§ 6500.76. Furniture.

Furniture in individual bedrooms and [family living] life sharing areas shall be nonhazardous, clean and sturdy.

MEDICATIONS

§ 6500.131. [Storage of medications.] Self-administration.

[(a) Prescription and nonprescription medications of individuals shall be kept in their original containers, except for medications of individuals who self-administer medications and keep their medications in personal daily or weekly dispensing containers.

(b) Prescription and potentially toxic nonprescription medications shall be kept in an area or container that is locked or made inaccessible to the individuals, unless it is documented in each individual's assessment that each individual in the home can safely use or avoid toxic materials.

(c) Prescription and potentially toxic nonprescription medications stored in a refrigerator shall be kept in a separate locked container or made

inaccessible to the individuals, unless it is documented in each individual's assessment that each individual in the home can safely use or avoid toxic materials.

(d) Prescription and nonprescription medications of individuals shall be stored under proper conditions of sanitation, temperature, moisture and light.

(e) Discontinued prescription medications of individuals shall be disposed of in a safe manner.]

(a) An agency shall provide an individual who has a prescribed medication with assistance, as needed, for the individual's self-administration of the medication.

(b) Assistance in the self-administration of medication includes helping the individual to remember the schedule for taking the medication, offering the individual the medication at the prescribed times, opening a medication container and storing the medication in a secure place.

(c) The agency shall provide or arrange for assistive technology to support the individual's self-administration of medications.

(d) The PSP must identify if the individual is unable to self-administer medications.

(e) To be considered able to self-administer medications, an individual shall do all of the following:

- (1) Recognize and distinguish his medication.
- (2) Know how much medication is to be taken.
- (3) Know when the medication is to be taken. This knowledge may include reminders of the schedule and offering the medication at the prescribed times as specified in subsection (b).
- (4) Take or apply the individual's own medication with or without the use of assistive technology.

§ 6500.132. [Labeling of medications.] Medication administration.

[(a) The original container for prescription medications of individuals shall be labeled with a pharmaceutical label that includes the individual's name, the name of the medication, the date the prescription was issued, the prescribed dose and the name of the prescribing physician.

(b) Nonprescription medications used by individuals shall be labeled with the original label.]

(a) An agency whose staff persons or others are qualified to administer medications as specified in subsection (b) may provide medication administration for an individual who is unable to self-administer the individual's prescribed medication.

(b) A prescription medication that is not self-administered shall be administered by one of the following:

- (1) A licensed physician, licensed dentist, licensed physician's assistant, registered nurse, certified registered nurse practitioner, licensed practical nurse or licensed paramedic.
- (2) A person who has completed the medication administration training as specified in § 6500.139 (relating to medication administration training) for the medication administration of the following:

- (i) Oral medications.
- (ii) Topical medications.
- (iii) Eye, nose and ear drop medications.
- (iv) Insulin injections.
- (v) Epinephrine injections for insect bites or other allergies.

(c) Medication administration includes the following activities, based on the needs of the individual:

- (1) Identify the correct individual.
- (2) Remove the medication from the original container.
- (3) Crush or split the medication as ordered by the prescriber.
- (4) Place the medication in a medication cup or other appropriate container, or in the individual's hand, mouth or other route as ordered by the prescriber.
- (5) If indicated by the prescriber's order, measure vital signs and administer medications according to the prescriber's order.
- (6) Injection of insulin or epinephrine in accordance with this chapter.

§ 6500.133. [Use of prescription] Storage and disposal of medications.

[(a) A prescription medication shall only be used by the individual for whom the medication was prescribed.

(b) If a medication is prescribed to treat symptoms of a diagnosed psychiatric illness, there shall be a written protocol as part of the ISP to address the social, emotional and environmental needs of the individual related to the symptoms of the diagnosed psychiatric illness.

(c) If a medication is prescribed to treat symptoms of a diagnosed psychiatric illness, there shall be a review with documentation by a licensed physician at least every 3 months that includes the reason for prescribing the medication, the need to continue the medication and the necessary dosage.]

(a) Prescription and nonprescription medications shall be kept in their original labeled containers.

(b) A prescription medication may not be removed from its original labeled container more than 2 hours in advance of the scheduled administration.

(c) If insulin or epinephrine is not packaged in an individual dose container, assistance with or the administration of the injection shall be provided immediately upon removal of the medication from its original labeled container.

(d) Prescription medications and syringes, with the exception of epinephrine and epinephrine auto-injectors, shall be kept in an area or container that is locked.

(e) Epinephrine and epinephrine auto-injectors shall be stored safely and kept easily accessible at all times. The epinephrine and epinephrine auto-injectors shall be easily accessible to the individual if the epinephrine is self-administered or to the

staff person who is with the individual if a staff person will administer the epinephrine.

(f) Prescription medications stored in a refrigerator shall be kept in an area or container that is locked.

(g) Prescription medications shall be stored in an organized manner under proper conditions of sanitation, temperature, moisture and light and in accordance with the manufacturer's instructions.

(h) Prescription medications that are discontinued or expired shall be destroyed in a safe manner according to the Department of Environmental Protection and applicable Federal and State regulations.

(i) Subsections (a)—(d) and (f) do not apply for an individual who self-administers medication and stores the medication in the individual's private bedroom.

§ 6500.134. [Medication log.] Labeling of medications.

[(a) A medication log listing the medications prescribed, dosage, time and date that prescription medications, including insulin, were administered, and the name of the person who administered the prescription medication or insulin shall be kept for each individual who does not self-administer medication.

(b) The information specified in subsection (a) shall be logged immediately after each individual's dose of medication.

(c) A list of prescription medications, the prescribed dosage and the name of the prescribing physician shall be kept for each individual who self-administers medication.]

The original container for prescription medications must be labeled with a pharmacy label that includes the following:

- (1) The individual's name.
- (2) The name of the medication.
- (3) The date the prescription was issued.
- (4) The prescribed dosage and instructions for administration.
- (5) The name and title of the prescriber.

§ 6500.135. [Medication errors.] Prescription medications.

[Documentation of medication errors and follow-up action taken shall be kept.]

(a) A prescription medication shall be prescribed in writing by an authorized prescriber.

(b) A prescription order shall be kept current.

(c) A prescription medication shall be administered as prescribed.

(d) A prescription medication shall be used only by the individual for whom the prescription was prescribed.

(e) Changes in medication may only be made in writing by the prescriber or, in the case of an emergency, an alternate prescriber, except for circumstances in which oral orders may be accepted by a registered nurse in accordance with regula-

tions of the Department of State. The individual's medication record shall be updated as soon as a written notice of the change is received.

§ 6500.136. [Adverse reaction.] Medication record.

[If an individual has a suspected adverse reaction to a medication, the family shall notify the prescribing physician immediately. Documentation of adverse reactions shall be kept in the individual's record.]

(a) A medication record shall be kept, including the following for each individual for whom a prescription medication is administered:

- (1) Individual's name.
- (2) Name and title of the prescriber.
- (3) Drug allergies.
- (4) Name of medication.
- (5) Strength of medication.
- (6) Dosage form.
- (7) Dose of medication.
- (8) Route of administration.
- (9) Frequency of administration.
- (10) Administration times.
- (11) Diagnosis or purpose for the medication, including pro re nata.
- (12) Date and time of medication administration.
- (13) Name and initials of the person administering the medication.
- (14) Duration of treatment, if applicable.
- (15) Special precautions, if applicable.
- (16) Side effects of the medication, if applicable.

(b) The information in subsection (a)(12) and (13) shall be recorded in the medication record at the time the medication is administered.

(c) If an individual refuses to take a prescribed medication, the refusal shall be documented on the medication record. The refusal shall be reported to the prescriber within 24 hours, unless otherwise instructed by the prescriber. Subsequent refusals to take a prescribed medication shall be reported as required by the prescriber.

(d) The directions of the prescriber shall be followed.

§ 6500.137. [Administration of prescription medications and insulin injections.] Medication errors.

[(a) Prescription medications and insulin injections shall be administered according to the directions specified by a licensed physician, certified nurse practitioner or licensed physician's assistant.

(b) An insulin injection administered by an individual or another person shall be premeasured by the individual or licensed medical personnel.]

(a) Medication errors include the following:

- (1) Failure to administer a medication.
- (2) Administration of the wrong medication.
- (3) Administration of the wrong amount of medication.

(4) Failure to administer a medication at the prescribed time, which exceeds more than 1 hour before or after the prescribed time.

(5) Administration to the wrong person.

(6) Administration through the wrong route.

(b) Documentation of medication errors, follow-up action taken and the prescriber's response shall be kept in the individual's record.

§ 6500.138. [Medications training.] Adverse reaction.

[(a) Family members who administer prescription medications or insulin injections to individuals shall receive training by the individual's source of health care about the administration, side effects and contraindications of the specific medication or insulin.

(b) Family members who administer insulin injections to individuals shall have completed and passed a diabetes patient education program that meets the National Standards for Diabetes Patient Education Programs of the National Diabetes Advisory Board, 7550 Wisconsin Avenue, Bethesda, Maryland 20205.

(c) Documentation of the training specified in subsections (a) and (b) shall be kept.]

(a) If an individual has a suspected adverse reaction to a medication, the home shall immediately consult a health care practitioner or seek emergency medical treatment.

(b) An adverse reaction to a medication, the health care practitioner's response to the adverse reaction and the action taken shall be documented.

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 6500.139. Medication administration training.

(a) A person who has successfully completed a Department-approved medications administration course, including the course renewal requirements, may administer the following:

- (1) Oral medications.
- (2) Topical medications.
- (3) Eye, nose and ear drop medications.

(b) A person may administer insulin injections following successful completion of both:

- (1) The course specified in subsection (a).
- (2) A Department-approved diabetes patient education program within the past 12 months.

(c) A person may administer an epinephrine injection by means of an auto-injection device in response to anaphylaxis or another serious allergic reaction following successful completion of both:

- (1) The course specified in subsection (a).
- (2) Training relating to the use of an auto-injection epinephrine injection device provided by a licensed, registered or certified health care professional within the past 12 months.

(d) A record of the training shall be kept including the person trained, the date, source, name of trainer and documentation that the course was successfully completed.

PROGRAM

§ 6500.151. Assessment.

(a) Each individual shall have an initial assessment within 1 year prior to or 60 calendar days after admission to the [family living] home and an updated assessment annually thereafter. The initial assessment must include an assessment of adaptive behavior and level of skills completed within 6 months prior to admission to the [family living] home.

(b) If the [program] life sharing specialist is making a recommendation to revise a service or outcome in the [ISP as required under § 6500.156(c)(4) (relating to ISP review and revision)] PSP, the individual shall have an assessment completed as required under this section.

(c) The assessment shall be based on assessment instruments, interviews, progress notes and observations.

(d) The [family living] life sharing specialist shall sign and date the assessment.

* * * * *

(f) The [program] life sharing specialist shall provide the assessment to the SC, as applicable, and [plan] PSP team members at least 30 calendar days prior to [an ISP meeting for the development of the ISP, the annual update, and revision of the ISP under §§ 2380.182, 2390.152, 6400.182 and 6500.152 (relating to development, annual update and revision of the ISP)] a PSP meeting.

§ 6500.152. Development [, annual update and revision of the ISP] of the PSP.

[(a) An individual shall have one ISP.

(b) When an individual is not receiving services through an SCO, the family living program specialist shall be the plan lead when one of the following applies:

- (1) The individual resides at a family living home licensed under this chapter.
- (2) The individual resides at a family living home licensed under this chapter and attends a facility licensed under Chapter 2380 or 2390 (relating to adult training facilities; and vocational facilities).

(c) The plan lead shall be responsible for developing and implementing the ISP, including annual updates and revisions.

(d) The plan lead shall develop, update and revise the ISP according to the following:

(1) The ISP shall be initially developed, updated annually and revised based upon the individual's current assessments as required under §§ 2380.181, 2390.151, 6400.181 and 6500.151 (relating to assessment).

(2) The initial ISP shall be developed within 90 calendar days after the individual's admission date to the family living home.

(3) The ISP, annual updates and revisions shall be documented on the Department-designated form located in the Home and Community Services Information System (HCSIS) and also on the Department's web site.

(4) An invitation shall be sent to plan team members at least 30 calendar days prior to an ISP meeting.

(5) Copies of the ISP, including annual updates and revisions under § 6500.156 (relating to ISP review and revision), shall be sent as required under § 6500.157 (relating to copies).]

(a) An individual shall have one approved and authorized PSP at a given time.

(b) An individual's service implementation plan must be consistent with the PSP in subsection (a).

(c) The support coordinator, targeted support manager or life sharing specialist shall coordinate the development of the PSP, including revisions, in cooperation with the individual and the individual's PSP team.

(d) The initial PSP shall be developed based on the individual assessment within 60 days of the individual's date of admission to the home.

(e) The PSP shall be initially developed, revised annually and revised when an individual's needs change based upon a current assessment.

(f) The individual and persons designated by the individual shall be involved in and supported in the development and revisions of the PSP.

(g) The PSP, including revisions, shall be documented on a form specified by the Department.

§ 6500.153. [Content of the ISP.] The PSP team.

[The ISP, including annual updates and revisions under § 6500.156 (relating to ISP review and revision) must include the following:

(1) Services provided to the individual and expected outcomes chosen by the individual and individual's plan team.

(2) Services provided to the individual to increase community involvement, including volunteer or civic-minded opportunities and membership in National or local organizations as required under § 6500.158 (relating to provider services).

(3) Current status in relation to an outcome and method of evaluation used to determine progress toward that expected outcome.

(4) A protocol and schedule outlining specified periods of time for the individual to be without direct supervision, if the individual's current assessment states the individual may be without direct supervision and if the individual's ISP includes an expected outcome which requires the achievement of a higher level of independence. The protocol must include the current level of independence and the method of evaluation used to determine progress toward the expected outcome to achieve the higher level of independence.

(5) A protocol to address the social, emotional and environmental needs of the individual, if medication has been prescribed to treat symptoms of a diagnosed psychiatric illness.

(6) A protocol to eliminate the use of restrictive procedures, if restrictive procedures are utilized, and to address the underlying causes of the behavior which led to the use of restrictive procedures including the following:

(i) An assessment to determine the causes or antecedents of the behavior.

(ii) A protocol for addressing the underlying causes or antecedents of the behavior.

(iii) The method and time line for eliminating the use of restrictive procedures.

(iv) A protocol for intervention or redirection without utilizing restrictive procedures.

(7) Assessment of the individual's potential to advance in the following:

(i) Residential independence.

(ii) Community involvement.

(iii) Vocational programming.

(iv) Competitive community-integrated employment.]

(a) The PSP shall be developed by an interdisciplinary team including the following:

(1) The individual.

(2) Persons designated by the individual.

(3) The individual's direct care staff persons.

(4) The program specialist.

(5) The support coordinator, targeted support manager or a program representative from the funding source, if applicable.

(6) The program specialist for the individual's day program, if applicable.

(7) Other specialists such as health care, behavior management, speech, occupational and physical therapy as appropriate for the individual needs.

(b) At least three members of the PSP team, in addition to the individual and persons designated by the individual, shall be present at a PSP meeting at which the PSP is developed or revised.

(c) Members of the PSP team who attend the meeting shall sign and date the PSP.

§ 6500.154. [Plan team participation.] The PSP process.

[(a) The plan team shall participate in the development of the ISP, including the annual updates and revision under § 6500.156 (relating to ISP review and revision).

(1) A plan team shall include as its members the following:

(i) The individual.

(ii) A program specialist or family living specialist, as applicable, from each provider delivering a service to the individual.

(iii) A direct service worker who works with the individual from each provider delivering services to the individual.

(iv) Any other person the individual chooses to invite.

(2) If the following have a role in the individual's life, the plan team may also include as its members, as applicable, the following:

(i) Medical, nursing, behavior management, speech, occupational or physical therapy specialists.

(ii) Additional direct service workers who work with the individual from each provider delivering a service to the individual.

(iii) The individual's parent, guardian or advocate.

(b) At least three plan team members, in addition to the individual, if the individual chooses to attend, shall be present for the ISP, annual update and ISP revision meeting.

(c) Plan team members who attend a meeting under subsection (b) shall sign and date the signature sheet.]

The PSP process shall:

(1) Provide necessary information and support to ensure that the individual directs the PSP process to the maximum extent possible.

(2) Enable the individual to make informed choices and decisions.

(3) Be conducted to reflect what is important to the individual to ensure that supports are delivered in a manner reflecting individual preferences and ensuring the individual's health, safety and well-being.

(4) Be timely in relation to the individual's needs and occur at intervals, times and locations of choice and convenience to the individual and to persons designated by the individual.

(5) Be communicated in clear and understandable language.

(6) Reflect cultural considerations of the individual

(7) Include guidelines for solving disagreements among the PSP team members.

(8) Include a method for the individual to request updates to the PSP.

§ 6500.155. [Implementation of the ISP.] Content of the PSP.

[(a) The ISP shall be implemented by the ISP's start date.

(b) The ISP shall be implemented as written.]

The PSP, including revisions, must include the following:

(1) The individual's strengths and functional abilities.

(2) The individual's individualized clinical and support needs.

(3) The individual's goals and preferences related to relationships, community participation, employment, income and savings, health care, wellness and education.

(4) Individually identified, person-centered desired outcomes.

(5) Supports to assist the individual to achieve desired outcomes.

(6) The type, amount, duration and frequency for the support specified in a manner that reflects the assessed needs and choices of the individual. The schedule of support delivery shall be determined by the PSP team.

(7) Communication mode, abilities and needs.

(8) Opportunities for new or continued community participation.

(9) Risk factors, dangerous behaviors and risk mitigation strategies, if applicable.

(10) Modification of individual rights as necessary to mitigate risks, if applicable.

(11) Health care information, including a health care history.

(12) Financial information including how the individual chooses to use personal funds.

(13) The person responsible for monitoring the implementation of the PSP.

§ 6500.156. [ISP review and revision.] Implementation of the PSP.

[(a) The family living specialist shall complete an ISP review of the services and expected outcomes in the ISP specific to the family living home licensed under this chapter with the individual every 3 months or more frequently if the individual's needs change, which impacts the services as specified in the current ISP.

(b) The family living specialist and individual shall sign and date the ISP review signature sheet upon review of the ISP.

(c) The ISP review must include the following:

(1) A review of the monthly documentation of an individual's participation and progress during the prior 3 months toward ISP outcomes supported by services provided by the family living home licensed under this chapter.

(2) A review of each section of the ISP specific to the family living home licensed under this chapter.

(3) The family living specialist shall document a change in the individual's needs, if applicable.

(4) The family living specialist shall make a recommendation regarding the following, if applicable:

(i) The deletion of an outcome or service to support the achievement of an outcome which is no longer appropriate or has been completed.

(ii) The addition of an outcome or service to support the achievement of an outcome.

(iii) The modification of an outcome or service to support the achievement of an outcome in which no progress has been made.

(5) If making a recommendation to revise a service or outcome in the ISP, the family living specialist shall complete a revised assessment as required under § 6500.151(b) (relating to assessment).

(d) The family living specialist shall provide the ISP review documentation, including recommendations if applicable, to the SC, as applicable, and plan team members within 30 calendar days after the ISP review meeting.

(e) The family living specialist shall notify the plan team members of the option to decline the ISP review documentation.

(f) If a recommendation for a revision to a service or outcome in the ISP is made, the plan lead as applicable, under §§ 2380.182(b) and (c), 2390.152(b) and (c), 6400.182(b) and (c), 6500.152(b) and (c)

(relating to development, annual update and revision of the ISP), shall send an invitation for an ISP revision meeting to the plan team members within 30 calendar days of receipt of the recommendation.

(g) A revised service or outcome in the ISP shall be implemented by the start date in the ISP as written.]

The home and the agency shall implement the PSP including revisions.

§ 6500.157. [Copies.] (Reserved).

[A copy of the ISP, including the signature sheet, shall be provided to plan team members within 30 calendar days after the ISP, annual update and ISP revision meetings.]

§ 6500.158. [Provider services.] (Reserved).

[(a) The family living home shall provide services including assistance, training and support for the acquisition, maintenance or improvement of functional skills, personal needs, communication and personal adjustment.

(b) The family living home shall provide opportunities to the individual for participation in community life, including volunteer or civic-minded opportunities and membership in National or local organizations.

(c) The family living home shall provide services to the individual as specified in the individual's ISP.

(d) The family living home shall provide services that are age and functionally appropriate to the individual.]

§ 6500.159. Day services.

(a) Day services such as employment, education, training, volunteer, civic-minded and other meaningful opportunities shall be provided to the individual.

(b) Day services and activities shall be provided at a location other than the [family living] home where the individual lives, unless one of the following exists:

(1) There is written annual documentation by a licensed physician that it is medically necessary for the individual to complete day services at the [family living] home.

(2) There is written annual documentation by the plan team that it is in the best interest of the individual to complete day services at the [family living] home.

§ 6500.160. Recreational and social activities.

(a) The [family living] home shall provide recreational and social activities, including volunteer or civic-minded opportunities and membership in National or local organizations at the following locations:

(1) The [family living] home.

(2) Away from the [family living] home.

(b) Time away from the [family living] home may not be limited to time in school, work or vocational, developmental and volunteer facilities.

(c) Documentation of recreational and social activities shall be kept in the individual's record.

[RESTRICTIVE PROCEDURES] POSITIVE INTERVENTION

§ 6500.161. [Definition of restrictive procedures.]
Use of a positive intervention.

[A restrictive procedure is a practice that limits an individual's movement, activity of function; interferes with an individual's ability to acquire positive reinforcement; results in the loss of objects or activities that an individual values; or requires an individual to engage in a behavior that the individual would not engage in given freedom of choice.]

(a) A positive intervention shall be used to prevent, modify and eliminate a dangerous behavior when the behavior is anticipated or occurring.

(b) The least intrusive method shall be applied when addressing a dangerous behavior. For each incidence of a dangerous behavior, every attempt shall be made to modify and eliminate the behavior.

(c) As used in this section, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

Dangerous behavior—An action with a high likelihood of resulting in harm to the individual or others.

Positive intervention—An action or activity intended to prevent, modify and eliminate a dangerous behavior. This includes improved communications, reinforcing appropriate behavior, an environmental change, recognizing and treating physical and behavioral health symptoms, voluntary physical exercise and other wellness practices, redirection, praise, modeling, conflict resolution and de-escalation.

§ 6500.162. [Written policy.] PSP.

[A written policy that defines the prohibition or use of specific types of restrictive procedures, describes the circumstances in which restrictive procedures may be used, the persons who may authorize the use of restrictive procedures, a mechanism to monitor and control the use of restrictive procedures, and a process for the individual and family to review the use of restrictive procedures shall be kept.]

If the individual has a dangerous behavior as identified in the PSP, the PSP must include the following:

(1) The specific dangerous behavior to be addressed.

(2) A functional analysis of the dangerous behavior and the plan to address the reason for the behavior.

(3) The outcome desired.

(4) A description of the positive intervention aimed at preventing, modifying or eliminating the dangerous behavior and the circumstances under which the intervention is to be used.

(5) A target date to achieve the outcome.

(6) Health conditions that require special attention.

§ 6500.163. [Appropriate use of restrictive procedures.] Prohibition of restraints.

[(a) A restrictive procedure may not be used as retribution, for the convenience of the family, as a substitute for the program or in a way that interferes with the individual's developmental program.

(b) For each incident requiring restrictive procedures:

(1) Every attempt shall be made to anticipate and de-escalate the behavior using methods of intervention less intrusive than restrictive procedures.

(2) A restrictive procedure may not be used unless less restrictive techniques and resources appropriate to the behavior have been tried but have failed.]

The following procedures are prohibited:

(1) Seclusion, defined as involuntary confinement of an individual in a room or area from which the individual is physically prevented or verbally directed from leaving.

(2) Aversive conditioning, defined as the application of startling, painful or noxious stimuli.

(3) Pressure point techniques, defined as the application of pain for the purpose of achieving compliance.

(4) A chemical restraint, defined as use of drugs or chemicals for the specific and exclusive purpose of controlling acute or episodic aggressive behavior. A chemical restraint does not include a drug ordered by a health care practitioner or dentist to treat the symptoms of a specific mental, emotional or behavioral condition, or as pretreatment prior to a medical or dental examination or treatment.

(5) A mechanical restraint, defined as a device that restricts the movement or function of an individual or portion of an individual's body. Mechanical restraints include a geriatric chair, handcuffs, anklets, wristlets, camisole, helmet with fasteners, muffs and mitts with fasteners, restraint vest, waist strap, head strap, papoose board, restraining sheet, chest restraint and other locked restraints.

(i) The term does not include a device prescribed by a health care practitioner that is used to provide post-surgical care, proper balance or support for the achievement of functional body position.

(ii) The term does not include a device prescribed by a health care practitioner to protect the individual in the event of a seizure, as long as the individual can easily remove the device.

(6) A manual restraint, defined as a hands-on physical method that restricts, immobilizes or reduces an individual's ability to move his arms, legs, head or other body parts freely, on a nonemergency basis, or for more than 15 minutes within a 2-hour period. A manual restraint does not include physically prompting, escorting or guiding an individual to provide a support as specified in the individual's PSP.

(7) A prone position manual restraint.

(8) A manual restraint that inhibits digestion or respiration, inflicts pain, causes embarrassment or

humiliation, causes hyperextension of joints, applies pressure on the chest or joints, or allows for a free fall to the floor.

§ 6500.164. [Restrictive procedure review committee.] Permitted interventions.

[(a) If restrictive procedures are used, there shall be a restrictive procedure review committee.

(b) The restrictive procedure review committee shall include a majority of persons who do not provide direct services to the individual.

(c) The restrictive procedure review committee shall establish a time frame for review and revision of the restrictive procedure plan, not to exceed 6 months between reviews.

(d) A written record of the meetings and activities of the restrictive procedure review committee shall be kept.]

(a) Voluntary exclusion, defined as an individual voluntarily removing himself from his immediate environment and placing himself alone to a room or area, is permitted in accordance with the individual's PSP.

(b) A physical protective restraint may be used only in accordance with § 6500.163(6)—(8) (relating to prohibition of restraints).

(c) A physical protective restraint may not be used until §§ 6500.48(b)(5) and 6500.155(9) (relating to annual training; and content of the PSP) are met.

(d) A physical protective restraint may only be used in the case of an emergency to prevent an individual from injuring the individual's self or others.

(e) A physical protective restraint may not be used as a behavioral intervention, consequence, retribution, punishment, for the convenience of staff persons or as a substitution for individual support.

(f) A physical protective restraint may not be used for more than 15 minutes within a 2-hour period.

(g) A physical protective restraint may only be used by a staff person who is trained as specified in § 6500.48.

(h) As used in this section, a "physical protective restraint" is a hands-on hold of an individual.

§ 6500.165. [Restrictive procedure plan.] Access to or the use of an individual's personal property.

[(a) For each individual for whom restrictive procedures may be used, a restrictive procedure plan shall be written prior to the use of restrictive procedures.

(b) The restrictive procedure plan shall be developed and revised with the participation of the family living specialist, the family, the interdisciplinary team as appropriate and other professionals as appropriate.

(c) The restrictive procedure plan shall be reviewed, and revised if necessary, according to the time frame established by the restrictive procedure review committee, not to exceed 6 months.

(d) The restrictive procedure plan shall be reviewed, approved, signed and dated by the chairperson of the restrictive procedure review committee and the family living specialist, prior to the use of a restrictive procedure, whenever the restrictive procedure plan is revised and at least every 6 months.

(e) The restrictive procedure plan shall include:

(1) The specific behavior to be addressed and the suspected antecedent or reason for the behavior.

(2) The single behavioral outcome desired stated in measurable terms.

(3) Methods for modifying or eliminating the behavior, such as changes in the individual's physical and social environment, changes in the individual's routine, improving communications, teaching skills and reinforcing appropriate behavior.

(4) Types of restrictive procedures that may be used and the circumstances under which the procedures may be used.

(5) A target date for achieving the outcome.

(6) The amount of time the restrictive procedure may be applied, not to exceed the maximum time periods specified in this chapter.

(7) Physical problems that require special attention during the use of restrictive procedures.

(8) The name of the person responsible for monitoring and documenting progress with the plan.

(f) The restrictive procedure plan shall be implemented as written.

(g) Copies of the restrictive procedure plan shall be kept in the individual's record.]

(a) Access to or the use of an individual's personal funds or property may not be used as a reward or punishment.

(b) An individual's personal funds or property may not be used as payment for damages unless the individual consents to make restitution for the damages as follows:

(1) A separate written consent is required for each incidence of restitution.

(2) Consent shall be obtained in the presence of the individual, a person designated by the individual and in the presence of and with the support of the support coordinator or targeted support manager.

(3) There may not be coercion in obtaining the consent of an individual.

(4) The agency shall keep a copy of the individual's written consent.

§ 6500.166. [Training.] Rights team.

[(a) If a restrictive procedure is used, there shall be at least one person available when restrictive procedures are used who has completed training within the past 12 months in the use of and ethics of using restrictive procedures including the use of alternate positive approaches.

(b) Persons responsible for developing, implementing or managing a restrictive procedure plan shall be trained in the use of the specific techniques or procedures that are used.

(c) If manual restraint or exclusion is used, persons responsible for developing, implementing or managing a restrictive procedure plan shall have experienced the use of the specific techniques or procedures directly on themselves.

(d) Documentation of the training program provided, including the persons trained, dates of training, description of training and training source shall be kept.]

(a) The agency shall have a rights team. The agency may use a county mental health and intellectual disability program rights team that meets the requirements of this section.

(b) The role of the rights team is to:

(1) Review each incident, alleged incident and suspected incident of a violation of individual rights as specified in §§ 6500.31—6500.34 (relating to individual rights).

(2) Review each incidence of the use of a restraint as specified in §§ 6500.161—6500.164 to:

(i) Analyze systemic concerns.

(ii) Design positive supports as an alternative to the use of a restraint.

(iii) Discover and resolve the reason for an individual's behavior.

(c) Members of the rights team shall include the affected individual, persons designated by the individual, a family member or an advocate if the individual is unable to speak for himself, the individual's support coordinator, a representative from the funding agency and an agency representative.

(d) Members of the rights team shall be comprised of a majority who do not provide direct support to the individual.

(e) If a restraint was used, the individual's health care practitioner shall be consulted.

(f) The rights team shall meet at least once every 3 months.

(g) The rights team shall report its recommendations to the individual's PSP team.

(h) The agency shall keep documentation of the rights team meetings and the decisions made at the meetings.

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to rescind §§ 6500.167—6500.176 which appear in 55 Pa. Code pages 6500-43—6500-46, serial pages (382045)—(382048).)

§§ 6500.167—6500.176. (Reserved).

INDIVIDUALS RECORDS

§ 6500.182. Content of records.

(a) A separate record shall be kept for each individual.

(b) Entries in an individual's record must be legible, dated and signed by the person making the entry.

(c) Each individual's record must include the following information:

(1) Personal information, including:

(i) The name, sex, admission date, birthdate and Social Security number.

(ii) The race, height, weight, color of hair, color of eyes and identifying marks.

(iii) The language or means of communication spoken or understood by the individual and the primary language used in the individual's natural home, if other than English.

- (iv) The religious affiliation.
- (v) The next of kin.
- (vi) A current, dated photograph.
- (2) Unusual incident reports relating to the individual.
- (3) Physical examinations.
- (4) Dental examinations.
- (5) Assessments as required under § 6500.151 (relating to assessment).

[(6) A copy of the invitation to:

- (i) The initial ISP meeting.**
- (ii) The annual update meeting.**
- (iii) The ISP revision meeting.**
- (7) A copy of the signature sheet for:**
 - (i) The initial ISP meeting.**
 - (ii) The annual update meeting.**
 - (iii) The ISP revision meeting**
- (8) A copy of the current ISP.**
- (9) Documentation of ISP reviews and revisions under § 6500.156 (relating to ISP review and revision), including the following:**
 - (i) ISP review signature sheets**
 - (ii) Recommendations to revise the ISP.**
 - (iii) ISP revisions.**
 - (iv) Notices that the plan team member may decline the ISP review documentation.**

(v) Requests from plan team members to not receive the ISP review documentation.

(10) Content discrepancy in the ISP, the annual updates or revisions under § 6500.156.]

(6) SP documents as required by this chapter.

[(11) Restrictive procedure protocols] (7) Positive intervention records related to the individual.

[(12) Restrictive procedure records related to the individual.

(13)] (8) Recreational and social activities provided to the individual.

[(14)] (9) Copies of psychological evaluations and assessments of adaptive behavior, as necessary.

§ 6500.183. Record location.

Copies of the most current record information required in [§ 6500.182(c)(1)—(14)] § 6500.182(c)(1)—(9) (relating to [individual] content of records) shall be kept in the [family living] home.

§ 6500.185. Access.

The individual, and the individual's parent, guardian or advocate, shall have access to the records and to information in the records. If the [family living] life sharing specialist documents, in writing, that disclosure of specific information constitutes a substantial detriment to the individual or that disclosure of specific information will reveal the identity of another individual or breach the confidentiality of persons who have provided information upon an agreement to maintain their confidentiality, that specific information identified may be withheld.

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