

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

DELAWARE RIVER BASIN COMMISSION

[25 PA. CODE CH. 901]

Amendments to the Water Quality Regulations, Water Code and Comprehensive Plan to Revise the Human Health Water Quality Criteria for PCBs in Zones 2 through 6 of the Delaware Estuary and Bay

Summary:

By Resolution No. 2013-8 on December 4, 2013, the Delaware River Basin Commission (“DRBC” or “Commission”) approved amendments to the Commission’s Water Quality Regulations, Water Code and Comprehensive Plan to establish a uniform water quality criterion of 16 picograms per liter for polychlorinated biphenyls (PCBs) in the Delaware Estuary and Bay, DRBC Water Quality Management Zones 2 through 6, for the protection of human health from carcinogenic effects.

Effective Date:

Thirty (30) days from publication of the corresponding notice of final rulemaking in the *Federal Register*.

Supplementary Information:

The Delaware River Basin Commission is a federal-state regional agency charged with managing the water resources of the Delaware River Basin without regard to political boundaries. Its members are the governors of the four basin states—Delaware, New Jersey, New York and Pennsylvania—and the North Atlantic Division Commander of the U.S. Army Corps of Engineers, representing the federal government.

Notice of the proposed amendments appeared in the *Pennsylvania Bulletin* (43 Pa.B. 4740) on August 17, 2013 as well as in the *Federal Register* (78 FR 47241) on August 5, 2013, the *Delaware Register of Regulations* (17 DE Reg. 143) on August 1, 2013, the *New Jersey Register* (45 N.J.R. 1907) on August 5, 2013, and the *New York State Register* (page 3) on August 14, 2013. Notice of the proposed changes also was published on the Commission’s web site on August 2, 2013. A public hearing was held on September 10, 2013 and written comments were accepted through September 20, 2013.

The uniform water quality criterion of 16 picograms per liter for polychlorinated biphenyls (PCBs) in the Delaware Estuary and Bay for the protection of human health from carcinogenic effects is the product of more than a decade of data-gathering, assessment, debate and consensus-building involving dischargers, regulators, scientists, policy-makers and other stakeholders from across the region. The criterion is the product of a rigorous application of the most current available data and methodology, including site-specific data on fish consumption, site-specific bioaccumulation factors, and the current U.S. Environmental Protection Agency (EPA) methodology for the development of human health criteria for toxic pollutants (see EPA-822-B-00-004, October 2000). The criterion replaces the Commission’s current PCB criteria for the Estuary, which date from 1996. It supersedes less stringent state criteria in effect for Delaware Bay and elimi-

nates the undue complexity associated with the application in tidal waters of criteria that vary by water quality zone.

In addition to proposing the new criterion, the Commission’s notice of proposed rulemaking in August 2013 invited comment on a draft strategy for implementing the criterion for both point and non-point sources. Developed by the DRBC in partnership with the environmental agencies of the states of Delaware, New Jersey and Pennsylvania, EPA Regions II and III and EPA Headquarters (collectively, “the co-regulators”), the draft strategy sets forth detailed approaches for reducing PCB loadings from point and non-point sources over the coming decades. A key objective of the strategy is to provide uniformity and a degree of certainty to National Pollutant Discharge Elimination System (NPDES) permits that will be issued by the states bordering the Estuary and Bay. Notably, no Commission action on the draft implementation strategy was or is proposed. As DRBC’s Notice of Proposed Rulemaking indicated, new total maximum daily loads (“Stage 2 TMDLs”) for PCBs in the Delaware Estuary and Bay are expected to be established by EPA on behalf of the Estuary states following publication of this Final Rule. The strategy document will be included as an Appendix to the Stage 2 TMDL report when issued. Until Stage 2 TMDLs based upon the new criterion are established, the NPDES permitting authorities have indicated they intend to apply the existing permit approach, which was published as an appendix to the Stage 1 TMDLs for PCBs established by EPA Regions II and III for the Delaware Estuary in 2003 and for the Delaware Bay in 2006.

Rule Text:

The affected section of the Commission’s Water Code and Water Quality Regulations is Section 3.30, Table 6: Stream Quality Objectives for Carcinogens for the Delaware River Estuary and Bay. Specifically, in accordance with this Final Rule, for the parameter “PCBs (Total),” in the column headed “Freshwater Objectives (ug/l): Fish & Water Ingestion,” the number “0.0000444” is replaced by “0.000016”; in the column headed “Freshwater Objectives (ug/l): Fish Ingestion Only,” the number “0.0000448” is replaced by “0.000016”; and in the column headed “Marine Objectives (ug/l): Fish Ingestion Only,” the number “0.0000079” is replaced by “0.000016.”

Related Materials, Contact:

The complete text of Resolution No. 2013-8, the Water Code, the Administrative Manual Part III—Water Quality Regulations, a basis and background document setting forth the technical basis for the new criterion, the response-to-comment document addressing comments received by DRBC on the proposed criterion and the draft implementation strategy, and additional documents concerning the control of PCBs in the Delaware Estuary all are available on the Commission’s website, DRBC.net. Copies also may be obtained from the Commission’s Secretary and Assistant General Counsel at 609-883-9500, ext. 203 or ext. 224. A charge for printing and mailing may apply.

Dated: April 8, 2014

PAMELA M. BUSH, Esq.,
Secretary

Fiscal Note: Fiscal Note 68-53 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART V. DELAWARE RIVER BASIN COMMISSION

CHAPTER 901. GENERAL PROVISIONS

§ 901.2. Comprehensive Plan and water quality.

The Comprehensive Plan regulations as set forth in 18 CFR Part 401, Subpart A (2014) and the Water Code and Water Quality Standards as set forth in 18 CFR Part 410 (2014) are hereby incorporated by reference and made a part of this title.

[Pa.B. Doc. No. 14-1033. Filed for public inspection May 16, 2014, 9:00 a.m.]

DELAWARE RIVER BASIN COMMISSION

[25 PA. CODE CH. 901]

**Amendments to the Water Quality Regulations,
Water Code and Comprehensive Plan to Update
Water Quality Criteria for pH**

Summary:

By Resolution No. 2013-9 on December 4, 2013, the Delaware River Basin Commission (“DRBC” or “Commission”) approved amendments to the Commission’s Water Quality Regulations, Water Code and Comprehensive Plan to update the Commission’s stream quality objectives for pH in interstate tidal and non-tidal reaches of the main stem Delaware River.

Effective Date:

Thirty (30) days from publication of the corresponding notice of final rulemaking in the *Federal Register*.

Supplementary Information:

The Delaware River Basin Commission is a federal-state regional agency charged with managing the water resources of the Delaware River Basin without regard to political boundaries. Its members are the governors of the four basin states—Delaware, New Jersey, New York and Pennsylvania—and the North Atlantic Division Commander of the U.S. Army Corps of Engineers, representing the federal government.

Notice of the proposed amendments appeared in the *Pennsylvania Bulletin* (43 Pa.B. 5995) on October 12, 2013 as well as the *Federal Register* (78 FR 58985) on September 25, 2013, the *Delaware Register of Regulations* (17 DE Reg. 365) on October 1, 2013, the *New Jersey Register* (45 N.J.R. 2201) on October 7, 2013, and the *New York State Register* (page 13) on October 9, 2013. Notice of the proposed changes also was published on the Commission’s web site on September 20, 2013. A public hearing was held on October 24, 2013 and written comments were accepted through November 21, 2013. No written or oral comments were received.

The Commission’s current criteria for pH in interstate streams were adopted in 1967. Today, these criteria are inconsistent with scientists’ increased understanding of natural fluctuations in freshwater and saltwater pH levels and with modern applications of pH criteria. The amendments approved by the Commission on December 4, 2013 will minimize regulatory inconsistencies and better address natural pH cycles in the main stem Delaware River. First, they will increase from 6.0 to 6.5

the lower threshold of the range of acceptable pH conditions in non-tidal zones of the main stem—DRBC Water Quality Zones 1A through 1E. Second, they will add a clause to the pH criteria for all interstate tidal and non-tidal water quality zones, recognizing natural deviations outside the 6.5 to 8.5 pH range. In accordance with these changes, the pH criteria for Water Quality Zones 1A through 1E (the non-tidal main stem) and 2 through 6 (the tidal main stem and tidal portions of tributaries) will read, “Between 6.5 and 8.5 inclusive, unless outside this range due to natural conditions.”

Rule Text:

The affected sections of the Commission’s Water Code and Water Quality Regulations consist of subsection C.3 of each of sections 3.20.2 through 3.20.6, respectively, for Water Quality Zones 1A through 1E (non-tidal main stem); and sections 3.30.2 through 3.30.6, respectively, for Water Quality Zones 2 through 6 (tidal main stem and tidal portions of tributaries). In each of these sections, the text shall be amended to read, “Between 6.5 and 8.5 inclusive, unless outside this range due to natural conditions.”

(The affected sections relating to Water Quality Zones 1A through 1E were incorrectly identified in the Notice of Proposed Rulemaking as sections 2.20.2 through 2.20.6. Sections 2.20.2 through 2.20.6 of the Water Code are part of an unrelated article; no sections numbered 2.20.2 through 2.20.6 exist in the Water Quality Regulations.)

Related Materials:

The complete text of Resolution No. 2013-9, the Water Code, the Administrative Manual Part III—Water Quality Regulations, a basis and background document setting forth the technical basis for the amendments, and additional documents concerning pH criteria for interstate non-tidal and tidal reaches of the main stem Delaware River are available on the Commission’s website, DRBC.net. Copies also may be obtained from the Commission’s Secretary and Assistant General Counsel at 609-883-9500, ext. 203 or ext. 224. A charge for printing and mailing may apply.

Dated: April 8, 2014

PAMELA M. BUSH, Esq.,
Secretary

Fiscal Note: Fiscal Note 68-57 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART V. DELAWARE RIVER BASIN COMMISSION

CHAPTER 901. GENERAL PROVISIONS

§ 901.2. Comprehensive Plan and water quality.

The Comprehensive Plan regulations as set forth in 18 CFR Part 401, Subpart A (2014) and the Water Code and Water Quality Standards as set forth in 18 CFR Part 410 (2014) are hereby incorporated by reference and made a part of this title.

[Pa.B. Doc. No. 14-1034. Filed for public inspection May 16, 2014, 9:00 a.m.]

Title 31—INSURANCE

INSURANCE DEPARTMENT

[31 PA. CODE CH. 25]

Rules and Procedural Requirements for Insurance Holding Company Systems

The Insurance Department (Department) amends Chapter 25 (relating to rules and procedural requirements for insurance holding company systems) under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412), regarding the general rulemaking authority of the Department, and Article XIV of The Insurance Company Law of 1921 (act) (40 P. S. §§ 991.1401—991.1413), regarding insurance holding companies.

Purpose

The purpose of this final-form rulemaking is to update Chapter 25 in accordance with amendments made to Article XIV of the act by the act of July 5, 2012 (P. L. 1111, No. 136) (Act 136). Chapter 25 sets forth rules and procedural requirements applicable to insurance holding company systems.

The amendments to Chapter 25 are based upon recent amendments to the model regulation developed by the National Association of Insurance Commissioners (NAIC) entitled “Insurance Holding Company System Model Regulation with Reporting Forms and Instructions” (Model #450). This final-form rulemaking is part of the financial regulation standards the Department must meet to maintain its accreditation as a regulator by the NAIC. Thus, the Commonwealth must enact requirements substantially similar to NAIC requirements to maintain NAIC accreditation.

Comments

Notice of proposed rulemaking was published at 43 Pa.B. 5996 (October 12, 2013) with a 30-day comment period. Comments were received from the Insurance Federation of Pennsylvania (IFP) expressing general support for the regulation and raising two concerns. The IFP recommended that § 25.12(c) (relating to forms—general requirements) be revised to delete the absolute confidentiality for personal financial statements of nonpublicly held ultimate controlling persons (UCP) making filings under section 1402 of the act (40 P. S. § 991.1402), commonly referred to as Form A filings. The IFP suggested that the Department instead use the “process the Department has in place for requesting and evaluating confidentiality requests” for financial statements of nonpublicly held UCPs as for all other materials filed by all UCPs in Form A filings. The IFP also suggested that the Department does not have the statutory authority to impose a distinction between these different types of filers.

Additionally, the IFP requested clarification of § 25.21(d) (relating to transactions subject to prior notice—notice filing) and recommended that “leases” be expressly covered under this subsection, and that the Department also clarify into which category a lease would fall, that is, whether a lease is a cost-sharing arrangement or a service contract.

On December 12, 2013, the Independent Regulatory Review Commission (IRRC) submitted comments raising three issues with the proposed rulemaking. IRRC requested that the Department explain the need for § 25.12(c) and how it is consistent with the act. IRRC also requested that the Department clarify in § 25.21(c)

how to report a lease involving a domestic insurer and a person in its insurance holding company system. IRRC inquired as to whether the acronym “NAIC” should be added to § 25.21(d)(2)(iii) with regard to the Accounting Practices and Procedure Manual.

Response

In response to comments from IRRC and the IFP, the Department added language to § 25.21(d) to clarify that leases are cost-sharing arrangements and should be reported accordingly. Additionally, the Department added “NAIC” to § 25.21(d)(2)(iii) as suggested by IRRC.

The Department declines to delete the confidentiality of protection for personal financial statements in § 25.12(c) per the IFP’s request. It should be noted that the Department did not propose to amend this subsection, which has been in effect for over 12 years. Likewise, the changes to Article XIV of the act made by Act 136 do not alter the Department’s authority to review Form A filings. The Department believes that this section is, and always was, consistent with Article XIV of the act.

With regard to Form A filings, the Department is statutorily charged with evaluating the transaction under the standards in section 1402(f)(1) of the act. Specifically, under section 1402(f)(1)(iii) of the act, the Department must determine whether the “financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer or prejudice the interest of its policyholders.” Therefore, the Department must have complete access to the financial statements of the acquiring party. When the acquiring party is a public entity, the information is readily publicly available. However, when the acquiring party is an individual, the Department would need to evaluate the individual’s personal financial statements, which would necessarily contain sensitive personal financial information, the release of which may compromise the individual’s personal security.

For this reason, the Department has an established process in § 25.12 that enables the Department to evaluate this sensitive information while still providing the public access to the portions of the filing so that it may adequately comment on the same. Without these protections, individuals may be unwilling to submit their sensitive financial data for Department review and the Department would be unable to perform its statutory mandate to evaluate Form A filings.

The IFP incorrectly contended that the process for obtaining confidentiality of the personal financial statements § 25.12(c)(1) differs for nonpublicly held UCPs and publicly held UCPs. To the contrary, since 2001, both types of entities must explicitly request confidentiality and state the basis therefore and the requests are evaluated by the Department on a case-by-case basis. However, to clarify that the process for requesting confidential protection is equally applicable to personal financial statements of nonpublicly held UCPs, the Department amends subsection (c)(1) to reference “personal financial statements” along with “other materials.”

Finally, it is noteworthy that this particular provision within § 25.12(c) was included at the suggestion of the IFP in 2001. As explained by the Department at 31 Pa.B. 4406 (August 11, 2001):

IFP recommended that § 25.12(c) be amended to provide for the confidentiality of biographical statements and financial statements of ultimate controlling persons who are not public companies. While certain information in biographical statements would be confidential, for example, the social security num-

ber and home address of the person filing the statement, other information in the statement may be public. Therefore, the Department believes that the process in § 25.12(c) for asserting confidentiality is appropriate for biographical statements. *However, the Department agrees that the section should provide for the confidentiality of personal financial statements of nonpublicly held ultimate controlling persons and has so amended § 25.12(c) in this final-form rulemaking.*

(Emphasis added.) Since 2001, subsection (c) has served to provide notification to filers that personal financial statements will be provided confidential treatment if appropriately requested by a nonpublic UCP. The Department believes that the clarification in this final-form rulemaking with regard to the procedures for requesting confidential treatment adequately addresses the IFP's concern while remaining consistent with the Article XIV of the act.

Affected Parties

This final-form rulemaking applies to insurers authorized to do business in this Commonwealth who are members of an insurance holding company system. Additionally, certain provisions of the final-form rulemaking may apply to persons seeking to acquire an interest in a Pennsylvania domestic insurer.

Fiscal Impact

State government

The final-form rulemaking will strengthen and clarify existing regulatory requirements. There will not be material increase in cost to the Department as a result of this final-form rulemaking.

General public

The public will benefit to the extent the final-form rulemaking strengthens financial solvency regulatory requirements for insurers, thereby promoting the ability of the insurance industry to meet obligations under insurance policies.

Political subdivisions

This final-form rulemaking will not impose additional costs on political subdivisions.

Private sector

This final-form rulemaking will not impose significant costs on the transaction of business in this Commonwealth.

Effective Date

This final-form rulemaking will become effective on June 16, 2014.

Sunset Date

The Department continues to monitor the effectiveness of regulations on a triennial basis. Therefore, a sunset date has not been assigned.

Contact Person

Questions regarding this final-form rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, fax (717) 705-3873, psalvatore@pa.gov.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 30, 2013, the Department submitted a copy of the notice of proposed rulemaking, published at 43 Pa.B. 5996, to IRRC and the Chairper-

sons of the House Insurance Committee and the Senate Banking and Insurance Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the 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, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on April 9, 2014, 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 April 10, 2014, and approved the final-form rulemaking.

Findings

The Commissioner finds that:

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

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

Order

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

(a) The regulations of the Department, 31 Pa. Code Chapter 25, are amended by adding § 25.21a and Form F and amending §§ 25.8, 25.12—25.16, 25.18, 25.20, 25.21 and 25.22 and Forms A, B, D and E to read as set forth in Annex A.

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

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

(d) The final-form regulations adopted by this order shall take effect on June 16, 2014.

MICHAEL F. CONSEDINE,
Insurance Commissioner

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 44 Pa.B. 2592 (April 26, 2014).)

Fiscal Note: Fiscal Note 11-252 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 31. INSURANCE

PART I. GENERAL PROVISIONS

Subpart B. SECURITIES AND STOCK TRANSACTIONS

CHAPTER 25. RULES AND PROCEDURAL REQUIREMENTS FOR INSURANCE HOLDING COMPANY SYSTEMS

§ 25.8. Waivers.

This chapter does not constitute a waiver by the Department of its authority, for the purpose of examining

into the affairs of a person proposing to acquire or offering to acquire voting securities of an insurer or a person which controls an insurer, to have free access to its books and papers which relate to its business, and to the books and papers kept by any of its agents. The Department may summon, and administer the oath to, and examine as witnesses, the directors, officers and agents of the person and other persons, relative to its affairs, transactions and condition.

§ 25.12. Forms—general requirements.

(a) Forms A—F located in Appendix A are intended to be guides in the preparation of the statements required by sections 1402—1405 of the act (40 P. S. §§ 991.1402—991.1405). They are not intended to be blank forms which are to be filled in. The forms filed shall contain the numbers and captions of all items, but the text of the items may be omitted if the answers are prepared in a manner that indicates clearly the scope and coverage of the items. Instructions, whether appearing under the items of the form or elsewhere therein, shall be omitted. Unless expressly provided otherwise, if an item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(b) Two copies of Forms A and E and one copy of Forms B—D and F, including exhibits and other papers and documents filed as a part thereof, shall be filed with the Commissioner by personal delivery, mail, facsimile or other form of electronic transmission acceptable to the Department. At least one copy shall be signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of a person is affixed under a power of attorney or other similar authority, a copy of the power of attorney or other authority shall also be filed with the form.

(c) One of the filed copies of Form A shall be available for public inspection as of the date the filing is made; except that copies of personal financial statements of nonpublicly held ultimate controlling persons shall be given confidential treatment. Form A filings also may contain or reference other materials that are confidential, proprietary or privileged under statute, regulation, case law, administrative or court order, or other authority.

(1) If a person filing a Form A wishes to assert that personal financial statements or other materials included or referenced within the filing are confidential, proprietary or privileged and should not be available for public inspection, the person shall notify the Department at the time the initial filing is made as follows:

(i) Identify the specific information, document, report or other material that is asserted to be confidential, proprietary or privileged.

(ii) State the basis upon which the assertion of confidentiality, proprietary or privilege is premised.

(iii) Identify the person to whom inquiries regarding the issue of confidential treatment should be directed.

(iv) Submit one copy of the filing with the materials asserted to be confidential, proprietary or privileged physically separate from the remainder of the filing, or as otherwise instructed by the Department.

(2) If an applicant requests a hearing on a consolidated basis under section 1402(f)(2.1) of the act, in addition to filing Form A with the Commissioner, the applicant shall file a copy of the Form A with the NAIC in electronic form.

(d) Forms shall be prepared on 8 1/2 inches x 11 inches paper and preferably bound at the top or the top left-

hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. Copies of forms, financial statements or exhibits shall be clear, easily readable and suitable for review and reproduction. Debits in credit categories and credits in debit categories shall be designated so that they are clearly distinguishable on photocopies. An insurer may request that the Department accept a form in an electronic format only. Upon the Department's request, an insurer shall prepare an electronic version of the form, which may be submitted by secure e-mail, if this option is available to a company, or on CD-ROM mailed or hand-delivered to the Department.

(e) Forms shall be completed in the English language and monetary values shall be stated in United States currency. If a financial statement, exhibit or other paper or document filed with the form is in a foreign language, it shall be accompanied by a translation into the English language and monetary value shown in a foreign currency normally shall be converted into United States currency utilizing the conversion rate in effect as of the financial statement date.

§ 25.13. Forms—incorporation by reference, summaries and omissions.

(a) Information required in Form A, B or D—F located in Appendix A may be incorporated by reference as provided in this subsection if the incorporation would not make the information provided in the form incomplete, unclear or confusing. Information required by an item in Form A, B or D—F may be incorporated by reference in answer or partial answer to another item. Information contained in a financial statement, annual report, proxy statement, statement filed with a governmental authority or another document may be incorporated by reference in answer or partial answer to an item in Form A, B or D—F if the document or paper is filed as an exhibit to the form. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the Commissioner which were filed within the immediately preceding 3 years need not be attached as exhibits if there has been no change in the information already on file. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that the material is to be incorporated by reference in answer to the item.

(b) If an item requires a summary or outline of the provisions of a document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to the brief statement, the summary or outline may incorporate by reference particular parts of an exhibit or document currently on file with the Commissioner which was filed within the immediately preceding 3 years and may be qualified in its entirety by that reference. When two or more documents required to be filed as exhibits are substantially identical in all material respects, except as to the parties thereto, the dates of execution or other details, a copy of only one of the documents needs be filed with a schedule identifying the omitted documents and setting forth the material details in which the omitted documents differ from the document which is filed.

§ 25.14. Forms—information unknown or unavailable and extension of time to furnish.

If it is impractical to furnish required information, document or report at the time it is required to be filed, a separate document shall be filed with the Commissioner:

(1) Identifying the information, document or report in question.

(2) Stating why the filing thereof at the time required is impractical.

(3) Requesting an extension of time for filing the information, document or report to a specified date. The request for extension shall be deemed granted unless the Commissioner within 30 days after receipt thereof denies the request.

§ 25.15. Forms—additional information and exhibits.

(a) In addition to the information expressly required to be included in Forms A—F located in Appendix A, the person filing shall provide further material information, if any, as necessary for the completion or clarity of the information expressly required in the form. The person filing may also file exhibits as desired in addition to those expressly required by the form. The exhibits shall be marked to indicate clearly the subject matters to which they refer. The Commissioner may require the person filing the form to provide additional information as may be necessary to determine compliance with the act.

(b) Changes to Forms A—F must include on the top of the first page the phrase “Change No. (insert number) to” and indicate the date of the change and not the date of the original filing.

§ 25.16. Acquisition of control—statement filings.

(a) A person required to file a statement under section 1402 of the act (40 P. S. § 991.1402) shall furnish the required information on Form A located in Appendix A as prescribed by this chapter. If the information requirements in section 1403(c)(2) of the act and the criteria in section 1403(d)(2) of the act (40 P. S. §§ 991.1403(c)(2) and 991.1403(d)(2)), regarding the competitive impact of an acquisition in this Commonwealth, apply to a Form A filing, the person shall also furnish the required information on Form E located in Appendix A as prescribed by this chapter.

(b) A person filing a request under section 1402(g) of the act for an exemption from section 1402 of the act is not required to file a Form A as prescribed by this chapter but shall provide information deemed by the Commissioner as necessary to determine that an offer, request, invitation, agreement or acquisition does either of the following:

(1) Has not been made or entered into for the purpose and will not have the effect of changing or influencing the control of a domestic insurer.

(2) Otherwise is not comprehended within the purposes of section 1402 of the act.

(c) A person required to file a preacquisition notification under section 1403(b) of the act for an acquisition not subject to a Form A filing under section 1402 of the act shall file Form E as prescribed by this chapter.

(d) Under section 1403(c)(2) of the act the Department may require material and information in addition to the information required by Form E as reasonably necessary to determine whether the proposed acquisition, if consummated, would exceed the competitive standard of section 1403(d) of the act. The additional information required may include an opinion of an economist as to the competitive impact in this Commonwealth of an acquisition that would exceed the competitive standard of section 1403(d) of the act. The opinion shall be obtained by the person filing the form and shall be accompanied by a

summary of the economist’s education and experience indicating the economist’s ability to render an informed opinion.

(e) Under section 1402(d) of the act, a person shall file with the Department and send to the insurer an amendment disclosing a material change in the information furnished on Forms A and E within 2 business days after the person learns of the change. If the acquiring person is not an individual, a material change includes changes in directors, executive officers or owners of 10% or more of the voting securities of the acquiring person. In addition, the person shall file with the Department and send to the insurer within 5 business days an amendment disclosing a change other than a material change in the information furnished on Forms A and E arising after the date on which the form was filed but before a determination is made on the filing.

(f) If the person being acquired is deemed to be a “domestic insurer” under section 1402(a)(2)(i) of the act, the name of the domestic insurer on the first page of Forms A and E shall be indicated as follows: “ABC Insurance Company, a subsidiary of XYZ Holding Company.”

(g) If a person deemed to be a “domestic insurer” under section 1402(a)(2)(i) of the act is being acquired, references to “the insurer” in Forms A and E shall refer to both the domestic subsidiary insurer and the person being acquired.

§ 25.18. Summary of registration—statement filing.

An annual registration statement filed under section 1404 of the act (40 P. S. § 991.1404) shall include the information required on Form C located in Appendix A as prescribed by this chapter.

§ 25.20. Disclaimers and termination of registration.

(a) A disclaimer of affiliation under section 1404(k) of the act (40 P. S. § 991.1404(k)) or a request for termination of registration under section 1404(g) of the act claiming that a person does not, or will not upon the taking of some proposed action, control another person, referred to as the “subject,” within this subsection, must contain the following information:

(1) The number of authorized, issued and outstanding voting securities of the subject.

(2) With respect to the person whose control is denied and the affiliates of that person, the number and percentage of shares of the subject’s votes that shareholders would be entitled to cast in the election of directors which are held of record or known to be beneficially owned, and the number of the shares concerning which there is a right to acquire, directly or indirectly.

(3) The material relationships and bases for affiliation between the subject and the person whose control is denied and the affiliates of that person.

(4) A statement explaining why the person should not be considered to control the subject along with supporting information.

(b) A request for termination of registration shall be deemed to have been granted unless the Department, within 30 days after receipt of the request, notifies the registrant otherwise.

§ 25.21. Transactions subject to prior notice—notice filing.

(a) An insurer required to give notice of a proposed transaction under section 1405(a)(2) of the act (40 P. S.

§ 991.1405(a)(2)) shall furnish the required information on Form D located in Appendix A as prescribed by this chapter.

(b) The insurer shall file an amendment to Form B reporting changes in the information furnished on Form D, including a change in the effective date of the transaction, within 15 days after the end of a month in which the transaction is effectuated.

(c) An insurer may not enter into a proposed transaction if a material change occurs in the information furnished on Form D unless the insurer has filed an amended Form D with the Department at least 30 days prior to entering into the transaction, or a shorter period the Department may permit, and the Department has not disapproved the amended transaction within that time period.

(d) New or amended management agreements, service contracts, tax allocation agreements, guarantees and cost-sharing arrangements (including leases), involving a domestic insurer and a person in its insurance holding company system must:

(1) Be filed for prior approval under section 1405(a)(2)(v) of the act.

(2) At a minimum and as applicable:

(i) Identify the person providing services and the nature of the services.

(ii) Set forth the methods to allocate costs.

(iii) Require timely settlement, not less frequently than on a quarterly basis, and compliance with the NAIC Accounting Practices and Procedures Manual.

(iv) Prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement.

(v) State that the insurer shall maintain oversight for functions provided to the insurer by the affiliate and that the insurer shall monitor services annually for quality assurance.

(vi) Define books and records of the insurer to include the books and records developed or maintained under or related to the agreement.

(vii) Specify that the books and records of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer.

(viii) Include standards for termination of the agreement with and without cause.

(ix) Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliated providing the services.

(x) Specify that, if the insurer is placed in receivership or seized by the Commissioner under Article V of The Insurance Department Act of 1921 (40 P.S. §§ 221.1—221.63):

(A) The rights of the insurer under the agreement extend to the receiver or Commissioner.

(B) The books and records shall immediately be made available to the receiver or Commissioner immediately upon the receiver or the Commissioner's request.

(xi) Specify that the affiliate does not have an automatic right to terminate the agreement if the insurer is placed in receivership under Article V of The Insurance Department Act of 1921.

(xii) Specify that the affiliate will continue to maintain systems, programs or other infrastructure notwithstanding a seizure by the Commissioner under Article V of The Insurance Department Act of 1921 and shall make them available to the receiver for as long as the affiliate continues to receive timely payment for services rendered.

(e) For purposes of subsection (d), "amended" does not include:

(1) The continuation of an agreement or contract with no specified term or that is automatically renewed if provisions are not altered.

(2) The addition of an affiliate if the filing evidencing the notification of the addition is made with a domiciliary regulator in another state.

§ 25.21a. Enterprise risk report.

The ultimate controlling person of an insurer required to file an enterprise risk report under section 1404(k.1) of the act (40 P.S. § 991.1404(k.1)) shall furnish the required information on Form F as set forth in Appendix A. If the Commissioner approves a merger or acquisition of control, a revised enterprise risk report shall be filed within 30 days after the end of the month in which the acquisition of control occurs unless otherwise ordered by the Commissioner.

§ 25.22. All dividends and other distributions.

(a) Under section 1404(e) of the act (40 P.S. § 991.1404(e)) a registered insurer is required to report to the Department all dividends and other distributions to shareholders within 5 business days following the declaration thereof and at least 10 days, commencing from the date of receipt by the Department, prior to payment thereof. The report shall include the information set forth in section 1404(e) of the act and subsection (c)(1)—(6) except that the information set forth in subsection (c)(6) is not required for dividends other than dividends reported under section 1405(b) of the act (40 P.S. § 991.1405(b)) and dividends and other distributions filed under section 337.8 of the act (40 P.S. § 459.8).

(b) Under section 337.8 of the act a domestic insurance company, association or exchange may pay dividends and other distributions to shareholders only out of unassigned funds as defined in section 337.8(e) of the act or upon approval of the Commissioner. Information filed with the Commissioner under section 337.8 of the act shall include the information set forth in subsection (c)(1)—(6).

(c) Requests for approval of extraordinary dividends or another extraordinary distribution to shareholders under section 1405(b) of the act shall include the following:

(1) The amount of the proposed dividend or other distribution.

(2) The date established for payment of the dividend or other distribution.

(3) A statement as to whether the dividend or other distribution is to be in cash or other property and, if in property, a description thereof, its cost and its fair market value together with an explanation of the basis for valuation.

(4) A copy of the calculations determining that the proposed dividend or other distribution is or is not extraordinary. The work paper shall include the following information with respect to the domestic insurer:

(i) The amounts, dates and form of payment of all dividends and other distributions made within the previous 12 consecutive months ending on the date fixed for

payment of the proposed dividend and commencing on the day after the same day of the same month in the last preceding year.

(ii) Surplus, total capital and surplus, as of the 31st day of December next preceding.

(iii) The net income for the 12-month period ending the 31st of December next preceding.

(5) A statement demonstrating the transaction's compliance with section 1405(d) of the act by describing the effect of the proposed dividend or other distribution upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

(6) A balance sheet and statement of income for the period intervening from the last annual statement filed with the Commissioner and the end of the month preceding the month in which the request for dividend or other distribution approval is submitted.

(d) Reports of dividends and other distributions under this section shall include on the top of the first page the phrase: "Notice of Dividend or Other Distribution" and the name of the insurer.

(e) The insurer shall report changes in information furnished under subsection (c) within 15 days after the end of a month in which the dividend or other distribution is paid. If the dividend or other distribution is required to be reported on Form B located in Appendix A, the insurer shall report the changes as an amendment to Form B. If the dividend or other distribution is not subject to a Form B filing, the report of changes shall state on the top of the first page the phrase: "Change No. (insert number) to," and shall include the date of the change, date of declaration, amount paid, payment date, form of payment and the nature of and reason for the change.

(f) An insurer may not pay a dividend or other distribution under sections 337.8 or 1405(b) of the act if a material change occurs in the information reported under this section unless the insurer has filed an amended report with the Department at least 30 days prior to paying the dividend or other distribution, or a shorter period the Department may permit, and the Department has not disapproved the amended report within that time period.

APPENDIX A

FORM A

STATEMENT REGARDING THE ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER

(Name of Domestic Insurer)

BY: (Name of Acquiring Person (Applicant))

Filed with the Insurance Department of the Commonwealth of Pennsylvania

Dated:

Name, title, address and telephone number of individual to whom notices and correspondence concerning this form should be addressed:

Item 1. Insurer and Method of Acquisition

State the name, NAIC code number and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

Item 2. Identity and Background of the Applicant

A. State the name and address of the applicant seeking to acquire control over the insurer.

B. If the applicant is not an individual, state the nature of its business operations for the past five (5) years or for such lesser period as the person and any predecessors thereof shall have been in existence. Briefly describe the business intended to be done by the applicant and the applicant's subsidiaries.

C. Furnish a chart or listing clearly presenting the identities and the interrelationships among the applicant and all affiliates of the applicant. Indicate in the chart or listing the percentage of voting securities of each person which is owned or controlled by the applicant or by any other person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of control. As to each person specified in the chart or listing indicate the type of organization (e.g. corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

Item 3. Identity and Background of Individuals Associated with the Applicant

Furnish a third-party background check upon request and biographical affidavit for (1) the applicant if the applicant is an individual or (2) all persons who are directors, executive officers or owners of 10% or more of the voting securities of the applicant if the applicant is not an individual. Biographical affidavits filed with the Department within the immediately preceding 3 years need not be included if there has been no change in the information already on file.

Biographical affidavits shall be signed in the original and shall include the following:

A. Name and business address.

B. Present principal business activity, occupation or employment including position and office held and the name, principal business and address of any corporation or other organization in which employment is carried on.

C. Material occupations, positions, offices or employment during the last five (5) years, giving the starting and ending date of each and the name, principal business and address of any business corporation or other organization in which each occupation, position, office or employment was carried on. If any occupation, position, office or employment required licensing by or registration with any Federal, state or municipal governmental agency, indicate that fact, the current status of the licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith.

D. Whether or not the person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last ten (10) years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

The Department will accept copies of original, signed biographical affidavits filed with the chief insurance regulatory official of another jurisdiction if the following conditions are met:

(1) The identity of the chief insurance regulatory official holding the original affidavit and the date of the original filing are provided in this statement.

(2) The original affidavit was filed within the immediately preceding three years.

(3) There has been no change in the information required in the affidavit.

Item 4. Nature, Source and Amount of Consideration

A. Describe the nature, source and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower, and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes and security arrangements relating thereto.

B. Explain the criteria used in determining the nature and amount of the consideration.

C. If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, the applicant must specifically request that the identity be kept confidential.

Item 5. Future Plans of Insurer

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate the insurer, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.

Item 6. Voting Securities to be Acquired

State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

Item 7. Ownership of Voting Securities

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates or any person listed in Item 3.

Item 8. Contracts, Arrangements, or Understandings with Respect to Voting Securities of the Insurer

Give a full description of any contracts, arrangements or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any person listed in Item 3 is involved, including, but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description shall identify the person with whom such contracts, arrangements or understandings have been entered into.

Item 9. Recent Purchases of Voting Securities

Describe any purchases of any voting securities of the insurer by the applicant, its affiliates or any person listed in Item 3 during the twelve (12) calendar months preceding the filing of this statement.

Include in the description the dates of purchase, the name of the purchasers, and the consideration paid or agreed to be paid therefor.

State whether any shares so purchased are hypothecated.

Item 10. Recent Recommendations to Purchase

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates or any person listed in Item 3 during the twelve (12) calendar months preceding the filing of this statement.

Item 11. Agreements with Broker-Dealers

Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

Item 12. Financial Statements and Exhibits

A. Financial statements and exhibits, and three-year financial projection of the insurer(s) shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

B. The financial statements shall include the annual financial statements of the persons identified in Item 2(c) for the preceding five (5) fiscal years (or for such lesser period as the applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of the person's last fiscal year, if that information is available. Statements may be prepared on either an individual basis, or, unless the Commissioner otherwise requires, on a consolidated basis if consolidated statements are prepared in the usual course of business.

The annual financial statements of the applicant shall be accompanied by the certificate of an independent public accountant to the effect that the statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the Annual Statement of that person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of that state.

C. If the acquiring person is an individual, the Department may require the filing of Federal income tax returns in lieu of audited financial statements. Any returns filed shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the Department or any other person.

D. File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto, any proposed employment, consultation, advisory or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by this chapter.

Item 13. Agreement Requirements for Enterprise Risk Management

Applicant agrees to provide, to the best of its knowledge and belief, the information required by Form F within thirty (30) days after the end of the month in which the acquisition of control occurs and annually thereafter as long as control exists or upon request as necessary for the Commissioner to evaluate enterprise risk of the insurer unless otherwise ordered by the Commissioner.

Item 14. Signature and Certification

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of Section 1402 of the act _____ has caused this application to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, _____.

(SEAL)

Name of Applicant

BY (Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached application dated _____, _____, for and on behalf of _____;

(Name of Applicant)

that (s)he is the _____ of such company
(Title of Officer)

and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name beneath)

FORM B**INSURANCE HOLDING COMPANY SYSTEM
ANNUAL REGISTRATION STATEMENT**

Filed with the Insurance Department of the Commonwealth of Pennsylvania by (Name of Registrant) on behalf of the following insurance companies:

Name Address

NAIC Code Number State of Domicile

Date: _____, _____

Name, title, address and telephone number of individual to whom notices and correspondence concerning this statement should be addressed:

Item 1. Identity and Control of Registrant

Furnish the exact name of each insurer registering or being registered (hereinafter called "the Registrant"), the home office address and principal executive offices of each; the date on which each Registrant became part of the insurance holding company system; and the method(s) by which control of each Registrant was acquired and is maintained.

Item 2. Organizational Chart

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate.

If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in the chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

Item 3. Ultimate Controlling Person

As to an ultimate controlling person in the insurance holding company system furnish the following information:

A. Name.

B. Home office address.

C. Principal executive office address.

D. The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.

E. The principal business of the person.

F. The name and address of any person who holds or owns 10% or more of any class of voting security, the class of the security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned.

G. If court proceedings involving a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings and the date when commenced.

Item 4. Biographical Information

If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, furnish the following information for the directors and executive officers of an ultimate controlling person in the form of biographical affidavits signed in the original: the individual's name and address, his or her principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past five years. If the ultimate controlling person is an individual, furnish the following information in the form of a biographical affidavit signed in the original: the individual's name and address, his or her principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations. Biographical affidavits filed with the Department within the immediately preceding three years need not be included if there has been no change in the information already on file. The Department will accept copies of original, signed biographical affidavits filed with the chief insurance regulatory official of another jurisdiction if the following conditions are met:

(1) The identity of the chief insurance regulatory official holding the original affidavit and the date of the original filing are provided in this statement.

(2) The original affidavit was filed within the immediately preceding 3 years.

(3) There has been no change in the information required in the affidavit.

Item 5. Transactions and Agreements

Briefly describe the following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year, including extraordinary dividends and other material transactions reported under §§ 25.21 and 25.22 of this chapter, between the Registrant and its affiliates:

A. Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;

B. Purchases, sales or exchanges of assets;

C. Transactions not in the ordinary course of business, including contributions of assets to Registrant;

D. Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the Registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the Registrant's business;

E. All management agreements, service contracts and all cost-sharing arrangements;

F. Reinsurance agreements;

G. Dividends and other distributions to shareholders;

H. Tax allocation agreements; and

I. Any pledge of the Registrant's stock and/or of the stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.

Sales, purchases, exchanges, loans or extensions of credit, investments or guarantees involving one-half of 1% or less of the Registrant's admitted assets as of the 31st day of December next preceding shall not be deemed material and need not be disclosed.

The description shall be in a manner as to permit the proper evaluation thereof by the Commissioner, and shall include at least the following: the effective date, nature and purpose of the transaction, the nature and amounts of any payments or transfers of assets between the parties, the identity of all parties to the transaction, and relationship of the affiliated parties to the Registrant.

Item 6. Litigation or Administrative Proceedings

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which an ultimate controlling person or any of its directors or executive officers was a party or of which the property of an ultimate controlling person or any of its directors or executive officers is or was the subject; give the names of the parties and the court or agency in which the litigation or proceeding is or was pending:

A. Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and

B. Proceedings which may have a material effect upon the solvency or capital structure of an ultimate controlling person including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.

Item 7. Statement Regarding Plan or Series of Transactions

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of

like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

Item 8. Financial Statements and Exhibits

A. Financial statements and exhibits should be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

B. If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, the financial statements shall include the annual financial statements of any ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year. Financial statements are required for an ultimate controlling person who is an individual as well as for a corporation or other type of business organization.

If a holding company system includes more than one ultimate controlling person, annual financial statements are required for each ultimate controlling person unless the Commissioner, in the Commissioner's discretion, finds that annual financial statements for one or more of the ultimate controlling persons are not necessary to carry out the act.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent that information is available. Financial statements may be prepared on either an individual basis, or unless the Commissioner otherwise requires, on a consolidated basis if the consolidated statements are prepared in the usual course of business.

Other than with respect to the foregoing, such financial statement shall be filed in a standard form and format adopted by the NAIC unless an alternative form is accepted by the Commissioner. Documentation and financial statements filed with the Securities and Exchange Commission or audited GAAP financial statements shall be deemed to be an appropriate form and format.

Unless the Commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that the statements present fairly the financial position of an ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If an ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement filed in the insurer's domiciliary jurisdiction and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of that jurisdiction. Any ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the *Personal Financial Statements Guide* by the American Institute of Certified Public Accountants. Personal financial statements shall be accompanied by the independent public accountant's Standard Review Report stating that the accountant is not aware of any material

modifications that should be made to the financial statements in order for the statements to be in conformity with generally accepted accounting principles.

C. Exhibits shall include copies of the latest annual reports to shareholders of an ultimate controlling person and proxy material used by an ultimate controlling person; and any additional documents or papers required by this chapter.

Item 9. Form C Required

A Form C, Summary of Registration Statement, must be prepared and filed with this Form B.

Item 10. Corporate Governance and Internal Controls

The insurer shall furnish a statement that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented and will continue to maintain and monitor corporate governance and internal control procedures.

Item 11. Signature and Certification

SIGNATURE

Pursuant to the requirements of Section 1404 of the act, the Registrant has caused this annual registration statement to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, _____.

(SEAL)

Name of Registrant

BY (Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached annual registration statement dated _____, _____, for and on behalf of _____; that (s)he is the

(Name of Company)

_____ of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name beneath)

FORM D

PRIOR NOTICE OF A TRANSACTION

Filed with the Insurance Department of the Commonwealth of Pennsylvania by (Name of Registrant) on behalf of the following insurance companies:

Name Address

NAIC Code Number State of Domicile

Date: _____, _____

Name, title, address and telephone number of individual to whom notices and correspondence concerning this statement should be addressed:

Item 1. Identity of Parties to Transaction

Furnish the following information for each of the parties to the transaction:

A. Name.

B. Home office address.

C. Principal executive office address.

D. The organizational structure, i.e. corporation, partnership, individual, trust, etc.

E. A description of the nature of the parties' business operations.

F. Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties.

G. If the transaction is with a non-affiliate, the name(s) of the affiliate(s) which will receive, in whole or in substantial part, the proceeds of the transaction.

Item 2. Description of the Transaction

Furnish the following information for each transaction for which notice is being given:

A. A statement as to whether notice is being given under Section 1405(a)(2)(i), (ii), (iii), or (iv) or (v) of the act.

B. A description of the nature and purpose of the transaction, including the anticipated immediate and long-term effect of the transaction on the financial condition of the insurer.

C. A statement of how the transaction meets the fair and reasonable standard of section 1405(a)(1)(i) of the Act (40 P. S. § 991.1405(a)(1)(i)).

D. The proposed effective date of the transaction.

E. A copy of the management agreement, service contracts, tax allocation agreement, guarantee or cost-sharing arrangement.

Item 3. Sales, Purchases, Exchanges, Loans, Extensions of Credit, Guarantees, Investments, Pledges of Assets or Contributions to Surplus equal to or exceeding 3% of the insurer's admitted assets or 25% of surplus as regards policyholders reported pursuant to 40 P. S. § 991.1405(a)(2)(i). Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, investment, or pledge of assets, including assets to be received by the domestic insurer as a contribution to its surplus; whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice; a description of the terms of any securities being received, if any; and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation and supporting documentation of the basis for valuation.

If the transaction involves a loan, extension of credit or a guarantee, furnish a description of the maximum amount which the insurer will be obligated to make available under the loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee or other arrangement, state the time period during which the investment, guarantee or other arrangement will remain in effect, together with any provisions for extensions or renewals of the investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus and the insurer's accounting treatment.

No notice need be given under this item if the maximum amount which can at any time be outstanding or for which the insurer can be legally obligated under the loan, extension of credit or guarantee is less than 3% of the insurer's admitted assets or 25% of its surplus as of the 31st day of December next preceding. Please see item 6 for the reporting of matters below these thresholds.

Item 4. Loans or Extensions of Credit to a Non-Affiliate

If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making the loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of or make investments in any affiliate. Describe the amount and source of funds, securities, property or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of and supporting documentation for the basis of valuation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the loan or extension of credit is one which equals less than 3% of the insurer's admitted assets or 25% of its surplus as of the 31st day of December next preceding.

Item 5. Reinsurance

If the transaction is a reinsurance agreement or modification thereto, as described by Section 1405(a)(2)(iii) of the act or a reinsurance pooling agreement or modification thereto as described by Section 1405(a)(2)(iii)(C) of the act, furnish a description of the known and/or estimated amount of liability to be ceded and/or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and non-affiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

Notice shall be given for all reinsurance pooling agreements including modifications thereto.

No notice need be given for reinsurance agreements or modifications thereto if the reinsurance premium or the projected reinsurance premium or change in the insurer's liabilities in any of the next three years, in connection with the reinsurance agreement or modification thereto is less than 5% of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding.

Item 6. Management Agreements, Service Contracts, Tax Allocation Agreements, Guarantees and Cost-Sharing Arrangements reported pursuant to 40 P.S. § 991.1405(a)(2)(v).

A. For management agreements and service contracts, furnish:

(1) A brief description of the managerial responsibilities, or services to be performed.

(2) A brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

B. For cost-sharing arrangements, furnish:

(1) A brief description of the purpose of the agreement.

(2) A description of the period of time during which the agreement is to be in effect.

(3) A brief description of each party's expenses or costs covered by the agreement.

(4) A brief description of the accounting basis to be used in calculating each party's costs under the agreement.

(5) A brief statement as to the effect of the transaction upon the insurer's policyholder surplus.

(6) A statement regarding the cost allocation methods that specifies whether proposed charges are based on "cost or market." If market based, rationale for using market instead of cost, including justification for the company's determination that amounts are fair and reasonable.

(7) A statement regarding compliance with the NAIC Accounting Practices and Procedure Manual regarding expense allocation.

C. For tax allocation agreements and guarantees, furnish:

(1) A brief description of the purpose of the agreement.

(2) A description of the period of time during which the agreement is to be in effect.

(3) A brief statement as to the effect of the transaction upon the insurer's policyholder surplus.

(4) A statement regarding compliance with the NAIC Accounting Practices and Procedure Manual regarding expense allocation.

Item 7. Signature and Certification

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of Section 1405 of the act, _____ has caused this notice to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, _____.

(SEAL)

Name of Applicant

By (Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached notice dated _____, _____, for and on behalf of _____; that (s)he is

(Name of Applicant)

the _____ of such company and that (s)he

(Title of Officer)

is authorized to execute and file such instrument. Depo- nent further says that (s)he is familiar with such instru- ment and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name beneath)

FORM E

PRE-ACQUISITION NOTIFICATION STATEMENT OF THE POTENTIAL COMPETITIVE IMPACT OF A PROPOSED MERGER OR ACQUISITION

(Name of Insurer)

BY: (Name of Acquiring Persons)

Filed with the Insurance Department of the Common- wealth of Pennsylvania

Date:

Name, title, address and telephone number of person completing this statement:

Item 1. Name and Address

State the names and addresses of acquiring persons.

Item 2. Name and Addresses of Affiliated Persons

State the names and addresses of the persons affiliated with those listed in Item 1. Describe their affiliations.

Item 3. Nature and Purpose of Proposed Merger or Acquisition

State the nature and purpose of the proposed merger or acquisition.

Item 4. Nature of Business

State the nature of the business performed by each of the persons identified in response to Item 1 and Item 2.

Item 5. Market and Market Share

State specifically what market and market share the persons identified in Item 1 and Item 2 currently enjoy in this Commonwealth in each insurance market which, under section 1403(b)(2)(v) of the act (40 P. S. § 1403(b)(2)(v)), causes the proposed merger or acquisition not to be exempted from Article XIV of the act. Provide historical market and market share data for each person identified in Item 1 and Item 2 for the past 5 years, or for the number of years the person and any predecessors thereof have been transacting business if less than 5 years, and identify the source of the data. Provide a determination as to whether the proposed acquisition or merger, if consummated would violate the competitive standards as stated in Section 1403 of the Act (40 P. S. § 991.1403(d)(1)). If the proposed acquisition or merger would violate competitive standards, provide justification of why the acquisition or merger would not substantially lessen competition or create a monopoly in the Commonwealth.

For purposes of this item, market means direct written insurance premium in this Commonwealth for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this Commonwealth.

Item 6. Signature and Certification

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of Section 1402 of the act _____ has caused this application to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, _____.

(SEAL)

Name of Applicant

BY (Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached application dated _____, _____, for and on behalf of _____; that (s)he is

(Name of Applicant)

the _____ of such company and that (s)he

(Title of Officer)

is authorized to execute and file such instrument. Depo- nent further says that (s)he is familiar with such instru- ment and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name beneath)

FORM F

ENTERPRISE RISK REPORT

Filed with the Insurance Department of _____

By

Name of Registrant/Applicant

On Behalf of/Related to Following Insurance Companies

Name Address

Date: _____, 20 _____

Name, Title, Address and telephone number of Indi- vidual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

Item 1. Enterprise Risk

The Registrant/Applicant, to the best of its knowledge and belief, shall provide information regarding the following areas that could produce enterprise risk as defined in section 1401 of the act (40 P. S. § 991.1401) provided such information is not disclosed in the Insurance Holding Company System Annual Registration Statement filed on behalf of itself or another insurer for which it is the ultimate controlling person:

A. Any material developments regarding strategy, internal audit findings, compliance or risk management affecting the insurance holding company system.

B. Acquisition or disposal of insurance entities and reallocating of existing financial or insurance entities within the insurance holding company system.

C. Any changes of shareholders of the insurance holding company system exceeding ten percent (10%) or more of voting securities.

D. Developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company system.

E. Business plan of the insurance holding company system and summarized strategies for next 12 months.

F. Identification of material concerns of the insurance holding company system raised by a supervisory college, if any, in last year.

G. Identification of insurance holding company system capital resources and material distribution patterns.

H. Identification of any negative movement, or discussions with rating agencies which may have caused, or may cause, potential negative movement in the credit ratings and individual insurer financial strength ratings assessment of the insurance holding company system (including both the rating score and outlook).

I. Information on corporate or parental guarantees throughout the holding company and the expected source of liquidity should such guarantees be called upon.

J. Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could adversely affect the insurance holding company system.

The Registrant/Applicant may attach the appropriate form most recently filed with the U.S. Securities and Exchange Commission, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the form provides responsive information. If the Registrant/Applicant is not domiciled in the U.S., it may attach its most recent public audited financial statement filed in its country of domicile, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the financial statement provides responsive information.

Item 2: Obligation to Report

If the Registrant/Applicant has not disclosed any information pursuant to Item 1, the Registrant/Applicant shall include a statement affirming that, to the best of its knowledge and belief, it has not identified enterprise risk subject to disclosure pursuant to Item 1.

Item 3: Signature and Certification

SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of Section 1404 of the act, the Registrant has caused this enterprise risk report to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, ____ .

(SEAL)

Name of Registrant

By (Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached enterprise risk report dated _____, _____, for and on behalf of (Name of Company); that (s)he is the (Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name beneath)

[Pa.B. Doc. No. 14-1035. Filed for public inspection May 16, 2014, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

[49 PA. CODE CH. 47]

Biennial Renewal Fees

The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) amends § 47.4 (relating to licensure fees) to read as set forth in Annex A. The final-form rulemaking increases the biennial license renewal fees for licensed social workers, licensed clinical social workers, licensed marriage and family therapists, and licensed professional counselors from \$75 to \$95. Although the final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*, it is expected that the increased fees will be implemented for the March 1, 2015, renewal.

Statutory Authority

Section 18(c) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (act) (63 P. S. § 1918(c)) requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures over a 2-year period.

Background and Need for Amendment

Under section 18(c) of the act, the Board is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In addition, the act provides that the Board shall increase fees if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period. The Board raises the majority of its revenue through biennial renewal fees. A small percentage of its revenue comes from application fees and civil penalties. At the February 2, 2012, Board meeting, representatives from the Department of State's (Department) Bureau of Finance and Operations (BFO) presented a summary of the Board's revenue and expenses for Fiscal Year (FY) 2009-2010 and FY 2010-2011, and projected revenue and expenses through FY 2014-2015.

At the time, the BFO projected that, without an increase to the biennial renewal fees, the Board would incur significant deficits throughout the foreseeable future. Therefore, the Board determined that it was necessary to raise fees to meet or exceed projected expenditures, in compliance with section 18(c) of the act. As a result, the Board voted at its March 13, 2012, meeting to increase the biennial renewal fees to \$115.

Summary of Comments

The Board published the proposed rulemaking at 43 Pa.B. 1281 (March 9, 2013) with a 30-day public comment period. During the public comment period, the Board received comments from the Pennsylvania Society for Clinical Social Work (PSCSW), the National Association of Social Workers—Pennsylvania Chapter (NASW-PA) and 16 individual licensed social workers/licensed clinical social workers. On April 24, 2013, the Board received comments from the House Professional Licensure Committee (HPLC). On May 8, 2013, the Independent Regulatory Review Commission (IRRC) submitted comments to the Board.

PSCSW submitted comments on behalf of its 720 members requesting that there not be a raise in the biennial renewal fee. PSCSW pointed out that with social services losing funding and Medicare and managed care companies lowering the rate of reimbursement, now is not the time to raise licensure fees. NASW-PA likewise suggested that higher licensure fees will dissuade scores of social workers from obtaining a license and discourage current licensees from renewing, thus negatively impacting the Board's revenue stream. NASW-PA encouraged the Board to consider pursuing legislative action similar to House Bill 2274 of the 2011-2012 session that would have provided professional licensure boards additional means of collecting fines, penalties and fees from licensees who violate the act, rules or regulations, rather than placing the entire burden on licensees. NASW-PA also asked for more information regarding the Board's expenses and an explanation of why the 2008 increase, which was projected to be sufficient through 2016, failed to meet expectations.

Each of the 16 individual licensees that commented asked the Board to consider no increase or a more modest increase in the biennial renewal fee. Nate Prentice, LCSW, pointed out that insurance reimbursement has been stagnant for years and social workers are struggling to make ends meet as the industry goes to "fee for service" with no benefits and no job security. He suggested that the Board's efforts are better directed at dealing with insurance regulation and reimbursements in this Commonwealth, noting that if social workers can get

a living wage, maybe they would be better able to afford a fee increase. Amy Waugh, LSW, stated that she values licensure and appreciates the need to generate revenue to fund regulation and control. She further suggested that implementing bachelor level licensure would generate more revenue for the Board. Finally, she asked what research the Board conducted to "inform the costs of renewal and best allocate the resources generated by such fees."

Kathryn De Frain, LSW, suggested that given the current economic situation, with increased costs for food, clothing and other essentials, many licensees who are not required to maintain licensure will reconsider renewing their licenses. She was joined in this sentiment by Adrienne Gallagher, LCSW, and Barbara Davis, LSW. Erica Hesselton, LSW, Marybeth Kennedy, LCSW, and others pointed out that more and more these increased costs of license renewal, as well as those associated with completion of continuing education credits, are paid by the licensees, not their employers. Sinnika Davis, LSW, agreed that the costs of completing 30 hours of continuing education are also rising and that social workers need a break. Kim Beamon, LCSW, also noted that social work salaries are traditionally low and it becomes cost prohibitive to maintain the license, pay for required continuing education, repay student loans and other costs associated with the profession. Elodie Witkowski, LCSW, noted that the increase is especially difficult for individuals with multiple licenses and certifications. Linda Sharp, LCSW, suggested that the amount of the proposed fee is "outrageous" when compared to the fees for other professions such as nurses and medical doctors, given the disparity in the pay. She also fears that the high cost of maintaining a license may dissuade organizations from requiring licensure as a condition of employment, especially in the area of children and youth services, which could result in a decrease in the quality of services rendered.

Amy Nothelfer, LSW, and Barbara Hemmendinger, LCSW, likewise opposed the proposed increase as a hardship. Nina Aniskevich, LSW, joined the other commentators and asked the Board to explore other options rather than raising these costs to licensees. Deborah Wiley, LCSW, asked why the fee is being raised and at a significant rate. Maryjane Lesnick Mertz, LCSW, suggested that the Board consider a smaller fee for social workers who see fewer clients.

The HPLC requested additional information pertaining to the major cost centers of the Board and explaining significant increases in its expenditures. IRRC shared the concerns of the commentators and the HPLC and asked for further explanation of why this increase is needed, the nature of increased expenditures and whether the Board considered lowering expenses.

Board Response

In response, the Board first notes that it has been well over a year since the BFO first met with the Board suggesting that a fee increase was necessary. Therefore, after considering all of the comments, the Board asked the BFO to provide an updated analysis of the Board's fiscal situation based on current data. The BFO provided updated information to the Board which was discussed at the Board's regularly scheduled meeting on June 11, 2013. Two changes in the Board's current financial condition were noted at that meeting. First, the number of active licensees has increased by nearly 1,000 since the proposed increase a year ago. Second, the Board has been able to reduce expenditures below the projections of a year ago so that the projected deficits have been reduced,

although not eliminated. For example, when the Board approved the increase in March 2012, the BFO projected a negative fund balance at the end of FY 2011-2012 of approximately \$209,350. However, the actual balance at the end of FY 2011-2012 came in at \$67,197.40. Although the situation still necessitates a fee increase, the situation is not as bleak as it appeared a year ago.

As previously noted, NASW-PA encouraged the Board to consider pursuing legislative action similar to House Bill 2274 of the 2011-2012 session that would have provided professional licensure boards additional means of collecting fines, penalties and fees from licensees who violate the act, rules or regulations, rather than placing the entire burden on licensees. In response, the Board notes that although House Bill 2274 did not pass last session, House Bill 261 of the 2013-2014 session, which would provide similar authority, is expected to pass. However, the Board notes that the amount of revenue produced through civil penalties fluctuates dramatically and in recent years represents only about 3% of total revenue. Civil penalties are not intended to generate revenue, rather they are imposed as a deterrent. At this point in time, the Board has a total of \$73,700 in unpaid civil penalties, which is approximately 5% of current biennial expenditures. Even if the Board were to collect all unpaid civil penalties, it would not eliminate the deficit between revenue and expenditures, nor would it be a solution on an on-going basis.

With regard to the 2008 increase falling short of expectations, the Board notes that at the time it was proposed in 2007, the BFO anticipated that the \$30 increase would enable the Board to meet its estimated expenditures for at least 9 years. See 37 Pa.B. 5264 (September 29, 2007). However, expenditures have increased considerably above what was projected at that time. For example, in 2007 projected biennial expenditures for the 2009-2011 biennium were expected to be \$1.226 million. Actual expenditures for that period came in at \$1,421,643.08. In 2007, projected expenditures for the 2011-2013 biennium were estimated at \$1.339 million. Actual expenditures for the current biennium are now expected to total at least \$1,431,326.85. Because the increased fee was set at a level capable of producing approximately \$1.3 million in biennial revenue, the deficit situation has not been entirely resolved with the prior increase and the act requires the Board to increase its fees so that biennial revenue is capable of covering projected expenditures over a 2-year period. Thus, the Board is faced with the difficult decision to increase fees again at this time beginning in 2015.

NASW-PA, the HPLC and IRRC asked for more information regarding what is driving the increase in expenditures. The major expense categories where increases have occurred in recent years are Board administration, legal office, hearing expenses, enforcement and investigation, professional compliance and professional health monitoring. Specifically, the Board's administrative costs tend to fluctuate depending on whether a given year is a "renewal year." During renewal years, additional staff is required to process license renewals for the over 17,000 licensees. To accurately assess the costs relating to Board administration, it is necessary to look at expenditures on a biennial basis (consisting of a renewal year, followed by a nonrenewal year). Board administrative costs for FYs 2006-2007 and 2007-2008 totaled \$481,610.30. For FYs 2008-2009 and 2009-2010, administrative costs were \$532,456.32, a 10.5% increase over the prior biennium. For FYs 2010-2011 and 2011-2012, administrative costs were \$545,979.26, an increase of 2.5% over the prior

biennium. This information indicates that administrative costs are still rising, but at a lower rate.

Legal office costs include the costs of the Board's legal counsel, as well as the cost of prosecuting, adjudicating and defending disciplinary matters before the Board. Legal office costs increased from \$152,697.29 in FY 2006-2007 to a high of \$212,646.07 in FY 2009-2010, and have since moderated to \$166,461.88 in FY 2011-2012. At the time of the last fee increase, legal office costs doubled in only 5 years (from \$75,326.65 in FY 2002-2003 to \$152,697.29 in FY 2006-2007). These costs fluctuate dramatically and are difficult to estimate because they are related to the number of complaints filed and the number of those complaints that merit prosecution. Hearing expenses are also dependent upon the number of prosecutions. Although these costs had moderated in recent years (averaging about \$7,000 a year), during the first 9 months of FY 2012-2013, the Board incurred about \$15,286.75 in hearing expenses, twice the average annual expenditures. Enforcement and investigation has also seen a dramatic increase in expenses from \$79,297.80 in FY 2006-2007 to \$156,257.15 in FY 2011-2012. Likewise, the professional compliance office expenses have nearly tripled over the same period from \$12,932.89 in FY 2006-2007 to \$37,579.45 in FY 2011-2012.

The costs associated with enforcement and investigation, professional compliance office, legal office and hearings are dependent upon the number of complaints filed, the number of those complaints that merit investigation and the number of investigations that result in prosecutions. It also depends greatly on the number of matters that are resolved through consent agreements and those that require hearings to be conducted. The presence of the Board and the Department on the Internet has resulted in increased public awareness of the complaint process and has made it easier to file a complaint against a licensee. Each complaint is reviewed or investigated to determine if a violation of the act or regulations has occurred. The legal office must then prosecute those matters where a violation is alleged. The Board incurs hearing expenses for each matter actually prosecuted, and the Board incurs additional legal costs defending any appeals. In FY 2009-2010, the Board imposed a total of 20 sanctions in disciplinary proceedings. In FY 2010-2011, the total number of sanctions imposed was 47. Ultimately, the number of complaints and disciplinary actions drive the bulk of the Board's costs, and the Board does not have control over the number of complaints filed against its licensees or the number of disciplinary actions brought by the Commonwealth. The Board has held the line on costs that it can control, such as Board member expenses and administrative costs.

It was suggested that licensees could withstand a fee increase if they were able to earn a living wage and that the Board's efforts should be directed at insurance regulation and reimbursements in this Commonwealth. Unfortunately, the Board's statutory authority does not extend to insurance or rates of reimbursement for social services. It was also suggested that "bachelor level licensing" would produce additional revenue for the Board. The Board is aware that NASW-PA has been pursuing legislation that would include licensing individuals at the bachelor's degree level, which would significantly increase the licensee population of the Board, thus producing additional revenue. The Board is also aware, through its experience since the addition of licensed clinical social workers, marriage and family therapists, and professional counselors, that additional licensees also lead to increasing expenses. The Board is monitoring Senate Bill 807 of the

2013-2014 session which would license bachelor level social workers because it would impact the Board's budget. At this time, it does not appear to be a solution that would solve the current deficit situation.

NASW-PA and other commentators suggested that a dramatic increase in the biennial renewal fee could cause many licensees who are not required to maintain licensure to let their licenses lapse without renewing, thus causing a loss of revenue to the Board. It is for that reason that the Board has tried to balance a more modest fee increase with ongoing efforts to hold the line on expenses. It was also suggested that the biennial renewal fee is out of line with other professional licensure fees. The Board surveyed the renewal fees for social workers, marriage and family therapists, and professional counselors from surrounding states and found fees ranging from \$60 to \$225. Comparing licensure fees across the professions, especially in relation to the relative salaries of those professions, is not instructive because the Board is not tasked with setting fees in relation to other professions, but rather is required by law to set its fees at a level necessary to cover its projected expenses in regulating licensed social workers, clinical social workers, marriage and family therapists, and professional counselors.

As a result of the updated financial information, and in response to the comments from the commentators, the Board determined that, although an increase is still necessary to comply with the act, a more modest \$20 increase is in order at this time. Therefore, the final-form rulemaking has been amended to increase the fee from \$75 to \$95. This fee is capable of producing sufficient biennial revenue to cover projected biennial expenses, eliminate the deficit and place the Board back on firm financial ground.

Description of the Final-Form Rulemaking

The final form rulemaking amends § 47.4 to increase the biennial renewal fee for all classes of license (licensed social workers, licensed clinical social workers, licensed marriage and family therapists, and licensed professional counselors) from \$75 to \$95.

Fiscal Impact

The final-form rulemaking will increase the biennial renewal fees for licensees of the Board. There are currently approximately 17,680 licensees that will be required to pay more to renew their licenses when they expire in 2015 and thereafter. Small businesses that employ licensees of the Board may be impacted if they choose to pay the biennial renewal fees on behalf of employees. The final-form rulemaking should not have other fiscal impact on the private sector, the general public or political subdivisions of this Commonwealth.

Paperwork Requirements

The final-form rulemaking will require the Board to alter some of its forms to reflect the new fees. However, the final-form rulemaking will not create additional paperwork for the regulated community or for the private sector.

Sunset Date

The act requires the Board to monitor its revenue and costs on a fiscal year and biennial basis. Therefore, a sunset date has not been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 21, 2013, the Board submitted a copy of the notice of proposed rulemaking, published

at 43 Pa.B. 1281, to IRRC and the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on April 9, 2014, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on April 10, 2014, and approved the final-form rulemaking.

Contact Person

Further information may be obtained by contacting Megan Castor, Counsel, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, P.O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The Board finds that:

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

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

(3) The amendment to the final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 43 Pa.B. 1281.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified in this preamble.

Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 47, are amended by amending § 47.4 to read as set forth in Annex A.

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

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

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

LAURA L. HINDS, MSW, LSW,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 44 Pa.B. 2592 (April 26, 2014).)

Fiscal Note: Fiscal Note 16A-6920 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 47. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

GENERAL PROVISIONS

§ 47.4. Licensure fees.

(a) The fee schedule for licensure as a licensed social worker, provisional license, licensed clinical social worker, licensed marriage and family therapist or licensed professional counselor shall be as follows:

(1) Application fee for licensure and original license issuance as a licensed social worker. \$25

(2) Biennial renewal for a licensed social worker, clinical social worker, marriage and family therapist or professional counselor \$95

(3) Application fee for provisional license and provisional license issuance. \$25

(4) Verification of licensure. \$15

(5) Certification of license, scores or hours \$25

(6) Application fee for licensure and original license issuance as a clinical social worker, marriage and family therapist or professional counselor \$45

(b) Applicants who were issued licenses prior to June 24, 1989, and who have not paid the appropriate fee in subsection (a) are required to remit the fee within 30 days of receipt of notice from the Board to maintain active licensure status. Failure to remit the required fee within that time will result in the license being placed on inactive status. A licensee holding oneself out as a "licensed social worker" while the license is on an inactive status may be subject to disciplinary proceedings before the Board.

[Pa.B. Doc. No. 14-1036. Filed for public inspection May 16, 2014, 9:00 a.m.]