

PROPOSED RULEMAKING

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 59]

Milk Sanitation

The Department of Agriculture (Department) proposes to amend §§ 59.1 and 59.22 (relating to definitions; and milk dating) to read as set forth in Annex A.

Statutory Authority

The act of July 2, 1935 (act) (P. L. 589, No. 210) (31 P. S. §§ 645—660g) provides the legal authority for this proposed rulemaking. In particular, section 21 of the act (31 P. S. § 660e) makes the Department generally responsible for the safety and wholesomeness of the milk supply and allows the Department to exclude milk from commerce if it fails to meet the requirements of the act, and section 19 of the act (31 P. S. § 660c) authorizes the Department to regulate for the proper enforcement of the act.

Purpose

The primary purpose of the proposed rulemaking is to amend § 59.22 to extend the maximum sell-by date for pasteurized milk by 3 days. The current maximum sell-by date is 14 days beginning after midnight of the date of pasteurization. Modern processing and refrigeration allows for the production of pasteurized milk that can remain on-the-shelf for longer periods of time without bacterial growth exceeding acceptable limits. The proposed rulemaking will follow the trend among states to extend sell-by dates for pasteurized milk—whether by designating a maximum sell-by period (as the proposed rulemaking would do) or allowing individual producers to demonstrate their pasteurization and refrigeration processes result in dairy products that remain within acceptable bacterial limits for the period in which they are marketed to consumers.

The proposed rulemaking would also reformat § 59.1. The section is currently divided into two subsections—one containing “general definitions” and the other containing definitions related to “milk and milk products.” The proposed rulemaking would delete these subsection designations and combine the two sets of terms and definitions into a single, more readable set.

In addition, proposed § 59.1 would add definitions of “aseptically processed dairy products” and “higher heat shorter time pasteurization,” two terms describing relatively recent advances in the processing of dairy products. These processes result in milk with a longer shelf life than milk processed through typical pasteurization processes. Proposed § 59.22(d) would exempt milk processed through either of these methods (and several other methods) from the sell-by date requirements described in that section.

Proposed § 59.22 would also describe the process by which the Department would sample and analyze pasteurized milk to ensure it does not exceed bacterial limits prescribed by regulation.

Background

The Department has increased the maximum “sell-by” date for pasteurized milk several times in recent years, to

keep pace with developments in the fluid milk industry. The nature of the fluid milk industry is changing. The number of milk processing plants and milk distributing plants has declined significantly. Where the average plant once distributed its pasteurized milk in a 100-150 mile radius, the average modern plant’s distribution radius is between 300 and 400 miles. Although these plants are fewer in number, they tend to be larger, more modern and more efficient. Modern processing, refrigeration and transportation gives pasteurized milk a longer shelf life than it has had in the past.

The milk “sell-by” date that appears on a container of pasteurized milk does not control the time within which the milk may be consumed, only the time within which it may be sold. All pasteurized milk supports bacterial growth that, in time, affects the flavor of the milk. Although the bacteria in milk does not pose a threat to the health of people who drink it, there is a general consumer expectation that milk will have a certain crisp, consistent taste.

Although the proposed rulemaking would extend the maximum sell-by date for pasteurized milk, a milk plant would have the discretion to use a shorter sell-by period. This exercise of discretion might be driven by a milk plant’s desire to meet a particular consumer taste preference, or by the processing, refrigeration and transportation system through which the milk is delivered to the consumer.

Need for the Proposed Rulemaking

The proposed rulemaking is necessary to keep Commonwealth-produced pasteurized milk competitive in interstate commerce. The proposed increase in the maximum sell-by date for pasteurized milk is justified by advances in processing, packaging and transportation that result in pasteurized milk with a longer shelf life.

The Department is satisfied of the need for the proposed rulemaking and believes the document is consistent with the principles outlined in Executive Order 1996-1, “Regulatory Review and Promulgation.”

Overview of the Major Provisions of the Proposed Rulemaking

Section 59.22 would be amended by extending the maximum sell-by date for pasteurized milk by 3 days. In addition, subsection (c) would be revised to clarify the sell-by date requirement. Subsection (d) would list the types of dairy products that are exempt from the sell-by date requirements. Subsection (e) would describe the sampling and testing that would be undertaken by the Department to ensure the bacterial levels of milk remain within acceptable limits for the duration of the sell-by period set forth on the milk container.

Affected Individuals and Organizations

The Commonwealth’s dairy industry will benefit from this proposed rulemaking in that it will make this Commonwealth’s pasteurized milk more competitive in interstate commerce. The milk sell by date also provides processors with a tool by which to insure consistent turnover of their inventories. Milk retailers will also benefit from this proposed rulemaking in that, by extending the sell-by date from 14 days to 17 days, the retailers will have an additional 3 days within which to turn over their milk inventories. This proposed rulemaking is not expected to have an adverse affect on any person or entity.

Fiscal Impact

The proposed rulemaking would impose no costs and have no fiscal impact on the Commonwealth, political subdivisions or the general public.

The proposed rulemaking would impose no costs and have no adverse fiscal impact upon the private sector. The extension of the maximum sell-by date for pasteurized milk is expected to have a favorable economic impact upon milk processors and milk retailers. None of these favorable economic impacts can be readily quantified, though.

Paperwork Requirements

The proposed rulemaking would not appreciably increase the paperwork burden of the Department, local government units, milk producers, milk distributors or other affected entities.

Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

Sunset Date

There is no sunset date for the proposed rulemaking. The Department will review the efficacy of these regulations on an ongoing basis.

Public Comment Period/Contact Person

Interested persons are invited to submit written comments regarding the proposed rulemaking within 30 days following publication in the *Pennsylvania Bulletin*. Comments shall be submitted to the Department of Agriculture, Bureau of Food Safety and Laboratory Services, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attention: James C. Dell.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 18, 2002, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of objections raised.

SAMUEL E. HAYES, Jr.,
Secretary

Fiscal Note: 2-141. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 7. AGRICULTURE
PART III. BUREAU OF FOOD SAFETY AND LABORATORY SERVICES

Subpart B. LIQUID FOODS

CHAPTER 59. MILK SANITATION

Subchapter A. PRELIMINARY PROVISIONS

TERMS AND APPLICATION

§ 59.1. Definitions.

[(a) *General definitions.*] The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Aseptically processed dairy products—Milk and milk products which are packaged in hermetically sealed containers allowing storage for long periods of time without refrigeration.

* * * * *

Certified milk—Milk from dairy farms operated in accordance with "Methods and Standards for the Production and Distribution of Certified Milk," last adopted by the American Association of Medical Milk Commissioners, Inc., the production and handling of which shall be certified by a commission instituted in compliance therewith.

* * * * *

Commingled milk—Milk from two or more producers; in a milk plant, a representative sample of all daily sources of milk prior to pasteurization.

* * * * *

Dry milk and whey products—Products which have been produced for use in pasteurized milk or milk products and which have been manufactured under this chapter.

* * * * *

Higher heat shorter time pasteurization—A process through which every particle of a dairy product is heated to between 191°F and 212°F at holding times between 1.0 and 0.1 seconds before packaging, so as to produce a product which has an extended shelf life under refrigerated conditions.

* * * * *

Lactose-reduced milk or lactose-reduced lowfat milk or lactose-reduced skim milk—The product resulting from the treatment of milk, lowfat milk or skim milk by the addition of safe and suitable enzymes to convert sufficient amounts of lactose to glucose or galactose, or both, so that the remaining lactose is less than 30% of the lactose in milk, lowfat milk or skim milk.

* * * * *

Milk—The natural lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows or goats.

* * * * *

Milk for pasteurization—Milk which conforms with relevant provisions of this chapter and is used in the preparation of pasteurized milk and milk products.

* * * * *

Milk products—Ice cream, ice cream mix, custard ice cream, French ice cream, frozen custard, ice milk, sherbet, and other similar frozen and semifrozen products and all dairy products used in the manufacture thereof.

* * * * *

Pasteurized concentrated dairy products—Includes homogenized concentrated milk, concentrated skim milk, concentrated lowfat milk, and similar concentrated products made from concentrated milk or concentrated skim milk, which, when combined with potable water in accordance with instructions printed on the container, conform with the definitions of the corresponding dairy products in this section.

Pasteurized frozen milk concentrate—A frozen dairy product with a composition of milkfat and milk solids not fat in proportions so that, when a given volume of concentrate is mixed with a given volume of water, the reconstituted product conforms to the milkfat and milk solids not fat requirements of whole milk. In the manufacturing process, water may be used to adjust the primary concentrate to the final desired concentration. The adjusted primary concentrate is pasteurized, packaged, and immediately frozen. This product is stored, transported and sold in the frozen state.

Pasteurized low-sodium milk or low-sodium lowfat milk or low-sodium skim milk—The product resulting from the treatment of milk, lowfat milk or skim milk by a process of passing the milk, lowfat milk or skim milk through an ion exchange resin process or by any process which has been recognized by the Food and Drug Administration that effectively reduces the sodium content of the product to less than 10 milligrams in 100 milliliters.

* * * * *

Raw milk—Raw milk is milk which conforms with the relevant provisions of this chapter and may be sold to consumers without further treatment or processing.

* * * * *

[(b) **Milk and milk products.** The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Certified milk—Milk from dairy farms operated in accordance with “Methods and Standards for the Production and Distribution of Certified Milk,” last adopted by the American Association of Medical Milk Commissioners, Inc., the production and handling of which shall be certified by a commission instituted in compliance therewith.

Commingled milk—Milk from two or more producers; in a milk plant, a representative sample of all daily sources of milk prior to pasteurization.

Dry milk and whey products—Products which have been produced for use in pasteurized milk or milk products and which have been manufactured under the provision of this chapter.

Lactose-reduced milk or lactose-reduced lowfat milk or lactose-reduced skim milk—The product resulting from the treatment of milk, lowfat milk,

or skim milk by the addition of safe and suitable enzymes to convert sufficient amounts of lactose to glucose or galactose, or both, so that the remaining lactose is less than 30% of the lactose in milk, lowfat milk, or skim milk.

Milk—The natural lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows or goats.

Milk for pasteurization—Milk which conforms with relevant provisions of this chapter and is used in the preparation of pasteurized milk and milk products.

Milk products—Ice cream, ice cream mix, custard ice cream, French ice cream, frozen custard, ice milk, sherbet, and other similar frozen and semifrozen products and all dairy products used in the manufacture thereof.

Pasteurized concentrated dairy products—Includes homogenized concentrated milk, concentrated skim milk, concentrated lowfat milk, and similar concentrated products made from concentrated milk or concentrated skim milk, which, when combined with potable water in accordance with instructions printed on the container, conform with the definitions of the corresponding dairy products in this section.

Pasteurized frozen milk concentrate—A frozen dairy product with a composition of milkfat and milk solids not fat in such proportions that, when a given volume of concentrate is mixed with a given volume of water, the reconstituted product conforms to the milkfat and milk solids not fat requirements of whole milk. In the manufacturing process, water may be used to adjust the primary concentrate to the final desired concentration. The adjusted primary concentrate is pasteurized, packaged, and immediately frozen. This product is stored, transported, and sold in the frozen state.

Pasteurized low-sodium milk or low-sodium lowfat milk or low-sodium skim milk—The product resulting from the treatment of milk, lowfat milk, or skim milk by a process of passing the milk, lowfat milk, or skim milk through an ion exchange resin process or by any process which has been recognized by the Food and Drug Administration that effectively reduces the sodium content of the product to less than 10 milligrams in 100 milliliters.

Raw milk—Raw milk is milk which conforms with the relevant provisions of this chapter and may be sold to consumers without further treatment or processing.]

LABELING

§ 59.22. Milk dating.

(a) **Label requirement.** The cap or nonglass container of pasteurized milk held in retail food stores, restaurants, schools or similar food establishments for resale shall be conspicuously and legibly marked in a contrasting color with the designation of the “sell-by” date—the month and day of the month after which the product may not be sold or offered for sale. The designation may be numerical—such as “8-15”—or with the use of an abbreviation for the month, such as “AUG 15” or “AU 15.” The words “Sell by” or “Not to be sold after” shall precede the designation of the date, or the statement “Not to be sold after the date stamped above” shall appear legibly on the container. This designation of the date may not exceed

[14] 17 days beginning after midnight on the day on which the [dairy products were] milk was pasteurized. [Stores, as used in this subsection, include mercantile establishments which offer milk for sale except on premises where processed.]

(b) *Prominence of sell-by date on label.* The sell-by date shall be separate and distinct from any other number, letter or intervening material on the cap or nonglass container.

(c) *Prohibition.* Pasteurized milk may not be sold [after the date designated on the container.] or offered for sale if either of the following occurs:

(1) The milk is sold or offered for sale after the sell-by date designated on the container.

(2) Without regard to the sell-by date designated on the container, the milk exceeds the bacterial limits for pasteurized milk described in § 59.52 (relating to table).

(d) *Exemption.* [Sterile, ultra-pasteurized and cultured dairy products are exempt from the dating requirements.] The following pasteurized dairy products are exempt from the requirements of this section:

(1) Ultra-pasteurized dairy products.

(2) Cultured dairy products.

(3) Aseptically processed dairy products.

(4) Dairy products that have undergone higher heat shorter time pasteurization.

(5) Milk sold or offered for retail sale on the same premises at which it was processed.

(e) *Monitoring by the Department.* The Department will periodically sample containers of pasteurized milk in the possession of the processor or distributor. This sampling may occur at any time before the pasteurized milk is delivered to the store or the customer. The samples shall be analyzed to determine whether the bacterial test results exceed the bacterial limits for pasteurized milk described in § 59.52 (relating to table) prior to the expiration of the sell-by date designated on the retail container. When two or more samples demonstrate a processor cannot produce pasteurized milk that remains consistently within the referenced bacterial limits during a 17-day sell-by period, the Department will require a processor to use a sell-by date of something less than the 17-day period described in subsection (a).

[Pa.B. Doc. No. 02-1677. Filed for public inspection September 27, 2002, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

[34 PA. CODE CH. 101]

Appeals from Determinations of Department

The Department of Labor and Industry (Department),
Unemployment Compensation Board of Review (Board),

proposes to amend Chapter 101 (relating to general requirements) to read as set forth in Annex A.

Statutory Authority

The amendments are proposed under the authority provided in section 3(d) of the Unemployment Compensation Law (43 P. S. § 763(d)), which provides that the Board has the duty to adopt, amend or rescind rules of procedure. The Department has the power to make rules and regulations for carrying into effect the laws regulating the labor of persons within this Commonwealth under section 2205 of The Administrative Code of 1929 (71 P. S. § 565). Additionally, section 1(a) of the act (43 P. S. § 761(a)) gives the Department authority to adopt, amend and rescind rules and regulations that it deems necessary or suitable.

Compliance with Executive Order 1996-1, "Regulatory Review and Promulgation"

The Board solicited input regarding the proposed rulemaking from a cross-section of stakeholder organizations during the drafting process. It contacted the following individuals and groups for their suggestions: Community Legal Services, Inc.; John Stember, Esq.; Widener University School of Law; Pennsylvania Chamber of Business and Industry; Pennsylvania Bar Association; Pennsylvania AFL-CIO; Employer's Unity, Inc.; The Frick Company; University of Pennsylvania; and Duquesne University. The Board received input from four organizations: Employer's Unity, Inc.; Community Legal Services; the Pennsylvania AFL-CIO; and the Duquesne University Unemployment Compensation Clinic.

One stakeholder requested that the Board consider specifying that a United States Postal Service certified mail receipt could be used as another means of establishing timely mailing of an appeal. After consideration, the Board will provide that a United State Postal Service Form 3817 (Certificate of Mailing) or a United States Postal Service certified mail receipt can be used to establish timely mailing of an appeal.

Some stakeholders expressed some concern about the use of postage meter marks for determining timeliness, where there is no official United States Postal Service postmark. The Board has considered the stakeholders' concerns regarding the potential for fraud. However, it feels that this potential is outweighed by its interest in providing parties with additional methods by which to file appeals and that there are laws and rules of professional conduct that would deter and punish this conduct.

Some stakeholders also stated that the proposed rulemaking does not address cases when a party alleges that an appeal was filed; however, the Department has no record of receiving the appeal. The proposed rulemaking is designed to determine the timeliness of appeals that the Department actually receives. This factual situation is more appropriately considered on a case-by-case basis, weighing the individual circumstances of each case, the credibility of the testimony and evidence presented by the appealing party and the case law concerning nunc pro tunc appeals to administrative agencies.

Purpose

The proposed rulemaking pertains to the administration of unemployment compensation appeals, revises the manner in which parties may file appeals and determines the timeliness of these appeals. The proposed rulemaking reflects court decisions allowing various means of filing appeals and urging the Board to update its regulations for determining timeliness to reflect advances in technol-

ogy. The proposed rulemaking will codify the Board's existing and judicially accepted practice of allowing the filing of appeals by fax. The proposed rulemaking will provide additional means for parties to file appeals, including common carrier services and electronic transmission. The proposed rulemaking will also set a uniform standard for determining the date of filing and timeliness of appeals or notices of appeal. This will result in a reduction in the number of hearings that the Board is required to conduct relating to timeliness of appeals and will assist the Board in meeting Federal guidelines for timely issuance of unemployment compensation decisions.

Background

A party in an unemployment compensation proceeding may appeal a determination of the Department to a referee or a referee decision to the Board within 15 days. See sections 501(e) and 502 of the act (43 P. S. §§ 821(e) and 822). A party may file an appeal on a prescribed appeal form or through a written communication and notice advising the Department that the aggrieved party requests review of the decision. Existing § 101.82(c) (relating to filing of appeal from decision determination of Department) recognizes only actual delivery to the Department or the Board or an official United States postmark as the filing date. The Department has accepted appeals or notice of appeals through various other methods, including fax transmission and common carrier and frequently receives appeals bearing a private postage meter mark.

Commonwealth Court recognized that the Board may interpret its regulations to allow delivery of appeals or notices of appeal by fax transmission under § 101.82. However, the date of filing is the date that the faxed document is actually received by the Department or the Board. *George v. Unemployment Compensation Bd. of Review*, 767 A.2d 1124 (Pa. Cmwlth. 2001). This judicial interpretation could result in the rejection of an appeal that was faxed within the prescribed 15-day period but that was, nonetheless, received after the 15 days elapsed. Commonwealth Court has urged the Board to reconsider the effect of its regulations on parties who use common carriers and parties who do not place an official United States postmark on the envelope accompanying the appeal. *Copyright, Inc. v. Unemployment Compensation Board of Review*, 739 A.2d 219 (Pa. Cmwlth. 1999); *UGI Utilities, Inc. v. Unemployment Compensation Board of Review*, 776 A.2d 344 (Pa. Cmwlth. 2001).

Summary of Proposed Rulemaking

Section 101.2. Definitions.

The proposed rulemaking will add a definition of "workforce investment office" as an office where the Department provides employment services under the Wagner-Peyser Act (29 U.S.C.A. §§ 49—49m). A Team Pennsylvania CareerLink may serve as this office.

Section 101.81. Filing of appeal from determination of Department.

The word "determination" will replace the word "decision" in the section heading to reflect the terminology contained in sections 501 and 502 of the act. The proposed rulemaking will alter § 101.81(a) by providing instructions to appealing parties regarding approved appeal forms. The parties may obtain information regarding the filing of an appeal from a Department office responsible for unemployment compensation or a Board office.

The description of the contents of the appeal form, formerly contained in subsection (a), will be placed in

subsection (c) in the proposed rulemaking. The proposed rulemaking removes the requirement that an appeal contain the appealing party's signature. The proposed rulemaking will permit appeals filed by electronic transmission. The proposed rulemaking changes the term "decision" to "determination" to reflect the terminology of sections 501 and 502 of the act.

The proposed rulemaking completely deletes the current language of § 101.81(b). The proposed subsection is amended to state that information about filing an appeal may be obtained from a Department office responsible for unemployment compensation or a Board office.

The proposed rulemaking will add § 101.81(d) which requires the Department or the Board to docket and process appeals.

Section 101.81(e) is added and will provide that any written notice that may reasonably be construed as an appeal will be processed as an appeal without requiring the appellant to complete an official appeal form.

Section 101.82. Time for filing appeal from determination of Department.

The proposed rulemaking amends the section heading with the addition of the words "time for filing" and the deletion of the phrase "filing of." The word "determination" replaces "decision."

The proposed rulemaking will delete subsection (a) because this information will be contained in proposed § 101.81(a). Subsection (a), as amended, will contain the information previously contained in subsection (b), which sets forth the 15-day appeal period.

Section 101.82(b) of the proposed rulemaking sets forth acceptable methods of filing appeals and determination of the filing date according to the filing method used. Subsection (b)(1) will provide that an appeal may be personally delivered to a local employment office or the Board during its normal business hours. The filing date will be the date of personal delivery.

Subsection (b)(2) will provide that an appeal may be filed by United States Postal Service mail. The filing date will be the date of the official United States postmark appearing on the document, a United States Postal Service Form 3817 (Certificate of Mailing) or certified mail receipt. If there is no official United States postmark, United States Postal Service Form 3817 (Certificate of Mailing) or certified mail receipt, the date of a postage meter mark will determine the date of filing. If there is no legible postmark or postage meter mark, the date of filing will be the date of receipt indicated by the Department.

Subsection (b)(3) will allow appeals delivered by a common carrier, which is subject to the authority of the Pennsylvania Public Utility Commission or the United States National Surface Transportation Board. The filing date will be the date that the document was delivered to the common carrier. A document or record prepared by the common carrier may be used as evidence of filing.

Subsection (b)(4) will provide for appeals filed by fax transmission. The transmission date imprinted by the Department's or the Board's receiving fax machine will be the date of filing. If no legible date appears, the date imprinted by the sender's fax machine will be the date of filing. If there is no legible date of transmission, the date of filing will be the date of receipt indicated by the Department.

Subsection (b)(5) will provide for appeals filed by electronic transmission. It places the risk of delay, disrupt-

tion, interruption of electronic signals and readability of the document on the filing party. The date of filing will be the receipt date provided by the Department's information processing system. An appellant filing by electronic transmission will have to comply with the Department's instructions concerning format.

The proposed rulemaking will delete § 101.82(c) and (d).

Affected Persons

The proposed rulemaking affects appealing parties, and their representatives, in unemployment compensation matters. The proposed rulemaking provides these parties with increased flexibility in filing or delivering appeals and with an easily verifiable manner of determining whether an appeal was timely filed or delivered.

Fiscal Impact

There is minimal fiscal impact associated with this proposed rulemaking. Parties will experience some potential savings, as the proposed rulemaking will clarify the manner in which timeliness will be determined and therefore reduce the need for hearings and litigation regarding the timeliness of appeals.

Reporting, Recordkeeping and Paperwork Requirements

The proposed rulemaking will not increase paperwork for parties in unemployment compensation matters or the Department. The proposed rulemaking will provide recognition of the technological improvements in submission of documents and provide easier methods for transmitting appeals. The proposed rulemaking acknowledges the acceptable means for filing appeals. It clarifies the date of filing for each of these methods. Parties who file an appeal without using the Department form will no longer be required to complete that form to perfect an appeal. The Department will still use its current forms, with updated instructions, and it will continue to ensure that an appeal is routed to the Board. Specifically, the Department will provide instructions on fax transmission and the appropriate format for electronic filing. There are no significant costs associated with the proposed rulemaking for the Commonwealth or to parties to unemployment compensation cases.

Effective Date

The proposed rulemaking will be effective upon publication in the *Pennsylvania Bulletin* as a final-form rulemaking.

Sunset Date

There is no sunset date for the proposed rulemaking. The Department will continuously monitor the filing of appeals or notices of appeals and the proposed rulemaking's effectiveness. The Department will also monitor the filing of appeals to ensure that appeals are filed timely under the proposed rulemaking and that the date of filing is accurately recorded.

Contact Person

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to the Department within 30 days of publication in the *Pennsylvania Bulletin*. These may be submitted to Kelly K. Smith, Assistant Counsel, Office of Chief Counsel, Department of Labor and Industry, 10th Floor, Labor and Industry Building, 7th and Forster Streets, Harrisburg, PA 17121, e-mail to kellsmith@state.pa.us or faxed to (717) 783-5027.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 12, 2002, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Labor and Industry Committee and the House Labor Relations Committee. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of objections raised.

JAMES J. MCNULTY,
Secretary

Fiscal Note: 12-59. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 34. DEPARTMENT OF LABOR AND INDUSTRY

PART VI. UNEMPLOYMENT COMPENSATION BOARD OF REVIEW

CHAPTER 101. GENERAL REQUIREMENTS

Subchapter A. GENERAL PROVISIONS

§ 101.2. Definitions.

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

* * * * *

Department—The Department of Labor and Industry of the Commonwealth.

* * * * *

Workforce investment office—An office where the Department provides employment services under the Wagner-Peyser Act (29 U.S.C.A. §§ 49—49m). A workforce investment office may be identified as a Team Pennsylvania CareerLink.

Subchapter C. APPEALS FROM [DECISIONS] DETERMINATIONS OF DEPARTMENT

§ 101.81. Filing of appeal from [decision] determination of Department.

(a) **Department-provided appeal forms may be obtained from a Department office responsible for unemployment compensation, a workforce investment office or the Board's appeals system administrator in Harrisburg.**

(b) **Information about filing an appeal may be obtained from a Department office responsible for unemployment compensation or an office of the Board.**

(c) An appeal from a [decision] determination of the Department shall be filed [in a local employment office] with a Department office responsible for unemployment compensation, a workforce investment office or a Board office and shall [include] contain the following information [, furnished by appellant]:

(1) The name and address of the claimant.

* * * * *

(3) The date of [decision] the determination which is being appealed.

* * * * *

(5) The [signature] name and address of the appellant.

[(b) Assistance in completing the appeal form and perfecting the appeal may be obtained at a local employment office or at an office of the Board, with the following information to be furnished by the local employment office representative:

(1) The appeal number.

(2) The nature of the decision from which appeal is being filed.

(3) The date of the application of claimant for benefits or claim weeks.

(4) The name and address of employers who have filed information in writing, and the date thereof, which might raise a question as to the eligibility of the claimant.

(5) The name and address of the last employer of claimant.

(6) The date and number in which appeal was delivered by appellant, personally or by mail.

(7) The signature of the local employment office representative.]

(d) Upon receipt of an appeal, the Department or the Board will docket and process the appeal form.

(e) The Board will consider a written objection to the Department's determination as an appeal and process it under subsection (c) if the appellant does not complete the Department-provided appeal form.

§ 101.82. [Form of] Time for filing appeal from [decision] determination of Department.

(a) [Appeal forms approved by the Board may be obtained from a local employment office or the secretary of the Board at Harrisburg.

(b) An appeal from a decision of the Department shall be filed within the prescribed time if it is filed] A party seeking to appeal a Department determination shall file an appeal in the form and manner [as] specified in § 101.81 (relating to filing of appeal from determination of Department) and this [part] section on or before the 15th day after the date on which notification of the decision of the Department was delivered personally to the appellant, or mailed to him at his last known post office address.

(b) A party may file an appeal by any of the following methods:

(1) *Personal delivery to a workforce investment office or to the Board.* The filing date will be the date the appeal was personally delivered to the workforce investment office or Board, during its normal business hours.

(2) *United States mail.* The filing date will be determined as follows:

(i) The date of the official United States Postal Service postmark on the envelope containing the appeal, a United States Postal Service Form 3817 (Certificate of Mailing) or a United States Postal Service certified mail receipt.

(ii) If there is no official United States Postal Service postmark, United States Postal Service Form 3817 or United States Postal Service certified mail receipt, the date of a postage meter mark on the envelope containing the appeal.

(iii) If the filing date cannot be determined by any of the methods in subparagraph (i) or (ii), the filing date will be the date recorded by the Department, the workforce investment office or the Board when it receives the appeal.

(3) *Common carrier.* An appeal may be delivered by a common carrier of property which is subject to the authority of the Pennsylvania Public Utility Commission or the United States National Surface Transportation Board. The date of filing is the date the document was delivered to the common carrier, as established by a document or other record prepared by the common carrier in the normal course of business.

(4) *Fax transmission.* The filing date will be determined as follows:

(i) The date of receipt imprinted by the Department, the workforce investment office or the Board's fax machine.

(ii) If the Department, the workforce investment office or the Board's fax machine does not imprint a legible date, the date of transmission imprinted on the faxed appeal by the sender's fax machine.

(iii) If the faxed appeal is received without a legible date of transmission, the filing date will be the date recorded by the Department, the workforce investment office or the Board when it receives the appeal.

(5) *Electronic transmission other than fax transmission.* The date of filing is the receipt date recorded by the Department, the workforce investment office or the Board's information processing system, if the electronic record is in a form capable of being processed by that system. A party filing by electronic transmission shall comply with Department instructions concerning format. A party filing an appeal by electronic transmission is responsible for using the proper format and for delay, disruption, interruption of electronic signals and readability of the document and accepts the risk that the appeal may not be properly or timely filed.

[(c) Use of the prescribed appeal form is not mandatory to initiate an appeal. The following procedure may be followed:

(1) A written notice specifically advising that the interested party thereby files an appeal or requests a review of decision, delivered or mailed to a representative of the Department or Board, within

the prescribed 15-day appeal period, shall constitute an appeal from the decision of the Department and will be processed accordingly without requiring the appellant to complete the appeal form.

(2) A written notice that may reasonably be construed as a request for an appeal, delivered or mailed to a representative of the Department or Board, within the prescribed 15-day appeal period, advising that the interested party is aggrieved and apparently desires a review of the decision, shall be deemed to initiate an appeal and shall constitute an appeal from the decision of the Department, if the appellant subsequently perfects the appeal by filing a completed appeal form within a reasonable time after instructions for filing the appeal form have been delivered or mailed to him at his last known post office address. (In order to expedite the disposition of claims, the interested party will be requested to return the completed appeal form within 15 days after instructions for filing the appeal form have been delivered or mailed to him.)

(d) The date of initiation of an appeal delivered by mail, either on the prescribed appeal form or by any form of written communication, shall be determined from the postmark appearing upon the envelope in which the appeal form or written communication was mailed.]

[Pa.B. Doc. No. 02-1678. Filed for public inspection September 27, 2002, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 69]

Fishing in Lake Erie and Boundary Lakes

The Fish and Boat Commission (Commission) proposes to amend Chapter 69 (relating to fishing in Lake Erie and boundary lakes). The Commission is publishing these amendments as a notice of proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments relate to fishing.

A. Effective Date

The proposed amendments, if approved on final-form rulemaking, will go into effect on January 1, 2003, or upon publication of an order adopting the amendments in the *Pennsylvania Bulletin*, whichever occurs later.

B. Contact Person

For further information on the proposed amendments, contact Laurie E. Shepler, Assistant Counsel, (717) 705-7815, P. O. Box 67000, Harrisburg, PA 17106-7000. This proposal is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

C. Statutory Authority

The proposed changes to §§ 69.12—69.15 are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

The proposed amendments are designed to update, modify and improve the Commission's regulations pertaining to fishing in Lake Erie and its tributaries. The specific purpose of the proposed amendments is described in more detail under the summary of proposal.

E. Summary of Proposal

Commission staff has identified the need to update and improve the current regulations applicable to recreational fishing in Lake Erie and its tributaries. The immediate impetus for the proposed amendments was the need to clarify the prohibition on fishing in the Lake Erie tributaries during a brief period before the opening day of trout season in April. Currently, § 69.13 (relating to seasons, sizes and creel limits—Lake Erie tributaries) prohibits fishing for trout and salmon in tributary streams during a 32-hour period before opening day of trout or salmon. The wording of this prohibition differs to some degree from the general prohibition on fishing in approved trout waters during the closed season, and this difference has caused staff to identify the need for clarification. Under the proposed amendments, the regulation will clearly provide that fishing (for all species) is prohibited during this 32-hour period on Lake Erie tributaries and a portion of Presque Isle State Park. In addition, possession of trout or salmon will be prohibited on these streams during the same period.

The review by the Commission's staff of the Lake Erie and tributary regulations showed that it should be possible to simplify and consolidate these regulations. Currently, these regulations are spread across several sections of the fishing regulations. The Commission's staff believe that § 69.12 (relating to seasons, sizes and creel limits—Lake Erie) and § 69.13 can be consolidated into a single provision. The main substantive change from this consolidation relates to the creel limit for trout and salmon during the period from opening day in April until Labor Day in September. Currently, both Lake Erie and the tributaries have an eight trout per day creel limit. On the Lake and the Bay, only five of these fish may exceed 15 inches in length, while on the tributaries, only three of these fish may exceed 15 inches in length. From an enforcement perspective, having different limits for the same species on waters in that close proximity raises issues. The Commission's fisheries managers also report that there would be no negative consequences from simplifying the trout/salmon creel limit. Accordingly, as part of the consolidation of these provisions, the Commission is proposing that during the period from opening day until Labor Day, a creel limit of five trout/salmon (only two of which may be lake trout) should apply to the Lake, the Bay and the tributaries. This would bring the trout/salmon creel limit on these waters into line with the Statewide limits, and it would eliminate the sometimes confusing limitations on taking trout in excess of 15 inches in length.

Commission staff also has identified an opportunity to simplify the special regulations that apply to particular tributaries during the steelhead season (see § 69.14 (relating to special regulations applicable during the salmon and steelhead trout season)) and the miscellaneous special regulations (see § 69.15 (relating to miscellaneous special regulations)). The Commission is proposing elimination of the somewhat confusing table of special prohibitions applicable to specific streams during steelhead season (Labor Day to opening day in the following year) and clarification of the miscellaneous special regulation provisions.

The Commission believes that the simplification and consolidation of these regulations will improve their enforceability and make them easier to understand. The only major substantive change relates to the clarification of the fishing prohibition during the 32-hour period before opening day of trout season and the proposed change to

the creel limit on trout/salmon during the regular season. The Commission proposes that the amendments will read as set forth in Annex A.

F. Paperwork

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

G. Fiscal Impact

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

H. Public Comments

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

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

PETER A. COLANGELO,
Executive Director

Fiscal Note: 48A-134. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES

Subchapter B. SPORT FISHING AND ANGLING

§ 69.12. Seasons, sizes and creel limits—Lake Erie and Lake Erie tributaries.

* * * * *

(d) [The] It is unlawful to fish in or along any Lake Erie tributary stream or the Water Works Ponds at Presque Isle State Park from 12:01 a.m. on the Friday before the opening day of trout season until 8 a.m. on the opening day of trout season in April.

(e) It is unlawful to possess trout or salmon in or along any Lake Erie tributary stream or the Water Works Ponds at Presque Isle State Park from 12:01 a.m. on the Friday before the opening day of trout season until 8 a.m. on the opening day of trout season in April.

(f) Subject to the provisions of subsections (d) and (e), the following seasons, sizes and creel limits apply to Lake Erie, Lake Erie tributaries and Presque Isle Bay, including peninsula waters:

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
	* * * * *		
WALLEYE [*]	January 1 to midnight March 15 and 12:01 a.m. the first Saturday in May to December 31	15 inches	6
	* * * * *		
TROUT and SALMON	First Saturday after April 11 until midnight Labor Day.	9 inches	[8] 5 (combined species only 2 of which may be lake trout). [Of the entire catch (combined species) only 5 fish total may exceed 15 inches in length.]
	12:01 a.m. the day after Labor Day until midnight on the Friday before the first Saturday after April 11.	15 inches	3 (combined species only 2 of which may be lake trout).
	* * * * *		

*It is unlawful to conduct or participate in a fishing tournament (as defined in § 63.40 (relating to seasons for fishing tournaments)) for bass on Lake Erie, Lake Erie tributaries or Presque Isle Bay during the period from opening day of trout season in April until the first Saturday after June 11.

§ 69.12a. Special regulations applicable to Lake Erie tributary streams.

(a) The following Lake Erie tributary streams are designated as Nursery Waters—Trout Run and its tributaries; Godfrey Run; Orchard Beach Run; and Crooked Creek (where posted). It is unlawful to fish, wade or possess fishing equipment while in or

along Lake Erie tributary streams designated as Nursery Waters.

(b) Archery fishing or spear fishing is prohibited in or along Lake Erie tributary streams.

(c) From 12:01 a.m. on the day after Labor Day, until the opening day of trout season in April, all Lake Erie tributary streams are closed to fishing

from 10 p.m. until 5 a.m. on the following day except for Walnut Creek and Elk Creek north of Route 5.

(d) It is unlawful to fish from 10 p.m. until 5 a.m. of the following day within 50 yards of the mouth of both Trout Run and Godfrey Run while fishing the Lake Erie shoreline.

(Editor's Note: The Commission is proposing to delete §§ 69.13—69.15 as they currently appear in the Pennsylvania Code, pages 69-4 to 69-82 (serial pages (280032) and (236589) to (236594).)

§ 69.13. (Reserved).

§ 69.14. (Reserved).

§ 69.15. (Reserved).

[Pa.B. Doc. No. 02-1679. Filed for public inspection September 27, 2002, 9:00 a.m.]

[58 PA. CODE CHS. 51, 91 AND 93]

Issuing Agents; Boating Safety Education Certificates

The Fish and Boat Commission (Commission) proposes to amend Chapters 51, 91 and 93 (relating to administrative provisions; general provisions; and boat registration and numbering). The Commission is publishing the amendments as a notice of proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments relate to issuing agents and Boating Safety Education Certificates.

A. Effective Date

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

B. Contact Person

For further information on the proposed rulemaking, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. The proposed rulemaking is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

C. Statutory Authority

Proposed § 51.10 (relating to representation as issuing agent) is published under the statutory authority of sections 2711(c) and 5304(d.1) of the code (relating to issuing agents; and issuing agents). The proposed amendment to § 51.35 (relating to operation of issuing agency) is published under the statutory authority of section 2711 of the code. The proposed amendment to § 91.6 (relating to Boating Safety Education Certificates) is published under the statutory authority of section 5123 of the code (relating to general boating regulations). The proposed amendment to § 93.13 (relating to issuing agents) is published under the statutory authority of section 5304(d.1) of the code.

D. Purpose and Background

The proposed rulemaking is designed to update, modify and improve the Commission's regulations pertaining to issuing agents and Boating Safety Education Certificates. The specific purpose of the proposed rulemaking is described in more detail under the summary of proposal.

E. Summary of Proposal

(1) *Sections 51.10 and 93.13.* Several regions of the Commission's Bureau of Law Enforcement have reported that there have been problems with issuing agents for temporary boat registrations and notaries who are not Commission agents giving the public the impression that they have the ability to renew boat registrations. Accordingly, the Commission proposes that these sections be amended to read as set forth in Annex A.

(2) *Section 51.35.* Section 2711 of the code provides that the Commission may establish administrative fees for fishing license issuing agents. This section further provides that county treasurers and issuing agents active on or before January 1, 2000, shall be exempt from payment of any administrative fee established by the Commission. Accordingly, the Commission proposes to amend its regulations to require new fishing license issuing agents to pay a one-time, nonrefundable fee of \$100 to help offset the Commission's costs. Last year, the Commission adopted a similar amendment requiring new issuing agents for temporary boat registrations to pay a one-time, nonrefundable fee of \$100. The Commission proposes to amend § 51.35 to read as set forth in Annex A.

(3) *Section 91.6.* One of the Commission's waterways conservation officers recently reported that he encountered an individual who was in possession of a Boating Safety Education Certificate that belonged to another person. This individual had not taken any boating courses and had borrowed his cousin's certificate while operating a personal watercraft. The officer recognized the personal watercraft and the name on the certificate as someone he had cited a week earlier. The Commission suspects that this occurrence was not an isolated one.

Section 2705 of the code (relating to improper license use and false application) provides that a person may not alter, borrow, lend or transfer any license authorized under the code or give any false or misleading information to an issuing agent or to the Commission, its officers or agents in an application for a license. However, this section speaks in terms of licenses and does not extend to Boating Safety Education Certificates. Accordingly, the Commission proposes the amendment set forth in Annex A to address this loophole.

F. Paperwork

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

G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. As previously described, the proposed amendment to § 51.35 will impose a one-time, nonrefundable fee of \$100 on new issuing agents only. The Commission anticipates that it will receive applications from approximately 30 new issuing agents each year. The proposed rulemaking will impose no new costs on the general public.

H. Public Comments

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

Comments also may be submitted electronically to ra-pfbcregs@state.pa.us. A subject heading of the proposal

and a return name and address must be included in each transmission. In addition, all electronic comments must be contained in the text of the transmission, not in an attachment. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,
Executive Director

Fiscal Note: 48A-132. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 51. ADMINISTRATIVE PROVISIONS

Subchapter A. PRELIMINARY PROVISIONS

§ 51.10. Representation as issuing agent.

It is unlawful for persons to perform the functions of or to represent themselves as fishing license issuing agents or issuing agents for temporary boat registrations without being appointed or designated as such by the Commission.

Subchapter D. ISSUING AGENTS

§ 51.35. Operation of the issuing agency.

(a) A person, sole proprietorship, partnership or corporation may apply to become an issuing agent of the Commission for the purpose of selling fishing licenses. **[The Commission will not consider an application unless it is accompanied by a bond in favor of the Commission in a minimum amount specified by the Commission.] An applicant seeking to become an issuing agent shall complete and submit to the Commission an application on the form prescribed by the Commission and shall pay a one-time, nonrefundable fee of \$100. Applications shall be accompanied by a bond in favor of the Commission in a minimum amount specified by the Executive Director or designee.**

* * * * *

Subpart C. BOATING

CHAPTER 91. GENERAL PROVISIONS

§ 91.6. Boating Safety Education Certificates.

* * * * *

(f) **A person may not alter, borrow, lend or transfer a Boating Safety Education Certificate or give false or misleading information to the Commission, its officers or agents when applying for a Boating Safety Education Certificate.**

CHAPTER 93. BOAT REGISTRATION AND NUMBERING

Subchapter A. REGISTRATION OF BOATS

§ 93.13. Issuing agents.

* * * * *

(o) **Renewal of boat registrations. It is unlawful for a person, other than the Commission, Commission offices and on-line messenger services approved by the Department of Transportation, to**

issue renewals for boat registrations or collect the applicable fees.

[Pa.B. Doc. No. 02-1680. Filed for public inspection September 27, 2002, 9:00 a.m.]

**PENNSYLVANIA PUBLIC
UTILITY COMMISSION**

[52 PA. CODE CHS. 1, 3 AND 5]

Advance Notice of Proposed Rulemaking Order

Public Meeting held
September 12, 2002

Commissioners Present: Glen R. Thomas, Chairperson; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick; Kim Pizzingrilli

Advance Notice of Proposed Rulemaking for Revision of 52 Pa. Code Chs. 1, 3 and 5 pertaining to Practice and Procedure before the Commission; Doc. No. L-00020156

Advance Notice of Proposed Rulemaking Order

By the Commission:

The Commission's rules of practice and procedure have been the subject of numerous formal revisions in 1985, 1988, 1989 and, most recently, in 1996. The Commission views the procedural regulations as a work in progress, which are meant to provide guidance and structure for practice before the Commission. As utility regulation itself evolves, the rules must also change to adapt to the realities of the practice itself.

Recognizing that the years since the last revision have brought significant changes to the Commission's jurisdiction and responsibilities and noting room for improvement in the rules, it is the Commission's intent to solicit input regarding revision of 52 Pa. Code Chs. 1, 3 and 5 and to carefully consider the views of all interested persons prior to taking any formal action. In particular, with the advent of competition in the utility industry, bringing new players and an increased complexity of the issues to be addressed, we are interested in obtaining comments to improve the efficiency, effectiveness, clarity and basic fairness of our rules of practice. For example, the comments may address any number of topics, including but not limited to:

- Rules regarding preliminary objections
- Procedures for off-the-record communications
- ADR/settlements
- Representation before the Commission
- Sanctions
- ETA and TA Applications
- Standards for intervention and standing
- Standards and procedures for emergency orders
- Consistency in filing deadlines
- Procedures to obtain extensions of time
- Procedures for review of compliance filings
- Policies that should be codified as regulations
- Standards for filing

Comments may be filed by any interested person or on behalf of an entity, and each comment should clearly indicate: (1) the numerical designation of the subject section(s); (2) the reason for the proposed change(s); and (3) specific proposed language for the regulation(s). These three factors are vital to enable the Commission to give due consideration to each comment received.

Due to the comprehensive nature of a rulemaking and the sheer number of regulatory sections which are open for review, interested parties will be given 60 days from the date of publication of the Advance Notice of Proposed Rulemaking in the *Pennsylvania Bulletin* for the submission of comments. The Commission is committed to completing the revisions to its procedural regulations in a timely fashion. Since the comment period is a generous one, no extensions will be granted for the filing of comments; *Therefore,*

It is Ordered That:

1. A rulemaking proceeding is hereby initiated at this docket to consider the revision of the regulations appearing in 52 Pa. Code Chs. 1, 3 and 5, relating to the Commission's rules of practice and procedure.

2. An Advance Notice of Proposed Rulemaking regarding revision of regulations appearing in 52 Pa. Code Chs. 1, 3 and 5, relating to the Commission's rules of practice and procedure, be published in the *Pennsylvania Bulletin*.

3. Interested parties shall have 60 days from the date of publication in the *Pennsylvania Bulletin* of the Advance Notice of Proposed rulemaking to file written comments.

4. Comments should, where appropriate, include a numerical reference to the existing regulation(s) which the comment(s) address, should include proposed language for revision and should provide a clear explanation for the recommendation.

5. Interested parties should file an original plus ten copies of each comment to the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. The Commission's contact person is Assistant Counsel, Susan D. Colwell, (717) 783-3459.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-1681. Filed for public inspection September 27, 2002, 9:00 a.m.]